



EMPLOYING FOREIGN NATIONALS IN THE CZECH REPUBLIC

Are you looking for new employees? In the Czech Republic, this is almost a superhuman task. According to the statistics available from the Employment Office, the rate of unemployment remained at 2.7 % in September 2019, for the third month in a row. This is in itself a very low number; in fact it is the lowest rate of unemployment throughout the EU as a whole. If you decide to recruit a new employee, you will most likely have to look for someone from abroad. Be prepared for the fact that employing foreign nationals is a costly and lengthy process under the conditions in place in the Czech Republic. We will try and explain the process involved briefly and clearly in the following 7 points.

for highly-qualified employees), but the employee card is undoubtedly **the most widespread and most universal**. Put in simple terms, the procedure involved in dealing with this is as follows: the employer announces a new, vacant position at the Employment Office, finds a foreign national with whom it agrees on the conditions of cooperation and the foreign national subsequently submits an application for an employee card. Everything is described in detail in Section 42g of the Act on the Residency of Foreign Nationals. The Ministry of the Interior decides whether or not to issue an employee card within a time limit of 60 days.

1 THE LEGAL FRAMEWORK OF EMPLOYING FOREIGN NATIONALS

The issue of employing foreign nationals is primarily regulated in **Act No. 326/1999 Coll., on the residency of foreign nationals**. This contains the general conditions under which a foreign national may enter the territory of the Czech Republic, the legal regulation of employee cards and the actual process of obtaining an employee card. The second important legal regulation is **Act No. 432/2004 Coll., on employment**. Part four of this act is devoted to employing employees from abroad. For example, it lays down the duty to inform imposed on the employer and the conditions of permission to employ a foreign national. If you are able to successfully navigate a path through the whole process and employ a foreign national, the employment relationship itself is then governed by **Act No. 262/2006 Coll., the Labour Code**, under the same conditions as apply to a regular Czech employee.

5 LABOUR MARKET TEST

The obligation of the employer to announce a vacant position at the Employment Office is important. The employer complies with this obligation by completing “Hlášení volného pracovního místa” (Announcement of a vacant employment position) and sending this to the competent regional Employment Office. The announcement must state the characteristics of the employment position and the remuneration on offer. Only when the Employment Office is unable to find a suitable candidate within thirty days is the employment position entered in the **Central Records of Vacant Employment Positions Which May be Occupied by Holders of an Employee Card** and the position may be offered to foreign nationals. This process is designed to protect the Czech labour market from foreign nationals occupying positions in which Czech employees are interested.

2 WHO IS CONSIDERED A FOREIGN NATIONAL?

The laws which regulate the employment of foreign nationals consider foreign nationals to be third country citizens. Third country citizens are citizens of a state which **is not an EU Member State and who are not citizens of Iceland, Liechtenstein, Norway or Switzerland**. The free movement of people, including employees, is one of the fundamental freedoms of the EU, alongside free movement of goods, services and capital. EU citizens therefore have access to the labour market in the Czech Republic under the same conditions as Czech citizens.

6 UNRELIABLE EMPLOYER

Everyone who is considering employing foreign nationals should be aware of the legal regulation to concern the “unreliable employer”. If an employer becomes unreliable, **it may not employ holders of employee cards**. An employer that is not a “person without debt”, an employer on which a fine has been imposed within the last four months for executing illegal work, an employer that has gone into liquidation, etc., is considered to be unreliable. A full list of reasons is available in Section 178f of the Act on the Residency of Foreign Nationals.

3 FREE ACCESS TO THE LABOUR MARKET

There are many countries whose citizens have free access to the labour market. The most significant and largest group takes in **citizens of EU Member States**. However, certain selected groups of foreign nationals from third countries also have free access to the labour market, for example graduates of Czech secondary schools and institutions of higher education, those holding a permanent residence permit, etc. A full list can be found in Section 98 of the Act on Employment. What exactly does this mean? You can employ such a foreign national without requiring any other work permit or residence permit.

7 LATEST CHANGES

As is the case with a range of other Czech legal regulations, the Act on the Residency of Foreign Nationals is one which legislators amend very frequently and it is difficult for employers to keep up with all the individual amendments. For example, an amendment in August 2017 introduced the foregoing institution of the unreliable employer in the act. The most recent amendment, effective as of 31 July 2019, introduced a rule that is important to employers. Foreign nationals who obtain an employee card may change employer not earlier than **6 months** after the date on which the decision to issue an employee card enters into legal force. This move is designed to protect employers that invest considerable expenses to bring an employee to the Czech Republic, who would then go and work elsewhere soon after. This is certainly a positive change from the perspective of those who employ foreign nationals or are now thinking about it.

4 EMPLOYEE CARD

If a foreign national does not fall within any of the exemptions described in the previous point, he/she must obtain an employee card. There are certain other residence permits which allow foreign nationals to work within the territory of the Czech Republic (for example, a blue card

CONTACT

bnt Czech Republic is a part of the international law firm bnt attorneys in CEE based in 10 Central and Eastern European countries. Our Prague location was opened in 2003 and today a growing international team of 40 professionals provide a legal, accounting and tax advisory to the international as well as to local clients in all key areas of business law.

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