

# The New Labour Code

## and what it means for companies and investors

The draft of the new Labour Code, which would come into force on 1 January 2007, is being discussed in the Czech Parliament. Its approval would end the long-running debate about its form. The current legislation has been valid for nearly 40 years and has been amended 47 times, as a result of which its level of transparency has suffered.



illustrative photo

The new Labour Code will henceforth be a reflection of the market economy and will create conditions for limiting the inherent equalitarianism among employees, which is a feature of the previous legislation.

**The new Labour Code** is the most radical single change in 40 years and is part of a “package” covering not only employment legislation but also health and safety needs (both at work and outside the work environment) and various changes to other laws which are themselves linked to the Labour Code. It was originally intended to be linked to a major revision of the Civil Code, but the latter is now unlikely to be ready for some time, so the new Labour Code therefore makes reference to the existing Civil Code.

**One of the most important changes** is the change of the principle of the Labour Code. Until now, the following held true: “what is not permitted is forbidden”. The new Labour Code reflects the opposite, more flexible principle, which

is common in other areas of work: “what is not forbidden is permitted.” Though this seems to be a mere splitting of hairs, it has far-reaching impact. It will enable greater liberalisation of labour relations and greater scope for employees and employers to establish specific contractual conditions.

**Another new feature** of the Labour Code is the introduction of the “work-time accounts” principle, which enables companies to flexibly react to changing requirements for labour corresponding to their production output. Work-time accounts can be instituted in organizations on the basis of internal regulations, or on the basis of collective agreements, which means that this principle can be established by employers where no trade unions are active. In practice, this means that if the employer has excess labour capacity in the course of a year, that employer can pay a constant wage so that in “work peaks” the working time will be longer and in the subsequent periods of lighter workloads, the employees will have more free time.

The Labour Code also introduces a general termination-notice period of two months. In cases when notice is given by the employer for specific reasons stated in Article 52 a), b) and c) – for example, relocation or shutting down of the employer’s business – there is a two-month notice period and the employee is entitled to three months’ severance pay. The current Labour Code regulates this as a three-month notice period plus two month’s severance pay in these cases. The elimination of the so-called offer obligation can be considered a positive aspect of the new Labour Code. This refers to the obligation of the employer to offer a different position to the employee who is being given notice of termination.

**The new Labour Code** respects the present obligations and regulations of the European Community, which the Czech Republic must fulfil based on international agreements and membership in the European Union. The rights of employee representatives (trade unions, employee committees and representatives for the area of safety and protection of health at work) are preserved. The Labour Code should have approximately the same impact on the business environment of the Czech Republic as the current legislation and should not have any negative social impact.

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**It is necessary to add that the association of employers would prefer an even more liberal form of the Labour Code. Employers are not satisfied with the following issues:**

- Employers would like to have a greater possibility to react flexibly to market conditions by adjusting the number and structure of employees with a shorter notice period.
- Employers also criticise the preservation of the power of trade unions. If, however, we take into account that only 15.5% of all employees are organized in unions and that union membership has been falling over the longterm, this argument loses its strength.
- The first 14 days of sick leave are paid by employers. Based on the experience of Slovakia, it can be supposed that this change will lower the rate of sickness as employers will have a personal interest in preventing illness among their employees.
- There will be a wage increase for work at night and during weekends, and for stand-by regimes.

**These are some of the specific changes in the new Labour Code:**

- If an employee receives notice of termination due to long-term incapacity resulting from illness, that employee shall be legally entitled to severance pay.
- Provisions on discrimination and direct references to equal treatment will be transferred from the Labour Code to a new anti-discrimination law.
- A new Act on Accident Insurance will cover work-related injuries and occupational health issues.
- The administration of travel expenses and other recoverables will now be included in the Labour Code.
- Changes in the definition of delivery of documents related to employment, including the use of e-mail, where previously only printed correspondence was acceptable.