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Czechia: Staff information and consultation on restructuring plans

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Czechia

Phase:

Anticipation

Type: Staff information and consultation on restructuring plans

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Native name: **Zákoník práce, zákon č. 262/2006 Sb.**

English name: **Labour Code (Law No. 262/2006 Coll.)**

Article

46, 61, 278-280, 286, 287, 300

Description

The Labour Code requires the employer to inform and discuss a number of measures regarding possible restructuring with employees or their representatives. If a trade union does not work with an employer, the employee representative function may be performed by a works council elected by the employer's employees. For information and consultation on health and safety at work, health and safety representatives can perform this role. If the employer does not have a trade union or a work council, nor has a health and safety representative been elected, the employer must inform and negotiate directly with the employees concerned.

Where the employer transfers his/her employee to alternative work which does not conform to the employment contract and the employee does not agree to such measure, the employer may transfer (for more than 21 working days in one calendar year) this employee only after consultation with the trade union organisation.

The employer shall consult notice of termination or immediate termination of an employment relationship with the trade union organisation in advance. Where notice of termination or immediate termination of an employment relationship concerns a member of the trade union organisation operating within the employer's undertaking (business) during the member's term of office or for a period of one year afterwards, the employer shall ask the trade union organisation for its prior consent to such notice of termination or immediate termination.

Informing means transferring and sharing the necessary information upon which to objectively assess the reality. The employer shall provide this information sufficiently in advance and in a suitable manner so that employees could consider the fact, prepare themselves to consult it and express their opinion before a certain measure is implemented.

Consultation means a negotiation between the employer and the employees, exchange of opinions and explanations with the aim to reach an agreement. The employer shall ensure for a consultation to take place sufficiently in advance and in an appropriate manner so that the employees can express their opinions on the basis of the data supplied to them and the employer can take these opinions into account before a certain measure is implemented. In a consultation the employees are entitled to receive a reasoned response to their opinion.

The employer shall inform employees on:

1. the economic and financial situation of the undertaking and its probable development;
2. activities of the undertaking, probable development, environmental impact;
3. the legal status of the undertaking and any changes in such status, internal organisational structure and the person authorised to act in the name on behalf of the employer (undertaking) in labour relations, the prevailing activity of the undertaking with the relevant code according to the Economic Activities Classification and changes in the objects of business activity;
4. fundamental issues of working conditions and their changes;
5. matters within the scope laid down in the law related to consultation rights (see below);
6. measures by which the employer secures equal treatment of male and female employees and prevention of discrimination;
7. an offer of vacancies for an indefinite period (open-end employment) which would be suitable for employees currently employed by the employer for a fixed term;
8. occupational safety and health protection;
9. the issues in the scope laid down either by an agreement on setting up a European Works Council or on the basis of some other agreed procedure for supranational information and consultation of employees.

The obligations in subsection (1) to (2) shall not apply to an employer employing fewer than 10 employees.

The employer shall consult employees on:

1. probable economic development of the undertaking;
2. probable structural changes within the undertaking, rationalisation or organisational measures, any measures affecting employment, in particular measures in connection with collective redundancies;
3. the latest number and structure of employees, probable employment development in the undertaking, fundamental issues of working conditions and their changes;
4. transfer(s) ;
5. occupational safety and health protection;
6. the issues in the scope determined either by an agreement on setting up a European Works Council or on the basis of some other supranational information and consultation procedure.

The obligations in subsection (1) to (3) shall not apply to an employer employing fewer than 10 employees.

Where two or more trade union organisations exercise their activities within one undertaking in those cases which concern all the employees or a large number of employees

and in which the Labour Code or other statutory provisions require information, consultation, the expression of consent by, or agreement with, the (competent) trade union organisation, the employer shall fulfil the duties in relation to all the trade union organisations (exercising their activities within the undertaking) unless the parties determine some other information and consultation procedure or another manner of expression of consent.

The employer shall inform the trade union organisation of:

- development in wages or salaries, the average wage or salary and its individual elements, including breakdown according to individual occupational categories unless it is agreed otherwise;
- other matters laid down in the Labour Code.

The employer shall consult the trade union organisation on:

- notice of termination or immediate termination of an employment relationship;
- transfers of an employee to alternative work which does not conform to the employment contract and the employee does not agree to such measure;
- the employer's economic situation;
- workload and work pace;
- changes in work organisation;
- the system of remuneration and appraisal of employees;
- the system of employee training and vocational education;
- the measures to create conditions for the employment of natural persons, in particular adolescents, persons taking care of a child under 15 years of age, and disabled persons, and including substantial issues relating to the care of employees, measures aimed at improving occupational hygiene and the working environment, and the organisation of social, cultural and physical training needs of employees;
- other measures which relate to a larger number of employees;
- other matters laid down in the Labour Code.

The state labour inspection office controls compliance with the obligation to inform and consult employees or their representatives.

Comments

The implementation of the EU Directives on information and consultation issues in the Labour Code has produced a number of benefits linked to the information and consultation system, namely a broader range of partners involved in negotiations, improved management decisions and the prevention of workplace conflict. On the other hand, the operation of an I&C system within companies brought significant costs, the most important of which are paid time-off for management and employee representatives and providing for the smooth functioning of I&C bodies. Provisions on collective redundancies have considerably increased the amount of administration work, notably in notifying public authorities. (Source: Evaluation of the operation and effects of information and consultation directives in the EU/EEA countries, Fitness Check, National Report Czech Republic, Štěpánka Pfeiferová, RILSA 2011)

Cost covered by

Employer

Involved actors other than national government

Trade union
Works council
Other


Involvement others

Health and safety representative, state labour inspection office

Thresholds

No, applicable in all circumstances

Sources

-  DG Employment, Social Affairs and Equal Opportunities/Héra (2011), Selected companies' legal obligations regarding restructuring
-  Ius Laboris (2009), Collective Redundancies Guide, Brussels
-  [EMCC actors in restructuring](#)
-  [Labour Code \(Law No. 262/2006 Coll.\)](#)
-  [Zákoník práce](#)

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