

Negotiations, collective agreements and social dialogue in times of crisis



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The crisis in a few words

- Crisis started in the USA in 2008 as a crisis of mortgage loans.
- This crisis has produced a crisis of confidence in the money markets and has turned into a crisis of debt for states.
- The crisis of debt has imposed the application of austerity measures and enhanced the application of changes of the Labour Law in all European countries.

Recent changes in the Labour Law in Europe

1. Work time
2. New forms of employment
3. Redundancies
4. Collective bargaining

In some cases changes have taken place without previous consultation, following urgent processes.

1 Work time

- Increase of overtimes
- Decrease of payment for overtime work
- Prolongation of the time over which overtime is calculated

2 New forms of employment (fixed time contracts, part-time contracts, precarious or temporary contracts, job rotation, black employment)

- Increase of duration and renewals of fixed-time contracts (Directive 2002/14 has to be respected though)
- New forms of employment
- Increase of uninsured employment (black-illegal)

3 Redundancies

- Increase of allowable redundancies
- Decrease of the warning time and of the information and consultation time for workers
- Reduction in compensations

4 Collective bargaining

- Substitution of national agreements with company-based or individual ones
- Remove of the principle of more favourable contract
- Possibility given to other forms of worker representation, except trade unions, to have also the right to sign collective agreements
- Difficulties in resolving employers - employees disputes in case of disagreement in collective bargaining

Speech of Mr Samovia, G.D. of the ILO to the European Parliament in 14.10.2011

«Respect for fundamental principles and rights at work is not negotiable, nor in times of crisis, when views on morality abound. This is especially important in countries that have to implement austerity measures.

We cannot use crisis as a justification to overlook internationally agreed work standards»

What is the difference between collective bargaining, consultation and social dialogue?

- Collective bargaining takes place following set rules and it usually usually leads to the signing of a collective agreement binding both parties. It takes place in the framework of «national» Laws.
- Consultation uses "looser" rules (depending on the member states) and can be non binding. There are EU Directives and respective national laws.
- Social dialogue takes place on specific topics between collective organs representing employees and employers and this does not mean that the two parties will conclude to common positions on these topics.

What have we said about the evolutions of the labour Law?

Unfavourable Labour Law


- Reduction of salaries will lead to profits for the companies, hence investments, hence growth
- Development of new forms of employment (job rotation, part-time employment, temporary jobs etc.) will reduce labour costs for companies.

General observation

- EU Directives on information and consultation, and therefore the corresponding national laws, constantly improved over the last 20 years (1992-2012)
- On the opposite, national laws on collective bargaining are constantly becoming more unfavorable to workers.

Which is the position of the trade union movement towards the change of the labour law and the crisis?

- Improvement of the community Law
- Exploitation of the *acquis communautaire* and the European social model
- Improvement of the transposition of EU Directives into legislation of each country
- Improvement of the exclusively national legislation.
- Assertion of claims at European level (European Works Councils)



An example – The recent Greek law on job rotation.

- The employer may impose job rotation by simply informing workers by posting an announcement at the work place. The employer chooses as well the time and the place consultation will take place.
- Is the above process in line with the EU Directives?

What does EU Directive 2009/38 for European Works Councils preview?

- ‘Information’ needs to take account of the goal of allowing employees representatives to carry out an appropriate examination, which implies that the information be provided at such time, in such fashion and with such content as are appropriate without slowing down the decision-making process in undertakings. ·

What does EU Directive 2009/38 preview for the European Works Councils?

Establishing dialogue and opinion exchange between worker representatives and the central management or any other organ at managerial level in such time, way and such a content that gives workers' representatives the possibility to express their opinion, on the basis of data provided, on proposed measures related to consultation, as appropriate without slowing down the decision-making process in undertakings.

Question

What are the provisions of EU Directive 2002/14 about information and consultation?



Question

How EU Directive 2002/14 is applied in your country?

Which EU Directives refer to information and consultation?



EU Directives referring to information and consultation

Collective bargaining 98/59

European Works Councils 2009/38

European company 2001/86

Company transfer 2001/23

What is the difference between information/consultation and collective bargaining?

- Information may be confidential
- Consultation is not binding for the employer (there are limits)
- Negotiation follows legal procedures and aims at the signing of a collective agreement
- Information and consultation refer to specific companies or grouping of companies. Collective bargaining may take place in a specific company or with an employers' association (it is not social dialogue)
- In both cases are kept minutes.

Information and consultation in periods of crisis

Information and consultation have to take place before crisis in order to:

- To know the economic situation of the company in good and bad periods
- We ask for better salaries and work conditions in good periods
- We ensure the work positions with special benefits
- We inform all workers about the results of consultation (e-mail)

Information and consultation in periods of crisis

What do we do if crisis comes (2)?

- During negotiations we refer to previous years profits and economic data of the company (e.g. capital reduction, profits, money distribution to shareholders)
- We demand that corporate social responsibility in practice
- We make use of acquis rights
- We inform all workers (e-mail)
- According to each specific case and with the agreement of workers we may accept temporary austerity measures.

Information and consultation in periods of crisis

What do we do if crisis comes (2)?

- We seek the opinion of experts e.g.
 - Economists that analyse economic etc. company data, present them to us in a simple and legible way and we use them in negotiations
 - Lawyers that may identify abuses of the Law by the management Δικηγόρων που μπορεί να επισημάνουν παραβάσεις από πλευράς επιχείρησης
- We make recourse to the Courts and the Labour Inspectorate.

Information and consultation in periods of crisis

- What if the employer is a grouping of companies or a company with many factories and each of these factories has a separate trade union(3)?
- It is possible that the employer wants to work one factory and close another
- We coordinate our actions with the other trade unions of the same company
- We demand common meetings of the Boards of the trade unions and the company management
- We equally inform all workers
- We are not enrolled in the «salami» policy

Information and consultation in periods of crisis

- What if the employer is a grouping of companies or a company with many factories and each of these factories has a separate trade union (4)?
- We use to a great extent e-mails and parallel speaking with our cellular phones in order to be well informed
- We publicize our actions (local press, internet, e-mail) and we ensure social support
- We make recourse to the Labour Inspectorate and the Courts
- WE KEEP ALL WORKERS UNITED

Collective bargaining in periods of crisis

- We fully respect legal procedures
- We are sure to have legal support
- We inform when it is needed and as it is needed the workers
- We use the minutes of the previous consultation and the existing economic data
- The strike and other actions are not out of question according to the instance that we will select
- WE KEEP ALL WORKERS UNITED


What do employers do in times of crisis?

- They try to reduce expenses through redundancies, salary reduction, job rotation, individual work contracts, temporary employment etc.
- They forget corporate social responsibility
- They try to break the unity of workers through workers with different contracts and through psychological intimidation
- They follow a «salami» policy
- They avoid meetings with unions and the Labour inspectorate
- They are not bound with written agreements

What is social dialogue?

The social dialogue includes all types of negotiations, consultation or just exchange of information between representatives of governments, employers and employees on issues of common interest relating to social and economic policy.

Social dialogue does not always lead to common documents.



Which are the differences between collective bargaining, information/consultation as well as social dialogue?

- Process
- Binding
- Legislation

On which documents is based the social dialogue?

- Article 138 of the European Union Treaty
- Άρθρο 138 της συνθήκης της Ευρωπαϊκής Ένωσης

Level of social dialogue

- European level (central or for specific sectors)
- National level (central or for specific sectors)
- Company level (national or European through the European Works Councils)

Results of the social dialogue at the European level

- European Directives on: parental leave (1996) part-time employment (1997) and fixed time contracts (1999) etc.
- Employer-employee agreements on: tele-working (2002) work-related stress (2004) violence at the work place (2007) lifelong skills development of the staff (2002) equality of the two genders (2003) etc.

When is social dialogue efficient?

- Both sides are powerful
- Respect of the Labour Law
- Respect of basic human rights
- The subject of the dialogue has to be well defined by both parties in advance
- Protection of the results of the social dialogue.

What is a European Works Council?

- An elected worker representation body at European level that is informed by the employer and consults with Central management on transnational subjects (not collective bargaining). Κοινοτική οδηγία 2009/38