

BREXIT AND ITS POTENTIAL IMPACT ON BRITISH CITIZENS LIVING AND WORKING IN THE CZECH REPUBLIC

Given recent events, the word Brexit is becoming a synonym for uncertainty and constant change. Brexit and its timing and conditions have labour law ramifications not only for Czech citizens working in the UK, but also for British citizens living and working in the Czech Republic.

In general, EU citizens do not need work permits and long-term visas or employment cards in order to be employed in EU member states. They are not considered foreigners under the Employment Act. But what happens once the UK leaves the EU and its citizens are no longer EU citizens?

We would like to outline two possible scenarios for British citizens living and working in the Czech Republic once the UK leaves the EU:

a) No-deal Brexit

In case the UK leaves the EU without a deal in place, the Czech government passed a new law on 27 February 2019, called Act No. 74/2019, on the modification of certain relationships in relation to the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union. This act entered into force on 14 March 2019 and **will take effect on the date of a no-deal Brexit**. If a Brexit deal is reached before 31 December 2020 on the exit of the United Kingdom from the European Union pursuant to Article 50(2) of the Treaty on the European Union, the act will expire. If no deal is reached by 31 December 2020, then after that date the legal standing of British citizens in the Czech Republic will be governed by the generally binding legal regulations for citizens and legal entities of non-EU member states. A no-deal Brexit will thus mean the following:

- i) RESIDENCE - UK citizens with a valid confirmation of temporary residence issued before a no-deal Brexit are entitled to remain in the Czech Republic until the end of 2020. Meanwhile, UK citizens who requested a confirmation of temporary residence before the act took effect (i.e. before a no-deal Brexit) that was not finally decided before the act took effect are entitled to remain temporarily in the Czech Republic until the decision on their request enters into legal force, and if the request is granted, then until the end of 2020.
- ii) WORK PERMIT - a work permit, employee card, in-house transfer card or blue card is not required in order to employ a UK citizen or family member of a UK citizen **whose work** in a basic labour law relationship pursuant to the Labour Code **began before a no-deal Brexit**.

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b) Brexit deal

The other possibility involves a Brexit deal. In that case it will depend on the contents of the deal agreed and approved between the European Union and United Kingdom on the conditions for the United Kingdom leaving the European Union. The deal currently under discussion has already been rejected several times. It is highly unlikely to be presented to the UK Parliament again in its current form in the near future. Whether it is amended in the future or a new deal is negotiated, we anticipate that efforts will be made to include a transition period during which UK citizens and their family members (including those from non-EU member states) will continue to have the same rights as EU citizens in labour law relationships, and thus also the opportunity to live in the Czech Republic and freely access the job market in the Czech Republic. This means that these individuals will not need to acquire work permits or employee cards until the transition period is over.

New developments in wage withholdings (garnishment) in 2019

As of 1 January 2019, the “unseizable minimum” increased – the part of the wages that cannot be affected by any withholdings (for debt recovery or insolvency). Debtors must receive at least the amount equal to the unseizable minimum in their pay check. The unseizable minimum is now CZK 6,428.67 per debtor (in 2018: CZK 6,225.33). One quarter of the unseizable minimum (CZK 1,607.17) applies to each person the debtor is required to support.

The unseizable amount is only the initial amount used for calculation. The other important amount is the limit above which the entire income can be seized for debt recovery. This limit equals the living minimum and normative housing costs, this year set at CZK 3,410 and 6,233 for a total of CZK 9,643.

The important point for employers is that the new rule only applies to wages paid for the month of January, and so the changes described above will affect the salary for January paid in February.

No changes have been made to the method for enforcing a decision in the form of wage withholdings (pursuant to the Civil Procedure Code).

2019 amendment to the Insolvency Act

An amendment to the Insolvency Act set to take effect on 1 June 2019 will introduce changes for natural persons in debt relief caught in debt traps. Experts estimate that about 20,000 debtors get debt relief each year, but this amendment should see this number rise to 50-100,000 per year.

For instance, the amendment introduces two versions of debt relief (pay 60% of the amount owed over

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three years or 30% over five years). If the required amount is not repaid, the court can rule on debt relief even if the debtor was regularly paying at least the insolvency trustee's remuneration and was making "every effort," i.e. the maximum possible effort, to pay the remainder of the debt.

This amendment to the Insolvency Act places senior citizens at an advantage by setting a shorter debt relief term for persons collecting retirement and disability pensions of II. and III. level, namely three years instead of the previous five. The amendment also introduces limits for monetizing the debtor's living quarters. Subordinate claims for debt relief now include interest, the late payment fee and contractual penalty from the claims of registered creditors that add up to more than the principal initially registered. The amendment also introduces stricter rules for filing insolvency proposals and proposals to permit debt relief on behalf of the debtor by third parties. No one will be able to file an insolvency proposal on behalf of the debtor (with the exception of legal agents such as attorneys, notaries, court-appointed distraint officers, insolvency trustees or accredited persons) for consideration or other advantage. A natural person engaged in business will have to pay unsecured creditors a newly introduced monthly payment determined based on the previous year's profits or the debtor's accounting books.

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