

Termination of an Employment Relationship

Under the Czech Labour Law an employment relationship may only be terminated by one of the means enumerated in the Labour Code. The reason for this is to ensure the stability of an employment relationship. The basic principle of the provisions of the Czech Labour Code on termination of an employment relationship is that an employee is more protected than an employer, especially employees in specific social situations (pregnant women, temporally ill employees, women on maternity leave, men and women on parental leave)

The means of termination of an employment relationship may be divided into following groups.

1. Legal acts
2. Legal events
3. Decision of competent authority

1. Legal acts

A legal act is subjective legal fact. It arises from people's will.

A legal act means a manifestation of will of one or both parties of employment relationship.

Legal acts are the most important and the most common forms of termination of an employment relationship.

a) Agreement

Agreement is a bilateral (two-sided) legal act. It manifests the identical will of both parties to terminate their employment relationship. The agreement is the optimal mean of termination of an employment relationship. It must be made in writing otherwise it shall be void. Agreement shall include:

- Manifestation of employer's and employee's will to terminate their employment relationship,
- A day of termination of the employment relationship (it shall be concluded in such a way that there is no doubt when the employment relationship is to end),
- Reasons for termination when an employee desires so.

b) Notice of termination

A notice of termination is unilateral (one-sided legal act) of one party of an employment relationship. It must be made in writing and be handed over to the other party, otherwise it shall be void. The employment relationship terminates after the expiry of notice period which must be the same for the employer and the employee and must last at least two months. A notice period starts to run on the first day of month following the delivery of the act of notice and ends at the expiry of the last day of the relevant month.

The act of notice shall include:

- Manifestation of will of one party to terminate the employment relationship. The will of the other party is not important,
- The reason for termination of employment relationship when the notice is given by an employer. The employer may give a notice to his employee only for reasons enumerated in section 52.

There is a difference between the act of notice of an employer and the act of notice given by an employee. The employee may give notice to his employer for any reason or without stating

a reason. The reason must be specified so as that it cannot be confused with another reason, otherwise the act of notice is void. The reason may not be subsequently changed.

The employer may give a notice of termination to his employee only for following reasons: parties may only give the immediately termination for reason explicitly stated in the Labour Code.

- a) if the employer's undertaking, or its part is closed down,
- b) if the employer, or its part relocates,
- c) if the employee becomes redundant because of employer's decision (or decision of a competent body) to change activities or equipment, or to reduce the number of employees so as to increase the labour productivity, or to establish other organizational changes.

If the employee is given notice, or the parties conclude an agreement for one of these reasons the employee is entitled to severance pay. The minimum amount of the severance pay is three times of average earnings.

- d) An employee is not allowed to perform his work because of industrial injury, occupational disease, or there is a threat of occupational disease, or he has been subjected to maximum level of harmful exposure at his workplace.

An employee who is given notice, or concludes agreement for this reason is entitled to severance pay which is at least twelve times of average earnings.

- e) If the employee has lost long-term his capability to perform his current work because of his state of health. This fact shall be proved by medical certificate;
- f) It contains two situations:

- The employee does not meet the prerequisites for the agreed work stated by statutory provisions, or
- The employee does not meet the requirements for performance of agreed work. The requirements are stated by employer. When this means the unsatisfactory work performance results the employee must sent to his employee written warning (which includes the possibility of giving a notice) during a period of 12 months before giving a notice;

- g) It includes three situations:

- There are reasons at the employer's part for immediate termination of employment relationship,
- An employee has seriously breached some duty arising from statutory provisions and relating to the work performed by him,
- An employee has repeatedly breached some duty arising from statutory provisions and relating to the work performed by him in a less serious way (according to the case-law at least three times). In this case the employer has a duty to hand over a written warning during last six months before giving a notice.

For some categories of employees there is a prohibition of notice during a protection period under sec. 53 (pregnant women, employee who is recognised temporarily ill, women on maternity leave, men or women on parental leave). The prohibition of notice is not absolute. There are some exceptions (sec. 54).

c) Immediate termination (instant termination) of employment relationship

This mean of termination of an employment relationship has serious effect and that's why it should be used exceptionally

The employment relationship terminates immediately after handing over the written legal act to the other party. There is no notice period.

Immediate termination of employment relationship shall include:

- Manifestation of will of one party to terminate the employment relationship. The will of the other party is not important,
- The reason for immediate termination of employment relationship (it must be stipulated in a way that it can not be changed with another reason).

The Czech Labour Code lays down reasons for both parties

The employer has two reasons:

- The employee has been sentenced for wilful criminal offence to unconditional imprisonment for a period over one year. If the employee committed a wilful criminal offence during performance of his work, or in direct connection with it, there is sufficient that he has been sentenced for a period over 6 months.
- The employee has breached some duty arising from statutory provision and relating to the work performed by him in an especially gross manner.

The employer may not immediately terminate employment relationship with pregnant woman, woman on maternity leave, or man or woman on paternal leave.

The employee has two reasons too:

- He is not able to perform his current work for medical reasons (long term incapacity) without serious threat of his health and the employer has not transferred him to alternative suitable work. It is necessary to prove the long term incapacity for current work with medical certificate.
- The employer has not paid him a wage or salary or some part of wage or salary within a period of 15 days after the day when he is obliged to do so. When the employer immediately terminates his employment relationship he is entitled to the severance pay under sec. 67.

d) Termination during trial (probationary) period

During trial period both parties may terminate the employment relationship for any reason, or without stating a reason. The only condition is that the trial period has been agreed and is valid according the section 35.

2. Legal events

A legal event is an objective legal fact. It means that it is not dependant on people's will.

a) Expiry of agreed period

Fixed-term employment relationship terminates at the moment of expiry of agreed period. When an employee continues performing his work and his employer knows about it the employment relationship changes into employment relation for indefinite period.

b) Expiry of a period for which a job centre have issued a work permit to a foreigner or to a stateless person

The work permit is issued under the act no 435/2004 Coll as amended. Usually it is issued for one year.

c) Death of an employee

In an employment relationship an employee is obliged to perform his work personally. This is not possible when he dies.

d) Death of an employer when he is a natural person when there is nobody to continue his activity

3. Official decisions (concerns to foreigners and stateless persons)

a) Final decision on termination of a stay permit

This means an administrative expulsion. The foreigner or stateless person is forbidden to stay at the territory of the Czech Republic.

b) Final decision of a court on punishment of expulsion

The punishment of expulsion may only be against a foreigner or stateless person who committed a certain criminal offence under Czech Criminal Code. Due to this sentence the person must leave the state territory.