

## Legislation Concerning Illegal Work and Employment of Foreigners

Two new acts amending certain key legislation in the field of labour law have recently completed the legislative process. The first is Act No. 101/2014 Coll., which as of 24 June 2014 brought changes to the employment of foreigners. The other, Act No. 136/2014 Coll., which introduces (among other things) significant changes concerning investigating and punishing of illegal work, has a broader impact on employers.

**Documents at the workplace:** As of 1 January 2015 employers will no longer have to keep copies of documents at their work place proving the existence of labour relations with their employees. However, this only applies if employers duly fulfil their obligations to the Czech Social Security Administration (ČSSZ), which are associated with employees' commencement of employment. The Labour Inspectorate will newly verify the existence of labour relations from the ČSSZ information system.

**Lowered fine for enabling illegal employment:** Investigations into illegal employment performed last year showed that the existing minimal fine of CZK 250,000 for enabling illegal employment is in many cases completely inadequate and is often liquidating for small entrepreneurs. As of 1 January 2015, the minimal fine will be CZK 50,000.

**New fine for exceeding the limits on work performed outside an employment relationship:** Agreements on work performed outside an employment relationship are a popular way of hiding illegal employment, especially since there is no fine for exceeding the maximum scope of work that may be performed based on these agreements. Employers frequently abuse employees under such agreements by making them work beyond the scope allowed by law. Legislators reacted to the loophole by adding misdemeanour and administrative offences into the act on labour inspection, based on which it, as of 1 January 2015, it will be possible to punish work exceeding the legal limits with a fine of up to CZK 2,000,000.

# NEWS LETTER

2/2014

**Sending foreigners on business trips:** Until now a foreigner was considered to be performing illegal work if he or she did not perform the work in compliance with their work permit. This permit is issued for work in a specific place in the territory of the Czech Republic, so by sending a foreigner on a business trip abroad, the performance of the employee's work frequently clashes with his or her work permit. This limitation turned out to be redundant and problematic, so new legislation explicitly allows sending foreigners on business trips on the condition they perform only the type of work specified in the work permit.

**Employee card:** As of 24 June 2014 employers will need an employee card if they intend to employ foreigners from non-EU countries. This card combines the employment and residence permit into one. An employee card is issued for a specific job position and is valid for the duration of the foreigner's employment, but no more than two years. Although one of the motives for adopting the new law was to decrease the administrative burden associated with employing foreigners, it didn't manage to remove one major flaw: a foreigner still needs to apply for the employee card at the embassy of the Czech Republic, i.e., outside of the territory of the Czech Republic. Foreigners working within international concerns in the territory of the Czech Republic will need to travel outside the Czech Republic in order to get the card.

## Legislative News

### New Public Procurement Directives

On 28 March 2014 the new public procurement directives were published in the Official Journal of the European Union. The goal of these directives is to simplify public procurement procedures and get small and medium-sized enterprises to participate in them. The directives emphasize the economic advantages of a tender as a basic evaluation criterion for selecting suppliers of a public tender. They clarify the conditions of the in-house exception, i.e. a situation where the contracting authority is entitled to award public contracts to its subsidiary without a procurement procedure. Significant changes also affected the field of proving fulfilment of qualifying and evaluating tenders. The Member States of the EU will transpose the directives at the latest by 18 April 2016, but given the extent of changes, a brand new public procurement act is likely to be adopted.

### No recovery of procedural costs for trivial disputes

The Chamber of Deputies of the Parliament of the Czech Republic is currently deliberating on amending the Code on Civil Procedure (OSŘ), which should, amongst other things, bring the following significant changes. First, the rules on reimbursement of procedural costs will change so that in the case of monetary disputes below CZK 10,000 (trivial disputes), procedural costs will not be reimbursed. Second, in regards to enforcing debt that falls into joint spousal property the current possibility of subjecting wages, accounts with financial institutions or other monetary receivables of the obliged party's spouse (i.e. property that is not joint spousal property) to execution will be abolished. Last, but not least, the enumeration of movable items that not subject to enforcement of a decision will be extended and specified in more detail.

### Decrease in the permitted level of state aid to the cohesion regions of the CR

An amendment to government decree no.

596/2006 Coll., which sets the permitted level of state aid to the Czech Republic's cohesion regions (i.e. the eight regions of the Czech Republic delineated for the purposes of obtaining funding from EU funds) provided by means of investment incentives, went into effect on 1 July 2014. The amendment decreases the allowed level of state aid for certain investment activities (e.g. investment activities to support science and research, education, employment, processing industry, etc.). For the entire duration of state aid in individual regions cannot, the amount of aid may not exceed 25 % of qualified expenses (as opposed to the prior 40 %, 36 % or 30 %). The Capital City of Prague is an exception to the rule, as state aid is not provided there for these investment activities.

## Office Updates

### ŘANDA HAVEL LEGAL's professional recognition in 2014

ŘANDA HAVEL LEGAL followed up on its success from previous years when the prestigious international rating Chambers & Partners named ŘANDA HAVEL LEGAL as a "Recognized Practitioner" in 2014 in four fields of legal service: Competition/Antitrust, Projects & Energy, Real Estate and TMT (Technology, Media and Telecommunication).

### Labour Law Academy ŘANDA HAVEL LEGAL

In the fall of 2014, ŘANDA HAVEL LEGAL will launch a series of lectures for HR managers focused on labour law and related matters. A half-day course will take place once per month, with a small portion focused on theory and the rest reserved for practical exercises and case studies. We will focus on topics such as the most frequent errors in employment contracts, leave (holidays), benefits, termination of employment relationships, special features of employment relationships of managers, etc. **For our clients and business partners the academy is offered free of charge. Apply or get more information at: [office.prague@randalegal.com](mailto:office.prague@randalegal.com). We are looking forward to meeting you.**

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