

# Employment of Foreigners in the Territory of the Czech Republic

## Table of Contents:

- Legal regulations concerned with employment of foreigners in the territory of the Czech Republic
  - General information on the procedure of employing foreigners
  - Special cases of issuing employment permits to foreigners
  - Cases where an employment permit is not required
  - Procedure in issuing employment permits to foreigners in the framework of commercial or other agreements
  - Employment of foreigners in the framework of international agreements
  - Repeated issue of an employment permit and residence permit
  - Expiration of validity of an employment permit - sanctions
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## Legal regulations concerned with employment of foreigners in the territory of the Czech Republic

**Law No. 1/1991 Coll.**, on employment, as amended, in particular, by Law No. 167/1999 Coll. (hereinafter the "Law on employment");

**Law No. 9/1991 Coll.**, on employment and jurisdiction of authorities of the Czech Republic in the area of employment, as amended;

**Law No. 325/1999 Coll.**, on asylum and amendment to Law No. 283/1991 Coll., on the Police Force of the Czech Republic, as amended (hereinafter the "Law on asylum");

**Law No. 326/1999 Coll.**, on residence of foreigners in the territory of the Czech Republic and amendment to some other Laws (hereinafter the "Law on residence");

**Regulation of the Government No. 77/2000 Coll.**, on issuing certification of temporary residence to the citizens of the Slovak Republic;

**Law No. 65/1965 Coll.**, the Labour Code, as amended (hereinafter the "Labour Code");

**Law No. 97/1963 Coll.**, on international private and procedural law;

**Law No. 71/1967 Coll.**, on administrative procedure (the Code of administrative procedure), as amended;

**Law No. 368/1992 Coll.**, on administrative fees, as amended;

**Law No. 337/1992 Coll.**, on administration of taxes and fees, as amended;

**Decree No. 192/1993 Coll.**, on government stamps;

**Law No. 200/1990 Coll.**, on misdemeanors, as amended;

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## General information on the procedure of employing foreigners

The conditions for employing foreigners in the Czech Republic are laid down in the Law on employment according to which foreigners or persons without citizenship may be employed in the territory of the Czech Republic provided that they were granted an employment permit and residence permit.

Similarly as for employment, an employment permit is also required for a foreigner or a person without citizenship who intends to work in the territory of the Czech Republic within a labour relationship with a foreign employer who is sending him(her) to perform such work on the basis of a commercial or other agreement concluded with a Czech legal or natural person.

The Labour Authority in the territory of which the employment is to be performed makes the decisions on issuing a permit to acquire an employee from abroad and on an employment permit for such employee.

**Issue of a permit for an employer to acquire employees from abroad, as well as issue of an employment permit for a foreigner is subject to payment of an administrative fee.**

An exception **from the above provisions is granted for the citizens of the Slovak Republic** who are employed in the territory of the Czech Republic on the basis of Agreement No. 227/1993 Coll. between the Czech Republic and the Slovak Republic on mutual employment of citizens and Administrative agreement between the Ministry of Labour and Social Affairs of the Czech Republic and the Ministry of Labour and Social Affairs and Family of the Slovak Republic related to the Agreement between the Czech Republic and the Slovak Republic on mutual employment of citizens.

A Czech employer shall register **a citizen of the Slovak Republic** at the Labour Authority in the area of his(her) registered seat. A foreign employer who is sending a Slovak citizen to perform work in the territory of the Czech Republic shall register such person at the Labour Authority in the area where the work will be performed.

### **The employer:**

The Law subjects the possibility to acquire employees from abroad to the condition that such employees may only be acquired for vacancies that have been notified by the employer to the Labour Authority and for which a Czech citizen, and in particular an applicant for employment, can not be hired. Vacancies mean newly created or vacated jobs for which the employer intends to hire an employee.

An employer shall submit **an application for a permit to acquire employees from abroad** to the Labour Authority in the area where the work of the future employee will be performed. With the application, the employer shall submit an officially verified copy of the following documents: excerpt from the Business Index, business permit or other certification of the statute of the organization, e.g. the foundation instrument of a social organization, etc.

Within the administrative procedure, **the employer shall document, on request by the Labour Authority:**

- a. how (s)he has dealt with the lack of labour force (advertisement, labour market, unsuccessful offer for training, etc.)
- b. detailed characteristic of activity for which a foreigner will be hired;
- c. description of accommodation allowing for assessment whether such accommodation complies with sanitary regulations.

A permit to acquire employees from abroad may be issued provided that the employer offers the foreign employee the same labour and salary conditions as are usual for Czech citizens within the same labour assignment pursuant to the valid regulations or in accordance with collective agreements or labour agreements, as appropriate, and that the foreigner will be insured within compulsory social and health insurance.

For this purpose, the Labour Authority shall require that the employer submit a **draft labour contract** that must include, in addition to information following from the Labour Code (i.e. type of work for which the employee is hired, the place of work and the day of commencement of work):

- a. the expected term of employment;
- b. gross salary for the performed work;
- c. the address of accommodation and the manner of payment therefor.

The draft labour contract shall be accompanied by documents on:

- d. the manner of ensuring financial means for traveling to the country of residence following termination of the labour relation (including premature termination);
- e. officially verified certification of provision of accommodation for the expected term of employment.

When the Labour Authority issues a permit to the employer to acquire employees from abroad, each foreign employee, prior to commencing labour activities for such employer, must obtain an employment permit from the locally competent Labour Authority pursuant to the place of employment and a residence permit for the purpose of this employment.

When the Labour Authority issues a permit to the employer to acquire employees from abroad, this employer may employ foreigners only provided that these have

- a. a valid employment permit issued by the locally competent Labour Authority pursuant to the place of employment,
- b. a valid residence permit for the purpose of employment,
- c. concluded a written labour contract for a term that is in accord with the term set by the Labour Authority in the decision on employment permit for such foreigner,

and provided that the employer registers these employees for payment of social and health insurance premiums.

**The obligation of the employer to notify the Labour Authority within 5 calendar days** of hiring an employee for a vacant job (newly created or vacated) also applies when a foreign employee is hired for such job.

**A permit to acquire employees from abroad is also required for employers** who already employ a foreigner on the basis of relevant permits and who intend to transfer such foreigner to a different place of employment outside of the district for which a permit to acquire employees from abroad has been issued.

**A permit to acquire employees from abroad is not required** for foreign employers who are sending their employees to the Czech Republic to perform work on the basis of a commercial or other agreement concluded with a Czech legal or natural person.

## **The foreigner:**

**An application for employment permit shall be submitted by a foreigner who**

- a. intends to be employed in the territory of the Czech Republic within a labour-law relationship with a Czech legal or natural person. This category also includes e.g. company associates, acting officers, members of supervisory boards, chief clerks, limited partners in limited partnerships etc., who, in addition to such activity, intend to be in a labour-law relationship with a commercial company founded pursuant to the Commercial Code;
- b. are in a labour-law relationship with a foreign employer who is sending him(her) to perform work in the territory of the Czech Republic on the basis of a commercial or other agreement concluded with a Czech legal or natural person.

**Together with the application, the foreigner shall submit:**

- a. a copy of the page of his(her) passport containing the basic identification information;
- b. officially verified copy of a document on his(her) professional qualification for the area in which (s)he will work in the territory of the Czech Republic (certificate of apprenticeship, secondary school certificate, certificate of completion of university studies etc.); such document must be translated into Czech language and officially verified;
- c. health certificate for work in medical professions, restaurants, foodstuff industry or other areas where such certificate is required.

**The foreigner shall be a participant in the administrative procedure** in which (s)he may be represented by a representative authorized thereby (usually the employer) on the basis and within the scope of the power of attorney.

The Labour Authority shall issue an employment permit for a vacancy reported by the employer for which the employer has obtained a permit to acquire employees from abroad.

The Labour Authority shall also issue an employment permit for reported vacancies for which employees will be hired through voting or designation and for which the employer is not obliged to obtain a permit to acquire employees from abroad. In this case, the employer shall prove in writing that the employee is hired for such job on the basis of voting or designation.

**An employment permit is issued for a fixed period of time, however not exceeding one year.** A foreigner may apply for an employment permit repeatedly.

**An employment permit is not transferable** and contains information expressly stated in the decision concerning

- a. the employer,
- b. the place of employment,
- c. type of performed work,
- d. term of employment.

An employment permit is valid only for employment at the employer set forth in the decision. The permit is also connected with a certain type of work and place of employment. **If certain conditions set forth in this employment permit are to change before expiration of validity of the permit**, the foreigner is obliged to request the locally competent Labour Authority to issue a new employment permit.

**An employment permit is required for all labour-law relationships in the sense of the Labour Code**, performed by a foreigner in the territory of the Czech Republic, i.e. employment, secondary employment, agreement on performance of work, agreement on labour activities, also if such labour-law relationships occur concurrently. If a foreigner concurrently performs several jobs in the territory of the Czech Republic, a separate employment permit is required for each employer and this permit must be issued by the locally competent Labour Authority pursuant to the place of the given employment.

During the term of employment, a foreigner who is employed pursuant to the valid regulations of the Czech Republic is subject not only to labour-law regulations, in particular the Labour Code, but also to salary regulations, and regulations on general health insurance and social security.

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## Special cases of issuing employment permits to foreigners

1. **With regard to the situation on the labour market**, an employment permit shall also be issued to a foreigner who will be
  - **employed in a border region** with daily or weekly commutation to the place of his(her) residence in the neighbour state;
  - **a seasonal employee** for a term of six months during a calendar year with a period of at least six months between the individual cases of employment;
  - **employed for the purpose of increasing his(her) abilities** and qualification in the given profession (affiliation) for a set period of time not exceeding one year. The term of employment may be prolonged, however not for longer than is necessary for acquiring professional qualification pursuant to the regulations valid in the Czech Republic;
  - **performing** continuous educational activities as a pedagogical assistant or academic assistant of a university.
2. **Without regard to the situation on the labour market**, an employment permit shall be issued to a foreigner
  - designated in an international agreement binding the Czech Republic and published in the Collection of Laws;

- under 26 years of age who is performing occasional and temporally limited work in the framework of a school exchange.

In the above cases, the jobs in question are not reported as vacancies and hiring of foreigners for such jobs does not require a permit to acquire employees from abroad pursuant to § 19 of Law No. 1/1991 Coll., on employment, as amended.

## **An employment permit is not required**

1. **An employment permit is not required** for a foreigner who
  - a. is granted the position of a refugee or has applied for granting of such position;
  - b. has a permit for permanent residence in the territory of the Czech Republic;
  - c. is a relative of a member of a diplomatic mission, consulate or a relative of an employee of an international government organization with a seat in the territory of the Czech Republic provided that reciprocity is guaranteed by an international agreement concluded on behalf of the Government of the Czech Republic. In this case, the employer shall notify the locally competent Labour Authority within 8 working days from commencement of the employment of the foreigner. This notification is important for control and statistical purposes.
  - d. is
    - an artist,
    - a pedagogical assistant,
    - an academic assistant of a university,
    - a scientific assistant attending a scientific meeting,
    - a pupil or student up to 26 years of age,
    - a sportsman,
    - a person providing for supply of goods or services or supplying such goods in the Czech Republic,
    - a person carrying out assembly on the basis of a commercial contract or carrying out guarantee and repair works,and whose period of stay in the territory of the Czech Republic **does not exceed seven consequent calendar days or a total of 30 days during a calendar year**. In this case, the employer shall notify the locally competent Labour Authority within 8 working days from commencement of the employment of the foreigner. This notification is important for control and statistical purposes.
  - e. is employed in the territory of the Czech Republic pursuant to an international agreement binding the Czech Republic and published in the Collection of Laws;
  - f. is a member of a rescue squad and is providing assistance on the basis of an international agreement on mutual assistance in eliminating consequences of accidents and natural disasters and in case of a humanitarian aid;
  - g. is employed in an international public transport;
  - h. is accredited in the media;
  - i. is a member of military forces or a civil unit of a party to the North Atlantic Treaty;
  - j. enjoys diplomatic or consular privileges and immunities pursuant to international law.
2. The Law on employment does not apply to a foreigner who
  - a. performs labour activity on the basis of a small business authorization and registration in the Business Index,
  - b. performs activities in the territory of the Czech Republic in the framework of mutual affiliations of university students and young university graduates provided that this is carried under the following conditions:
    1. the purpose of the mutual affiliation consists in education, including "life-long" education,
    2. the potential employment is a part of such education,
    3. the income of the foreigner in the territory of the Czech Republic is not derived from his(her) working performance and the conditions for providing such income are based on an agreement with the foreign organization sending the foreigner for such affiliation (usually by means of a fellowship or contribution from a fund), and not on a labour contract or any other individually concluded labour-law agreement with a legal or natural person with a seat in the Czech Republic.

The above conditions may be proved through a contract (usually on international cooperation in education) on the basis of which the foreigner has been sent to the Czech Republic.

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### **Procedure in issuing employment permits to foreigners in the framework of commercial or other agreements**

An employment permit is also required for a foreigner who will perform work in the territory of the Czech Republic within a labour-law relationship with a foreign employer who is sending him(her) to perform work on the basis of a commercial or other agreement concluded with a Czech legal or natural person.

The procedure of making decision on an application of a foreigner for an employment permit is similar as for a foreigner who will be employed within a labour-law relation with a Czech legal or natural person.

Furthermore, **a copy of the commercial or other agreement concluded by the foreign legal or natural person and the Czech legal or natural person, and a copy of the document authorizing the foreign entity to carry out activities that are the subject matter of the commercial or other agreement shall be annexed to the application for an employment permit.** For a group of persons, such documents shall be submitted in a single copy. The foreign employer shall submit such annexes translated into Czech and officially verified.

A foreigner employed by a foreign employer and sent to perform work in the Czech Republic shall be remunerated in accordance with the labour contract concluded with his(her) employer. The concluded labour contract, as well as health insurance and social security, shall usually be subject to regulations valid in the country of the employer who is fully responsible for the contents of the contract, as well as for the payment of insurance premiums.

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### **Employment of foreigners in the framework of international agreements**

Employment of foreigners on the basis of international agreements is subject to valid regulations unless such agreement lays down otherwise.

International agreements respect regulations of the parties thereto and take into account requirements of the parties for administrative procedure on mutual employment and/or allow for laying down limits for the number of employed foreigners for the individual calendar years.

The procedures of the Labour Authority in issuing, refusing issue and withdrawing foreigner's employment permit are usually laid down in the principles of the pertinent international agreements or protocols thereto.

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### **Repeated issue of an employment permit and residence permit**

Prior to expiry of the term of validity of an employment permit, a foreigner may submit application to the competent Labour Authority for a new (repeated) issue of the employment permit.

The competent authorities of SCPP pursuant to the place of residence decide on prolonging residence permits.

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### **Expiration of validity of an employment permit - sanctions**

1. The validity of an employment permit extinguishes
  - a. with expiry of the period for which it was issued,
  - b. with termination of the employment prior to expiry of the period for which the employment permit was issued,
  - c. with expiry of the period for which a residence permit was issued or with extinguishment of a residence permit for other reasons.

2. An employment permit shall be withdrawn from a foreigner on the basis of a decision by the Labour Authority if the foreigner fails to comply with the conditions laid down in the decision on the employment permit. A specimen form of a decision on withdrawing an employment permit is available in the OK system.

3. A foreigner who is employed without an employment permit may be punished pursuant to regulations valid for this area.

4. An employer who employs a foreigner without the pertinent permits may be punished pursuant to regulations valid in the area of employment.

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A survey of valid permits for employment issued to foreigners in the Czech Republic as of March 31, 2000.

Order	Country	Number of employees		Type of employment			Classification pursuant to the type labour activity		
		total	women	individual permit	individuals with the statute of refugee	in the frame-work of a contract	workmen's professions	secondary school professions	university professions
1.	Ukraine	14 934	4 915	14 079	5	850	14 554	130	250
2.	Poland	5 890	853	2 753	0	3 137	5 177	225	488
3.	Moldova	1 491	378	1 443	0	48	1 477	11	3
4.	Germany	1 436	278	1 073	0	363	68	321	1 047
5.	USA	1 410	466	946	1	463	13	500	897
6.	Bulgaria	1 397	428	1 288	0	109	1 176	69	152
7.	Belarus	1 309	646	1 265	0	44	1 160	43	106
8.	Great Britain	1 150	255	752	0	398	8	369	773
9.	Russia	961	474	862	0	99	503	93	365
10.	Romania	694	162	663	0	31	590	49	55
11.	France	592	114	485	0	107	22	72	498
12.	Mongolia	585	455	582	0	3	534	10	41
13.	Austria	408	75	318	0	90	36	77	295
14.	Yugoslavia (former)	398	107	371	0	27	168	95	135
15.	Macedonia	379	23	122	0	257	332	26	21
16.	Vietnam	66	28	66	0	0	38	9	19
	Other	3 851	1 017	2 970	3	878	1 037	774	2 040
	Total	36 951	10 674	30 038	9	6 904	26 893	2 873	7 185

As of March 31, 2000, a total of 53 068 citizens of the Slovak Republic were registered in the territory of the Czech Republic.

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A survey of valid permits for employment issued to foreigners in the Czech Republic as of June 30, 1999.

Order	Country	Number of employees		Type of employment			Classification pursuant to the type labour activity		
		total	women	individual permit	individuals with the statute of refugee	in the frame-work of a contract	workmen's professions	secondary school professions	university professions
1.	Ukraine	17 476	5 044	15 667	3	1 806	17 093	120	263
2.	Poland	8 153	1 040	3 168	1	4 984	7 421	265	467
3.	Bulgaria	1 926	571	1 702	1	223	1 668	82	176
4.	Moldova	1 653	330	1 544	2	107	1 638	9	6
5.	Belarus	1 639	732	1 522	0	117	1533	23	83
6.	Germany	1 584	331	1 162	1	421	81	443	1 060
7.	USA	1 392	417	974	0	418	13	542	837
8.	Great	1 238	294	873	1	364	8	436	794

	Britain								
9.	Russia	1 122	517	1 015	0	107	572	138	412
10.	Romania	911	160	883	0	28	840	34	37
11.	Mongolia	760	583	757	0	3	735	7	18
12.	Macedonia	735	27	225	0	510	691	18	26
13.	France	566	132	481	0	85	18	90	458
14.	Austria	431	76	336	1	94	23	87	321
15.	Yugoslavia (former)	382	84	287	0	95	196	65	121
16.	Vietnam	45	15	45	0	0	25	5	15
	Other	4 060	1 089	3 279	2	779	1 200	890	1 970
	Total	44 073	11 442	33 920	12	10 141	33 755	3 254	7 064

As of June 30, 1999, a total of 54 756 citizens of the Slovak Republic were registered in the territory of the Czech Republic.