European Foundation for the Improvement of Living and Working Conditions

Social dialogue and conflict resolution in the Czech Republic

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Context

This report is part of a series of projects from the Foundation which focuses on aspects of industrial relations in the run-up to enlargement. The national report for the Czech Republic is part of the second phase of a project on 'Social dialogue and EMU' carried out by the European Foundation for the Improvement of Living and Working Conditions in 2002-3, in cooperation with the Swedish 'Work Life and EU Enlargement' programme. This phase of the project looked at the current mechanisms for resolving industrial conflicts prevailing in each of the ten acceding countries involved in the project: Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia.

The main report provides an overview of the whole project and is available online at http://www.eurofound.eu.int/publications/EF0421.htm. It looks specifically at the role of social dialogue in resolving industrial relations conflicts. In most of these countries, both the systems of industrial relations as well as conflict resolution mechanisms are relatively new and have been subject to intense upheaval during the transition phase to market economy. Collective and individual industrial disputes are a new phenomenon for these countries as well. The report gives an overview of the existing institutional and regulatory frameworks for industrial action prevailing in each country, then goes on to describe the various systems in place to deal with conflict resolution. The overall aim of the research is to show how social dialogue can be harnessed to devise a road map for industrial peace.

Introduction

The Czech Republic experienced huge change in 1989. The era of single-party rule and human rights abuse ended, giving way to a period of democracy and reorientation, away from a centrally planned economy to a market economy. One of the main benefits has been the resurgence of respect for human rights and freedom and the opportunity for countries behind the iron curtain to open up to the rest of the world.

However, it also brought with it a whole range of negative effects. The first years of transformation to a market economy were characterized by a deep slump in the economy (as a result of the demise of foreign trade relations between the countries of the former Comecon economic community and the very slow reorientation to western markets as well as a significant reduction in internal demand due to the drop in the population's purchasing power).

These changes also had an adverse effect on employment relations. New phenomena emerged, such as redundancies, reduced working hours, irregular payment of wages, the loss of employees' social benefits and security and the impossibility of finding suitable jobs in some regions with high unemployment. These negative effects triggered many labour disputes which, in some exceptional cases, employees (or their trade unions) attempted to resolve in radical ways, including strikes.

Industrial relations framework

Tripartite bodies in the economic and social area

In the period after 1989 the government, in cooperation with trade unions and emerging entrepreneurial and employer associations, decided to create a settlement institution in the form of a tripartite body. The Council of Economic and Social Agreement (RHSD) is today a united voluntary conciliatory and initiative body of the government, trade unions and employers for reaching agreements in fundamental questions of economic and social development.

In the first half of the 1990s in particular, a principal document outlining the programmes and aims of the RHSD was the 'General Agreement', in which the individual signatories declared their intention to maintain social peace and a

willingness to resolve disputes at the negotiating table. While this was not a legally binding document, it did have fundamental political significance because it defined social and economic tasks and expressed an agreement on collective interests in the tripartite system during the initial phases of the transformation of society.

The General Agreement was also the starting point for collective bargaining at sectoral and company level (sectoral and company collective agreements are legally binding and their observance may be enforced by the courts).

Participants in tripartite social dialogue

The highest body of the RHSD is the Plenary Session. The government is represented by six ministers and one deputy minister.

Conditions for membership of the delegation of employee representatives in the RHSD are met by two unions - the Czech-Moravian Confederation of Trade Unions (CMKOS) and the Association of Independent Unions (ASO). The largest is CMKOS, which is made up of 32 trade unions with around one million members.

The ASO has about 170,000 members. Other union groups are the Confederation for Art and Culture, with about 120,000 members, and the Christian Coalition of Trade Associations of Bohemia, Moravia and Silesia; however, these do not meet the requirements for membership of the delegation of employee representatives in the RHSD.

The representatives of employers in the tripartite who meet the conditions for membership of the delegation of employers are the Confederation of Employers' and Entrepreneurs' Associations of the Czech Republic and the Confederation of Industry of the Czech Republic. The Confederation of Employers' and Entrepreneurs' Associations represents important organisations (e.g. the Union of Entrepreneurs in Construction of the Czech Republic, the Union of Employers' Associations of the Czech Republic, the Bohemian-Moravian Union of Agricultural Cooperatives, the Association of Investment Companies, the Cooperative Association of the Czech Republic) from the whole spectrum of entrepreneurs in the country.

The Confederation of Industry continues the tradition of the pre-war Central Union of Czechoslovak Industrialists. Apart from defending the interests of its members (160 individual members and 28 collective members) in dialogue with the government and trade unions, it also represents the interests of its members in the Union of Industrial and Employers' Confederations of Europe and the International Employers Organisation.

Considering the rather broad spectrum of operations of the Council of Economic and Social Agreement of the Czech Republic, the importance of working teams and groups as their expert bodies is significantly increasing. Their most important task is to prepare standpoints for the plenary sessions of the RHSD. The following working teams have been created for labour legislation: for professional relations, collective bargaining, and employment, for social welfare issues, for work safety, for salaries, wages and related issues.

The influence of the tripartite structure in the various regions and branches can be viewed as highly beneficial.

Other forms of social dialogue at national level

- The legislative regulations of the Czech government state that relevant central trade union bodies and relevant employers' organisations (and/or the relevant employers' unions) may be sources of comments and suggestions regarding laws and statutory instruments if the proposed legislation affects important interests of employees (particularly their economic, manufacturing, working, pay, cultural and social conditions).

- The central institutions that issue employment regulations on the basis of the Labour Code or other laws are required to discuss them in advance with the relevant central trade union body and with the relevant employers' association.
- Social conferences: Their purpose is mainly to discuss government and parliamentary decisions made on financial reform in the social sphere, with the broadest possible participation of interested parties, especially nongovernmental organisations, civic initiatives and independent experts. Good examples are the social conference held in 1999, which discussed the reform of the social welfare system, and the social conference in 2000, which debated pension reform.
- Another form of social dialogue are the so-called 'round tables', which involve cooperation between the state and social partners in the preparation of legislation (not only in the area of labour-law issues). The idea is to exploit the expert potential of the broadest possible selection of interested experts and to garner support for bills in order to ensure they are passed in parliament.

Institutional basis for conflict resolution

Legal framework for strikes

The right to strike is generally recognised as a means and method to defend employees and their social and economic interests. As a result of an international covenant on economic, social and cultural rights, the states' parties to this convention are obliged to maintain the right to strike so long as it is carried out in accordance with the laws of the state involved. The right to strike can also be derived from the Convention concerning Freedom of Association and Protection of the Right to Organise and from the Convention on the Right to Organise and Collective Bargaining, adopted by the International Labour Organisation.

The right to strike, as a fundamental human right, is specified in the Charter of Fundamental Rights and Freedoms, which forms part of the Constitution of the Czech Republic. Article 27(4) of the Charter states that the right to strike is guaranteed in accordance with the conditions laid down by law; this right is not held by judges, members of the armed forces and members of security forces.

It is evident from the title of chapter four of the Charter, 'Economic, Social and Cultural Rights', which set of rights a strike should address. Articles 26 to 30 of the Charter concern rights related to the 'right to work'. Article 27 of the Charter then goes into more detail on the rights connected with the right of association with others for the protection of one's economic and social interests. It is in Article 27(4) of the Charter that the right to strike is established. We can draw the conclusion from what is mentioned above that the right to strike must be exercised in accordance with the use of the right to associate with others for the protection of one's economic and social interests. This characteristic of the right to strike also means that the entity exercising this right will primarily be a group of employees, organised (associated) in an organisation defending their economic and social rights (a union). Article 41 states that the rights listed in Article 27(4) may be exercised only in the bounds of the laws which can be used to implement this provision. The legal conditions for exercising the right to strike are only outlined in Act No 2/1991, on collective bargaining. This act defines collective bargaining between the competent trade union bodies and employers, with the possible cooperation of the state, the aim of which is to conclude a collective agreement.

However, this does not mean that the right to strike in the Czech Republic may only be exercised within the bounds of the above-mentioned act. Article 2(3) of the Charter should not be overlooked: this provision states that all persons may do what is not prohibited by law and that nobody can be forced to do anything not imposed by law. This basic principle for assessing the permissibility of conduct in the environment of Czech law must also be applied to assessments of the question of legality of a strike held outside the limitations of Act No 2/1991, on collective bargaining. Assuming that the law deals with strikes only in cases related to collective bargaining, it may be concluded that there are no other (legal) restrictions regarding the right to strike in Czech law. Therefore the right to strike is guaranteed (Article 27(4) of the

Charter) without restriction (with the exception of strikes relating to collective bargaining) in accordance with constitutional principles. The Czech courts have also discussed this issue: first, the Municipal Court in Prague (Verdict No 31 C 1909/92-34 of 16 February 1993); secondly, the legality of striking was addressed by the Prague High Court (Ruling No 2 Co 157/97-49 of 27 February 1998), which used the same arguments as the Municipal Court. In its substantiation of the ruling it stated that: 'Since no law defining the right to strike, other than Act No 2/1991, as amended, has been promulgated, according to the scope of application and interpretation of Article 27 of the Charter, the court must apply general means and methods for the interpretation of legal provisions. In this interpretation, with regard to Article 10 of the Constitution of the Czech Republic, it must respect and address international conventions on human rights by which the CR is bound and which have priority over Czech law. These (conventions) would then have priority even over a law that really restricts the right to strike only in cases which are dealt with by the above-mentioned Collective Bargaining Act.'

With this in mind, strikes can be divided into:

1) Strikes outside the scope of the Collective Bargaining Act

There is no law in our legal code to implement Article 27(4), concerning strikes other than strikes addressed in the Collective Bargaining Act. However, as has been stated above, this does not mean we should draw the conclusion from this absence of an implementing regulation that if there is no implementing regulation, then there is no right. On the contrary, the court interprets Article 27(4) of the Charter of Fundamental Rights and Freedoms to the effect that in general this provision defines the right to strike, but that this a right that may be guaranteed by certain, more detailed, conditions of a separate law. No law states, and the interpretation of this provision of the Charter does not give rise to the conclusion, that strikes other than strikes regulated by an implementing regulation are prohibited. The question as to whether a particular strike is legal or illegal can only be decided by the courts.

2) Strikes related to the Collective Bargaining Act

These strikes, their requirements and their procedure are precisely regulated by law. A strike, as understood by the Collective Bargaining Act, is a legal instrument to settle collective disputes concerning the negotiation and conclusion of a collective agreement. A dispute on a change to an agreement already in force is also considered a collective dispute if the possibility and extent of changes has been agreed in a collective agreement. Collective disputes are disputes which do not give rise to entitlements of individual employees. A precondition for a strike, however, is that all regulations set out by the Collective Bargaining Act be observed.

For the purposes of collective bargaining, the law defines a strike as a complete or partial stoppage of work. Beside strikes as a radical means of settling disputes on the conclusion of a collective agreement, it also defines a 'strike of solidarity'. This means for the purposes of the Collective Bargaining Act a strike supporting the demands of employees striking in a dispute about the conclusion of a collective agreement. The strike is decided on and declared by the competent trade union body; the starting of the strike must be supported by at least half of the employees who are covered by the collective agreement.

Furthermore, the relevant trade union body must:

- notify employees of the following information in writing:

    a) when the strike will start and its estimated duration;
    b) the reasons and goals of the strike;
    c) the names of the representatives of the strike committee or of contact persons who are authorised to represent the participants in the strike;

- present the employers with a list of names of employees participating in the strike;
- inform the employer of the end of the strike.

The trade union body that decided on the strike is required to provide the employer with essential cooperation for the whole duration of the strike while ensuring essential activities and the operation of equipment which, due to its character, is necessary with regard to safety and the protection of health or the possibility of damage occurring to this equipment.

If all the conditions for striking laid out by law are observed, the strike is considered legal. In cases of legal strikes, the law stipulates further duties both for the trade union body and for the employer:

- employees may not be prevented from taking part in the strike, but must not be forced to take part in the strike;
- the participation of employees in a strike is considered excused absence from work;
- an employee may not be held responsible for damage resulting solely from the suspension of work through strike action;
- during the strike the employer may not substitute strikers with other workers.

Exercising the right to strike primarily means the partial or complete suspension of work, whereby, because the employer suffers material (or also non-material) damage, the employer is forced into a change of conduct by the strikers. If a strike is declared on an employer, then different conditions of employment relations exist between an employee who participates in a strike and the employer than in a time without strike. The idea of the strike is to exert pressure on the employer (by refusal to perform agreed work, among other methods). Therefore it is difficult (while respecting the right to strike) to require from a striking employee the observance of all duties arising from a contract of employment and from the Labour Code. If, however, an employee does not behave in a way expected during a strike (i.e. by, contradictory to the declared method of the strike, working or behaving in a manner that does not correspond to the proper course of the strike, or by directly opposing it), the cited exception, resulting from exercising the right to strike guaranteed by the Charter, does not apply; protection only ensues from the direct exercising of the right to strike.

Part of the right to strike is that employees may not be prevented from striking, and also that no one may be forced to participate in a strike.

A participant in a strike has no right to wages, compensation of wages or sick pay or support while caring for a member of the family, if he/she fulfils the conditions stipulated by regulations for medical insurance for the issuing of such benefit during the strike. While assessing income for the granting of benefit and social aid services for socially needy citizens, the loss or drop in income due to a strike is not taken into consideration. Participation in a strike also has an effect in the area of pension insurance. First, the basic figure for the calculation of the pension (base calculative figure) is reduced by the drop in income and secondly, if the strike lasts more than one calendar month and therefore no pay is received, this calendar month is not included into the calculation of the period of insurance.

The Collective Bargaining Act sets out systematically the cases in which a strike is illegal. This may be a strike that has not been preceded by proceedings in the presence of a mediator (this does not apply in the case of a solidarity strike) or that has been declared or continues after the beginning of proceedings in the presence of an arbitrator or after the conclusion of a collective agreement, etc.

An employer, or a group of employers or a state representative, may appeal to the regional court to determine whether a strike is illegal.

The participants in a strike which is considered illegal from the point of view of the Collective Bargaining Act do not benefit from the 'advantages' of a legal strike. This means that the participants in such strikes are at risk of possible sanctions from the employer. Such legal sanctions may be:

- termination of employment;
- demand for compensation for loss or damage caused to the employer during the illegal strike;
- possible criminal proceedings, for example due to the criminal offence of endangering the public, abuse of the running of equipment beneficial for the public, etc.

If a court decides that a strike is illegal, the trade union organisation whose body declared the strike is responsible to the employer for loss and damage resulting from the strike, according to the Civil Code.

Legal framework for lockouts

A lockout is only covered under the Collective Bargaining Act. The definition of a lockout is partial or complete stoppage of work by an employer, where the employer may, as a final solution for resolving a dispute about the conclusion of a collective agreement, declare a lockout, if an agreement cannot be reached even after proceedings in the presence of a mediator and the contracting parties do not request an arbitrator to resolve the dispute. The start of a lockout, its extent, the reasons for it and a list of names of employees to whom the lockout applies must be notified by the employer to the competent trade union body at least three working days in advance. The employer is required to give the employees concerned the same period of notice. The law specifies situations in which a lockout is unlawful. In general this applies to situations where a lockout would affect the employees of medical facilities, which might endanger the health or life of the public, as well as lockouts affecting judges or state representatives.

The relevant trade union body or state representative may seek the declaration of an illegal lockout by the regional court in whose jurisdiction the employer's head office is registered.

If employees cannot carry out their work because a lockout has been declared against them, this is an obstacle to work on the part of the employer. If it is not an illegal lockout, the employees are only entitled to a wage of half the average wage. Claims from medical insurance and social security of an employee who is the subject of a lockout are assessed as if the lockout had not taken place. For the purposes of pension insurance, when setting the average monthly wage, the period of lockout is not included in the decisive period.

A lockout is at an end if the employer who declared it decides so. The relevant trade union body is to be notified of the ending of a lockout without undue delay. The employees affected by the lockout must also be notified of its ending.

Records of strikes and lockouts

Neither the Ministry of Labour and Social Affairs, nor any other state institution, employers' associations or trade unions record the exact number of all professional disputes or strikes. For example, the Czech-Moravian Confederation of Trade Unions, the largest union body, records only the important strikes and other protest events that it has taken part in itself. It does not record any minor protests declared by the trade union organisations at a company level.

It should be noted, however, that strikes are not very widely used. In the period between 1992 and 2002, about 20 strikes were reported, and they did not usually last more than a couple of hours.

The number of lockouts, i.e. partial or complete stoppages initiated by employers, has not been recorded by state administration authorities or by employers' associations, which makes it impossible to determine how many actually took place.

Conflict resolution mechanisms

Mediation

The institution of a mediator is addressed in the Collective Bargaining Act. This regulation addresses 'collective disputes', which are disputes that do not include claims by individual employees (disputes involving the claims of individual employees are resolved like any other employment law dispute, i.e. through the courts). According to the Collective Bargaining Act, collective disputes concern:

- the conclusion of collective agreements;
- the fulfilment of the obligations under a collective agreement.

If the contracting parties to the collective agreement cannot agree on an obligation under a collective agreement they may, by agreement, choose a mediator for the dispute.

The law stipulates the following methods for the settlement of collective disputes:

- in case of a dispute concerning the conclusion of a collective agreement, it is negotiated initially by a mediator. If the proceedings in the presence of a mediator are unsuccessful, the parties may agree to continue negotiations in the presence of an arbitrator. If the parties do not agree to this, the matter may be solved by a strike or lockout. In the case of collective disputes in a workplace where it is forbidden to strike or where a lockout is out of the question, negotiations in the presence of an arbitrator are possible. If the contracting parties cannot agree on an arbitrator, negotiations continue with an arbitrator who is appointed by the Ministry of Labour and Social Affairs (hereinafter referred to as MLSA) on the suggestion of either of the contracting parties. The decision of the arbitrator in a dispute on the conclusion of a collective agreement is final and not subject to judicial review.
- If the matter concerns a collective dispute on the fulfilment of obligations under a collective agreement, it must first be negotiated in the presence of a mediator. If negotiations in front of a mediator fail, an arbitrator is appointed by agreement of the contracting parties. A strike or lockout in this dispute is inadmissible. The decision of the arbitrator may be subject to judicial review.

Negotiations in the presence of a mediator are the first step toward a solution to a collective dispute. If the contracting parties are unable to agree on how to settle their dispute, they can appoint a mediator. This means that the decision on whether to turn to a mediator is up to them, similar to the situation in the case of a dispute about the claims of individual employees, where each may decide to bring an action. Final methods of solving a dispute about the conclusion of a collective agreement - a strike or lockout - may be used only after proceedings in front of a mediator.

A mediator may be anyone who meets the requirements laid down by the Collective Bargaining Act, if the contracting parties have agreed on him/her. According to the law in question, a mediator may be either an individual who must be a citizen of voting age and eligible to fulfil legal operations or a corporate entity that agrees to perform this function.

If the contracting parties cannot agree on a mediator, he/it may be appointed by the MLSA on the initiative of either of the contracting parties. The MLSA will appoint only an individual or corporate entity that is recorded in the list of mediators kept by the MLSA.

An individual must meet the following legal requirements to be entered on the above list.:

- citizen of voting age and eligible to fulfil legal operations;
- no criminal record;
- successful completion of university education, preferably in the field of the law or economy;
- show personal characteristics that promise a thorough and unbiased performance as a mediator.

A corporate entity must be active in the research, advisory or organisational fields, especially in the area of employment law, salaries or social matters and it must employ workers eligible for the performance of mediation, who meet the requirements necessary for individual mediators and who agree to perform this function. They are entered on the list for a period of three years, after which time they may be re-entered.

In an application for the appointment of a mediator the contracting party should specify the subject of the dispute and state any preceding steps of its solution. This must be accompanied by various written material (i.e. proof that between the presentation of the proposal to close an agreement by one of the contracting parties and the application for the appointment of a mediator at least 60 days have elapsed, that the contracting parties negotiated the identity of a mediator but did not reach agreement, etc.), a written standpoint of the other party must also be enclosed in the application. In practice, it seems that one of the contracting parties, more often the employer, behaves completely passively. It also is common for the contracting parties to discuss various mediators who are also listed in the list of mediators but to fail to reach an agreement, as each side tends to stick to its own proposal. In such situations the practice is to appoint a different mediator from the one the parties have already discussed and failed to agree on.

A mediator does not decide on a collective dispute. He/she merely issues a written proposal for the settlement of the dispute to the contracting parties on the basis of discussions with the contracting parties and on the basis of a combined analysis of the essence of the dispute. He/she should do so within 15 days of familiarisation with the subject, if the contracting parties do not agree otherwise. If the dispute is not settled within 30 days of the date the mediator familiarised him/herself with the subject of contention and the contracting parties have not decided otherwise, the proceedings of the mediator are seen to be unsuccessful.

Under the law, the mediator has a right to receive remuneration, which is part of the costs of the proceedings. These costs are split half and half for both sides. The financial remuneration is agreed between the contracting parties and the mediator. If no agreement is reached, the mediator is entitled to remuneration as set out under legal regulations.

Information on mediators and arbitrators (name, professional field in which the mediator or arbitrator operates, contact details) appear on the web pages of the Ministry of Labour and Social Affairs, and are thus available to the general public, with the protection of personal data, of course, being safeguarded.

Arbitration

Proceedings in the presence of an arbitrator are the second round in settling collective disputes, if the disputing parties wish to continue. This method is considered if the dispute was not resolved by the mediator. It should be noted that proceedings with an arbitrator cannot take place if they are not preceded by proceedings with a mediator. Unlike proceedings with a mediator, however, in some disputes the Ministry of Labour and Social Affairs cannot appoint an arbitrator if the contracting parties do not agree on one. The arbitrator may be appointed:

- for every case of collective dispute on the fulfilment of obligations under a collective agreement;

- for a collective dispute about the conclusion of a collective agreement arising in a workplace where it is legally prohibited to strike and where a lockout cannot be declared. It is prohibited, under the law, to strike or declare a lockout in workplaces where a strike or lockout would cause endangerment of the life or health of the public or property in certain situations, e.g. in areas hit by natural disasters, if extraordinary measures are in force.

Proceedings in the presence of an arbitrator begin:

- when the contracting parties apply to an arbitrator for his/her ruling in writing and the arbitrator accepts the application;
- if the contracting parties do not agree and if the dispute is on the conclusion of a collective agreement in a workplace where it is prohibited to strike, or a dispute concerning the fulfilment of obligations under a collective agreement, the Ministry of Labour and Social Affairs appoint an arbitrator on the initiative of one of the contracting parties. Proceedings in the presence of an arbitrator commence on delivery of the decision to the arbitrator.

The arbitrator, in the two above cases may only be a citizen of voting age and eligible to fulfil legal operations recorded in the list of arbitrators kept by the Ministry of Labour and Social Affairs. Conditions for the performance of their function are considerably stricter than in the case of a mediator. This is the case because the decisions of an arbitrator have legal repercussions that are significantly more serious than the proposal of a mediator. Another condition for being listed in the list of arbitrators is that the arbitrator has successfully undergone verification of his/her professional knowledge by a commission that is an advisory body of the Minister of Labour and Social Affairs. Tests of the requisite knowledge are repeated every three years.

The arbitrator issues his/her decision in a dispute within 15 days of the initiation of proceedings. In a dispute on the conclusion of a collective agreement, his/her decision is final.

In a dispute on the fulfilment of obligations under a collective agreement the arbitrator's decision is open to review by the appropriate regional court. The application for a review may be presented within 15 days of delivery of the arbitrator's decision. This term is preclusive.

The arbitrator's financial remuneration and the payment of costs of the proceedings in the presence of the arbitrator is supplied to the arbitrator by the MLSA from the central government budget. MLSA pays the remuneration and costs of the proceedings to the arbitrator 30 days after the arbitrator has announced in writing that the decision has been delivered to the contracting parties.

Experience of the activities of mediators and arbitrators

At present the MLSA has 39 mediators and 26 arbitrators on its lists. Both mediators and arbitrators are recorded according to the region where they are resident and according to their specialisation.

The MLSA will issue employers and unions with a printed list of mediators and arbitrators for the settlement of their collective professional disputes on demand. In 2002 about 35 applicants requested this list.

It should be noted that the MLSA does not record disputes in which it is not directly involved. This is only for cases in which the contracting parties turn to a mediator directly without the involvement of MLSA. Mediators are not even required to send the MLSA their proposals for the solution of disputes that they have delivered to the parties of the dispute. The sending of dispute solution proposals to the MLSA is a demonstration of goodwill by the mediator.

On average there are about 20 applications for the appointment of a mediator yearly. As far as the appointment of an arbitrator in collective disputes is concerned, this step is very exceptional. Last year the MLSA appointed an arbitrator in only one case.

As far as the subject of disputes is concerned, they are predominantly in the area of pay. In the case of disputes solved by a mediator, disputes on the conclusion of collective agreements and their fulfilment always account for about half the disputes. They are mostly company collective agreements. Disputes decided by an arbitrator have been purely disputes about the fulfilment of collective agreements.

It is necessary to emphasise above all the role of the mediator because, thanks to his/her successful negotiation, many disputes have been settled before the situation reaches a head, i.e. before relations between contracting parties are seriously damaged and material damage occurs. Moreover, mediators encourage the disputing parties, if they reject the proposed solution, to continue proceedings with an arbitrator and never to solve the dispute by going on strike.

In practice, the institution of mediators and arbitrators is a relatively often-used method for the settlement of collective disputes and it normally leads to positive results. The influence of mediators and arbitrators can have a positive effect on relations between employers and employees.

Disputes settled by mediators and arbitrators

Table 1: *Disputes settled*

Year	No. of disputes settled by mediator	No. of disputes settled by arbitrator
1997	44	5
1998	54	4
1999	26	1
2000	20	2
2001	33	4
2002	24	1

In the period up to 1 November 2003 about ten disputes were settled by means of a mediator, one was settled by an arbitrator.

The above figures for disputes settled by means of mediators and arbitrators come from data available to the MLSA and are for information only.

Conclusion

Social dialogue may be one of the solutions on how to come to terms with conflicting opinions. The search for a mutual solution to problems and the setting of similar goals is connected to the ideal of the possibility of achieving social harmony and its positive influence on the development of society. It was this communication between the government, trade unions and employers after 1989 that created an important precondition for the transformation of society and the market economy. Social partnership considerably influenced the transformation process, while at the same time changing as a result of the development of political, economic, and social conditions. It can be considered a fully functional instrument of the pluralist system of political democracy, where it operates as a means of solving relations and

preventing conflicts of interest. Social harmony based on dialogue and cooperation is one of the requirements for maintaining economic growth in the Czech Republic.

For a candidate country preparing for entry into the EU it is important to accept the so-called Lisbon direction of social policy of the EU Member States, which dynamically strengthens the compatibility of the social systems of the candidate countries with the states of the EU. Social dialogue and social partnership are an integral part of the European integration process. After coming to power, the social democratic government began to exploit some other forms of social dialogue at national level. The aims was to involve the widest possible cross-section of the public, in particular non-governmental organisations, civic initiatives and independent experts in the preparation of concepts and legal amendment in the areas of employment, social security, job security, etc.

Therefore, the basis of social dialogue is the adoption of the goals of economic and social policy by participants and the recognition of the usefulness of cooperation and social harmony, which better lead to the accomplishment of goals than open disputes.

Some of the most important legal mechanisms for solving disputes in the Czech Republic are the institutions of mediators and arbitrators and the right to strike and lockout. The institution of mediators and arbitrators is very well-tried and well-used in practice. A detailed definition can be found in the Collective Bargaining Act. According to the information from the Ministry of Labour and Social Affairs, between 1997 and November 2003, approximately 200 disputes were settled by mediators and about 20 by arbitrators.

Lockout is defined in the Collective Bargaining Act. It is the power of an employer, on fulfilling legal conditions, to stop work partially or completely. According to information from the Ministry of Labour and Social Affairs, in practice this institution for the settlement of disputes is not used.

The Charter of Fundamental Rights and Freedoms, which forms part of the Constitution of the Czech Republic, states that the right to strike is guaranteed by conditions stipulated by law. However, only strikes in the case of disputes over the conclusion of collective agreements and solidarity strikes to support employees striking for the conclusion of a collective agreement are addressed by the law. This does not mean, however, that all types of strikes other than those addressed by the Collective Bargaining Act are prohibited (e.g. ruling of the High Court of 27 February 1998). The court decides if a particular strike is legal or not.

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Annex 1: National development project

'Development of individual and collective mediation systems'

The national development project for the Czech Republic was not available in time for production.

Annex 2: Road map for conflict resolution