



GUIDE TO GOING GLOBAL EMPLOYMENT

Czech Republic



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INTRODUCTION

Welcome to the 2023 edition of DLA Piper's *Guide to Going Global – Employment*.

GUIDE TO GOING GLOBAL SERIES

Many companies today aim to scale their businesses globally and into multiple countries simultaneously. In order to help clients meet this challenge, we have created a handy set of global guides that cover the basics that companies need to know. The *Guide to Going Global* series reviews business-relevant corporate, employment, equity compensation, intellectual property and technology, and tax laws in key jurisdictions around the world.

EMPLOYMENT

As business grows more global, the challenge for in-house counsel and HR professionals responsible for workforce issues and employment law compliance is intensifying. This guide is designed to meet that challenge head on and has been produced in response to feedback from clients in both established and emerging international businesses. We hope it will become an invaluable resource for you.

This 2021 edition of our popular guide covers all of the employment and labor law basics in 63 key jurisdictions across the Americas, Asia Pacific, Europe, the Middle East and Africa. From corporate presence and payroll set-up requirements, language rules, minimum employment rights, business transfer rules, through to termination and post-termination restraints, we cover the whole employment life span.

We have used our global experience and local knowledge to bring you this newest edition of our guide. With over 300 lawyers, DLA Piper's global Employment group is one of the largest in the world, with one of the widest geographical footprints of any global law firm. We partner with our clients, wherever they do business, to find solutions and manage risk in relation to their legal challenges and objectives.

While this guide provides high-level guidance, it is not a substitute for legal advice, and we encourage you to take advice in relation to specific matters. If you wish to speak to any of our contributors, their contact details are set out towards the back.

We hope that you find this guide valuable and we welcome your feedback.

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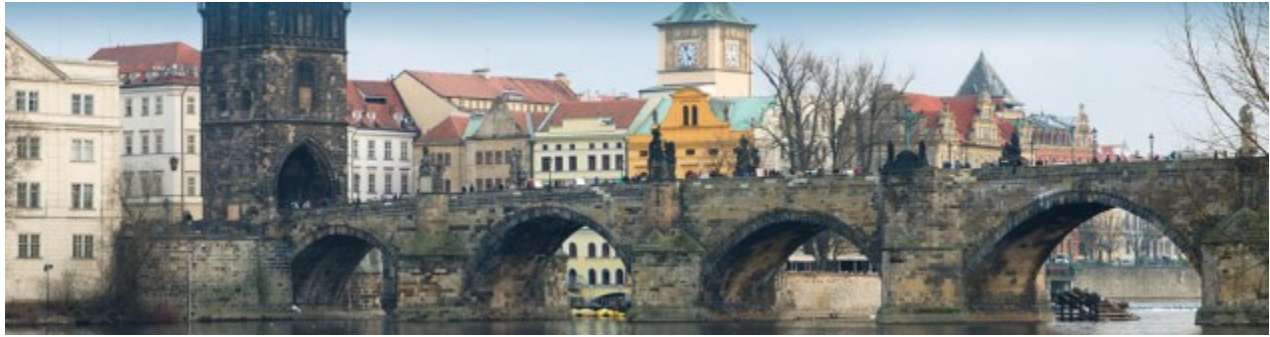
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This is a general reference document and should not be relied upon as legal advice. The application and effect of any law or regulation upon a particular situation can vary depending upon the specific facts and circumstances, and so you should consult with a lawyer regarding the impact of any of these regimes in any particular instance.

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CZECH REPUBLIC



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LEGAL SYSTEM, CURRENCY, LANGUAGE

Civil law. Member of the European Union. The official currency is the Czech Crown (CZK). The official language is Czech.

CORPORATE PRESENCE REQUIREMENTS & PAYROLL SET-UP

Foreign entities may engage employees in the Czech Republic if they have proper registrations with the competent financial authority, social security administration and health insurance company. The registered entity must pay income tax (15 percent and 23 percent for income over 4 times the average salary in Czech Republic, deducted from the employee's gross salary), health insurance (4.5 percent paid by the employee and deducted from the gross salary; in addition, another 9 percent is paid by the employer in addition to the standard gross salary) and social security contributions (6.5 percent paid by the employee and deducted from the gross salary; in addition, another 24.8 percent is paid by the employer in addition to the standard gross salary). In addition, it is now possible to claim a discount on social security contributions for certain specific groups of employees working part-time (eg, employees over 55 years, under 21 years, disabled employees, caring employees).

An employee with a gross income over CZK1,935,552 is not subject to social security contributions. Employers are obliged to maintain a payroll.

Independent contractors are responsible for their own taxation.

PRE-HIRE CHECKS

Required

Immigration compliance. Entry health check. Where required by law, criminal record check or pregnancy information (eg, where certain work cannot be performed by a pregnant employee).

Permissible

Reference and education checks are common and permissible. Criminal records and credit reference checks may be requested if justified by the specific nature of the work performed and subject to the proportionality principle.

Subject to the same conditions, the employer may also request information concerning pregnancy, financial and family affairs of the applicant.

IMMIGRATION

Nationals of the EU, EEA and Switzerland enjoy the right to work in the Czech Republic; however, employers must notify the relevant labor authority. Nationals of any other country must typically obtain a residence/work permit. Employers who look to employ non-EU/EEA/Swiss employees must notify the relevant labor authority and comply with the given procedure.

HIRING OPTIONS

Employee

Indefinite, fixed-term, full-time or part-time. Part-time employment must be individually agreed with the employee. There are several limitations on fixed-term employment relationships (ie, maximum 3 years and 2 renewals, subject to certain exceptions). Part-time and fixed-term employees have the right not to be discriminated against on the basis of such status.

Independent contractor

Independent contractors may be engaged. Such an engagement may be subject to the risk of exposure for misclassification (so-called "illegal work") if the given relationship has signs of dependent work.

Agency worker

Agency employees have a right to treatment that is equal to other employees in relation to pay and other employment terms.

Other options

Under Czech law, there are 2 other employment options based on either an "agreement on work performance" or an "agreement on work activity."

- Agreement on work performance: maximum 300 hours per calendar year; more flexibility, especially in relation to the termination procedure; less administratively burdensome; social and health insurance contributions payable only from certain remuneration thresholds.
- Agreement on work activity: hours worked must not exceed, on average, 1/2 of regular working hours (approximately 20 hours per week); more flexibility, especially in relation to the termination procedure; less administratively burdensome; social and health insurance contributions payable only from certain remuneration thresholds.

EMPLOYMENT CONTRACTS & POLICIES

Requirements

Obligatory written employment contract. It must include:

- Type of work
- Place of performance of work and
- Date of commencement of work.

Certain additional information must be provided to the employee in writing within 1 month from commencement of employment if not included in the employment contract.

Probationary

Permissible; maximum 3 months for regular employees and maximum 6 months for so-called managerial employees. Cannot be renewed and cannot be longer than 1/2 of the duration of a fixed-term employment. Must be agreed to in writing.

Policies

There is no mandatory policy which must be issued by the employer. An employer may issue internal policies to provide employees with rights and benefits above the mandatory provision of the Labor Code. Internal policies must be in writing. A work code is a special type of internal policy to specify the obligations of employees.

Third-party approval

Labor Union consent is required with issuance or modification of the work code.

LANGUAGE REQUIREMENTS

No statutory language requirement, except for posted workers for whom it is required to maintain a copy of an employment contract translated into either the Czech or Slovak languages at the workplace for both the posting employer and the employer to whom the employee has been posted.

However, all documents must be comprehensible to the employee to whom they are addressed (ie, language may be determined on a case-by-case basis). Works council, trade unions or other similar employees' representatives usually require all communication to be in Czech.

WORKING TIME, TIME OFF WORK & MINIMUM WAGE

Employees entitled to minimum employment rights

All.

Working hours

Standard regular working time is 40 hours per week with limited statutory exceptions. Rules on rest breaks, night work and rest periods between shifts apply.

Overtime

Some limits on the extent of overtime to be performed by employees. The employer may request overtime only up to 150 hours per calendar year. Parties may agree to overtime of up to 416 hours per calendar year if the average overtime in 26 consecutive weeks (52 if stipulated in a collective agreement) does not exceed 8 hours per week.

Obligation to provide salary plus premium or time off for overtime. Option to include future overtime in the employee's salary (up to 150 hours per calendar year for regular employees and up to 416 hours per calendar year for managerial employees).

Wages

As of January 1, 2023, the base rate of the minimum wage is CZK17,300 per month, or CZK103,80 an hour.

Vacation

Statutory minimum of 4 weeks per calendar year, excluding public holidays.

Sick leave & pay

Statutory sick leave and pay, subject to participation in the social security scheme and additional obligations. During the first 14 days of sickness, the employee is entitled to salary compensation (60 percent of average earnings with certain reduction factors) from the employer. After this period, sick leave is funded from the social security system.

Maternity/parental leave & pay

Maternity leave of 28 weeks (37 weeks for multiple births), paid within the state social security system for the entire duration of maternity leave at the rate of approximately 70 percent of daily salary, subject to certain reduction factors. Protection against termination.

Paternity leave of 2 weeks within 6 weeks after the birth of the child, paid within the state social security system for the entire duration of paternity leave at the rate of approximately 70 percent of daily salary, subject to certain reduction factors. Paternity leave now has the same protection as maternity leave.

Parental leave available for women after the end of maternity leave as well as for men after childbirth, until the child reaches the age of 3 (duration to be determined by employees). Parental pay, as a part of state social security system, available until the child reaches the age of 4 in a total sum of up to CZK300,000, and CZK450,000 for, for example, twins or triplets. Protection against termination.

Other leave/time off work

Various other leaves may be applicable, such as civic duty leave, military service leave, leaves in the public interest (such as for the performance of various functions, trade-union-related leaves, leaves for donor activities, lecturing leave, Mountain Service/Red Cross leave) and leaves for important personal impediments to work (such as care leave, leave for marriage, compassionate leave, examination/treatment leave, moving leave or leave to seek new employment). Leaves may be paid or unpaid, and, in certain cases, financial compensation is provided by the state or other authorities.

DISCRIMINATION & HARASSMENT

Direct and indirect discrimination, harassment and sexual harassment, victimization, incitement of discrimination and instruction to discriminate are prohibited. Employers are under a duty to make reasonable adjustments for persons with disabilities.

Protected characteristics include race, ethnic origin, nationality, sex (including pregnancy, maternity, paternity and sexual identification), sexual orientation, age, disability, religion, belief and worldviews.

WHISTLEBLOWING

The law implementing the EU Whistleblower Protection Directive is still in the legislative process and is expected to be adopted in 2023.

BENEFITS & PENSIONS

Obligatory state pension insurance scheme, part of the state social security system. No additional benefits required.

DATA PRIVACY

Generally, employees must be notified of personal data processing (eg, camera recordings) and, in certain limited cases, give their consent (eg, for use of the employee's personal data for marketing purposes). Significant restrictions on monitoring employees, including email and internet use.

The Czech Republic is subject to the General Data Protection Regulation (GDPR). The local law implementing the GDPR was issued in 2019.

RULES IN TRANSACTIONS/BUSINESS TRANSFERS

Automatic transfer under the Transfer of Undertakings Directive 2001/23/EC and the Czech Labor Code where there is a transfer of an employer's activities or tasks, or part thereof. Duty to inform and consult with employees and employee representatives. Protection of employees against significant deterioration of working conditions (ie, significant restrictions on changing terms of employment following transfer and rights to claim severance pay in case of deterioration). Employees cannot be dismissed by virtue of a transfer.

EMPLOYEE REPRESENTATION

Czech labor law recognizes several types of employee representatives: trade unions, works councils and occupational health and safety representatives. Trade unions are most common; approximately 12 percent of employees are union members. Many businesses have no union or other worker representation.

TERMINATION

Grounds

Termination with notice permissible on the following grounds: organizational change (ie, dissolution, relocation or other redundancy), incapability (ie, ill health, failure to meet conditions or unsatisfactory performance), misconduct and breach of obligation to remain at home during sick leave.

Immediate dismissal permissible on the grounds of criminal conduct and gross misconduct.

Employees subject to termination laws

All, except employees working based on an agreement on work performance and an agreement on work activity who have a more flexible termination procedure.

Prohibited or restricted terminations

Protection against termination for certain employees and in certain circumstances (eg, sick leave, military exercise, discharge of public office, pregnancy, maternity or parental leave). Certain statutory exceptions apply.

Third-party approval for termination/termination documents

If the employee is a trade union representative of a recognized union, the trade union's consent to the termination – on notice or immediate – is required.

Mass layoff rules

Mandatory consultation rules apply where the threshold number of employees will be made redundant over a 30-day period for organizational reasons. The thresholds are 10 employees if the employer has 20 to 100 employees; 10 percent of employees if the employer has 101 to 300 employees; and 30 employees if the employer has more than 300 employees. Obligatory notification must be given to the relevant labor authority and to the employee representative bodies.

Notice

Statutory minimum notice period of 2 months for both employee and employer. Notice period may be extended via agreement of the parties; this must be the same for employer and employee. No notice required in case of termination during probationary period and immediate dismissal.

Statutory right to pay in lieu of notice or garden leave

No unilateral right to pay in lieu of notice, but payment in lieu of notice may be agreed to in a termination agreement. Garden leave is not expressly regulated but is increasingly common.

Severance

Payable to all employees depending on the length of employment (1 times average monthly earnings if employment lasted less than 1 year; 2 times average monthly earnings if employment lasted at least 1 year; 3 times average monthly earnings if employment exceeded 2 years), provided that termination occurred on

organizational grounds. If termination occurs due to an accident at work or occupational disease of the employee, 12 times average monthly earnings is owed. More generous terms are possible.

POST-TERMINATION RESTRAINTS

Only non-compete clauses are regulated by Czech law. Enforceability of other restrictive covenants is uncertain but should be permissible if reasonable, proportionate and tailored to the situation of the particular employee. Garden leave is not expressly regulated but increasingly common.

Non-competes

Permissible subject to compliance with statutory conditions (ie, maximum duration of 1 year, obligatory compensation of a minimum of 1/2 of average earnings per month, justifiability given the position of the employee and must be in written form).

Customer non-solicits

Not regulated. Enforceability is uncertain but should be permissible if reasonable, proportionate and tailored to the situation of the particular employee.

Employee non-solicits

Not regulated. Enforceability is uncertain but should be permissible if reasonable, proportionate and tailored to the situation of the particular employee.

WAIVERS

Waivers of rights stemming from employment law provisions are legally ineffective.

REMEDIES

Discrimination

Right to request that the discriminatory conduct is halted, that its consequences are removed and the right to appropriate compensation, including uncapped monetary compensation. The amount of compensation is assessed in respect to the seriousness of the damage caused and the particular circumstances of the case.

Unfair dismissal

Right to bring an action to challenge the validity of such a dismissal; a statutory time limit of 2 months applies. If upheld by court, the employee remains employed with the company and is entitled to salary compensation for a specified time period. The salary compensation may be capped to 6 times the average monthly wage by the court with view of particular circumstances of the case.

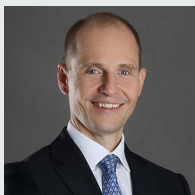
Failure to inform & consult

The State Labor Inspection Office may impose a penalty on the employer, up to CZK200,000, for failure to inform or consult.

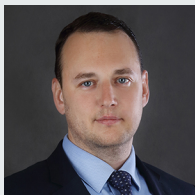
CRIMINAL SANCTIONS

Illegal employment of foreigners may, under limited circumstances, constitute a criminal offense, as could avoiding tax and health and social security payments.

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