

Czech Republic

Introduction

During the past decade, Czech employee representatives (in particular trade unions) have been quite active in representing the interests of employees in the Czech Republic. Trade unions have the right to participate in a wide range of labor-related issues including, in particular, collective bargaining, protection of health and safety at work, and termination of employment relationships.

There are three types of employee representatives recognized by the Czech Labor Code:

- Trade unions,
- Works Councils, and
- Representatives of employees for safety and protection of health at work.

A trade union may be established by three employees (at least one of them must be 18 years old or over).

Trade Unions

The General Role Of Trade Unions

Under Czech law, trade unions are considered legal persons whose establishment is governed by Act No. 83/1990 Coll., on Associations of Citizens, as amended.

At least three workers are required in order to create a trade union on the basis of statutes adopted by such workers. It is very simple and not expensive to establish a trade union. A trade union is established on the day following a notification to the Ministry of Interior of the Czech Republic indicating creation of the trade union.

A “trade union body” is a body authorized to act in the name of a trade union organization or its organizational unit within the scope of its competence as stated in the statutes of the trade union. Generally, the board of the trade union organization (or in smaller organizations, the trustee of such organization) acts as the representative body of the trade union organization in negotiations with the employer.

Constitution Of A Trade Union

Upon delivery of notification to the Ministry of Interior of the Czech Republic, a trade union, as a legal person, has the right to represent its members in all matters relating to their employment relationships (including negotiations on behalf of its members in order to conclude a collective bargaining agreement). As a matter of law, trade unions represent both member and non-member employees.

The Czech Charter of Fundamental Rights and Freedoms provides for the right to associate freely with others in order to protect economic and social interests. It is prohibited from limiting the number of trade union organizations or giving preferential treatment to a trade union organization at a given enterprise or in an economic sector. Thus, if more than one trade union organization exists at one enterprise or employer, the employer must fulfill its trade union-related obligations with respect to the relevant bodies of all existing trade union organizations, unless otherwise agreed with all trade union organizations. In case of any disagreement between trade unions, special procedural rules stated by the Labor Code apply.

Scope Of Trade Union Rights In Businesses

There are three levels of cooperation with a trade union:

1. Prior consent of the trade union required (e.g., if a notice of termination or immediate cancellation concerns an individual who is a member of a competent trade union body [during such member's term of office and/or for a period of one year thereafter], the employer is required to obtain the prior consent of the competent trade union body before serving notice of termination/immediate cancellation to such employee);
2. Prior consultation requirement (e.g., termination by notice of termination or immediate cancellation of employment, in case of automatic transfer of employees, measures relating to a higher number of employees, collective dismissal, vacation plan, and split of working shifts); and
3. Prior information obligation (e.g., anticipated changes in the employer's operations, changes in number of employees, environmental issues, and measures against discrimination).

The Labor Code also contains a number of other duties and obligations of the employer with respect to any trade union organization.

An employer is also required to inform and consult the relevant trade union organization if it intends to carry out structural changes, reorganizational measures, or other changes that may result in redundancies. Such information and consultation must include the reasons for the intended measures and indicate the number and jobs of employees who will be affected by them, the related measures, and consequences and timing. Employers must also consult with the trade union on selection criteria and measures that may prevent or limit the proposed redundancies, and measures to mitigate the unfavorable consequences to employees of such redundancies, including the possibility of providing affected employees with work in other positions. However, the final decision as to these matters rests with the employer, and the employer is not bound by the trade union body's ultimate position or opinion regarding the proposed measures (with a few exceptions).

Additionally, an employer must inform the relevant trade union body of the employer's principal future goals and its economic situation and prospects. The employer and the trade union body also must jointly determine the use of financial means that have been allocated to any special corporate funds for cultural and social needs, if applicable.

The employer is obligated to make available reasonable premises (including all necessary equipment) for the trade union organization's operations. Terms for such use of premises are, in most cases, governed by the terms of the collective bargaining agreement.

Collective Bargaining Agreements

Wages and other labor-related rights may be regulated in collective bargaining agreements, subject to limits as provided in Czech labor regulations. In general, only collective bargaining agreements with private sector employers may extend labor rights beyond that provided for under Czech labor legislation.

Any rights that individual employees acquire on the basis of provisions of a collective bargaining agreement are asserted and enforced as any other employee rights ensuing from individual employment agreements.

The Collective Bargaining Act governs the process of concluding collective bargaining agreements. This Act draws a distinction between "corporate" collective bargaining agreements concluded between one relevant trade union body and an individual employer (i.e., agreements only effective for a particular employer), and "higher"

collective bargaining agreements concluded for, and binding on, a larger number of employees (represented by a “higher” trade union body embodying more than one trade union organization) and several employers in a given industrial sector. Higher trade union bodies are customarily represented by an Executive Committee of the trade union for the relevant industry. Such trade union body concludes a collective agreement for all employees in that industrial sector, including those who are not members of the trade union.

Provisions of a corporate collective bargaining agreement are only enforceable to the extent that they do not contradict provisions of the relevant higher collective bargaining agreement (if any). For example, a provision in a corporate collective bargaining agreement that provides for higher wages than anticipated in the higher agreement would be held unenforceable with respect to that portion of the agreement.

If a right of an employee or the trade union or the employer arising from the collective bargaining agreement has been violated, the damaged party may enforce that right through special labor arbitration or civil court proceedings.

Collective bargaining agreements may not, as a rule, provide lesser rights to employees than those stipulated by generally binding legal regulations.

Works Councils And Representatives Of Employees For Safety And Protection Of Health At Work

A Works Council or representative of employees for safety and protection of health at work may be established where there is no trade union (a Works Council may co-exist with a trade union until a collective bargaining agreement is concluded, provided that the Works Council is established first; once the collective bargaining agreement is concluded, the Works Council ceases to exist).

Works Councils or representatives of employees for safety and protection of health at work can be established with any employer, i.e., no limitations as to the minimum number of employees employed by an employer exist in this respect. To the extent that there are no employee representatives established within the employer, the employer is then required to provide each individual employee information and consultation that would otherwise have been provided to the employee representatives.

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