

Employment of foreigners

The topic of my thesis “Employment of foreigners” is quite actual, as the number of foreign workers in the Czech Republic is constantly growing. Foreigners are often very welcomed labour force in many areas of the Czech labour market. Despite this fact, the Czech labour market is not freely opened and the Czech Republic, just like the other EU Member States, tries to protect its labour market against uncontrolled flow of foreign workers. The most common instrument that states use in an effort to protect their labour markets are barriers of administrative nature, such as a work permit and a residence permit. Only foreign nationals are required to fulfill these conditions.

My work is divided into five chapters, of which the first one deals with an international element in labour relations. That is a situation when one party of the obligation (an employee) is a foreigner and the legal relationship is factually connected with two or more legal orders. In this case a choice-of-law has to be made, to select the law applicable to this legal relationship. The choice-of-law rules are contained in many international treaties, among them is the most important The Convention on the Law Applicable to Contractual Obligations, signed in Rome in 1980. This Convention was converted into a Community instrument – the EC Regulation called Rome I. Regulation Rome I shall apply from 17 December 2009.

In the second chapter I write about actual enactment governing the employment of foreigners in the Czech Republic. The most important among the statutes governing this topic is The Act on the Employment of foreigners and The Act on Foreigners. The nationals of the EU, the EEA and Switzerland can work in the Czech Republic without any restrictions. Other nationals can also work in the Czech Republic, subject to certain conditions. They need a residence permit and a work permit. A work permit can be issued for personnel from outside of the EEA if no suitable national of the Czech Republic or other EEA country can be found to fill the vacancy. Since 2009 there is a possibility for foreigners to get a Green Card, which is one permit replacing a work permit and a residence permit.

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In the third chapter I briefly describe the EC Labour Law, as the Czech Republic joined the European Union on the 1st May 2004 and from that day, the EC Law became a part of the Czech legal system. In this chapter I focus on the EU-concept of the term worker and on the rights conferred on workers. Article 39(1) EC Treaty provides that workers should enjoy the right of free movement within the territory of Member States.

The fourth and fifth chapter deal with the Dutch labour law. Chapter four forms an introduction to the Dutch labour law, it deals with the sources of law, the industrial relations in the Netherlands, conditions of employment and the contract of employment. In the last chapter I try to describe the employment of foreigners in the Netherlands. In the Netherlands, just like in the Czech Republic, the nationals of the EU, the EEA and Switzerland can work without any restrictions. The only exception from the nationals of the new EU Member States, Bulgaria and Romania. In the case of employment of these nationals, as well as other foreigners, a Dutch employer will only be issued a work permit if there is no labour supply available for the work within the EEA. These nationals must also hold a residence permit for the purpose of work.

The aim of my work is to make the reader familiar with Czech and Dutch law governing the employment of foreigners.