Information on the labour and wage conditions and terms for workers posted in the framework of the provision of services in the territory of the Czech Republic

According to the legislation of the Czech Republic, posting of employees in the framework of the provision of services is regulated, in particular, by Act No. 262/2006 Coll., the Labour Code, as amended by later regulations (hereinafter referred to as "the Labour Code"), and Act No. 435/2004 Coll., on employment, as amended by later regulations (hereinafter referred to as "the Employment Act").

A domestic legal entity or individual who enters into a contract with an employer from another member state of the European Union ("EU") or the European Economic Area, on the basis of which their employees were posted to perform tasks arising from this contract in the territory of the Czech Republic, is required, under Section 87 of the Employment Act, to notify a competent branch office of the Labour Office of the Czech Republic, that their employees posted here have started to perform work for this domestic entity. They are obligated to do so no later than on the day on which the posted worker starts work, moreover, in accordance with Section 102 paragraph 2 of the Employment Act to keep a register of their posted workers. In case of failure to comply with these obligations an individual commits an offence under Section 139 of the Employment Act, in the case of a legal entity or an individual running a business it is an offence under Section 140 of the same act, for which a fine of CZK 100,000.- can be imposed.

In the case when an employee from another EU member state is posted to perform work within the framework of the transnational provision of services in the territory of the Czech Republic, regulations of the Czech Republic in accordance with Section 319 of the Labour Code apply to such an employee on condition that it is considered more favourable for the employee, in respect of:

a) the maximum length of working hours and minimum resting period,
b) the minimum length of annual leave entitlement or its proportionate part,
c) the minimum wage, the lowest level of guaranteed wages and supplements for overtime work,
d) health and safety protection at work,
e) working conditions for pregnant employees, breastfeeding employees, workers employed until the end of their ninth month after childbirth and juvenile employees,
f) gender equality and non-discrimination in the workplace,
g) working conditions for temporary agency work.

The provisions on the minimum length of annual leave entitlement or its proportional part and the minimum wage, the lowest level of guaranteed salaries and overtime supplements shall not apply if the period for which an employee is posted to work within the framework of the transnational provision of services in the Czech Republic does not exceed a total of 30 days in a calendar year. This shall not apply if

the employee is sent to work within the framework of the transnational provision of services through an employment agency.

I. Working conditions

a) Determined weekly working hours

The length of determined weekly working hours is **40 hours per week.** For employees under 18 years of age the length of a shift on individual days must not exceed 8 hours and in more fundamental labour relations the weekly working hours must not exceed 40 hours per week in total. With employees:

- working in underground coal mining, with ores and non-metalliferous raw materials, in mining construction and geological survey mining sites and employees working in three shifts and in a continuous operation working mode, determined weekly working hours shall be **37.5 hours per week**,
- working in a two-shift mode **38.75 hours per week**.

The maximum length of a shift is **12 hours**.

After a maximum of 6 hours of continuous work, the employer is obligated to provide their employee with a **break from work for meals and rest for at least 30 minutes**. The break is not provided at the beginning or at the end of the day and it is not included in the working hours.

b) Overtime work

Overtime work can be performed only in exceptional cases. Compulsory overtime for an employee **must never exceed 8 hours** per individual week and **150 hours** per calendar year. Work exceeding this range of time can only be performed with the consent of the employee, again, with the restriction following the rule of the total extent of an average overtime work of 8 hours a week in the adjustment period.

Overtime work and remuneration

For a period of overtime work the employee is entitled to wages and supplement amounting to at least 25% of their average earnings unless the employee has agreed with his employer to have a compensatory leave granted in to the sum of overtime work performed instead of the supplement. **The employer is always obligated to pay the corresponding wages the employee is entitled to!**

c) Resting period

Between the end of one shift and the start of the following shift employees are entitled to the uninterrupted rest of at least **11 hours**. This rest may be reduced up to 8 hours during 24 consecutive hours in the case of employees aged over 18 years of age on condition that the following uninterrupted rest period will be extended by a period of the shortened rest. Such shortening is only possible in continuous operation, if the working hours are unevenly distributed, and with overtime work, work in

agriculture, in the sector of providing services to the population (e.g. in public catering, in telecommunications and postal services), for urgent repair work, in the case of averting threat to life or health of employees and in natural disasters, and in other similar extraordinary cases. In the case of seasonal work in agriculture, rest period can be shortened in the three week period following its shortening.

The employee is also entitled to **a continuous resting period of at least 35 hours**, which may be shortened in accordance with the conditions laid down in the Labour Code where the following rest must always be extended by such reduction.

d) Entitlement to holiday

Holiday per calendar year and its proportionate part
The Labour Code grants employees with the right to an annual leave calculated per a calendar year or its proportionate part in duration, at least **4 weeks** (5 weeks in the case of employees of employers in Section 109, paragraph 3, of the Labour Code and 8 weeks in the case of pedagogic workers and university academic workers). An employee who has worked at least 60 days in a calendar year in continuous employment with the same employer is entitled to a holiday per a calendar year, or its proportional part if the employment did not last continuously for the entire calendar year. A day is considered as worked if the employee has worked the majority part of his shift; parts of shifts worked on different days are not cumulated. A proportionate part of holiday per each completed calendar month of continuous work makes one twelfth of the annual leave entitlement.

Holiday in lieu for worked days
If no entitlement to a holiday per calendar year or its proportionate part arose to an employee as he did not carry out work with the same employer for at least 60 days, he is entitled to a holiday for the days worked in the length of **one twelfth of the annual leave** per calendar year **for every 21 days worked** in the given calendar year.

e) Remuneration

Minimum wage
From the 1.1.2017 the basic minimum wage rate for the weekly working hours determined to be 40 hours amounts to **CZK 11,000**.- per month or to **CZK 66.**- per hour. Payments for overtime work and supplements for work on a public holiday, at night, or for work in difficult working environment and for work on Saturday and/or Sunday, are not considered when determining the minimum wage amount.

Guaranteed wage
Apart from the minimum wage, the Czech legal order also uses the term of a guaranteed wage, which means a wage to which the employee became entitled in accordance with to the Labour Code, contract, internal regulation or payroll assessment. The lowest level of guaranteed wages of employees whose pay is not agreed upon in the collective agreement (e.g. of a higher level or internal company wage), is stipulated by t**he regulation of the Government No. 567/2006 Coll**., on the

minimum wage, the lowest levels of guaranteed wages, on the definition of difficult working environment and the amount of supplements to wages for work in difficult working environment. **It defines 8 groups of work and it determines the lowest level of guaranteed hourly and monthly wages for each of them.** General characteristics of individual groups of work and examples of the classification of work in these groups are set out in the annex to the said regulation of the Government. This regulation ensures that the employees work must be rewarded accordingly depending on its complexity, responsibility and difficulty, at least with such a wage stipulated as the lowest permissible for the given work group.

From the 1.1.2017, the amounts of the lowest levels of guaranteed wages for the determined weekly working hours of 40 hours are as follows:

Group of work	The lowest level of guaranteed wages	
	in CZK per hour	in CZK per month
1	66.00	11,000
2	72.90	12,200
3	80.50	13,400
4	88.80	14,800
5	98.10	16,400
6	108.30	18,100
7	119.60	19,900
8	132.00	22,000

In the case that the remuneration for work does not reach the minimum wage or the corresponding minimum guaranteed wage levels, the employer is obligated to pay the residual sum to the employee. As is the case with the minimum wage, similarly, when comparing the lowest level of the guaranteed wage to the employee's wage, it does not include pay for overtime work and supplement for work on a public holiday, at night, work in difficult working environment and work on Saturday and/or Sunday.

f) Protection of health, safety and hygiene at work

The employer is obligated to ensure the safety and the protection of health of employees in the work place with regard to the risk of potential threats to their life and health related to undertaking of work.

In the course of time, an employment agency employee is assigned to perform work at the user's, **it is the user** who creates favourable working conditions and ensures safety and health protection at work. The user is obligated to provide the employment agency employees, assigned to perform work with the user temporarily according to the requirements of the performed work, **with sufficient and adequate information and instructions** on safety and health at work, in particular in the form of presenting the

risks, the results of risk assessment and of the measures for the protection against exposure to those risks which are relevant to their work and workplaces.

If there are employees of two or more employers performing tasks in one workplace, the employers are **obligated** to inform each/any other of the risks and measures taken to prevent the employees exposure to them, where the risks regard the performance of work and the workplace itself, and to cooperate in ensuring safety and health at work for all workers in the given shared workplace. On the basis of a written agreement of the participating employers, the employer who is authorized by this agreement shall coordinate the implementation of measures taken to protect the safety and health of employees, and procedures to arrange them.

The employer (the user) has the duty to prevent risks, to ensure there would be the first aid provided, and to run entrance inductions and periodic trainings, etc. **The costs related to ensuring safety are paid by the employer and must not be transferred at the employee.** The worker has a right to be informed about the risks associated with the performance of his work, a right to be trained in keeping safety regulations, the right to negotiation, the right to examination by a physician prior to the performance of work and the subsequent preventive medical examinations, the right to personal protective equipment, the right to abstain from work in case of immediate threat to health, the right to ask the employer, the right to complain to the employer, the right to apply to the appropriate administrative (supervisory) body, etc.

The duties and obligations are imposed, in particular, by Act No. 262/2006 Coll., of the Labour Code, Act No. 309/2006 Coll. and other implementing legal regulations.

g) Pregnant employees, employees who are breastfeeding, and employee-mothers till the end of the ninth month after their child's birth

It is prohibited to assign a female employee with tasks or work which would endanger their maternity. The list of work activities which are **prohibited** to be carried out by the above mentioned employees is stipulated by the Health Ministry Decree No. 180/2015 Coll. In the case that such an employee carries out work she must not do or which endangers her pregnancy or maternity, the employer is obligated to **transfer** her to carry out other work.

The employer is obligated **to inform** these employees of any potential risk factor which they could be exposed to during work, affecting the foetus in the mother's body. The employer is further obligated to **acquaint them with the risks** and their possible effects on pregnancy, breastfeeding or on their health and to take all necessary measures, including measures related to the reduction of mental and physical fatigue and other kinds of mental and/or physical load connected to work performed by them, these apply all the time when it is necessary to protect their safety or health of the foetus. The employer is obligated **to adapt the working premises** for these employees' rest requirements. In case these women work at night (at least three hours as a part of a shift at least once a week working between 22:00 and 6:00 a.m.), the employer is obligated to transfer them to other work if they so request.

Additionally, a pregnant employee cannot be employed for overtime.

h) Working conditions for children and juveniles

A general ban on work is applicable to children, except for artistic, cultural, sporting, and advertising activities, under the conditions stipulated by Act No. 435/2004 Coll., on employment.

A person who has reached the age of 15 years and completed compulsory school attendance may enter into a contract to work. A juvenile employee (an employee aged less than 18 years) can only be employed in works that are commensurate with his/her physical and intellectual development. **It is forbidden** to employ young people overtime, in works underground in mining or tunnelling. Works specified in Decree of the Ministry of Health No. 180/2015 Coll., laying down the conditions under which a juvenile can exceptionally be employed in these works. **Night work** can be done by a juvenile only in exceptionally exceptional circumstances and only one hour if necessary for his/her professional education It is forbidden to employ juvenile workers in work in which they are exposed to an increased risk of injury or whose exercise could seriously jeopardize the safety and health of other individuals. Juvenile employees must be examined by the provider of occupational health services before employment, before being transferred to another job and regularly at least once a year. Juvenile employees must be provided with a **break for food and rest after no more than 4.5 hours** of continuous work, a rest for at least 12 hours must be provided between shifts. In addition, juvenile employees must have a minimum of 48 hours of uninterrupted rest in a week.

i) Equal treatment for men and women and other provisions on non-discrimination

Employment relations allow for **no discrimination.** Employers are obligated to ensure equal treatment of all employees in terms of their **working conditions, remuneration** for work and the provision of other cash benefits and benefits of cash value, training and the opportunity to achieve a functional or other career path.

Act No. 198/2009 Coll., Anti-Discrimination Act, and Act No. 262/2006 Coll., of the Labour Code, are the basic sources of anti-discrimination legislation.

II. Collective agreements

It is possible to conclude two kinds of collective agreements in the Czech Republic, i.e. a corporate collective agreement and a higher level collective agreement. A higher level collective agreement may become, upon agreement of its parties, binding for other employers with a prevailing activity in the sector, for which the higher lever collective agreement is concluded - a list of such agreements is available on this webpage: http://www.mpsv.cz/cs/3856

III. How to enforce one's rights?

In case that the employer or user do not follow their duties imposed upon them by the legal order, an instigation to have an inspection carried out can be submitted with the State Labour Inspection Office (http://epp.suip.cz/epp/index.php).

If an employer did not pay wages to the posted employee, the unpaid employee, in addition to a civil legal procedure in which they would challenge their employer to pay the due wages followed with submitting an action at a court in their home country, can take advantage of the regulation stipulated in Section 319, para. 3, of the Labour Code. According to this regulation the payment of wages or salary up to the amount of the minimum wage, the corresponding lowest level of guaranteed wages and overtime supplements, are **guaranteed** to the posted employee by a person (service recipient) the employee was posted with on the basis of a binding contract, to perform tasks arising from this contract, under the conditions further set out in the Labour Code provision below, which include:

- ✓ the fact that the remuneration for work up to the amount of the wage or salary up to the amount of the minimum wage, the corresponding lowest level of the guaranteed wages and overtime work supplements was not paid by the employer,
- ✓ the situation in which the multinational employer has been imposed a penalty with a final order for an offence under Section 13, para. 1 (b) or Section 26, para. 1 (b). of Act No. 251/2005 Coll., on labour inspection, as amended, or
- ✓ the situation in which this person knew or if taking due care should have known or could have known of the unpaid reward.

If the real length of work performance is not proven, it is to be alleged that the posted employee has performed work for 3 months.

If any discrimination or violation of the rights and/or breach of procedure arising from the equal treatment law have occurred, the person concerned has the right to claim refraining from such discrimination and eliminating the consequences of the discriminatory intervention with a court, and claim a satisfactory compensation. It is also possible to address the regional labour inspectorate.

IV. Do you have further questions?

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