

## LEGAL ALERT



NEWSLETTER | 13 May 2011

### LAW REGARDING SOCIAL DIALOGUE

Law 62 / 6 May 2011 contains regulations referring to trade unions, employers, the Tripartite National Council for Social Dialogue, the Economic and Social Council, collective bargaining and settlement of labour conflicts.

## Law Regarding Social Dialogue

**Monitorul Oficial al României, Part I, No. 322 / 10 May 2011 has published Law No. 62 / 6 May 2011 regarding social dialogue (“Law 62”).**

Law 62 contains regulations relating to trade unions, employers, the Tripartite National Council for Social Dialogue, the Economic and Social Council, collective bargaining and resolution of labour conflicts.

When Law 62 comes into force, the following laws **shall be abrogated**, *inter alia*:

- ▶▶ Law No.168 / 1999, regarding the resolution of labour conflicts
- ▶▶ Law No.130 / 1996, regarding the Collective Bargaining Agreement.

**The major provisions of Law 62 refer to the following:**

### I. COLLECTIVE BARGAINING AGREEMENTS

These agreements may be negotiated at the level of:

- ▶▶ entity
- ▶▶ group of entities
- ▶▶ sectors of activity.

Collective Bargaining Agreements also include the conventions between the signatories thereto under which labour conflicts are settled, and the arbitral awards rendered on such conflicts.

An entity belongs to a specific sector of activity, *i.e.* industry, subject to the principal activity which it carries on, as it is recorded in the Trade Register, to which a code is assigned under the statistical classification of economic activities (CAEN).

**Collective bargaining is mandatory only at entity level**, except for the case in which the entity has less than 21 employees.

**Collective bargaining may not take longer than 60 calendar days**, unless the parties thereto agree otherwise.

**Any Collective Bargaining Agreement shall be concluded for a determinate period of time which may not be shorter than 12 months, nor may it be longer than 24 months. The Agreement may be extended only once by 12 months at the most.**

Collective Bargaining Agreements at entity level shall be registered with the Territorial Labour Inspectorate, while the others, *i.e.* at the level of group of entities and sectors of activity, shall be filed with the Ministry of Labour, Family and Social Protection.

### II. EFFECTS OF COLLECTIVE BARGAINING AGREEMENTS

- ▶▶ for all employees, when concluded at entity level;
- ▶▶ for all employees of the group entities where such Agreements are concluded;
- ▶▶ for all employees of the entities belonging to the sector of activity for which the Agreement has been concluded, as well as to employers' organisations that are signatories to such Agreements.

Collective Bargaining Agreements **may not be unilaterally cancelled**.

### III. COLLECTIVE CONFLICT

May occur in the following situations:

- ▶▶ the employer or employers' organisation refuses to commence negotiating a collective agreement either when such agreement does not exist or when the previous one has rightfully terminated;
- ▶▶ the employer or employers' organisation does not accept employees' claims;
- ▶▶ the parties cannot reach an understanding on the conclusion of the Collective Bargaining Agreement until the jointly agreed-upon date for the finalisation of negotiations.

**As long as a Collective Bargaining Agreement is in full force and effect, no collective conflict may be generated. Conciliation in such case is compulsory.**

### IV. MEDIATION AND ARBITRATION

- ▶▶ **The Collective Conflict Mediation and Arbitration Office shall be set up by the Ministry of Labour, Family and Social Protection.**
- ▶▶ When the parties cannot settle their labour conflict by conciliation, they may initiate the mediation procedure.
- ▶▶ The arbitral decisions rendered by the Collective Conflict Mediation and Arbitration Office **shall be binding on the parties**, shall be part of the Collective Bargaining Agreement and shall become writs of execution.

### V. INDIVIDUAL CONFLICT

Individual conflicts may be settled by the Court in the territory in which the Claimant has his/her/its domicile/registered place of business located.

Claims may refer to the following:

- ▶▶ **unilateral measures for the performance, amendment, suspension or termination of the Employment Contract, including payment commitments, to which objection may be filed within 45 calendar days of the date on which the party concerned has become aware of the respective measure;**
- ▶▶ **identification of the nullity of the Employment Contract, which may be claimed so long as such Contract exists;**
- ▶▶ **payment of damages for the damage caused and reimbursement of amounts that have been unduly paid, which may be claimed within three (3) years of the date on which the damage has been caused.**

Any claims regarding settlement of individual conflicts at work shall be expeditiously adjudicated and hearing dates may not be set at intervals of more than ten (10) days.

**Law 62 comes into full force and effect on 13 May 2011.**

**Legal News Alert** contains a selection of the latest major issues occurred in the Romanian legislative framework, is intended only to provide information and, hence, shall not be deemed to provide professional advice or consultancy. Therefore, we assume no responsibility in this respect.

Should you require any information related to the foregoing, please do not hesitate to contact us.



If you wish to get free subscription to Mazars newsletters, please send a message to [news@mazars.ro](mailto:news@mazars.ro), specifying your full name and title as well as the name of your company.

## CONTACT

### SCA Duncea, Ștefănescu & Associates

Str. Economu Cezărescu, nr. 31B  
Sector 6, RO-060754  
Bucharest, Romania

Tel: +40 31 229 26 00  
Fax: +40 31 229 26 01

E-mail: [contact@mazars.ro](mailto:contact@mazars.ro)  
[www.mazars.ro](http://www.mazars.ro) / [www.marccuspartners.com](http://www.marccuspartners.com)

**Jean-Pierre VIGROUX**  
Managing Partner



**Adriana Duncea**  
Senior Associate Lawyer  
Head of Legal Services



**Cosmin Ștefănescu**  
Senior Associate Lawyer

