

ENFORCEMENT OF ECONOMIC AND SOCIAL RIGHTS CONCERNING EMPLOYMENT AND OCCUPATION

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Abstract in original language

Príspevek se zabývá vymahateľnosťou hospodárskych a sociálnych práv súvisiacich s výkonom práce. Skladá sa z troch hlavných častí. Prvá časť charakterizuje povahu hospodárskych a sociálnych práv, najmä ich chápanie ako tzv. pozitívnych práv. Druhá časť podáva prehľad úpravy hospodárskych a sociálnych práv v medzinárodných úmluvách. Dôraz je kladen najmä na odlišný spôsob vynutiteľnosti týchto práv. Posledná časť sa zaoberá zakotvením jednotlivých hospodárskych a sociálnych práv v ústavní poriadku Českej republiky a obmedzením ich vynutiteľnosti zákonmi, ktoré tieto práva vykonávajú.

Key words in original language

Hospodárska práva; sociálne práva; pozitívne práva; právo na prácu; právo na zamestnanie; právo na bezpečné pracovné podmienky; právo na spravodlivú odmenu; právo na odborové združovanie; právo na stávkovanie; právo na zvláštny pracovné podmienky; hranice vymahateľnosti.

Abstract

The present contribution deals with the enforcement of economic and social rights relating to employment and occupation. It consists of three main parts. The first part is dedicated to characteristic features of social rights, especially to their consideration as positive rights. The second part deals with international conventions concerning economic and social rights. The different way of enforcement of such rights is emphasised. The last part analyses particular economic and social rights in the constitutional order of the Czech Republic and limitation of their enforcement by laws implementing related provisions.

Key words

Economic rights; social rights; positive rights; right to work; right to employment; right to safe working conditions; right to fair remuneration; right to association; right to strike; right to special working conditions; limitation of enforcement.

INTRODUCTION

Rights related to employment and occupation such as: right to work, right to association for protection of economic and social rights, right to trade union association, right to strike, right to health and safe working conditions, right to satisfying working conditions, right of employees to fair remuneration for work done, right of women, adolescents and persons with disabilities to

special working conditions or right of pregnant women and women after childbirth to protection in employment are stated in various international conventions or declarations. These rights are also included into constitutions or constitutional acts of many states. Most of the abovementioned rights are considered as social or economic rights. The present contribution is dedicated to enforcement of these rights. First, the characteristic features of economic and social rights are explained. Subsequently, the statement and enforcement of these rights in relevant international conventions are explained. Finally, the specific position of economic and social rights with respect to their enforcement in the Czech legal order is analysed.

1. CHARACTERISTIC FEATURES OF ECONOMIC AND SOCIAL RIGHTS

Economic and social rights together with civil and political rights are considered as a group of human rights. Human rights conventions often underline the universality, indivisibility, interdependence and interrelatedness of all human rights and fundamental freedoms.¹ However, there prevails different treatment between civil and political rights on the one hand, and economic, social and cultural rights on the other hand. This difference is very significant especially with respect to enforcement of economic and social rights.

The reasons for such difference consist in specific features of economic and social rights. Contrary to civil and political rights that have been set in constitutional provisions of some states since the second half of the 18th century, economic and social rights developed later. Their constitutional statement derives from the Russian revolution in 1917. Sometimes they are called human rights of second generation.

The key difference between the elevation of socio-economic rights and civil and political rights to a status of enforceability, in terms of potential intrusion into political policy, is alleged to be that of positive and negative effects. Socio-economic rights are positive rights requiring the state to expand resources to provide a remedy, whereas civil and political rights are negative rights, which simply require the state to refrain from unjust interference with individual liberty.² Civil and political rights are sometimes considered as freedoms from state. State is only required not to infringe them and to intervene only in the event of their infringement by third person. On the contrary, economic and social rights require an action from state. State takes measures to implement them, in particular passes laws,

¹ See for example: Preamble of the Convention on the Rights of Persons with Disabilities, point c.

² Willes, E.: Aspirational Principles or Enforceable Rights – The Future for Socio-Economic Rights in National Law, *American University International Law Review*, 2007, Vol. 22, Issue 1, page 45.

decrees or regulations providing concrete rights and duties of individual. In addition, it is necessary that state expends certain amount of financial resources for realisation of particular economic or social rights. The exception is the right to association for the protection of social and economic interests and the right to trade union organisation that may be realised directly from the constitution. They do not require the existence of specific rules implementing them.

The standard of economic and social rights differs in various states according to their economic development, and social traditions. Moreover, it may differ in one state according to actual economic situation or policy of government. However, economic and social rights may not be isolated from civil and political rights. Their realisation creates material conditions for effective exercise of civil and political rights.

2. ECONOMIC AND SOCIAL RIGHTS IN THE INTERNATIONAL LAW

2.1 ECONOMIC AND SOCIAL RIGHTS IN THE SYSTEM OF UNITED NATIONS

The Universal Declaration of Human Rights adopted in 1948 did not make difference between civil and political rights on the one hand and economic, social and cultural rights on the other hand. Its Preamble provides that the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights. This principle was recalled in number of human rights instruments adopted later.

The difference occurred later by adoption of two separate covenants on human rights, that means the International Covenant on Economic Social and Culture Rights, and the International Covenant on Civil and Political Rights, in 1966. The Czech Republic ratified both of these Covenants. The reasons for adoption of two separate conventions consist in inter alia different political and ideological attitudes between the states of Soviet bloc and the United States at the time of the Cold War. The difference in treatment between these groups of rights is significant especially with respect to the wording of the Covenants. Whereas in the International Covenant on Civil and Political Rights the rights are subjects of immediate obligation, in the International Covenant on Economic Social and Culture Rights they are to be achieved by the more intangible notion of progressive realisation³ Moreover, different mechanism monitoring state compliance of the Covenants was established. These differences are not so significant in

³ Willes, E.: Aspirational Principles or Enforceable Rights – The Future for Socio-Economic Rights in National Law, American University International Law Review, 2007, Vol. 22, Issue 1, page 38.

later human rights conventions relating to disadvantaged groups that contain both categories of rights.⁴

2.2 ECONOMIC AND SOCIAL RIGHTS IN THE SYSTEM OF COUNCIL OF EUROPE

In the system of Council of Europe two separate treaties were adopted as well. The civil and political rights are contained in the European Convention for the Protection of Human Rights and Fundamental Freedoms adopted in 1950. The catalogue of social rights was adopted in 1961 in the form of the European Social Charter. The Czech Republic ratified this convention.

The system of protection of rights guaranteed by the European Social Charter differs from the system of protection of rights included in the European Convention for the Protection of Human Rights and Fundamental Freedoms and in Protocols to this Convention. First, an individual may not claim right stated by the European Social Charter before the European Court of Human Rights. The system of supervision of application of this treaty by the States that have ratified it is based on national reports submitted to the Committee of Social Rights. Secondly, the State may ratify only some rights included in the European Social Charter. The Article 20 states that each of the Contracting Parties undertakes to consider Part I of this Charter as a declaration of the aims which it will pursue by all appropriate means, as stated in the introductory paragraph of that part. However the State ratifying the European Social Charter is obliged to consider itself bound by at least five of the following articles of Part II of this Charter: Articles 1 (right to work), 5 (right to organise), 6 (right to bargain collectively), 12 (right to social security), 13 (right to social and medical assistance), 16 (right of the family to social, legal and economic protection) and 19 (right of migrant workers and their families to protection and assistance). In addition to these selected articles, the State ratifying the European Social Charter undertakes to consider itself bound by such a number of articles or numbered paragraphs of Part II of the Charter as it may select, provided that the total number of articles or numbered paragraphs by which it is bound is not less than 10 articles or 45 numbered paragraphs.

In 1996 the revised version of the European Social Charter was adopted. It embodies in one treaty all rights guaranteed by the original European Social Charter its additional Protocol adopted in 1988 and adds new rights and amendments adopted by the Parties. It is supposed to gradually replace European Social Charter. The Czech Republic has not ratified this treaty yet.

⁴ See Convention on the Rights of the Child or Convention on Rights of Persons with Disabilities.

3. ECONOMIC AND SOCIAL RIGHTS IN THE LEGAL ORDER OF THE CZECH REPUBLIC

In the Czech Republic the fundamental human rights are included in the Resolution of the Presidium of the Czech National Council of 16 December 1992 on the declaration of the Charter of Fundamental Rights and Freedoms (hereinafter the Charter) as a part of the constitutional order of the Czech Republic. Economic and social rights concerning employment and occupation are stated in the Chapter Four named Economic, Social and Cultural Rights. Most of these rights may be characterised by two features. First, the wording of the articles governing these rights requires that detailed provisions shall be stated by law. That means that the legislature shall approve laws précising particular social or economic right. Some of these rights are further elaborated in governmental decrees.

The second feature characterising economic and social rights, with the exception of the right to association for the protection of economic and social rights, the right to trade union association, right of pregnant women to protection in labour relations and right of pregnant women to suitable working conditions concerns their enforcement. According to the Article 41 (1) the rights specified in named Articles may be claimed only within the confines of the laws implementing these provisions. This provisions state a rule for interpretation of rights included in the named Articles of the Charter. The Article 41 (1) means that laws specifying particular economic or social right states not only detailed provisions concerning such right but also the limitation for its enforcement. The legislature may decide how to implement particular right by approving concrete rules. The individual is entitled to claim particular right depending on the act implementing such right. Laws and other regulations implementing economic and social rights may differ according to political or economic situation. In addition, the legislature may regulate the amount of financial support necessary or reasonable for ensuring this right. Such decision of legislature has significant impact on quality of some social rights. The Charter provides for following economic and social rights:

3.1 RIGHT TO WORK

The right to work is stated in the Article 26. The first paragraph provides that everybody has the right to the free choice of his profession and to the training to that profession, as well as to engage in commercial and economic activity. However, the second paragraph makes precise that conditions and limitations may be set by law upon the right to engage in certain professions or activities. The third paragraph provides that everybody has the right to acquire the means of her livelihood by work. The state shall provide an adequate level of material security to those citizens who are unable, through no fault of their own, to exercise the right, conditions shall be provided for by law. The forth paragraph enables the application of different statutory provisions to aliens.

The right to work is closely connected with the prohibition of forced labour provided in the Article 9 of the Charter. According to the first paragraph no one may be subjected to forced labour or service. Closed enumeration of exceptions from the prohibition of forced labour or office is contained in the second paragraph and includes:

- a. Labour imposed in accordance with law upon persons serving a prison sentence or upon other persons serving penalties that take the place of the penalty of imprisonment,
- b. Military service or some other service provided for by law in place of compulsory military service,
- c. Service required on the basis of law in the event of natural disasters, accidents, or other danger threatening human life, health or property of significant value,
- d. Conduct imposed by law for the protection of life, health or rights of others.

Right to work is understood as the right to perform any activity the purpose of which is to obtain means of livelihood. Such an activity may be performed in the name of the person and for his or her responsibility, which means in the form of self-employment, or in the name, according to the instruction and for the responsibility of someone else, which means in the form of dependant work. The later form of the right to work is understood as the right to employment.

The right to employment is further elaborated in labour law regulations, namely in the Labour Code (Act no. 262/2006 Coll., as amended) and Act on Employment (Act no. 435/2004 Coll., as amended). The theory of labour law recognizes three elements of this right: right to assistance when looking for an employment, right to protection of existing labour relationship and right to reasonable means in the event of loss of an employment.⁵

3.2 RIGHT TO ASSOCIATION FOR PROTECTION OF ECONOMIC AND SOCIAL INTERESTS

The right to associate with others for protection of economic and social interests is provided in the Article 27 of the Charter. Everyone is entitled to enjoy this right. However, the Article 44 gives the power to legislature to place restrictions upon the exercise of this right by members of security corps and members of the armed forces, insofar as such is related to the performance of their duties. Contrary to other social rights, the Charter does not require that law states detailed provisions. In addition, the enforcement of this right is not limited by confines of laws implementing it. This right is

⁵ See. Galvas, M.: Pracovní právo, Brno, Masarykova univerzita 2004.

very similar to civil and political rights. The role of the state is not to infringe the exercise of this right.

The right to association including the right to association for protection of economic and social interests is further regulated by the Act on Civil Association (Act no. 83/1990 Coll., as amended) governing the establishment and position of trade union organisations and organisations of employers that are recognised as legal entities with full legal capacity.

3.3 RIGHT TO TRADE UNION ASSOCIATION

The right to trade union association may be considered as making precise the right to association for protection of economic and social interests. It is guaranteed by the Article 27 (2) of the Charter. Trade unions shall be established independently of the state. No limits may be placed upon the number of trade union organisations, nor may any of them be given preferential treatment in a particular enterprise or sector of industry.⁶ However legislature may place restrictions upon the exercise of this right by members of security corps and members of the armed forces, insofar as such is related to the performance of their duties. The existence of law implementing the right to trade union association is not required and its exercise is not limited by confines of law implementing it.

The right to trade union association is ensured by the Labour Code and by the Act on Civil Association. It includes the right to established or not to establish a trade union organisation. That means that nobody shall be impended to establish a trade union organisation and nobody shall be forced to establish a trade union organisation. The right to trade union association also includes the right to enter or not to enter the existing trade union organisation. That means that everybody shall be free to become a member of a trade union organisation and nobody shall be forced to be a member of a trade union organisation. Furthermore, trade union organisations may associate with other trade unions at national or international level.

The principle of equal treatment with trade unions organisation is underlined in the section 24 (2) of the Labour Code providing that whereas two or more trade union organisations operate within the employer's undertaking, the employer shall negotiate the conclusion of the collective agreement with all such trade union organisations, unless the trade union organisations agree between themselves and with the employer otherwise, the trade union organisations shall act and negotiate the collective

⁶ The activities of trade union and the formation and activities of similar associations for the protection of economic and social interests may be limited by law in the case of measures necessary in a democratic society for the protection of the security of the state, public order or the rights and freedoms of others (Article 27 (3) of the Charter).

agreement jointly and in mutual consent with legal consequences for all employees. The original wording of this section contained the provision stating that where the trade union organisations failed to agree, the employer was entitled to conclude the collective bargaining agreement with one trade union organisation or more trade union organisations with the largest membership among the employees. This provision was repealed by the Constitutional Court on the matter of the fact that it was not in compliance with the Article 27 (2) of the Charter.⁷

3.4 RIGHT TO STRIKE

The right to strike is guaranteed by the Article 27 (4) of the Charter but only under the conditions provided for by law. Some groups or persons are excluded from the enjoyment of this right because the Article 27 (4) states that it does not appertain to judges, prosecutors, or members of the armed forces or security corps. In addition, the Article 44 enables to legislature to place restrictions upon the exercise of this right by persons who engage in professions essential for the protection of human life and health. The right to strike may be claimed only within the confines of the laws implementing the Article 27 (4).

More precise rules concerning the right to strike are contained in the Collective Bargaining Act (Act no. 2/1991 Coll., as amended). The right to strike provided in this law is very limited because it enables to strike only where collective labour dispute on conclusion of collective agreement is settled. In addition, the parties to such collective labour dispute are obliged to claim for the solution a mediator. Only where this instance of the dispute is not successful the trade union organisation may call on strike.

3.5 RIGHT OF EMPLOYEES TO SATISFYING WORKING CONDITIONS

The Article 28 of the Charter guarantees the right to satisfying working conditions. The Article 28 requires that person entitled to enjoy this right is in the position of an employee. That means that a natural person has to be a party of a labour relation. Only persons performing so called dependant work is entitled to conditions stated by the Labour Code and other labour law regulations.⁸ Types of labour relations are stated by the Labour Code in

⁷ See Decision of the Constitutional Court of the Czech Republic repealing some provisions of the Labour Code, published in the Collection of Laws as 116/2008.

⁸ Dependant work is defined in the section 2 (4) and (5) of the Labour Code and means exclusively personal performance of work by an employee for his employer within the relationship of the employer's superiority and his employee's subordination, according to the employer's instructions or according to the instructions given in the employer's name, for a wage, salary or other remuneration paid for work done within the working hours or

the section 3. According to this provision it is possible to establish an employment relationship or conclude an agreement on work performed outside an employment relationship. The Labour Code recognises two agreements on work performed outside an employment relationship: agreement on work performance and agreement on working activity. The Labour Code requires that natural person has to have specific legal capacity so as to be a party of any of these labour relationship. He has to have capacity to have rights and duties as an employee and the capacity to acquire such rights and take on such duties by his own acts-in-law. This capacity is acquired on the day when an individual reaches the age of 15 years. However, an employer may not agree with an individual to take up his employment on a day which proceeds the day when this individual completes compulsory school attendance. The Article 28 provides that detailed provisions concerning the right to satisfying conditions shall be stated by law.

The fundamental question with respect to the right to satisfying conditions is the notion of the term “working conditions.” The theory of the labour law defines working conditions as all factors involving an employee during the performance of work.⁹ The other question is which working conditions are satisfying. The term “satisfying working conditions” is quite general and vague. What is satisfying for an individual or group of employees need not be satisfying for another individual or group of employees.

The minimum standard of working conditions is the right to safe and health working conditions. The work performance should not endanger the lives and health of employees. Main purpose of the legal regulation is to prevent industrial injuries and occupational diseases. From this point of view the right to satisfying working conditions involves protection of health and safety at work including requirements for adjustment of workplace to the

otherwise determined or agreed time, at the employer’s workplace or at some other agreed place. at the employer’s cost and at the employer’s responsibility. Dependant work also refers to the cases where an employer (employment agency) who on the basis of a licence granted under Act on Employment temporary posts his employee for work performance to another employer according to the relevant clause in the employment contract or agreement on working activity whereby the employment agency undertakes to arrange for his employee temporary work performance with another employer (user) and the employee undertakes to carry out work according to the user’s instructions with regard to the agreement to the employee’s temporary posting by the employment agency to the user, as concluded between the employment agency and such user.

⁹ Galvas, M., a kol. Pracovní právo, Brno, Masarykova univerzita, 2001, page. 267.

needs of employees, assessment of risks relating the work, elimination of such risks, suitable working equipment, personal protective equipment, duties of both parties of labour relation, staff training about these duties, reasonable limitation of working hours, schedule of working hours and safety breaks.

However, the term “satisfying working conditions” is larger than health and safe working conditions. Needs of employees in other areas should be satisfied as well. Satisfying working conditions may include for example equal treatment and non-discrimination in employment, protection against unlawful dismissal, vocational guidance, vocational training, possibility of promotion or social care of employees. The right to satisfying working condition is provided especially by the Labour Code, Act on Labour Inspection (Act no. 251/2005 Coll., as amended) and the Act on Ensuring Other Requirements relating to Health and Safety at Work (Act no 309/2006 Coll., as amended).

3.6 RIGHT OF EMPLOYEES TO FAIR REMUNERATION FOR WORK DONE

This right is guaranteed by the Article 28 of the Charter. Only employees are entitled to exercise this right. Detailed provisions shall be state by law. Rules for remuneration of work performed in labour relations are contained in the Labour Code and other labour law regulations. The right of employees to fair remuneration is ensured namely by the minimum standards of remuneration and the principle of equal pay for equal work or work of equal value.

The minimum standards of remuneration are ensured by the institute of minimum wages and guaranteed wages. The minimum wage is defined in the section 111 of the Labour Code as the minimum permissible amount of remuneration for work done in a labour relationship. A wage salary or remuneration pursuant to an agreement may not be lower than the minimum wage.¹⁰ The Governmental Decree 567/2006 Coll., as amended, sets out the basic rate of the minimum wage and further rates of the minimum wage differentiated with a view to influences limiting to certain employee’s possibility to exercise the work and conditions for minimum wage payment.

The principle of equal pay for equal work or work of equal value is recognised as one of the basic principles of labour law relations according to the section 13 of the Labour Code. Detailed provisions are contained in the section 110 of the Labour Code. All employees employed by one employer are entitled to receive equal wage, salary or remuneration pursuant to an agreement for the equal work or for work to which equal value has been

¹⁰ For this purpose the wage or salary shall not include any premium payment for overtime work, work on public holidays, night work, work in arduous working environment and work on Saturdays and/or Sundays.

attributed. The equal work or for work to which equal value has been attributed is defined as work of the same or comparable complexity, responsibility, strenuousness which is performed in the same or comparable working conditions and which is of equal or comparable working efficiency and brings equal or comparable work results.

3.7 RIGHT OF WOMEN, ADOLESCENTS AND PERSONS WITH HEALTH PROBLEMS TO INCREASED PROTECTION OF THEIR HEALTH AT WORK

Some categories of employees are considered to be in weaker position and the need for their increased protection is recognised. The Article 29 (1) of the Charter guarantees to women, adolescents and persons with health problems to increased protection of their health at work. Detailed provisions shall be set by law. This right may be claimed only within the confines of the laws implementing the Article 28. With respect to women and adolescents detailed provisions are set by the Labour Code and by the Ordinance of the Ministry of Health no 88/2003 Coll. as amended. For the purpose of protection at work, an adolescent shall mean person who is less than 18 years of age. However, no special rules are provided for increased protection of health of persons with health problems.

3.8 RIGHT OF WOMEN, ADOLESCENTS AND PERSONS WITH HEALTH PROBLEMS TO SPECIAL WORKING CONDITIONS

Women, adolescents and persons with health problems have also the right to special working conditions. Detailed provisions shall be set by law and this right may be claimed only within the confines of the laws implementing the Article 28. Contrary to the right to satisfying working conditions guaranteed only to employees, the right to special working conditions is not limited by formation of a labour relation. The Chapter Four of the Labour Code named Special Working Conditions for some employees recognises special working conditions for female employees, employees-mothers, employees taking care of a child or another person. However, no special working conditions are stated for persons with health problems. The section 237 of the Labour Code only contains reference to Act on Employment with respect to employment of persons with disabilities.

3.9 RIGHT OF ADOLESCENTS AND PERSONS WITH HEALTH PROBLEMS TO SPECIAL PROTECTION IN LABOUR RELATIONS

The right of adolescents and persons with health problems to special protection in labour relations is stated in the Article 29 of the Charter. Detailed provisions are set by the Labour Code and it may be claimed only within the confines of the laws implementing these provisions. The present legal regulation does not contain provisions on special protection of these categories of employees. Both, adolescents and persons with health

problems are treated in the same way as other employees. There is the same regulation relating to establishment or termination of labour relationship.

3.10 RIGHT OF ADOLESCENTS AND PERSONS WITH HEALTH PROBLEMS TO ASSISTANCE IN VOCATIONAL TRAINING

The other right guaranteed by the Article 29 (2) of the Charter is the right of adolescents and persons with health problems to assistance in vocational training. This right requires the existence of law stating detailed provision and may be claimed only within the confines of the laws implementing the Article 29 (2) of the Charter as well. The law that implements this provision of the Charter is the Act on Employment providing vocational rehabilitation and vocational guidance for persons with disabilities. Not all persons with health problems are entitled to enjoy such special assistance. The person with health problems must be recognised as a person with disability on conditions laid down in the section 67 of the Act on Employment.

3.11 RIGHT OF PREGNANT WOMEN TO PROTECTION IN LABOUR RELATIONS

The right of pregnant women to protection in labour relations is stated by the Article 32 (2) of the Charter. It may be considered as a component of the right to protection of parenthood. The Article 32 (6) states that detailed provision shall be set by law. In contrast to the right of adolescents and persons with health problem to special protection in labour relations, the enforcement of this right is not limited by the confines of the laws implementing it.

The increased protection of pregnant women in labour relations is implemented by the Labour Code stating specific provisions, in particular with respect to termination of an employment relationship with a pregnant woman. The section 55 (2) prohibits the immediate termination of an employment relationship by an employer with such women. In addition, the sections 53 and 54 of the Labour Code limit the reasons for termination of an employment relationship by the notice of termination by an employer.

3.12 RIGHT OF PREGNANT WOMEN TO SUITABLE WORKING CONDITIONS

The right of pregnant women to suitable working conditions is stated by the Article 32 (2) of the Charter as well. This right is implemented by the Labour Code and by the Ordinance of the Ministry of Health no 88/2003 Coll. as amended. Stated types of work and workplaces are prohibited for pregnant women. In the case that a pregnant woman performs work that is prohibited to pregnant women, an employer is obliged to transfer her to alternative work. Moreover, the Labour Code in the section 241 (3) states that employers may not assign overtime to pregnant women. The section 241 provides special rule concerning the business trips of pregnant employees

CONCLUSIONS

Economic, social and cultural rights in general, and economic and social rights relating to employment and occupation are treated in a different way than civil and political rights. This different treatment is significant especially with respect to the enforcement of these rights. Most of economic and social rights require the existence of legal regulations stating detailed provisions for their implementation. Furthermore, some of them may be effectively ensured only where financial support is provided. In the Czech Republic all economic and social rights relating to employment and occupation guaranteed by the Charter of Fundamental Rights and Freedoms, with the exception of the right to association for protection of economic and social interests, right to trade union association, right of pregnant women to protection in labour relations and right of pregnant women to suitable working conditions may be claimed only within the confines of the laws implementing related provisions of the Charter.

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