# Employment Contract

**Formation of an employment relationship**
The Czech labour law knows only two legal acts formatting employment relationship. They are

1. Employment contract
2. Appointment

The section 33 subsection 1 stipulates that an employment relationship shall be based on employment contract between an employer and his employee, unless the Labour Code provides for otherwise. The most of employment relationships are based on employment contract which is there the most frequent cause of the formation of an employment relationship.

## 1. Employment contract

Employment contract is a two-sided (bilateral) legal act. This means that it must be concluded by two parties, an employer and an employee. Employment contract is a legal expression of principle of freedom of work.
The employer shall conclude the employment contract in writing. When the employer doesn't meet his obligation the employment contract is valid because the Labour Code doesn't stipulate that employment contract which is not concluded in writing is void but the employer may be punished be a state authority.

### The mandatory arrangements of an employment contract

The employment contract shall include three mandatory arrangements. If one or more of them is not included in the employment contract, the legal act shall be null and void. They are:

a) **a type of work** which the employee will perform. It should be agreed in the way that it is clear what exactly the employee is to do. The employee is only obliged to perform the type of work agreed in his employment contract. He may refuse to perform work of other type. The type of work mustn't be agreed too broadly because the employment contract should be null and void.
b) **a place of work or places of work** where the employee will perform his work. The employee has a duty to perform his work only in the place agreed in his employment contract.
c) **a date when the employee will start working**. The Labour Code doesn't indicate the manner how to lay down this moment. It may be concluded as a date, as the start of the following month but there must not be no doubt when exactly the employee is to start working. This moment is very important because according to section 36 sub 1 it is the beginning of the employment relationship. The other reason of the importance of the moment when the employer will start working is the fact that if an employee fails to take up his employment on the agreed day the employer may withdraw from the employment contract under the condition that:

1. The obstacle to work on an employee's part doesn't exist, or
2. The obstacle to work on an employee's part exists but the employee fails to inform his employer of this obstacle to work.

This is the employer's right. It depends on his decision whether he withdraws from the employment contract or not.

## Other arrangements of an employment contract

The employment contract shall include any other arrangement which both parties desire. The only condition is that this provision is in accordance with the mandatory provisions of the Labour Code and other acts. If any of these arrangements are not agreed as valid, the employment contract is void only in this part. The rest of the legal act is valid.

**Trial period**

- This legal institute serves for employer and employee to try whether the conditions on which the work is performed are suitable for both parties.
- A trial period is important because both sides of the employment relationship may terminate their relationship during this period for any reason or without stating a reason (sect. 66). This is not possible after the termination of the trial period.
- The trial period may only be agreed before the formation of the employment relationship. If it is concluded after the formation of the employment relationship it is void.
- The maximum length of the trial period is three months following the formation of the employment relationship. Once the trial period is concluded it mustn't be subsequently extended.
- The trial period must be agreed in writing otherwise it shall be void.
- When an employee doesn't work because of an obstacle to work on his side the period shall not be included into the trial period.

**Employment relationship for a fixed term**

- The employment relationship is concluded for a fixed term only if the length of the employment relationship is expressly agreed.
- The Czech Labour Code meets the conditions laid down in the Council directive 1999/99 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP.
- Fixed-term employment relationship between the same parties may last for maximum period of two years as of a date of formation of this employment relationship. Where a period of at least six months expired form the termination of previous fixed-term employment relationship this employment relationship between the same parties is not taken into consideration.
- The maximum length of employment relationship doesn't apply when:

1. A conclusion of fixed-term employment relationship is laid down in another Act as a condition for giving rise of other entitlements (Act no. 155/1995 Coll. Pension Insurance Act, as amended, a person who receives the old-age pension shall agree the employment contract for maximum period of one year in order to be entitled to the pension),
2. One employee is replaced by the other employee. For example because such an obstacle to work as maternity leave, parental leave or illness),
3. There are serious operational reasons at the employer's part (for example work in hotel during a holiday, picking up fruit or vegetable during the season of year),
4. There are reasons consisting in a special nature of work to be performed by an employee.

**Wage**

- There is a difference between wage and salary. The salary is given to employees whose employer is for example state, self-governing local area authority, state fund, an

organisation receiving contributions from the state budget, or the relevant local budget, or some schools. The amount of salary is laid down in rules, it can not be agreed.
- Wage may be agreed. The Labour Code lays down only minimum amount of wage.

**Part-time work**
- It means that the employee works less than normal weekly working-hours. The employee concerned is entitled to a wage or salary corresponding to his working-hours under part-time arrangement.

**Non competition agreement**
- The non competition agreement (sometimes also called non competition clause) protects the employee after the termination of the employment relationship.
- It may only be concluded if it can be justly required from the employee with regard to the nature of information, knowledge, operational or technological know-how which he acquired during the performance of work for his employer.
- It may only be agreed if the utilization of information or knowledge could significantly encumber the employer's activity.
- The employee promises not to perform a gainful activity which would be identical with his employee's business activity, or which would be of a competitive nature to his employee's business activity.
- The maximum length is one year after the termination of the employment relationship.
- The employer is obliged to provide an adequate monetary compensation to his employee. The minimum amount of the compensation is average monthly earnings for each month of meeting the employee's obligation.
- The non competitive agreement shall be made in writing, otherwise it shall be void.

# 2. Appointment

- Appointment is unilateral (one-sided) legal act formatting an employment relationship.. The employer appoints a natural person to a certain position. But the employee must express his consent with the appointment for example he starts working. The employment relationship under the Labour Code may only be formed with the consent of a natural person and an employer. This is the fundamental principle of labour relations (section 13). The employment relationship is based on appointment in cases laid down by section 33 (3) or by other statutory provisions. They are:
- The head of a government agency
- The head of a branch of a government agency
- The director of a state enterprise
- The head of an establishment of a state enterprise
- The head of state funds
- Heads of organisations receiving contributions from the state budget
- The director of a school entity.