



Employment of workers in another Member State

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Main information

Posting of workers, rules on freedom to provide services, residence requirements for workers.

Under Article 45 of the Treaty on the Functioning of the European Union, one of the four freedoms of EU citizens is the freedom of movement to work. This includes the right of workers to move and reside, the right of family members to enter and reside, the right to work in another Member State, and the right to be treated in the same way as nationals of that Member State. The employment of workers in another Member State is treated as 1) long-term employment (the worker works mainly in that Member State, and 2) temporary employment, meaning the posting of workers under Directive 96/71/EC concerning the posting of workers (as amended by Directive (EU) 2018/957).

If a worker who is a citizen of another Member State works in the Czech Republic (ad1), they are subject to the rules for the performance of work that govern their employment, but at the minimum the rules for the performance of work in the Czech Republic, if they are **more advantageous** for workers.

of the Czech Republic will apply to their performance of work pursuant to Section 319 of the Labour Code, provided that it is **more advantageous** for them as regards:

- a) the maximum working hours and minimum rest time,
- b) the minimum length of leave per calendar year or a proportional part of it,
- c) the minimum wage, the lowest guaranteed wage, the wage components set out in Sections 114 to 118 (overtime pay; leave pay; work at night allowance; hard work allowance; Saturday and Sunday work allowance) or salary components set out in Sections 123 to 130 and Sections 132, 133 and 135,
- d) occupational safety and health,
- e) working conditions for pregnant workers and workers who are breastfeeding, workers up to the end of the ninth month after childbirth, and for adolescent workers,
- f) equal treatment of workers and non-discrimination,
- g) working conditions in agency work
- h) conditions of accommodation, if provided by the employer to the worker,
- i) reimbursement of travel expenses for work, if the usual place of work in the Czech Republic is considered a regular workplace

Conclusion on the assessment of working conditions:

The advantageousness is assessed separately for each right arising from the employment relationship. The provisions on the minimum length of leave per calendar year or its proportional part and the minimum wage, the minimum level of the guaranteed wage, and mandatory components of wages or salary will not apply if the period of posting a worker to work in the Czech Republic does not exceed a total of 30 days in the calendar year. This does not apply if the worker is posted to work through the transnational provision of services by an employment agency.

Liability of the recipient of the service for paying the remuneration of the posted worker (Section 319(3) of the Labour Code)

services in the Czech Republic is liable for payment of wages or salary up to the minimum wage, the relevant minimum guaranteed wage and mandatory bonuses, if the following three cumulative conditions are fulfilled :

- remuneration for work up to this amount has not been paid by the posting employer to the posted worker
- at the same time, a fine was imposed on the posting employer in accordance with the relevant provision of Act No 251/2005, on labour inspection
- it was possible, with the exercise of due care, to attribute to the person to whom the worker was posted knowledge about the non-payment of remuneration.

Long-term posted workers and their working conditions (Section 319a of the Labour Code)

If the posting of a worker exceeds **12 months** (long-term posting), in addition to the above conditions (points a) to i), they are subject to further regulation of employment in accordance with the Labour Code, with the exception of changes and termination of employment, provided that **it is more advantageous** for them (see also item K.1). Here, the advantage is assessed separately for each right arising from the employment relationship.

The time limit for the beginning of the long-term posting is **extended to 18 months** if the posting employer notifies that the worker is posted, in accordance with Section 87(2) of the Employment Act, before the expiry of the long-term posting period.

Where an employer sends another worker to replace a posted worker, all periods of secondment of those workers, if they have carried out or are carrying out the same duties at the same place, will be added together for assessing the time referred to in paragraph 1 or paragraph 2. Carrying out the same task at the same place will be assessed with regard to the nature of the work, the nature of the service provided and the place.

A transitional arrangement for calculating the duration of a long-term posting: postings started before 30 July 2020 will be deemed to have begun on 30 July 2020 for calculating the above-mentioned 12-month (or 18-month) period.

Additional information

Reference to legal acts

Act No 285/2020

Act No 262/2006, the Labour Code

Act No 251/2005, on labour inspection

Directive 96/71/EC

Responsible Public Authority



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