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THE RIGHT TO SOCIAL SECURITY IN THE CZECH CONSTITUTIONAL SYSTEM*

1. The constitutional guarantees of social security rights

1.1. Introduction

It is very usual and traditional to devote in the introduction of similar articles extensive interpretations related to the historical development of investigated institutes, more precisely to the analysis of potential influence of the genesis of the legal regulation in the investigated area in a given country in its recent form and that also with respect to the potential of historical interpretation when interpreting legislative texts. We are going to, intentionally, partially break this tradition for two reasons; the first, is the intention of the editor, by whom was defined the maximum extent of this contribution, the second and more fundamental reason, is the weakening of the importance of continuity of the historical development of legal regulation in the investigated area in the Czech Republic, due to its “deformation” at the time of a non-democratic system.¹

For the aforementioned reasons, we will only deal with the “recent history”, more precisely, with the time in the Czech Republic after the Velvet Revolution (in 1989), laid within the overall democratization of society in the early 1990’s, the constitutional legal framework on which the existing legal regulation of social security law in the Czech Republic is based and steps to fundamental reforms of the social security system were taken.

1.2. Briefly to the development of the social security law after 1989

Economic reforms and the transition from a planned to a market economy after 1989, brought with it necessary reforms in the area of the social security law.

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¹ Those who are interested in this area and in a more comprehensive view on social security legislation may refer to the publication (in Czech language) Tröster, P. et al. ‘Právo sociálního zabezpečení’ /Social Security Law/, 6th edition, Prague: C.H. Beck, 2013 and further (in English) Koldinská, K., Lang, R. ‘Czech Republic’ in *International Encyclopaedia of Laws: Social Security Law*, edited by Willy van Eeckhoutte. Alphen aan den Rijn, suppl. 89 NL: Kluwer Law International, 2013.

Among several things the Czech Republic faced at the beginning of the 1990's was the need to deal with appearance of an entirely new phenomenon for the country as yet, the unknown social condition – e.g. unemployment. The economy before 1989, i.e. the economy during period of socialism, was deformed by focusing on saturation of needs within the “Eastern bloc” (and thus often unable to compete globally), and was characterized by a planned nature, controlled focus on heavy industry and extensive growth factors – leading to resulting conditions among others such as “full employment”, and more precisely to a demonstration of the lack of labour force, due to inefficient use, when in fact “over-employment” existed due to the absence of the corrective measures of functional market mechanisms. “Opening up of the market” after 1989 led, to (among other things) the destruction of a number of industrial enterprises, and the emergence of unemployment and thus to the need to adopt appropriate legislation in response.

The fact that unemployment was in the early 1990's in the Czech Republic a new phenomenon had probably to some extent impact on the fact that the legal regulation on employment (including securing unemployment benefits paid by the Employment Office) is still – despite the public nature of the legal regulation – considered rather as a specific area of labour law in the Czech Republic.² A somewhat similar situation applies to the issue of work accidents and occupational diseases, which is historically also regulated under labour legislation – specifically in the provisions of the Labour Code (Act No. 262/2006 Coll., the Labour Code, as amended).³ Despite this (to some extent historically conditioned) specific, it is evident that the range of social events in the Czech Republic are similar to that in other European countries.⁴

However, even in areas where social security was before 1989 quite functional from the views of the addressees of benefits, it was necessary to proceed to changes caused by differences in the new politico-economic environment. It was soon evident a long-term unsustainability of further funding of some systems – especially the ongoing financing of pension systems (this area has no complex solution so far – see below). It was also necessary to make changes that eliminated some factors of unjustified inequalities in the area of social security – such as the removal of the institute of the so called “personal pensions”.

² Compare Employment Act, No. 435/2004 Coll.

³ Accident Insurance Act, No. 262/2006 Coll., which regulated on a new basis this issue already in 2006, in a separate act has not yet come into effect, more precisely its effectiveness has been repeatedly postponed (last until 1 January 2015) and the Government and the social partners are now discussing ways to adopt entirely new legal regulation of work accident insurance.

⁴ Among social events (this means among legal events with a direct or vicarious negative impact on the social situation of an individual with which the social security legislation associates the creation, alteration or extinction of rights and duties in the frame of social security legal relationships) falling within the scope of social security law in the Czech Republic are above all:

- (a) illness or impairment of health – which can cause also incapacity to work or a state designation as a long-term unfavourable state of health or disability
- (b) pregnancy and maternity
- (c) lack of maintenance of a child
- (d) reaching a certain age
- (e) death
- (f) insufficient earnings
- (g) work accident and occupational disease

It is therefore evident that in the 1990's the Czech legislator faced many challenges in the area of social security.

1.3. Briefly to the development of the constitutional framework of social security law after 1989

a) Creating of the independent Czech Republic to 1 January 1993

After 1989, in Czechoslovakia there was gradually further development of the relationship between the Czech and Slovak nations and growing emancipation tendencies (manifested externally among others by repeated modification of the name of the common state), which led to the extinction of Czechoslovakia. On 25 November 1992, the Federal Assembly of the Czech and Slovak Federative Republic decided its extinction by 31 December 1992, and that its successor states are the current Czech Republic and the Slovak Republic.

In the following month (16 December 1992), the Czech National Council (in the position of the Czech Parliament) for the purpose of legal and constitutional solution of the independence of the Czech Republic enacted a new Constitution of the Czech Republic ("Constitution").⁵

b) The constitutional order of the independent Czech Republic

On 15 December 1992, was by the adoption of the Act no. 4/1993 Coll., on certain measures in relation to the extinction of the Czech and Slovak Federal Republic (this law is sometimes also referred to as the "take over law"), ensured the continuity of the legal system in the level of "ordinary" laws – i.e. even laws falling within the area of legal regulation of social security and labour law – in the territory of the new state (independent Czech Republic) with the legal order of the Czech and Slovak Federal Republic from the time before 31 December 1992.

However, the situation was different regarding the area of legal regulation of constitutional law. On 16 December 1992, the adopted Constitution in Article 112, paragraph 1 introduces a new concept "constitutional order" of the Czech Republic and characterizes it by a list stating that the constitutional order of the Czech Republic consists of the Constitution, the Charter of Fundamental Rights and Freedoms and the constitutional laws (the latter mentioned – constitutional laws – are then in the cited provisions further divided). Article 3 of the Constitution then expressly declares that the Charter of Fundamental Rights and Freedoms is part of the constitutional order of the Czech Republic.

It is not – with regard to the focus of this text – appropriate to further discuss the concept of "constitutional order" as well as discussions associated with this newly (by the Constitution itself) introduced concept and its definition contained in Article 112 of the Constitution (see above)⁶, but it is appropriate with regard to the aims of this text to

⁵ The Constitution has been published in the Collection of Laws under no. 1/1993 Coll. and became effective on 1 January 1993.

⁶ For more details it is possible to refer to the publication KLÍMA, Karel et al. *Komentář k Ústavě a Listině*. [Commentary on the Constitution and the Charter], 2nd edition, Plzeň: Aleš Čeněk, 2009, pp. 845 and following.

deal in more detail with two fundamental constitutional norms – the Constitution and especially the Charter of Fundamental Rights and Freedoms.

In connection with the latter mentioned norm, it is necessary to bring in brief specifics of constitutional development in the Czech Republic after 1989, and in order to help (though abbreviated) with a better understanding of the circumstances associated with the adoption, and wording of the Charter of Fundamental Rights and Freedoms, which is – from the view of the focus of this text – the most important part of the constitutional order of the Czech Republic, because it is – as will be clarified below – a key source of constitutional law of the Czech Republic in the area of fundamental rights and freedoms.

c) To adoption of the Charter of Fundamental Rights and Freedoms

The Charter of Fundamental Rights and Freedoms (hereinafter the “Charter”) was adopted in 1991, (i.e. at time, before the split of Czechoslovakia – see above) by the former Federal Assembly of the Czech and Slovak Federal Republic. The Charter was promulgated in the Collection of Laws on 8 February 1991, along with a constitutional law which introduced it, under no. 23/1991 Coll.; it came into effect on the same day (8 February 1991).

Further fate of the Charter was influenced by the subsequent disintegration of Czechoslovakia and by difficulties that accompanied the birth of a new “constitutional order” of the independent Czech Republic – see above.

E. Wagnerová⁷ says to this: “When creating a new Czech constitution there were disputes about its incorporation (understand the Charter) into the text of the Constitution, which had ideological overtones. Part of the political scene was bothered particularly by the large social and cultural rights. It was finally taken separately into the Czech legal order, but not expressly as a constitutional law, what is indeed a negative presentation of the then political scene, more precisely of the then dominant political forces. Yet, through Article 3 in conjunction with Article 112 paragraph 1 of the Constitution it became part of the Czech constitutional order...”⁸

In the text of the Charter, more precisely in its preamble, is to this day, seen the process of its adoption in the (then still) common state of “the Czechs and Slovaks”, when the Federal Assembly of the Czech and Slovak Federal Republic (federal parliament) approved the Charter on the basis of the proposals of the Czech National Council and the Slovak National Council.⁹

As has already been indicated above, the Charter has not been approved by the Federal Assembly as a separate document, but as part of the Constitutional Act no. 23/1991 Coll., which introduced it; during the split of Czechoslovakia the Charter was as part of the constitutional order of the independent Czech Republic published for information again in the Collection of Laws under no. 2/1993 Coll. on the basis of the Resolution of

⁷ The current senator – was for many years a judge and Vice-President of the Constitutional Court.

⁸ E. Wagnerová in Wagnerová, E.; Šimíček, V.; Langášek, T.; Pospíšil, I. at al. *Listina základních práv a svobod. Komentář [The Charter of Fundamental Rights and Freedoms. Commentary]*, Praha: Wolters Kluwer ČR, a.s., 2012, p. 9.

⁹ The final form originated from originally own and different proposals of republican parliaments which were during discussion in the Federal Parliament “entwined”.

the Czech National Council of 16 December 1992 on promulgation of the CHARTER OF FUNDAMENTAL RIGHTS AND FREEDOMS as part of the constitutional order of the Czech Republic.

To this, states V. Šimíček, the legal nature and force of the Charter is given unchanged since 1991, when it was approved, and the Constitution has only confirmed such position in Article 3 and Article 112, paragraph 1.¹⁰

Since its adoption in 1991, the text of the Charter was changed only once, and in very little – with regard to the focus of this text insignificantly.¹¹ As concerns the text of the preamble of the Charter, which still – for reasons mentioned above – talks about Czech and Slovak Federal Republic, it is necessary to interpret this provisions, in accordance with the Article 1 of the Act no. 4/1993 Coll., on measures related to the extinction of the Czech and Slovak Federal Republic, as a provision talking about the Czech Republic.

The Constitution and the Charter are designated as a constitutional foundation of the Czech Republic, which has “two material pillars” – the institutional part is contained in the Constitution and the human rights part in the Charter.¹²

d) Decision-making activity of the Constitutional Court of the Czech Republic in matters of social rights

The Constitutional Court of the Czech Republic is a judicial body which ensures compliance with the Constitution; status and competences of the Constitutional Court are included directly in the Constitution. The Constitutional Court is composed of 15 judges who are appointed by the President and with the consent of the Senate for a period of 10 years. Among the activities of the Constitutional Court are:

- abrogation of statutes and their individual provisions if they are in violation of the Constitution;
- decisions on constitutional complaints against final decisions infringing on guaranteed fundamental rights and freedoms;
- decisions on disputes related to the powers of state bodies and state self-governing bodies.

The role and importance of the decision of the Constitutional Court in the area of social security law ensues from some of its decisions, to which we will further devote. In relation to the decision-making activity of the Constitutional Court and the Charter, it is appropriate to cite K. Klíma, who states that the Constitutional Court gave the Charter gradually, due to its activities, more significant legal force and that because “the Constitutional Court has taken a distinctive legal stand to the Charter as a whole and took it as a basis for a principled procedural purity of activity of Czech courts in the use of intel-

¹⁰ V. Šimíček in Wagnerová, E.; Šimíček, V.; Langásek, T.; Pospíšil, I. at al. *Listina základních práv a svobod. Komentář [The Charter of Fundamental Rights and Freedoms. Commentary]*, Praha: Wolters Kluwer ČR, a.s., 2012, p. 49.

¹¹ In 1998, by a constitutional law that has extended the deadline for the detention of the accused of a crime from 24 to 48 hours.

¹² Compare K. Klíma in Klíma, K. et al. *Komentář k Ústavě a Listině [Commentary to the Constitution and the Charter]*, 2nd edition, Plzeň. Aleš Čeněk. 2009, p. 18

lectual doctrine of “fair trial” in the approach of the European Court of Human Rights.¹³ M. Bobek then states: “The Charter is a benchmark for any acts or omissions of Czech authorities. Exceptions are situations where it is though the act of the Czech authority, but it only implements a binding regulation of EU law where it has no discretion.”¹⁴

1.4. Constitutional framework of the right to social security and assistance in material need

Economic, social and cultural rights are regulated in fourth head of the Charter, in articles 26–35.

We will now devote a brief mention to those of them that are associated with fundamental social events (see above), in the sequence given by the Charter:

a) The right to acquire the means of ones livelihood by work

In Art. 26 of the Charter are included several interrelated fundamental rights, classified into the group of economic rights – the right to the free choice of a profession, the right to engage in enterprise and to acquire the means of ones livelihood by work. The third paragraph of this article of the Charter states: “Everybody has the right to acquire the means of their 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 this right; conditions shall be provided for by law.” Legal regulation in the field of employment, including the relevant ‘services’ which are provided (mostly to unemployed persons) by the Labour Office (for example state unemployment benefit paid to unemployed persons during the time when they are unemployed, including the amount of the benefit, duration of the support period, conditions to be met by an unemployed person to have the right to the benefit) is incorporated into act no. 435/2004 Coll., the Employment Act (as amended). Security in case of unemployment is financed from state resources. The next important enactment in this field is Act no. 589/1992 Coll., on social security and state employment policy premiums (as amended), which regulates the social security premium which includes the pension insurance premium, the sickness insurance premium and the state employment policy premium. Pursuant to this Act employers and employees are bound to pay premiums and in this framework also a state employment policy premium. Premiums are income of the state budget from which unemployment benefits are financed.

b) The right to adequate material security in old age, during periods of work incapacity, and in the case of the loss of their provider

Art. 30 of the Charter¹⁵ provides:

¹³ Ibidem.

¹⁴ M. Bobek in Wagnerová, E.; Šimíček, V.; Langášek, T.; Pospíšil, I. at al. *Listina základních práv a svobod. Komentář [The Charter of Fundamental Rights and Freedoms. Commentary]*, Praha: Wolters Kluwer ČR, a.s., 2012, p. 37.

¹⁵ For the complexity of interpretation it should be noted that the provisions of the Charter devote to this issue in Articles 27 to 30: – freedom of association and the right to strike (Article 27); – the right to fair remuneration for work and to satisfactory work conditions (Article 28); – the rights of women, adolescents and persons with health problems to a special protection in labor law relations (Article 29).

- (1) Citizens have the right to adequate material security in old age and during periods of work incapacity, as well as in the case of the loss of their provider.
- (2) Everyone who suffers from material need has the right to such assistance as is necessary to ensure their a basic living standard.
- (3) Detailed provisions shall be set by law.

In this article of the Charter are thus included the following rights:

- the citizen’s right to adequate material security in old age,
- the citizen’s right to adequate material security during periods of work incapacity,
- the citizen’s right to adequate material security in the case of the loss of his provider,
- the right of everybody who suffers from material need to such assistance as is necessary to ensure a basic living standard.

Accumulation of several types of social events «covered» by this article of the Charter leads to the fact that it is often referred to as the principal provision of the Charter related to the social security law. The above rights are secured in Czech Republic by legal regulations which are discussed in more detail in Chapter 2 of this text; as well as the fact that the Charter in these issues distinguishes in case of certain rights between citizens and other natural persons. In chapter 3 will also be discussed some important decisions of the Constitutional Court of the Czech Republic for the conceptualization of these rights.

Already here it is appropriate to draw attention to the problematic nature of the adjective “adequate” (material security). The problem is evident from the below-mentioned decision of the Constitutional Court on Czech pensions. J. Wintr states regarding this issue that to the term “adequate” in the text of paragraph 1 “...can be attributed two different meanings: (a) security adequate to prior social conditions of a particular citizen, or (b) such security that eliminates poverty and ensures a dignified standard of living, whereas the constitutionally guaranteed standard is in principle the same for all citizens.”, and further J. Wintr considers the interpretation of Constitutional Court on this issue “as the middle between these two positions”.¹⁶

With regard to fact that the text of Art. 30 of the Charter has not been changed since 1991, it is appropriate, in relation to the right of citizens to adequate material security during periods of work incapacity, to highlight a fundamental conceptual change which – without any change to the text of the Charter – has been introduced in the new Labour Code (Act No. 262/2006 Coll.). The consequences of the “failure” of the public law system providing sickness benefit to “guard” against abuse of the system and the growth of temporary incapacity for work (which did not correspond to the trends of development in neighbouring countries), led the state, while adopting the new Labour Code, at first, to the delegation of security of employees temporary incapable for work (and in quarantine) in the first 14 calendar days of such incapacity (totally new) to the employer. This obligation was, due to the economic crisis, extended in 2011 – 2013 to 21 calendar days. The legislature then notionally “completed” the process by providing a tool to employers against employees (violating mode of temporary incapacity insured) leading even to the possibility to unilaterally terminate the employment relationship with the employee, if he/

¹⁶ J. Wintr in Wagnerová, E.; Šimíček, V.; Langášek, T.; Pospíšil, I. at al. *Listina základních práv a svobod. Komentář [The Charter of Fundamental Rights and Freedoms. Commentary]*, Praha: Wolters Kluwer ČR, a.s., 2012, p. 634.

she breached the mode of temporary incapacity insured regarding the obligation to stay during temporary incapacity to work in the place of stay and observe the time and extent of allowed walks, and refers in this context to Section 56, paragraph 2 letter b), of the Act on Sickness insurance. This legal regulation is considered by many authors a completely conceptually incorrect mixing of labour law obligations and the obligations of a person temporarily incapable, more precisely, wrongly allowing sanction for non-compliance with the obligations laid down by public law legal regulations within a private law relationship; they have even doubts about compliance of this regulation with the constitutional order.¹⁷

c) the right to the protection of health and the right to free medical care and to medical aid on the basis of public insurance

Art. 31 of the Charter provides:

Everyone has the right to the protection of their health. Citizens shall have the right, on the basis of public insurance, to free medical care and to medical aid under conditions provided for by law.

As concerns the first sentence of Art. 31 of the Charter, then the laws by which the right to the protection of health are implemented, are in particular in Act No. 258/2000 Coll., on the protection of public health and in Act No. 20/1996 Coll., on the people's health care.

The system of public insurance (second sentence of Art. 31 of the Charter), its financing, as well as plurality of health insurance companies are then implemented by several other laws.

Of these – from the perspective of constitutional conformity – worth attention is the recent decision of the Constitutional Court of the Czech Republic, which affected Act No. 48/1997 Coll., on public health insurance. The Constitutional Court by a judgment file no. Pl. ÚS 36/2011¹⁸ decided on 20 June 2013, on the proposal to repeal parts of the above mentioned act so that repealed (among other things) was the provision on implementation of the so called “above-standards” (after many years of discussion). This provision divided health care, more precisely health services, with respect to payment from public health insurance, to a fundamental variant – fully-paid, and a variant economically more expensive, that beyond the payment for the fundamental care provided from public health insurance, funds should not be paid.

d) Social protection of family, right of parents who are raising children to assistance from the state and right of women for special care during pregnancy

Art. 32, paragraph 1, 2 and 5 of the Charter provides:

(1) Parenthood and the family are under the protection of the law. Special protection is guaranteed to children and adolescents.

¹⁷ Compare Bělina, M., Pichrt, J. Nad návrhem novelizace zákoníku práce (včetně vazby na návrh nového občanského zákoníku) [Over the proposal of the amendment of the Labour Code (included relation to the proposal of the new Civil Code)], *Právní rozhledy*, no. 17, 2011, C.H.Beck, pp. 612–613.

¹⁸ Publisher in the Collection of laws under no. 238/2013 Coll. and available also on http://www.usoud.cz/en/decisions/?tx_ttnews%5Btt_news%5D=2341&cHash=53682c589c39aaaabfbd8d1244cd47f.

(2) Pregnant women are guaranteed special care, protection in labour relations, and suitable labour conditions.

...

(5) Parents who are raising children have the right to assistance from the state.”

Social protection of the family included in Art. 32 of the Charter is implemented by laws described in 2nd chapter of this contribution.

The second paragraph of this article (special labour conditions for pregnant women) has (among other things) an anti-discrimination aim and its provisions are specified especially by the Labour Code. The concept of this protection shows in its approach tendencies of development. The Constitutional Court in the past solved for example the question of absolute prohibition of night work for women and absolute prohibition of sending pregnant women on business travel (this prohibition was included in the “old” Labour Code until 31 May 1994); the Constitutional Court stated regarding this, that these prohibitions would for women “mean their discrimination from the view of employment opportunities and conditions for performance of employment”.¹⁹

2. The scope of the material and personal social security rights guaranteed by the Constitution

As it has been already said, the Czech Charter of Fundamental Rights and Freedoms guarantees quite a wide range of social rights, from which several social laws and acts derive. Material and personal scope more or less copies the general constitutional concept.

The right to free choice of profession and training is mainly guaranteed by the Act No. 435/2004 Coll., on employment. The personal scope of protection under this law covers all citizens of the Czech Republic and also foreigners, who can be employed in the Czech Republic (have an appropriate authorisation). EU citizens have the same rights as the Czech citizens.²⁰ The right to employment is defined in the Art. 10 of the Act No. 435/2004 Coll., according to which it’s a “right of the person who wishes to and is able to work and is applying for work, to work in a labour law relation, to the brokering of employment and to the provision of other services under the conditions set forth in this Act.” Under this act, labour services and unemployment benefits are provided to entitled persons.

The Charter guarantees to citizens „the right to adequate material security in old age and during periods of work incapacity, as well as in the case of the loss of their provider.“ This article is actually the crucial one in defining social security in the Czech Republic and its personal and material scope. Already the Charter states, that most rights deriving from social security systems are provided to citizens (including also EU citizens – according to the EU law). On the other hand, there are rights of persons suffering from material need, which are guaranteed to everyone.

Adequate material security in old age is provided especially under the Act No. 155/1995 Coll., on pension insurance. Its personal scope is defined in quite a complicated

¹⁹ The judgement file no. Pl. ÚS 13/94 of 23 November 1994 available on <http://nalus.usoud.cz/Search/Results.aspx>.

²⁰ Art. 3 of the Act No. 435/2004 Coll.

way in art. 5–10 of the Act No. 155/1995 Coll. Insured under Czech pension system are in general employers and persons with similar gainful activity, as well as self-employed persons, if such a gainful activity is enacted on the territory of the Czech Republic or for a Czech employer. As regards material scope, insured persons are provided by old-age pension, disability pension or survivor's pensions (widow's and widower's pension and orphan's pension), if conditions are fulfilled. Invalidity pension is there to secure an income to a person, whose incapacity to work lasts for a longer time (in general for more than one year). Survivor's pensions shall provide an income to people, who lost their breadwinner.

In case of short-term incapacity to work, the system of sickness insurance, regulated by the Act No. 187/2006 Coll., on sickness insurance, shall be activated. Under this act, not only sickness benefits, but also maternity benefits, shall be provided. Sickness insurance is open to all employees and people enacting similar activity and, on a voluntary basis, also to self-employed persons, if they work on the territory of the Czech Republic, or their employer is based here. The same is applicable to EU citizens and to foreigners with long-term residence (subject to authorisation under certain conditions).²¹

People suffering from material need are provided with benefits regulated by the Act No. 111/2006 Coll., on assistance in material need. Under this act, three benefits can be provided to a person or family in material need: allowance for living, supplement for housing, extraordinary immediate assistance. Personal scope of this system reaches all citizens of the Czech Republic and also EU citizens, if they reside on the territory of the Czech Republic. Under certain conditions, this system is open also to foreigners (in general, if they legally reside in the Czech Republic). If certain conditions for extraordinary immediate assistance are met, no special requirements are put on clients of the system.²²

The right of everyone to the protection of health and the right of citizens to free medical care and to medical aids, on the basis of public insurance, is further developed by acts on health insurance²³, which regulate financing of public health care, and on health care services²⁴, which regulate requirements on quality of the health care provided to patients. Public health insurance and therefore also the high quality of health care services is open to wide public, especially to Czech citizens and EU citizens, but under certain conditions also to legally resident foreigners.²⁵

Social protection of family is guaranteed especially by the Act No. 117/1995 Coll., on state social support, which regulates main family benefits.²⁶ Personal scope covers again

²¹ Cfr. Art. 5–13 of the Act No. 187/2006 Coll.

²² Cfr. Art. 5 of the Act No. 111/2006 Coll.

²³ Act No. 48/1997 Coll., on public health insurance, Act No. 592/1992 Coll., on premiums for general health insurance, Act No. 551/1991 Coll., on the General Health Insurance Company of the Czech Republic (VZP), Act No. 280/1992 Coll., on departmental, professional, business and other health insurance companies.

²⁴ Act No. 372/2011 Coll., on health services and the terms and conditions for the providing of such services (Health Services Act), Act No. 373/2011 Coll., on specific health services, Act No. 374/2011 Coll., on emergency medical (rescue) services.

²⁵ Art. 2 of the Act No. 48/1997 Coll.

²⁶ There are also e.g. foster care benefits regulated by the Act No. 349/1999 Coll., on social-legal protection of children. This act regulates also all the specific rights of children and minors, who are in socially difficult situation and provides for protection of their healthy development.

Czech and EU citizens with long-term residence in the Czech Republic and also foreigners, with long-term residence permit.²⁷

The social security rights guaranteed by the Czech Constitution/Charter of Fundamental Rights and Freedoms are all transacted into laws and acts. The personal scope covers all Czech and EU citizens and often also third-country nationals. In some specific cases, social rights of third-country nationals, as provided by the Czech legislation, not always fully respect obligations of the Czech Republic deriving from the EU legislation.²⁸ In general it can be however argued, that the personal scope is defined in a standard way and allows to many to enjoy a very generous material coverage of social security guaranteed by the Czech legislation.

3. The constitutional regulations' impact on the content of social security rights in the domestic legal system

The Czech Constitutional Court provides a careful surveillance on the content of social security rights from the constitutional perspective. That is why some of its recent decisions can serve as a good answer to the question on impact of constitutional regulations on the content of social security rights in the domestic legal system. Let us start from some critique. For example, one of the constitutional judges in her dissenting opinion to one of recent Constitutional Court's judgements argued, the case-law of the Constitutional Court would not be stable and unified and this situation could cause some problems.²⁹ Still, the case-law of the Constitutional Court remains the most important source of interpretation of social rights and has a direct effect on further development of domestic legal system in the area of social security.

3.1. Constitutional Court's definitions of social rights

The Constitutional Court tries to provide a coherent interpretation of social rights, which does however not mean, that such an interpretation would be static.³⁰ The Constitu-

²⁷ Cfr. Art. 3 of the Act No. 117/1995 Coll.

²⁸ There are e.g. some doubts about limits for third-country nationals in access to health insurance after six months of legal residence in the Czech Republic, where the Czech legislation requires long-term residence permit, while the EU legislation (the single permit directive) guarantees participation in the social security system after six months of legal residence, without any further specification.

²⁹ She pointed out, that seing „the increasing number of quite fundamental and complex issues of social politics that the Constitutional Court is forced to address or does in fact address; the internal reason is the existing instability of the case law on economic and social rights.“ Therefore, „the biggest task for the “third generation” of the Constitutional Court will be to create understandable, sustainable and internally consistent case law on the economic and social rights.“ The case law, according to her, „in matters of economic and social rights is exceptionally important, regardless of the “lower category” of these rights, because it often affects complex social and health care systems and their functioning. By doing so it often breaks down certain political ideas about the functioning of the basic functions of the state and changes the government's budget plans.“ Dissenting Opinion of Ivana Janů to the reasoning of judgment file no. Pl. ÚS 36/11 of 20 June 2013 (available at [http://www.usoud.cz/en/decisions/?tx_ttnews\[tt_news\]=2341&cHash=53682c589c39aaaaabfd8d1244cd47f](http://www.usoud.cz/en/decisions/?tx_ttnews[tt_news]=2341&cHash=53682c589c39aaaaabfd8d1244cd47f), accessed 5.4.2014)

³⁰ In judgment file no. Pl. ÚS 1/08 that the Constitutional Court stated that it “... does not approach evaluation of questions related to social rights in a static manner, but with exceptional emphasis on what the situation is at the time of its decision.”

tional Court declared already in 2003, that under some circumstances, it may depart from its own jurisprudence regarding social rights. Among these circumstances it nominated: a change of the social and economic relations in the country, a change in their structure, or a change in the society's cultural expectations, a change or shift in the legal environment formed by sub-statutory legal norms, which in their entirety influence the examination of constitutional principles, without, of course, deviating from them, but, above all, not restricting the principle of the democratic state governed by the rule of law. A further circumstance allowing for changes in the Constitutional Court's jurisprudence is a change in, or an addition to, those legal norms and principles which form for the Constitutional Court its binding frame of reference, that is, those which are contained in the Czech Republic's constitutional order.³¹ The Constitutional Court at the same time declared, that social rights are not unconditional in nature, and can be exercised only within the bounds of the laws, while the statutes may not deny or annul constitutionally guaranteed social rights.³² The Constitutional Court also stated that "the specific character of social rights is that they are dependent chiefly on the economic situation of the state. The level at which they are provided reflects not only the state's economic and social development, but also the relation between the state and the citizen, founded on mutual responsibility and on the recognition of the principle of solidarity. The degree to which the principle of responsibility and solidarity are expressed in the legal order of a given state also determines the character of that state (for ex., as a social state)."³³

Having made the above general remarks, some concrete examples of constitutional regulation's impact on social security rights can be provided, taken again from the jurisprudence of the Constitutional Court.

3.2. *Constitutional Court and fees in health care*

Recently, the Constitutional Court had to review legal provisions, which increased the payment of a patient for "hotel services" connected with hospital care. According to the legislation in force, the patient was obliged to pay for such services 100 CZK (some 3 Euro) per day. It was seen as the equivalent of expenses that the patient would necessarily have anyway (even outside the medical facility). The Constitutional Court did not accept this view and argued, that it's hardly acceptable, that during hospitalization in an intensive care unit the patient is being provided "hotel services." In these cases the obligation to pay the fee conflicts with the principle of health care, which is provided free-of-charge, on the bases of health insurance. The Constitutional Court stated, that "hospitalization that is health care in the narrow sense, covered by public health insurance, must be provided free, because for the patient there is no other alternative to it." From the point of view of constitutionality of such provision, it was also pointed out, that there is a lack of limits for this payment, which must be paid also by non-earning persons, including socially at-

³¹ Cfr. judgment file no. Pl. ÚS 11/02 (no. 198/2003 Coll.; N 87/30 SbNU 309).

³² Cfr. judgment file no. Pl. ÚS 8/07 of 23 March 2010 (available at [http://www.usoud.cz/en/decisions/?tx_ttnews\[tt_news\]=460&cHash=e25394dd3b7a147e5e9e1ed98b62a490](http://www.usoud.cz/en/decisions/?tx_ttnews[tt_news]=460&cHash=e25394dd3b7a147e5e9e1ed98b62a490), accessed 10.4.2014).

³³ Cfr. judgment file no. Pl. ÚS 2/08 of 23. April 2008 (available at [http://www.usoud.cz/en/decisions/?tx_ttnews\[tt_news\]=488&cHash=f1a49b3af9a48356e646118193999e45](http://www.usoud.cz/en/decisions/?tx_ttnews[tt_news]=488&cHash=f1a49b3af9a48356e646118193999e45), accessed 10.4.2014).

risk groups, children, persons with health disabilities, etc. Likewise, the obligation to pay the fee is not limited in time; the patient is to pay it in full regardless of the length of hospitalization. The combination of these factors, according to the Constitutional Court, “can evoke a financially unbearable situation, not only for the abovementioned categories of patients. In any case, it denies the essence of solidarity in receiving health care.”³⁴ These conclusions contrast in a way to a previous judgment of the Constitutional Court, where it discussed the constitutionality of health care fees as such, when they were introduced, though strong protest of that time social-democratic opposition. Originally, the Constitutional Court accepted the fees and among others stated, that “The Constitutional Court is aware of the multi-functionality of a regulatory fee, because, in addition to the regulatory element, there is a utilitarian viewpoint, consisting of the fact that regulatory fees help a health care facility, in addition to providing payment-free health care, to function better, provide related services, or improve personnel aspects and the level of the environment in which health care is provided, and so on.”³⁵

For the above mentioned reasons, the Constitutional Court abolished the fee paid for the inpatient care, which is currently having a very important impact on the general financial situation of hospitals, as the fee was their income. The government promised to provide hospitals with additional money through increasing of contributions for so called “state insured persons” into health insurance system.

3.3. Constitutional Court about forced labour in the Czech social legislation

Another important intervention of the Czech Constitutional Court with an impact on the whole concept of one part of social security rights, was the recent abolishment of the so called “public service”. In 2011, an amendment to the Employment Act (Act no. 435/2004 Coll., on Employment), introduced as a reason for deleting a job seeker from the register of job seekers the refusal of an offer to perform public service of up to 20 hours per week if he is listed in the register of job seekers for more than 2 consecutive months, and has no serious reason for refusing. This meant that accepting this offer, was a condition for exercising the rights that the state accords citizens under the Charter of Fundamental Rights and Freedoms as appropriate material security in the event that they cannot, through no fault of their own, obtain the means for their living needs through work, and which citizens can exercise under the law only through the register of job seekers. Compulsory performance of public service was envisaged also within the system of social assistance (Assistance in Material Need). The original idea behind introducing this obligation to take public service was to introduce a measure against misuse of the position of a job seeker and the related benefits. It was however problematic, because the public service was offered only to certain job seekers, who were offered/obliged to perform the work of up to 20 hours a week over a period of several months. As a consequence,

³⁴ Judgment file no. Pl. ÚS 36/11 of 20 June 2013 (available at [http://www.usoud.cz/en/decisions/?tx_ttnews\[tt_news\]=2341&cHash=53682c589c39aaaaabfbd8d1244cd47f](http://www.usoud.cz/en/decisions/?tx_ttnews[tt_news]=2341&cHash=53682c589c39aaaaabfbd8d1244cd47f), accessed 5.04.2014).

³⁵ Judgment file no. Pl. ÚS 1/08 of 23 September 2008 (available at [http://www.usoud.cz/en/decisions/?tx_ttnews\[tt_news\]=486&cHash=5f71b939f66bb64b10b5e57efa3d343f](http://www.usoud.cz/en/decisions/?tx_ttnews[tt_news]=486&cHash=5f71b939f66bb64b10b5e57efa3d343f), accessed 10.04.2014)

two groups of job seekers were created, with fundamentally different conditions for being maintained in the relevant register, and the determination of which group a particular job seekers belongs in depended to a great degree on the wide discretion of the regional branch of the Labor Office of the Czech Republic. The Constitutional Court declared the compulsory public service unconstitutional, as it was not found as a suitable or proportional means for achieving the related aims of preventing social exclusion, maintaining or reacquiring work habits, or preventing misuse of performance within the framework of material security in case of unemployment. The condition for maintaining a citizen in the register of job seekers affected, according to the Constitutional Court, the essential content of the constitutionally guaranteed social right to proportionate material security during unemployment.

The Constitutional Court, when abolishing relevant provisions of the Employment Act and Act on Aid in Material Need, went quite far, when it labeled the public service to be forced labour, prohibited by international law. The Constitutional Court first reviewed whether public service, in the case of persons listed in the register of job seekers is work or service, then whether it is performed willingly, or whether it is not performed as a result of duress or under threat of penalty. The Court stated, that public service offers the unemployed only the possibility of unpaid performance of the assigned work activity, the obligation on a job seeker to perform it for up to 20 hours a week, with all limitations and it can be therefore considered a disproportionate burden for exercising individual statutorily defined rights that are accorded the job seeker for the purpose of material security during unemployment. The Constitutional Court concluded, that the compulsory public service, as legislated in the Czech legislation, can be indeed seen as forced labour, as defined by the Czech constitutional law, international law and also by the jurisdiction of the European Court of Human Rights.³⁶

The above mentioned judgment is not without international relevance. Conclusions of the Constitutional Court go, to a certain extend, against a current Europe-wide tendency, which is in theory being discussed as “repressive welfare state”³⁷ or “conditional social benefits”.³⁸ This in a way justifies restrictions being put into European welfare legislations with the argument of efficiency and fight against social fraud and misuse. The Constitutional Court on the contrary put certain limits to this policy and said, that even in the system with the biggest level of discretions, like social assistance, there must be some limits put to the burden put on shouldres of a person, who is threaten or already affected by social exclusion.

³⁶ Pl. ÚS 1/12 of 27 November 2012 (available at [http://www.usoud.cz/en/decisions/?tx_ttnews\[tt_news\]=2048&cHash=de691cb3d931c4a9d987ada3072280bc](http://www.usoud.cz/en/decisions/?tx_ttnews[tt_news]=2048&cHash=de691cb3d931c4a9d987ada3072280bc), accessed 10.4.2014), par. 20–41.

³⁷ G. Vonk. Law and the Rise of the Repressive Welfare State, available at <http://louisvanoverbeek.blogspot.cz/2013/10/g-vonk-law-and-rise-of-repressive.html> (Accessed 10.5.2014). The author discusses also the above mentioned judgment of the Czech Constitutional Court.

³⁸ E. Eichenhofer. EU activation policy and its effects on the fundamental social right to work. *European Journal of Social Law*. No. 2/2013.

3.4. Constitutional Court about some aspects of Czech pensions

As a disputable response to the question of adequacy of the Czech pension system, a Constitutional Court's judgment from 2010 may serve as a good example. A principle of adequate material security was put in question by a former judge, who felt discriminated, because his pension from the obligatory pension system (first pillar) represented only some 19% of his previous wage, even though his obligatory contributions to the system were quite high though his whole working life. Actually, the legislation in force created a situation where a participant in the pension system who contributed three times more than a participant who contributed an amount calculated from an average wage was allocated a pension of – relatively – less than half. The Constitutional Court recalled, that the Charter of Fundamental Rights and Freedoms guarantees all participants of pension insurance adequate material security. The proportionality of material security in relation to individual participants in pension insurance must be, according to the Constitutional Court, understood in relation to satisfying an individual's living needs, in relation to the widest possible circle of persons, but also in relation to the insured person as a payer who co-creates the financial resources from which the material security will be provided.³⁹ In this judgment, the Constitutional Court discussed also principles of solidarity⁴⁰ and equivalence, including the system and functioning of social welfare systems.⁴¹ The Court concluded, that the current system of ceiling of pensions amount, given the existence of a system of contributions to pension insurance without an effective “ceiling,” established marked disproportionality between the level of contributions to the insurance system, income levels, and the level of allocated pension benefits for some insured persons and it violated some fundamental principles of constitutional rights.

This judgment caused a big debate among lawyers and social politicians, also because the legislator was given only one and half year to amend respective laws according to the

³⁹ Pl. ÚS 8/07 of 23 March 2010 (available at [http://www.usoud.cz/en/decisions/?tx_ttnews\[tt_news\]=460&cHash=e25394dd3b7a147e5e9e1ed98b62a490](http://www.usoud.cz/en/decisions/?tx_ttnews[tt_news]=460&cHash=e25394dd3b7a147e5e9e1ed98b62a490), accessed 10.4.2014)

⁴⁰ This principle has been discussed more extensively also in a judgment file no. 2/08, where the Constitutional Court among other stated that: „The degree to which the principle of solidarity is recognized depends on the level of the ethical appreciation of coexistence in society, on its cultural character, but also on the sense of the individual for justice and sense of unity with others and the sharing of their fate in a certain time and place. From the perspective of the individual, solidarity can be perceived either internally or externally. Internal solidarity reflects the emotional affinity of one's relations to others, is spontaneous, and is exerted first and foremost in the family and in other partnership-type associations. Generally the state does not intervene into such relationships, or only to a very restricted degree (see family law relations regulated by the Act on the Family). External solidarity lacks this emotional affinity, thus the individual is more reluctant in consenting to its assertion. [...] In this area, the state very actively asserts its function as the supreme power. It is through the principle of solidarity that redistribution occurs, that is the movement of transferred funds from one to the other – to the needy. Solidarity has its limits [...] The state may, in the name of solidarity, only draw upon such a portion of the property of the capable so that, in so doing, it neither destroys their active efforts nor oversteps the constitutional boundaries of the protection of property.”

⁴¹ Every system of social security carries advantages or disadvantages for certain social groups, depending on whether it gives preference to the viewpoint of solidarity or the equivalence principle. This regulation is reserved to the legislature, which cannot act arbitrarily. ... It is the obligation of the legislature to transparently express the ratio of the components of solidarity and equivalence in the social insurance system (including pension insurance)– cfr. Pl. ÚS 8/07

judgment. It could be also said, that the judgment discussed a lot the relationship between the level of contributions and the level of pension awarded, without taking that much into account, that the Czech pension system has been historically determined by a very high level of solidarity⁴², which, among other resulted in quite a high level of pensions paid from the first pillar to current pensioners. The Constitutional Court, on the other hand, strongly encouraged the legislator to speed up the pension reform, in order to adopt also further parametrical reforms of the first pillar and especially to adopt some new legislative measures and introduce some other instruments of supplementary pensions.⁴³

On the contrary to the above discussed judgment, where the Constitutional Court interfered into current concept of legislation in force, another, older, judgment can be cited, where the Court did not feel competent enough to abolish another provision of the Pension Act, even if this provision was apparently discriminatory. We have here in mind a judgment from 2007 on pensionable age, which is different for men and women – and it's o.k. so far – but which can be lowered to a woman, if she brought up more than one child. This right is in no way transferable to a man.

The Constitutional Court did not share the opinion that such a provision would be inconsistent with the principle of equality and right to adequate material security in case of old age, both guaranteed by the Charter of Fundamental Rights and Freedoms. The Court was not of the opinion, that annulling the provision, which lowered pensionable age only to women, who brought up children, would implement equality between the sexes in relation to the right to material security in old age. In this regard, the Constitutional Court stated that: “If the contested provision were annulled, a certain advantage for women/mothers would be removed, without, as part of the “equalization,” men/fathers acquiring the same advantages as women/mothers have. The Constitutional Court functions only as a negative legislature, and its intervention regarding the contested provision would thus only violate the principle of protection citizens’ confidence in the law, or perhaps interfere in legal certainty, or legitimate expectation.”⁴⁴ The question of discrimination based on sex as such was actually not discussed in the judgment and the Court left it with the only reasoning, that if an advantage for mothers would be removed, fathers did not acquire any similar advantages and it's therefore better not to interfere.

Interestingly enough, the original petitioner in this case did not content himself with the Constitutional Court's conclusions and went to Strassbourg. The European Court of Human Rights was however similarly careful as the Constitutional Court and stated, that “the Court finds that the original aim of the differentiated pensionable ages based on the number of children women raised was to compensate for the factual inequality between men and women. In the light of the specific circumstances of the case, this approach

⁴² Recently recalled e.g. also in an CJEU judgment C-166/12 Radek Časta v Česká správa sociálního zabezpečení.

⁴³ In the meantime, the Act No. 426/2011 Coll., on pension savings, introducing a so-called second pillar, has been adopted, but it is currently being discussed how to abolish it, as the current political representation promised to its voters, that it would abolish the system, because it was not well accepted by the public and former opposition (current government) strongly protested against its introduction.

⁴⁴ Cfr. judgment file no. Pl. ÚS 53/04 of 16 October 2007 (available at [http://www.usoud.cz/en/decisions/?tx_ttnews\[tt_news\]=495&cHash=c37eba57d02e9c764a977284bf64996](http://www.usoud.cz/en/decisions/?tx_ttnews[tt_news]=495&cHash=c37eba57d02e9c764a977284bf64996), accessed 10.04.2014).

continues to be reasonably and objectively justified on this ground until social and economic changes remove the need for special treatment for women. In view of the time-demanding pension reform which is still ongoing in the Czech Republic, the Court is not convinced that the timing and the extent of the measures undertaken by the Czech authorities to rectify the inequality in question have been so manifestly unreasonable as to exceed the wide margin of appreciation allowed in such a field.⁴⁵

Having said the above, there is no doubt, that the Czech Constitutional Court plays a decisive role in interpretation of social rights and that it contributes in an important way to the final shape of the social security rights guaranteed by the Czech legislation. The above cited judgments, on the other hand, confirm to a certain extent the originally expressed criticism, that the Constitutional Court's jurisprudence is not always consistent and stable and that even in same areas, the Court sometimes issues different judgments on very similar questions. Still, its case law remains a very important source of interpretation and often also of understanding the logics and systematics of the Czech social security system.

4. Threats to social security rights in times of economic crisis

It could be stated, that the recent economic crisis brought some new elements, never seen before in the western history, also from the point of view of social security rights. Whereas during the 20. Century, economic crisis mainly brought to immediate reaction of welfare states and to increasing the guarancies of social rights, the last economic crises, on the contrary, brought to restrictions in public spending, especially in the area of social costs.

Recent developments in the Czech legislation confirm the above mentioned tendency, with however one specificity. The Czech economy was not that much affected by the crises, as other economies. That is also why during the crisis e.g. many Czech daughters in multinationals were supporting their mothers, especially in financial business. On the other hand, as the Czech economy is strongly export-oriented, it would be false to argue, that there was absolutely no impact of the global crisis on the Czech economy. The crisis was however not felt so much compared with other European countries, which can be seen e.g. on the level of unemployment rate, which never exceeded 10%.

Nevertheless, last right-wing governments pushed on cutting social expenditure as much as possible, especially in the field of social assistance (a system dedicated to the most vulnerable groups), without trying to really reform it (e.g a very hot issue of social housing was not solved at all and works on relevant legislation are only starting).

At the same time, it should be mentioned, that the system of pension saving has been introduced, labelled as a second pillar.⁴⁶ The Act no. 426/2011 Coll., entered into force as

⁴⁵ ECHR Case of 17. February 2011 *Andrle v. the Czech Republic*, App. No. 6268/08. The case was commented and compared with the CJEU jurisprudence in Koldinská, K. *Should fathers not raise their children?* In *European Gender Equality Law Review*. 2/2011 (available at http://ec.europa.eu/justice/gender-equality/files/egelr_2011-2_en.pdf, accessed 15.5.2014)

⁴⁶ This term is however not correct. The World Bank means under second pillar the occupational pension system, but the Czech system of pension savings can in no way be labled as a occupational pension system. It's more an alternative to the third pillar, not very different from it.

of 1. January 2013 and it was expected, that during the first year, some 500 000 people will take a part in it. This expectation showed however as unrealistic and only a bit more than 80 000 people take currently part in the system. Because the pension saving system did not have large political consensus across the political spectre, the current government declared, it would abolish the whole system as soon as possible. Even if the system as such can be criticized⁴⁷, it does not seem very wise to solve the problem by abolishing an already running system and so threatening the legal and economic certainty of people, especially of participants in the system.

5. Assessment of the future of social security rights in lights of the Constitution

Trying to predict the future of social security in a concrete society is like crystal gaze, even if one knows well how the welfare state has evolved in last years and what are current proposals for still ongoing social reforms. Moreover, currently, social reforms are becoming more and more dependent on political situation, which is true not only for the Czech Republic.

As one of examples of the last said could serve the issue of pension reform in the Czech Republic. When the second pillar (which is actually not a second pillar, meaning occupational pensions, but a system of pension saving) was being prepared, the then opposition together with trade unions organized quite massive protests. The system of pension saving was nevertheless adopted and entered into force as of 1.1.2013. Not even one year later, in autumn 2013, parliamentary election changed distribution of political power and left-wing parties formed together a new government. As soon as the new Minister of Labour and Social Affairs has been installed, she declared, that she would immediately start working on abolishing the pension saving system. An expert group has been established in order to work further on some aspects of pension reform, including removal of pension saving system. This situation brought quite some hesitation regarding legal certainty of current clients of the system (some 80000 people) and also just expectations of all citizens and inhabitants in the field of social rights as such.

In order not to finish with a negative judgement of possible future, it should be underlined, that currently, there are some good tendencies regarding social inclusion, with a special focus on Roma people.⁴⁸ In this regard, a new, still missing, act on social housing shall be prepared soon and it shall be also worked on some amendments of social assistance legislation and employment legislation.

Last, but not least, some steps towards better harmonising of family and working life shall be soon taken, including e.g. the new legislation on so called “child groups”, which should in a way compensate the dramatical lack on places for small children in kindergartens etc.

⁴⁷ Some criticisms can be found in Koldinská, K. *Voluntary pensions in the Czech Republic*. International Standard-Setting and Innovations in Social Security. 1. vyd. Alphen aan den Rijn: Kluwer Law International, 2013

⁴⁸ Not only the Minister of Labour and Social Affairs, but also the Minister for Human Rights both declared, they would pay special attention to social inclusion issues and on real and long-lasting integration of socially excluded Roma communities in some problematic regions of the Czech Republic.

All in all, there are some good perspectives for future social security rights, while adopting changes which would be systematic, with positive general long-lasting effects on all fields of social law, remains a great challenge for the Czech legislator.

Summary

In Czech Republic following rights are mentioned by the Charter of Fundamental Rights and Freedoms: the right to acquire the means of ones livelihood by work, the right to adequate material security in old age, during periods of work incapacity, and in the case of the loss of their provider, the right to the protection of health and the right to free medical care and to medical aid on the basis of public insurance, Social protection of family, right of parents who are raising children to assistance from the state and right of women for special care during pregnancy.

Keywords: Czech Republic, social security rights, constitution

