

Summary

In her PhD thesis, the author deals with the legal regulation of transfer of undertaking (and the passage of the employees' rights and obligations it involves) and the frequent collective redundancy related to such transfers. Both sets of provisions dealing with these topics are embodied in the Czech Labour Code and are harmonised with the EU directives pertaining to these fields, specifically Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses (originally, Council Directive 77/187/EEC of 14 February 1977 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of businesses) and Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies.

The two directives mentioned above were already transposed to the Czech Labour Code in 2001 by means of an amendment adopted under No. 155/2001 Coll. As regards the rules governing collective redundancies, it can be stated, in substance, that the original regulation of 2001 remained unchanged and no response was thus made to the developments in European case-law or the needs of Czech employers and employees. The situation regarding transfers of undertakings (and the passage of rights and obligations they entail) is more favourable, as this area underwent some significant changes brought about by amendment No. 367/2011 Coll. to the Labour Code, effective from 1 January 2012.

The PhD thesis is divided into two parts – the first deals with passage of the employees' rights and obligations and the second with collective redundancy. Both parts have a similar structure. The author first provides a succinct summary of Czech law in this area. The thesis then focuses on various issues, especially in areas where (in the author's opinion) the Czech Republic has failed to use all the options offered by the relevant EU directives. In this part, the author deals in detail with certain key rulings of the EU Court of Justice and opinions presented by its Advocates General in the relevant cases. The author refers especially to those rulings of the Court that have not been reflected in Czech laws.

In the author's opinion, in a number of cases the Czech legislature has failed to use all the opportunities provided by the European legislation. As regards transfers of undertakings (and the passage of employees' rights and obligations), the Czech legislation deviates in the very concept of this notion, where EU law is based on a transfer of an economic unit, while the

Czech provisions use the concept of a transfer of activities or tasks, or their part. The thesis also addresses the employees' entitlement to terminate their employment before and after the transfer of the given undertaking, as well as transfers of collective agreements.

In the part dealing with collective redundancy, the author analyses, in particular, the Court's judgement in *Junk* and its impact on the provisions of the Labour Code, or more specifically, their inconsistency with said ruling and, in turn, with EU law.

In both parts of her thesis, the author attempts to compare the Czech legislation with laws of other European jurisdictions with regard to options missing in the Czech laws that might be desirable (in the author's opinion) to incorporate therein. The author also dedicates a major part of her paper to penalties for a breach of duties in collective redundancies and transfers of undertakings (and of the employees' rights and obligations), which are, in her opinion, absolutely insufficient in the Czech Republic. The author draws inspiration from foreign legislation and strives to find a solution that would force Czech employers to use both mentioned sets of provisions.

In the conclusion of both parts, the author describes considerations *de lege ferenda*, where she provides an insight into possible measures that could be adopted to harmonise the provisions on transfers of undertakings and collective redundancies with EU law and to incorporate in Czech laws tried-and-tested concepts used in various foreign regulations – naturally, with regard to local conditions.