

Collective bargaining at industry sector level – recent amendments and some practical aspects



It has recently been noted that social actors show a growing interest in concluding collective agreements at various levels, the justification being manifold: this either represents a way to retain employees, or it is an attempt to align to market practices, etc.

This concern has been prompted, among other things, by the trends emerging at European level to increase the application of collective bargaining in employment relations, implicitly triggering the rise in the number of applicable collective labor agreements.

Collective bargaining is not a new element in the national legislation, this concept being regulated both in the Labor Code and in the legislation specific to social dialogue. However, according to the new legal provisions, collective bargaining is mandatory not only for employers who have at least 10 employees (unlike the previous provision, which required a minimum number of 21 employees), but also **for sectoral collective bargaining**.

We will further on address certain aspects in relation to collective bargaining at industry sector level.

Given that the new social dialogue law introduces the obligation of conducting collective bargaining at industry sector level as well, thus creating the prerequisite for the conclusion of collective labor agreements at this level, it is expected that the number of collective labor agreements at sector level will grow in the future.

In this context, it is important for employers to be aware of certain aspects related to collective bargaining and the effects of a collective labor agreement concluded at industry sector level, such as:

- o **affiliation to an industry sector** - inclusion in a collective bargaining sector is to be carried out according to the main NACE code.

If some activities are included in several collective bargaining sectors, employers may request to be included in one of these sectors, if their main NACE code corresponds to one of the relevant sectors.

- o **the representativeness at sector level of the parties to the collective labor agreement**– in the case of sectoral collective bargaining, the employer and the employees are represented as follows:

- o the employer – by the legally established and representative employers' organizations/federations, according to the law;

- o employees – by legally established and representative trade union federations according to the law;
- o **collective bargaining** – the collective bargaining initiative belongs to any of the social partners and starts at least 60 calendar days prior to the expiry of the collective labor agreements or the expiry of the applicability of the clauses set forth in the addenda to the collective labor agreements.

The bargaining term covers a maximum of 45 days and may be exceeded only by agreement of the parties.

- o **applicability of the collective labor agreement concluded at sectoral collective bargaining level** - employers' organizations that are not signatories, as well as corresponding trade union organizations, may subsequently adhere to collective labor agreements concluded at sectoral collective bargaining level, based on a written notification sent to the depositary and addressed to the signatories of the collective labor agreement.

Thus, the clauses of the collective labor agreement concluded at sectoral collective bargaining level shall apply as follows:

- o to all employees employed in the entities of the collective bargaining sector for whom the collective labor agreement has been concluded at sectoral collective bargaining level and who are members of the signatory employers' organizations,
- o to all employees employed in the entities of the employers' organizations and of the employers in the collective bargaining sector in question who subsequently adhered to the sectoral collective labor agreement.

Also, where the number of employees in the units belonging to the signatory employers' organizations is higher than 35% of the total number of employees in the collective bargaining sector, the application of the collective labor agreement registered at a sectoral collective bargaining level can be extended to all the units in the sector with the appropriate approval of the National Tripartite Council and shall be approved by Government decision.

It is important to note that, if the employer refuses to adhere to the collective labor agreement at a sectoral collective bargaining level, a collective labor dispute may arise, under certain conditions.

In the light of these aspects, we believe that it is important for employers to closely follow the initiatives launched in the collective bargaining sector which they are part of, and in general, the dynamics of collective labor relations, including at the level of employers.

From our practical experience, we wish to reiterate that among the aspects to be especially taken into account, are those related to the election of employees' representatives, the establishment of trade unions and their affiliation to other organizations, specific requirements related to the conclusion and registration of collective labor agreements, the applicability of collective labor agreements at unit/group of units/sector/national level, as applicable, collective labor disputes and conciliation procedures, etc.

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