

EMPLOYMENT OF FOREIGN NATIONALS IN THE CZECH REPUBLIC

A foreign national is according to the Czech law, Act No. 435/2004 Coll., an individual, who is not a national of the Czech Republic, European Union, European Economic Area or Switzerland or a member of his/her family. An individual without any nationality is considered as a foreign national as well. The question is, what is the procedure of acquiring an employment for foreign nationals intending to arrive to the Czech Republic in order to work.

A foreign national can be employed only if he/she has:

- (a) **Regular work permit**
 - (i) Valid work permit and
 - (ii) Valid short-term visa (until 90 days) or long-term visa (over 90 days) or long-term residence permit issued for the purpose of employment
- (b) **Green card**
- (c) **Blue card**

REGULAR WORK PERMIT

(i) A foreign national must first apply in writing to the Labor Office in the Czech Republic in order to acquire the work permit, generally before his/her arrival. He/she can do so oneself or via the employer, by whom he/she will be eventually employed or to whom he/she will be sent by home employer. The work permit can be issued by the Office only under the condition, that there is a vacant work position, which means that in respect of the qualification required or the temporary shortage in workforce, cannot be occupied by a Czech person. The application must include identification information regarding the employee and the employer, category of the employment, the place of work and a term, for which the employment should last. As the appendices be provided a statement of the employer that he will employ the employee, documentation certifying the employee's professional qualification required for the employment or other documentation if required should. The Office issues the permit for **maximum of 2 years**, which can be repeatedly prolonged, but always for maximum of 2 years. Administrative fee is 500,-Kč for application. This permit is not necessary for individuals with granted asylum or with permanent residence in the Czech Republic.

(ii) Short-term work visa can be granted by Czech embassy upon an application for maximum period of 90 days, which can be used within 180 days. The visa must be for the purpose of employment and the application must be submitted, beside general requirements, with work permit, employment contract, proof of securing accommodation.

A foreign national can only submit the application for a long-term visa based on the long-term employment at the Czech embassy in his/her country of origin. The applicant is obliged to undergo an interview if the embassy calls him/her to it. **The term of validity of a long-term visa is since 1.1.2011 shortened by The amendment to the Act on Residence of Foreign Nationals. A long-term visa will be newly issued for the maximum period of 6 months.**

An amendment had also changed the authority responsible for the decision on granting a **long-term residence permit**. It is not Foreign Police Departments any more, but new regional offices of the Department for Asylum and Migration Policy of the Ministry of the Interior. The application can be submitted by a foreign national, who stays in the territory of the Czech Republic upon a long-term visa, is willing to temporarily stay for the term longer than 6 months for the purpose of employment. In order to do so, he/she is obliged to attend in person the office. He/she is entitled to stay in the territory for a term stated in the permit card, which will be issued with biometric data starting May 2011.

In addition, there are new requirements for the proof of securing accommodation by foreigners; it is necessary to submit it both to an application for granting long-term visa and long-term residence permit. Accommodation can only be secured in a building intended for living, accommodation or recreation. The accommodation provider is obliged to ensure to a foreign national that the floor area of a room for accommodation must be at least 8 m², if a single person is accommodated, 12.6 m² if two persons are accommodated; 5 m² are added to the floor area per every further accommodated person. A foreign national is obliged to prove securing accommodation by any of the following documents: a document proving that he/she is an owner of the respective flat or house or a document proving that he/she is entitled to use the respective flat or house based on a lease or an officially certified confirmation of a person who is the owner or authorized user of the respective flat or house that he/she agrees with accommodating the foreign national. Any other document will not be recognized as a proof of securing accommodation.

GREEN CARD

The green card is a permit for long-term residence for employment purposes in the Czech Republic under special circumstances. A foreigner who has a green card issued for a specific job is entitled to reside in the Czech Republic and work in a job for which the green card was issued. The green card is for foreigners, citizens of the following countries listed, which are not members of the European Union: **Australia, Montenegro, Croatia, Japan, Canada, South Korea, New Zealand, Bosnia and Herzegovina, Macedonia, United States of America, Serbia, Ukraine**. It simplifies entry to the job market for foreigners who have qualifications for which the Czech Republic has a job opening in register of jobs suitable for green cards. The acceptance of this institute was not as common as predicted by a legislator in 2009 due to the procedure, when future employers did not have any chance to affect the selection of employees before their arrival. The green card is issued for qualified workers with university education and key personnel, for workers in jobs with a minimum educational requirement or for other workers. Jobs for green card holders can be found in the central register of job vacancies suitable for green card holders accessible on the internet on: http://portal.mpsv.cz/sz/zahr_zam/zelka/vm. The validity of the green card is for 2-3 years.

BLUE CARD

The amendment to the Act introduces a new residential institute intended for the stay associated with the performance of a highly qualified employment. **A foreigner holding a blue card may reside in the Czech Republic and work** in the job for which the blue card was issued, or change that job under the conditions defined. High qualification means a duly completed university education or higher professional education which has lasted for at

least 3 years. An application for issuing the blue card shall be submitted by a foreign national at the Czech embassy or, in selected cases, also at the Ministry of the Interior in the Czech Republic. The foreign national is obliged to submit an employment contract agreed at least for the period of one year and documents proving his/her high qualification to the application for issuing the blue card. The blue card is issued with the term of validity 3 months longer than the term for which the employment contract has been concluded, **however for the maximum period of 2 years**. The blue card can be extended. One of the conditions for issuing the blue card is a wage criterion - the employment contract must contain gross monthly or yearly wage at least at the rate of 1.5 multiple of the gross average annual wage. The important advance in contrary to previously criticized green cards therefore is that the whole procedure is carried out after the selection of an employee by the employer. **A change of the employer or job classification of a blue card holder during the first two years of stay in the Czech Republic is subject to the approval of the Ministry of the Interior.** A blue card holder will be allowed to obtain permanent residence/the status of a long-term staying resident in the European Communities after 5 years of the stay in the Territory of the EU member states, whereas he/she must stay as a blue card holder in the Territory of the Czech Republic for the last 2 years. The blue card stays from various EU member states are included in the period of 5 years. A blue card holder and his/her family members will be allowed to reunify the family with no minimum period of the previous stay in the Czech Republic, i.e. immediately. The central evidence of open jobs, which can be filled with the blue card holders is provided by the Labor Office in the Czech Republic. The web page is: http://portal.mpsv.cz/sz/zahr_zam/modka/vm. The open job is such, which was not filled until 30 days since its announcement to the office. The approval of an employer is needed in order to register the open job to the evidence.

EMPLOYMENT IN THE CZECH REPUBLIC

According to the Act no. 262/2006 Coll., the labor code, there are 3 types of employment.

a) "Employment relationship" is the most common and used type of employment. It can be contracted for maximum of 2 years in case of foreigners. If the term is not explicitly set out in the contract, it is considered to be of indefinite time period. The trial period can be also arranged for maximum period of 3 months. The termination reasons of the employment are limited in order to provide stable employment and prevent benevolent dismissals.

b) "Agreement on Working Activity" is second type of work Agreements and it has to be made in writing and the employer is not obliged to schedule hours of such work as well. The work may not be performed on the basis of an agreement on working activity, where the average scope of work exceeds one-half on normal weekly working hours. The agreement may be terminated unilaterally by stating any reason, or without stating it, with a 15-day notice period. In contrast to the agreement b), the employee has to pay health and social insurance.

c) "Agreement on Work Performance" is used for short-term works and the scope of work for which an agreement on work performance is concluded may not exceed 150 hours in one calendar year. The employer is not obliged to schedule hours of such work, so the work can be carried out "on-call" of the employer. Since 2011 this contract must be made in writing, but the particular task does not have to be specified.

However, the agreements under b) and c) are available only for persons with Czech citizenship.

CRIMINAL ASPECTS OF EMPLOYING FOREIGNERS

As there are more ways for foreign nationals to be employed in the Czech Republic, sanctions imposed on illegal workers are being tightened up. In addition, since the 1st of January 2010, illegal employment has been criminalized and is now one of the crimes against the order in public matters (sec. 342, Act 40/2009 Coll.). It is directed mainly to tackle organized groups arranging illegal work without any permit from Czech authorities.