

Dear Readers,

In this month's HR Perspectives we bring you:

- **E-delivery:** what it is, who it applies to, and how it will affect employer-employee relations;
- **Tax exemption for remote workers' travel:** whether and under what conditions costs of travelling by remote employees to employer's office are tax exempt;
- AI in the workplace: **what are the challenges of AI tools used by employees?**

See also below for a timetable of upcoming events organised by PCS | Littler. We hope you will be able to attend.

Enjoy reading!

Robert Stępień  
Miłosz Awedyk



## Compulsory e-delivery is coming soon

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E-delivery is a public service for sending registered electronic documents. In other words, it is an electronic version of a registered letter with delivery confirmation. It is delivered through a dedicated platform to a specific electronic address.

E-delivery is a service provided under the Electronic Delivery Act, and Regulation 910/2014 known as eIDAS.

E-delivery is replacing ePUAP, which you might already be familiar with (e.g., changing your voting registration).

### Who needs to use e-delivery?

The Act on Electronic Delivery stipulates that all correspondence between citizens and public entities, professionals of public trust and businesses must be covered by e-delivery.

The Act lists several entities that will be obliged to use e-delivery. These are public entities, including government administration bodies and budgetary units serving these bodies, other public authority bodies, including state control and law protection bodies (police, army, National Labour Inspectorate, etc.), the Social Security Office (ZUS), The National Health Fund (NFZ), executive agencies, budgetary institutions, state purpose funds, Independent Public Health Care Facilities (SPZOZ), public universities, The Polish Academy of Sciences (PAN) and its units, state and local government cultural institutions, as well as other state and local government legal persons.

In addition to public entities, e-delivery is mandatory for the following professionals: lawyers, tax advisors, restructuring advisors, patent agents, notaries, and entrepreneurs registered in both the National Court Register (KRS) and the Central Register and Information on Economic Activity (CEIDG).

Using the e-delivery system will be optional for individuals, who can decide whether to receive official communication via traditional registered mail or electronically.

### E-Delivery implementation timeline

The rollout of e-delivery is going to be staggered. Different groups have different deadlines for using the system.

The deadline for professions of public trust was postponed once again, this time to 1st October 2024.

The same applies to courts, tribunals, enforcement agents, prosecutors, law enforcement authorities and the prison service, local government units, as well as entrepreneurs registered on the National Court Register. It is also a deadline for the National Health Fund (NFZ), Social Security Office (ZUS), Agricultural Social Insurance Fund (KRUS), local government units and their unions, metropolitan unions and local government budget institutions, government administration bodies and units serving them. Other groups have a later deadline, such as 1 January 2025 for entrepreneurs who are natural persons.

## E-Delivery: Implications for Employers and Employees

Starting 1st October, employers will be switching to electronic communication with both ZUS and the National Labour Inspectorate (PIP). For employees, however, things are a bit different. A "hybrid" approach will be in place, allowing both electronic and paper communication.

However, the question remains about what exactly e-delivery covers when it comes to employee-employer interactions. It seems like it might go beyond just everyday messages and could even encompass exchanging important documents such as declarations of intent concerning the employment relationship or the performance of legal obligations, for which the written form is reserved. This means we might see things like electronic employment certificates becoming a reality in the near future.

## Can remote employees claim travel expenses as business trips? It's a remote possibility

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The tax exemption for travel costs incurred by remote employees visiting their employer's office is a major grey area. Tax authorities are split on the issue, with some saying it depends on the employment contract's definition of "place of work" while others flatly deny it ever counts as a business trip.

This confusion led to a recent tax interpretation issued on 22nd December 2023 (ref. no.: 0114-KDIP3-2.4011.908.2023.1JK3).

The interpretation was requested by an IT company asking if travel costs would be PIT-exempt for their fully remote employees (whose "place of work" was defined as their province) if they needed to visit the head office in another location for an unexpected task.

The National Tax and Customs Information Office (KIS) Head stated that, in this specific case, the employee could be considered on a business trip within the meaning of the Labour Code and, therefore, the costs of travelling to the employer's registered office would be tax exempt. However, there are limitations: only the portion of costs falling within the official business travel expense limits would be exempt. Any exceeding amount would still be taxed as income from the employment relationship referred to in Article 12 of the PIT Act.

But here comes another twist - the Ministry of Family, Labour and Social Policy disagrees entirely. In separate statements on 30th March and 11th April 2023, they stated that travel from a remote work location to the employer's office should not be considered a business trip under any circumstances. This applies regardless of the purpose of the visit, including both tasks related to ordinary duties (client meetings) and those outside of typical responsibilities (performance reviews or contract signings).

We concur that such travel does not typically qualify as a business trip. For a journey from the remote work location to the employer's premises to be considered a business trip, all the following criteria must be met:

- 1) Employer's order: The travel must be requested by the employer, not initiated by the employee or mutually agreed upon.
- 2) Incidental and atypical business task: The purpose of the travel must involve a specific, non-routine business task distinct from daily duties.
- 3) Departure from fixed workplace: The travel must involve leaving the employee's designated remote work location or their contractually defined workplace. This does not apply to mobile employees whose designated work areas encompass larger regions or those contractually obligated to work from two specific locations.

Fulfilment of all the aforementioned criteria can potentially classify a remote employee's travel to the employer's premises as a business trip, making the associated costs eligible for tax exemption. Conversely, if these essential elements are not met, the employer is not obligated to reimburse the incurred travel expenses.

### How to safely use AI in workplace

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Despite AI tools taking the world by storm, Poland has not yet caught up with regulations governing their use in the workplace.

While new to some, AI tools operating on similar principles have been available for years, like machine translation in Google Translate or DeepL. However, their use in the workplace presents distinct challenges for employers.

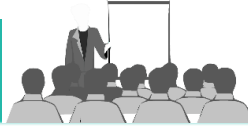
One major concern is data security - protection of personal data (GDPR), trade secrets and other confidential information. Feeding information into publicly available AI tools means relinquishing control over it. To mitigate this risk, organizations need clear and transparent policies defining what data employees can share with these tools.

Another concern is the reliability of AI-generated results and their alignment with service terms. Even without the data security aspect, users are often left in the dark about how these tools reach their conclusions.

Finally, ethical and legal considerations come into play. Using these tools for business purposes might violate the terms of service or infringe on third-party rights, such as copyright. The absence of specific regulations necessitates a proactive approach from employers to mitigate risks associated with employee use of AI tools. This includes employee education on potential risks and the implementation of internal policies governing acceptable usage and data sharing.

By understanding the risks and taking necessary precautions, organizations can harness the power of AI responsibly and comfortably.

Here is a timetable for the upcoming events that we are hosting in the upcoming weeks.



### **Webinar: Beyond non-compete clauses: Protecting your business after employee departures**

Date: 28<sup>th</sup> February, 11:00 a.m., online.

Speakers: Bartosz Tomanek, Michalina Lewandowska-Alama.

Organised by: Pracodawcy Pomorza (Employers of Pomerania).

Registration and detailed agenda: [click here](#).

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### **IX Polish Labour Law Congress**

Date: 5-6<sup>st</sup> March, 9:30 a.m. – 3:15 p.m., online.

Speakers: Michał Włodarczyk, Piotr Kuźniak.

Organised by: Must Read Media.

Registration and detailed agenda: [click here](#).

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### **HR Lab: Employee in social media, mental health & well-being**

Please join our HR Lab meeting.

Date: 6<sup>st</sup> March, 11:00 a.m. - 2:00 p.m., Kraków.

Speakers: Robert Stępień, Michał Bodziony, Kinga Ciosk, Kamil Bogusz.

Registration form: [click here](#).

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### **Let's talk about money: Business travel, secondment, mobile work - how to account for the benefits granted?**

Please join our next Let's Talk About Money meeting.

Date: 7<sup>st</sup> March, 11:00 - 11:45 a.m., online.

Speakers: Sandra Szybak-Bizacka, Łukasz Chruściel, Kinga Polewka-Włoch.

Registration form: [click here](#).



**PCS Paruch Chruściel Schiffter Stępień Kanclerz |  
Littler Welcomes Michał Włodarczyk as Partner**

Michał is a seasoned advocate with over 12 years of expertise in advising national and international businesses on HR law. Prior to joining PCS | Littler, he led the Employment Law Practice at EY Law.

Michał's integration into the PCS | Littler team marks a significant step in strengthening our expertise and commitment to providing clients with a superior level of service in the field of HR law. Congratulations!

Read more [here](#).