

Czechia

Employment protection in relation to business transfers

Phase	Labour Code (Act No. 262/2006 Coll.)
Native name	Zákoník práce (zákon č. 262/2006 Sb.)
Type	Employment protection in relation to business transfers
Added to database	22 September 2016
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Article

338, 339, 339a

Description

The rights and obligations arising from labour relations are transferred from one employer (transferor) to another employer (transferee) under the Labour Code in case of:

- transfer of the employer's activity;
- transfer of part of the employer's activity;
- transfer of employer's tasks;
- transfer of part of the employer's tasks.

In those cases where employees are transferred to a different employer, the existing employment contract is maintained unchanged, only the person of the employer changes. Therefore, the transferee (new) employer does not negotiate with the affected employees new employment contracts. The rights and obligations from a collective agreement are transferred to the transferee for a period during which the collective agreement is in effect; however, no more than until the end of the subsequent calendar year.

The transferee employer is a legal or natural person who is eligible to continue to carry out the duties or activities of the previous employer, or the activities of a similar nature. The

transferee employer is considered to be the as such regardless of the legal reason for the transfer (for instance merger, sale of the business) and regardless of whether ownership rights are transferred (for instance lease).

The transferee must assume all existing rights and obligations arising from the previous employment agreements, including all previous benefits rights. Generally, all employees (including employees on fixed-term contracts) performing duties within the transferred activities or assets are automatically transferred.

Commentary

The decision of the Supreme Court of the Czech Republic in the judgement No. 21 Cdo 4030/2009 of 9 September 2010 stated that 'the transfer of rights and obligations arising from employment relationships occurs not only in case of the sale of a business or part thereof, the lease of an enterprise or part thereof, the sale of a business in a public auction or in other cases provided for by special laws, but also when the requirements under Article 338, paragraph 2 of the Labour Code are met, that is:

- transfer of the employer's activities or tasks to another (transferee) employer, or
- transfer of part of the activities or tasks of the employer to another (transferee) employer.'

Additional metadata

Cost covered by	Employer
Involved actors other than national government	Trade union Works council
Involvement (others)	None
Thresholds	Affected employees: No, applicable in all circumstances Company size: No, applicable in all circumstances Additional information: No, applicable in all circumstances

Sources

- A Ius Laboris Publication (2009) 'Transfers of Undertakings Guide'~~~ [Labour Code \(Act. No 262/2006 Coll.\)](#)~~~ [Přechod práv a povinností z pracovněprávních vztahů / Transfer](#)

[of rights and obligations from labor relations \(in Czech only\)~~~~ Přechod práv a povinností z pracovněprávních vztahů \(§ 338 a násl.\) // Transfer of rights and obligations from labor relations \(Article 338 and follow.\) - in Czech only~~~~](#)

Citation

Eurofound (2016), Czechia: Employment protection in relation to business transfers, Restructuring legislation database, Dublin