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Rules Applicable to the Transfer of Undertakings, Restructuring and Collective Redundancy in the Czech Republic

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Business transfers – scope of application

- ❖ Generally, a business transfer is defined as a transfer of an undertaking, business or part of a business to another employer as a result of a legal transfer or merger.
- ❖ The below rules are applicable whenever there is change in the legal or natural person who is responsible for carrying on the undertaking or business and who, by virtue of that fact, incurs the obligations of an employer vis-à-vis the employees of the undertaking or business, regardless of whether or not ownership of the tangible assets is transferred.
- ❖ A business transfer comprises the transfer of rights and obligations of all employees ensuing from labour relations.

Business transfers – scope of application

The transfer of the rights and obligations of the employees may only occur in the cases stipulated by law, i.e.:

- ❖ transfer of an employer (e.g. sale of an enterprise, merger)
- ❖ transfer of part of an employer (e.g. sale of part of an enterprise)
- ❖ transfer of the tasks of an employer (e.g. lease of an enterprise)
- ❖ transfer of a part of the tasks of an employer (e.g. lease of a part of an enterprise)
- ❖ transfer of the activity of an employee (e.g. even in the event of outsourcing)
- ❖ transfer of a part of the activity of an employee

Business transfers – procedural requirements

Prior to the transfer, the actual employer (transferor) and the employer taking over the enterprise (transferee) are required to inform the trade union or work council or, as the case may be, employees affected by the transfer, of:

- ❖ the date or proposed date of the transfer
- ❖ the reason for transfer
- ❖ the legal, economic and social implications of the transfer for the employees
- ❖ any measures envisaged in relation to the employees.

The transferor and transferee are further obliged to consult the above mentioned facts with employees representatives in order to reach an agreement.

Business transfers - consequences

- ❖ The transferor's rights and obligations arising from a labour contract existing on the date of a transfer are transferred to the transferee.
- ❖ If the employment relationship is terminated in consequence of a substantial modification of the working conditions to the detriment of the employee cause by a transfer, the employer is treated as the person who terminated the labour contract or the employment relationship.
- ❖ The transfer does not constitute grounds for dismissal. In spite of this provision, the dismissal may occur for economic, technical or organisational reasons entailing changes in the workforce.

Collective redundancies - definition

Collective redundancy means the termination of an employment relationship by an employer in a period of 30 calendar days on the basis of a notice given on the following grounds:

- (i) if the employer's enterprise, or a part of it, shuts down;
- (ii) if the employer's enterprise, or part of it, relocates;
- (iii) if the employee is to be made redundant (due to a decision by the employer or its competent organ to change the enterprise's activities or its technology, to reduce the number of employees for the purpose of increasing labour efficiency, or to make other organisational changes)

to at least

10 employees, where the total number of employees being employed at the employer is between 20 and 100

- (i) 10% of employees where the total number is between 101 and 300
- (ii) 30 employees where the total number is more than 300

Collective redundancies - procedure

- ❖ If an employer intends a large-scale dismissal, they are obliged to inform in writing the trade unions or the works council at least 30 days before giving the notice of termination, so that they can consult and reach agreement with them in particular on measures to avoid or reduce such large-scale redundancies.

Collective redundancies - procedure

- ❖ An employer is also obliged to provide trade unions (work council) with necessary information, in particular:
 - (i) reasons for the planned CR
 - (ii) the number and the professions of the employees to be made redundant
 - (iii) the number and the profession categories of employees employed by the employer
 - (iv) the time for executing the CR
 - (v) the criteria for the selection of the employees to be dismissed
 - (vi) severance payments or other rights of the employees to be dismissed

The consent of trade unions with termination is necessary only for their functionaries.

Collective redundancies - procedure

- ❖ The employer is obliged to inform in writing the competent labour office of the measures mentioned above.
- ❖ The employment relationship of an employee, who is affected by a large- scale redundancy, shall be terminated by notice no earlier than 30 days after the day when the employer's written report is delivered to the competent labour office, unless the employee concerned declares that they do not insist on the extension of the employment relationship.

Collective redundancies – severance

- ❖ Under the current legislation the notice period of termination given for the above mentioned business reasons is three months. Under new legislation the notice period of termination is two months, unless agreed otherwise in collective agreements.
- ❖ There is no seniority concessions, i.e. the notice is the same for all workers regardless of their length of employment with the same employer or their age.
- ❖ An employee whose employment relationship is terminated for “business reasons”, or by agreement on the same grounds, is entitled to severance pay in the amount of twice (three times under the new legislation) their average earnings.



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