



Legal Flash December 2022

Social Dialogue Law – New regulations and obligations for employers

Law no. 367/2022 on Social Dialogue ("**Law 367/2022**") was published in the Official Gazette and entered into force on 25 December 2022.

The main legislative changes introduced by the new law are as follows:

For employers with 10 or more employees, where there is no trade union, workers' interests can be promoted and defended by their representatives. In essence, in companies with 10 or more employees, the latter can organise themselves and, with a vote of at least fifty percent plus one of the total number of votes cast, appoint people to represent their interests vis-à-vis their employer. The maximum number of representatives is set by Law 367/2022 at 2 representatives for organisations where the employers have less than 100 employees and 6 representatives for employers with more than 2,000 employees/workers. The law also provides for intermediate values, depending on the actual number of employees in the company.

Under the new rules, employers may only facilitate elections of employee representatives after receiving a request to do so. Employers are prohibited from interfering in the process of electing employee representatives as well as from preventing employee elections in any way.

Moreover, collective bargaining has now become mandatory for companies with 10 or more employees, which is in contrast to the provisions of the Romanian Labour Code, which stipulate that collective bargaining is to be initiated for employers with more than 21 employees. The negotiation period has also been reduced from 60 to 45 days, with it only being possible to exceed the maximum period with the joint agreement of the parties.

Law 367/2022 stipulates that within the collective bargaining procedure, the information an employer makes available to employee representatives must be sufficient for them to carry out an analysis of the economic and financial situation and should, as a minimum, include data on the following:

- a) the economic and financial situation of the company to date and its outlook for the next contractual period
- b) the employment situation, structure and expected evolution of employment, as well as any possible measures envisaged for the next contractual period
- c) the proposed measures regarding the organisation of work, working hours and working time for the next contractual period
- d) the proposed measures to protect the rights of employees/workers in the event of a transfer of the company or a part of it
- e) measures proposed by the employer to promote improvements in occupational safety and the health of employees/workers during the next contractual period.

Among other things, Law 367/2022 introduces various new sanctions compared with the previous legislation, such as:

- fines of between RON 5,000 and RON 10,000 for the unjustified refusal to register collective labour agreements
- fines of between RON 15,000 and RON 20,000 for failure to inform and consult employees on the recent and probable development of the company's activities and economic situation, where employees have requested this in writing
- fines ranging of RON 30,000 and RON 50,000 for preventing employees from exercising their right to freely organise or join a trade union.

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In addition to this, other sanctions have been made harsher, such as the fine for failure to engage in collective bargaining, which is compulsory for companies with 10 or more employees and at sector level, which now stands at between RON 15,000 and RON 20,000, and that for intervention by employers that serves to limit or prevent the exercising of the rights of trade union organisations to draw up their own regulations, to freely elect their representatives, to organise their management and activity, and to formulate their own action programmes, which now ranges between RON 20,000 and RON 25,000.

For more information on these changes, please don't hesitate to contact us. At TPA we have a team of attorneys-at-law and accountants specialised in labour law and social contributions who are able to provide you with more information about how to implement these new regulations, as introduced by the new law on social dialogue, Law 367/2022.

This newsletter is a service of the TPA Group.

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