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**Legal Regulation of the Labour Market in  
the Czech Republic**

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**Faculty of International Relations  
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in the Czech Republic**

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## **Legal Regulation of the Labour Market in the Czech Republic**

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### **Summary:**

Employment conditions in the Czech Republic changed markedly after the so-called Velvet Revolution. It was necessary to adapt to a market economy, to get used to new phenomena (e.g., unemployment), and the laws of the land had to react to the changes. Other great changes took place in connection with the Czech Republic's accession to the EU, when we had to adopt the full labour rules of the EC ("acquis communautaire"), including European Labour Law standards. Of course the labour market has been regulated since then by a law that strives to solve basic practical problems, currently, for example, problems with an insufficient work force and the need to use foreign workers. It is also necessary to loosen heretofore inflexible employer-employee relations.

**Keywords:** Labour Market, Employment, Job Seekers, Foreigners

## **Právní regulace trhu práce v České republice**

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### **Abstrakt:**

Podmínky zaměstnávání se v České republice po tzv. sametové revoluci značně změnilly. Bylo třeba přizpůsobit se tržnímu hospodářství, zvyknout si na nové jevy (například nezaměstnanost) a na to muselo reagovat i pracovní právo. Další velké změny nastaly v souvislosti se vstupem České republiky do EU, kdy jsme museli přijmout celý právní řád Společenství ("acquis communautaire") včetně norem evropského pracovního práva. Trh práce je samozřejmě i poté regulován právem, které se snaží řešit zásadní praktické problémy, v současné době například problémy s nedostatkem pracovních sil a potřebou využít pracovní síly ze zahraničí. Je třeba uvolnit i dosud málo flexibilní úpravu vztahů mezi zaměstnavateli a zaměstnanci.

**Keywords:** trh práce, zaměstnanost, uchazeči o zaměstnání, cizinci

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## Introduction

Four-plus years after the Czech Republic's EU accession the Czech labour market has changed significantly. But this is not the first change; there had already been substantial changes in the area of employment in connection with the change of the social system at the turn of the 90s, which of course is reflected in legislation governing this issue.

In the labour law system the regulation of employment plays a relatively independent role. Unlike relations between employee and employer, which are mainly private in their nature in terms of the law, regulations in the area of employment belong to public law. One of the partners in these relations is thus the state,<sup>1</sup> which is in the position of a superior in relation to the other participants (employers, job seekers, employment agencies). While under socialism the state regulated employment through binding decisions whereby it determined the number of employees individual employers could hire, after the change in societal relations it was necessary to find a qualitatively, completely new solution for this issue. The Law on Employment is a public law regulation, and therefore it is compulsory<sup>2</sup> by nature, but employers make their own decisions as to the labour forces they hire. There is a brief comparison of both approaches later in this text.

Other basic changes in this area had already been prepared prior to the Czech Republic's accession to the European Union – so that they could become effective on 1 May 2004. Substantial interventions in the then-valid labour law meant not only new employment regulations, but also an extensive amendment to the Labour Code.<sup>3</sup> It was necessary to reflect the binding principles that follow from primary and also secondary European Community regulations in both of these pieces of legislation. Because European standards are evolving steadily, adapting Czech legislation is a constant process. Legislation also reacts to specific problems in the labour market; for example, currently it is reacting to the need to ensure simplified access to jobs in the

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<sup>1</sup> In these relations the state is represented by state bodies whose task is to implement state employment policy; this involves employment offices and the Czech Republic Ministry of Labour and Social Affairs (Lay no. 435/2004 Coll., on employment, as amended).

<sup>2</sup> Compulsory legal standards are those that are unambiguously binding on legal relationship participants, who can thus not choose whether to conform to these standards or whether to contractually regulate their relations in some other way.

<sup>3</sup> From 1 January 1966 until 31 December 2006 employer-employee relations were governed by the Labour Code – Law no. 65/1965 Coll., in the wording of a total of 45 amendments. As of 1 January 2007 it was replaced by a new Labour Code – Law no. 262/2006 Coll. (it has been affected by 10 amendments already, and some of its provisions have been invalidated by the Constitutional Court for their variance with the Constitution of the Czech Republic).

Czech Republic for foreigners – this should be resolved by the newly approved employment law amendment, which introduces the so-called green card system.

The subject of this work is to examine the extent of changes in the area of employment in recent years and to evaluate whether legal regulation sufficiently reflects these changes or has even initiated them. Emphasis is placed on problems of the current labour market in the conditions of a knowledge economy and on the possibility of streamlining access to the Czech Republic's labour market.

## 1. A Brief Historical Excursion

Under socialism the right to work was also understood as the obligation to work.<sup>4</sup> A jobless person was exposed to the danger of being prosecuted for the criminal offence of parasitism. Employment was regulated by the state, even as the strictest administrative forms of regulation were being gradually abandoned (assigning graduates to a certain term of employment, consent of the district National Committee to the unilateral termination of an employment relationship, etc.).<sup>5</sup> In 1970 the government approved the Unified regulation of employment and placement of labour forces" system. Its goal was to secure the right to work for every citizen who was able to work, but also to regulate the development of employment in accord with society's interests and with the developmental needs of the national economy. Employers (i.e., only socialist organisations) could not create jobs as they saw fit, their creation and assignment were parts of the planning at state levels for the development of the national economy, specifically both in the five year plans, but also in annual (procedural) plans. Companies' requirements were greatly outweighed by real limited sources, so the placement of work forces was directed by the plan, not only in the sector structure but also in the territorial structure. Based on approved plans for the development of the national economy, regional and district committees elaborated the so-called balances of labour forces that were the binding basis for regulating employment (Kalenská 1980: 329-335).

Organisations could recruit employees only under conditions that received the consent of the district national committee; the committee could also asset the

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<sup>4</sup> Article 19 of the Constitution of the CSSR stipulated: "In a workers' society the individual can achieve the full development of his or her abilities and enforce his or her justified interests only through active participation in the development of society as a whole, primarily through an appropriate share in society's work. Therefore work to the benefit of the whole is the primary obligation, and the right to work is the primary right of each citizen."

<sup>5</sup> The basic legal regulation governing this issue until 1990 was Law no. 70/1958 Coll., on the tasks of companies and national committees in the sector covering care of the work force.

recruitment conditions for employers (e.g., the recruiting area from which it was possible to hire workers). Additionally, there also existed so-called “organised” recruiting, which was done directly by the national committees, especially for key sectors of the national economy (mines, smelting, etc.). Certain advantages were associated with this form of recruiting, e.g., the possibility of terminating previous employment with a substantially truncated notice<sup>3</sup> period, higher wages, and recruitment contributions.

From even this brief reminder of the legal regulation of employment from the era of socialism it is clear that it could not survive the change in societal relations that came in the aftermath of 1989. Such administrative assignment methods of employment regulation cannot exist in any system other than totalitarianism.

## **2. Employment after 1990**

### **2.1 Labour market prior to the Czech Republic’s accession to the European Union**

Among other things, the change in societal relations after 1989 resulted in a change in the situation on the labour market. In the new conditions the system for regulating employment could not be applied; it was necessary to abandon the above-described administrative methods for hiring employees. One of the ways legislation reacted to these basic societal changes was to enact a law on employment,<sup>6</sup> which was already based on the focus of the state on an active employment policy and the creation of the labour market as a part of the process of creating a complete market economy. Of the administrative tools for ensuring employment, the state kept only those relating to ensuring employment for people who were physically challenged.

The creation of a market mechanism was contingent on extensive structural changes, which required qualitatively new work force mobility and higher qualifications for employees. However, this process also brought heightened demands for solving social results that followed from the suppression of programs and other structural changes (a new problem appeared – unemployment). Since 1991 balancing supply and demand has been ensured by state employment policy bodies, which include, besides the Ministry of Labour and Social Affairs, labour offices. For example, the ministry prepares concepts and programmes of state employment policy, evaluates the situation on the labour market, and takes measures for influencing labour supply and demand,

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<sup>6</sup> Law no. 1/1991 Coll., which was invalidated on the day when the newer law on employment, Law no. 435/2004 Coll. Became effective (as of 1 October 2004).

provides means for securing the employment policy, ensures international cooperation in the area of employment, awards permits for mediating employment, etc. Employment offices monitor the situation on the labour market in their own territories and they take steps to influence supply of and demand for work, conduct mediation for employment, ensure necessary re-qualification for the purpose of better positioning on the labour market, make decisions on recognising unemployment or re-qualification supports provide contributions to employers for active employment policy, provide increased care for physically challenged job seekers, grant permits for hiring foreigners, exercise control activities in the employment sector, etc.

This regulation already has nothing in common with the previous system for regulating employment and the placement of work forces; employers themselves determine the needed number and structure of jobs. True, employment offices require that employers meet their legal obligation to announce available work positions, but they cannot order the hiring of a specific job seeker; the employer always has the right to decide on who fills a free work position – a recommendation for a suitable job seeker by an employment is non-binding. Compared to the previous legislation, the law on employment introduced qualitatively different, substantially more modern regulation that reflects the new relations. Nevertheless, this law was been amended many times due to the rapid changes in the societal situation until it was invalidated on 1 October 2004. The new law on employment that replaced it was a response to the Czech Republic's accession to the European Union.

During the 90s many amendments to the Labour Code were passed governing employer-employee relations. The most important of these was the so-called harmonisation amendment, which, as part of the preparations for Czech accession to the EU, harmonised the Labour Code with the requirements of EC standards as of 11 January 2001). Twenty-eight European guidelines were incorporated into the Labour Code, which ensured its compatibility with EC law (Soušková 2004: 49). However, the problem of employment law remained the obsolete concept of the Labour Code, which, even after many amendments, did not meet the needs of the developing labour market. The basic obstacle was the compulsory nature of this regulation, which nearly did not allow employers and employees to deviate contractually from the binding provisions of the law. In the labour law and under the validity of the 1965 Labour Code (until 31 December 2006) there was no respect for the constitutional principle, “What is not prohibited is permitted”; on the contrary, for this area it was recognised that it was possible to contractually deviate from the law only through such agreements that the labour law governed directly or at least foresaw (Soušková 2004: 57). The labour law was thus, even despite all its amendments, an obsolete regulation that was not suitable, and its replacement appeared to be absolutely necessary. Unfortunately, not even the new Labour Code, effective starting on 1

January 2007, came close to meeting expectations, even though it resolved only some of the greatest problems.

## 2.2 Employment in the conditions of a knowledge economy

At a meeting of the EC in Lisbon in 2000 there was an announcement of the goal to turn the EU into the most competitive region in the world by 2010, in a knowledge-oriented economy to achieve sustainable growth and offer more high-quality jobs. In March of 2005 the EC approved a revised strategy<sup>7</sup> focused on achieving greater long-term economic growth and employment (EU Council 2005: 1-39). The member states then submitted to the EC national reform programmes; the Czech National Lisbon Programme (Vláda České republiky 2005) focused on measures to improve the entrepreneurial environment and to support research and innovations, and on the development of human resources, increased labour market flexibility, and the creation of a knowledge society. At the end of 2006 the EC, while evaluating achieved results, stated that there had been increased employment, but it also criticised, among other things, insufficient activity in solving the problem of rigid labour markets that were impeding competitiveness. The Czech Republic was not seen as very successful in the EC evaluations (and we acknowledge that it was justified). The Czech Republic achieved only very little success in conducting a national programme of reforms for growth and employment, and some planned reforms were not even commenced, while others were insufficient. The EC criticised the scarce progress in the area of research and development and the insufficient measures in the area of employment (especially with respect to labour market flexibility (Soušková 2007/1: 140-141). Of the EC's recommendations we can mention the following examples:

- to modernise employee protections (including legal regulations and the tax and benefit system);
- to improve education systems and specialised preparations and to create conditions for investments in education, mainly in relation to older and less qualified employees,
- to improve cooperation between companies and public institutions for research and development, and to increase the tempo of the growth of investments in research and development;
- to better include disadvantaged persons in the labour market, and to decrease the gap in earnings between men and women.

In its report on fulfilment of the National Lisbon Programme 2005-2008 (Vláda České republiky 2007), the Czech government stated that employment has been growing uninterrupted since the second half of 2004, which is connected to the positive development of the economy. The unemployment rate is steadily

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<sup>7</sup> It was determined (see the so-called Wim Kok report), that the original Lisbon strategy set too many priorities and the member states were unable to meet them all.

declining, including a decrease in the number of long-term unemployed. The reform of public finances and the social system is under way; it should lower ancillary labour costs strengthen the motivation to find work; the new system for social benefits is being evaluated by persons who work or are actively seeking work. For the year 2009 preparations are under way for a basic change in the organisational structure of employment and social services – a National Council for Employment and Social Services should be created (Vláda České republiky 2007: 54-57).

In accord with the concept of flexicurity<sup>8</sup> the government is trying to spread contractual freedom in legal labour relationships and to increase flexibility on the labour market; the attempt is to make it possible to a greater degree to arrange deviations from the Labour Code<sup>9</sup> and to deepen the possibility for employers and employees to flexibly adapt the organisation of work and work periods to meet their needs and thus increase competitiveness.

For strengthening employment and economic growth worker mobility is also very important. The launch of the EURES (European Website for Worker Mobility) Website was of great significance in this sense, providing information on job openings in 31 European states, information on life and work in individual countries, and much more information.<sup>10</sup> However, worker mobility is often impeded by many obstacles such as problems with recognising qualifications, obstacles connected with housing, language, employment of a partner, or insufficient valuation of experience of employers with worker mobility.

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<sup>8</sup> Flexicurity is a term to express a combination of flexibility and security on the labour market. It was first introduced in the 90s in Denmark, and it led to a decrease in unemployment and a strengthening of the economy, so other EU countries took up this possibility and their representatives in the European Council decided in the spring of 2006 to make use of it. It should involve a system for support during unemployment connected to a strong active policy on the labour market – the basic measures should be to offer assistance in job seeking by the unemployed, a system for caring for children and the elderly, a public policy linking work and family life, access to education and lifelong qualifications improvement, elimination of discrimination based on age and sex, a policy for mobility within a region, and greater involvement of social partners in employment policy.

<sup>9</sup> Unlike the older code, which was invalidated as of 31 December 2006, the Labour Code is based on the constitutional principle, “What is not prohibited is permitted.” But so many prohibitions against deviations were embodied in the text of the law that the dispositive nature of the amendment and contractual freedom were rather illusory. Some of these limitations have already been struck down by the Czech Republic Constitutional Court in its evaluation of the compliance of the Labour Code with constitutional principles – compare Constitutional Court Finding no. 116/2008 Coll.

<sup>10</sup> For example, as of 23 September 2008 the Website had 1,196,475 job openings registered, along with 312,172 CVs of job seekers, and 17,683 employers (data available at: <http://europa.eu.int/eures/home.jsp?lang=cs>).

Other problems include the persistence of differences in employment for men and women. In the Czech Republic employment of women is high, but compared with many countries women can, for example, make far less use of lighter work loads. Women performing less managerial functions are, compared with men, paid less, and they are more burdened by family obligations than men. The commission wants to support an equal opportunity policy from 2007 to 2012 from structural funds (the PROGRESS financing programme is devoted to, among other things, equality for men and women).

In February of 2004 the commission approved a draft budget; an important element of it was a solidarity policy that should correct the negative impact of the free market on regions by redistributing assets with the goal of supporting economic growth and sustainable development. The approved Czech National Referential Framework determines how the Czech Republic, in accord with the Lisbon strategy, is using a total of EUR 26.3 billion that it should receive over the course of 7 years from EU coffers for the purpose of growth and job creation (Národní strategický rámec 2007).

### **2.3 Free movement of persons**

One of the basic principles that is applied in the EU is the principle of free movement of persons, which covers, among other things, the possibility of changing one's residence for the purpose of work in the territory of any union member state; Along with a worker, the right to free movement also concerns the worker's family members. According to Article 12 (formerly Article 6) of the treaty that established the European Community all discrimination based on nationality is prohibited. Also, from Article 39 (formerly Article 48) of that treaty it follows that free movement includes the prohibition of any discrimination among workers of member states based on nationality; and where employment is concerned, remuneration for work and other work conditions. The obligation to respect the principle of equal treatment relates not only to states and their authorities but also to employers. With the accession of the Czech Republic to the EU the rule of free movement of persons started being applied, but with exception of those states that decided to apply the transitional provision for the free movement of workers in order to protect their domestic labour forces. Some countries made no use of the transitional provision at all (Great Britain, Ireland, Sweden), while others abolished it gradually (Finland, Italy, Luxembourg, the Netherlands, Portugal, Spain, France); in some countries this limitation persists, usually simplified at least for delimited professions. The last possible stage for limiting free movement of workers (until 30 April 2011) will be applied by only Austria and Germany; after that date the free movement of workers will apply for Czech citizens throughout the EU, with the possibility of working in all member states without limitation and under the conditions that apply for workers of the state in question. Rules similar to those in the EU apply to the free movement of workers within the

framework of the European Economic Zone (besides the member states, also Norway, Lichtenstein, and Iceland) and in the Swiss Federation; with the exception of Iceland a transitional period is applied with respect to workers from the Czech Republic. So for now the mobility of Czech workers is limited by the use of transitional periods, especially with neighbouring states (Germany, Austria). But this is far from the only reason for the limitation of departures by Czech workers from the territory of the Czech Republic – a large role is also played by a certain comfort, insufficient knowledge of languages, little appreciation of the practices of foreign employers, and other facts. When Czech workers leave for work in other EU countries, they usually return to the Czech Republic after a certain period of time and seek further employment here. The states that have not yet abolished the transitional period argue that they are concerned about losing jobs for their own workers, lower wages, greater demands by immigrants for drawing social benefits, etc. Yet it has been shown that in countries that have not made use of the limitations on citizens of new EU states there has been no great influx of workers, and the results have been rather positive for their work forces.

## **2.4 Protection of employees' rights in the Czech Republic as an EU member state**

European Community law influences national legal labour legislation through the requirement to harmonise intrastate legislation through the stipulation of certain minimal standards for work conditions. The labour law in the EU covers, in terms of content, only about 25% of the labour laws of the member states, and the basic source is European Council guidelines. The EU recognises the competencies of the countries in the area of labour law, and in the area of free movement of workers, safety and the protection of health, support of dialogue among social partners, the principle of equal treatment, and social security for employees. The original idea of a unified European market lay in the economic sphere, but gradually the social issue also took on importance, because the level of work conditions for employees is also influenced by the functioning of the common European market. The Community Charter of Fundamental Social Rights of Workers (1989) emphasised the necessity of the balanced development of economic and social integration. It governs support of employment, free movement of workers, the issue of wages, professional education, improving the conditions of work and life, the right of association and collective bargaining, equal treatment under the law for men and women, etc. The charter is not legally binding, but it has great significance for the development of social issues; its provisions have been reflected in specific measures through the adoption of various guidelines. The Social Policy Protocol to the Treaty of Maastricht that was agreed by the member states with the exception of Great Britain (1992) contains the issue of improving the work environment and work conditions, consultations with workers, equal opportunity for men and women on the labour market, including persons at

work who have been excluded from the labour market; at the signing of the Treaty of Amsterdam (1996) the Social Policy Protocol to the Treaty of Maastricht became a part of the Treaty on the Establishment of the European Community. Support of equal treatment under the law for both sexes and the elimination of inequality is now one of the fundamental tasks of the European Community. Discrimination by sex in remuneration for work is prohibited by Article 141 (formerly Article 119) of the Treaty on the Establishment of the European Community. The question of equal standing of men and women in all situations associated with work relationships is further governed by a secondary law, is related to the rules of guidelines,<sup>11</sup> and many decisions by the European Court of Human Rights (Soušková 2007/2: 248-249). As has already been mentioned, the Czech Republic incorporated European labour law into its intrastate legislation prior to its accession to the EU, and it is continuing in the harmonisation in the event of the issuing of new European standards.

Unlike the previous legislation of 1965, the new Labour Code has markedly liberalised the solution for legal labour relationships, but unfortunately it also contained many errors that had to be eliminated through an extensive amendment. However one of the problems remains even after the amendment, in that in the Labour Code there is a lack of more detailed provisions on equal treatment of employees and a prohibition of discrimination and on legal means of protection against discrimination, because these questions should have been governed by the anti-discrimination law – but that law was rejected in parliamentary debates in 2006. In a “second try” the Parliament of the Czech Republic approved it this year, but the president vetoed it; The Chamber of Deputies interrupted the new debate and failed to override the president’s veto. The Czech Republic thus remains the sole EU member state that has no anti-discrimination law, even though it was one of the conditions for EU accession. However, the question is whether a general anti-discrimination law must exist or whether it is enough to solve this problem with partial regulations in special laws – I think that this second possibility is simply sufficient. If the required provisions were worked into regulations in which they are missing, especially the Labour Code itself (unlike the Labour Code, the law on employment contains a provision on protection against discrimination in hiring), we would not have a problem. The guideline does not stipulate the precise form of the regulation, but only its goal – the result

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<sup>11</sup> For example, Guideline no. 76/207, on the introduction of the principle of equal treatment for men and women with respect to access to employment, professional education and procedure in employment, and on work conditions (the mentioned Guideline no. 2002/73), Guideline no. 75/117, on adapting legal regulations of member states with respect to the use of the principle of equal remuneration for men and women, and Guideline no. 97/80, on burden of proof in cases of discrimination based on sex. Both these guidelines and others relating to the issues of equal treatment in social security systems, they will be replaced as of 15 August 2009 by Guideline no. 2006/54.

that the member states should achieve within the stipulated period of time (but we failed to meet the deadline).

### **3. Support for foreigners' inclusion in the labour market**

The law on employment grants to nationals of another member state and their family members the same legal standing as citizens of the Czech Republic. This is also reflected in the definition of the term employee from abroad, which is considered a person who is not a national citizen of the Czech Republic, an EU citizen, or a family member thereof. If an EU citizen takes up work for an employer, the employer or legal entity to whom such person has been sent by his foreign employer based on a contract to perform work is obligated to inform the relevant labour office in writing of the termination of his employment or sending; the employer is also obligated to keep records on all EU citizens whom he employs or who was sent to him to perform work. On the basis of information from employers the labour offices maintain records on EU citizens who have been employed. (The same rules apply for citizens of European Economic Zone (EEZ) countries and Switzerland.) For the aforementioned citizens the Czech Republic does not place any obstacles to employment; for them the same conditions apply as those that apply to Czech citizens. The Czech Republic has not even used the possibility of reciprocally applying limitations of those states that have enforced transition periods on the Czech Republic.

For other foreigners the Czech Republic uses other rules that are still too complicated and limiting. It is not enough to acquire a permit for residence<sup>12</sup>, first it is necessary to get a permit from the labour office to hire an employee from abroad (this concerns the employer) and a work permit (this concerns the citizen).<sup>13</sup> The conditions set forth in the relevant regulations (especially foreign law) are sufficiently harsh, and problems are the complicated administrative procedure, the opaqueness of offices and the associated unreasonable long approval process. The employer must request a permit to hire an employee from abroad with detailed information on job openings, the number of requested foreigners and the qualification requirements for hiring. If the employer gets this permit he can recruit foreigners. However, the problem in practice is that while permit to hire foreigners is issued to an employer for one year, the permit to

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<sup>12</sup> Law no. 326/1999 Coll., on the residency of foreigners in the territory of the Czech Republic and on changing several laws, as amended

<sup>13</sup> The law on employment also governs cases a foreigner exceptionally does not need a work permit (e.g., a foreigner with permanent residency in the Czech Republic, an academic worker, etc.), or a foreigner who gets a permit more easily, because the labour office needs not examine the situation on the labour market (e.g., for a short-term engagement); in such cases the employer does not need to apply for a permit to hire an employer from abroad. .

recruit is good for only 3 to 4 months – during that period of time the employer can hire new employees, and after that for the rest of the year only extending the work permits of foreigners already in the employ of the employer is possible. The employer can hire a foreigner only when the following conditions are met:

the foreigner has a valid work permit from the relevant labour office according to the place where the work is performed,

the foreigner has a valid visa for residency for the purpose of employment,

a written work contract has been closed for a period corresponding to the period stated in the permit from the labour office.

By the time all the matters have been attended to several months have usually passed. This is one of the causes of the rather extensive illegal employment, which concerns mainly citizens of Ukraine and other post-Soviet republics, whose “import” into the Czech Republic has become one of the activities of organised crime. Additionally, the Czech Republic, as a result of the decline in the number of citizens of productive age, is encountering a work force shortage, which is becoming an obstacle to economic development. For this reason the government has prepared the so-called green card project, which the Parliament of the Czech Republic approved a few days ago in the form of an amendment to the law on employment and the law on the residency of foreigners in the territory of the Czech Republic. For foreigners from selected countries, a list of which is being drafted by the Ministry of the Interior, this will mean a fundamental easing and acceleration of the procedures that will have to be completed for legal employment in the Czech Republic. Due to the conditions in place I think that concerns about an uncontrolled influx of foreigners are not called for. The green card will have a dual nature, which means that it will simultaneously be a work permit and a residency permit, and many administrative obstacles will thereby fall to the wayside. Compared to the current status, processing will be substantially faster and should thus make possible operative access to the labour market in those professions that are not occupied by Czech citizens, other EU/EEZ country citizens, or Swiss citizens or their family members within 30 days of the announcement of a job opening. Next year central records of job openings that can be occupied by green card holders (being included will require the consent of the employer) should start functioning. In practice, it should function thus: a foreigner finds a job that suits him and at a Czech Republic representation office he requests the issuing of a green card for that job (he will have to document the qualification prerequisites). The request will be processed in just 30 days by the Ministry of the Interior and in the event of a positive finding the citizen will receive an entrance visa. In the Czech Republic he will then pick up the green card at the ministry and he can start work. This represents a fundamental simplification and acceleration of the approval process. A green card will be issued for a specific job for a finite period of time (2 years) and will be possible to extend only for a professionally qualified

foreigner with at least a high school education. If a foreigner loses his job he will have to find another job for green card holders within 2 months, otherwise his residency permit expires. These foreigners will not qualify for unemployment or social security benefits.

In the Czech Republic there are currently about 150,000 job openings, and the number of long-term unemployed has dropped by 40%. The problem for employers is a shortage of workers and an inflexible labour market. For this reason it is necessary to welcome an initiative that can quickly bring new employees from abroad to the labour market, especially qualified workers. Right now foreigners account for only 5% of all employees, which is a low percentage in comparison with developed countries. I consider concerns about an uncontrolled influx of foreigners and a general decrease in wages because of the willingness of foreigners to work for less money exaggerated. True, how the Ministry of the Interior will choose the countries whose citizens will have the advantage of green cards is open for discussion – but every state has the right to set the rules for access to the labour market as it sees fit. Certain doubts could also concern the speed of processing requests for green cards at the ministry – will it really meet the legal deadline for to review requests in such a way that only people meeting the legal conditions get into this country, or will it be only a formal procedure? Practice already indicates this, but I want to believe that the conditions have been stipulated responsibly, that adhering to it is realistic, and that a control system will also be in place that will limit the possibilities of corruption in the decision making process. This would help cut down on the extent of the grey and black zones in the labour market, and a further measure is increasing penalties for making illegal work possible from CZK 2 to 5 million.

## **Conclusion**

The subject of this examination was how legislation influences the labour market in the Czech Republic. Since the Czech Republic's accession to the European Union this has involved not only intrastate legislation but also the requirements of EC law standards. We have a problem, fortunately only exceptionally, with harmonisation. One example could be the missing anti-discrimination law, the lack of adoption of which threatens us with EU sanctions. Placement of powers in the parliament is also a source of many problems, because often just the absence of deputies decides whether there will be enough votes there to support a law even though it is very important.

A law usually falls behind practical experience and its needs; this is a given not only for lengthy legislative procedures but also because it is complicated to find support for a new regulation among political partners or among the opposition, so that the government does not go into an already lost battle with its proposals. For example, it was recently possible to push the important amendment to the

law on employment and the law on the residency of foreigners in the territory of the Czech Republic, which should very markedly simplify inclusion of foreigners in the labour market of the Czech Republic – in my opinion this amendment is very much needed and will help resolve the problem with the aging of the Czech population and the diminishing of the local work force and the problem of illegal employment. On the other hand, it was not possible to push through other regulations (e.g., the aforementioned anti-discrimination law) or may not be possible to push through. I am thinking about the amendment to the employment law that has been prepared that should markedly change the current form of the law to allow greater flexibility and support of a more liberal labour market. While the current Labour Code was pushed through by leftist parties with the strong support of unions and against the fundamental opposition of agricultural unions and right-wing parties, the situation with the proposed amendments is exactly the reverse - union members are protesting (they are planning on possibly using a general strike) and the opposition party, even though the wording of the amendments is not yet known. The rigid Czech labour market would need more markedly liberal legal regulation, but pushing changes through will definitely be no simple task.

## References

- BARANCOVÁ, H. (2003): *Európske pracovné právo*. Bratislava: Sprint.
- CZESANÁ, V.; HAVLÍČKOVÁ, V.; KOFROŇOVÁ, O.; MATOUŠKOVÁ, Z.; VYMAZAL, J. (2006): Kvalita lidských zdrojů. In: *Ročenka konkurenceschopnosti České republiky 2005*.  
[http://www.nvf.cz/observatory/rocenka\\_cvks.htm](http://www.nvf.cz/observatory/rocenka_cvks.htm).
- CZESANÁ, V.; HAVLÍČKOVÁ, V.; KOFROŇOVÁ, O.; MATOUŠKOVÁ, Z.; VYMAZAL, J.; ŽÁČKOVÁ, H. (2007): Kvalita lidských zdrojů. In: *Ročenka konkurenceschopnosti České republiky 2006-2007*.  
[http://www.nvf.cz/observatory/rocenka\\_cvks.htm](http://www.nvf.cz/observatory/rocenka_cvks.htm).
- ČSÚ (2007): *Život cizinců v ČR 2007*. [http://www.czso.cz/csu/cizinci.nsf/t/C60046609E/\\$File/Cizinci\\_pro%20web\\_2007.pdf](http://www.czso.cz/csu/cizinci.nsf/t/C60046609E/$File/Cizinci_pro%20web_2007.pdf).
- DISKRIMINACE INFO (2008): *Cizinecký zákon 2008 – cizinci ze třetích států*.  
[http://www.diskriminace.info/dp-migrace/cz2008\\_tretizeme\\_celytext.phtml](http://www.diskriminace.info/dp-migrace/cz2008_tretizeme_celytext.phtml).
- DRBOHLAV, D. (ed.): Mezinárodní migrace a nelegální pracovní aktivity migrantů v Česku v širším evropském kontextu – průběžné zprávy projektu za rok 2005, 2006, 2007. <http://www.natur.cuni.cz/ksgrrsek/illegal.htm>.
- EURES: Integrovaný portál sítě EURES: <http://portal.mpsv.cz/eures>.
- EUROPEAN COMMISSION (2005): *Integrated Guidelines for Growth and Jobs (2005-2008)*.  
[http://ec.europa.eu/growthandjobs/pdf/integrated\\_guidelines\\_en.pdf](http://ec.europa.eu/growthandjobs/pdf/integrated_guidelines_en.pdf).
- EVROPSKÉ PRÁVO (2004): *Základní dokumenty*. Ostrava: Sagit.
- HOUSKA, M.: *Lisabonská strategie*. Ministerstvo průmyslu a obchodu ČR.  
<http://www.mpo.cz/dokument2860.html>.
- KOMISE (2005): *Sdělení Komise Radě a Evropskému parlamentu o přezkumu strategie udržitelného rozvoje (Akční platforma)*. <http://www.mpo.cz/dokument5124.html>.
- JAKUBKA, J. (2006): *Nový zákoník práce včetně důvodové zprávy*. Olomouc: Anag.
- KADEŘÁBKOVÁ, A. (2005): Kvalitativní náročnost české ekonomiky. *Working Paper CES VŠEM 7/2005*. Praha: Centrum ekonomických studií VŠEM.
- KALENSKÁ, M. (ed.) (1980): *Československé pracovní právo*. Praha: Panorama.

MPSV ČR (2008): *Přechodné období pro volný pohyb českých pracovníků*.  
<http://www.mpsv.cz/cs/1282>.

MPSV ČR (2007): *Informační publikace pro cizince, Česká republika*.  
[http://www.cizinci.cz/files/clanky/446/inf\\_brozura\\_cestina.pdf](http://www.cizinci.cz/files/clanky/446/inf_brozura_cestina.pdf).

MPO České republiky: *Informace pro poskytovatele služeb vysílající pracovníky mimo území ČR*. <http://www.mpo.cz/cz/eu-a-vnitri-trh/vysilani-pracovniku/>.

MŠMT ČR (2007): *Operační program Vzdělávání pro konkurenceschopnost*.  
<http://www.partnerstvi-jmk.cz/page.php?action=detail&id=137>.

NÁRODNÍ STRATEGICKÝ RÁMEC ČR 2007 – 2013.  
<http://www.strukturalni-fondy.cz/regionalni-politika/nsrr>.

PEŠEK, O.: Lisabonská strategie a její význam pro hospodářskou politiku EU.  
In: *Societas – časopis pro politické a společenské vědy*, 3-4/2005.  
[www.vspv.cz/societas4/lisabon.htm](http://www.vspv.cz/societas4/lisabon.htm).

RADA EU (2005): Presidency Conclusions 7619/1/05 Rev 1.  
[http://www.consilium.europa.eu/ueDocs/cms\\_Data/docs/pressData/en/ec/84335.pdf](http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/84335.pdf).

Rozhodnutí Evropského parlamentu a Rady č. 1639/2006/ES, kterým se zavádí  
*Rámcový program pro konkurenceschopnost a inovace 2007-2013* (2006):  
<http://www.mpo.cz/dokument38402.html>.

SOUŠKOVÁ, M. (2007/1): Zaměstnanost a role pracovního práva při zvyšování konkurenceschopnosti české a evropské ekonomiky. In: *Efektivnost právních předpisů pro zvýšení konkurenceschopnosti v ekonomice*. Ostrava: Vysoká škola báňská, Technická univerzita, pp. 140-147.

SOUŠKOVÁ, M. (2007/2): Podnikání v EU a ochrana práv zaměstnanců. In: *Ekonomické a právní aspekty podnikání v EU a ochrana lidských práv*. Praha: Univerzita Karlova v Praze, Právnická fakulta, pp. 247-254.

SOUŠKOVÁ, M. (2006): Pracovní právo jako jeden z nástrojů podpory podnikání v podmínkách znalostní ekonomiky. In: *Obchodné podnikanie v podmienkach teórie a praxe znalostnej ekonomiky*. Bratislava: Ekonóm, pp. 728-732.

SOUŠKOVÁ, M. (2004): Změny v úpravě pracovněprávních vztahů. *Acta Oeconomica Pragensia*. 12:8, pp. 47-61.

SUNEGA, P.: *Evropský rok mobility pracovníků*.  
<http://www.socioweb.cz/index.php?disp=teorie&shw=230&lst=106>.

TICHÝ, L.; ARNOLD, R.; SVOBODA, P.; ZEMÁNEK, J.; KRÁL, R (2004): *Evropské právo*. 2. vydání. Praha: C. H. Beck.

TÝČ, V.; KŘEPELKA, F.; MUNKOVÁ, J.; PIKNA, B.; ROZEHNALOVÁ, N.; TOMÁŠEK, M. (2004): *Lexikon – Právo evropské unie*. Ostrava: Sagit.

TÝČ., V. (2004): *Základy práva Evropské unie pro ekonomy*. 4. aktualizované vydání. Praha: Linde.

Vláda České republiky (2005): *Národní Lisabonský program (2005-2008): Národní program reforem České republiky*.  
[http://wtd.vlada.cz/files/eu/narodni\\_program\\_reforem\\_cz.pdf](http://wtd.vlada.cz/files/eu/narodni_program_reforem_cz.pdf).

Vláda České republiky (2007): *Zpráva o plnění národního Lisabonského programu 2005 – 2008 (říjen 2007)*.  
[http://www.vlada.cz/assets/cs/eu/dokumenty/zprava\\_o\\_plneni\\_jen\\_2007\\_.pdf](http://www.vlada.cz/assets/cs/eu/dokumenty/zprava_o_plneni_jen_2007_.pdf).

Webové stránky evropského programu „Vzdělávání a odborná příprava 2010“ (ET2010): <http://et2010.cz/index.php>.

Webové stránky Evropského sociálního fondu: <http://www.esfcr.cz>.

Webové stránky Zastoupení Evropské komise v České republice.  
<http://www.evropska-unie.cz/>.

Webové stránky Evropské komise *Employment, Social Affairs and Equal Opportunities*. [http://ec.europa.eu/employment\\_social/index\\_en.html](http://ec.europa.eu/employment_social/index_en.html).

Závěrečná zpráva projektu 8/05-2-2/05 *Posouzení priorit a formulace doporučení pro tvorbu implementačních opatření v oblasti podpory rozvoje znalostní ekonomiky pro přípravu národních programových dokumentů České republiky na období 2007–2013*.  
[http://www.strukturalni-fondy.cz/uploads/old/1140449409.posouzeni\\_priorit\\_final\\_cz.pdf](http://www.strukturalni-fondy.cz/uploads/old/1140449409.posouzeni_priorit_final_cz.pdf).

Závěrečná zpráva projektu evaluace RPS 4/04 *Bariéry růstu konkurenceschopnosti České republiky*.  
[http://www.strukturalni-fondy.cz/evaluace/bariery-rustu\\_konkurenceschopnosti-cr](http://www.strukturalni-fondy.cz/evaluace/bariery-rustu_konkurenceschopnosti-cr).



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