

Name of the country: **Czechia**

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Transposition act = Consolidated legislation EWC provisions\_CZ

**1. Presence of legally based administrative or judicial conflict solving procedures for:**

		No	Yes	Unclear	brief explanation
A	SNB (including the pre-SNB phase, i.e. requesting the necessary information about the company, staff distribution, etc.)			The Labour Code regulates the procedure for the establishment of a Special Negotiating Body and an EWC (corresponding to the EWC Directive).	Unfortunately, the Czech Labour Code does not provide for any sanction in case the employer resists the negotiation and the establishment of the SNB and EWC. In practice, an EWC normally exists in a company with established and functioning TU. TU has the right to information. If the employer does not fulfil his obligations towards the trade union, a financial penalty may be imposed by the public authority.
B	EWC based on Art. 6 agreements		Yes		
C	EWC based on art. 13 agreement		No differentiation		
D	EWC based on subsidiary requirements		Yes		

**2. Litigation on different sets of rights: presence of national provisions**

		No	Yes	Which authority (e.g., court) is competent <sup>1</sup>
				There are no special labour courts in the Czech Republic.  General courts are competent to deal with all decisions in the context of employment law. However, there is a three-person senate for labour disputes

<sup>1</sup> Material and geographical competence.



				at all general courts of a first instance comprising of one judge and two associate justices. <sup>2</sup>
A	Breaches against the provision of information to the SNB as per art. 4 (4) of Directive 2009/38/EC (information on the number of employees)/Failure to establish a SNB	No		
B	Operation of the EWC: breaches and compliance with the law (statutes), agreement or Subsidiary Requirements	Partially: only provision of information and confidentiality <sup>3</sup>		
C	Challenging management on the use of confidentiality and secrecy/withholding information)		Yes <sup>4</sup>	
E	Individual rights of the SNB/EWC members under national EWC legislation	Employee representatives (both in the EWC and in the SNB) <ul style="list-style-type: none"> <li>- may not be put at a disadvantage in the performance of their activities, nor may be discriminated against.</li> <li>- is entitled to time off from work with compensatory wage in the amount of his average earnings for the holding of office</li> </ul> Unlike TU officials, the Czech Labour Code does not provide ERZ members with the special		

<sup>2</sup> <https://cms.law/en/int/expert-guides/cms-expert-guide-to-labour-law-in-central-eastern-europe/czech-republic>

<sup>3</sup> European Commission 2018: 57

<sup>4</sup> The employer has the right to mark the information as confidential. Under the term of confidential information could be understand information the provision of which may endanger od damage the activities of the employer or violate the legitimate interests of the employer or employees. The members of EWC are obliged to maintain the confidentiality of information that has been explicitly provided to them as confidential. If the employer request the confidentiality of information, the EWC may request that the court determine that the information has been marked as confidential without adequate reason. If the employer does not provide the information, the EWC may request that the court decide that the employer is obliged to provide the information.



		protection against dismissal by notice of termination.		
F	(Others to be filled in)			

If yes, please take those differences into account when answering the following questions.???

### 3. Capacity to act in court

		Brief explanation/ differences for 2A-2F above)
1	Who/which body can start a judicial procedure?	Any employee <sup>5</sup>
2	What legal status (ius standi) is a requirement to start a judicial procedure? (legal personality, capacity to act in courts, other forms?)	No legal status but the EWC has the right to be a party to civil judicial proceedings in disputes on: - the provision of information which the employer refused to provide to the EWC; and - the confidentiality of the provided information <sup>6</sup>  'Capacity to participate in civil proceedings for the purpose of confidentiality disputes', Section 276.8 of the Labour Code: '(8) For the purposes of proceedings pursuant to subsection (5) and for the purposes of demanding performance of obligations (duties) pursuant to Part Twelve [section referring to EWCs], the works council has the capacity to be a party to civil judicial proceedings. The works council shall be represented at such proceedings either by its chairman or by its member authorized thereto.'
3	What is the legal status of the EWC (legal personality or other capacity to act in court)?	Collective capacity to act in courts
4	In case of lacking capacity to act in court: how can it be circumvented (think of representation by trade unions)?	Trade unions can assist.
5	Who represents the EWC in law?	Chairman (of the Staff, ???) or duly authorised member <sup>7</sup>
6	What is the capacity to act in court of joint type ('forum' or French-type) EWCs composed of both management and employees'	No differentiation in law.

<sup>5</sup> Art. 285 (2) Every employee of the employer in an employment relationship and the employer may, by filing a motion to declare the election invalid, seek protection in court pursuant to a special law 79 ) if he considers that there has been a violation of the law which could significantly affect the election result. The proposal must be submitted in writing no later than 8 days from the date of the announcement of the election results.

<sup>6</sup> European Commission 2018: 57

<sup>7</sup> Art. 276 para 8.



representatives and can it be an obstacle?	
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#### 4. Starting a procedure and timelines

		Brief explanation
1	Does the law set conditions as to how the EWC can take a valid decision on entering a judicial procedure? Think of voting, quorum, the necessity of a physical meeting to take a decision,...	No
1.a	Does the law contain any requirements on the internal rules concerning question 1?	No
2	How does one file a case in court? (Who, format, steps)	According the Czech Labour Code the EWC shall have the capacity to be a party to civil court proceeding. The chairman and, in his absence, his deputy, represents the EWC externally and manage its day-to-day activities. The chairman (or designated person) must file a lawsuit in court. No lawyer is needed.
3	What is the deadline to start a judicial procedure?	There is set no deadline for initiation of judicial procedure.
4	Are there other relevant deadlines in the judicial procedure?	No
5	What is the role of out of court settlements once a case has been filed?	Parties to an employment agreement may voluntarily agree that their dispute will be resolved in mediation proceedings. <sup>8</sup>
6	How long does a judicial procedure typically take?	Unclear. CMKOS does not have any information about real cases yet.
7	Is an injunction or a summary procedure possible?	Yes, in confidentiality disputes: right to challenge imposition of confidentiality and demand an injunction <sup>9</sup>

#### 5. Costs

		Brief explanation
1	What are the court fees for a judicial procedure?	According the Act No 549/1991 Coll., on Court Fees, the rates of proceeding costs are either fix or they are calculated as a percentage of the fee's basis. In case of disputes where the monetary

<sup>8</sup> <https://cms.law/en/int/expert-guides/cms-expert-guide-to-labour-law-in-central-eastern-europe/czech-republic>

<sup>9</sup> Art. 276 para 5 (Labour Code): (5) If the employer requests the confidentiality of information which has been provided as confidential, the employees' representatives may request that the court determine that the information has been marked as confidential without reasonable reason. If the employer does not provide the information, the employees' representatives may request that the court decide that the employer is obliged to provide the information.



		claim not exceeds CZK 20 000 (approx. 800 EUR), the court fee makes CZK 1 000 (approx. 40 EUR).  In case of disputes where the monetary claim exceeds CZK 20,000, the costs amount to 5 % of the disputed sum.
2	Is legal representation by a lawyer required in a judicial procedure?	No, but it's recommended
3	Who pays the costs for:	Normally paid by plaintiff (the Court Fees Act) Only general formulation on covering the costs.
	- Legal expert	Unclear. • An EWC may invite experts to its meeting if it is necessary for performance of its tasks. Limited to one expert (unless agreed otherwise). → does it / can it apply to a legal expert?
	- Court fees	
	- Other costs (travel/interpretation)	Travel, meetings
4	Does a EWC normally have an independent budget and/or an own bank account under a given national legislation?	No. According the Czech Labour Code, the employer is obligated to cover the costs of EWC activity. He shall at his own expense create the conditions for proper function of EWC, in particular to cover the costs of organizing meetings, interpretation, travel costs, training etc.
5	Can the EWC be sentenced to pay the costs of the other party in the judicial procedure?	Probably not. According the Czech Labour Code the EWC does not have a delictual capacity.
6	Can the EWC <i>members</i> be sentenced to pay the costs of the other party in the judicial procedure?	No. They perform their activity on behalf of the EWC.

## 6. Sanctions

		Brief explanation
	How is a breach of law classified?	Administrative offence <sup>10</sup>
1	What are the sanctions for breaches of EWC laws?	Financial penalty up to 7 700 EUR
2	Can the court rule to stop or reverse the companies' decision-making?	No. The EWC doesn't have the right to consent but only to be informed and consulted. Employer can implement his decision regardless of whether he informed the EWC or if the EWC disagrees with his intention.
3	Whom should fines be paid to?	The financial fine can only be imposed by a public authority, and only for breach of obligations by the employer. The fine is an income of the state budget.

<sup>10</sup> European Commission 2018: 57. Also: Breaches of EWC regulations may be considered 'Breaches of the legislation and administrative offences' under the Labour Inspection Act of 3 May 2005.



4	Can a member of management be held personally liable (personal vs. corporate liability)	A member of management (company) according the Legal order, especially Act No 89/2012 Coll., the Civil Code and the Act No 90/2012 Coll., the Business Corporations Act.  In addition, if he performs his activity in a employment relationship, then primarily according to the Labour Code.
5	Can individual EWC members be sentenced to pay fines or be subject to other sanctions?	No
6	Can the EWC collectively be sentenced to pay fines or be subject to other sanctions?	Probably not. According the Czech legal order the EWC doesn't have an delictual capacity. Czech labour code regulates in its special provisions only the liability of EWC for the damage and injuries of the members and the liability of this members to the person, for whom they performed activities. But, according the situation described below (EWC member = TU member), in practice, members are insured by a trade union or the employer (if there is no trade union).  In addition, the employer may not impose or require any financial penalties on the employee for breach of his obligations (this does not apply to damage for which the employee is liable).  EWC cannot be even a subject of public penalties.

## 7. Out of court settlements

		Brief explanation
1.	In general, are alternative conflict resolutions available in a given country can out of court settlements be reached once a case has been filed? Does it happen in practice?	Parties to an employment agreement may voluntarily agree that their dispute will be resolved in a mediation proceedings. It is argued that disputes relating to establishment and termination of employment relationship may not be subject to arbitration. <sup>11</sup>

## 8. Resources for EWCs

		Brief explanation
1.	Can unions provide legal support or financing for litigation?	Yes, they have a statutory role in this: Section 321 Trade union organizations (bodies) shall ensure compliance with this Code, the Employment Act, statutory provisions on occupational safety and health protection and other labour statutory provisions.

<sup>11</sup> <https://cms.law/en/int/expert-guides/cms-expert-guide-to-labour-law-in-central-eastern-europe/czech-republic>



2.	What other resources are available in terms of legal support to EWCs and/or EWC members in your country (e.g., Arbeiterkammer, legal support centres)	Practically, there are no special by law established supportive institutions. Cooperation with TU is highly recommended. In practice, the member of EWC is also a TU member (commonly a union official).
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