

Information on a new obligation regarding transnational provision of services

The Czech Republic, in relation to the commitments which arise from its membership in the EU, has adopted Act No. 93/2017 Coll., which came into effect on 1 April 2017. The purpose of this act is the transposition of the European Parliament and of the Council Directive 2014/67/EU regarding enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services, and amending Regulation (EC) no. 1024/2012 concerning administrative cooperation through a system for the exchange of information on the internal market. Its aim is to prevent and eliminate abuse and the circumvention of the given regulations occurring on the side of employers who misuse or fraudulently take advantage of the free movement of services included in the Treaty on the functioning of the EU as well as upon implementation of the European Parliament and of the Council Directive 96/71/EC concerning posting of workers in the framework of the provision of services.

With regard to the contents and objectives of the directive the provisions of Section 136 of Act No. 435/2004 Coll., on employment, have been amended in the Czech legal system; where, effective from 1 April 2017, an obligation was introduced for an employer based in another Member State of the EU, who has posted an employee to work temporarily in the Czech Republic in the context of transnational provision of services, to keep **a copy of documents proving the existence of employment in the workplace**, where these are to be **translated into the Czech language**. This document can typically be an employment contract or similar agreement concluded between the posted employee and employer generally in accordance with the legislation of the state in which the posted employee usually works, or other written confirmation of the employer made in accordance with the regulations of this applicable law regarding the fact that the posted employee entered into employment with said employer. This obligation applies to all posted employees, including those working in on-road transport services.

Labour inspection bodies, i.e. the State Labour Inspection Office and Regional Labour Inspectorates, are entitled to perform inspections to prove whether this obligation is adhered to. The persons concerned (drivers) may be required to submit the relevant documents in the Czech language. In the case these documents are not presented to the labour inspection authorities, **a fine to the amount of CZK 500,000 may be imposed upon the posting employer (a transnational service provider) by the labour inspection authorities**.

In the event that an employee, who is not a citizen of the Czech Republic (or any other member state), is posted in the territory of the Czech Republic to provide services, the said person may be required by the labour inspection authorities to submit a corresponding proof of residency which, in case the employee is posted in the framework of provision of services, may have been issued by an authorized body in another member state.

Mgr. Ing. Rudolf Hahn, in his own hand
Inspector General