THE EUROPEAN SOCIAL CHARTER

THE SEVENTH REPORT
ON THE APPLICATION OF THE EUROPEAN SOCIAL CHARTER

SUBMITTED BY THE GOVERNMENT
OF THE CZECH REPUBLIC
(for the period up to 31 December 2008)

Articles 2, 4, 5 and 6 of the European Social Charter and Articles 2 and 3 of the Additional Protocol to the European Social Charter

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ARTICLE 2: THE RIGHT TO JUST CONDITIONS OF WORK

With a view to ensuring the effective exercise of the right to just conditions of work, the Contracting Parties undertake:

1. to provide for reasonable daily and weekly working hours, the working week to be progressively reduced to the extent that the increase of productivity and other relevant factors permit,
2. to provide for public holidays with pay,
3. to provide for a minimum of two weeks' annual holiday with pay,
4. to provide for additional paid holildays or reduced working hours for workers engaged in dangerous or unhealthy occupations as prescribed,
5. to ensure a weekly rest period which shall, as far as possible, coincide with the day recognised by tradition or custom in the country or region concerned as a day of rest.

ARTICLE 2, PARAGRAPH 1

The new Labour Code, Act no. 262/2006 Coll., which annulled Act no. 65/1965 Coll., the Labour Code, came into effect on 1 January 2007. This new Labour Code assumed the previous legal regulations concerning working hours and rest periods almost in their entirety. The changes in the legal regulations are as follows:

- The entire time being on call on the workplace has been included in the working hours (a reaction to the European Court of Justice ruling in the cases of SIMAP, Norbert Jaeger and Dellas).

- It is no longer possible to reduce working hours under the legal extent for health reasons without the reduction of the commensurate wage upon the basis of a permit issued by the Ministry of Labour and Social Affairs in agreement with the Ministry of Health and after negotiations with the appropriate central trade union organisation and the appropriate employers' association.

- The age limit for juvenile workers who have set working hours at the amount of 30 hours has been increased from 16 to 18 and at the same time it has been newly designated that the aforementioned limit applies to all of the labour law relations negotiated by juvenile employees (the transposition of Directive 94/33/EC on the protection of young people at work).

- A new flexible form of the working system/working hours account has been introduced which enables employers to react to fluctuations in production and orders and to more effectively regulate the employees' working hours.

- The form of the "flexible day" has not been assumed into the flexible layout of the working hours, because it has not been used in practice.

- The obligation of the employer to enable employees to view the records of their worked hours upon request and to make notes from these records or to have a copy made at the expense of the employer has been introduced.

An amendment to the new Labour Code effective as of 1 January 2008 led to a change concerning the designation of the weekly working hours for juvenile employees. It is now stated that juvenile employees (employees younger than 18) may work a maximum of 40 hours a week in all of the labour law relations which they have negotiated, whereby the length of a shift on the individual days may not exceed 8 hours.

The amendment has newly enabled the rest period between the end of one shift and the beginning of another shift, which has been shortened to 8 hours during a period of 24 consecutive hours for an employee older than 18 years of age, to be replaced during seasonal work in agriculture in such a way so that this occurs during the period of the 3 weeks following the shortening of the rest period and within a period of 6 weeks in the case of weekly rest periods, if this is so agreed between the employee and the employer.

The aforementioned changes in the regulation of the working hours and the rest periods in the given amendment to the Labour Code were requested by the social partners, i.e. by both trade union organisations and employers' organisations.

Effective as of 1 October 2008, the amendment to the Labour Code led to a change in the limits for working overtime at employers in healthcare (so-called "further agreed overtime in healthcare"). The Labour Code newly enables precisely defined employees in healthcare to work a further 8 hours a week over and above the overtime limit (a maximum of 8 hours a week) upon the basis of an agreement with the employer and up to 12 hours a week in the case of employees in the ambulance rescue service. The Labour Code places further conditions for the use of this institution:

- an employee in healthcare who does not agree to work the further agreed overtime may not be forced to do so or subjected to any disadvantage. The employer is obliged to inform the appropriate labour inspection body in writing of the application of any further agreed overtime,
- the further agreed overtime may not exceed an average of 8 hours a week for employees in healthcare and an average of 12 hours a week for employees in the ambulance rescue service over a period which may amount to a maximum of 26 consecutive weeks; only the collective agreement may define this period as a maximum of 52 consecutive weeks,
- the agreement on the further agreed overtime between an employer and employee:
  a) must be concluded in writing, otherwise it is invalid,
  b) may not be negotiated during the first 12 weeks from the day of the establishment of the employment,
  c) may not be negotiated for a period which is longer than 52 consecutive weeks,
  d) may be instantly cancelled within the period of 12 weeks from its negotiation without the need to give any reasons for doing so; the instant cancellation must be realised in writing and delivered to the second participant,
  e) can be terminated for any reason or without the statement of any reasons; the notice of the termination of the further agreed overtime must be submitted in writing and delivered to the second participant. If no shorter period of notice is negotiated, this amounts to 2 months and it must be the same for employers and employees in healthcare.

The aforementioned amendment has been brought about by the difficult situation in healthcare caused by the inclusion of the entire time of being on call at the workplace in the working hours. Healthcare in the Czech Republic currently lacks sufficient numbers of qualified employees to cover the employers' non-stop operations with their working hours. This involves an interim solution until such time as the sufficient number of employees has been secured (by means of organisational changes, the education of new physicians, etc.) by 31 December 2013. This amendment was also based on a request from the social partners.

The regional labour inspectorates are authorised to inspect the adherence to the provisions of the Labour Code which concern working hours and the rest periods upon the basis of Labour Inspection Act no. 251/2005 Coll., which came into effect on 1 July 2005. This Act defines particular misdemeanours (in the case of employers who are physical entities) and administrative delicts (in the case of employers who are legal entities). The inspection bodies for ascertaining any breaches of the labour law regulations can impose measures aimed at eliminating any inadequacies discovered during an inspection at employers' and inspect the

fulfilment of the measures aimed at eliminating said inadequacies. They may also impose fines of up to 2,000,000 CZK.

Collective Bargaining Act no. 2/1991 Coll. was amended effective as of 1 July 2005 with regard to the option of **extending higher-level collective agreements** to other employers in the appropriate branch under the conditions which are precisely defined by the Act.

The adoption of the Labour Code led to the annulment of Act no. 475/2001 Coll., governing the working hours and rest periods of employees with unequally allocated working hours in the transport industry, which regulated the necessary deviations in the regulation of the working hours and the rest periods for employees in the transport industry, as of 31 December 2006. This regulation was replaced effective as of 1 January 2007 with Government Regulation no. 589/2006 Coll., which designates the regulation of the deviations pertaining to working hours and hours of rest for employees in the transport industry. The Government Regulation was issued on the basis of the authorisation from the Labour Code and it essentially assumed the regulations from the aforementioned annulled Act (the subject of the regulation, the set of employees in the transport industry and so on), but it also newly transposed the requirements from the regulations of the European Community in the areas of road transport, international rail transport and civil aviation. The aforementioned regulation contains the necessary deviations, especially the maximum shift length, the minimum rest period between shifts and the minimum rest periods during the week and the deadlines for the provision of rest periods in lieu when the rest periods are shortened (both the daily and the weekly rest periods).

Government Regulation no. 182/2007 Coll. governing the divergent regulation of the working hours and the rest periods of members of the fire brigade was adopted effective as of 17 July 2007 upon the basis of the authorisation from the Labour Code. This regulation enables the necessary deviations concerning the length of the shifts of the employees in question (up to 16 hours) and the deadline for the provision of rest periods in lieu during the shortening of the rest periods, which must be provided in the week following the week, in which the shortening of the rest periods occurred.

The supplementary questions of the European Committee of Social Rights

The Committee requests an explanation as to whether the circumstances involving cases, in which the daily rest period may be reduced to 8 hours, only concerns exceptional situations.

The option of shortening the period of continuous rest between two shifts is regulated by Act no. 262/2006 Coll., the Labour Code. This enables the shortening of the rest period to up to 8 hours in a period of 24 consecutive hours for employees older than 18 years of age under the condition that the subsequent rest period is extended for the employee by the period that the initial rest period was shortened and only under the following circumstances:

a) in continuous operations, in the case of unequally allocated working hours and when working overtime,
b) in agriculture,
c) when providing services to the population, especially
   - in public catering,
   - in cultural facilities,
   - in telecommunications and postal services,
   - in healthcare facilities,
   - in social services facilities.
d) in the case of urgent repair work, if this involves the prevention of danger to the lives or health of the employees,
e) during natural disasters and in other exceptional cases.

The shortening of the period of continuous rest is only possible in the legally designated cases, the list of which is enumerative and therefore cannot be further expanded by the employer.

The Committee requests that the report should contain statistics on the total number of inspections and cases of breaches in the working-hours regulations by years.

The total number of inspections and cases of breaches of the working-hours regulations in the period from 2005 to 2008

Year	Number of inspections	Breaches of the working-hours and rest period regulations
2005	438	27
2006	4223	1052
2007	5936	1739
2008	5058	1815

The Committee requests an explanation of what limitations have been designated for the daily and weekly working hours, as far as work standby is concerned.

The Labour Code has newly included the time of being on call undertaken at the workplace in the working hours. If being on call is undertaken at a place which is different from the workplace in accordance with an agreement with the employer, the Labour Code does not set any limits concerning the daily period or the working hours, provided no work is undertaken

within the time of being on call. Time on call, during which work is undertaken, constitutes the employee's working hours which are calculated in the legal limits for the designated weekly working hours. The employer is always obliged to adhere to the legally designated conditions for the provision of uninterrupted periods of rest between shifts and uninterrupted periods of rest during the week.

ARTICLE 2, PARAGRAPH 2

Unchanged

The supplementary questions of the European Committee of Social Rights

The Committee requests information on the amount of the additional pay paid for working on public holidays.

The Labour Code states that an employee is entitled to his/her achieved wage and to compensatory time off work for work undertaken on a public holiday. The employee is entitled to compensation of earnings at the amount of his/her average earnings for the compensatory time off work. The employer may reach an agreement with the employee on the provision of additional pay on top of the achieved wage which will be at least at the amount of the employee's average earnings, instead of the compensatory time off work. In this case, the employee will receive his/her wage plus additional pay at the amount of at least his/her average earnings.

ARTICLE 2, PARAGRAPH 3

Annual holiday with pay

Since 1 January 2007, holiday and the entitlement to holiday have been regulated by the new Labour Code, which assumed the provisions of the previous legal regulation. The Labour Code is based on the requirements of the European Community's legislative acts, specifically Directive 93/104/EC and Directive 2003/88/EC. The minimum annual holiday with pay entitlement amounts to 4 weeks. The employer may also provide a longer period of holiday with pay, but must respect the principle of equal treatment. The employer is obliged to provide at least four weeks of annual holiday for an employee whose employment with said employer has lasted throughout an entire calendar year. The Labour Code designates the conditions for the establishment of the right to annual holiday with pay, the right to holiday with pay for worked days (in the case the employment has not lasted throughout an entire calendar year) and the right to additional holiday.

The supplementary questions of the European Committee of Social Rights

The Committee requests information on the rules concerning the deferral of annual holiday.

The regulation of the right to annual holiday with pay is contained in Act no. 262/2006 Coll., the Labour Code, which fully transposes the requirements of Directive 93/104/EC and Directive 2003/88/EC. The minimum legal length of annual holiday with pay amounts to 4 weeks. The employer may provide a longer holiday, but must respect the principle of equal treatment.

The employer may not provide annual holiday during a period:

- when an employee is participating in military training or exceptional military training,
- when an employee has been acknowledged as being temporarily unable to work,
- during which a female employee is on maternity leave and parental leave and a male employee is on parental leave.

If the employer is prevented from providing the 4-week-annual holiday for any of the aforementioned reasons or for urgent work reasons, the employer will be obliged to designate the annual holiday in such a way so that the holiday finishes at the latest by the end of the next calendar year. If the employer does not designate the period of annual holiday by 31 October of the next calendar year, the following workday will be the first day of the employee's annual holiday or part thereof. If, however, the employee does not take all of the annual holiday even by the end of the next calendar year, his/her entitlement to this annual holiday will cease.

If the employer cannot designate a period of the annual holiday by the end of the next calendar year due to the taking of parental leave, the employer will designate the period of this annual holiday after the end of the parental leave.

Only 4 weeks of annual holiday can be deferred in the aforementioned manner and they must be taken as time off work and may not be compensated for with financial sum (with the exception of the termination of employment). If an employee has not been able to take his/her part of annual holiday which is above the statutory 4 weeks, even by the end of the next calendar year, this part of the annual holiday may be taken by the end of the further calendar year with his/her written agreement. If the employee does not agree with this method of taking the annual holiday, he/she will be entitled to compensation of wages for the untaken holiday.

ARTICLE 2, PARAGRAPH 4

Additional paid holiday

The legal regulation of additional holiday set out in Act no. 65/1965 Coll., the Labour Code, has been assumed by the new Labour Code which came into effect on 1 January 2007. There have, however, been some changes in relation to the previous regulations:

- from 1 January 2007, there is no entitlement to additional holiday for employees who carry out exceptionally demanding work, during which they are exposed to the effects of harmful physical or chemical influences at an extent which could have a detrimental effect on the employees' health,
- Degree no. 75/1967 Coll. governing additional holiday for employees who carry out work which is detrimental to health or especially difficult and compensation for any loss of earnings after the completion of any incapacity to work due to some occupational illness has been annulled and
- Degree no. 95/1987 Coll. governing additional holiday for employees who work with chemical carcinogens has been annulled.

The Labour Code states that employees who work for the same employer throughout the entire calendar year and do so underground mining minerals or digging tunnels and employees who carry out especially difficult work throughout the entire calendar year are entitled to an additional 1 week of holiday. If an employee works under these conditions for only part of the calendar year, he/she is entitled to one twelfth of the additional holiday for every 21 days worked in these conditions. Additional holiday due to the performance of especially difficult work applies to employees who meet certain conditions, even if they are already entitled to additional holiday due to working underground mining minerals or digging tunnels.

For the purposes of the provision of the additional holiday, employees who carry out especially difficult work are considered to be employees who

a) permanently work in healthcare facilities or in workplaces which treat patients with an infectious form of tuberculosis and do so at an extent of at least half of their set weekly working hours,
b) are exposed to a direct risk of infection when working on workplaces with infectious materials, if they carry out this work at least at the extent of half of their set weekly working hours,
c) are exposed to the unfavourable effects of ionising radiation at work,
d) work during the direct treatment of or work with mentally ill or mentally handicapped patients and do so at an extent of at least half of their set weekly working hours,
e) undertake the education of young people as an educator under difficult conditions or as a healthcare worker working in the healthcare service of the Prison Service of the Czech Republic and do so at an extent of at least half of their set weekly working hours,
f) work continuously at least 1 year in tropical areas or other areas which are detrimental to health. An employee who has completed 1 year of continuous work in tropical areas or other areas which are detrimental to health is entitled to the additional holiday for that year; an employee who has completed 1 year of continuous work in tropical areas or other areas which are detrimental to health non-stop for more than 1 year is further

entitled to one twelfth of the additional holiday for every 21 days worked in these areas,

g) work in the Prison Service of the Czech Republic in direct contact with the prisoners and do so at an extent of at least half of their set weekly working hours,
h) work as divers at increased pressures in diving suits or as employees (diving bell crew) who carry out diving bell work in pressurised air in working chambers.

The Ministry of Labour and Social Affairs has issued Degree no. 600/2006 Coll. which designates the tropical areas and other areas which are detrimental to health upon the basis of the authorisation from the Labour Code.

The supplementary questions of the European Committee of Social Rights

The working hours in professions which are acknowledged as being dangerous and detrimental to health can be shortened by means of the collective agreement. The Committee asks to what extent this actually happens.

The shortening of the working hours without the reduction of wages is fully in the competency of the employer. In practise, the shortening of the working hours is realised mainly in company collective agreements, which the Ministry of Labour and Social Affairs does not have available and as such the Ministry does not have the relevant information in order to be able to ascertain the frequency of any such modifications to working hours.

The Committee asks whether, apart from additional holiday or shortened working hours, there are any other measures which reduce the degree of exposure to residual risks in some professions.

The protection of employees from residual risks in some professions is also secured, amongst other things, by means of safety breaks. The general regulation of the institution of safety breaks is regulated in Act no. 309/2006 Coll. governing the securing of the further occupational safety and health protection conditions. Employers are obliged to organise the work and to designate the work procedures in such a way so that the principles of safe behaviour in the workplace are maintained and so that the employees do not carry out activities which are monotonous and which place a one-sided stress on their organism. If it is not possible to rule this out, the work must be interrupted with safety breaks which are counted in the working hours.

The regulation of the safety breaks in relation to the working environment, in which the employee works, is especially contained in:

- **Government Regulation no. 361/2007 Coll. which sets out the conditions for the protection of health at work**. The aforementioned legal regulation regulates the obligations of the employers in association with the specific work environments and the work procedures. The aforementioned legal regulation contains three types of safety breaks:
  for monotonous work at a forced tempo,
  for work which places a stress on the eyesight and
  for work with risk factors.
- **Degree no. 288/2003 Coll. which designates the work and workplaces which are prohibited to pregnant women, breastfeeding women, mothers up to the end of a period of nine months from giving birth and juveniles and the conditions, under which juveniles may exceptionally carry out this work for the purposes of preparing themselves for a profession**. Annex 1, Part A of this degree sets out the maximum admissible weight limits, including the safety breaks, which apply in the case of the lifting or carrying of burdens by pregnant women and mothers up to the end of the period of nine months from giving birth when working standing up and sitting.

Safety breaks for drivers and flight crews

The aforementioned safety breaks in road transport are regulated in several legal regulations of varying legal weight, including the directly applicable regulations of the European

Community and international treaties. The regulation of these breaks is very similar, only the personal effect varies (i.e. which driver the specific regulation applies to):

- **European Parliament and Council Regulation (EC) no. 561/2006 dated 15 March 2006** on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) no. 3820/85 states that a driver must take a safety break of at least 45 minutes after a maximum of 4.5 hours of driving, if this is not followed by a continuous period of rest between two shifts or a continuous period of rest in the week. The safety break may be divided into two parts so that the first part lasts for at least 15 minutes and the second part lasts at least 30 minutes (both are included in the driving period),
- **The European Agreement Concerning the Work of Crews of Vehicles Engaged in International Road Transport (AETR)** states that a driver must have a break of at least 45 minutes after four and a half hours of driving, if he/she does not otherwise commence a period of rest. This break may be replaced with at least fifteen-minute breaks included in the driving time. The driver may not carry out any other activities during these breaks,
- **Government Regulation no. 589/2006 Coll. which designates the divergent regulation of the working hours and the hours of rest of employees** in transport sets out the obligations of the employer to provide safety breaks of at least 30 minutes, which may be broken up into several parts consisting of at least 10 minutes, at the latest after 4 hours of driving. The aforementioned regulation applies to drivers in public transport (buses, trams, trolley buses, the metro) and also to bus drivers on road routes, where each connection does not exceed 50 km,
- **Degree no. 478/2000 Coll., which implements the Road Transport Act** designates the obligation of taking safety breaks of at least 45 minutes for drivers who work in road transport for the requirements of others realised by means of vehicles for the transportation of passengers, which are designated by means of their construction and fittings for the transportation of a maximum of nine people, including the driver, after a maximum of 4.5 hours of driving, provided this is not followed by an uninterrupted period of rest between shifts or in the week. The safety break may be divided into several breaks each lasting at least 15 minutes which are incorporated between the individual sections of the period of driving. During the safety breaks, the driver may not carry out any activities arising from his/her work responsibilities, apart from the supervision of the vehicle and its load, as these safety breaks are designated exclusively for the driver to rest.
- **Government Regulation no. 168/2002 Coll. which designates the method of organising work and work procedures, which the employer is obliged to secure during the operation of a means of transport**, states that the employer is obliged to ensure that an employee who drives a means of transport and who is not subject to the special legal regulation takes a safety break lasting at least 30 minutes at the latest after driving 4.5 hours. This safety break may be divided into two 15-minute breaks included in the driving period. The driver may not carry out any activities arising from his/her work responsibilities, apart from the supervision of the vehicle and its load, during the safety breaks.

For the area of civil aviation, **Degree no. 466/2006 Coll. governing the air safety standard** states that a employer who operates commercial air transport in a helicopter or aviation work must provide the members of the aircraft's crew with a safety break of at least 30 minutes after a maximum period of 4.5 hours of flying.

ARTICLE 2, PARAGRAPH 5

The changes in the rest periods are set out in the answer concerning Article 2, paragraph 1.

The supplementary questions of the European Committee of Social Rights

The Committee asks whether there has been a change in the situation where workers in agriculture can defer the weekly rest period according to their collective agreement or on the basis of an individual agreement in order to enable them to work an excessive number of consecutive workdays (the deferral of the rest period by up to 3 weeks).

The shortening of the period of uninterrupted rest in the week may only occur in agriculture for objective, technical or organisational reasons. At the same time, however, the condition must be met that the employee is provided with the same rest periods on average within the legally designated period which must not be exceeded by the employer. In the opinion of the Czech Republic, this regulation is in accordance with the wording of Article 2, subsection 5 of the European Social Charter and at the same time with Article 5 of European Parliament and Council Regulation 2003/88/EC on some of the aspects of the regulation of working hours. For this reason, no change has been made to this regulation.

ARTICLE 4: THE RIGHT TO A FAIR REMUNERATION

With a view to ensuring the effective exercising of the right to a fair remuneration, the Contracting Parties undertake:

2. to recognise the right of workers to an increased rate of remuneration for overtime work, subject to exceptions in particular cases,
3. to recognise the right of men and women workers to equal pay for work of equal value,
4. to recognise the right of all workers to a reasonable period of notice for termination of employment,
5. to permit deductions from wages only under conditions and to the extent prescribed by national laws or regulations or fixed by collective agreements or arbitration awards.

The exercising of these rights shall be achieved by freely concluded collective agreements, by statutory wage-fixing machinery or by other means appropriate to national conditions.

During the reference period, the following changes were made to the legal regulations regulating the fair remuneration of employees:

- Act no. 262/2006 Coll., the Labour Code, as amended, was adopted and came into effect on 1 January 2007 and replaced Act no. 1/1992 Coll. governing wages, remuneration for time being on call and average earnings, as amended, and Act no. 143/1992 Coll. governing pay and remuneration for time being on call in budgetary and some other organisational bodies, as amended, pertaining to employees in public administration and services,
- Government Regulation no. 567/2006 Coll. governing minimum wages, the lowest levels of guaranteed wages, the definition of a difficult working environment and the amount of the additional pay for working in a difficult working environment was adopted,
- Government Regulation no. 564/2006 Coll. governing the pay relations for employees in public services and administration was adopted,
- Government Regulation no. 565/2006 Coll. governing the pay relations for professional soldiers was adopted,
- Government Regulation no. 104/2005 Coll. which sets out the catalogue of activities in the security corps was adopted.
- Act no. 264/2006 Coll. which amends some of the Acts in association with the adoption of the Labour Code, as amended, and which has fundamentally changed the extent of the jurisdiction of Act no. 143/1992 Coll. governing pay and remuneration for time being on call in budgetary and some other organisational bodies, as amended, in Section 54 (from 1 January 2007, it only regulates the provision of pay and remuneration for time being on call of professional soldiers) was adopted,
- Act no. 361/2003 Coll. governing the service relations of the security corps, as amended, was adopted.

ARTICLE 4, PARAGRAPH 2

Remuneration for overtime

The new Labour Code no. 262/2006 Coll. assumed the legal regulations pertaining to the remuneration of overtime work from the previous Act.

In return for worked overtime, the employee is entitled to the wage for the given period plus additional pay at the amount of at least 25% of the employee's average earnings, unless the employer has reached an agreement with the employee on the provision of compensatory time off work instead of the additional pay. If the employee does not provide the employee with compensatory time off work within the period of 3 calendar months after the realisation of the overtime work or at an otherwise agreed time, the employee will be entitled to the additional pay at the amount of 25% of the average earnings.

In the case of executive employees, the wage can be negotiated with any overtime work taken into account, if at the same time the extent of the overtime work which has been taken into account is defined within the framework of the overtime worked in the calendar year. In such a case, the employee is not entitled to the achieved wage and the additional pay or to any compensatory time off work.

ARTICLE 4, PARAGRAPH 3

Act no. 198/2009 Coll., the Antidiscrimination Act, which incorporates the appropriate regulations of the European Community and in association with the Charter of Fundamental Rights and Freedoms and international treaties, which are part of the legal system, came into effect on 1 September 2009 and more closely defines the right to equal treatment and the discrimination ban in matters of

- the right to employment and access to employment,
- the access to a profession, enterprise or other independently gainful activity,
- working and service relations and other associated activities, including remuneration,
- membership and activities in trade union organisations, employee councils or employers' organisations, including the advantages which these organisations provide to their members,
- membership and activities in professional chambers, including the advantages which these public law corporations provide to their members,
- social security,
- the awarding and provision of social benefits,
- access to healthcare and the provision thereof,
- access to education and the provision thereof,
- access to the goods and services, including housing, which are offered to the public or during the provision thereof.

The principle of equal remuneration is newly listed in the Labour Code at three levels. Most commonly, it is declared as one of the fundamental principles for labour law relations where the employer is charged with the obligation of adhering to the principle of the provision of the same salary or wage and other monetary performance and/or performance of a monetary value or remuneration from agreements for the same work or for work of the same value.

The second level involves the provisions on equal treatment and on the discrimination ban, according to which employers are obliged to ensure equal treatment for all employees, as far as the remuneration for work and the provision of other monetary performance and performance of monetary value are concerned, amongst other things.

The third most specific level concerns the direct implementation of the principle, according to which all employees at a given employer's are entitled to the same salary, wage or remuneration by agreement for the same work or for work of the same value. At the same time, it is set out in these provisions that the same work or work of the same value is understood to be work of the same or comparable complexity, responsibility and laboriousness which is undertaken in the same or comparable working conditions and with the same efficiency and work results. According to the aforementioned provisions, the complexity, responsibility and laboriousness of the work are evaluated according to the education, practical knowledge and skills necessary to carry out this work, according to the complexity of the subject of the work and the work activities, according to the organisational and managerial demands, according to the degree of liability for damages, health and safety and according to the physical, sensory and mental stress and the effects of the negative influence of the work. The working conditions are assessed according to the difficulty of the work regimen arising from the allocation of the working hours, for example in shifts, at weekends, night work and overtime, according to the harmfulness or difficulties given by the effects of other negative influences in the working environment and according to the risks inherent in the working environment. The work efficiency is assessed according to the

intensity and quality of the undertaken work, the work abilities and the work skills, while the results of the work are assessed according to the amount and the quality.

When assessing the value of the work for the purposes of the aforementioned principle, a fixed framework is set which elaborates this otherwise highly general principle. The stated criteria have also been declared by the new Labour Code as only being applicable during the designation of the remuneration for work, which also reduces the risk of the use of discriminatory approaches and increases the efficiency of the control mechanisms.

The Labour Code newly states the minimum level of earnings differentiated into 8 groups according to the complexity, responsibility and laboriousness of the work. Apart from protecting against the provision of incommensurately low wages, this measure contributes to the fulfilment of the principle of the equality of remuneration for employees in low earning groups (Government Regulation no. 567/2006 Coll. governing the minimum wage, the lowest levels of the guaranteed wage, the definition of a difficult working environment and the amount of the addition pay for working in a difficult working environment).

The Ministry of Labour and Social Affairs provides methodological assistance to labour inspectors during the realisation of the inspections of the adherence to the principle of the same wage for the same work and for work of the same value by providing the methodology for the designation of the value of the work and the evaluation of the differences in the earnings with regard to this principle and by training the inspectors.

ARTICLE 4, PARAGRAPH 4

According to the new Labour Code, Act no. 262/2006 Coll., the period of notice amounts to at least 2 months and must be the same for the employee and for the employer. Unlike the previous legal regulation, there is nothing preventing the employer and the employee from negotiating a period of notice which is longer than 2 months.

ARTICLE 4, PARAGRAPH 5

As of 1 January 2007, a structural change occurred in the institution of the living minimum according to the New Living and Subsistence Minimum Act no. 110/2006 Coll. The living minimum consists of a single component and only part of it is for sustenance and other basic personal needs. The amount representing housing costs has been eliminated from the living minimum due to the large degree of differentiation in these costs. The protection in the area of housing has been resolved within the framework of the system of state social support by means of the provision of a housing allowance and in the system of assistance in material need by means of the provision of a housing supplement. As well as the living minimum, the institution of the subsistence minimum has been introduced for the reason of providing greater motivation for individuals in material need. The subsistence minimum fully covers the sustenance standard of an adult individual and about 40% of the other basic personal needs expressed in the living minimum.

The new Government Regulation no. 595/2006 Coll. governing unseizable amounts was adopted in association with the change in the structure of the living minimum. According to Living and Subsistence Minimum Act no. 110/2006 Coll., the basic unseizable amount now covers two thirds of the costs which are necessary to secure the sustenance and other basic personal needs of an individual (an individual's living minimum) and the normative costs for the rented housing of an individual designated for the size category of a municipality with 50,000 – 99,999 inhabitants set out in State Social Support Act no. 117/1995 Coll., as amended.

The normative costs for housing designated in the State Social Support Act as a fixed amount for the appropriate number of individuals in a given household and the size of the given municipality represent the upper limit of the commensurate housing costs, up to which the state contributes to its citizens. Given the fact that in practise the wage department makes deductions from wages and that it is necessary to simplify the given area as much as possible, a median value of the normative costs for the housing of the individual has been taken into account – the normative costs for municipalities with 50,000 – 99,999 inhabitants. This involves the upper limit for the commensurate housing costs which should be suitable in municipalities of all size categories from a social point of view.

The remaining one third of the stated costs should be secured from earnings (exceeding the unseizable amount up to the set limit, above which they may be deducted without limitation) broken down into thirds according to the Civil Procedure Code which will remain to the authorised party after the defrayal of its receivables.

If a liable individual's earnings reach the level where it is possible to carry out deductions without any limitations, the liable individual will always be left with the earnings at least at the amount of the living minimum and the normative costs for the use of a rented flat in a larger municipality.

In the case of any lower earnings (the earnings after the deduction of the basic unseizable amount are lower than the limit, above which the wage can be deducted without any limitations), the aforementioned housing costs and costs for sustenance and other personal needs are secured at a higher extent than is secured by the subsistence minimum (according to Living and Subsistence Minimum Act no. 110/2006 Coll.).

One quarter of the liable individual's unseizable amount is added for said individual's spouse and for every sustained child.

The unsaizable amount

According to Government Regulation no. 595/2006 Coll. governing unseizable amounts, the unseizable amount for a liable individual is equal to 2/3 of the sum of the amounts of the living minimum for an individual and the amount of the normative housing costs for living in a rented flat for one individual in a municipality from 50,000 to 99,999 inhabitants. ¼ of the unseizable amount for the liable individual may not be deducted from the liable individual for each individual whom the liable individual sustains.

The living minimum for an individual amounts to 3,126 CZK and the aforementioned normative costs from 1 January 2008 amount to 3,155 CZK.

The total unseizable amount, for example, for a household consisting of the liable individual, the individual's spouse and three sustained children amounts to 2/3 x (3126 + 3155) + 4 x ¼ x (2/3 x (3126 + 3155)) = 4,187.33 + 4,187.33 = 8,375 CZK (it is always rounded up).

The further procedure during the calculation of deductions from wages

After calculating the unseizable amount (see above), we continue by deducting it from the net wage, for example 10,000 CZK (or 15,000 CZK). The remaining amount is 1,625 CZK (6,625 CZK) which is less (greater) than the limit, above which it is possible to deduct the wage without limitation (the limit is equal to the sum of the amount of the living minimum and the amount of the normative costs for housing in a rented flat for a single individual in a municipality from 50,000 to 99,999 inhabitants, i.e. 6,281 CZK).

In the first case, we divide this amount (1,625 CZK) by three and add one third thereof to the unseizable amount (542 CZK).

In the second case where the amount is higher than the set limit, we would divide this limit of 6,281 CZK by three and add 2,094 CZK to the unseizable amount. The 344 CZK (6625-6281), which is the amount above the stated limit, is used to repay the debt.

After the distrainment, at least 8,917 CZK (the unseizable amount of 8,375 CZK + one third of 1625 CZK which amounts to 542 CZK) must remain from the net wage in the first case and 10,469 CZK (the unseizable amount of 8,375 CZK + one third of 6,281 CZK, which amounts to 2,094 CZK) must remain in the second case.

The type of receivable

The further procedure depends on the type of receivable (3 possibilities):

1. only preferential debts – in this case, it is possible to deduct up to the remaining two thirds of 1,625 CZK (from 6,281 CZK) from the wage,
2. preferential and non-preferential debts – in this case, it is possible to deduct up to the remaining two thirds of 1,625 CZK (from 6,281 CZK) from the wage – the first is used to satisfy the non-preferential debts and the second is used to satisfy the preferential debts; if this third is insufficient to satisfy the preferential debts, they are satisfied from the first third together with the non-preferential debts,
3. only non-preferential debts – in this case, it is only possible to deduct one third of 1,625 CZK (from 6281 CZK) and the remainder is added to the unseizable amount.

The supplementary questions of the European Committee of Social Rights

The Committee requests the calculation of the wage of a worker who does not have any dependents or any obligations to pay maintenance, but who has deductions taken from his wage. The Committee hereby asks what minimum amount remains to such a worker after the realisation of all the deductions according to Czech legislation.

Year	Minimum wage (gross) in CZK per month	Minimum wage (net) in CZK per month	After the realisation of the deductions from the wage, the employee is left with at least	
			if the employee has only non-preferential debts	if the employee has preferential debts
2005	7,185	5,806	4,758 CZK	3,712 CZK
2006	7,570	6,419	5,193 CZK	3,967 CZK
2006	7,955	6,720	5,393 CZK	4,067 CZK
2007	8,000	6,760	5,791 CZK	4,824 CZK
2008	8,000	7,000	6,062 CZK	5,125 CZK

The table contains the calculation of the employee's net wage after the deduction of the non-preferential and preferential debts (wage deductions). The calculations in the individual years have been undertaken for an employee without children and dependents who works for the minimum wage.

ARTICLE 5: THE RIGHT TO ORGANISE

With a view to ensuring or promoting the freedom of workers and employers to form local, national or international organisations for the protection of their economic and social interests and to join those organisations, the Contracting Parties undertake that national law shall not be such as to impair, nor shall it be so applied as to impair, this freedom. The extent to which the guarantees provided for in this article shall apply to the police shall be determined by national laws or regulations. The principle governing the application to the members of the armed forces of these guarantees and the extent to which they shall apply to persons in this category shall equally be determined by national laws or regulations.

On 1 July 2005, Labour Inspection Act no. 251/2005 Coll. came into effect. The labour inspection bodies inspect the adherence to the legal regulations in the area of the equal treatment of employees by employers and in the area of the cooperation of the employer and the employees' representatives. They may impose a monetary fine in the case of any breaches. The Labour Exchanges no longer have this jurisdiction. The Labour Exchanges continue to inspect the adherence to the legal regulations in the area of equal treatment during the application of the right to employment and they may impose monetary fines in the case of any breach in this area.

Act no. 255/2005 Coll. amending Collective Bargaining Act no. 2/1991 Coll. newly regulates the extension of the binding nature of collective agreements to further employers came into effect on 1 July 2005. The extension of the binding nature of a collective agreement takes place upon the basis of a joint request of the parties to the given collective agreement, provided the further legal conditions concerning the representative nature of the collective agreement have been met.

The new Labour Code (Act no. 262/2006 Coll.) replaced the previous Labour Code on 1 January 2007. As far as the material contents of the regulation of the employees' representatives and their rights to information and to collective bargaining are concerned, no material changes have been made for the most part. The essential changes are as follows:

- The contractual freedom when concluding collective agreements has been expanded. The new Labour Code no longer differentiates between collective agreements concluded with a commercial subject and collective agreements concluded with a non-commercial subject. The principle of "what is not prohibited, is permitted" applies.
- If several trade union organisations are active at an employer's, the employer will negotiate the conclusion of the collective agreement with all of them. The trade union organisations act and negotiate with legal consequences for all of the employees jointly and in mutual accord, unless they agree differently among themselves and with the employer.
- The obligation to inform the employees and to discuss the designated matters with them in some cases does not apply to employers who employ less than 10 employees.
- The employee councils and occupational safety and health protection representatives can be elected at the employer's independently of whether or not they are active in a trade union organisation.
- The authorisation of the trade union organisations to carry out inspections of the adherence to the regulations has been changed. The trade union organisations are entitled to carry out inspections of the state of the occupational safety and health protection at individual employers'. The employers must enable them to exercise this right and ensure the possibility of regular inspections and participation during the examination of the causes of work accidents and occupational illnesses and enable participation at the meetings concerning occupational safety and health protection.

The act to which reference is made in Section 16 of the Labour Code is Act no. 198/2009 Coll., the Antidiscrimination Act which came into effect on 1 September 2009. The Antidiscrimination Act closely defines the right to equal treatment and the discrimination ban, inter alia, in matters of membership and activities in trade union organisations, employee councils or employers' organisations, including the advantages which these organisations provide to their members.

ARTICLE 6: THE RIGHT TO BARGAIN COLLECTIVELY

With a view to ensuring the effective exercising of the right to bargain collectively, the Contracting Parties undertake:

1. to promote joint consultation between workers and employers;
2. to promote, where necessary and appropriate, machinery for voluntary negotiations between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements;
3. to promote the establishment and use of appropriate machinery for conciliation and voluntary arbitration for the settlement of labour disputes;

and recognise:

4. the right of workers and employers to collective action in cases of conflicts of interest, including the right to strike, subject to obligations that might arise out of collective agreements previously entered into.

ARTICLE 6, PARAGRAPH 1

Unchanged

The supplementary questions of the European Committee of Social Rights

The Committee requests information on the functioning of the consultative committees according to section 7, subsection 4 of the Employment Act and on whether and to what extent they enable the employers and workers to mutually consult on questions of common interest.

The consultative committees which are established at the Labour Offices according to section 7, subsection 4 of the Employment Act are advisory bodies for the Labour Offices. We would draw the Committee's attention to the fact that they do not serve for mutual consultation between the employers and their workers, as has been incorrectly interpreted here. Their function is merely consultative. In particular, they express opinions on the questions concerning the regional labour market and especially on the use of the tools of the active employment policy. Their members are the representatives of both employers and employees, as well as representatives of the local administrative regions, cooperative bodies and other institutions, for example organisations for handicapped individuals.

ARTICLE 6, PARAGRAPH 2

As of 1 July 2005, Act no. 255/2005 Coll. amending Collective Bargaining Act no. 2/1991 Coll. came into effect which again enabled the **extension of the higher-level collective agreements** to further employees in the appropriate branch and did so under conditions which are precisely defined by the Act.

The parties to the higher-level collective agreement may jointly propose that the Ministry of Labour and Social Affairs announces in the Collection of Laws that the higher-level collective agreement is also binding for other employers with predominant activities in the branch designated by means of the code for the Classification of Economic Activities. The notification of the Ministry of Labour and Social Affairs will be published in the Collection of Laws, if the higher-level collective agreement has been concluded

- by an employers' organisation which employs the greatest number of employees in the branch, in which the extension of the binding nature of the higher-level collective agreement has been proposed, or
- by the appropriate superior trade union organisation which acts on behalf of the greatest number of employees in the branch, in which the extension of the binding nature of the higher-level collective agreement has been proposed.

The proposal to extend the binding nature of the higher-level collective agreement must be submitted in writing and have been signed by the parties to the agreement on the same document and it must contain the designation of the higher-level collective agreement and the branch, in which its binding nature should be extended to include other employers. It must also further include

- the lists of the employers, for whom the higher-level collective agreement is binding and the total numbers of their employees, the lists of the employers who are members of the other employers' organisations in this branch, the overall number of their employees and the codes for their Classification of Economic Activities, or
- the total number of employees, whom the given trade union organisation represents, i.e. the list of employers where this body is active via the appropriate trade union bodies and the total number of their employees and the number of the employees who are represented by a different appropriate superior trade union body which is active in the same branch, i.e. the list of employers where this body is active via the appropriate trade union body, the number of its employees and the code for its Classification of Economic Activities.

For these purposes, the employers' organisation is obliged to inform the Ministry of Labour and Social Affairs and the employers' organisation, which is active in the same field, of the list of employers which are its members and the total number of their employees and to do so upon request and in writing. For these purposes, the superior trade union body is obliged to inform the Ministry of Labour and Social Affairs and the superior trade union body, which is active in the same branch, of the total number of the employees which it represents and the list of employers where the given trade union organisation is active and to do so upon request and in writing.

If the proposal does not fulfil the designated prerequisites, the Ministry of Labour and Social Affairs will issue a call to eliminate any inadequacies or to supplement the proposal and will set an appropriate deadline for this. At the same time, the Ministry will inform the proposal's submitters of the fact that the failure to eliminate the given inadequacies or to supplement the proposal will mean that the Ministry will be unable to make the proposed announcement. The

parties to the higher-level collective agreement are able to withdraw their proposal within 15 days of its delivery.

If the set conditions are met and the proposal contains all of the designated prerequisites, the Ministry of Labour and Social Affairs will send notification of its announcement in the Collection of Laws without delay, but at the earliest after the expiry of a deadline of 15 days. The Ministry will also state in the notification the place where it is possible to become acquainted with the contents of the higher-level collective agreement, the binding nature of which has been extended to other employers. At the same time, the Ministry of Labour and Social Affairs will also send the higher-level collective agreement to the Labour Offices in electronic form and publish it in a manner which enables remote access. The Labour Exchange will enable everybody who so requests to view the higher-level collective agreement, the binding nature of which has been extended to other employers.

The higher-level collective agreement will be binding from the first day of the month following its announcement in the Collection of Laws and it will apply to other employers with activities predominantly in the given branch, with the exception of employers,

- who have been declared bankrupt at the latest as of that day,
- whose employees include more than 50% of physical entities with handicaps,
- who employ less than 20 employees as of that day,
- who have been subjected to an exceptional event, the consequences of which are still in place as of that day, or
- for whom a different higher-level collective agreement is binding.

The number of concluded higher-level collective agreements:

Higher-level collective agreements filed at the Ministry of Labour and Social Affairs between years 2005 and 2008

Year	Number of higher-level collective agreements
2005	19
2006	9
2007	17
2008	10

Amendments to the collective agreements have also been filed for these collective agreements.

The extension of the binding nature of the collective agreements to other employers

Year	The number of extensions of the binding nature of the higher-level collective agreements or amendments to the higher-level collective agreements
2005	1
2006	3
2007	4
2008	3

The effectiveness of Act no. 218/2000 Coll. governing the service of state employees in administrative bodies and the remuneration of these employees and other employees in administrative offices (**the Service Act**) has been postponed. It should come into effect as of 1 January 2012.

The supplementary questions of the European Committee of Social Rights

The Committee requests information as to whether any new regulations have been adopted for the extension of the binding nature of the higher-level collective agreements and, if they have been, information about their contents. The Committee also requests updated information on the number of employers and employees, to whom the extension of the binding nature of the higher-level collective agreements applies.

The amendment to Collective Bargaining Act no. 2/1991 Coll. came into effect on 1 July and it newly regulated the extension of the binding nature of the collective agreements to other employers. The procedure pertaining to the extension of the binding nature of the collective agreements has been described above in the information on Article 6, paragraph 2.

Given the fact that this no longer involves the extension of the binding nature of the collective agreements to individually designated employers, but to an indefinite number of employers designated by certain characteristics, the Ministry of Labour and Social Affairs does not have information on the numbers of employers, to whom the binding nature of the collective agreements has been extended, or on the numbers of their employees.

The number of higher-level collective agreements and the number of extended higher-level collective agreements has been stated on the previous page.

ARTICLE 6, PARAGRAPH 3

Unchanged

ARTICLE 6, PARAGRAPH 4

Unchanged

The supplementary questions of the European Committee of Social Rights

The Committee requests information as to which workers are authorised to participate in any voting which is necessary for the trade union organisation to call a strike and whether the voting is open to all of the affected workers or only to the members of the trade union organisation.

According to Collective Bargaining Act no. 2/1991 Coll., all of the employer's employees, whom the given collective agreement will concern, may attend a strike vote, regardless of whether or not they are organised in a trade union.

The vote is not attended by employees who are not entitled to go on strike according to the Collective Bargaining Act and these employees are not recorded in the total number of employees. This involves the following employees:

- employees at healthcare facilities or social care facilities, if a strike could lead to the endangerment of the life or health of citizens,
- employees during the operation of nuclear power stations, facilities with fissile material and oil or gas pipelines,
- judges, procurators, members of the armed forces and the police and employees involved in air traffic control,
- members of the fire brigade, employees in company firefighting units and members of the rescue services established according to the special regulations for the appropriate workplaces and employees securing telecommunications operation, if the strike could lead to the endangerment of the life or health of employees,
- employees who work in areas affected by natural disasters, in which the appropriate state bodies have declared exceptional measures.

Strikes are unlawful for a specific category of employees (section 20 of the Collective Bargaining Act). These include employees at nuclear power stations, air traffic controllers or members of the fire brigade. The Committee asks whether the strike ban concerns all employees in the aforementioned categories regardless of their specific function.

According to section 20 of the Collective Bargaining Act, an unlawful strike concerns employees at nuclear power stations, facilities with fissile material or oil or gas pipelines, the members of the fire brigade and air traffic controllers. The ban concerns all thus designated employees regardless of their function or categorisation during the securing of the aforementioned activities. This involves a closely defined group of employees carrying out activities which are essential for ensuring that no threat occurs to the lives, personal safety or health of all or part of the population or to property.

The Committee requests information on which interpretation applies in practise for the limitation of the right of employees in healthcare facilities and social care facilities to strike (if a strike would lead to the endangerment of the lives or health of citizens) and the limitation of the right of employees securing telecommunication operations to strike (if a strike would lead to the endangerment of the lives or health of citizens or of property).

The aforementioned cases involve the performance of activities which are essential for securing operations or activities, whose interruption or cessation could endanger the lives and health of individuals or cause significant damage to property. The strike ban therefore concerns, for example, only those employees at healthcare facilities or social care facilities, whose strike "would lead to the endangerment of the lives and health of citizens", but not to other employees in such facilities or only to those employees who "secure the telecommunication operations" and not to any other employees. The legal definition can only be of a general nature. The appropriate workplaces or employees are then designated at a specific employer's upon the basis of the characteristics which are generally designated in the law. As such, an agreement may be reached between the employer and the trade union organisation either in the collective agreement or in another agreement, but also as an internal act, with which the employer will acquaint all of the employees, or ad hoc, if necessary.

There are no signals as to the fact that aforementioned provisions of the law have given rise to any problems. The Czech Republic has managed to maintain relatively good social conciliation and strikes are infrequent. Even though there have been cases of strike standby and strikes, for example, in healthcare, the minimum services have always been provided according to the specific circumstances. We are not aware of any court disputes or judicature in this area.

THE REPORT ON THE APPLICATION OF THE ADDITIONAL PROTOCOL TO THE EUROPEAN SOCIAL CHARTER

ARTICLE 2: THE RIGHT TO INFORMATION AND CONSULTATION

1. With a view to ensuring the effective exercising of the right of workers to be informed and consulted within the undertaking, the Parties undertake to adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice:

   a) to be informed regularly or at the appropriate time and in a comprehensible way about the economic and financial situation of the undertaking employing them, on the understanding that the disclosure of certain information which could be prejudicial to the undertaking may be refused or subject to confidentiality; and
   b) to be consulted in good time on proposed decisions which could substantially affect the interests of workers, particularly on those decisions which could have an important impact on the employment situation in the undertaking.

2. The Parties may exclude from the field of application of paragraph 1 of this article, those undertakings employing less than a certain number of workers to be determined by national legislation or practice.

The right of the employees to information and consultation is regulated by Act no. 262/2006 Coll., the Labour Code (part XII). The employer is obliged to inform the employees and to negotiate directly with them, if no trade union organisation, employee council or occupational safety and health protection representatives are active in the employer's company. If these employee representatives are active in the employer's company, the provision of information and any negotiations are undertaken via them. These bodies are therefore the legal representatives of all the employees in the area of the provision of information and consultation regardless of whether all the employees are organised in the trade union.

The right of the trade unions to organise is a constitutional right. The employees may freely establish trade union organisations and unite in them and in the same way their right to refrain from uniting in this way is also guaranteed. The establishment of trade union organisation is regulated in Act no. 83/1990 Coll. governing the association of citizens and it is very simple. It is based on the registration principle, which means that, if the conditions set out by law have been met, the trade union organisation will become a legal entity and will be registered with the Ministry of Internal Affairs as a trade union.

A trade union organisation becomes a legal entity on the day following the day when the proposal for its registration is delivered to the Ministry. The proposal for registration can be submitted by at least 3 individuals (the so-called preparatory committee), of which at least one must be older than 18. The members of the preparatory committee sign the proposal and state their names and surnames, dates of birth and places of residence. They further state which member aged 18 or older is the representative authorised to act of their behalf. They attach the Articles of Association to the proposal in duplicate and these Articles of Association must contain the prerequisites set out in the law (especially the name, registered office and goal of the trade union's activities, the trade union's bodies and the principles for its management).

It is clear from the aforementioned that the establishment of a trade union organisation is simple. If the employees decide to establish a trade union organisation and fulfil the simple and essential prerequisites, no state body or employer can limit this right. The establishment and termination of the trade union's organisational bodies, the establishment and termination of the membership and the establishment and authorisation of the trade union organisation's bodies which act on its behalf are designated by the trade union organisation's Articles of Association according to the will of its members.

The representative nature of the trade union organisation for the purposes of the provision of information, consultation and negotiations on the working conditions is not regulated in any way – this authorisation therefore applies to all of the trade union organisations active in an employer's company regardless of their number or the size of the employer. They act as the representatives of all employees regardless of their trade union affiliations.

The establishment of employee councils and occupational safety and health protection representatives is regulated by the Labour Code. The option of establishing these employee representatives is not limited by the size of the employer or by the number of employees.

The employee council has a minimum of 3 and a maximum of 15 members. The number of members is always odd. The total number of occupational safety and health protection representatives depends on the total number of the employer's employees and the degree of risk involved in the undertaken work. It is possible, however, to establish a maximum of one representative for every 10 employees. The number of members in the employee council and

the number of occupational safety and health protection representatives is designated by the employer after consultation with the election committee. The term of office for the employee council and the occupational safety and health protection representatives lasts for 3 years. The employee council chooses a chairperson from its ranks at its first meeting and it informs the employer and the employees of this choice.

The employer calls the elections upon the basis of a written proposal signed by at least one third of the employer's employees and does so at the latest within 3 months of the delivery of the proposal. The elections are organised by the election commission which consists of a minimum of 3 and a maximum of 9 of the employer's employees. The employer designates the number of members in the election commission while taking into account the number of employees and the internal organisation of the company. The members of the election commission are the employees according to the order in which they signed the written proposal for the election of the employee council. The employer will inform the employees of the composition of the election commission. The electoral commission must be provided with the essential information and the basic documents for the purposes of the elections, especially the list of all the employees employed by the employer.

The elections are direct, equal and secret. Voting can only be undertaken in person. The participation of at least one half of the employer's employees, who could have attended the election, because they were not prevented from doing so by an impediment at work or a business trip, is necessary in order for the election to be valid. Every voter can vote for as many candidates as there are places in the employee council; the voters may only give 1 vote to one candidate. If the voter does not adhere to this principle, his/her vote will be invalid. All of the employer's employees currently in employment are entitled to vote and to be elected. All of the employer's employees in employment may propose candidates. The proposal is presented to the election commission in writing and must include the written agreement of the proposed candidate and be submitted within the deadline designated by the election commission. The members of the employee council and the occupational safety and health protection representatives are elected to the predefined number of positions by means of the highest number of received valid votes. The candidates in the next positions are replacements for this function; they become members of the employee council or occupational safety and health protection representatives when this function becomes free and do so in the order of the number of valid votes received in the election. In the case of an equal number of votes, the committee will designate the order by means of a draw.

All of the employer's employees in employment can request protection from the courts by submitting a proposal on the invalidity of the election, if they are of the opinion that there has been a breach of the law which could have fundamentally influenced the result of the election. The request must be submitted in writing within 8 days of the announcement of the election results at the latest. If the court decides that the election is invalid, the election will be held again at the latest within 3 months of the ruling on the repetition of the election coming into legal effect.

A change occurred in 2008 and as such employee representatives for the area of occupational safety and health protection, the employee council and the trade union organisations may now be jointly active in a single employer's company. It no longer applies that the employee council and the function of the occupational safety and health protection representative lapse, if a trade union organisation, which has concluded a company collective agreement, begins

functioning at the employer's during the course of the term of office of the employee council or the occupational safety and health protection representatives.

The fact that the employer is obliged to inform the employees and to negotiate with them directly, if there is no trade union organisation, employee council or occupational safety and health protection representative active in the company, clearly shows that all employees are entitled to the designated information and consultation and that this right is either applied directly or via designated representatives who represent all of the employees. The information and consultation must be provided sufficiently in advance and in a suitable manner, so that the employees can assess it or prepare themselves for any negotiations and issue a statement and so that the employer can assess this statement before the realisation of any measures. The employees are entitled to receive a justified response to their statements. They can request additional information and request personal negotiations with the employer at the appropriate level.

If the employer fails to fulfil the designated obligations in this regard, the employees may contact the labour inspection bodies which inspect the fulfilment of the labour law regulations and can impose significant sanctions, including monetary fines, for any breaches in the employer's obligations. The employees can also seek the fulfilment of the employer's obligations in the courts.

The supplementary questions of the European Committee of Social Rights

The Committee requests information on the rules which apply to the provision of information to employees and the negotiation with employees in companies according to the new Labour Code.

The legal regulations according to the new Labour Code have been described above in relation to Article 2 of the Additional Protocol to the European Social Charter.

ARTICLE 3: THE RIGHT TO TAKE PART IN THE DETERMINATION AND IMPROVEMENT OF THE WORKING CONDITIONS AND WORKING ENVIRONMENT

1. With a view to ensuring the effective exercising of the right of workers to take part in the determination and improvement of the working conditions and working environment in the undertaking, the Parties undertake to adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice, to contribute:

   a) to the determination and the improvement of the working conditions, work organisation and working environment;
   b) to the protection of health and safety within the undertaking;
   c) to the organisation of social and socio-cultural services and facilities within the undertaking;
   d) to the supervision of the observance of regulations on these matters.

2. The Parties may exclude from the field of application of paragraph 1 of this Article, those undertakings employing less than a certain number of workers to be determined by national legislation or practice.

The legal regulation of the right of the employees to participate during the designation and improvement of the working conditions and the working environment has remained almost unchanged in the new Labour Code, Act no. 262/2006 Coll., in comparison with the previous Labour Code.

The right of the employees to participate in the resolution of matters concerning occupational safety and health protection is regulated in the Labour Code (Part V). It is stated there that the employees are entitled to participate in the resolution of matters associated with occupational safety and health protection via the trade union organisation or the occupational safety and health protection representatives.

The employer is obliged to enable the trade union organisation, the occupational safety and health protection representative or the employees directly:

(a) to participate in the meetings concerning occupational safety and health protection or to provide them with information about any such negotiations,
(b) to listen to their information, comments and proposals for the adoption of measures concerning occupational safety and health protection, especially proposals for the elimination of risks or the elimination of the affects of any risks which are able to be eliminated and
(c) to discuss
   - the essential measures concerning occupational safety and health protection,
   - the evaluation of risks, the adoption and realisation of measures for the reduction of their effects, the performance of work in controlled zones and the allocation of work into categories according to the special legal regulations,
   - organisational training on the rights and other regulations to secure the occupational safety and health protection,
   - the designation of expertly qualified physical entities for the prevention of risk according to the law on the securing of the further occupational safety and health protection conditions.

The employer is obliged to secure training for the trade union organisation and the occupational safety and health protection representatives which enables them to carry out their functions correctly and to enable them access to the legal and other regulations concerning the securement of occupational safety and health protection.

The establishment and functioning of trade union organisations and occupational safety and health protection representatives is described in detail in the information provided in relation to Article 2 of the Additional Protocol to the European Social Charter.

It is clear from the aforementioned that the option of the employees to participate in the designation and improvement of the working conditions and the working environment via the provision of information and negotiations is not directly dependent upon their being organised in trade unions. The can establish other employee representatives. The option of participating in the designation and improvement of the working conditions has also been secured in the case where no employee representative has been established.

If the employer fails to fulfil the designated obligations in this regard, the employees may contact the labour inspection bodies which inspect the fulfilment of the labour law regulations and can impose significant sanctions, including monetary fines, for any breaches in the employer’s obligations. The employees can also seek the fulfilment of the employer’s obligations in the courts.

Act no. 564/1990 Coll. governing state administration and local administration in education has been annulled by Act no. 561/2004 Coll., the Education Act. According to this Act, the school board now also has the authorisation to approve the annual report on the school's activities, the report on its economic management and any conceptual changes and to submit proposals and notifications.