

This issue of HR Newsletter focuses on possible changes that the new government might bring in; we update you on the new "EU coordination rules"; and on the top of answers to some of your common questions, we have prepared an overview of obligations you have to follow when employing foreigners from non EU countries.

CA TEAM

News

What might the new government bring in?

Labour Code Amendment

❖ **Defined period of time**

The politic leaders ODS, TOP 09 and Věci veřejné want to simplify the recruitment and dismissing of staff for companies, and so they intend to allow easier employment for a defined period of time. Today, a company has to conclude with its employees a contract for indefinite period of time once two years of employment are past, but in future there could be no limitation.

❖ **Severance pay**

Severance pay may be significantly reduced. The principle would be as follows: an employee working in the company for less than a year would receive one month's severance pay, employee working in the company for one to two years would be entitled to two month's severance pay and finally employee who would have worked for the company more than two years would be entitled to three month's severance pay.

❖ **Agreement on work performance**

Extension of casual employment in the form of "agreement on work performance" (dohoda o provedení práce) is also being discussed. Whereas today, an employee may work up to 150 hours per year maximum, in future it could be up to 300 hours per year.

Change in income taxation

Income taxes are, unsurprisingly, also being looked at with an eye to change. Mainly it's the "equation" of tax for income groups with income over CZK 142,000/month that is being discussed. These taxpayers after reaching the maximum base for health and social insurance only pay 15% tax (whereas for other taxpayers paying tax from super-gross salary the rate of taxation corresponds to 23%).

Pension reform

Reduction of insurance in the two variants of pension reform from 28% to 23% from gross salary is proposed. Shortage of income would be covered by a VAT flat-rate of 19%.

The first variant applies when the insurance rate amounts to 20%. The remaining 3% would go on personal pension accounts. The change would affect only people who would be 40 years old or less when the reform is started.

In the second variant the whole 23% would go into the current system. In the case of saving of the other 3% into the second pillar with personal accounts, the State would contribute the same amount. The second pillar would be administered by the pension funds.

Meal vouchers to be cancelled

The proposal to cancel the advantageous tax treatment of meal vouchers is on the table again.

Unemployment rate

The unemployment rate decreased to 8.7% in May. It is lower by 0.5% compared to April.

From legislation

Evidence of accidents

On 1 January 2011, Government Regulation No. 201/2010 Coll., on method of accidents evidence, reporting and notification, becomes effective.

This regulation governs the manner and content of the accidents register, reporting and notification, reporting of work accident causing death, template of the accident record and defines institutions, which shall be notified about the accident and where the records shall be sent. The Regulation incorporates respective EU legislation and cancels decree No. 494/2001 Coll.

This newsletter is intended to keep clients and friends of Contract Administration generally informed of current employment related issues in Czech Republic. It is not intended to give advice. Readers are recommended to take formal advice before contemplating any decision or action related to any item of information appearing in this newsletter.

From legislation

New EU coordination rules

From 1 May 2010, so-called new EU coordination rules enter into force. These are Parliament and Council Regulations No. 883/2004 and 987/2009.

According to these regulations the coordination of social security is based on four basic principles, which mean for migrating workers the following:

- ❖ According to the principle of equal treatment workers migrating on the territory of EU are liable to the same obligations and enjoy the same benefits as citizens of each particular state.
- ❖ Pursuant to the principle of application of one legal system, migrating persons should be able to avoid a situation where legislation of more than one or no state at all would be applicable. In general, the legislation of the State where the person is actually working or performing his or her freelance activity is applicable.
- ❖ The principle of insurance time count up is used in case where the person spends part of his working life in one and part in another member state and at the same time does not meet the legally required time to be granted social benefits in either or any of the states. Coordinating rules embody the regulation that enables the obtaining of entitlement for benefit where the employee is drawing his pension also counting the insurance time obtained in other Member States
- ❖ The principle of maintenance of acquired rights ensure to the migrant persons paying benefits not in the state where obtained entitlement to benefit but to any other Member State.

New rules are applied by EU members only at the moment. EFTA member states (Norway, Lichtenstein, Iceland and Switzerland) henceforward, till the time of come up, apply original Council 1408/71 and 574/72.

With introduction of new rules also occurred to the changes in forms which are used in this respect. Further information will be included in our next newsletter

Your inquiries...

'My wife is on maternity leave and she takes care of our small son. However, she will go to the maternity hospital soon and I will be taking care of our son during her stay in hospital. Am I entitled to some sickness benefit?'

If it is necessary to take care for child younger than 10 years, as the person who otherwise takes care for child is in the hospital or other medical institution, gave birth etc., then the nursing benefit applies in this situation. Entitlement to nurse benefit is with an employee who takes care of a child, for up to 9 calendar days of duration taking care of the child.

'In your last newsletter you mentioned that maternity benefits will return to the level before 1 January 2010. It would be helpful to remind us what those amounts are.'

Thank you for your comment. As an attachment to this newsletter we have prepared a brief overview of the current amounts of sickness benefits.

'We did not determined with our employee the amount of allowance reduction he would receive before we sent him on a business trip. Is it possible to reduce the allowance additionally?'

This is not allowed by the Labour Code. If the employer does not agree or does not determine the reduction rates prior to being sent on a business trip, it is not possible to apply the reduction and so the travel allowances will apply in full amount.

Attention, unreduced allowances may have a further impact on the taxability of paid travel expenses when the domestic allowance are provided in a higher than minimum rate.

This flows from the Income Tax Law (object of the tax are not the expenses in the amount given to the so-called budget sphere) and then the Labour Code § 176 (unless agreed or determined allowance reduction, belongs the allowance in lower rate range for given period of time).

Issues affecting you ...?

Staff from non-EFTA countries

If you are planning to employ a foreigner from so-called third countries (not EFTA) – hereinafter ‘the foreigner’, then a relatively time-consuming administrative process awaits you.

You may employ only a foreigner who has a valid work permit and valid residence visa for purpose of the employment, or is a green card holder.

❖ Work permit

The foreigner may be recruited on the position which is reported at the Labour Office (hereinafter „LO“) as a vacancy (has been newly created or felled vacant) and it is not possible to recruit Czech or EU citizen. The employer is obliged to report the vacancy and the relevant details (type of work, place of work, requirements, salary conditions etc.) to the relevant Labour Office within 10 calendar days. The details of vacant job position reported to the LO has to be identical with the details of the job for which the employer intends to recruit the foreigner. The LO comes to a decision about the application usually within 30 days.

A work permit:

- ♦ contains identification data of the foreigner and of the employer, place of work, type of work, time for which is the permit issued and other information necessary for job performance;
- ♦ is not transferable to a different job or a different person and is issued for a definite period of time not exceeding two years; the foreigner may apply for the work permit also repeatedly;
- ♦ is valid only in the relation to the conditions therein (employer, place of work, type of work). If there is any change in circumstances, then it is necessary to apply for a new permit.
- ♦ Is necessary in connection with an Employment Contract, Agreement on a work performance and Agreement on a work activity

❖ Travel visa

The foreigner also must have valid visa showing the reason for stay “work permit”. Usually the foreigner arrives in the Czech Republic on the basis of a visa for up to 90 days (the application is submitted and visa is to be collected on the Czech Embassy in the third country, processing time is max. 30 days).

Subsequently he or she applies for the issue of a visa longer than 90 days, for purpose of employment or long-term residence permit.

The process of obtaining visas, or if needed a long-term residence permit, is relatively time-consuming and administratively intensive. Legal processing time is 90 days (visa), 60 days (long-term residence). In the case of a visa, it is required to submit an application and pick up a visa through the Embassy in the Czech Republic. Processing of long-term residence permit takes place in the Czech Republic.

❖ Green card

The alternative to the above-mentioned procedure is a green card, which incorporates a residence permit and work permit combined.

However only citizens of certain countries such as Croatia, Canada, USA, Ukraine, listed in the notice of the Ministry of Interior are entitled to apply.

Even in this case the employer must first report a vacancy and give consent to the publication of job position in a vacancy registry suitable for green card holders. The position will get into such register 30 days after its notification, if it is not filled by another applicant.

At this time the foreigner may apply through the Czech Embassy for issuing of green card. The Ministry of Interior decides about the request within the period of 30 days, and if a green card is issued, again it is always related to the position and to the employer. The foreigner will receive together with the card also the visa for the residence over 90 days for the purpose of obtaining the card.

If you would have some questions to the payroll or HR agenda, please ask! We will be pleased to contact you.

The most popular questions and the answers to them will be published in future HR Newsletters.

Please contact us at alena.vavrova@ca-staff.eu.

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