



GMS Flash Alert

Immigration Edition

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Czech Republic – End of July Brought ‘Revolution’ in Posting of Workers

A package of measures spelling out significant changes to the rules on the posting of workers from abroad entered into effect on 30 July 2020 as a part of an amendment to the Czech Labour Code.¹ This package adapts Czech legislation to comply with an amendment to the EU Directive on the Posting of Workers.² The changes are primarily aimed to equalise the working conditions of posted and local workers.

WHY THIS MATTERS

All employers employing posted workers should pay attention to the recent legislative changes.

The list of working and payroll conditions that must be applied to posted workers is now broader than ever. Furthermore, long-term posted workers (the workers posted for more than 12/18 months) are now entitled to all working conditions prevalent in the host country, except for the legal regulation of the origination, change, and termination of an employment relationship.

The amendment may result in a significant increase in expenses for the posting of workers and, simultaneously, a higher administrative burden on employers.

Short-Term vs. Long-Term Posting

Under the amendment, for personnel posted to the Czech Republic it is necessary to distinguish between short- and long-term postings. Short-term postings are generally postings shorter than 12 months; long-term postings go beyond 12 months. The short-term posting regime can be extended to up to 18 months but employers must file a written notification of such an extension with a regional labour office and specify why the posting is being extended. All this must be done within 12 months from the moment a posted worker started providing services in the Czech Republic.

To assess whether a posting is short-term or long-term, posting periods of workers replaced in the performance of the same job at the same place are added together. Under the transitory provisions, a posting commenced before the effective date of the amendment is regarded as a posting commenced on the effective date, i.e., 30 July 2020.

Working Conditions to Be Provided to Posted Workers

Before the amendment, the Czech Labour Code regulated the minimum working and payroll conditions to which a worker posted to the Czech Republic is entitled. These minimum conditions are currently applicable only to short-term postings, while at the same time, the original list of working conditions that must be provided to posted personnel, such as minimum wage, guaranteed wage or minimum vacation length, has been extended to cover also the provision of all kinds of statutory premiums and extra pay, travel expenses, and acceptable accommodation conditions if provided by the employer.

On the other hand, workers posted long-term must be provided with all working conditions prevalent in the host country, excepting the legal regulation of the origination, change, and termination of an employment relationship.

Any working conditions under Czech law apply to the posted worker only if these are more advantageous than those under the law of the worker's home country, which is a rule that remains effective for both short-term and long-term postings.

Changes in Use of an Employment Agency

Within the regulation of "agency employment," the amendment stipulates the duty of the user, i.e., the employer to whom the worker is temporarily assigned by an agency, to inform the agency sufficiently in advance about its intention to post the worker to another member state while providing services on an international scale (i.e., double-posting). Double-posted employees are also regarded as posted personnel and job agencies remain their employers with all related rights and duties.

KPMG NOTE

The new rules aim to improve the conditions of posted workers. Nonetheless, there remain many unresolved issues that will have to be dealt with by both receiving and posting employers. We therefore recommend adopting a very careful approach to postings and paying proper attention to the preparation of related documentation. The reporting duty vis-à-vis labour offices should also be respected.

FOOTNOTES:

1 The Act No. 262/2006 Coll., Labour Code (*Zákoník práce*), as amended, the implementing amendment is Act No. 285/2020 Coll. (*kterým se mění zákon č. 262/2006 Sb., zákoník práce, ve znění pozdějších předpisů, a některé další související zákony*).

2 See the full text of the [Directive 2018/957/EU](#) on posting of workers. For related coverage of the directive, see GMS [Flash Alert 2020-329](#) (27 July 2020) and [Flash Alert 2020-292](#) (23 June 2020). For coverage of the revised directive, as well as what other countries are doing to transpose the directive into national law, see the following issues of GMS [Flash Alert: 2020-334](#) (29 July 2020), [2020-329](#) (27 July 2020), [2020-327](#) (23 July 2020), [2020-292](#) (23 June 2020), [2018-111](#) (24 August 2018), and [2017-160](#) (6 November 2017).

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