
WP. 4

InFocus Programme on Strengthening Social Dialogue

Working Paper

Social Dialogue – The Czech Success Story

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**International Labour Office - Geneva
December 2001**

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First published (2001)

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(*Social Dialogue - The Czech Success Story*)
(Geneva), International Labour Office, (2001)

IFP/Dialogue Working Paper N° 4

ISBN 92-2-112918-7

ILO Cataloguing in Publication Data

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Printed in (Switzerland)

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Foreword

The development of social dialogue in the Czech Republic documents the social challenges faced by an ambitious process of transition from a centrally planned economy to a market economy. It is considered to be one of the success stories of the region.

Conditions in the early stage of transition were rather favourable. They included a well-educated and skilled labour force, a good technical infrastructure, geographical location in the very centre of Europe and a history of democratic traditions. But the most important asset was the support of the population for the policy of radical reform.

Freedom of association and the right to bargain collectively proved to be invaluable. After 1989, these rights and freedoms were immediately enacted - inspired by core ILO standards - and representative employers' and workers' organizations emerged. National social dialogue initiated in 1990 with the creation of the tripartite Council of Economic and Social Cooperation (RHSD). The social partners were therefore involved from the very beginning in the reform process and influenced the most fundamental - and sometimes painful - decisions which accompanied economic transformation.

One of the main characteristics of the Czech case is the willingness of government and the social partners to work together to search for solutions best adapted to national conditions. Stable legal and institutional frameworks form another characteristic which has helped to avoid fruitless discussions on technical and procedural matters and to focus instead on substantive issues.

Two other interesting points are noted in the study. First, the involvement of the social partners in EU accession issues which enabled a consensual approach to be taken to the harmonisation of Czech labour legislation with the European *acquis*. Second, the pragmatic involvement of civil society in wider social dialogue on various issues is also described in the study.

The main purpose of this study is to throw some light on the history of social dialogue and its achievements in the Czech Republic during the last decade. But I hope that it will also stimulate a further debate among the social partners on how tripartite dialogue and collective bargaining could be further improved. Discussions at the tripartite seminar held in Prague in May 2001 demonstrated that both government and the social partners are open to measures which would increase the effectiveness of social dialogue.

I would like to record my appreciation to the tripartite constituents in the Czech Republic who generously shared their experience and expertise with the authors of this study. This paper has been prepared through collaboration between three authors. Special thanks go to Marcela Kubinkova who assembled information and drafted the first version of the study. I would also like to thank Giuseppe Casale and Ludek Rychly, Senior Social Dialogue Specialists in the InFocus Programme, who were responsible for co-ordinating this country study.

December, 2001

Patricia O'Donovan
Director
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Introduction

Since 1989, and the ensuing profound social and political change, social dialogue in the Czech Republic has developed along somewhat complex lines, strongly influenced, among other things, by the attitudes of different Governments at specific times. In the early 1990s, new patterns of social dialogue were established to assist the Government in promoting the fundamental social and economic changes necessary to establish a market economy and strengthen the democratic character of society. Those involved at that time in social dialogue had practically no experience of reaching consensus through social dialogue.

As regards employees' representation, there was a relatively strong and unified trade union confederation with branches at industry and company level. Trade union activities, however, were managed from the political centre. Trade unions did not, and indeed could not, play the role of a really independent partner in social dialogue. Moreover, at individual industry level, unions played a somewhat token role because they did not involve themselves in activities normally undertaken by their counterparts in market economy countries, i.e. they did not engage in collective bargaining. However, a form of social dialogue took place at company level, albeit with rather limited impact because labour law laid down very comprehensive and universally binding provisions. It was not possible to negotiate other, even more favourable, working conditions by means of collective agreements. That was why the collective agreements of that period dealt with a rather limited range of social issues, such as specific aspects of the working environment, and rules for participation of employees in various recreational and sports activities organized by the company.

Developments in the first post-revolution years were marked by a fairly broad commitment to implement social and political changes and a consensus in society that the reforms adopted by the Government were the right way to move to a market economy. This was a belief shared by both leading politicians and representatives of the social partners. It was also the reason why, in a very short period of time, the Czech Republic succeeded in implementing a number of fundamental changes without any major social conflict and in conditions of social harmony.

This result was also ascribed to the emergence of nationwide tripartite negotiations. A new high level tripartite body, the Council for Social and Economic Cooperation (RHSD) was established in 1990 and soon became an important forum for debate on major reform measures. After the elections in 1992, the role of tripartite negotiations was downgraded and collective bargaining at industry level was restricted. The Government's attitude towards high level tripartite negotiations improved only in 1997, as a result of the economic situation and, in particular, at the beginning of 1998 when a new Government came to power. The policies of this Government started out showing strong support for the high-level tripartite body and other forms of social dialogue. The social partners began to participate in the legislative process to a much greater extent.

Chapter 1

The Parties to Social Dialogue

Legislative framework regulating the right to organize

The right to organize and establish trade unions is enshrined in article 27 of the Charter of fundamental rights and freedoms, which is an integral part of the Constitution of the Czech Republic. The establishment of trade union organizations, and their confederations, as well as the establishment of employers' organizations and their federations is governed by the Association of Citizens Act, 1990. The Act is in conformity with the ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) which, on ratification, became part of Czech law. This means that workers' and employers' organizations can be established without any State intervention and the State is not allowed to interfere in their internal affairs. The State (the Ministry of Interior) is only required to register the establishment of these organizations and undertake a general supervision to determine whether their activities are of an occupational nature and that trade unions are not involved in activities normally undertaken by political parties or business companies. The latter are governed by other legislation.

Under the Act, three members can establish a trade union or an employers' organization. The legislation does not stipulate other criteria for association. Trade unions are associations *sui generis*. In other words, the legislation (except the Police Service Relationship Act, 1992) does not provide any criteria on representativeness of trade unions or employers' associations at enterprise or industry level. In respect of members of the Police, section 143 of the Police Service Relationship Act, 1992 includes the condition that 40 per cent membership is required to enable the trade union to represent all members of the police in matters relating to their service relationship and in collective bargaining. Where such agreements are concluded, they have the same status as collective agreements in the private sector and are subject to the same bargaining and dispute settlement procedures. This means that a trade union organization in the police service can be established under the general provisions of the 1990 Act. However, if the 40 per cent membership condition is not met in the relevant police unit, that organization is not authorized to bargain or to conclude a collective agreement. In accordance with section 10 of the Fire and Rescue Service Act, 2000, the above regulations on representativeness also apply to members of this service. Under section 12 of the Customs Act, 1993, the same applies to customs officers employed in a service relationship.

Section 45 of the Armed Forces Act, 1999 prohibits members of the armed forces, *inter alia*, from becoming members of a trade union organization. This means that freedom of association with a view to establishing trade unions in the army is not allowed.

No specific legislation defining trade union rights and obligations in more detail exists in the Czech Republic. The scope of the labour law in respect of trade union rights was further extended by an amendment to the Labour Code, effective from January, 2001. It includes the right to information and consultation consistent with the relevant EC directives and the European Social Charter, as well as certain other provisions concerning, in particular, working time and health and safety. These provisions are concerned primarily with social dialogue at company level, i.e. dialogue between trade unions established at company level and individual employers. Other forms of employees' representation at company level are regulated by other Acts (i.e. the State Enterprise Act, the Commercial Code and the Banking Act). These acts deal with employees' representation in supervisory bodies in State enterprises and corporations (joint-stock companies).

Trade Unions

Trade unions were among the key players in the “velvet” revolution. Strike committees organized by trade unions played an important role in companies and a big demonstration organized by the trade unions tipped the balance of power. Afterwards, these strike committees assumed the role of genuine workers’ representatives and the new trade union organizations were the basis for fundamental changes in the trade union movement and for the creation of the new trade union confederation, which affiliates fully independent industry and sectoral unions. The former ‘Central Trade Union Council’ was abolished and the Czechoslovak Trade Union Confederation was established and elected its own officers. Trade unions representing employees in the culture sector established an independent Confederation of Arts and Culture as early as February 1990.

The new Confederation succeeded in taking over a considerable amount of the property belonging to the former body. This laid the foundations for further independent action and development of various trade union activities.

From the outset, the new trade unions were active in promoting a rapid and thorough transformation of the economy and society as a whole. One of the main trade union demands at that time was for the abolition of State wage regulation, which was the main obstacle to their core function of collective bargaining. Trade unions directed their activities increasingly to the promotion of citizens’ rights to freely chosen work and fair remuneration, safe working conditions, a healthy working environment and training and education. This found concrete expression in a number of protest activities at company and industry level, as well as at national level. These activities were prompted by structural adjustment in various sectors (for example the struggle of trade unions in the mining sector for social protection of workers made redundant as a result of cutbacks in demand and output). Government policies on rail and road transport, pensions insurance, health service provision, education, and public services, were also opposed. Demonstrations also took place against the Government's declared intention to amend social and labour legislation as to significantly reduce employees’ protection.

During 2001, trade unions engaged in discussions with the Government on a number of important and topical subjects. In spite of the fact that the steady rise in unemployment had come to a halt, further redundancies were still expected due to restructuring plans, in particular in surface and underground mining, iron and steel and heavy industry. Related to the establishment of the new regional governments, changes were planned in various spheres of the public sector, including education. Reform of the public administration was under way. Parliamentary committees were discussing pension reform. A fundamental reform of labour legislation was being considered which provoked much debate and argument concerning its scope, content and the level of protection provided to employees. These challenges undoubtedly provide a yardstick against which the capacity and influence of the Czech trade union movement can be measured.

Trade union membership

According to data supplied by the Czech Statistical Office, the number of persons in a dependent relationship (employed persons in the main employment relationship, civil sector) was 3,972,400 (June, 2000), of which around 1,300,000 were members of the following trade union confederations (precise data on membership are only available for the CMKOS):

	- Association of Independent Trade Unions
ASO	
CMKOS	- Czech-Moravian Trade Union Confederation (approximately 1,027,700 members)
JSSZ	- United Association of Private Employees
KOK	- Christian Trade Union Coalition
KUK	- Confederation of Art and Culture
LOK	- Trade Union Club of Physicians
OSCSM	- Association of Trade Unions of Bohemia, Moravia and Silesia
OS VNKO	- Union of Print and Publishing Workers of Bohemia and Moravia
OSZ	- Trade Union Association of Railway Workers (there are some other small unions in the railway transport sector)
OSPZ	- Union of Workers in the Agriculture and Food Sector of Bohemia and Moravia
OSNP	- Union of Non-teaching Workers in Education in the Czech Republic
OSS	- Union of Workers in the Glass, Ceramics, Artificial Jewellery and China Sectors

The rate of trade union membership among persons in dependent employment relationship is estimated at 33 per cent.

Under Czech law, trade unions and trade union bodies are the only legitimate representative bodies of employees in labour relations; only unions have the right of collective bargaining. Trade union bodies represent all employees in labour relations, including those who are not affiliated to any union. Legally, this means that trade union bodies alone have the right to act on behalf of employees in labour relations, including in collective bargaining. Thus trade unions can enter into legal relationships with the employer, negotiate with him or her on behalf of all employees, and conclude collective and other agreements which have legal repercussions for all employees. There are provisions in the Labour Code and in other legislation conferring on trade unions the right, within the area of labour relations, to participate in decision-making, co-determination, and to information and consultation concerning matters relating to employees' interests. Trade union bodies also enjoy a significant right of control over compliance with labour law by the employer (section 22 of the Labour Code) and the right to carry out checks on health and safety issues (section 136). The Labour Code further envisages prior consultation on draft labour legislation (section 23). Thus unions enjoy a significant right to participate in law making and its implementation.

A similar situation can be found in the area of collective bargaining. Collective agreements are concluded by trade unions on behalf of all employees, at both company level and industry level (the so-called higher level collective agreements).

Czech-Moravian Trade Union Confederation (CMKOS)

CMKOS is the biggest trade union confederation with 30 affiliated unions with a total of over 1 million. The confederation is affiliated to the International Confederation of Free Trade Unions. Most branch unions affiliated to CMKOS are members of the respective international industrial federations affiliated to ICFTU. CMKOS is also a member of the European Trade Union Confederation, represents Czech workers on the ILO Governing Body and cooperates with the OECD Trade Union Advisory Committee (TUAC).

Member unions

CMKOS is a confederation of industrial unions representing employees from both the private and public sectors. These unions are:

ClassNo	Name of the Union	Number of members 30.6.2000	Per centage (of which are))	
			Women	Youth
01	Workers in mining, geology and petroleum industry	65 600		
02	Workers in the energy sector	25 000	20,3	4,3
03	KOVO (metal)	311 500	24,2	3,6
04	Chemical industry	27 000		
05	STAVBA (construction)	46 800	18,9	8,2
07	Employees in Institutes of higher education	13 100		
08	Union of company lawyers	100		
09	Workers in woodworking industries, forestry and water treatment	50 000	33,8	8,6
10	Workers in the textiles, clothing and leather processing industries of Bohemia and Moravia	40 000	62,1	
12	UNIOS	28 200	51,0	9,0
13	Workers in the food industry and similar sectors of Bohemia and Moravia	30 200	51,0	13,0
16	Workers in transport, road maintenance and automobile repairs of Bohemia and Moravia	23 500	19,6	8,6
17	Employees in postal, communications and newspaper services	47 800	64,8	5,9
18	Workers in the trade sector	20 700	78,0	13,0
20	Employees in the State bodies and organizations	50 100	62,6	9,8
21	Workers in the banking and insurance sectors	23 100	66,9	-
22	Workers in the health and social sectors	60 000		17,9
23	Workers in the sector of education	101 100	81,2	9,1
24	Civil associations	2 700	55,0	2,0
25	Civilian employees of armed forces	11 100	47,2	2,3
27	PROJEKT	1 000	5,2	0,3
29	Hotels, restaurants and tourism	3 600	65,0	13,0
30	Independent Police Unions in the Czech Republic	4 100	8,0	
32	Fire-fighters	6 100	9,0	
33	Transport	27 900	1,2	
37	Seafarers	600	0,3	30,1
38	Scientific and research workers	3 400	47,0	7,0
39	Workers in production and similar occupation in the area of culture	1 600	52,0	3,1
44	Air traffic personnel	900	41,0	
45	Employees in radiocommunications	900		
	TOTAL	1,027,700		

SOURCE: CMKOS

CMKOS mission and principles governing its activities

CMKOS, under its own constitution, is authorized to negotiate with the highest state representatives, i.e. with the President, members of the Government and with other bodies of the public administration and local government, as well as with employers' organizations. CMKOS concludes general agreements with employers and the Government; represents affiliated unions in bodies established by the social partners and the Government at the highest level and represents members of the confederation in meetings of international organizations.

The activities of branch trade unions are essentially similar. They operate at industry level and at the level of enterprises. Their main task is collective bargaining. They provide guidance and direct assistance in bargaining at company level and engage directly in collective bargaining at industry level; they organize training and similar activities. They also organize various other activities at national level and at the level of industries.

Industrial unions operate at national level and conclude collective agreements with employers' organizations in the private sector.

Individual trade union organizations conduct their activities at company level. When the service sector was being privatized, trade union organizations were also established at local level with a view to representing workers employed by different local employers. This type of organization did not succeed, and now has little influence. Most existing organizations act at company level. There are no regional trade union bodies with separate legal personality, i.e. a status similar to CMKOS or industry level unions.

In addition, several voluntary bodies were formed. Regional councils of trade unions and their members are regular representatives of industrial unions in the respective regions. Regional councils are CMKOS bodies with their own statutes, approved by the CMKOS Assembly. Their role consists of defending members' interests in the respective region and promoting CMKOS policies. Within their respective regions, they promote activities in bodies established by the social partners and engage in negotiations with regional institutions. The CMKOS Assembly may authorize their participation in its meetings as observers.

Confederation of Arts and Culture

The Confederation of Arts and Culture (KUK) was the first independent trade union organization established after November 1989. It consists of 14 professional unions and associations and defends the interests of around 175,000 organized members. Member unions have joined international trade union bodies such as UNI, MEI, FIM, FIA (all of them central union bodies in various cultural branches). KUK member unions and associations organize employees both from the private and public sectors including and also free-lance individuals. At present, the employment relations of free-lance individuals are subject to rules covering self-employment. The Confederation has the following membership:

- Association of Czech Camera-Operators
- Association of Film and Television Editors
- Association of Professional Musicians
- Association of Costume and Make-Up Artists
- Association of Sound Engineers
- Union of Interpreters and Translators
- International Union of Cinema Workers - KINOS
- Independent Players' Club
- Union of Translators and Interpreters

-
- Union of Art Designers
 - ARTES Arts Association
 - UNIA - Union of Professional Orchestral Musicians SR
 - Union of Conservators.

The Union of Arts and Culture maintains close links with other trade unions which are not members of any confederation in the culture industry. The unions associated in the Confederation of Arts and Culture have pursued the long-term goal of creating a regular legal environment to transform the non-production sector. They have proposed that, within the context of the new social conditions, the State should define the scope and content of public services to be provided to citizens and financed from public sources. The respective guarantees should be provided by the State or by lower levels of the state administration and local government. In this context, the confederation's objective is to create appropriate working conditions for the numerous specialized professions in the culture sector.

Employee Councils

The amendment to the Labour Code, which took effect in January 2001, introduced a new type of employee representation. In companies where no trade union exists, employees can elect employee councils (works councils). The employee council exercises the employees' right to information and consultation within the meaning of the respective European Directives. It is a new instrument of social dialogue in the Czech Republic and does not replace the functions exercised by trade unions. A special feature of Czech law is that, unlike in many other countries, trade unions and employee councils are not allowed to exist side by side in the same company. Employee councils are conceived as an alternative solution where employees' interests are not defended by a trade union. Employee councils can be elected in companies with more than 25 employees in regular employment. An employee council must have a minimum of three and a maximum of 15 members. The employer, in consultation with the electoral commission, determines the actual number of members. Employee councils have no authority to engage in collective bargaining or to call strikes.

As distinct from trade unions, employee councils cannot create higher level structures and, as a consequence, cannot participate in social dialogue at industry or national level. By including rules on employee councils, the amendment of the Labour Code referred to above enabled the Czech Republic to ratify the Workers' Representatives Convention, 1971 (No. 135).

The amendment also included provisions concerning European Works Councils which correspond to those contained in Directive 94/45/EC on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purpose of informing and consulting employees. The provisions concerning European Works Councils will take effect on the date of accession to the European Union. An exception to this is a provision enabling central management and the special negotiating body to reach agreement on representation of employees of companies owned by transnational corporations, where such a European Works Council exists. This provision came into effect in January, 2001.

However, in many companies (e.g. Nestlé, Continental), European Works Councils were created even before the new legislation was adopted.

Employers' Organizations

The most important employers' associations represented in national level tripartite bodies are the Confederation of Employers and Entrepreneurs' Associations and the Confederation of Industry and Transport.

The Confederation of Employers' and Entrepreneurs' Associations

This is an autonomous association which seeks to promote and coordinate entrepreneurial, employers' and occupational interests with Parliament, the Government, government agencies and trade unions. It formulates interests common to employers on behalf of its members and promotes them in negotiations with the respective Government bodies, other employers' organizations and trade unions. It promotes its members' specific interests in the area of legislation and other areas, coordinates their interests and contributes to the development of cooperation among them. It also cooperates with the Chamber of Industry and Commerce of the Czech Republic and the Chamber of Agriculture of the Czech Republic and enters into relations with partner organizations abroad.

Membership of the Confederation is voluntary. Members of the Confederation are associations of entrepreneurs and employers, and other associations representing entrepreneurial, professional and employers' interests. At present, the organization has the following members:

Union of Entrepreneurs in the Construction Industry
Union of Employers' Federations (Members of the Union are industrial federations).
The Federation of Czech and Moravian Production Cooperatives
The Federation of Agricultural Cooperatives and Societies
The Federation of Trade Associations of Czech Entrepreneurs (its members are small entrepreneurs in trade, etc.)
Association of the Textiles, Clothing and Leatherworking Industries.

The Confederation of Industry and Transport

The Confederation of Industry and Transport is a voluntary organization associating Czech employers from the industry and transport sectors. It is fully independent of the Government, trade unions and political parties.

The Confederation is a member of the International Organization of Employers (IOE), UNICE, and is recognized as a member of the OECD Business and Industry Advisory Committee (BIAC). The Confederation also cooperates with OECD permanent committees for economic cooperation, with the European Communities, with the EFTA executive committee and coordinates and implements UNDP and UNIDO programmes designed to promote economic relations and foreign investment and industrial cooperation with Czech companies. The main objective of these international activities is to participate in the flow of information and to coordinate activities with a view to creating a favourable environment for Czech companies and facilitating their operations in European and world markets.

The Confederation of Industry and Transport has 34 members industrial federations associating 1,542 companies with 567,302 employees, including:

- Federation of Glass and Ceramics Industries
- Federation of Textiles, Clothing and Leather-Working Industries
- Czech Association of Insurance Companies
- Czech Gas Union
- Czech and Moravian Federation of Electrical Industries
- Federation of Employers in the Energy Sector
- Federation of the Iron and Steel Industry
- Federation of the Automobile Industry
- Federation of Producers and Suppliers of Air-Conditioning Equipment
- Federation of Producers of Agricultural Machines
- Federation of Chemical Industries.

Political and financial independence of trade unions and employers' organizations

Both trade unions and employers' associations have declared in their constituent documents and through statements by their official representatives, that they are independent of any political parties. Both the social partners, when defending their members' interests, cooperate with their allies in political parties who share their beliefs and can exert influence in Parliament. Also, both trade unions and employers' associations engage in lobbying in both chambers of the Parliament of the Czech Republic, in parliamentary committees and in various discussions and workshops. The independence of the Czech trade unions was significantly strengthened by the fact that they succeeded in preserving and deploying for their activities the property of the former trade union organisation (ROH). Day-to-day trade union activities are financed from contributions paid by their members and are divided, in agreed proportions, between organizations based in companies and higher trade union bodies. Industrial unions, in turn, contribute towards activities undertaken by the Czech-Moravian Trade Union Confederation (CMKOS).

Various specific trade union activities can also be a source of income; they are undertaken by special units established for this purpose in accordance with the relevant regulations (such as the Commercial Code).

The present regulations, in particular those contained in the amended Labour Code, have created further conditions which reinforce for trade union independence. Thus, for example, the employer is required to provide facilities to allow employee representatives (trade unions, employee councils) to perform their duties. In spite of this, there are cases where employers in certain companies try to exert influence on trade union bodies, including offering certain benefits to trade union representatives.

Employers' organizations finance their activities exclusively from their members' contributions, the level of which seems inadequate to ensure the required action and to pay the salary of the necessary staff. Compared to trade unions, they find themselves in a rather difficult situation. It is also a fact that Czech employers, in particular SMEs, are not really keen to join employers' associations. Employers' associations' representatives are well aware of the situation and have submitted a proposal for tax relief on contributions paid by employers to their associations.

The State

The State participates in social dialogue, mainly through the Council for Social and Economic Cooperation (RHSD). Deputy Prime Ministers and Ministers represent the Government in this body. Government experts cooperate with their counterparts among the social partners in specialized working groups dealing with specific subjects.

However, both trade unions and employers' associations also have direct contacts with various ministries and their departments, other than those within the tripartite structure. Topics discussed include remuneration in the private and public sectors, working conditions of employees in education, health, public administration and local government, issues concerning education reform, restructuring of the mining and iron and steel industries. However, even if social dialogue has become official government policy, it is not incorporated into the day-to-day work of the ministries' activities, perhaps with the exception of the drafting of new legal standards. There is no systematic cooperation, but discussions are initiated by the social partners, if and when they find out what is being planned. Also, there is no systematic and regular cooperation between the social partners and constitutional bodies.

Chapter 2:

Forms of social dialogue

Social dialogue in the Czech Republic is conducted at several levels. The highest level consists of tripartite negotiations between representatives of the Government, trade unions and employers' confederations; the next level is at industry level, i.e. collective bargaining between industry unions and employers' federations; and, finally, the most frequent is communication of various kinds, including collective bargaining, at company level. In this connection, it should be mentioned that the legislation on new regional government will most probably lead to the development of social dialogue at that level. The Czech-Moravian Trade Union Confederation adapted its internal organizational structures to the new regional arrangements back in 1998.

The main areas discussed at this level are regional issues such as unemployment levels in certain regions. Members of the Czech Parliament for the regions concerned often attend these discussions.

Regulatory framework for social dialogue

Social dialogue in the Czech Republic takes place, in part, within a regulatory framework as well as on the basis of voluntary agreements and various forms of consultation between the social partners, civic associations and professional bodies.

The basic sources of law in this area are constitutional acts, the most important of which is the Constitution of the Czech Republic (CNR Act No. 1/1993). In accordance with Article 10 of the Constitution, international Conventions concerning human rights and fundamental freedoms ratified by the Czech Republic are directly binding and take precedence over domestic law. They include the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights. These instruments include rights and freedoms which are the basis for citizens' and trade unions' legal status in employment relationships. An important source of law concerning collective labour relations and collective bargaining is ILO Conventions, in particular, the Freedom of Association and the Right to Organise Convention, 1948 (No. 87) (published in Law Digest No.489/1990) and the Right to Organise and Collective Bargaining Convention, 1949 (No.98) (Law Digest No.470/1990).

An integral part of the constitutional law is the Charter of Fundamental Rights and Freedoms which includes the right to associate freely with others with a view to protecting economic and social interests, the right to strike, the right to fair remuneration for work, and the right to satisfactory working conditions.

The Collective Bargaining Act, 1991. (as amended), regulates the right to collective bargaining including the procedure for concluding collective agreements and the right to strike and lockout. Social dialogue on the basis of the Collective Bargaining Act, 1991 (as amended), the Labour Code and certain other laws and regulations, takes the form of collective bargaining and conclusion of collective agreements. At company level the partners in social dialogue are employers and trade union organizations based in the company concerned (company collective agreements); at industry and sectoral level, employers' associations and the so-called higher trade union bodies (industrial unions) conclude higher level (sectoral) collective agreements. In addition to traditional collective bargaining, the social partners enter into other arrangements at company level, defined by the Labour Code, in

particular, as trade union rights. The corollary to this is the definition of the respective employer's obligations in labour relations.

Social dialogue at industry level is regulated both by the Labour Code (which deals with the content of collective agreements) and by the Collective Bargaining Act. Acts and regulations deal only with the process of collective bargaining and not with various other forms of social dialogue. This does not, of course, mean that there is no communication between unions and employers' organizations other than through the collective bargaining process. Indeed, such discussions frequently give rise to joint initiatives presented to the Government.

High-level tripartite dialogue between the social partners and the Government is not based on legislation. Since the very beginning of that dialogue in 1990, the institution and functioning of a high-level council has been based on voluntary agreements concluded between trade unions, employers' organizations and the Government. This also applies to the statutes of the Council, which contain the basic rules and procedures to be followed. The early nineties saw the conclusion of General Agreements, setting out the conditions under which the parties were willing to maintain social harmony. Such agreements were primarily built on obligations accepted by the Government in the area of economic policies and measures to be taken to promote necessary social reforms. However, these agreements became more formal in later years.

In many instances, trade unions, employers and the Government enter into negotiations with other civil society organizations, such as professional groups, independent experts and others, when drafting new laws and regulations, or seeking solutions to the serious problems that accompany the ongoing social and economic transformation. Thus CMKOS has worked closely, for example, with the Tenants' Protection Association in relation to housing policies, and with the Association of Pensioners and the Association of Disabled Persons on social security matters. In the culture and health sectors, new voluntary tripartite bodies consisting of employers', employees' and government representatives have emerged. They constitute a forum for discussion of selected issues affecting the sector concerned with a view to reaching agreement on efficient and socially acceptable solutions and maintaining social harmony.

The National Tripartite Council

Aims, development and historical background

Formal tripartite machinery, as one of the forms of social dialogue, was established by means of an agreement between the Government and the social partners in 1990, at the beginning of the social and economic transition. Formal tripartite bodies came into existence both at federal level and at the levels of the two republics of the former Czechoslovakia. The agreement on establishment of the Council for Economic and Social Cooperation (RHSD) at federal level was signed in October, 1990 and similar tripartite bodies were constituted at the level of the two republics at the end of the same month. The corresponding structures at lower levels were not established because the planned new administrative divisions in the country (creation of the self-governing entities envisaged in the Constitution) had not taken place. Acts concerning the new administrative divisions in the country were not adopted by Parliament until 2000.

While the unions affiliated to CMKOS established voluntary regional bodies in the form of regional trade union councils, there were no counterparts on the employers' and the government side. The trade union regional councils have already been in existence for more than two years, but attempts to establish the corresponding employers' bodies started only in 2001. In regions where such bodies already exist (e.g. Northern Bohemia), the social partners have embarked on a fruitful dialogue concerning employment problems, retraining programmes, workers' welfare, public transport, environment and similar subjects.

National level tripartite bodies (at Federation level and in the two republics of the former Czechoslovakia) represented a common voluntary platform for discussion of important issues by representatives of the social partners and the Government. The creation and operation of these bodies was not based on legislative provisions but on the good will of the parties and their efforts to reach agreement.

There is only one piece of legislation which provides for tripartite dialogue, and this legislation deals with local employment services. Employment services may establish committees where trade unions and employers, together with other interested parties, may submit their views on the employment situation in the district concerned.

The Council for Social and Economic Cooperation (RHSD)

The first voluntary tripartite top-level body in the former Czechoslovakia, the Council for Social and Economic Cooperation (RHSD), was established in October 1990. The origin of this body, its purpose, statutes and activities were formulated in documents agreed by the Government, trade unions and employers. Its purpose was stated as follows: "... to develop social dialogue with a view to maintaining social harmony as a crucial condition for a successful transition to a market economy and higher living standards..."

The Council for Social and Economic Cooperation (RHSD) was expected to discuss issues around economic and social development, long-term economic and social development concepts and plans, measures to improve competition, labour relations and collective bargaining, employment trends and the labour market situation, earnings and consumer price trends, health care, occupational safety and environmental problems, developments in the area of education and culture, the concept of tripartism and its promotion and operational support, conformity with international Conventions, relations with European tripartite bodies and last, but not least, the conclusion of a General Agreement.

Plenary meetings normally took place once a month and approximately 300 draft legal texts, analyses and concepts were discussed between 1990-1993. These discussions were not required but, nevertheless, became established practice and formed an essential part of the decision-making process. The Council for Social and Economic Cooperation (RHSD) was fully briefed on plans and measures proposed by the Government. Individual ministries discussed their draft proposals with the social partners before submitting them to government meetings. Efforts were undertaken to reach consensus between the social partners and the Government and to draft Bills to enable a smooth passage through Parliament.

A General Agreement was concluded between the social partners and the Government each year. The Agreement included jointly agreed policies and voluntary obligations to be implemented and promoted by the Government and the social partners in matters of economic and social policy, active labour market policies and wage policy. Plenary meetings were supported by the work of the Council for Social and Economic Cooperation (RHSD) consultative bodies - standing committees or ad hoc working parties composed of experts nominated by all three delegations in which the texts of the documents concerned were prepared for plenary meetings. Standing committees existed for areas of economic policy, social policy, health and environment, education and culture and development of the tripartite dialogue. Temporary working parties discussed, for example, draft amendments to labour law and occupational injury insurance.

There is no doubt that this level of social dialogue enabled the transformation of the economy to proceed without serious difficulties or shocks. The Government was aware of the need to maintain social consensus and social harmony and, during this period, its attitude to tripartism and social dialogue was substantially different from that in the period to follow.

After the parliamentary elections in 1992, communication between the Government and the social partners deteriorated and serious problems emerged in the Council for Social and Economic Cooperation (RHSD). They became very acute in 1994 in connection with proposed reforms to the social security system which the Government refused to discuss with the trade unions. A real crisis emerged in the operation of the tripartite dialogue and for more than six months, social dialogue practically ceased to function. Thereafter, cumbersome negotiations were restarted again between the social partners and the Government on whether or not to resume the dialogue.

The Council for Dialogue between the Social Partners in the Czech Republic (RDSP) - (1995 –1997)

The Government sought hard to substitute bipartite dialogue for the previous tripartite system. It argued that, essentially, the transformation was already complete, thus the Government was no longer an employer and that therefore there was no valid reason to continue with tripartite dialogue. Finally, after prolonged discussions, agreement was reached for the tripartite dialogue to continue in a restricted manner. New bodies were formed and new documents adopted to define the purpose and activities of the new Council for the Dialogue between the Social Partners (RDSP). This new body, established in June 1995, never achieved the prestige, importance or quality of previous tripartite negotiations nor did it accomplish anything of significance.

To start with, the range of issues discussed was defined in very narrow terms. Consultation concerned only selected matters of labour law, collective bargaining and employment, wages and salaries, as well as health and safety without any obligation to reach joint conclusions. The new body was conceived as a forum to discuss selected issues of common interest with a view to reaching agreement on workable solutions and maintaining social harmony. New rules on the representativeness of the social partners were drawn up. If a trade union wished to acquire representative status, it had to be established in conformity with the law, be structured as a confederation with at least three member unions representing different industries, have nationwide coverage and a membership of at least 300,000.

Employers' organizations were considered to be representative if they included large, medium-sized and small companies in the manufacturing, transport, construction, agriculture or service sector. In one of those sectors, the majority of all employees and/or cooperative members had to be covered by the employers' organization concerned. In this case, too, employers' organizations were required to have nationwide coverage, to include employers from different industries and regions and be established in conformity with the law. Like trade unions, they were forbidden to engage in political activities within the meaning of the Political Parties and Movements Act, 1991 and the member companies covered had to employ at least 500,000 workers in total.

The experience of the Council

Discussions in the new Council did not proceed smoothly. Government representatives made every effort to evade discussion of the issues raised or to defer discussion to a later date. The Government delegation mostly consisted of junior officials. Indeed, it is fair to say that the new Council failed to reach agreement on a single significant issue. The Government repeatedly rejected the idea of concluding a general agreement with meaningful and specific substance which would bind the Government to do something tangible. Therefore, no general agreement has been signed since 1995. The deteriorating situation in the area of social dialogue had an unfavourable impact on several sectors, especially in education, health care, public administration and transport where the absence of dialogue led to industrial unrest such as strikes on the railways and in education and protest action in the health sector.

It also had an adverse impact on collective bargaining and industrial relations at company and industry level. The number of collective agreements was decreasing, year by year, and the number of employees covered by collective agreements declined. There were many cases of violations of labour standards by employers. Protection of employees' rights was ineffective (court proceedings could take months, even years, they were expensive, and the results uncertain) and, in practice, many violations were not reported.

Trade unions and employers' organizations repeatedly proposed changes in the area of labour relations, accident insurance, health protection, training, transport and State administration. They called upon the Government to ratify further important ILO Conventions and to improve the legislation to bring it closer to Western European standards.

In those circumstances, and following the general elections in June 1996, the trade unions sought to achieve their demands through lobbying tactics in Parliament and cooperation with certain deputies of the Social Democrat Party. In the Senate elections in Autumn 1996, two candidates nominated by the CMKOS were elected.

A change in the Government approach to social dialogue could be observed in connection with the adoption of the package of measures in mid-1997. These measures consisted of restrictive economic policies with an adverse effect on living standards and were adopted by the Government to deal with a severe deterioration in the country's economic situation. The Government felt obliged to seek a social consensus for the unpopular measures proposed. It approached the trade unions and announced its willingness to accept certain of their demands concerning the development of tripartite dialogue at company, industry and top level. The Government recognized as legitimate the unions' claims for the top level tripartite body to deal not only with social but also with economic problems which concerned both employers' and employees' interests. Essentially, the Government was willing to accept the conditions upon which high-level social dialogue was based at the beginning of the 1990s. The Government even promised to reconsider its opposition to industry and sectoral collective agreements and extending their coverage. The new attitude led to the establishment of working parties of experts from the social partners to prepare new documents on tripartite dialogue. However, these documents were approved at top level only after the Government crisis in December 1997 and a new Government taking office at the beginning of 1998. The new (provisional) Government showed more interest in the problem but due to its time-limited mandate, could not achieve any meaningful change.

The new Government that took office following the June 1998 elections immediately announced a more positive approach to social dialogue, sharply contrasted with the attitude of former governments. At one of its first meetings, the new Government accepted the proposed texts concerning the new Council for Social and Economic Cooperation (RHSD), as submitted to the previous Government. At the same time, together with the social partners, the Government issued a declaration concerning the significant role of the social dialogue at all levels. It stated that social dialogue was indispensable to the smooth operation of a modern, competitive economy, the existence of a democratic State and the rule of law. Tripartite negotiations became a platform for consultations and information concerning problems of interest to all parties concerned. The social partners were informed through this machinery about Government plans and changes in the law and regulations. The Government declared its interest in concluding a General Agreement covering the year 1999 and a Social Pact covering a more extended period thereafter. The intention in respect of the General Agreement did not materialize, but discussions were opened in November, 2000 aimed at adopting a medium-term Social Pact.

Also in 2000, there was a change in the composition of the trade union delegation to the Council for Social and Economic Cooperation (RHSD). In spite of the fact that the Confederation of Arts and Culture was one of the founding members of that tripartite body, its historic right to membership ceased to be recognized. As a result of applying the criteria on representativeness, the Confederation of Arts and Culture was replaced by the Association of Independent Unions, which includes the Railway Workers' Union and the Food and Agricultural Workers' Union of Bohemia and Moravia.

During the term of office of the Social Democrat Government, there was a significant improvement in the role of various working parties. They were called upon to discuss diverse legal and administrative issues related to taxation, education, health, public administration and labour law. In certain cases the working parties came up with their own suggestions for discussion of matters not included in the Government's work plan. For example, at the initiative of the working party on labour relations, collective bargaining and employment, substantial progress was achieved in extending the coverage of high-level collective agreements. The same working party played a significant role in drafting the amendment to the Labour Code and the Employee Protection (Employer's Insolvency) Act, 2000. Efforts to arrive at consensual and mutually acceptable conclusions took the place of the previous confrontational postures. One contributory factor was that the composition of the working parties stabilized and all concerned gradually realized the futility of confrontation. In support of their claims, trade union representatives relied primarily on valid and factual arguments, and did not threaten industrial action. Government representatives gradually began to see their counterparts among the social partners as equal partners, perhaps with differing views, but willing to arrive at the best possible compromise solutions.

Other forms of social dialogue

The Social Conference

The Government which was elected in 1998 started to introduce new forms of social dialogue at central level, with a view to discussing various proposals on legislative action in the areas of employment, social security and working conditions, with a broader range of interested parties, in particular non-governmental and non-profit organizations and independent experts. The so called 'Social Conference' came into being and developed into a government platform allowing participation by those who were not members of the Council for Social and Economic Cooperation (RHSD). The Social Conference became a Government tool for developing and implementing social policies and the Ministry of Labour and Social Affairs was invited to assume a coordinating role for these activities. Participation in this work is voluntary. The representatives of various institutions and organizations and individuals invited by the Minister of Labour and Social Affairs can be divided into three groups. The first group consists of representatives of the public, clients of various public social services (such as associations of pensioners, the disabled and tenants). In the second group there are representatives of public, private and civil sector institutions involved in various social services (for example foundations, non-profit organizations, community services, workers' and employers' organizations). Finally, the third group consists of professionals and experts from higher education, research institutes, and specialized consulting firms.

The Social Conference discusses issues on which the Government, and ultimately Parliament, is called upon to take decisions, ideas for institutional reforms or possible reforms related to the financing of the State social protection system. Also discussed are proposals on how to reflect these various ideas and suggested solutions in the corresponding legislation. The emphasis is on open, flexible and efficient discussions through an entirely informal approach to problems. The Social Conference does not seek to achieve formal agreements on the issues under discussion. The objective is rather to listen to all those who have something meaningful to say in respect of specific problems and to take full advantage of their knowledge and experience when seeking universally acceptable solutions and before adopting any final decision.

The Government is normally represented in the discussions of the Social Conference by the Minister of Labour and Social Affairs, his deputies and heads of the respective departments and, as appropriate, by representatives of other ministries interested in the issue under discussion, such as the Ministry of Finance. Over the last two years, several sessions of the Social Conference have been held. Of particular note is the Conference's proposal for reform of the social welfare system in 1999 which finally led to suspension of work on the Social Welfare Bill and adoption of a different approach by the ministry. Another Social Conference in October 2000 discussed pension reform. The Deputy Minister of Labour and Social Affairs briefed participants on the Government's ideas on the steps needed to

accomplish the reform. Among the participants in the discussions were representatives of workers' and employers' organizations, the Association of Pension Funds, the Association of Insurance Institutions, the Demographic Society, Institutes of Higher Education, the Liberal Institute, the Union of Investment Funds and the Association of Pensioners. The ministry promised to take account of the observations made during the discussions when formulating the final pension reform proposals, which would then be subject to political debate by the Government and in Parliament.

Cooperation between the State and the social partners in the area of labour law

Cooperation in the area of labour law by means of 'round tables' is another form of social dialogue. These meetings are convened by the respective ministries, which prepare background information and documents, such as drafts of new legal instruments. The participants include not only representatives of the social partners, but also members of Parliament, members of committees on social and health policies, scientists and researchers, judges and experts with practical experience. This form of social dialogue provided a valuable contribution to the preparation of the amendment to the Labour Code. Several 'round tables' were convened in 1999 to discuss individual sections of the amendment, and the amendment as a whole, on the basis of background documents submitted by the ministry. The first 'round table' was opened by the Minister of Labour and Social Affairs who explained the reasons why the amendment needed to be adopted quickly, partly linked with the need to harmonize the provisions of the Labour Code with European law.

The 'round tables' seek to make full use of the knowledge and experience of a wide range of experts in various aspects of labour law and to canvass broad support for Bills in order to facilitate their adoption by Parliament. In addition, when preparing the amendment of the Labour Code, the social partners reached agreement on the text of the sections regulating their mutual relations. Broad agreement on certain other sections, originally in dispute, meant that Parliament finally adopted the proposed texts without changing the fundamental agreement reached by social partners. This was also the first instance where the social partners were allowed to participate fully in the drafting of legislation. It was also very important that their mutually agreed compromise in matters related to their responsibilities and day-to-day activities was finally respected. Numerous regional and other meetings of the social partners' representatives with Members of Parliament and Senators of the Czech Republic ensured the necessary support and thus contributed to this significant achievement.

From the outset, there was collaboration between the social partners in drafting the amendment to the Labour Code, i.e. from the editing of the draft text of various sections until approval of the amendment by Parliament. The work started in April 1999, with discussions in a working group convened by the Ministry of Labour and Social Affairs. Various versions of individual provisions were discussed and the social partners were offered the opportunity of submitting their own proposals. The ministry adopted those proposals which had the support of the two social partners and were in line with the effort to achieve harmonization with European law and did not contravene other existing Czech standards. This applied, in particular, to the new pattern of employee representation, i.e. responsibilities of trade unions, employee councils, and employees' health and safety representatives, plus the corresponding employer obligations. Texts concerning working time, and holidays with pay were also given a thorough airing.

The draft amendment was repeatedly discussed by working groups created by the tripartite Council. The plenary session of the Council discussed the draft before various ministries were asked to submit their final observations, again before submission to the Government and, finally, before submission to Parliament. Altogether, 700 observations were made and had to be dealt with before the final draft was submitted to the Government. This is a clear sign of the amount of work and of the fact that all parties involved were prepared to make concessions. Numerous amendments to different provisions were also made by parliamentary committees. In the end, the Assembly adopted 46 amendments and approved the Bill. The work on the amendment was the subject of lively debate in the

press and attracted substantial attention among both employers and workers because of the newly introduced rights and obligations.

Another major problem which emerged was the non-payment of wages by certain employers. This serious problem was a source of criticism by the social partners who demanded the adoption of a law to protect employees in the event of insolvency of their employer. The mounting pressure led the Government to deal urgently with the issue. In collaboration between the social partners and the Ministry of Labour and Social Affairs, a new Employee Protection (Employer's Insolvency) Act was drafted to implement the corresponding EC Directive. The new Act (No. 118/2000) was approved by Parliament in April 2000 and came into effect in June 2000. Similar cooperation between the Ministry of Labour and Social Affairs and the social partners occurred when preparing the amendment of the Employment Act, which entered into force in July 1999.

Work started during 2001 on a comprehensive review of the remaining parts of the Labour Code. This is a very demanding long-term task and the social partners will participate fully in the process. There is close cooperation, in particular, between the social partners and the Ministry of Labour and Social Affairs, the Ministries of the Interior, Finance and Industry and Trade. Contacts and discussions with other ministries on issues concerning the social partners' interests tend to be confined to communication of their formal observations concerning Bills to be subsequently submitted to the Government. It is worth noting also that the CMKOS representative is always invited to meetings of the Legislative Council (which is an advisory body to the Government). The Council discusses and makes comments on all draft legislation before it is submitted to the Government. Experts from both social partners are members of the Council's working party on labour law.

Formulation of the national social strategy

The machinery designed to arrive at a consensus in the formulation of social strategy can also be taken as a form of social dialogue. This work is not directly organized by the Government but by a non-governmental association for the development of social policy theory and practice (Socioklub). This association cooperates closely with the Ministry of Labour and Social Affairs, universities and other scientific institutions. Since 1998, several conferences have been organized where the results of various working parties dealing with individual subjects such as social insurance, labour relations and social dialogue, labour market and employment, family policies, public health and health services and the role of the non-profit sector in social services were discussed. Other conferences are planned to follow. Representatives of interested parties, including the social partners, participate in the working parties and the final outcome is expected to be a document a national social strategy, which will then be submitted for wider political discussion.

Activities of ad hoc bodies

Pension reform was discussed by ad hoc bodies established by the Senate (in 1998) and by the Chamber of Deputies (1999). This machinery can also be seen as a form of social dialogue, because the social partners, in addition to other representatives of the public and private sectors (universities, invited experts, Association of Pensioners and the Demographic Society), participate in its deliberations. In spite of the fact that all these representatives do not enjoy equal status with deputies and senators and have no formal right to participate, in practice they are invited to offer their views and experience, and information supplied by them can influence the views in the parliamentary discussions.

Social Dialogue on EU enlargement/Accession

Issues concerning accession to the European Union became particularly important following the signature of an Agreement on accession between the EU and the Czech republic, which came into force in February 1995. Since then the preparatory process for EU accession has accelerated significantly, and decisions concerning new policies and their institutional and legal framework have been taken.

The main areas of concern and interest to the social partners were social policy, employment and free movement of workers.

At the early stages of this process, the positions of the social partners were not clearly defined as their knowledge of EU policies and the requirements of the “*acquis communautaire*” were rather limited. There was quite a lot of prejudice but there were also unrealistic expectations on both sides. Whereas workers’ organizations hoped for a better industrial relations system and more protective labour legislation, employers feared an increase in the cost of labour and less flexibility in the labour market. It was therefore necessary to make the discussion on EU enlargement issues more objective.

A study on the social consequences of EU accession was undertaken during 1996-1998 and was discussed with the social partners. The study could not cover all possible social aspects of EU accession and was therefore limited to the areas of labour legislation, employment and free movement. Nevertheless, its results, accepted by the social partners as a basis for further discussion, showed that the original fears of high social costs were unfounded. The study showed that only a minimal direct increase in labour costs was to be expected and that the main area of concern would be health and safety at work. This study facilitated considerably future discussions concerning concrete changes in labour legislation.

From the institutional point of view, it was not easy to find a suitable mechanism for involvement by the social partners. Because the existing bodies were dealing with tactical aspects of the negotiations, the government was reluctant to allow the direct participation of non-governmental organisations. Therefore, as a special tripartite working party on EU enlargement under the national Council for Economic and Social Cooperation (RHSD) was established which met in parallel with the consultative organs of the government. Since 1998, the most important measures concerning enlargement and interests of workers or employers have been systematically discussed within this body. The prestige of this body was underlined by the appointment of Mr. Telicka, Chief Negotiator and the First Deputy Minister of Foreign Affairs, as its chairperson.

Reports from this Working Party were regularly discussed at the plenary session of the Council of Economic and Social Cooperation (RHSD). The social partners therefore had the opportunity to discuss such critical items as harmonisation of legislation, restructuring of the steel industry and tax policy. They were particularly keen to express their view on the issue of free movement of workers where both employers and workers pushed the government to maintain a strong position in favour of free movement from the date of EU membership.

Chapter 3 Collective bargaining

Collective Agreements

After 1991, labour legislation gradually created the conditions for collective agreements to become a tool for regulating employees' working conditions and defining the mutual relations between employers and trade unions. The Collective Bargaining Act, 1991, was adopted to define the process of collective bargaining and conditions to be met in concluding a collective agreement.

The Act distinguishes between company collective agreements and higher level collective agreements, i.e. sectoral and industry collective agreements. The parties to collective bargaining are defined and the Act defines who has the authority to conclude a collective agreement and regulates conditions for collective agreements to become a valid contract binding on both parties.

Collective bargaining is conducted by two partners who intend to become parties to a collective agreement. Higher level collective agreements, or industry and sectoral collective agreements, are concluded by industry unions with employers' associations (federations, unions); and company collective agreements are concluded between the company trade union organization and the individual employer. There is no direct hierarchical link in the Act between company collective agreements and sectoral collective agreements. The Act defines the interface between higher level collective agreements and company collective agreements only to the extent that provisions in company collective agreements are void where they are less favourable than those defined by a higher level collective agreement.

In 2000, approximately 35 per cent of all employees were covered by company collective agreements. Data issued by the Czech Statistical Office show that the total number of employees in the Czech Republic was 3,972,400 in June 2000. CMKOS unions reported the existence of 4,339 collective agreements covering a total of 1,379,333 employees. Out of a total of 5,015 trade union organizations, 1,112 reported that they were unable to conclude a collective agreement where trade union organizations affiliated to CMKOS exist and actively operate is 9,307.

The main reasons why collective agreements fail to be concluded seem to be the following: employers are reluctant to conclude a collective agreement due to the company's uncertain financial situation; employers vigorously pursue a policy of regulating working and employment conditions, including wages, through individual employment contracts; the ownership status of companies and their economic development is unclear and there are poor personal relations between trade union officials and top management; anxiety felt by trade union officials concerning possible job losses; passive attitudes by certain trade union organizations and their reluctance to use the legal instruments available to solve collective disputes, such as procedures intended to assist in or to enforce the conclusion of collective agreements, lack of enthusiasm on the part of unorganized employees, and disparaging attitudes on the part of employers towards social dialogue as a means of creating harmonious working conditions.

Unfortunately, the number of workers who are not protected by collective bargaining had increased by the end of the nineties. Moreover, in areas where collective agreements do exist, wage bargaining is very difficult and proposals by employers, on the one hand, and workers' representatives, on the other, tend to differ greatly. Employers are afraid to accept long-term commitments and trade union demands are sometimes too high. This is the reason why certain collective agreements have no provisions on wage growth.

Industrial collective agreements cover more than six hundred thousand employees. In 2000, 12 unions affiliated to CMKOS concluded a total of 22 industry level collective agreements with 20 employers' associations, applicable to 1,375 enterprises. The main reason for the relatively low

coverage by industry level collective agreements is the absence of a contracting partner on the employers' side. Employers are not encouraged to establish organizations with authority to negotiate and conclude collective agreements at sectoral level. Economic conditions and the financial situation of individual companies vary to such a degree that members of employers' federations are reluctant to agree to provisions which would be more favourable than those stated in the Labour Code. Furthermore, no real progress has been made in extending the coverage of industry level collective agreements to other employers, under the procedure operated through the Ministry of Labour and Social Affairs.

In 2000, the Ministry of Labour and Social Affairs' policy on extension of collective agreements changed. A plenary meeting of the Council for Social and Economic Cooperation approved a new procedure for extending sectoral collective agreements. For the sake of comparison, it is worth noting that extensions approved in 1995 concerned 6 employers, there were none during 1996-1998, whereas 399 employers were covered by extensions in 1999 and 1887 employers were covered by extensions in 2000. This change will favourably affect the working conditions of employees in companies where employers have not joined any of the employer's organizations.

Unions operating in the state sector cannot conclude high-level collective agreements because of the absence of a contracting partner on the employers' side, namely state bodies. The law makes no provision for the establishment of employers' associations in the state sector, thus precluding collective bargaining. CMKOS proposed a procedure whereby public sector trade unions could enter into negotiations with public sector bodies concerning their wage claims prior to approval of the State budget for the relevant calendar year. These negotiations could result in special agreements, which are not yet covered by existing laws and regulations.

It can be seen from the above description that collective bargaining remains rather underdeveloped in the Czech Republic. These issues deserve more attention because they are closely linked to the changes envisaged in the sphere of labour legislation. Particularly vital to the trade unions is the trend towards individual labour relations. Liberalization of labour (less statutory protection and more contractual freedom) in the opinion of workers' organizations, cannot take place without the creation of an appropriate framework of collective agreements that would guarantee employees' rights. This is the reason why the trade unions would like to develop a comprehensive, well functioning system of collective agreements at both high level and company level.

Chapter 4

Social dialogue at regional level: some examples

Social dialogue exists also at the regional level. Good examples of institutional structures are the Ostrava Regional Council for Social and Economic Cooperation (northern Moravia), the Most Regional Economic and Social Council, the Sokolov Regional Economic and Social Council and the Chomutov Regional Economic and Social Council (North-West Bohemia). All these institutions share one thing in common. They were established only recently and their activities cover industrial regions dominated by the mining, energy and iron and steel sectors. These sectors have been severely affected by structural changes and high unemployment.

The Ostrava Regional Council for Social and Economic Cooperation

The Council was established in June 2000 on a tripartite basis. It is composed of 7 employer members, 7 union members and 7 members of the public administration. Meetings of the Council are also attended by the Commissioner for Northern Moravia and the head of his office, and by local members of the Czech Parliament in an advisory capacity. Members for both social partners were appointed taking account of the need to ensure coverage of all districts in the region.

Under its statutes, the Council is a voluntary body created by the public administration, employers and trade unions in the Ostrava Region for the purpose of tripartite discussions, proposals for action and other initiatives. Its main purpose is to reach consensus on major issues of economic and social development of the region. The Council is called upon to discuss, consult, propose and promote action contributing to economic development and raising living standards. Emphasis is placed on the unemployment problem, creation of new jobs, promotion of small and medium-sized enterprises, social and labour issues, strategy for raising educational and vocational training standards, issues concerning EU accession and application of EU policies and best practice concerning the solution of structural adjustment problems. The Council is also called upon to contribute to the solution of serious problems in the region, settle industrial conflicts and deal with situations which might endanger social peace. The Council meets in plenary sessions and further meetings are organized at presidency level. The Council has established working parties of experts appointed by the three sides. These bodies prepare background documents and drafts for plenary sessions, which are convened every three months, and for presidency meetings that generally take place monthly.

The Council has dealt with the following issues: restructuring of the iron and steel industry and its repercussions on employment, improvement of the transport infrastructure, developments in the privatization of bituminous coal mining, coordination of work on the development of a directory containing information for potential investors and information for the tourist industry, the proposed establishment of a research and development council and establishment of partner contacts with the Saar-Lorraine-Luxembourg region to draw lessons from their structural adjustment. Efforts are also being directed at establishing close contact with the newly created regional office. Another significant project concerns the creation of specialized agencies to handle the reintegration of workers made redundant by the restructuring of the iron and steel industry. These agencies are intended to assist employment offices in providing services for redundant workers and to address these problems at an early stage, when management is contemplating dismissals. Implementation of the project will draw on experience acquired from similar programmes in EU Member States. The agencies try to ensure close collaboration between the managements of companies undergoing structural change and others

involved, such as employment offices, regional and local administrations, training institutes, and civic associations.

The Most Regional Economic and Social Council

The Council was established in March 2000, with separate legal personality as a civic association, under the Association of Citizens Act, 1990 (as amended). In accordance with its statutes, the Council is expected, after completing the administrative changes connected with the establishment of the new regions, to promote the development of the Most region and to coordinate action aimed at attaining higher levels of economic and social development. The Council will be fully involved in the formulation of policies and the agenda for economic and social development. It will be consulted concerning the best use of funds allocated to the development of the region, initiate and discuss with central government bodies various issues relating to economic and social development, and promote regional interests in negotiations with both domestic and foreign investors. The Council will also be involved in the creation of industrial zones to promote new investment and thus creation of new jobs and in the implementation of the programme to promote the activities of small and medium-sized enterprises. The Council intends to be active in cross-border cooperation to promote economic and trade activities.

The Most Regional Economic and Social Council produced a strategic document, (Global Agenda for Revitalization of the North-Western Mining Regions), which was discussed and noted by the Government. Furthermore, a fund was created from special contributions from members to support projects and activities aimed at solving the unemployment problem. The Council discussed prospective reduction in the scale of mining in the Kohinoor mine in Mariánské Radčice, where industrial action and an underground strike were organized by miners. Also discussed were sheltered workshops for workers with disabilities and another discussion led to the creation of an environmental centre.

Summary

Social dialogue at the national and company level has developed reasonably well in the Czech Republic.

At the very beginning of the transition process, freedom of association and the right to bargain collectively were guaranteed by the Constitution and the necessary legislation adopted. Early emergence of free and independent employers' and workers' organizations as well as the establishment of a national tripartite Council for Economic and Social Cooperation (RHSD) helped to overcome the most problematic initial period of economic reform and to avoid major social crisis. Collective bargaining at the enterprise level became an important part of industrial relations and collective agreements partially replaced or complemented protection provided to workers by the Labour Code. Collective agreements, both at enterprise and industry level, deal with wages and a wide range of other issues concerning labour conditions. Collective bargaining developments are regularly assessed by the Government and the social partners on the basis of a reliable and independent statistical system.

Nevertheless, the development of social dialogue was not consistent and was vulnerable to the changing attitudes of Governments during the past decade. During some of this period, tripartite dialogue was considered only as a tool to maintain social peace in critical economic and political situations. It has only become an integral part of governance since 1998.

Tripartite negotiations and consultations enabled the adoption of some critically important pieces of legislation, especially an extensive amendment to the Labour Code bringing Czech labour law into harmony with EU labour legislation (2000). Another example was the new legislation on the protection of workers in the case of employers' insolvency (2000). This legislation was requested by trade unions and adopted on the basis of tripartite agreement. Notable progress was also achieved at regional level. In the two regions most affected by structural change, the social partners, as well as other parts of civil society, were involved in decisions concerning their interests.

There is significant scope for improvement especially in the implementation of legislation. There is some evidence that basic rights and freedoms are not always respected at the enterprise level, even by employers coming from industrialized countries. Court proceedings are often slow and therefore inefficient and the reform of labour inspection is not complete. At the sectoral level, the number of workers and employers covered by collective bargaining agreements has recently increased, but mainly because of the policy of administrative extension of these agreements. At the national level, some important issues are still not a regular part of negotiations.

All these issues were discussed during the tripartite seminar in May 2001. The openness and high quality of this discussion demonstrate that mutual confidence and understanding exist between the tripartite constituents. It seems that the most critical factors for further enhancement of social dialogue in the Czech Republic are the long-term political commitment of the Government as well as the improved strength and competency of the social partners.

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