

International Scientific Conference LABOUR LAW 2017 which took place in Třešť, on 11th–13th October 2017, on PERSONAL DATA PROTECTION, CIVIL SERVICE ACT, AND SOCIAL CIRCUMSTANCES OF EMPLOYMENT OF FOREIGNERS

The conference was officially opened at 6 p.m. on 11th October 2017 by a short welcome speech from Professor Zdeňka Gregorová of Brno, followed by a dinner for all conference participants. On October 12th, shortly after the opening of the first main conference day, JUDr. Vít Samek, deputy-chair of the Bohemian-Moravian Confederation of Trade Unions (Českomoravská konfederace odborových svazů) took the floor and informed conference participants of two significant publications issued by the Bohemian-Moravian Confederation of Trade Unions (ČMKOS) in 2017. The first of them concerns the Collection of Conventions of the International Labour Organisation ratified by the Czech Republic effective as of 1st January 2018 (Sborník úmluv Mezinárodní organizace práce ratifikovaných Českou republikou podle stavu účinného k 1. lednu 2018), and the second one is called *Svoboda sdružování* (Freedom of Association), 5th (revised) edition.

The Collection of Conventions I. “Conventions of the International Labour Organisation ratified by the Czech Republic” (Úmluvy MOP ratifikované Českou republikou) was introduced within a ČMKOS 2017 project called “Section 320(a) of the Labour Code I - Industry, education, work, society 4.0” (§ 320a ZP I. – Průmysl, vzdělávání, práce, společnost 4.0) which is funded from the state budget of the Czech Republic through the Ministry of Labour and Social Affairs of the Czech Republic.

During its existence (1919–2017) “the International Labour Organisation has adopted 189 conventions and six protocols containing international law obligations. Their content of course corresponds to their time of origin; thus some of them can be now, based on the current needs of the world of labour, considered obsolete and unsatisfactory. That is why the ILO returns to some issues, which results in the so-called “revised” conventions which overrule former conventions, bringing them up-to-date” (from the Preface, page 8).

“By 31st December 2017, the Czech Republic (together with Czechoslovakia, its predecessor) ratified 73 conventions and 2 protocols of the ILO, out of which 65 conventions and 1 protocol are binding on the Czech Republic; one protocol and eight conventions have been denounced” (ibid.).

The second paperback that JUDr. Samek introduced to conference participants is a book published first by the ILO in 2006 and translated into Czech by ČMKOS in 2017 called “*Svoboda sdružování*” (Freedom of Association). It is a digest of decisions and principles of the Freedom of Association Committee of the Governing Body of the ILO, 5th (revised) edition, 2006 (Sborník rozhodnutí a zásad svobodného sdružování formulovaných Výborem pro svobodu sdružování Správní rady MOP, 5. upravené vydání, 2006).

Since the publication of the previous issue of the digest of decisions and principles of the Freedom of Association Committee, “labour and industrial relations in all regions of the world have undergone deep changes related to the process of globalisation” (see Introduction, page 11).

The Freedom of Association Committee “has always kept adapting to the constantly changing surrounding world, although at the same time respecting immutable values of freedom of association which, due to the fact that they enable establishing organisations of employees and employers and entrust them with means to support and defend interests of their members, serve as a source of social justice and one of the main safeguards of sustainable peace. At the same time, the freedom of association is a necessary condition (*conditio sine qua non*) of tripartism which the Constitution of the International Labour Organisation establishes in its own structures and defends in the interest of its member states: without the freedom of association the idea of tripartism would lack any sense ... Since its adoption, the Constitution of the ILO has confirmed freedom of association; throughout the years the International Labour Conference has been adopting conventions, recommendations, and resolutions which represent the most important source of international law in this area, and whose principles are widely accepted and become part of the legal systems of many countries” (see Introduction, page 11).

Footnote 1) states that “Fundamental conventions on freedom of association and collective bargaining have been ratified by a very high number of states: the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No.87) got 145 ratifications by 1st January 2006, and the Right to Organise and Collective Bargaining Convention, 1949 (No.98) had 154 ratifications on the same date” (ibid.).

JUDr. Samek then distributed both publications among interested conference participants.

Both the books can also be inspected at the office of the study's office. The texts of both publications in Czech will also be available on the ČMKOS website.

In addition, a plenary session took place on 12th October 2017; it primarily focused on the impact of the latest labour law changes in Czech legislation. First, within the morning programme, Professor Jan Pichrt delivered his opening speech in which he briefly analysed the outcomes of the European Regional Congress of the International Society for Labour and Social Security Law organised by the Czech Society for Labour Law and Social Security Law.

The morning part of the plenary session, presided over by Professor Miroslav Bělina, focused mainly on the issues of the General Data Protection Regulation - Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data. The opening presentation was given by JUDr. Jakub Morávek, Ph.D., who introduced this Regulation; above all he paid attention to the sense and purpose of this legal regulation, and he also brought attention to some of its drawbacks, not only with respect to legal regulation of employment relationships. Mgr. Josef Prokeš from the Office for Personal Data Protection followed up, dealing with the issues of the legal concept of Data Protection Officer. Mgr. Hana Gawlasová from the Squire Patton Boggs global law firm reported on transnational companies' reaction to this Regulation.

The afternoon part of the conference focused on the issue of civil service. This part of the conference was presided over by Professor Jan Pichrt, with presenters being RNDr. Josef Postránecký, Deputy Minister of the Interior for Civil Service, Ministry of the Interior, Praha, who first informed conference participants about the amendment to Civil Service Act (Act No. 144/2017 Sb., which alters Act No.234/2014 Sb., as amended). The amendment became effective on 1st July 2017, bringing about 100 changes in total. The amendment to Civil Service Act was dealt with in greater detail by Mgr. Iva Hřebíková, Department Head, MoI Praha, and Mgr. Jiří Kaucký, State Secretary, MoI Praha. The issues of personal applicability of Civil Service Act and entitlement to pay upon wrongful termination of service contract was discussed by JUDr. Petr Machálek, Ph.D., Masaryk University Faculty of Law, Brno.

On the morning of Friday 13th October, the speakers dealt with social issues concerning sending employees on business trips. Mgr. Pavel Čížinský from the Multicultural Centre Prague (MKC Prague) discussed the topic of health insurance of foreigners, and JUDr. Gabriela Pikorová from the MoLS spoke about social security of third-country nationals.

From the legal point of view, according to Čížinský there are two basic systems of health insurance, namely:

- a) common health insurance, which is public and collective, whose participants are entities prescribed by law;
- b) commercial health insurance, which is purely a private law based relationship similar to the insurance of a car or a house.

The speaker then referred to two current Czech judicial decisions, namely the judgment of the Supreme Court of the Czech Republic regarding uninsurable new-born babies, Ref. No. 33 Cdo 2039/2015 of 22nd September 2016, and the judgment of the Constitutional Court of the Czech Republic No. P1 ÚS 2/15 of 3rd May 2017 regarding prematurely born twins whose parents are both Ukrainians.

In her presentation, PhDr. Pikorová first stated that to third-country nationals residing in the EU and whose situation is not limited to one Member State only, Regulation 1231/2010 applies, which means that Regulation No. 883/04 and Regulation No. 987/09 will be used. As far as the condition of “residing legally” is concerned, interpretation of this concept is not clear; the issue has been referred

to the Court of Justice of the European Union. The presenter also spoke about the question of issuance of the PD A1 form; this form certifies in which state a person is covered by social insurance within the scope of Regulation 883/04.

This part of the conference was chaired by Professor JUDr. Zdeňka Gregorová; among other things she announced that next year the conference will take place on 10th–12th October 2018.

All presentations were followed by extensive discussion.

The conference impact can be seen above all in the fact that it opened a wide range of questions at a level of high expertise. The conference investigated significant topics which at present create a stir in the legal profession.

In Prague on 30th October 2017

Petr Tröster*

* Professor JUDr. Petr Tröster, CSc., Faculty of Law, Charles University, Prague, Czech Republic