

Legal Alert

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Another amendment to the Act on Employment and Work Inspection

Since the beginning of 2016, the Czech government has had an amendment to the Act on Employment and Work Inspection ready to discuss. The goal of the amendment is to transpose Directive 2014/67/EU, concerning the posting of workers in the framework of the provision of services (the so called Implementation Directive for Directive 96/71/EC).

The goal is to prevent and stop the misuse and bypass of the relevant rules, which are often taken advantage of by businesses looking to benefit from the free movement of services in a fraudulent and dishonest way, for example, in the case of an employer setting up a fake registered address to post workers.

When implemented, the Implementation Directive should setup closer identification of truly posted employees. A framework for the closer cooperation of Member States should be created so Member States can provide each other without undue delay with mutual help. Member States should also create an appropriate and effective system of control, tracking mechanisms and inspections regarding compliance with the regulations concerning posting employees.

The Act on Employment should be amended to include the duties of a domestic employer, with whom employees from another employer with his/her registered address in another EU Member State have been posted. The duty should involve keeping records regarding such person and also the content of the contract with the posting employer residing in another EU Member State.

The Act on Employment should also be amended with further completely new provisions. These introduce the liability of the domestic person to whom a foreign employer has posted his/her employees to pay their wages (regarding the mandated minimum wage).

The liability should also involve paying a fine imposed by work authorities to the foreign employer for an offense or an administrative offense and also further costs related to the delivery of remuneration owed to an employee to the state of which he/she is a citizen.

The liability of a domestic employer applies if he/she knew or could have known that the wage or remuneration was not provided by the foreign employer.

The Directive is to be implemented by EU Member States on 18 June 2016 at the latest.

Currently, there is another proposal for a further amendment to Directive 96/71/EC. This amendment involves some controversial principles ("the same wage for the same work at the same place"), which will bring increased costs to service providers and a disproportionate administrative burden. This may limit the provision of services between Member States.

Contacts:

In case of any questions, please do not hesitate to contact your contact person in our office, or approach Jaroslav Srb (jaroslav.srb@bapol.cz).

**Balcar, Polanský & Spol.
Advokátní kancelář
Revoluční 15
110 00 Praha 1**

**Phone: +420 251 009 111
Fax: +420 251 009 112
E-mail: office@bapol.cz
www.balcarpolansky.cz**