THE CZECH REPUBLIC

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1. Are there any laws that govern a layoff of employees? If so, what do the laws require?

In the Czech Republic, legal regulations of layoffs are based on the EC directive No. 98/59 and on the approximation of the laws of the Member States relating to collective redundancies whose requirements have been adopted by the Czech Labor Code. According to the Czech Labor Code, a layoff (in Czech legal terminology "hromadné propouštění" and usually translated as collective dismissals) is the termination of employment relationships within a period of 30 calendar days in any of the following scenarios: when one employer with 20 to 100 employees terminates at least 10 employees; when an employer terminates 10 % of employees from a total number of 101 to 300 employees; or when an employer terminates 30 employees from a total number of more than 300 employees on so-called organizational grounds such as closing down, relocating, or restructuring by the employer that causes the employee to become redundant.

Relocation of an employer is not a reason for a termination of an employment relationship by the employer if the relocation proceeds within the place of work as determined by the employment agreement (e.g. Prague has been set as a place of work in the employment agreement and the employer moves within Prague). Part of an employer can include an organizational unit of the employer even if that unit is operating quite independently in relation to the employer's business activity.

Redundancy of an employee is based on the decision of the employer to change activities, technical equipment or to reduce the number of employees for the purpose of increasing labor productivity or to introduce other organizational changes. In these instances, the employer has to report his intention to the trade union or works council 30 days before giving notice of the employment relationship's termination to individual employees. As a consequence, the intended layoff should have the subject of consultations with union or works council with regard to measures aimed at reduction of negative implications of the collective dismissal to affected employees. Where neither trade union nor works council are operated by the employer, the employer must give notice on its own to every employee affected by collective dismissals. When the employment relationship is terminated by employer for a so-called organizational grounds (regardless if in the frame of the collective dismissal or not) there is always an obligation of the employer to disburse a severance pay. The amount of the severance pay corresponds to at least three times average monthly earnings of each employee.

2. Are there any formal requirements for terminating an employee or groups of employees?

In the case of a layoff a previous notice to trade union or works council or to all affected employees is required. The employer is also obliged to inform the competent labor office (state authority for employment policy and unemployment social support) at the same time. After the termination of the consultation with the union, works council or individual employees, a written report should be sent to a competent Labor Office informing it about the results of the consultations, especially about the total number of affected employees, their job titles, and professions. The employment relationship of an

employee who is affected by collective dismissals shall terminate (on the basis of the termination notice given by the employer) at the earliest 30 consecutive days after the employer's report was served to the respective Labor Office except when the employee states a desire not to observe this time-limit. The purpose of this report is to enable a respective Labor Office to prepare a report and a strategy for dismissed employees.

3. Are there special legal requirements for a layoff caused by redundancy in the workforce?

Redundancy in the workforce, according to the Czech Labor Code, is one reason for the termination of an employment relationship. The conditions under which employee/employees could be considered as redundant are set by the Labor Code (as mentioned above under 1) and specified by interpretation of Czech Courts.

4. Are there employment laws that laid-off employees can use to challenge their inclusion in the layoff?

The Czech legal order in general (Czech Constitution) and the Labor Code insist on the strict prohibition of discrimination of any kind (direct and indirect discrimination, harassment, sexual harassment, persecution etc.) especially in the context of employment. The Czech Labor Code refers to a special Act concerning discrimination, but this (so-called Anti-discrimination) Act has not been adopted yet. The possibility to challenge the dismissal for discrimination is more theoretically than practically invoked in the Czech Republic in part because the burden of proof is for the employee claiming discrimination, which in many cases lowers a chance of a claimant's success. More common is an action challenging the validity of termination for formal mistakes or alleging the falsity of declared termination reason (according to the Czech Labor Code, there is a possibility for an employer to dismiss an employee only for concrete reasons enumerated thereby).

5. What sanctions or penalties may be imposed against employers for violating any of the requirements mentioned in Nos. 1-4 above?

For a breach of the information duty of the employer to the union, works council or individual employees, a fine of up to CZK 200.000 (USD approx. 10.000) may be imposed. Breach of the information duty in not informing the Labor Office is not financially sanctioned, but the termination of the employment relationships of employees affected by the layoff shall not be effective until a delivery of a written report to the Labor Office.

6. What are the one or two most common mistakes that employers make that lead to liability for a layoff?

Sometimes the employers do not understand that there is a duty in connection with layoffs to contact the Labor Office twice. First, there is a preliminary information duty about the employer's intent to conduct a collective dismissal. After consultations with representatives of employees or affected employees themselves, an employer must deliver a written report on his decision concerning the layoff to the Labor Office. Only after fulfilling this duty can employees be collectively dismissed and still, this dismissal is restricted until the 30-day time-limit has been observed. Until the report is delivered to the Labor Office the employment relationships of employees could not be validly terminated in the frame of a layoff.

7. What other employment issues are likely to arise from a layoff in your jurisdiction that you have not addressed in your answers to the previous questions?

In case of an insolvency proceeding instigated with the employer, there is no need to serve a report to the Labor Office except when the office explicitly requests it. Employees of an insolvent employer are protected against the non-payment of their earnings and other wage claims (such as severance pay etc.) by a special act under which the Labor Office shall cover their claims in a concretely defined range.