DISCUSSION

60 YEARS SINCE THE LABOR CODE (ACT NO. 65/1965 SB.) WAS ADOPTED AND PUBLISHED

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Abstract: *The article deals with the emergence of the first codification of labor law in the Czech legal environment, i.e. Act No. 65/1965 Sb., the Labor Code. The synthesis of archival and other research by colleagues (especially L. Vojáček, B. Havelková and V. Steinová) is supplemented by an interview with a direct witness to these preparatory works and co-author of the text of this code, Associate Professor Jarmila Pavlátová. The key complication in all three stages of the preparation of the Code had always been economic conditions, twice thwarting its adoption. The third time it passed – probably because due to simultaneous recodifications of other branches of law it was necessary for the economy to fill the gap in the legal regulation created by the disappearance of the classical contract for work from the legal system. The chosen means, agreements on work performed outside the employment relationship, has survived in Czech labor law to this day.*

Keywords: *labor law, 1965 Labor Code, legislation, socialist law*

INTRODUCTION

The Labor Code, approved unanimously by the National Assembly of the Czechoslovak Socialist Republic after a two-day debate on June 16, 1965, published under number 65/1965 Sb. on June 30, 1965, and effective from January 1, 1966, is a remarkable legislative act in many respects. Not only did it complete the Czechoslovak recodification efforts of the first half of the 1960s, following the adoption of a new constitution for the state whose name changed to "Czechoslovak Socialist Republic", but it was only with the entry into force of this law that the last remnant of the original Austrian General Civil Code (ABGB), which had previously governed the area of labor relations, ceased to be effective in the Czech lands. It is also a special testament to the time that it was not formally submitted as a government proposal, but rather as a proposal of a group of National Assembly deputies – leading representatives of the Revolutionary Trade Union Movement (ROH).[1] But it is also a work that marked the definitive establishment of the scholarly field of Labor Law in the Czech environment, to this day formimg an integral part of the curriculum not only at law schools, but also at other law-related faculties of Czech universities.

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[1] See the Minutes of the 6th meeting of the 4th electoral term of the National Assembly of the Czechoslovak Socialist Republic of 15 June 1965. In: *psp.cz* [online]. [2025-02-01]. Available at: <https://www.psp.cz/eknih/1964ns/stenprot/006schuz/s006002.htm>.

A number of textbook articles, scientific papers, and scholarly theses have already been written about the intricacies of its birth.[2] This paper aims to follow up on our predecessors and supplement them with further information, almost "from behind the scenes". That is because our key source are the memories of one of the authors of the final text of this first Czechoslovak Labor Code, and at the same time one of the founders of the finally fully established field of labor law, Associate Professor Jarmila Pavlátová.[3]

I. INITIAL POST-WAR SITUATION

After World War II, the legal order of liberated Czechoslovakia, as it was being restored, was characterized, in the area of labor law, by immense fragmentation, lack of clarity, and partly also archaic nature of existing legal regulations. This is well illustrated by the fact that the deregulation clause of the Labor Code, as finally adopted in 1965, enacted the repeal of eighty-three legal regulations or parts thereof (mainly laws, regulations, and decrees); the repealed legal acts included even ones that originated in the Austro-Hungarian period, especially Title XXVI of the 1811 General Civil Code (ABGB), as amended and supplemented by later acts; but also the Trade Licensing Code No. 227/1859 RGBl., Act No. 115/1884 RGBl., on the employment of young workers and women, on daily working hours and on Sunday rest in mining, Act No. 21/1895 RGBl., regulating Sunday and public holiday rest in trades, Regulation No. 160/1906 RGBl., on service at engines on overseas merchant ships, Regulation No. 180/1908 RGBl., on the regulation of working conditions of employees in lead and zinc factories, Act No. 9/1914 RGBl., on the service contract of persons appointed to higher-level services in agricultural and forestry enterprises (Act on Estate Officials), or Regulation No. 206/1914 RGBl., supplementing the provisions on service and supervision of steam boilers and steam engines; further 14 derogated regulations originated in the First Czechoslovak Republic. The core of the legal regime was still the regulation of the "service contract" from the ABGB, where (even after the amendment enacted during the First World War) only a few clauses (§§ 1151-1164) were devoted to it; in Slovakia, the previous Hungarian regulation, supplemented by Act No. 244/1922 Sb., similar in contents to the ABGB regulation, persisted. Furthermore, special legal regime applied to various special employment relationships (e.g. Act No. 189/1936 Sb., on the employment relationship of

[2] We must mention at least an article by L. Vojáček on this topic - VOJÁČEK, L. Když služební smlouva dosluhovala. In: Jan Dvořák – Karel Malý (eds.). *200 let Všeobecného občanského zákoníku.* Prague: Wolters Kluwer, 2011, pp. 230–240; his more general treatise on post-war Czech labor law – VOJÁČEK, L., SCHELLE, K., TAUCHEN, J. et al. *Vývoj soukromého práva na* území českých *zemí. II. díl.* Brno: Masaryk University, 2012, pp. 829–862; passages dedicated to labor law in a textbook by J. Kuklík et al. written by J. Rákosník – KUKLÍK, J. et al. *Dějiny* československého *práva 1945–1989.* Prague: Auditorium, 2011, esp. chapters IV.8. and XVII.; a comprehensive overview of labor law in communist Czechoslovakia by B. Havelková - HAVELKOVÁ, B. Pracovní právo. In: Michal Bobek – Pavel Molek – Vojtěch Šimíček (eds.). *Komunistické právo* v Československu. *Kapitoly* z *dějin bezpráví.* Brno: Masaryk University and International Institute of Political Science, 2009, pp. 478–512. In: *komunistickepravo.cz* [online]. [2025-02-01]. Available at: <http://www.komunistickepravo.cz/download/17_478-512_komunistickepravo-cz_Havelkova_Pracovni-pravo.pdf>; and also the doctoral dissertation of V. Steinová – STEINOVÁ, V. *Pracovní poměr* v *letech 1945–1965. Dissertation.* Brno: Faculty of Law, Masaryk University, 2019.

[3] The italicized paragraphs of this article are extracts from an interview with doc. Jarmila Pavlátová, which we conducted on February 28, 2025. Its recording is on file with the authors of this article.

editors) as well as to partial aspects of employment relations (e.g. Act No. 420/1919 Sb., on child labor). In the area of labor law, the legal order of liberated Czechoslovakia accepted even the oppression-era legal regulations – from the Protectorate of Bohemia and Moravia and the Slovak State.[4]

In the General Civil Code, in its original version, it was essentially one sentence: "Whoever undertakes to perform services for another..." Then, in the second half of the 18th century, the trade licensing regulations for some workers came about – in short, whoever was strong enough got something, and those who were not strong got nothing. The so-called senior employees in the business sphere had a 1934 law – but it was all based on the ABGB.

However, labor law as a distinct legal and pedagogical discipline existed mainly in proclamations and discussions, and the relevant matter was incorporated into a difficult-to-understand mixture of partial regulations.[5] Historians still have differing views on whether labor law was truly perceived as an independent legal discipline after World War II. L. Vojáček (referring to a V. Knapp study on the system of Czechoslovak law) states that at the latest after the February communist coup, *"labor law was clearly considered an independent branch of law;"*[6] on the other hand, B. Havelková (with reference to a M. Kalenská textbook from the late 1980s, but the statemets refrred can already be found in its 1981 edition)[7] explicitly connects the independence of labor law as a branch and field of law with legislative developments – according to her, *"it essentially emerged as an independent field only in connection with the codification of labor law*" and *"as a pedagogical and scientific research field*" it *"emerged*" (from civil law) only in 1965.[8] To wit, *the first* (as the authors themselves emphasize in its preface) textbook on Czechoslovak labor law was published, under editorial leadership of K. Witz, as late as 1967.[9] However, papers on partial aspects of this field had been published in scholarly periodicals long before that.[10] V. Kindl (with reference to an article by K. Litsch) states that a separate semester-long course in labor law had not been offered before the spring of 1953; a separate university department had not been established until 1990.[11]

I graduated from the Prague Faculty of Law in 1955. During our studies, we didn't really encounter labor law – it was a secondary, marginal subject. So someone from practice

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[4] See VOJÁČEK, L., SCHELLE, K., TAUCHEN, J. et al. *Vývoj soukromého práva na* území českých *zemí. II. díl.* Brno: Masaryk University, 2012, p. 877.

[5] In 1953, some 1300 were found to be existing – VOJÁČEK, L., SCHELLE, K., TAUCHEN, J. et al. *Vývoj soukromého práva na* území českých *zemí. II. díl.* p. 899.

[6] VOJÁČEK, L., SCHELLE, K., TAUCHEN, J. et al. *Vývoj soukromého práva na* území českých *zemí. II. díl.* p. 894).

[7] KALENSKÁ, M. et al. Československé *pracovní právo. Vysokoškolská učebnice.* Prague: Panorama, 1991.

[8] HAVELKOVÁ, B. Pracovní právo. In: Michal Bobek – Pavel Molek – Vojtěch Šimíček (eds.). *Komunistické právo* v Československu. *Kapitoly* z *dějin bezpráví.* p. 481.

[9] WITZ, K., et al. Československé *pracovní právo: vysokoškolská učebnice.* Prague: Orbis, 1967; however, a textbook by J. Kovařík is dated a year earlier – KOVAŘÍK, J. *Pracovní právo ČSSR.* Prague: Svoboda, 1966.

[10] Just by way of example we can refer to a publication retrospective published on the 70th anniversary of the Prague Law Faculty journal Acta Universitatis Carolinae – Iuricia, more specifically to the passage dedicated to labor law therein (Koldinská and Pichrt in MARŠÁLEK, P., PAVLÍČEK, V., SEDLÁČEK, M., WINTEROVÁ, A., ČERNÁ, S., PAUKNEROVÁ, M., KOLDINSKÁ, K., PICHRT, J., KOPECKÝ, M., BOHÁČ, R., VYBÍRAL, R., PELC, V., STEJSKAL, V., ŠTURMA, P., TOMÁŠEK, M. 70 let právní vědy na stránkách časopisu Acta Universitatis Carolinae Iuridica. *AUC Iuridica.* 2025, Vol. 71, No. 1, pp. 11–60, esp. pp. 30–35.

[11] KINDL, V. Ještě jednou o pokusu zřídit stolici dělnického práva na právnické fakultě Karlovy univerzity a jeho širších souvislostech. *Právněhistorické studie.* 2017, Vol. 46, No. 2, pp. 164–165.

would tell us something about labor law for one semester, and that was it. When we graduated in 1955, we were essentially the first three young assistants focusing on labor law: Igor Tomeš, Jan Kovařík, and me. And in addition, sometime around this time, Dr. Witz joined the Department of Civil Law (from practice or Acadmy of Sciences) as an assistant professor.[12] *And then, in 1955, we appeared. I got a placement at the University of Economics, in the Department of Law; Jan Kovařík was in the Department of Labor Economics; and Igor Tomeš was in the Department of Civil Law at the Faculty of Law. The three of us who had thus "gotten assigned" labor law began to meet in those years and discuss, furiously!, how to make something out of it. We were young, energetic – and cheeky. Our trio didn't last very long, though, because Igor Tomeš spoke perfect English, so he was sent to Geneva to the International Labor Office relatively soon thereafter as the representative of Czechoslovakia; he stayed there for several years and didn't return until shortly before 1968. For example, at the faculty, it never occurred to me that I would study labor law. For me, the grail saint was civil law!*

And, frankly, Czechoslovakia already had, at that time (and even earlier), one top professor of labor law, who started as an assistant to Sinzheimer, one of the fathers of European labor law, namely Professor Mestitz. But he did not participate in the preparation of the final form of the Labor Code because he was fired from the Bratislava faculty in the early 1950s. He only returned later; for example, he was the opponent for my habilitation thesis (which I defended on the day the Labor Code was approved by the parliament), but he could not get involved in legislative works. However, he praised my work immensely – he said that it was on par with top German scholarship. That was a huge honor for me!

II. FIRST STAGE OF PREPARATORY WORKS

The history of the Labor Code and labor law in legislative developments of the republic was specific at that time – unlike of other fields. Because in 1950, there was essentially a major recodification of the entire legal system, and then again in the 1960s, where it ended in 1964. In all those stages, a Labor Code was envisaged (and counted on) to be adopted, but it was very complicated. In 1950, only Section 12 of the Civil Code (Act No. 141/1950 Sb.) remained of this idea, establishing a lower age limit for eligibility to enter into employment. And otherwise, strangely enough, although the 1950 Civil Code repealed almost the entire 1811 General Civil Code (ABGB), part of Title XXVI remained in force, which concerned

[12] According to memories of I. Tomeš it probably occured a bit earlier – according to him, K. Witz was the head of the labor law section at the Department of Civil Law when he joined the department as a graduate – TOMEŠ, I. Vzpomínky na 60 let v oboru sociální politiky, správy a práva 1955–2015. Kristina Koldinská – Kateřina Šámalová (eds.). Prague: Karolinum, 2020, p. 12. Ota Ulč states that K. Witz, as a lecturer, had promised them that the Labor Code would be in force since the autumn of 1951 – ULČ, O. *Komunistická justice a třídní boj*. Prague: Stilus Press and Vojenský historický ústav, 2016, p. 214. Jaromír Tauchen states that K. Witz began giving lectures at the Prague Faculty of Law as an external lecturer in the academic year 1949/1950, and was a full-time employee there from October 1951; he became an associate professor on April 1, 1959, extraordinary professor in February 1968. He also states that in 1957 he was released to work on the second stage of preparations for the Labor Code, and also – but without further specification – that he *"participated significantly"* in the wording of the final Labor Code adopted in 1965. TAUCHEN, J. Karel Witz (*1907 – †1984). In: Karel Schelle – Jaromír Tauchen – Ondřej Horák – David Kolumber (eds.). *Encyklopedie* českých *právních dějin. XXV. svazek, Biografie právníků S-Ž*. Plzeň: Aleš Čeněk and Ostrava: Key Publishing, 2024, pp. 544–545.

– in today's terminology – employment contracts (then called service contracts). So this remained valid. And the ABGB was only finally abolished by the Labor Code. In Slovakia, the original Hungarian regulations remained in force. The republic gradually acquired a common legal order, but here, dualism persisted. And the justification was that the economic situation after the war was so bad that it was not possible to regularly ensure the rights that the Labor Code could bring.

The newly ruling Communist Party had long expressed, at least verbally, an interest in issuing a "code of labor" that would comprehensively and systematically regulate the issue that we today call "employment relationship".[13] It is therefore not surprising that work on its preparation was underway already during the "legal two-year period,"[14] although – unlike the recodifications of other branches of law – it was not completed by adoption of this code. Ultimately, the preparatory works on the Labor Code took place in three stages.[15] The first stage actually began in 1948, when the government issued a resolution in August stipulating that the Labor Code should be drafted by October 28, 1950. The second phase was started at the turn of 1956–1957, and the third phase of preparatory works began in 1962.

In the first stage, the Ministry of Labor Protection and Social Welfare (its name, however, changed over time) was the guarantor of the preparation of labor law codification; however, the codification itself was managed by a special codification commission for labor law under the legal council of the Communist Party of Czechoslovakia. It had 16 members (comprising three ministerial officials, two communist deputies, and representatives of the Central Trade Union Council, national enterprises, and the United Union of Czech Farmers) and met for the first time on August 27, 1948.[16]

A special "Section Code of Labor" was established within the VIIth Department of the Ministry of Labor Protection and Social Welfare, consisting of six lawyers and six expert subcommittees. These expert subcommittees were established for employment relationship (chief clerk Dr. Witz), for employee protection (Dr. Kotek), for work management (Dr. Slíž), for ROH and company employee deputy board (dr. Albert), for labor disputes (Dr. Majzner), and for supervision and organization of work administration (Dr. Slíž).[17]

The subcommittees were first aked to develop the "Principles for the Labor Code", and according to the political assignment, the employment relationship was to be the central tenet of this future codification. The codification was to be universal and apply to all employees; however, it was also to meet the needs of the "road to socialism", which the new "people's democratic" regime set as its main task. It was not intended to be a ca-

[13] See KUKLÍK, J. et al. *Dějiny* československého *práva 1945-1989. p.* 157.

[14] The pre-works started even earlier – in June 1946, the government ordered the Minister of Social Welfare to submit a "draft of the Code of Labor" by the end of the year; however, given the zero status of previous legislative work, this requirement has been assessed as *"entirely unrealistic*" – VOJÁČEK, L., SCHELLE, K., TAUCHEN, J. et al. *Vývoj soukromého práva na* území českých *zemí. II. díl.* p. 878).

[15] This procedure is very well documented from archival sources by L. Vojáček in his article VOJÁČEK, L. Když služební smlouva dosluhovala. In: Jan Dvořák – Karel Malý (eds.). *200 let Všeobecného občanského zákoníku.* pp. 233–240. Here, we also mainly draw on this article of his.

[16] VOJÁČEK, L. Když služební smlouva dosluhovala. In: Jan Dvořák – Karel Malý (eds.). *200 let Všeobecného občanského zákoníku.* p. 234.

[17] Ibid.

suistic regulation, nor was it intended to be a mere framework code leaving the detailed regulation to subordinate acts. Already at this stage the requirement that the regulation be clear and understandable even to laypeople appeared.[18]

The original version of the "Principles for the Labor Code" addressed the following topics: employment relationships; employment relationships with special conditions; protection of life and health of employees; professional preparation of workers; work management; home work; trade union and company employee deputy council; disciplinary offenses; provisions for cases of incapacity for work; labor disputes; state supervision; authorities and organizations performing tasks in the field of labor law; and criminal provisions. However, mainly the issue of employment relationship was discussed therein in more detail.[19]

This original version of the principles, prepared by the subcommittees of the "Section Code of Labor", was sent by the codification commission to the Central Council of Trade Unions (ÚRO) at the beginning of 1949 for assessment, where it was then almost immediately assessed by the wide-ranging "codification subcommittee for the Labor Code at the Social Political Commission", which took a different position on a number of issues. For example, it expressed reservations with respect to the definition of an employment relationship, proposed emphasizing the role of the employment contract, or sought (understandably, yet in the context of the emerging totalitarianism still quite courageously) to strengthen the position of trade union bodies, etc.[20] It described the employment relationship as *"a legal terminus technicus whose familiarity is obscured by its one-sidedness, which necessarily leads to an excessive emphasis on the employee's duties, to decreeing, and cannot in any way determine the employee's job function in the company, nor the dispositive function, the organization of work by the employer"*.[21] In general, however, Vojáček points out that the documentation of the proceedings of this trade union subcommittee shows that its activities were carried out in a surprisingly creative atmosphere, in which, in addition to ideological arguments, sober professional argumentation also appeared.[22]

After incorporating the comments, the ministerial department "Labour Code" and its auxiliary bodies gradually created new versions of the Principles, and on the basis thereof the preparation of individual parts of the Code, the explanatory memorandum, and implementing regulations began. The trade union bodies, however, did not send their representatives to the reorganized subcommittees at the turn of 1949 and 1950 for a prolonged period, the cooling of interest was also noticeable among political bodies – and so the paragraphed text of the entire code was ultimately not drafted. First, the original date was postponed by a year, then to the end of the 1951 calendar year.[23] The basic approach of the regulation also changed continuously: from the original relatively democratic an-

[18] Ibid. See also the archival materials mentioned therein.
[19] Ibid. See also the archival materials mentioned therein.
[20] Ibid, p. 235.
[21] Zpráva o činnosti kodifikační subkomise při sociálněpolitické komisi ÚRO, p. 4. As cited in VOJÁČEK, L. Když služební smlouva dosluhovala. In: Jan Dvořák – Karel Malý (eds.). *200 let Všeobecného občanského zákoníku.* p. 235.
[22] Ibid.
[23] Ibid.

choring of contractual freedom it began to move, around mid-1950, towards restricting the free movement of labor.[24] In September 1951, the central state administration bodies were reorganized, inter alia abolishing the Ministry of Labor and Social Welfare (with only parts of its competences transferred to the Ministry of Workforce), and work on the code subsequently halted for a while,[25] although they did continue for several months under the authority of the Central Council of Trade Unions and were only formally terminated by a resolution of the Presidium of the Central Council of Trade Unions on September 18, 1952.[26]

There was no Ministry of Labor at that time. There was a Ministry of Workforce, whose task was to recruit people for work, not to address their rights. This concerned, for example, the workforce for Ostrava – nobody wanted to go there. Ostrava had a lot of preferences – in housing construction, wages, and the like – but for instance, it didn't have jobs for wives.

III. SECOND STAGE OF PREPARATORY WORKS

The second stage of preparatory works on the Labor Code began at the turn of 1956 and 1957,[27] as a follow-up to a series of conferences and meetings that once again emphasized its necessity.[28] This time, the preparatory work was managed from the beginning by the Central Council of Trade Unions. Again, working bodies (workgroups, commissions) were established for this purpose, and again the results of the work were discussed with the ministry – now the Ministry of Workforce as mentioned above. The latter was critical at this stage, just as the trade union bodies had been in the previous one.[29]

I finished my studies in 1955, so I was already there when the second version of the Labor Code began to be discussed very intensively. There was a lot of discussion, there was immense interest, it was generally said that it was very well prepared.

In this stage the Central Council of Trade Unions even managed to draft a paragraphed version of the Labor Code and its implementing regulation, as well as "explanatory notes," i.e. a kind of an explanatory memorandum to both acts. This time, the structure of the proposed text was different than what had been imagined in the first stage. In particular, the criminal provisions, criticized already in 1949, were deleted. The labor code was to consist of seven parts: Basic provisions, Labor relationships, Apprentice relationships, Employee care, Collective agreements, Trade union organization and Transitional and final provisions.[30]

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[24] STÁTNÍK, D. *Sankční pracovní právo v padesátých letech. Vládní nařízení o opatřeních proti fluktuaci a absenci č. 52/1953 Sb. Studie.* Prague: Ústav pro soudobé dějiny AV ČR, 1994, p. 38.

[25] VOJÁČEK, L. Když služební smlouva dosluhovala. In: Jan Dvořák – Karel Malý (eds.). *200 let Všeobecného občanského zákoníku.* p. 236

[26] STÁTNÍK, D. *Sankční pracovní právo v padesátých letech. Vládní nařízení o opatřeních proti fluktuaci a absenci č. 52/1953 Sb. Studie.* p. 46.

[27] VOJÁČEK, L. Když služební smlouva dosluhovala. In: Jan Dvořák – Karel Malý (eds.). *200 let Všeobecného občanského zákoníku.* p. 237.

[28] STEINOVÁ, V. *Pracovní poměr* v *letech 1945–1965. Dissertation.* Brno: Faculty of Law, Masaryk University, 2019, pp. 2019–210.

[29] VOJÁČEK, L. Když služební smlouva dosluhovala. In: Jan Dvořák – Karel Malý (eds.). *200 let Všeobecného občanského zákoníku.* p. 237.

[30] Ibid.

Legislative optimism was considerable at this stage – it was assumed that the code would be prepared in time to enter into force on January 1, 1958.[31] However, the Presidium of the Central Council of Trade Unions later decided that this deadline was unrealistic and to simply submit the proposal to the plenary meeting of the Central Council of Trade Unions in December 1957. However, neither this actually happened in the end, and the proposal was again put ad acta, citing the economic unpreparedness of the economy for working conditions to be unified in an upward direction – for political reasons, it was highly undesirable to introduce a lower, uniform standard that would mean a deterioration in the position of large groups of employees, as compared to the previous period.[32]

Sometime in 1956–1957, we were there when the second version of the labor code that was being prepared – it was about to go to the parliament. I remember a huge conference at the Carlton Hotel in Bratislava, with hundreds of participants from academia and practice. One speaker after another, boasting about how wonderfully prepared it is, how well thought out it is, etc. Dr. Vejvoda, head of the Union of Production Cooperatives, was sitting next to me. So we sat there, listening, talking... Suddenly, a car pulled up in front of Carlton, the door slammed, Mr. Jíra from the Central Council of Trade Unions strode into the hall with thunderous steps, and Vejvoda poked me and literally said: "Girl, now you watch how it gets kicked under the rug!" I thought to myself: "He must be out of his mind, that's not possible! Everyone is praising it, how amazing it is…" Well, Jíra steps up to the microphone and says: "Well, comrades, the proposal really needs to be praised, it is excellently prepared, all credit due. But comrades, do we really have the money to do it? Can we really give all employees the same superior rights?" Vejvoda looked at me, I looked at him, and the Labor Code went under the rug.

Thus the second attempt to create and adopt a Czechoslovak Labor Code also failed, once again for "economic reasons."[33] This time, however, the objective facts indicate that it was a proxy reason.

The developments of the years that followed refuted this argument. If we take the official gazette from those years, essentially almost all that was in the second version of the draft Labor Code appeared in those years, in one form or another, in partial laws – the Working Hours Act, the Damage Compensation Act, the Vacation Act... Suddenly, everyone could simply have the same vacation, working hours applied to everyone, etc. In short, a lot of these partial laws were issued in the late 1950s. Just the employment contract – not a single word. There, the ABGB still ruled the day.

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[31] STEINOVÁ, V. *Pracovní poměr* v *letech 1945–1965. Dissertation.* p. 210. Tauchen also states the same – along with the fact that K. Witz personally participated in this stage of preparations, having been released from his position at the Prague Faculty of Law for this purpose. TAUCHEN, J. Karel Witz (*1907 – †1984). In: Karel Schelle – Jaromír Tauchen – Ondřej Horák – David Kolumber (eds.). *Encyklopedie* českých *právních dějin. XXV. svazek, Biografie právníků S-Ž.* pp. 545.

[32] VOJÁČEK, L. Když služební smlouva dosluhovala. In: Jan Dvořák – Karel Malý (eds.). *200 let Všeobecného občanského zákoníku.* p. 238.

[33] Also refered to by the aforementioned first Czechoslovak labor law textbook – codification work was allegedly *"interrupted because economic conditions did not yet allow the unification of regulations at an adequate level"* (WITZ, K. et al. Československé *pracovní právo: vysokoškolská učebnice.* Prague: Orbis, 1967, p. 52, note 5).

I then got into some pretty heated discussions. And from those discussions, I quickly realized that the issue was something completely different. A "section 13". That terrible thirteen! Over time, we figured out that this was Section 13 of Decree of the President of the Republic No. 88/1945 Sb. on "work duties". If I were to divide its contents, the decree would have two parts. The first was that in the post-war period, when there was terrible trouble somewhere, they could herd people there. And Section 13, that was the second part, stipulated that the establishment and termination of a labor relationship requires the consent of a state authority (later the County National Committee, originally it was called something else) – in short, state consent was required. In other words, the employer had to request consent to hire or fire employees. But over time, a practice developed that turned it into a very formal provision. And a relatively significant number of employment relationships had also begun to occur that had been created without this consent. Then, when the employee started to object, rebel, or otherwise show dissatisfaction, employers started saying that the employment relationship didn't actually exist. So here was illegal work in a different form than we know it today – labor relationships that did not arise legally. The professional community was very opposed to this: the employer fails to comply with the law, and who will bear the brunt of it? The employee. And that was one of the big problems of the third stage of preparations for the Labor Code.

IV. THIRD STAGE OF PREPARATORY WORKS

The third stage of preparations of the draft Labor Code was again done under the responsibility of the Central Council of Trade Unions.[34] In the early 1980s, Z. Jičínský characterized it by saying that the path to its adoption opened at a time of growing economic contradictions and social tension, for which the Labor Code could have been a viable political solution.[35] Although B. Havelková also draws attention to the economic problems of the early 1960s,[36] Jičínský's interpretation may be exaggerated, and it also overlooks other concurrent legislative recodification work. Nevertheless, the Central Committee of the Communist Party of Czechoslovakia, in its resolution of December 8, 1960, on the issues of further strengthening socialist legality and the popularization of the judiciary, specifically commissioned the Central Council of Trade Unions to prepare and submit a draft Labor Code.[37] And it was in these works, in the narrowest circle of authors under the leadership of the head of the labor law department of the Central Council of Trade

[34] Tauchen states that K. Witz also participated in this stage – he *"had always cooperated closely with the Central Council of Trade Unions in the preparation of labor regulations and its fundamental positions."* TAUCHEN, J. Karel Witz (*1907 – †1984). In: Karel Schelle – Jaromír Tauchen – Ondřej Horák – David Kolumber (eds.). *Encyklopedie* českých *právních dějin. XXV. svazek, Biografie právníků S-Ž.* p. 545. However, in the interview J. Pavlátová does not mention any direct involvement of Witz – at least not in the works of the narrowest working group of which she was a member; however, given the very extensive "nationwide discussion" on the draft Labor Code, which we mention below, it is obvious that he was involved in its preparations – but the question to what extent remains unanswered.

[35] JICÍNSKY, Z. *Právní myšlení v 60. létech a za normalizace.* Prague: Prospektrum, 1992, p. 43.

[36] HAVELKOVÁ, B. Pracovní právo. In: Michal Bobek – Pavel Molek – Vojtěch Šimíček (eds.). *Komunistické právo* v Československu. *Kapitoly* z *dějin bezpráví.* p. 490.

[37] Ibid., JIČÍNSKÝ, Z. *Právní myšlení v 60. létech a za normalizace. p.* 43; BĚLINA, M. et al. Československé *pracovní právo. Skripta pro posl. Právnické fakulty. Univerzity Karlovy.* Prague: Univerzita Karlova, 1990, p. 26.

Unions, dr. Vladimír Mařík, that the (later) associate professor Pavlátová finally participated.

In addition to his normal work in trade union issues and the like, Dr. Mařík was given the special task of preparing the labor code. He had the department divided into sub-departments, and he immediately understood that he couldn't manage this with current numbers of workers (they would be missing elsewhere), but he also couldn't hire new ones – that would be a problem of a different sort. So he made a tour of the relevant authorities and managed to be given permission to "pull in" some specialists from elsewhere. And that is what he did.

I had already been involved in labor law for some time then, and I had said to myself, "this just cannot be that this code wouldn't be adopted someday." And I had wanted to be there when it did. It was a practice that assistant professors who went straight to school (like me) had to gain some practical experience during their academic career. And I made up my mind that I wanted to do an internship at the Central Council of Trade Unions (ÚRO). "Who else could possibly be preparing the labor code?" I wondered. They approved my internship, and it was easy for me because the ÚRO building was right next to the University of Economics. So I had an internship there for about half a year, continued to teach "next door," and went in and out as I pleased.

And when Dr. Mařík was given the opportunity to get some experts to prepare the Labor Code, he asked for me, someone from the Ministry of Justice (so that there would be no problems in the legislative sphere) – it was Máša Svatošová (subsequently Týcová), and later Marie Kalenská[38] *joined as well. And he also came with the idea it wouldn't be the ÚRO that would pay them, but their current employers. This created a group of 8 to 10 people who actually prepared the draft Labor Code.*

According to archival materials, real work on codifying the Labor Code began in 1962. As early as in January 1963, the Central Council of Trade Unions submitted for public discussion the "Principles of the Labour Code of the Czechoslovak Socialist Republic", capturing the contents of the future code in a condensed form.[39] Although the discussion lasted for only about 6 weeks (until February 24, 1963), it was truly extensive – *"in a total of 2 277 plants, 237 activation meetings of the Revolutionary Trade Union Movement, in all central bodies, in regional and district national committees, in 1 334 trade union bodies, in selected production and consumer cooperatives and unified agricultural cooperatives*", over 750 000 workers participated in it, submitting around 22 000 (albeit often duplicate) comments.[40]

[38] She was subsequently considered the founder and doyenne of the (later established) Department of Labor Law (and the modern field of labor law in general) at the Faculty of Law of Charles University in Prague. See ŠTANGOVÁ, V. Marie Kalenská. In: Karel Schelle – Jaromír Tauchen – Ondřej Horák – David Kolumber (eds.). *Encyklopedie* českých *právních dějin. XXIV. svazek, Biografie právníků* K – Ř. Plzeň: Aleš Čeněk and Ostrava: Key Publishing, 2023, pp. 53–54.

[39] VOJÁČEK, L. Když služební smlouva dosluhovala. In: Jan Dvořák – Karel Malý (eds.). *200 let Všeobecného občanského zákoníku.* p. 239.

[40] STEINOVÁ, V. *Pracovní poměr* v *letech 1945-1965. Dissertation.* p. 211; similarly, with reference to Kalenská, also HAVELKOVÁ, B. Pracovní právo. In: Michal Bobek – Pavel Molek – Vojtěch Šimíček (eds.). *Komunistické právo* v Československu. *Kapitoly* z *dějin bezpráví.* p. 490. However, Kalenská herself, in the last "socialist" textbook published in 1990, lists an order of magnitude more, over 150,000 comments. Kalenská in BĚLINA, M. et al. Československé *pracovní právo. Skripta pro posl. Právnické fakulty. Univerzity Karlovy.* p. 27.

In that first stage, we were told to develop the principles of the Labor Code. I imagined the principles of the Labor Code to be about two pages long – but it was extensive! Individual sections, the basic general idea, it was even published. And that became a national debate. The Labor Code was prepared by the ÚRO, and that had grassroots organizations everywhere. Over time, it became more or less clear that people supported the preparation of the Labor Code.

The party and the government – they were above us. We knew it had to be perfect, the top top top. That it must correspond to the Constitution, socialism built up, the ILO (we were on the ILO blacklist for years due to forced labor), ... Simply put, something was written, Mařík then ran off somewhere with it, and when he returned, he gave further instructions ("continue", "this probably wouldn't work", etc.). So any political feedback we had came through him.

And as for the general assignment, it was "to develop a modern labor code that would meet international requirements and include socialist principles." We were not allowed to harm socialism, and we had to ensure that the world would not curse us.

According to archival reports, the actual text of the Code was prepared by five working groups and two working subgroups (for statistical and economic analyses and for labor force regulation), whose members were *"employees of the Central Council of Trade Unions, the Office of the Presidency of the Government, the State Planning Commission, the State Wage Commission, ministries, the Slovak Trade Union Council, central committees of trade unions, the Czechoslovak Academy of Sciences, law faculties, economics faculties, officials of the Revolutionary Trade Union Movement and economic workers from plants."*[41] But how does a direct participant in these works remember this?

Mařík came up with the idea of creating pairs: one internal staff member, one external. He wrote out the contents and divided who was responsible for what. There were also excellent legislators there – Urbanec, Bernard. It was Franta Bernard and I who were tasked with drafting employment contracts, i.e. the employment relationship (i.e. the very core of the matter), later also agreements on work performed outside of the employment relationship, and of course we also participated in discussions on general provisions. At that time, I defended my CSc dissertation on the issue of termination of employment – I did a lot of thinking about what it should look like, also based on materials I obtained from Geneva. So I was the one who came up with ideas, and Franta Bernard knew how to write them down. And I don't know about others, but we started "from scratch" in the area of employment contracts – we didn't build on previous legislative work. When it comes to employment contracts – their creation, termination, etc. – there was nothing to actually draw on, really; maybe the drafts from previous stages but we did not have those at our disposal. In other areas (working hours, vacation, wages, etc.) there were special laws, and from practice it was known what worked and what didn't.

The atmosphere was excellent – after all, Máša Týcová got married there. Individual pairs prepared their own materials, but the entire working group continuously discussed them. Dr. Mařík was quite tolerant: he let us use our imagination, but we weren't allowed to go leak it anywhere!

[41] VOJÁČEK, L. Když služební smlouva dosluhovala. In: Jan Dvořák – Karel Malý (eds.). *200 let Všeobecného občanského zákoníku*. p. 239.

The economic aspect of the proposed rules was also assessed under the direction of the Central Council of Trade Unions; according to Vojáček, *"the meeting between the scientific council of the Prague Faculty of Law and the labor law commission of the Central Council of Trade Unions on employment issues also contributed to resolution of some problems."*[42] Statistical methods and procedures were also used, although the data available were not always entirely up-to-date (mostly from 1961, but from 1960 for working hours and from 1959 for working conditions of women).[43]

The Central Council of Trade Unions had the draft legislative text of the Code ready in the autumn of 1963.[44] The original plan to have it take effect on January 1, 1964 was abandoned – again, unsurprisingly, for economic reasons; this time, however, it was not just a general "do we have the money?" question, but rather the issue of planned systemic changes.[45] Or also other, non-economic reasons:

My suspicion was confirmed that it was never really about economic problems – about paying people what they should get – but about terminating employment relationships. That they were not willing to allow people to move freely in the labor market.

However, the Labor Code was actually pushed to the finish line at the third attempt – we will get to further vicissitudes when we look at its content. It was not submitted as a bill by the government, but by a group of deputies who were also trade union officials.[46] In the parliamentary discussion, V. Knapp also spoke, describing it as follows:

"The Labor Code, based on the current development of our society and the development of socialist labor law itself, (...) not only abandons words, but also builds (...) labor law on a new, socialist foundation, as it has been developing in our society for years. It builds it on the foundation of socialist democracy; it sees the worker in dialectical unity as the one who invests labor power in the social labor process, but at the same time as a participant in the community to which the means of production belong, and it also ensures the proper participation of workers in the management of common affairs in the spirit of Article 11(3) of our Constitution. It gives full expression to what is often said, that a worker in the work process is not only an employee, but also a goodman of a common work, a goodman of his workplace."[47]

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[42] VOJÁČEK, L. Když služební smlouva dosluhovala. In: Jan Dvořák – Karel Malý (eds.). *200 let Všeobecného občanského zákoníku.* p. 239.

[43] Ibid.

[44] WITZ, K., et al. Československé *pracovní právo: vysokoškolská učebnice.* p. 52; see also VOJÁČEK, L. Když služební smlouva dosluhovala. In: Jan Dvořák – Karel Malý (eds.). *200 let Všeobecného občanského zákoníku.* p. 239.

[45] HAVELKOVÁ, B. Pracovní právo. In: Michal Bobek - Pavel Molek - Vojtěch Šimíček (eds.). *Komunistické právo* v Československu. *Kapitoly z dějin bezpráví. p.* 490. A contemporary textbook states that the *"preparation of the final proposal was postponed until approval of the principles of the improved direction system*" (which occurred in January 1965) precisely because *"at that time, a discussion was launched on improving the planned direction of the national economy"* – WITZ, K. et al. Československé *pracovní právo: vysokoškolská učebnice.* p. 52.

[46] Minutes of the 6th meeting of the 4th electoral term of the National Assembly of the Czechoslovak Socialist Republic of 15 June 1965. In: *psp.cz* [online]. [2025-02-01]. Available at: <https://www.psp.cz/eknih/1964ns/stenprot/006schuz/s006002.htm>.

[47] Minutes of the 6th meeting of the 4th electoral term of the National Assembly of the Czechoslovak Socialist Republic of 16 June 1965. In: *psp.cz* [online]. [2025-02-01]. Available at: <https://www.psp.cz/eknih/1964ns/stenprot/006schuz/s006017.htm>.

Although no earlier than in June 1965, the National Assembly nevertheless did approve the Labor Code; it was published under No. 65/1965 Sb., effective from January 1, 1966.

We were on the ILO blacklist for years because of forced labor. So, every now and then, we had to write to Geneva saying, yes, we have such a Section 13, but it is already being worked on. And the fact is that when the code was adopted, Geneva praised it, it was extremely satisfied.

The government also issued implementing regulation No. 66/1965 Sb., which in 64 paragraphs detailed the regulation of the establishment, changes, and termination of labor relationship, work discipline, hours of work and rest periods, recovery leave, wages, wage compensation and reimbursement of expenses, obstacles at work, safety and health protection at work, and other issues.

This government implementing regulation was created in parallel with the Labor Code and in cooperation with us.

V. THE LABOR CODE ITSELF

The 1965 Labor Code consisted of a preamble, basic principles set out in ten articles numbered with Roman numerals, and six main parts divided into 280 sections (marked by §). As already mentioned above, in line with the rest of the legal system, it contained a departure from common and established terminology: the terms "employee" and "employer" were replaced by the terms "worker" and "socialist organization". As Vojáček also states, according to party ideologists, the traditional designations of "employee" and "employer" no longer adequately reflected the new quality of the labor relationship, which had ceased to be antagonistic: workers could actively participate in the management of both "their" enterprise and the entire national economy; enterprises were no longer in the hands of a private owner, but *"the property of all the people."* For this reason, the terms "worker" and "organization" began to be used. Let us add that, according to Vojáček's research, the proposal to change the designation of subjects of the employment relationship had been made, in the context of the preparations of the Labor Code, as early as 1949, but back then it had been rejected precisely because the conditions described in this way had not yet been created at that time.[48]

The legal system did not know the concept of a "legal person"; the term employer was not used, but rather "organization" (meaning "socialist organization"); not "employee", but rather "worker". But otherwise, it was "business as usual," so to speak.

In terms of contents, I personally dealt with two problems. One was the issue of terminating the labor relationship, which was also the topic of my CSc dissertation (about 500 pages). Among other things, I also tried to come up with reasons there – I assumed that it must not be without a reason given. And the second thing was that the full concept of invalidity as per the Civil Code is not fitting: the employer violates something, and the employee bears the brunt. It just cannot be that way! And that was my habilitation thesis: labor law and invalidity.

[48] VOJÁČEK, L. Když služební smlouva dosluhovala. In: Jan Dvořák – Karel Malý (eds.). *200 let Všeobecného občanského zákoníku*. p. 237.

The problem with invalidity was also that the employment contract was camouflaged (and continues to be camouflaged) as a contract for work. Although corresponding to an employment relationship in terms of contents, it was called a contract for work. The logical reason was that, by the plan of works, companies had a precisely defined number of workers. When a company didn't have that many employees – trouble. But one more than assigned: disaster! And so they made contracts for work. Such a "worker" would then take the money, and if there was no trouble, nothing would happen. But if there was an injury, there it was: was it a work-related injury or not? It was at work, but the employer defended itself by saying there was no employment relationship there.

The preamble contains a brief ideological text, which primarily states that:

"To further develop and strengthen social labor relations, it is necessary to regulate relations in the field of social work based on the principles enshrined in our socialist constitution by a new and comprehensive uniform labor code, which will contribute to the completion of the socialist legal order and to the strengthening of socialist legality. The socialist state determines the conditions for work, regulates the mutual relations between workers and socialist organizations, outlines their mutual obligations, and guarantees the rights of workers in accordance with the interests of society as a whole."

This also proclaimed the purpose and function of the Labor Code. It was followed by ten articles of basic principles which were intended to express the most important principles of labor law. The actual text of the code was divided into six parts: General provisions, Employment relationship, Apprenticeship relationship, Agreements on work performed outside of employment relationship, Common provisions, Final provisions – with the second part, devoted to employment relationship, being by far the most extensive and containing roughly two-thirds of all provisions of the Code. Annexed to the Labor Code there was the Resolution of the 4th All-Union Congress on Plant Committees of Basic Organizations of the Revolutionary Trade Union Movement with amendments and supplements made by the resolution of the State-wide All-Union Conference in May 1965 – a quasi-legal document that (in its original version) was declared a source of law by a brief Act No. 37/1959 Sb.[49]

The Communist Party had a theory of transferring state powers to non-state institutions.[50] *Trade unions were an extremely strong organization – that's why the labor code was being prepared by the Central Council of Trade Unions. It was 1959, the 3rd All-Union Congress, the unions felt strong – and came up with a resolution giving them an unimaginable range of powers. And the state then simply approved it as a legal act. The state gave up on it.*

[49] This law cannot be called anything other than the Czechoslovak parliament's resignation on legislative activity, or rather its capitulation to the very powerful trade unions: in its only substantive Section 1, it only laconically stipulates that the defined social relations "shall be governed" by the trade union resolution reprinted in the annex. Similarly, in a laconic and legislatively inappropriate manner, the Labor Code, in the last paragraph of its penultimate section, stated that the aforementioned law "remains in force", with the resolution as amended – as provided in the annex to the Labor Code – forming the annex thereof.

[50] As manifested by the very fact that, for a long time, there was no Ministry of Labor and the "care for labor law matters" was in the hands of the Central Council of Trade Unions. BĚLINA, M. et al. *Pracovní právo. 3rd ed.* Prague: Všehrd, 1994, p. 28.

As we have already mentioned, the Labor Code also completely or partially repealed 80 legal acts, headed by the last remnants of the ABGB. One of the "surviving" provisions of the 1950 Civil Code was also repealed – however, its two remaining provisions remained part of the Czechoslovak legal system until the end of 1991, when they were finally repealed by the Commercial Code.[51]

The Labor Code had 4 types of labor relationships: employment relationship, apprenticeship relationship, agreement one, agreement two. We did it in a way that made it clear: so the four types are strictly separate, and what is common – common provisions. And so we got rid of the problem with the Civil Code (which was eventually just some "services law" anyway).

– So you were actually forced by the final concept of the Civil Code to also draft the general part of the Labor Code?

– Well, to be honest, we would have done it anyway. Let's be fair. But then we got it sanctified from above.

The legal regulation of labor relations implemented by the Labor Code with effect from January 1, 1966 thus represented the culmination of the process of codification of labor law. The Labor Code eliminated the persistent prior differentiation of legal regulation of employees performing different types of work and created a uniform legal regulation of relations between employees and employers. In addition to the general employment relationship, there was only an apprenticeship relationship for apprentices and the two agreements on work performed outside the employment relationship. This unification was also ideologically conditioned: it was an expression of an economic and social system with the same relationship of all citizens to the means of production, and thus the possibility of equal status for citizens in the labor process. The Labor Code comprehensively regulated almost all issues of labor relations. And agreements on work performed outside of an employment relationship, a legal innovation introduced into (not only Czechoslovak) labor law by this Code, may have ultimately played a key role in its creation and adoption.

The fact is that there was more or less an effort to make a good law. To include everything that was possible – and us fanatics wanted it to be a kind of labor law "civil code". So that it wouldn't be like the Russian one – that one was really terrible. Meanwhile, others (Poles, Bulgarians, etc.) essentially copied the Russian code. But if there were any pressures in this direction – I don't know about them.

The Civil Code essentially helped us with the final form of our code. Because the basic legislative problem at the time was not in labor law – we were creating beautiful labor law, according to our ideas. A really bitter argument was about whether the Civil Code should be a true civil code, or whether it should be divided into two parts: the Civil Code, which regulates state services provided to citizens, and the "Economic Code" - on cooperation between enterprises. For a long time, it was unclear how it would turn out, but in the end, the second option won – so the "Civil Code" was not a civil law code after all, it represented only a part of what we would today call private law (which was also not allowed at the time). Family law, but especially economic law, was separated from it. So

[51] These were Section 22 on protection of the name and Section 352 on unfair competition.

there was no "contract of sale", but rather "the sale of goods in a store", the "delivery and collection of products", ... Socialist ownership – Economic Code; private ownership – Civil Code. And this was reflected in all contracts. However, while the contract of sale only broke into two pieces, the contract for work broke into three pieces: a company to a company – economic contracts (e.g. construction); the state as a provider of a service to a citizen (repairing an item, tailoring clothes, ...); but where do we have the opposite – a citizen as a provider of a service to the state (or a company – those were all already state-owned)? And suddenly, companies did not have a contract for work that could be used to provide for additional workers. So the question was, what to do with the labor–law third of the contract for work.

This emerged sometime during the legislative work – it certainly wasn't at the very beginning. And so the agreement to perform work began to emerge as a kind of offshoot of the employment contract. But when it was already being done, we thought: well, what about those village pubs? For those, neither is really suitable. So, the agreement on work activities also began to emerge. Franta Bernard and I "got" both agreements – we argued a lot around them. It was clear to both of us that it was not easy at all. And both of these agreements actually came about precisely because the contract for work was nowhere to be found. A Czechoslovak unique feature. When the Labor Code was ready and done, and we would meet with someone from abroad and had to explain to him what these were – an immense problem. But somehow we managed.

Everything that was produced (the criminal code, the civil code, etc.) went to parliament – the labor code did not. "Comrades, we don't have the resources..." Again. But: this time it didn't go so smoothly. The enterprises discovered that there is no contract for work for them, and the roar began: "Comrades, this cannot stand!" They quickly called up our commission: "Make it up however you want, but it has to be done!" So we quickly finalized the agreements and it went to parliament in 1965 – thus a year later.

The provisions of the Labor Code were predominantly mandatory in nature and did not allow contractual deviations based on the will of the subjects. In contrast to the previous tradition of more than one hundred and fifty years, the Labor Code was conceived as a code of an independent nature, excluding the subsidiary application of the norms of the Civil Code to labor relations. In the context of particularization of private law, labor law was separated from civil law.

Typical features of the legal regulation provided by the Code were its unity, mandatory nature, comprehensiveness, and independence.[52] The unity of the Labor Code was reflected in its uniform legal regulation of relations between employees and organizations. This unifying trend was justified by the type of economic and social system. The comprehensiveness of the Labor Code consisted in the fact that it regulated essentially all issues of labor relations in an exhaustive manner. The Code also contained mostly mandatory norms that did not allow for deviations. Employment contracts and collective agreements were provided with very limited possibilities of autonomous regulation.

[52] KUKLÍK, J. et al. *Dějiny* československého *práva 1945–1989*. pp. 385–387; Kalenská in BĚLINA, M. et al. *Pracovní právo. 3rd ed*. p. 28.

Independence was expressed precisely by the fact that the Code also general legal issues such as legal acts, their invalidity, legal subjectivity, etc.[53]

An illustration of this general approach might be seen in the following. Mařík comes by and says: "Consider who will read it, who it is for!" "For people..." "Well, and when they start reading there about 'legal act this and that', they will throw it away at the twentieth section and that will be the end of it." So it was decided to put some nice words at the beginning, then provisions on what people will be looking for – the leave, the pay, etc.; and the "real law" will be put at the very end. A normal lawyer would say: "The general part at the beginning!" And we pushed it to the end. The subsidiarity of civil law was not taken into account at all – rather, the economic code was somehow used here. For example, a "socialist organization" (or "employer") – what is that? So there was a connection between those codes, but they were separate.

And the three codes were supplemented by the Code of International Trade – a normal civil code. It also remained in "old terms" in terms of terminology so that international partners could understand it. However, it did not provide for much internally – but one could look there to find out what (once) had been a contract for work.

As for mandatory nature: it exists in civil law, but it is very rare; and it means that the law cannot be deviated from at all. In contrast, labor law has a lot of mandatory provisions, but only half-hearted – we call it "minimax", relative mandatory nature. The minimum right of an employee, or the maximum duty of an employee – deviations can only be made in the specified direction. And then we also have the classic mandatory provisions. For example, in terms of work safety. But this was not initially stipulated in the Labor Code, there was the classic, absolute mandatory nature of the provisions, and where deviations were allowed, it was stated directly in the text of the law ("a pregnant woman may..."). Whereas today we mostly have the minimax. However: because legislators copy it from older regulations, it seems that it is (absolutely) mandatory – few people bother to read the final provisions (Section 363, etc.), where there is a two-page long discussion about which provisions cannot be deviated from, and which ones can only be deviated from in favor of the employee (where there is the minimax).

Back then, the Labor Code enjoyed unprecedented support among the population. The public's active approach to it – both when it was finally approved – that was glorious!, and in its use. The fact is that until then, people had not known what they were entitled to. And at that time we were able to explain to people how to use the code – for example, that I cannot use the provisions on agreements for an employment relationship, and vice versa. But I have to use the general part.

In labor law, the contractual nature of legal relationships typical of civil law was abandoned and the task of workers to develop a socialist society through their own labor was realized. This development was the result of a general trend in Eastern European countries to consider labor law as a social law that fulfills the building of socialism. It should be noted that Czechoslovak legislation at that time went much further than other contemporary socialist states, especially in terms of eliminating the private sector.

[53] BĚLINA, M. et al. Pracovní právo. *2nd ed.* Prague: C. H. Beck, 2004, p. 22.

The 1965 Labor Code was characterized by a significant lack of freedom in labor relations, where career advancement was made impossible for some people by "cadre ceilings". Zero unemployment was achieved through socially undesirable phenomena and resulted in insufficient labor productivity, insufficient employee motivation, and inefficient production.

VI. AMENDMENTS TO THE LABOR CODE

After the publication of the Labor Code, a number of other regulations were issued that amended or supplemented provisions affecting the Labor Code and other labor regulations. In addition to these regulations, three comprehensive amendments to the Labor Code were also approved. These were Act No. 153/1969 Sb., Act No. 20/1975 Sb. and Act No. 188/1988 Sb.

These amending acts changed the labor law so significantly that, in each case, it was decided to republish the full text of the code (as Acts No. 42/1970 Sb., No. 55/1975 Sb. and No. 52/1989 Sb.). In total, the Labor Code was amended eleven times during the socialist period,[54] the changes mainly concerning the improvement of conditions of work, e.g. hours of work, extening the maternity leave, etc.

Before 1989, there were only five or six amendments to the Labor Code. And usually with something added to people – for example, their leave entitlement was extended. Today it is much more complicated.

Preparatory works on the first major amending Act to the Labor Code, which was published as Act No. 153/1969 Sb., begun as early as 1968, but were only completed in the spirit of the emerging post-1968 "normalization". The amendments to the Labor Code were primarily intended to combat "undesirable social phenomena." This was to happen, on the one hand, through partial measures to strengthen work discipline and strengthen the authority of managing workers, and on the other hand by taking over the provisions of a discriminatory statutory measure No. 99/1969 Sb. issued in response to the events associated with the first anniversary of the occupation. On the basis of the above-cited statutory measure, it was possible to dismiss an official whose activities disrupted the socialist social order and lost the trust necessary to hold his previous position or his previous job, or to immediately terminate his employment relationship. However, the first amending Act also addressed a number of problems that arose during the application of the Labor Code, improving the work conditions of employees, for example by extending vacation, granting women the right to additional extended maternity leave, etc. The amending Act essentially extended the scope of the Labor Code to include relations in production cooperatives.[55]

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[54] From the viewpoint of legislative technique, some of the "amendments" were enacted in an extremely inappropriate manner – let us at least mention Act of the Czech National Council No. 146/1971 Sb., amending and supplementing the Act on National Committees and regulating the scope of national committees in some areas of state administration. This Act amended the Labor Code implicitly and through a table set out in its Annex C.

[55] VOJÁČEK, L. Právo pracovní (1946–1989). In: Karel Schelle – Jaromír Tauchen (eds.). *Encyklopedie* českých *právních dějin. Svazek VII.* Plzeň: Aleš Čeněk, 2017, p. 60.

The second major amending Act to the Labor Code, enacted as Act No. 20/1975 Sb. and supplemented by implementing Government Decree No. 54/1975 Sb., again proclaimed an effort to strengthen work discipline, including the effective scheduling and consistent use of hours of work. The amendments also touched the issue of termination of employment, in particular by narrowing the possibility of using discriminatory measures introduced by the first amending Act. It also specified some of the employer's ("organization's") obligations in the area of worker health protection and employment of young people, and there was a significant reformulation of the basic provision dedicated to agreements on work performed outside of an employment relationship. The amending act also brought some clarifications in the area of employment of foreigners. The amending act partially changed the relevant provisions of the Labor Code on the imposition of disciplinary measures.

Amending act No. 20/1975 Sb. also strengthened the influence of trade unions in supervising compliance with labor legislation, and the federalization of Czechoslovakia that had taken place in the meantime was reflected more consistently in this area as well. The amending act also brought changes regarding the organization of labor dispute resolution. It laid the foundation for the establishment of arbitration committees (trade union bodies) that were tasked with deciding labor disputes. Arbitration committees were primarily intended to resolve disputes between an employee and an organization regarding the content of employment certificates, the content of work performance reports, and the employee's proposal to cancel a disciplinary measure. It was also specified which disputes the commissions were not to resolve.[56]

The third major amending Act to the Labor Code, enacted under No. 188/1988 Sb. with effect from January 1, 1989, was intended to facilitate the socially desirable mobility of workers, their more efficient deployment, and the use of the workforce. This was to be done, for example, by enabling the conclusion of a concurrent full-time employment relationship for the duration of a leave, by unifying the notice period for the worker and the organization, or by expanding the range of appointed positions from which a worker can be dismissed and transferred to another job even without his or her consent.

Like previous amendments to the Labor Code, this amending Act aimed to strengthen labor discipline and improve the use of working time, increase the quality of work, and protect socialist property. This was to be done, for example, by tightening the penalties for managing and ordinary workers, expanding the possibility of giving notice of termination to an employee or immediately terminating their employment relationship, or by deepening control activities.

The amending Act was intended to contribute to increasing the qualifications of workers, to make their remuneration more efficient, and to strengthen job security, e.g. to better protect trade union officials and members of arbitration committees from being assigned to another work, transferred, dismissed with notice, or immediately terminated.

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[56] KALENSKÁ, M. et al. Československé *pracovní právo: vysokošk. učebnice pro stud. právnických fakult. 2nd ed.* Prague: Panorama, 1988, pp. 29–30; BĚLINA, M. et al. *Pracovní právo. 5. dopl. a podstatně přeprac. vyd.* Prague: C. H. Beck, 2012, p. 37.

The amending Act also affected collective agreements. In particular, it aimed to free up space for collective bargaining and strengthen the importance of collective agreements. According to the amending Act, statutory authorization was no longer required to establish normative obligations in a collective agreement. Adjustments to wage and other labor obligations from which entitlements for employees derived could be negotiated in the future without prior authorization and only in a way that complies with directives and laws.

This amending Act also resulted in some reduction of the Labor Code: the regulation of the apprenticeship relationship was completely abolished, entirely replaced by a new regulation of general education carried out a few years earlier by the "School Act" (Act No. 29/1984 Sb.);[57] the employment relationships of members of cooperatives whose membership also included an employment relationship were to be governed by special laws (which, however, came into effect six months before this amending Act).[58] Part Four of the Labor Code, dedicated to agreements, was replaced by a new text, which, however, was partially based on previous provisions.

Nevertheless, this amending Act was enacted, as it later turned out, at the very dusk of the existence of "socialist" Czechoslovakia. The university textbook responding to it[59] was actually published only after the 1989 November events foreshadowing fundamental societal changes that subsequently occurred; its authors removed the grossest ideological ballast from it before publication, and rather included, at the very beginning of the publication, an overview of the challenges they perceived that labor law had to face in the new circumstances - it can thus be seen as the swan song of the original form of the Labor Code and codified labor law in Czechoslovakia in general.

CONCLUSION

After 1989, due to changes in political and social situation, legal regulations were gradually adapted to the needs of a market economy and private entrepreneurship, and thus new legal forms of employers emerged, especially natural persons and commercial companies. State intervention in labor relations was gradually limited and the contractual nature of these relations was strengthened. Apart from the gradual, not very rapid relaxation of the mandatory nature of the Labor Code, the most typical feature of post-1989 labor legislation is the admission of employment of citizens by natural persons within the framework of private business.[60]

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[57] Apprentices thus gained the status of pupils, but they retained *"the same legal protection that the Labor Code guaranteed to young people preparing for a profession in an apprenticeship*" – BĚLINA, M. et al. Československé *pracovní právo. Skripta pro posl. Právnické fakulty Univerzity Karlovy.* p. 299.

[58] This was not a special category of cooperatives in terms of their subject of activity or field of operation: whether or not membership in a cooperative included an employment relationship was determined by the statutes of the relevant cooperative. Ibid., p. 285. However, this did not apply to agricultural cooperatives: on the contrary, there the "work in the cooperative [was] fundamentally performed by its members," and their employment relationships, with a number of exceptions, were governed in principle by the Labor Code (see Section 52 of Act No. 90/1988 Coll. on Agricultural Cooperatives). Nevertheless, labor law did not address these relationships – BĚLINA, M. et al. Československé *pracovní právo. Skripta pro posl. Právnické fakulty Univerzity Karlovy.* p. 284.

[59] Ibid.

[60] BĚLINA, M. a kolektiv, *Pracovní právo. 1. ed.* Praha, C. H. Beck, 2001, pp. 22–24. For an immediate overview of the first transitional changes, cf. also BĚLINA, M. et al. *Pracovní právo. 3rd ed.* pp. 31–32.

Since the Charter of Fundamental Rights and Freedoms was enacted in 1991, its Article 26 guarantees to everyone the right to free choice of occupation, as well as the right to engage in business and other economic activities, and to citizens the right to material security in an adequate extent if, through no fault of their own, they cannot obtain the means to meet their living needs through work.

In the area of collective law, Article 27 enshrines the right of everyone to freely associate for the protection of their economic and social interests. It is further stipulated that trade unions are established independently of the state, and that limiting the number of trade unions is inadmissible, as is favoring some of them in a company or a sector. This limits state interference in labor relations. The elimination of differences in legal regulation between various forms of employers, legal and natural person as employers, was carried out by Act No. 74/1994 Sb.

The Labor Code, prepared in the early 1960s also by Jarmila Pavlátová, was amended to a form corresponding to the new circumstances relatively soon: by Act No. 3/1991 Sb., adopted in December 1990 with effect from February 1, 1991 – almost a year before the major amendments to the Civil Code and the adoption of the Commercial Code. With a number of other amendments, it remained in force and effect until the end of 2006; from 1 January 2007 it was replaced by the new Labour Code, published under number 262/2006 Sb. Czech labor law doctrine remains a highly dynamic (and with respect to the legislation often critical)[61] legal discipline. Agreements on work performed outside of an employment relationship, which originally arose as a Czechoslovak specific feature and a consequence of the socialist legislative elimination of the contract for work, survived all these turbulences and continue to be an integral part of Czech labor law. Just as, in the academic community of not only[62] the Pilsen Faculty of Law, is and remains Jarmila Pavlátová, direct witness to their birth.

[61] See, for example, the condemnation of an arbitrary introduction of another reason for notice of dismissal, cited by J. Pichrt at the very beginning of his commentary to the Labor Code (to § 1) even a decade after it occurred (PICHRT, J. § 1 (Předmět úpravy). In: Jan Pichrt et al. *Zákoník práce. Praktický komentář.* Prague: Wolters Kluwer, 2022, according to the legal status as of May 1, 2022); or borderline sarcastic articles on the evergreen fight against illegal work (e.g. PICHRT, J., MORÁVEK, J. O lidové tvořivosti a sankcích za výkon nelegální práce. *Právní rozhledy*, 2013, No. 3, pp. 93–100).

[62] Her academic standing is well illustrated retrospectively by the *liber amicorum* published on the occasion of her 85th birthday. See HROMADA, M. *Pocta Jarmile Pavlátové k 85. narozeninám.* Plzeň: University of West Bohemia in Pilsen, 2018.