Legal Alert
in the field of labour law

28 June 2024

Weinhold Legal

Below is the latest employment law update. If you have any questions, please do not hesitate to contact us.

Legislative changes

Amendment to the Employment Act effective from 1 July 2024

Act No. 408/2023 Coll., amending Act No. 435/2004 Coll., on Employment, as amended (**"Employment Act"** or **"Act on Employment"**), and other related acts, brought, in addition to the amendments effective as of 1 January 2024 and about which we informed you in our January HR LA. These changes take effect on **1 July 2024.**

Changes to the vacancy register

The vacancy register will now also include the CZ - ISCO code of the position. The Labour Office will remove a notified vacancy from the vacancy register:

- after 6 months from the date of its notification by the employer, unless there is an application procedure for an employment card, a blue card or an alien's work permit for that position, until the administrative procedure is completed; or
- the employer fails to provide the necessary cooperation to fill the vacancy.

Abolition of the so-called labour market test for employment cards

The vacancies reported to the Labour Office will be able to be immediately included in the central register of jobs for employee cards with the consent of the employer, i.e. the obligation to offer the job for 30 days first will be eliminated and only if the position is not filled within the specified period, then it could be included in the central register. From 1 July 2024, foreigners can apply for an employment card almost immediately after reporting a vacancy (as soon as the vacancy is published in the relevant central register, which should be within a few days). This option is already available to Blue Card applicants.

In the event of high unemployment, the Employment Act provides for a 30-day labour market test, which may be shortened to 10 days by the Labour Office.

New group of foreigners for whom a "work permit" is not required

According to the new provision of Section 98(u) of the ZoZ in conjunction with Government Decree No.158/2024 Coll., which establishes a list of countries whose citizens are not required to have an employment permit, an employee card, an intra - corporate transferred employee card or a blue card for employment or work, citizens of the countries listed below will not need a "work permit" to enter the Czech labour market from **1 July 2024.**

These are citizens of the following countries:

a) the Commonwealth of Australia,
b) Japan,
c) Canada,
d) the Republic of Korea,
e) New Zealand,
f) the Republic of Singapore,
g) the United Kingdom of Great Britain and Northern Ireland,
h) the United States of America; or
i) the State of Israel.

The above does not exempt these citizens from the obligation to have the relevant residence permit (e.g. Schengen visa for employment purposes, non-dual employment card or blue card). Thus, foreigners from these countries cannot, for example, come to the Czech Republic on a tourist visa or under a visa-free regime and start working immediately.

Secondment abroad in the context of transnational service provision

An employer is obliged to notify the State Labour Inspection Office (formerly the regional branch of the Labour Office) of the posting of an employee to perform work in the Czech Republic

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via the information system no later than on the day of the posting. The list of data to be notified is specified in Section 101a(3) of the Labour Code.

The notification shall also be accompanied by copies of documents proving the existence of the employment relationship of the seconded employee, including a translation into Czech (not required to be certified). The employer is responsible for the accuracy of the translation of the employment contract into Czech.

More detailed information can be found on the website of the State Labour Inspection Office.

Method of fulfilling the employer's information obligations when employing employees from abroad

With effect from 1 July 2024, the method of reporting the employment of foreigners will change in accordance with Decree No.117/2024 Coll. and the amendment to the Employment Act. It will now be possible to report the employment of foreigners and their performance of work in the Czech Republic only electronically, through

- a data box with an embedded XML file of the specified structure,
- the employer system integrated with the interface of the Ministry of Labour and Social Affairs (hereinafter referred to as "**MLSA**")
- a web form available on the MLSA website.

Changes to work performance agreements - from 1 July 2024 and from 1 January 2025

Act No. 163/2024 Coll. will amend Act No. 349/2023 Coll., the so-called consolidation package, with effect from 1 July 2024, inter alia, in the following areas:

Registration of all FTEs from 1 July 2024

As of 1 July 2024, a register of all employees working on the basis of labour performance agreements ("LPAs") (including those who are not insured) will be created and maintained by the CSSA. Employers will be obliged to report the commencement and termination of employment for all PPAs by the 20th day of the following calendar month. The employer will send each month a list of all employees on FTEs, including the amount of their income (regardless of whether it triggers participation in sickness insurance), via the form "Statement of income charged by the employer to employees working under a work performance agreement". For the first time, the employer will have to do so for the month of July 2024 by 20 August 2024 at the latest, and thereafter always by the 20tn day of the following calendar month.

Scheme of notified and non-notified agreements from 1 January 2025

From 1 January 2025, employers will have the option to register the employment of an employee working on a FTE under a special regime called a notified agreement, in which the occurrence of participation in the insurance will be treated differently. Participation in insurance for such an employee on the basis of a notified PPA will only arise when the limit of 25% of the average wage is reached after rounding down to CZK 500 (CZK 10,500 in 2024). If the income from all the FTCs of this employee with an employer who has used the notified agreement scheme does not reach the limit of 25% of the average wage (i.e. CZK 10,500 in 2024), the insurance participation will not arise. Only one employer per calendar month will be able to apply the notified agreement scheme to an employee, namely the employer that has notified the CSSA of its intention to apply the notified agreement scheme prior to the application of the notified agreement scheme.

Details can be found in our May HR LA or on the website of the Czech Social Security Administration.

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Extension of the binding force of higher-level collective agreements

Pursuant to the decision of the Ministry of Labour and Social Affairs, published under No. 128/2024 Coll., the higher-level collective agreement for the years 2023-2024 of 18 January 2023, which was concluded between the higher trade union body - the Trade Union of Glass, Ceramics and Porcelain and the employers' organisation - the Association of the glass and ceramic industry of the Czech Republic, as amended by Amendment No. 1 of 18 January 2024, with effect from 1 June 2024, also binding on other employers with predominant activities in the sector designated by the classification of economic activities CZ - NACE 23.1, 23.41 and 23.42.

Court decisions

The right of recourse of a health insurance company to reimbursement for health care provided to an employee as a result of an accident at work

The judgment of the Supreme Court of the Czech Republic ("**SC CR**") of 30 May 2024, Case No. 21 Cdo 1573/2023, dealt with the question under which conditions, within the meaning of the provisions of Section 55 of Act No. 48/1997 Coll., on Public Health Insurance, as amended (the "**Act on Public Health Insurance**"), an employer is obliged to reimburse the costs of medical care paid for by the relevant health insurance company.

If the employer is obliged to reimburse these costs to the health insurer, this amount is not reimbursed on his behalf by the insurer with which he is insured under the statutory employer's liability insurance for work-related accidents or occupational diseases.

The factual situation

An employee suffered a serious work-related injury while operating a laser cutting machine with a pallet changer. Instead of using the designated tools, he crawled under the pallet changer table to remove the dropped products. The machine caught and pinned him, causing multiple injuries to his torso. The health insurance company paid a total of CZK 1 366 713 for the employee's treatment as a result of the work injury.

The Labour Inspectorate found that the employer had failed to ensure the safety of the laser cutting equipment. The protective device on the pallet changer was missing, the light barrier which would have stopped the workflow of the changer if it had been disturbed was not functioning, and protective grills were not installed to prevent the operator from entering the pallet changer area. For these deficiencies, the employer was fined CZK 50 000 for an administrative offence in the field of occupational safety.

Decisions of the lower courts

The courts awarded the health insurer the full amount because the appeals court did not find the "primary substantial and controlling cause of the injury" to be the employee's actions, but the employer's omissions.

Assessment of the Supreme Court of the Czech Republic

The Supreme Court of the Czech Republic concluded that in the given case the lower courts deviated from the established case law in this area, which it recapitulated together with the relevant legislation.

Pursuant to the provisions of Section 55(1) of the Public Health Insurance Act**, a health insurance company has the right to reimburse a third party for the costs of covered services it has incurred as a result of the culpable wrongful act of that third party against the insured. This is an 'original right established by special legislation and is not in the nature of a claim for damages'. The third party is liable to the health insurer only to the extent that its culpable wrongful act is directly related to the cost of the insured's treatment. The third party is not liable for costs caused by other circumstances or actions of the insured person pursuant to Section 55(1)** of the Public Health Insurance Act.

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This right to reimbursement by the health insurer may also be limited or excluded by the conduct of the insured employee that led to the costs of his or her treatment. Such conduct need not be culpable or unlawful on the part of the insured. This also applies in the case of an accident at work to the insured person.

"In this context, the decision-making practice of the Court of Appeal has settled on the conclusion that the extent of the employer's liability for damage or non-pecuniary injury caused by an accident at work has no effect on the extent of its obligation (as a third party) to indemnify the health insurance company under the provisions of Section 55(1) of the Public Health Insurance Act."

The employer is liable to the health insurer only to the extent that its wrongful conduct is causally related to the health care costs incurred as a result of its conduct. Courts will also have to examine the actions of the injured employee where it is likely that without his or her actions in violation of the employer's instructions to operate the machine, the injury would not have occurred.

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