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Czech Law in Global Context

Labour law

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Lecture outline

- 1. Czech labour law in general**
- 2. Dependent work and fundamental labour-law relations**
- 3. Protection of employee as fundamental objective and principle of labour law**

Constitutional background

Charter of Fundamental Rights and Freedoms

- **Chapter four** (Articles 26-35: Social, economic and cultural rights)
 - **right to work and free choice of profession** (article 26),
 - right to **fair remuneration** for work and **satisfactory working conditions** (article 28)
 - right to **freely associate with others** to protect one's **economic and social interests** (article 27)
 - right to increased occupational health protection and special working conditions for **women, minors and persons with disabilities** (article 29)

International conventions (ILO etc.)

implemented in particular by means of laws / statutes

Structure of Czech labour law

Individual labour law

- In particular, regulation of **fundamental and derived labour-law relations** related to performance of **dependent work** by an employee to a employer
- *Rules on establishment and termination of fundamental labour-law relations, remuneration, working conditions (working hours, occupational safety and health) etc.*

Act No. 262/2006 Coll.,
Labour Code

prevailing private
law character

Collective labour law

- In particular, regulation of relations between **representatives of employees** (mainly trade unions) on the one side and **employer or employers association** on the other side
- *Rules on collective agreements, collective bargaining, information and consultation of certain issues etc.*

Labour
Code



Act No.
2/1991 Coll.,
**on
Collective
Bargaining**

Law of employment policy

- In particular, regulation of relations between **the state** (and its bodies) and **job seekers, employers, employment agencies etc.** regarding the implementation of **state employment policy.**
- *Rules on job search support, unemployment benefits, employment permits for foreigners etc.*

Act No.435/2004 Coll., **on
Employment**

prevailing public
law character

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Labour-law relations and Civil code

As can be seen from the above, a large part of labour law falls within the area of private law, where it currently forms **the only other codified legal sector besides civil law**.

In accordance with Section 4 of the Labour Code, the Civil Code as a general private law act is applied in labour relations in a **subsidiary manner** (especially if the Labour Code does not regulate a certain area) and **always compulsorily in accordance with the fundamental principles of labour relations**.

Dependent work and fundamental labour-law relations

Section 3 of the Labour Code:

- **Dependent work** may be carried out **exclusively within fundamental labour-law relation** unless otherwise regulated by other statutory provisions. Basic labour relationships are an **employment relationship** and legal relations based on agreements on work performed outside the scope of employment relationship.

Section 2 of the Labour Code:

- (1) Dependent work means work that is carried out within the relationship of the employer's superiority and his employee's subordination in the employer's name and according to the employer's instructions (orders) and that is performed in person by the employee for his employer.
- (2) Dependent work is performed **for wage, salary or other remuneration for work done**, at the **employer's cost and liability**, at the **employer's workplace or some other agreed place within the working hours**.

Defining signs

Mandatory conditions

Sections 74-77 of the Labour Code

- **Agreement to Complete a Job**
 - max. **300 hour of work per year**
- **Agreement to Perform Work**
 - on average, no more than **half of the standard weekly working hours in employment relationship** (generally 20 hours) **per week**

Precarious employment

service relationships of civil servants (Act No. 234/2014 Coll., on civil service), **members of security forces** (Act No. 361/2003 Coll., on service relationships of members of security forces) and **professional soldiers** (Act No. 221/1999 Coll., on professional soldiers).

Special public law relations, to which the **Labour Code applies only if directly referred to**.

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Illegal work

Section 3(e)(1) of the Employment Act:

- *Illegal work means **dependent work** performed by a natural person **outside the scope of labour-law relation**.*

Section 139 and 140 of the Employment Act:

- administrative sanctions for **carrying out illegal work** (for "employees") - a **fine** of up to **100,000 Czech crowns**
- administrative sanction for facilitating the performance of illegal work (for "employers") - a **fine** of up to **10,000,000 Czech crowns**, but **not less than 50,000 Czech crowns**.

Section 555 of the Civil Code:

- *A legal action is considered **according to its content**.*
- *If a legal action is intended to **mask another legal action**, it shall be judged **according to its true nature**.*

Number of Czech citizens found to be working illegally:

2012: 2 675, 2015: 1 913, 2018: 763, 2020: 556

Section 1a of the Labour Code:

- (1) The **meaning and purpose** of the provisions of this Act are also expressed in the **fundamental principles of labour-law relations**, which are, in particular
 - a) **special legal protection of the employee's status**
 - b) (...)

limitation of contractual freedom (rules that protect the employee cannot be derogated from to the employee's disadvantage – maximum working hours (40 hours per week), minimal remuneration (CZK 96,40 per hour, CZK 16 200 per month), minimal vacation leave (generally 4 weeks per year) etc.

Extensive protection in the event of termination of the employment relationship (not applicable to relations under agreement to complete a job and agreement to perform work):

- The **employer** may **unilaterally terminate the employment relationship only for reasons defined by law**, except for termination during the probation period
- there are **protection periods** during which the employer **cannot terminate the employment relationship for certain reasons** (sickness, maternity and parental leave, etc.)
- compulsory consultation with the trade union on termination of employment
- severance pay in the event of termination of employment for organisational reasons (1 to 3 times monthly earnings) or for incapacity caused by an occupational accident or disease (12 times monthly earnings)

Protection of the employee in the event **of causing damage in connection with the performance of work tasks** (for example limitation of the maximum amount of compensation for damages caused by negligence - no more than 4.5 times the monthly earnings)

Protection of employees **in the event of inability to assign work** for reasons attributable to the employer or **for external reasons beyond the employer's control**, such as the **covid-19 pandemic** (**Employers are always obliged to compensate employees for lost wages** - usually at 100% of average earnings; during the pandemic, employers' compensation costs were covered by special state programmes – the main one was called Anivirus).



Thank you!
Have a nice day!

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