

平成 24 年 1 月 27 日

日系企業の皆様へ

在チェコ日本国大使館経済班

労働法及び雇用法の改訂の概要について

当地の改訂労働法及び雇用法については、本年 1 月 1 日より施行されているところですが、今般、改訂の概要に係る英語資料を労働社会省から入手しましたので、各企業の人事労務管理に資するよう情報提供いたします。

また、労働社会省は現在、改訂労働法の英訳を準備しており、約 1 ヶ月後には公表できる見込みとの情報がありましたので、併せてお知らせします。

なお、改訂内容の詳細や運用については、直接労働社会省にお問い合わせ願います。

Changes in the labour and employment field

Summary of changes to the Labour Code with effect from 01 January 2012

Advanced flexibility of working conditions at a concurrent provision of security for employees is promoted by the **amendment of the Labour Code**, taking effect since January 2012. The amendment regulates, for example, fixed-term employment, expands the volume of work based on a contract for performance of work (non-standard labour contract), enables easier modification of working hours or temporary assignment of an employee to another employer. Newly it also regulates severance pay depending on tenure, introduces wider possibilities for employers to terminate the employment, or changes rules for overtime work and competing clauses.

The maximum duration of the **probationary period** extended to 6 months for executive employees. The 3-month limit remains valid for the other employees.

The duration of **fixed-term employment contract** between the same contracting parties must not newly exceed 3 years (formerly 2 years) and the fixed-term employment contract with the same employer can be repeated or extended twice as a maximum. If 3 years elapsed from the end of the previous fixed-term employment, the previous employment contract between the same contracting parties is not taken into consideration.

A possibility has been introduced for **employers to assign temporarily an employee – with his agreement - to another employer**, not earlier, however, than after a lapse of 6 months after the employment contract origination. The previous law permitted only employment agencies to assign employees to another employer.

New reason for notice: Newly an employer may give a notice to an employee if an employee breaches particularly seriously the prescribed curative regime of a person temporarily incapable to work (due to illness) in the period of the first 21 calendar days of the temporary incapacity to work.

Severance pay is newly graded depending on the tenure. An employee who is entitled to severance pay shall be paid severance pay in the following amount:

- a) One average monthly pay if employment lasted less than 1 year;
- b) Twice average monthly pay if employment lasted at least 1 and less than 2 years;
- c) Three times average monthly pay if employment lasted at least 2 years.

In case of so-called **contracts for performance of work** the number of hours an employee can work for an employer in one calendar year has increased from 150 to 300 hours. Newly the income from such a contract is subject to payment of social and health insurance premiums if the remuneration exceeds 10000 CZK.

Arrangement of working hours has become simpler and more flexible, especially in provisions on shift organization, working time account and overtime work. The maximum length of a shift has been determined to be 12 hours (formerly 9 hours).

A restriction has been cancelled that had prescribed that a **competing clause** can be arranged only after a lapse of the probationary period. Furthermore, an employer's obligation has been reduced regarding an adequate financial compensation to an employee for each month of the obligation performance, in the amount of a half of the average monthly pay at least, unlike at least one average monthly pay formerly.

Summary of changes to the Employment Act with effect from 01. 01. 2012

In November 2011 the Parliament of the Czech Republic adopted an amendment to the Employment Act. It contains changes in registration and keeping in the jobseekers' registry, also in unemployment benefit and retraining courses. Job applicants who will, without serious grounds, terminate employment mediated by the Labour Office or whose employment contract in such a job will be ended due to a severe violation of rules by the employee can apply for registration in the job applicant register not earlier than after a lapse of six months.

The amendment of the act has stipulated a ban on employing illegally residing third-country citizens in order to fight against unlawful immigration and illegal employment. It has also introduced sanctions and measures which should be applied in case of breach by employers.

The amendment also tightens control over activities of job agencies in the field of employment of foreigners in order to increase agencies' responsibility for foreigners' stay and work in the Czech Republic, including misuse on the labour market. Newly, employment agencies are obliged to take out insurance against bankruptcy in the amount securing a wage payment amounting to at least triple the average monthly net earnings of all their employees who are or will be temporarily assigned to perform work for user enterprise.

The amendment newly defines cooperation between the Labour Office and private employment agencies regarding mediation of jobs for jobseekers. A regional branch of the Labour Office may broker employment for a jobseeker with his/her prior consent via a private employment agency (so called "**shared mediation of employment**"). The Labour Office will conclude a written agreement with employment agency based on which CZK 5,000 can be granted to the agency by the Labour Office for each jobseeker whose employment is mediated by the agency. Additional bonus is paid for placing a jobseeker in a job with an indefinite period and the placed jobseeker stays in the brokered job for at least 6 months.

Newly, retraining programmes of choice have been introduced. Job seekers or job applicants interested at retraining can newly arrange **retraining** themselves and in this regard select a type of work they want to be retrained to, or a retraining facility which should perform the respective retraining. Upon the assessment of adequacy of the respective retraining, the Labour Office will reimburse costs (up to CZK 50,000 in 3 years). In the event that the retraining cost exceeds the prescribed limit, the difference in costs will be paid by the applicant himself/herself. The existing retraining system provided by the Labour Office remains unchanged.

Rather similar institutes of sheltered job and sheltered workplace have been merged (both intended for an employment support of people with disabilities). From 1 July 2012 the employers employing more than 50% of people with disabilities of the total number of their employees will be paid an allowance for promotion of employment of people with disabilities to compensate expended wages and salaries in the amount of 75% of actually expended funds per month (to the limit of CZK 8,000 per month). In comparison with the previous regulation, mandatory financial participation of the employer is being introduced in terms of the expended wages and salaries.

The definition of **illegal work** has become more precise and the respective sanctions have been tightened. An employer allowing performance of illegal work can be imposed a fine in the amount ranging from CZK 250,000 to CZK 10 million, a maximum amount of a fine for an employee has increased from CZK 10,000 to CZK 100,000. Since 1 January regional branches of the Labour Office are obliged to keep records of natural and legal persons who were effectively imposed a fine due to enabling performance of illegal work.

In this context, in 2012 inspection activities with a focus on illegal work will intensify. This year MoLSA plans to carry out up to 200 thousand inspections (in 2011 167000 inspections). Newly, inspections will be carried out by 400 inspectors of the National Labour Inspection Authority who thanks to 180 mobile offices will be equipped with all the necessary up-to-date technology.

In order to reduce the administrative burden of companies the employers' obligation to report vacancies to the Public Employment Service has been cancelled. Projects have been launched enhancing jobseekers' level of education and checking people drawing social benefits.