



GMS Flash Alert

Immigration Edition

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Czech Republic - Draft Amendment Introducing Changes to Assignment of Workers

A new proposed amendment aims to change, in the Czech Republic, the minimum remuneration of assignees, working conditions of workers posted for a period longer than 12 or 18 months, as well as the information and record-keeping obligations associated with such postings.

In June, the Ministry of Labour and Social Affairs submitted to the government a draft amendment¹ to the Czech Labour Code and the Employment Act in connection with the transposition into national law of an amended EU directive concerning the posting of workers in the framework of the provision of services.

WHY THIS MATTERS

If passed into law, the amendments could mean an adjustment in employers' compensation structures and policies vis-à-vis posted workers. It also means that travel expenses (as we explain below) incurred by employees must be reimbursed. This could mean an extra costs for the employer in respect of posted workers in their employ.

Employers may also see an up-tick in their administration around posted workers, with changes in record-keeping obligations and notification requirements (to the Czech Labour Office) and broadening of foreign regulation of working and remuneration conditions applicable to the individual on assignment.

Amendment's Changes to Labour Code

Minimum Working and Salary Conditions for Posted Workers

The Czech Labour Code regulates the minimum working and salary conditions, which must be provided by an employer to employees posted to the Czech Republic. These already include, among other things, the duty to provide a minimum

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and guaranteed salary and extra-pay for overtime work. The amendment proposes to replace the term 'minimum salary' with 'minimum remuneration', which is a wider term including all other mandatory salary components, i.e., mandatory extra-pay to which employees are entitled in accordance with the host country's law (in the Czech Republic, this involves extra-pay for work on Saturday and Sunday, on holidays, at night, etc.).

According to the amendment, the employer will also have to reimburse the posted worker's travel expenses in the amount to which employees are entitled pursuant to Czech law.

These regulations will generally not apply where the minimum conditions set forth by the law of the state from which the employee was posted are more advantageous for them.

In the case of a long-term posting, the directive imposes a duty on member states to implement as regards posted workers all the applicable terms and conditions of employment in the member state where the work is carried out. The amendment proposes that after a 12-month period elapses, the posted worker will become fully subject to Czech law, except as regards the origination, change, and termination of employment. Following the procedure set out by the amended Employment Act, the 12-month period can be extended up to 18 months by employers filing a motivated (substantiated) notification. And again, this regulation will generally not apply where the specific conditions set forth by the law of the state from which the employee was posted are more advantageous for them.

Amendment's Changes to Employment Act

For the Employment Act, the amendment regulates in detail all information and record-keeping obligations of the foreign employer posting its employees to the Czech Republic. These obligations are to be implemented for and applied to foreign employers.

Following a recent change in the law, it is the foreign employer that has to notify the appropriate regional branch of the Czech Labour Office about the posting and any changes in writing. This has to be done no later than on the date the posted workers commence their work. The amendment regulates the notification duty in more detail. Moreover, the record-keeping obligation thus far performed by the entity receiving the posted worker will be transferred to the foreign employer by virtue of the amendment. The foreign employer also has to keep records of such persons at the place of work.

Posted Workers, EU Law, and Czech National Law

Postings are understood to be situations in which workers perform work in the territory of a member state other than the one in which they regularly work. According to the directive, postings are temporary and workers usually return to the home country after completing their projects/duties. The legal regulation of postings is harmonised at the EU level; in Czech law, this is reflected in several provisions of the Labour Code and Employment Act. The ministry is planning to amend these labour-law regulations.

KPMG NOTE

The transposition deadline for the directive will expire on 30 July 2020; the draft amendment to the Labour Code and the Employment Act should also be effective from that date.

The draft is currently subject to an internal comment procedure.

FOOTNOTE:

1 For the current status of the draft legislation and related information (in Czech language only), click [here](#).

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Contact us

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The information contained in this newsletter was submitted by the KPMG International member firm in the Czech Republic.

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