Andrea Olšovská and Marek Švec

Strike action at the forefront of the social partnership agenda[1]

Abstract

In the post-crisis world, employee organisations are not only finding it difficult to gain sufficient traction to engender the improvements in working conditions which might be associated with the upturn in a country's economic fortunes; they are actually finding that the collective bargaining environment has become significantly more difficult. Nevertheless, the level of discontent with working conditions has become such that employees in the Slovak Republic are starting to look to forms of industrial action as a solution despite a recent history of a lack of such engagement. The authors review the legislation of the Slovak Republic governing industrial and constitutional strikes, a decades-long legal debate which has produced a lack of certainty about the legitimacy of strike action, and point out that this has led to recently rising controversy and tension between the social partners. The article refers to the practical details of organising strikes as set out in the law, with the authors concluding that the design of effective supportive legislation concerning the right to strike is no simple matter.

Keywords: *economic crisis, collective bargaining, right to strike, legal framework, union organisation*

Introduction

Now that the economic crisis is already over, a period of improvement can be expected not only in terms of macroeconomic indicators but also in terms of employees' working conditions. Statements of this kind are increasingly becoming the vocabulary of Slovak politicians aiming to offer some positive prospects for the future. But, unfortunately, the reality is different. In collective bargaining for wage increases and other benefits, trade unions are now regularly confronted with a strong rejection of any claims that could bring an improvement in employees' working conditions. To paraphrase the current situation in the Slovak Republic, we paradoxically have to say that, in spite of the economic crisis being over and companies achieving better results, for example in the growth of international orders, the tendency is to a significantly more difficult atmosphere for collective bargaining at the company level as well as at the sectoral level.

The social situation of employees is characterised by low wages, long hours of overtime and a growth in 'non-standard' labour law relationships which is, of course, also reflected in their level of satisfaction with their occupational and private lives

1 This contribution was developed within the research project VEGA 1/0423/14 titled: *The Labour Law Act and its possible variation.*

(Zaušková *et al*, 2013: 598). This is why their responses to any further demands from employers are beginning to be very emotive and why the solution in the form of calling a strike, as the one and only means of exerting pressure on the employer, is coming to the fore ever more often.

What is unusual in such an attitude is that, for the last twenty years of Slovak democracy, there have been barely any significant strikes staged by employees. Slovak employees are, therefore, known to be rather submissive, since their fear of possible retaliatory measures on the part of the employer often forces them to give in to pressure from their employer, and thus they fail to achieve their demands. Considering our own practical experience mainly from the last year, we must say that this has been changing significantly.

In this respect, it should be pointed out that, regarding also the practical dimensions of failing to call a strike, there are some fundamental problems in the field of labour law and, most importantly, in the legislation governing strike action.

These problems subsequently represent not only a source of legal uncertainty about the legitimacy of the strike, but also a subject of concern for employers seeking to draw labour law consequences for striking employees, since the situation varies depending on whether the strike is viewed as an industrial or as a constitutional one. An incorrect assessment of the practical situation from the perspective of the existing legislation is also very frequent (stemming from the dualism of the right to strike in SR), followed by incorrect action being taken both by employers and by strike participants evaluating the terms and the rules of the intended strike. This action is becoming significant mainly for foreign companies operating in the Slovak Republic that often fail to distinguish sufficiently between the various types of strikes, which causes them trouble in their relations with their own employees.

Resulting from the practical problems as well as from the legal *status quo*, considerations have emerged on the adoption of specific legislation on the right to strike, raising tension and controversy between the social partners (Mura, 2012: 117).

Constitutional and industrial strikes

The legal order of the Slovak Republic recognises two types of legal basis for the right to strike – Article 37 Section 4 of the Constitution of the Slovak Republic; and Article 16 of Act No. 2/1991 Coll. on Collective Bargaining (hereinafter, the 'ACB'). The right to strike provided for by the Constitution of the SR represents the fundamental general legislation governing strike action in the legal order of the Slovak Republic. The Constitution of the Slovak Republic lays down that:

> *The right to strike shall be guaranteed. The terms thereof shall be set by law. [constitutional strike]*

Along with this general specification, the relevant Article of the ACB defines a strike as:

> *A partial or complete interruption of work on the part of employees. [industrial strike]*

With regard to this unclear legal situation, there has been an ongoing dispute among legal experts spanning several decades. The question is whether the existing Act on Collective Bargaining is indeed the law envisaged by the Constitution of the SR, or whether the definition of the right to strike referred to in the ACB is only a specific provision pertaining to the right to strike in connection with the process of collective bargaining (Barancová, 2012: 450).

Concerning such a dispute, two strong bodies of opinion have been established which generally maintain their views, and it can be stated that the approach presented in this article concurs with the majority opinion.

The first body of opinion considers the Act on Collective Bargaining to be the act envisaged by the Constitution of the SR, i.e. the law that lays down the conditions for the exercise of the right to strike in the Slovak Republic. The only permitted and legitimate strike in the SR is solely the industrial strike, provided for by the Act on Collective Bargaining, which is immediately associated with the right to collective bargaining and based on a disagreement between the social partners on the content of the collective agreement. It is predicated on the doctrine of basic human rights and freedoms in the sense that their exercise in society is not unlimited. The economic, social and cultural rights are, hence, not absolute and the possibility of their exercise is, in fact, restricted. The legislator must determine in the law what kind of strike is acceptable as well as on which conditions. Another interpretation would, according to its proponents, lead to an unfettered exercise of human rights (the right to strike), causing possible economic damage to the employer. This kind of strike can thus be organised only in connection with the nature of the dispute being subject to collective bargaining (Drgonec, 2007: 759).

The second strong body of opinion is, on the other hand, based on the premise that the specific legislation which would provide for the strike as envisaged by the Constitution has not yet been adopted. According to this view, the Act on Collective Bargaining lays down only one among a range of possible types of strikes, i.e. regarding collective bargaining. Its proponents consider the right to strike guaranteed by the Constitution to be a means of also safeguarding those rights and legally-protected interests, which are other than those on the current agenda of collective bargaining between the employer and the trade union. This viewpoint is based on the protection of the economic and social rights (and interests) of citizens/employees also with respect to a subsuming of the right to strike within Article 37, or the fifth chapter, among the economic, social and cultural rights defined by the Constitution of the SR.

In this context, the right to work can also be safeguarded by means of the right to strike, according to the Constitution of the SR (for example if the employer plans to shift production to another country – which is common practice). This, however, would not be possible according to the first body of opinion (this issue is usually not subject to collective bargaining, as it is not immediately associated with working conditions).

A supportive legal argument for the second body of opinion may also be found in the decision of the Supreme Court of the SR. It follows from the decision of the Supreme Court of the SR (Ref. No. 1 Co 10/98) that:

Every citizen of the Slovak Republic shall have the right to strike. The lack of legislation that would lay down the conditions on the exercise of this right (the right to strike) also outside the collective bargaining process cannot lead to a questioning of the existence and realisation of the constitutional right to strike.

The Supreme Court further reasons that the right to strike is one of the basic human rights and freedoms. It is covered by Article 12 Section 4 of the Constitution of the SR, according to which the rights of none can be abridged on account of the exercise of basic rights and freedoms. This constitutional right must be interpreted also in accordance with the constitutional principle referred to in Article 2 Section 3 of the Constitution of the SR, pursuant to which everybody is free to do anything that is not prohibited by the law and, on the other hand, that nobody should be forced to do something that the law does not require (Bulla, 2011: 942).

The legal order of the Slovak Republic thus does not contain an act that would, with the exception of Act No. 2/1991 Coll. on Collective Bargaining, restrict or prohibit the right to strike. The assertion that any strikes other than those provided for by the implementing regulation (Act. No. 2/1991 Coll.) should be prohibited does not follow from any legal provision, nor can it be supported by the interpretation of Article 37 Section 4 of the Constitution of the SR (Ref. No. 1 Co 10/98).

The lack of a specific legislation envisaged by Article 51 of the Constitution of the SR, according to which the right to strike can be claimed only as defined by specific law, does not, according to the Supreme Court of the SR, constitute an obstacle to the exercise of one's right to strike since it is anchored within the actual wording of the Constitution of the SR. Should the exercise of one's right to strike be deemed as impossible if not grounded in specific legislation, the right to strike would become only a quasi-constitutional right. In spite of the fact that it would have been provided for by the Constitution of the SR, in reality it would be introduced only by an act, i.e. by a subordinate provision.

According to the Supreme Court of the SR, Article 11 of the Constitution of the SR has to be taken into account as well, since it specifies the conditions of the primacy of international treaties on human rights and freedoms over the legislation of the SR, provided they ensure a greater extent of basic rights and freedoms. The International Covenant on Economic, Social and Cultural Rights contains a provision in Article 8(d), stating that the Member States of the Covenant undertake to ensure the right to strike, provided it is exercised under the laws of the country concerned. Article 51 of the Constitution of the SR merely presupposes that specific legislation will be adopted; it does not exclude the exercise of the right to strike should there be no such legislation.

In this case, lawfulness is not expressed explicitly but is based on the possibility of exercising one's subjective rights without determining any exact methods of doing so. The Supreme Court points out, furthermore, that the lack of a specific legal framework results also in those on strike not having the opportunity to enjoy the benefits and protection that is provided, in contrast to the Constitution of the SR, by the ACB.

Similarly, also the government of SR has, in its Resolution No. 965 of 4 September 2002, expressed an opinion on the complaint of the International Labour Organisation with regard to limiting the right to strike solely to the field of collective bargaining.

This states that strikes not covered by the ACB are also permitted under the law. It argues that no act has been adopted that would prohibit such strikes and that strikes, in their nature, can be intended also to improve the working or living conditions of employees. The position of the government of SR was based on the later introduced, and more closely-specified, principles of the International Labour Organisation on the right to strike. These declare clearly that, according to the conventions and recommendations of the ILO, the right to strike may not be limited exclusively to labour disputes that are likely to be resolved through the signing of a collective agreement. The right to strike may be exercised also in the case of seeking solutions to economic and social policy questions (Gerninon, 1998: 2).

Organising of strikes in practice

First of all, we would like to point out that the ways of exercising the right to strike will differ with regard to established majority opinion on whether the strike is defined as an industrial or as a constitutional one.

The right to strike under the Act on Collective Bargaining – the industrial strike

Pursuant to the Basic Principles covered by Article 10 of the Labour Code, employees and employers have the right to collective bargaining. In the case of a conflict in their interests, employees have the right to strike and employers have the right to a lock-out. The strike as provided for by the ACB is considered as a last resort of resolving a collective dispute that has arisen in connection with concluding a collective agreement. The precondition to be met is the failure to conclude a collective agreement, even after the involvement of a mediator. It is assumed, at the same time, that the contracting parties will not ask an arbitrator to settle the dispute, since they have not agreed on such a person in the manner required. In view of the strike having various consequences for employees and for employers, but also for other entities, the ACB lays down detailed terms of how a strike may be called and staged.

As stipulated by the Act on Collective Bargaining, the legal assessment of a strike as legitimate presupposes that the following conditions have been met.

Existence of a competent entity

The only entity considered competent to call a strike is the appropriate body of the trade union organisation operating within the particular employer, or its appropriate higher authority (i.e. the trade union federation) in the case of a sectoral collective agreement. That trade union body – the committee of the basic trade union organisation – is the executive body of the trade union organisation. In the process of collective bargaining, it defends the interests of all employees, not just of its members. It is precisely this entity that decides, on a resolution, to call a strike. The terms of this resolution are not provided for by any law, but they may be contained in an internal document of the trade union organisation, for example in its statutes or rules of association. The resolution is normally written and adopted by an absolute majority of the committee members present (the executive body). Adopting the resolution is preceded by a vote of employees on the strike. The resolution on the strike call serves the internal purposes

of the trade union organisation, which is certainly not obliged to send it to the employer or to any other entity. Following the adoption of the resolution, the next stage involves informing members and employees either orally or in writing (via information leaflets).

It is important to draw a distinction between an entity empowered to call a strike and a strike participant. The strike participant is, for the entire duration of the strike, an employee (not necessarily a member of the trade union organisation) that has agreed to the calling of the strike, as well as the employee which has joined the strike (who is considered to be a participant in the strike only from the day he or she joined it). The right to participate in the strike, i.e. to interrupt work, is guaranteed to every employee as an individual.

In view of the foregoing, the ACB provides an exhaustive list of entities that are not given the competence to exercise the right to strike by means of a trade union body (Article 20 Section 2). Strike action taken by senior civil servants and by civil servants performing service tasks which are directly related to the protection of life and health would be considered as illegitimate if their participation in the strike could put the life and health of the population at risk.

A strike can be called only in the event of a dispute over the conclusion of a collective agreement

It is clear from the wording of this provision that, in the case of a breach of the obligations taken under a validly-concluded collective agreement, a strike cannot be considered as a last resort since it is 'limited' solely to instances when such a conclusion is impossible. Except for the strike, there is thus no other legal mechanism by means of which employees could reach a collective agreement.

Following the above, the legislator therefore granted employees the right to strike as a compensation mechanism for resolving a collective dispute caused by a failure to conclude a collective argument. At the same time, employers were granted the right to a lock-out as an alternative to the resolution of a dispute over the breach of obligations under the collective agreement. In contrast to a collective dispute caused by a failure to conclude a collective argument, in a collective dispute over the breach of the obligations under a collective agreement the legislator has empowered employees to claim the protection of their rights through legal proceedings. The reason is that their protected right is contained in the wording of the concluded collective agreement. Moreover, with reference to Article 4 Section 1(e) of Act No. 71/1992 Coll. on Court Fees and the Fee for Extract from the Criminal Register, as amended, the legislator has exempted these legal proceedings from court fees.

The calling of a strike must be preceded by unsuccessful proceedings before a mediator

Additionally, a strike cannot be called where the contracting parties have not submitted an application for dispute settlement before an arbitrator or where the contracting parties have not agreed on the selection of the arbitrator.

Proceedings before a mediator are a mandatory procedure which must precede the calling of a strike. A mediator is an independent person that should examine the arguments of both parties and try to reach a mutual agreement. Proceedings before a me-

diator are considered unsuccessful only if the dispute over the conclusion of a collective agreement has not been resolved within thirty days of the date of the receipt of an application for dispute settlement or, alternatively, of the date of receipt of the decision designating the identity of an arbitrator. Proceedings before an arbitrator are an alternative to the calling of a strike should the application to the mediator be unsuccessful. The arbitrator is an independent person that is, at the joint request of both parties, empowered to determine authoritatively the contested content of the collective agreement. Upon receipt of a decision, the collective agreement is considered to be concluded.

Requirement for employee mandate

A trade union body, or a higher trade union body, can call a strike only if it is supported by the consent of an absolute majority of employees in the employer who have taken part in a vote on the strike (the so-called protocol on the calling of a strike). At the same time, an absolute majority of all the employees of the employer is required to vote.

In practical terms, this means that all the employees of the employer who are bound by an employment relationship take part in the vote. The number of employees also includes those on maternity or parental leave, as well as those employees who are temporarily unable to work. The vote on the strike can be either secret or public (by acclamation); the Act on Collective Bargaining does not lay down any other attributes for the vote.

The reference to a secret vote logically raises the question as to which form the vote should take. The secrecy of voting involves the determination of anonymous attitudes, so the form of voting will be identical to the form of any other polls. The result will be ascertainable from unmarked ballot papers cast by employees at designated points. The appropriate trade union body will draw up minutes on the result of the vote. Documentation on the results of the vote on the strike is kept for three years, given that there is the possibility of the legitimacy of the strike being examined by the court.

Basic employer notification

The appropriate trade union body is obliged to notify the employer in writing not less than three working days before the beginning of the strike of the start date of the strike, the reasons for it, its aims and the nominal list of the representatives of the appropriate trade union body who are empowered to act on behalf of the participants in the strike (the composition of the so-called strike committee). The trade union body is obliged to notify the employer in writing also of any changes in this nominal list. The law does not provide for the form of the delivery of the written notification of the employer, but it is assumed that the employer should have the appropriate notification at least three days before the strike; the lodging of the notification with a post office on the 'last', third day before the beginning of the strike does not suffice. Compliance with this time limit is one of the conditions for examining the legitimacy of the strike, and so the notification must be delivered considering the rules for calculating the specified time limits.

Conduct

The appropriate trade union body is obliged to notify the employer in writing not less than two working days before the beginning of the strike all the information related to the strike of which it is aware and which will help the employer establish timetables for ensuring essential actions and services throughout the strike. Essential actions and services may be considered to be all those actions and services the interruption or cessation of which could present a threat to the life and health not only of employees but also other people; as well as which may cause damage to machinery, instruments and devices the character or purpose of which renders their operation impossible to be interrupted or ceased.

Representatives of the trade union body are empowered to represent the strike participants; however, they are obliged to allow all employees safe and appropriate access to the employer's workplace. Preventing employees from doing their work, accessing or leaving their workplace, or threatening them with any kind of harm can thus be considered to be a breach of the provisions referred to in the Act on Collective Bargaining.

The employer is not allowed to take on new employees to replace those on strike (so-called strike-breakers).

One further obligation of the trade union body that has decided on the calling of a strike is to provide the employer with all necessary co-operation for the entire duration of the strike. This obligation of co-operation concerns, first and foremost, ensuring the protection of equipment against damage, loss, destruction or misuse. It also concerns ensuring essential actions and the operation of devices the character and purpose of which requires such intervention with regard to safety and health or to the possible damage to this equipment.

Illegal strikes

The ACB also sets out the reasons that may lead to the strike being considered to be illegal. We must be aware that each of these reasons alone can render the strike illegal; they do not necessarily have to occur cumulatively. According to this provision, a strike is considered illegal if it has not been preceded by proceedings before a mediator; or if it has been called or pursued after the initiation of proceedings before an arbitrator, or after the conclusion of a collective agreement; etc. A strike among certain working positions specified by the law would also be considered illegal by the court. This concerns, for example, employees of health care facilities or social welfare facilities on the grounds that their participation in the strike would put the life or health of the population at risk; as well as employees of nuclear power plants; judges and prosecutors; members of the armed forces and armed corps; members and employees of fire brigades and rescue squads; etc.

Where there is the suspicion that an illegal strike is being staged, the employer, employer organisation (e.g. the employer association) or the prosecutor may file a motion to determine the illegality of the strike. This motion is filed before a court which has competence according to the location of the registered office of the trade union body against which the motion is directed. This motion does not have suspensory effect

– that is, the strike can continue even after such a motion has been filed, whilst the filing of the motion has absolutely no influence over the duration and course of the strike.

In this respect, it should be pointed out that an unsuccessful outcome of the strike has no effect as regards its legality or illegality; an unsuccessful strike cannot be equated with an illegal strike.

The right to strike within the meaning of the Constitution of the Slovak Republic

Even though the legal order of the Slovak Republic lays down statutory rules on strikes only in respect of the conclusion of collective agreements, it cannot be ruled out that a strike, as a collective action within the meaning of the Constitution of the SR, may also be used to enforce economic and social interests (not political ones).

In practical terms, this means that the provisions of the ACB pertaining to the conditions of staging an industrial strike are being used, by analogy, also in organising strikes pursuant to the Constitution of the SR. In this case, however, these provisions are not mandatory and their absence does not render the strike illegal.

The entity responsible for calling a strike within the meaning of the Constitution of the SR does not necessarily have to be a trade union organisation, even if it is present in the enterprise where the strike is to be staged. In this case, the strike is called by the so-called 'strike committee' that cannot be unambiguously equated with a trade union organisation. This strike committee is the body which not only calls the strike, but also organises its course. Should the strike be declared illegal, it is the strike committee that would be held responsible. It is, therefore, important clearly to identify the composition of this committee. There is no legislation that would provide for the strike within the meaning of the Constitution of the SR, and so neither is the size of the strike committee specified. However, it is assumed that it will consist of at least two citizens, although it cannot be entirely ruled out that the organiser of the strike may be a single person.

That the strike committee does not notify the employer of the beginning of the strike in advance does not render the strike illegal. The calling of such a strike is not preceded by a vote taken among all employees, but it cannot be perceived as detrimental should the strike organisers want to determine the real support and willingness of employees to participate in the strike. Additionally, practice shows that a vote to strike does not necessarily mean that all the employees who vote for it actually participate in it. We must also take into account that the participants in a constitutional strike do not have to be just the employees of that employer, but also all those citizens who are interested in achieving the stated objective of the strike.

The lack of a vote on the strike does not constitute a legal obstacle to its potential participants contributing to the dissemination of information concerning its planning, start date, duration and other essential facts, either in person or by means of leaflets, posters, electronic media, etc. The form and means of information cannot be generalised, and they will vary according to the character, kind and duration of the strike, and also, last but not least, the nature of the claims being pursued through the strike action. Neither is the legitimacy of this kind of strike affected by the lack of proceedings before a mediator or an arbitrator.

In examining the question of the legitimacy of the constitutional strike, it should be pointed out that a constitutional strike can also be staged in cases other than those concerning disputes over the conclusion of a collective agreement, as well as in cases when such a dispute is pending. The aim of this kind of strike is the protection of the social, economic and any other interests of employees or citizens, notwithstanding that the respective employer has validly concluded a collective agreement. A strike within the meaning of the Constitution of the SR can also be staged during the process of collective bargaining, provided that its central objective is not the conclusion of a collective agreement. Its staging is also possible during the period of validity of a collective agreement with the employer, even if this agreement includes a provision on the prohibition of industrial action and strikes.

We are of the opinion that the reason underlying a constitutional strike should not be the achievement of an aim that can be included in the collective agreement or negotiated during the collective bargaining process.

Labour law aspects of a strike

Regardless of the type of strike, the question arises concerning the social security of an employee during a legitimate strike. The right to strike reflects the right of every employee to interrupt work in an organised manner and participate in a strike. Employees cannot be prevented from participating in the strike, and neither can they be forced to participate in one. A legitimate strike is not considered to amount to professional misconduct (a breach of the obligations resulting from the legal order or employment contract). Furthermore, participation in a legitimate strike does not constitute a reason for dismissal leading to the termination of employment, to which end Article 141 Section 8 of the Labour Code obliges the employer to excuse employees' absences from work during the time of their participation in a strike concerning the exercise of their economic and social rights, although they are not entitled to wages or wage compensation in this period. Additionally, Article 109 Section 3 of the Labour Code sets down that participation in a legitimate strike does not ultimately constitute a reason for reducing employees' leave on the grounds of an unexcused absence from a shift. Penalising or implementing any other form of sanction for the staging of a legitimate strike, or for the attempt to stage one, is deemed inadmissible. Termination of employment on the grounds of the exercise of one's right to strike, i.e. participating in a legal union activity, implies discriminatory treatment in employment.

In the legal order of the SR, an employee's participation in a strike is regarded as an unexcused absence from work only after a decision of the court declaring the strike illegal has become final. In a case where the strike lasted several days and the employee participated in it for its entire duration, however, then, should the strike be declared illegal, the employee's unexcused absence from work can even constitute serious professional misconduct once the decision declaring the strike illegal has become final. Pursuant to Article 68 Section 1(b) of the Labour Code, this can also result in the immediate termination of employment by the employer.

A further labour law aspect of participation in a strike is the employee's material security during it. We have said that Article 141 Section 8 of the Labour Code outlines that employees are not entitled to any wage, or wage compensation, during their par-

ticipation in a strike; indeed, it is characteristic of striking employees that they do not receive any wage or wage compensation during a strike. However, the issue of material security for the duration of a strike is, as a rule, addressed in the form of the provision of a financial contribution from the resources of the trade union organisation. The rules, conditions, extent and group of people entitled to the provision of material security during a strike are a matter for the trade union organisation (e.g. the amassing of a strike fund for providing compensation during a strike upon the satisfaction of the specified conditions).

Final considerations

The problems of businesses concerning their perceptions of the right to strike, along with the seemingly deficient legislation mostly regarding constitutional strikes, have, over the past year, become a significant subject of concern for the social partners. The result has been that employers' representatives have demanded that the current legal framework be re-evaluated and specific legislation adopted which would provide for the exercise of the right to strike in general; that is, not only in the context of the conclusion of a collective agreement. Even though the debate on this topic has been very intensive, the trade unions are against such a law, while the legislator has adopted an officially neutral stance. In consequence, it is not possible to predict future developments.

In this context, however, an analogous situation in the Czech Republic should be pointed out; a similar issue concerning the lack of legislation on the conditions of the exercise of the right to strike was addressed in 2012 (a similar distinction is drawn between a constitutional and an industrial strike in the Czech Republic). The Ministry of Justice of the Czech Republic prepared a draft law on strike action; however, numerous substantive comments were made in the course of the adoption of the draft, ultimately rendering the entire legislative process unsuccessful (Zulova and Janičová, 2013: 54). One issue that proved particularly problematic was the inadmissibility of an analogy between the conditions of an industrial and a constitutional strike, as decided by the Czech courts. This concerns the impossibility of applying the conditions for the staging of an industrial strike to the staging of a constitutional strike (for example, the different information obligations of employees to the employer; the groups of entities empowered to call a strike; the procedure for obtaining the required number of votes; the requirement for an absolute majority of all employees; etc.).

Designing the legislation governing the right to strike is, hence, not a simple matter. With regard to the substantial level of identity of the legislation governing the right to strike which apply in the Slovak and in the Czech Republics, which share a common legal history, similar legal problems might well be expected.

References

Barancová, H (2012) *Zakonnik prace* Praha: C. H. Beck.

Bulla, M (2011) 'Právo na štrajk a jeho ukotvenie v európskom pracovnom práve' in *Právo v európskej perspektíve* Trnava: Trnavská univerzita, Právnická fakulta, pp. 942-956.

Drgonec, J (2007) 'Základné právo na štrajk: rozsah a podmienky jeho uplatnenia v právnom poriadku Slovenskej republiky' *Justičná revue* č. 6-7/2007: 759-780.

Gerninon, B, A. Odero and H. Guido (1998) *Principles concerning the Right to Strike* ILO.

Mura, L (2012) 'Performance of Human Resource Management in an Internationally Operating Company' *Serbian Journal of Management* 1: 115-129.

Zaušková, A, A. Bobovnický and A. Madleňák (2013) ´The importance of innovations as a source of competitive advantage and how Slovakia is supporting them´ in *International May Conference on Strategic Management: Strategic Management 2013: Touch the New Wave: Proceedings* Bor: University of Belgrade, pp. 598-607.

Zulova, J and E. Janičová (2013) 'Asymetrický model pracovného práva so zreteľom na regionálne disparity trhu práce' in Milena Barinková (Ed.) *Tvorba a realizácia pracovného práva so zreteľom na regionálne aspekty trhu práce* Univerzita Pavla Jozefa Šafárika v Košiciach, Právnická fakulta: Košice, pp. 54-62.