

COLLECTIVE BARGAINING ACT

“Zákon o kolektivním vyjednávání”

Act No. 2/1991 Coll.,

as amended by Acts No. 519/1991 Coll., No. 118/1995 Coll., No. 155/1995 Coll., No. 220/2000 Coll. and No. *151/2002 Coll.**

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* Amendments under Act *No. 151/2002 Coll.*, effective as of 1 January 2003, are printed in ***bold italics***.

Section 1

Introductory Provision

This Act regulates collective bargaining between the competent organs (bodies) of the trade union organizations concerned and the employers, assisted by the State when necessary, where such collective bargaining is aimed at the conclusion of a collective bargaining agreement.

Collective Bargaining Agreements

Section 2

(1) Collective bargaining agreements (in short “collective agreements”; Note 1) shall regulate individual and collective relations between employers and their employees and the rights and obligations of the contracting parties.

(2) Collective agreements may be concluded by the competent trade union organs and employers, or by their organizations.

(3) Collective agreements shall be:

(a) enterprise agreements, when concluded between the competent trade union organ and the employer;

(b) higher level agreements where one such agreement, concluded between the competent higher trade union organ (body) and the relevant employers' association (organization) or associations, concerns a larger number of employees.

Section 3

(1) A collective agreement may be negotiated and concluded in the name of the contracting party [section 2(2)] by:

- (a)** a representative of the competent trade union organ (Note 2), as authorized by the statutes of the trade union organization or the internal regulations of the competent trade union organ (body);
- (b)** the head or other authorized representative of the employer's organization (Note 3);
- (c)** a citizen who employs employees when conducting his business (i.e. entrepreneurial) activity (Note 4);
- (d)** a representative of the competent employer's organization, if such representative is authorized to conclude a collective agreement by the organization's internal regulations.

(2) An employer's organization under subsection (1)(b) shall also be the State on behalf of which an organizational component (establishment; Note 17) is acting; the head of the organizational component (establishment) of the State or another authorized representative (Note 18) may conclude a collective agreement.

Validity and Effectiveness of Collective Agreements

Section 4

(1) Collective agreements shall be valid if concluded in writing and signed by authorized representatives of the competent trade union organs (bodies) and employers, or by representatives of such employers' association, unless it is stipulated otherwise below.

(2) A collective agreement shall be void in such part of the agreement:

- (a)** which is contrary to the statutory provisions;
- (b)** which regulates employees' rights (entitlements) to a lesser extent than a higher level collective agreement;
- (c)** which guarantees wage entitlements to employees to a greater extent than the maximum provided for in the relevant higher level collective agreement, and it shall be void to the extent by which such maximum is exceeded.

Section 5

(1) A collective bargaining agreement shall be binding on the contracting parties.

(2) A collective agreement shall also be binding on:

- (a)** employers on whose behalf such agreement is concluded by their employers' association (organization);
- (b)** employees on behalf of whom such agreement is concluded by their competent trade union organ or higher trade union organ (body);
- (c)** a trade union organ on behalf of which such agreement is concluded by the competent higher trade union organ (body).

(3) The competent higher trade union organ (body) also concludes a collective agreement on behalf of employees who are not members of trade unions (Note 2).

Section 6

(1) A collective agreement shall be concluded for the period expressly stipulated in such agreement. If such period is not determined, it shall be assumed that it is concluded for one year.

(2) A collective agreement shall be effective as of the first day of the period for which it is concluded and shall terminate on expiry of such period, unless the effective period of certain obligations laid down in the agreement is agreed differently.

Section 7

(1) The Ministry of Labour and Social Affairs of the Republic may determine in a decree that a higher level collective agreement shall also be binding on employers who are not members of the employers' association (organization) which concluded such agreement.

(2) Under the preceding subsection, a collective agreement may only be made binding on employers engaged in similar activity and operating under similar economic and social conditions if such employers have a registered office (seat) located in the Republic, and the higher level collective agreement is not otherwise binding on them.

Section 8

Procedure for Concluding a Collective Agreement

(1) Collective bargaining is commenced when one of the contracting parties presents a written proposal for the conclusion of a collective agreement to the other contracting party.

(2) The other contracting party is bound to reply in writing to the proposal without undue delay, and to express its opinion on those parts of the proposal which it does not accept.

(3) The contracting parties shall negotiate and provide any further required cooperation, unless this is contrary to their justified interests.

(4) No later than 60 days prior to termination of the existing collective agreement, the contracting parties shall commence negotiations on the conclusion of a new collective agreement.

(5) The contracting parties may agree in their collective agreement the possibility of modifying the agreement and its scope; in modifying it, they shall proceed as when concluding a collective agreement.

Section 9

Filing Collective Agreements and Making their Contents Known

(1) A higher level collective agreement or an award by an arbitrator (section 13) relating to such agreement shall be filed by the contracting party (on the employers' side) with the Ministry of Labour and Social Affairs of the Republic* relevant to the registered office (seat) of the employers' association concerned.

* The provisions of the Collective Bargaining Act is here referring to the situation in federal Czechoslovakia, which consisted of two republics - the Czech Republic and the Slovak Republic.

(2) Where a higher level collective agreement under the preceding subsection binds employers who have seats in both Republics*, the contracting party under the preceding subsection shall file the agreement with the Ministries of Labour and Social Affairs of both Republics.

- (3) The filing of a higher level collective agreement shall be notified in the Collection of Laws. Such notification shall be requested by the competent Ministry of Labour and Social Affairs with which such agreement was filed.
- (4) The Ministry of Labour and Social Affairs* (of the Republic) where a collective agreement is filed shall provide a copy of it when so requested, for which a determined fee is paid.
- (5) The competent trade union organ (body) shall make the contents of the collective bargaining agreement known to employees no later than 15 days after the day when it is concluded.
- (6) The contracting parties shall keep collective agreements and the arbitration awards relating to such agreements for a period of at least five years after they expire.

Section 10

Collective Disputes

Under this Act, collective disputes shall be disputes relating to the conclusion of a collective agreement and disputes concerning the performance of obligations arising from a collective agreement, but not those relating to the claims of individual employees.

Proceedings before a Mediator

Section 11

- (1) The contracting parties may agree to appoint a mediator to act in their dispute.
- (2) If the contracting parties fail to agree on a mediator, he/she shall be appointed by the respective Republic's Ministry of Labour and Social Affairs*, acting on an application made by either of the contracting parties. In a dispute concerning conclusion of a collective agreement, the application may be filed no earlier than 60 days after the day when a written proposal to conclude such agreement was presented.
- (3) A mediator may be a citizen who is of age (i.e. 18 or over) and is legally capable (i.e. can perform acts-in-law) or a legal entity, provided that such person (entity) agrees to perform this office. If cases under the preceding subsection are involved, it is possible only to appoint a mediator who is entered in the list of mediators kept by the respective Republic's Ministry of Labour and Social Affairs.

* The reference to both the Czech and Slovak Ministries of Labour and Social Affairs is now out-of-date.

Section 12

- (1) A mediator shall notify the contracting parties in writing of his proposal as to how their dispute can be resolved within 15 days of the day when he was acquainted with the subject-matter of the dispute, unless the contracting parties agree otherwise.
- (2) Proceedings before a mediator shall be regarded as unsuccessful if the dispute is not resolved within 30 days of the day when the mediator was acquainted with the subject-matter of the dispute, unless the contracting parties agree on another time-limit.
- (3) The cost of proceedings before a mediator shall be shared between the contracting parties. Such costs shall include the mediator's remuneration. Where the contracting parties fail to agree on the mediator's

remuneration, he shall be entitled to remuneration pursuant to the relevant implementing provisions.

Proceedings before an Arbitrator

Section 13

- (1) Where proceedings before a mediator are unsuccessful, the contracting parties, if they so agree, may apply in writing to an arbitrator to decide their dispute. Proceedings before the arbitrator commence on his/her receipt of such application.
- (2) If the contracting parties fail to agree pursuant to subsection (1) and the dispute concerns a collective agreement relating to a workplace where a strike is forbidden, or it concerns performance of obligations arising from a collective agreement, the respective Republic's Ministry of Labour and Social Affairs, acting on an application from either of the contracting parties, shall appoint an arbitrator; proceedings before the arbitrator shall commence on delivery of the decision (ruling) appointing the arbitrator.
- (3) An arbitrator may be citizen who is of age (i.e. 18 or over) and legally capable (i.e. can perform acts-in-law), provided that he* is entered in the list of arbitrators kept by the respective Republic's Ministry of Labour and Social Affairs.
- (4) The same person may not act as the mediator and the arbitrator in the same collective dispute.
- (5) The arbitrator shall notify the contracting parties in writing of his award (decision) within 15 days of commencement of the proceedings.
- (6) A collective agreement shall be concluded when the contracting parties are served with the arbitrator's award in the dispute over conclusion of their collective agreement.
- (7) The costs of proceedings before arbitrators, including their remuneration, shall be borne by the respective Republic's Ministry of Labour and Social Affairs.

* “He” refers to “she”, and similarly “his” also refers to “her”.

Section 14

- (1) Acting on a petition from either contracting party, the (locally competent) regional court shall cancel an arbitrator's award on the performance of obligations arising from the collective agreement if such award is contrary to the statutory provisions or collective agreements (section 5).
- (2) A petition seeking cancellation of an arbitrator's award may be filed by either of the contracting parties within 15 days of such award being served. The locally competent court shall be the regional court (“krajský soud”) within whose jurisdiction is the registered office (seat) of the contracting party against which such petition is filed. ***In arriving at its decision, the regional court shall proceed according to the provisions of the Civil Procedure Code regulating the proceedings of the first instance. The court's decision shall always be in the form of a ruling; an appeal against such ruling or renewal of proceedings shall be inadmissible.***
- (3) If an arbitrator's award is cancelled (voided), the same arbitrator shall decide on the dispute; however, if at least one of the contracting parties disagrees, or if this is not possible on other grounds, the procedure under section 13(2) shall be followed. The arbitrator shall be bound by the court's legal opinion in his new decision on the dispute.
- (4) Where no petition to cancel the arbitrator's award is filed within the time-limit under subsection (2), or

when such petition is dismissed by the court, or when such proceedings are stayed, the served arbitrator's award becomes legally effective.

(5) A final arbitrator's award on performance of obligations arising from a certain collective agreement shall be enforceable by court (Note 5).

Section 15

(1) The Ministries of Labour and Social Affairs of both Republics shall determine in decrees the procedure for:

- (a) filing higher level collective agreements;
- (b) selecting mediators and the manner of their entry into the list of mediators, as well as other regulation of proceedings before a mediator;
- (c) selecting arbitrators, and the manner of checking their specialist knowledge and entering them into the list of arbitrators, as well as further regulation of proceedings before an arbitrator.

(2) *The Ministry of Labour and Social Affairs, in agreement with the Ministry of Finance, shall determine in a decree:*

- (a) the amount of remuneration for mediators and arbitrators;
- (b) the fee to be charged for providing a copy of a higher level collective agreement;
- (c) the amount and manner of payment of the costs of proceedings before an arbitrator.

A Strike in a Dispute over Conclusion of a Collective Agreement

Section 16

(1) If a collective agreement is not concluded even after proceedings before a mediator, and the contracting parties do not apply for an arbitrator's award on their dispute, a strike may be declared as a last resort in a dispute over conclusion of the collective agreement.

(2) A strike shall mean a partial or full interruption of work by employees.

(3) A solidarity strike shall mean a strike in support of the demands of striking employees in a dispute over conclusion of another collective agreement.

(4) A participant in a strike for the whole duration of the strike shall be an employee who agrees to such strike; an employee who joins a strike shall be regarded as a participant in such strike as from the day when he joins it.

Section 17

(1) A strike in a dispute over conclusion of an enterprise collective agreement is declared, and its commencement is decided by the competent trade union organ (body), provided that at least one-half of the employees to whom such agreement is to apply agree.

(2) A strike in a dispute over conclusion of a higher level collective agreement is declared by the competent higher trade union organ (body). The commencement of a strike is decided by the competent higher trade unions organ (body) if so agreed by no less than one-half of those employees to whom such higher level collective agreement is to apply.

(3) The preceding subsections shall similarly apply to the declaration and commencement of a solidarity

strike.

(4) The competent trade union organ (body) must notify the employer concerned in writing at least three days in advance of:

- (a)** the time when the strike will start;
- (b)** the reasons for and objectives of the strike;
- (c)** the names of the representatives of the competent trade union organ who are authorized to represent the participants in the strike.

The competent trade union organ (body) shall notify the employer in writing of any changes in the names listed under letter (c) above when they occur.

(5) At least one working day before the start of the strike the competent trade union organ must present the employer with a list of those employees who are to participate in the strike.

(6) For the purposes of ascertaining the total number of employees, those employees pursuant to section 20(g), (h), (i), (j) and (k) shall not be included in the total number and shall not take part in voting on the strike. The competent trade union organ must record (minute) the result of such voting.

Section 18

(1) Employees may neither be prevented from participating in a strike, nor forced to participate in it.

(2) The representatives of the competent trade union organ (body) who are authorized to represent the participants in a strike must ensure adequate and secure access to the workplace of the employer and may not prevent employees who wish to work from having access to their workplace or from departing from such workplace, and they may not threaten them with any harm; they may only discuss the interruption of work with them.

Section 19

(1) The competent trade union organ (body) which decided to commence a strike shall cooperate with the employer, as necessary, for the duration of the strike in order to protect the facilities and equipment from damage, loss, destruction, or misuse and safeguard essential activities and the operation of such facilities, when this is required because of their nature or for reasons of safety or the protection of health, or because of damage which may occur to such facilities.

(2) Employees who perform work in order to carry out activities pursuant to subsection (1) shall follow the employer's instructions (Note 3).

Section 20

An unlawful strike pursuant to this Act shall be a strike:

- (a)** which is not preceded by proceedings before a mediator (sections 11 and 12); this shall not apply in the case of a solidarity strike [section 16(3)];
- (b)** which is declared and continues after commencement of proceedings before an arbitrator (sections 13 and 14), or after the conclusion of collective agreement concerned;
- (c)** which is not declared or commenced under the conditions laid down in section 17;
- (d)** which is declared or commenced on grounds other than those stipulated in section 16;

- (e) which is a solidarity strike, but where the employer of the participants in the strike, taking into consideration the economic links, can neither influence the course nor the result of the strike by those employees in support of whose demands such solidarity strike is declared;
- (f) which is declared at the time of a state military emergency and at the time of extraordinary measures (Note 6);
- (g) by employees of health care and social care establishments, should such strike endanger the lives and health of citizens;
- (h) by employees who operate nuclear power stations, facilities processing fissile materials, or crude oil or gas pipelines;
- (i) by judges, state prosecutors and members of the armed forces, armed corps and employees involved in air traffic control operations;
- (j) by members of the fire-fighting corps, employees of works (i.e. enterprise) fire-fighting units and members of rescue teams established under special provisions for certain workplaces (Note 7) and employees working in telecommunications operations, should their strike endanger citizens' lives, health or property;
- (k) by employees working in areas affected by natural disasters which are subject to extraordinary measures declared by the competent state authorities (organs).

Section 21

An employer or an employers' association (organization), or a state prosecutor, may file a petition seeking declaration of a strike as unlawful; such petition shall be filed with the regional court within whose jurisdiction the seat of the organ (body) against which such petition is directed falls; the filing of such petition has no suspensory effect. The regional court shall proceed in accordance with the provisions of the Civil Procedure Code regulating proceedings in the first instance.

Section 22

Labour-Law Entitlements

- (1) For the duration of his participation in a strike, a participant is not entitled to a wage or a compensatory wage.
- (2) Prior to a court's decision (ruling) proclaiming a strike unlawful becomes enforceable, participation in a strike shall be considered as an excused absence from employment.
- (3) After a court's decision (ruling) that a strike is unlawful becomes enforceable (i.e. final), participation in such strike shall be considered as a non-excused absence from employment.
- (4) Employees who do not participate in a strike shall be enabled by their employer to perform work. If these employees cannot perform their work due to such strike, or if they carry out activities under section 19, their wage entitlements shall be pursuant to the Labour Code's provisions on wages paid when another type of work is performed, or on compensatory wages when an impediment on the part of the employer hinders the performance of work (Note 8).

Section 23

Liability for Damage

- (1) A participant in a strike is liable to his employer, or the employer to such participant, for damage caused by an event which occurred during the strike, according to the Civil Code (Note 9). But if the damage occurs during activities pursuant to section 19, liability for damage shall be subject to the provisions of the Labour Code (Note 10).
- (2) A participant in a strike, or the employer of such participant, shall not be mutually liable for damage caused exclusively by an interruption of work due to a strike.
- (3) The trade union organization whose organ decided to commence a strike shall be liable, under the Economic Code (Note 11), for damage occurring due to its failure to provide the necessary cooperation pursuant to section 19(1).
- (4) If a court concludes that a strike is unlawful, the trade union organization whose organ declared such strike shall be liable, under the Economic Code (Note 11), to the employer for damage which arose due to such strike.

Section 24

Entitlements to Sickness Insurance and Social Security Benefits

- (1) For the duration of a strike, its participants are not entitled to receive sickness benefits and benefits for taking care of a family member, if the conditions stipulated in the sickness insurance provisions on the granting of such benefits (Note 12) were only met while taking part in the strike.
- (2) Entitlement to benefits under subsection (1) arises only on the day after termination of participation in a strike, if the conditions which were met for the granting of such benefits during the strike are also met on such day. The time-limit for the granting of these benefits shall not be extended by the period of the strike.
- (3) Repealed
- (4) When ascertaining the amount of income for the purposes of granting benefits and social care services to citizens in need of social assistance (Note 15), a loss or reduction in earnings due to participation in a strike shall not be taken into account.

Section 25

During a strike an employer may not take on other citizens to perform jobs in place of the participants in such strike.

Section 26

A strike is terminated when so decided by the trade union organ which declared it and decided on its commencement. The trade union organ concerned must notify the employer in writing of the termination of the strike without undue delay.

A Lock-out

Section 27

- (1) If a collective agreement is not concluded even after proceedings before a mediator, and the contracting parties do not apply for the dispute to be resolved by an arbitrator, a lock-out can be used as a last resort to resolve the dispute over conclusion of a collective agreement.

(2) A lock-out shall mean a partial or full halting of work by the employer.

(3) At least three working days in advance the employer must notify the competent trade union organ of the commencement of a lock-out, its scope, grounds and objectives and a list of the employees to be locked out. Within the same time-limit, the employer shall also advise the employees affected by the lock-out.

Section 28

Under this Act, a lock-out shall be deemed unlawful,

- (a) if it is not preceded by proceedings before a mediator (sections 11 and 12), except in the case of a lock-out related to a solidarity strike;
- (b) if it is declared or continues after commencement (initiation) of proceedings before an arbitrator (sections 13 and 14), or after conclusion of a collective agreement;
- (c) if it is not declared by the employer on the grounds and under the conditions laid down in section 27;
- (d) if it takes place during a state military emergency or a period of extraordinary measures;
- (e) if it involves employees in health care or social care establishments, provided that citizens' lives or health become endangered;
- (f) if it involves employees operating nuclear power stations, facilities processing fissile materials, or crude oil and gas pipelines;
- (g) if it involves judges, state prosecutors or members of the armed forces, armed corps and employees concerned with air traffic control operations;
- (h) if it involves members of the fire-fighting corps (units), employees of works (i.e. enterprise) fire-fighting units or members of rescue teams pursuant to special provisions for relevant workplaces, or employees working in telecommunications operations, should such lock-out endanger citizens' lives, health, or property;
- (i) if it involves employees working in areas affected by natural disasters where extraordinary measures have been declared by the competent state authorities.

Section 29

The competent trade union organ (body) or the state prosecutor's office may file a petition seeking determination of a particular lock-out as unlawful; such petition shall be filed with the regional court within whose jurisdiction the seat of the employer against whom such petition is directed falls. The filing of the petition shall have no suspensory (suspensive) effect. The regional court shall proceed in its decision-making pursuant to the provisions of Civil Procedure Code regulating proceedings in the first instance.

Section 30

(1) If an employee could not perform his work because he was affected by a lock-out, this shall be regarded as an impediment on the employer's part (Note 16). Unless an unlawful lock-out is involved, the employee shall be entitled to compensatory wage at half of his average earnings.

(2) An employee who is locked out is liable to the employer, or the employer to such employee, for damage arising from an event during a lock-out under the Civil Code (Note 9). But if damage is caused

exclusively by the interruption of work, an employee against whom such lock-out was used shall not be liable for the damage to the employer, and the employer shall not be liable to this employee.

(3) Entitlements to sickness insurance benefits and social security benefits by an employee against whom a lock-out was used shall be regarded as if such lock-out had not occurred. For the purposes of pension insurance, the period of a lock-out shall not be included in the decisive period for calculation of average monthly earnings (wages). When computing the amount of income for the purposes of granting social security benefits and social care services to citizens in need of social assistance, a reduction in earnings due to a lock-out shall be taken into account.

Section 31

A lock-out is terminated when the employer who declared it brings it to an end; the employer shall notify the trade union organ of termination of the lock-out in writing without undue delay. The employer shall also inform the employees concerned of termination of the lock-out.

Section 32

Joint and Transitory Provisions

(1) For the purposes of this Act, the competent trade union organ (or the competent higher trade union organ) shall mean the trade union organ authorized to represent the relevant trade union organizations in legal relationships.

(2) Unless this Act provides for otherwise, the labour relations pursuant to this Act shall be governed by the Labour Code.

(3) Collective agreements concluded prior to the effective day of this Act shall be subject to the provisions of this Act; the validity of such agreements shall terminate at the latest on 30 June 1991, unless the contracting parties agree otherwise.

Section 33

Effectiveness

This Act (No. 2/1991 Coll.) shall come into effect on 1 February 1991.

(Act No. 519/1991 Coll. became effective on 1 January 1992;

Act No. 118/1995 Coll. became effective on 1 October 1995, however some of its provisions took effect only on 1 January 1996;

Act No. 155/1995 Coll. became effective on 1 January 1996;

Act No. 220/2000 Coll. became effective on 1 January 2001;

Act No. 151/2002 Coll. shall become effective on 1 January 2003.)

Notes:

Note 1: section 20 of the Labour Code

Note 2: section 2 of Act No. 120/1990 Coll.

Note 3: section 9 of the Labour Code

Note 4: e.g. Citizens' Private Enterprise Act No. 105/1990 Coll. *(most of its provisions have been repealed)*

Note 5: section 274(h) of the Civil Procedure Code

Note 6: sections 46 to 48 of the Military Service Act, No. 92/1949 Coll.

Note 7: e.g. Decree on the Mining Rescue Service No. 327/1992 Coll., issued by the Czech Mining Office (Note 7 also refers to a similar Slovak decree, which of course is not relevant to the Czech Republic)

Note 8: sections 36, 37(4)(c), 115 and 130(1) of the Labour Code

Note 9: section 420 et seq of the Civil Code

Note 10: section 170 et seq of the Labour Code

Note 11: section 145 et seq of the Economic Code (now repealed)

Note 12: section 15(1), 16 and 25(1) of the Employees' Sickness Insurance Act, No. 54/1956 Coll., as amended

Note 15: section 139 of Decree No. 149/1988 Coll.

Note 16: section 130(1) of the Labour Code

Note 17: section 3 of the Act on the Czech Republic's Property and its Representation in Legal Relations, No. 219/2000 Coll.;

section 8b of the Labour Code

Note 18: section 9a of the Labour Code