



Labour Law Insider - special issue

WEINHOLD LEGAL

ERNST & YOUNG

Quality In Everything We Do

Contents

Rules on Secondments -
New Interpretation

Contact Us!

For more information, please contact one of the following professionals:

Ernst & Young

Peter Ferrigno
Partner - Human Capital
peter.ferrigno@cz.ey.com
tel.: +420 225 335 613

Weinhold Legal

Michael Shaheen
michael.shaheen@wl.ey.com
Iva Soukalova
iva.soukalova@wl.ey.com

The information in this newsletter is correct to the best of our knowledge and belief at the time of going to press. Specific advice on items contained in this newsletter should be sought, however, before investment and other decisions are made.

Rules on Secondments - New Interpretation

We are pleased to announce that the Ministry of Labour & Social Affairs (Ministry) has adopted an **interpretation** of the Act on Employment's rules on **secondments**. In particular, the Ministry focuses on problematic Section 14(2) of the Act, which includes in the definition of "mediation of employment" secondments of staff to the Czech Republic from abroad on the basis of **hiring-out-of-labour** contracts.

In general, based on the interpretation **inbound secondments** to the Czech Republic will not require a placement agency license if the secondment is **not made for the purposes of attaining profit**. If this requirement is met, the Ministry will not consider the contract to have as its subject the "hiring-out-of-labour" and such contracts will be **exempt** from the placement agency license requirement.

The interpretation further provides that such a secondment will be exempt even if there is some mark-up payment attached to it IF (1) the secondment is made **within the framework of a multinational group**, AND (2) the only reason for the mark-up is to satisfy the transfer-pricing rules of the OECD.

The Ministry also clarifies that, where the inbound secondment does not meet the above requirements (i.e. it is aimed to gain a profit), the foreign entity may acquire a placement agency license to second employees into the Czech Republic **without** establishing a Czech branch.

We will of course be in contact with the Ministry over the next several weeks to clarify their implementation of the interpretation as well as to discuss its impact on outbound placements. We will also continue to cooperate with the American Chamber of Commerce and key government officials, which have been instrumental in this process.

Finally, although it is reasonable to rely on the Ministry's adoption of this interpretation and its circulation to local Labour Offices, the wording of the Act on Employment remains unchanged and is subject to interpretation. An initiative is already in place to appropriately amend the Act, perhaps with effect as early as this summer.

