

**Montenegrin Employers
Federation**

No: 65/21
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**Union of Free Trade Unions of
Montenegro**

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Montenegrin Employers Federation and Union of Free Trade Unions, under the project «**Upper Level - Joint Social Commitment - as the Key to I&C and Participation and Their Challenges**»,

Having into consideration the importance of the role played by the employees' mechanisms of Information and Consultation at National level;

Having into consideration the existing rights of employees' I&C, foreseen by the national law and aiming to better assure the efficiency of the employees' rights on information and consultation,

Having into consideration the need to improve the actual existing definitions of Employees' Information and Consultation to better comply with the needs of both employees and companies,

Having into consideration the positive potential of employee participation in the executive management as a source of additional information and consultation for the best possible decision making in company and as in establishing a cooperation for a continuous and ongoing dialogue,

Having into consideration the need to work towards that aim and use the collective bargaining as an important way to achieve this goal,

The partners agree on the following:

- **Information and Consultation rights**

Definitons

The partners agree on the need to have a more precise definition of the concepts so that it complies with the European law but also because they agree that such mechanism, in order to better be applied, should include:

- Information: means transmission of data by the employer to the employees' representatives in order to enable them to acquaint themselves with the subject matter and to examine it; information shall be given at such time, in such fashion and with such content as are appropriate to enable employees' representatives to undertake an in-depth assessment of the possible impact and, where appropriate, prepare for consultations with the competent organ of the Community-scale undertaking or Community-scale group of undertakings;

- Consultation: means the establishment of dialogue and exchange of views between employees' representatives and central management or any more appropriate level of management, at such time, in such fashion and with such content as enables employees' representatives to express an opinion on the basis of the information provided about the proposed measures to which the consultation is related, without prejudice to the responsibilities of the management, and within a reasonable time, which may be taken into account within the Community-scale undertaking or Community-scale group of undertakings;

Trade union representatives, at company level (shop steward) or the trade union official, has the right to information and consultation, besides the matters included by collective bargaining, on the following matters:

Information and consultation shall cover:

- (a) information on the recent and probable development of the undertaking's or the establishment's activities and economic situation;
- (b) information and consultation on the situation, structure and probable development of employment within the undertaking or establishment and on any anticipatory measures envisaged, in particular where there is a threat to employment;
- (c) information and consultation on decisions likely to lead to substantial changes in work organisation or in contractual relations;
- (d) information and consultation on the needs of the company with regard to training with a view to determining the training needs of the company's workers;
- (e) information and consultation on the need of the company in making use of new work forms, such as platform work.

Information shall be given at such time, in such fashion and with such content as are appropriate to enable, in particular, employees' representatives to conduct an adequate study and, where necessary, prepare for consultation.

Consultation shall take place:

- (a) while ensuring that the timing, method and content thereof are appropriate;
- (b) at the relevant level of management and representation, depending on the subject under discussion;
- (c) on the basis of information supplied by the employer and of the opinion which the employees' representatives are entitled to formulate;
- (d) in such a way as to enable employees' representatives to meet the employer and obtain a response, and the reasons for that response, to any opinion they might formulate;
- (e) with a view to reaching an agreement on decisions.

Procedure:

The trade union representative requests in writing, respectively, to the management body of the company or establishment the information elements regarding the matters covered by the right to information.

The information is provided in writing, within eight days, or 15 days if its complexity justifies it.

In the case of consultation, the employer requests in writing the opinion of the trade union representative (s), which must be issued within 10 days of receipt of the request, or within a longer period that is granted given the extent or complexity of the matter.

If the trade union representative asks for pertinent information on the matter of the consultation, the period referred to in the preceding paragraph starts from the provision of the information, in writing or at a meeting in which this occurs.

When the employer's decision to exercise management and organizational powers arising from the employment contract is involved, the information and consultation procedure must be conducted by both parties in order to reach, whenever possible, consensus.

The creation of a body, at sectoral level, focused on Employees' Information and Consultation, aiming to monitor and check the process compliance with the legislation, to collect critics, suggestions and claims from both employees, employees' representatives and companies and to act, impartially, as a mediator in the face of conflicts, offering legal advice in order to find solutions for conflicts.

This body aims to act as a supervisory body and as a first resource in the event of the need to challenge the confidentiality of information or the refusal to provide it or consultations. It should be an urgent nature procedure in order to secure the useful effect of the decision. This body will perform the function of settling existing or future conflicts.

- **Employees' Participation Right**

The partners agree on the importance of the workers representatives' participation right in solving conflicts or avoiding conflicts. In addition, when employees are offered the possibility to participate in the decision making will lead to better results in business, management and human resources.

The partners agree that it is important to establish a cooperation for a continuous and ongoing dialogue and having this as a basis they agree on the creation of an executive management team within the collective bargaining level (at company and/or sectoral level).

This will allow to provide a feedback channel towards the employees that will benefit everyone.

This will not restrict the ability and rights of the employer to make decisions.

The employees that are part of the participation process are bound by confidentiality.

Having this mind, the partners agree that employees have the right to participate in the decision taking procedure. For such purpose the partners agree on the creation of an executive management team.

This team has the right to participate, every three months, in a company's management's meeting.

For such purpose the executive management team has the right to:

a) Prior information and consultation on issues to be approached in the meeting, namely on the formulation of restructuring plans or projects;

- b) Present suggestions, complaints or criticisms to Organs competent bodies of the company
- c) Meet with the bodies in charge of preparatory restructuring work;

The executive management team will be pointed out by the trade unions/employees' representatives and will represent one third of the company's management body do the company.

Procedure and nomination of the Employees' representatives shall be made via collective bargaining.

- **Employees' Financial Participation**

Partners see the introduction of Employees' Financial Participation as an important way to achieve the goals of employees' involvement and a useful tool for improving and developing the engagement of social partners and social dialogue at company level.

Having in mind the present pandemic situation the world is living, the partners agree that the introduction of such is a way to better redistribute wealth amongst employees and companies and a way to improve the engagement having as a goal overcoming the difficulties and to promote the development of the companies and to maintain the workforce and employment.

The partners point out that introduction of WFP schemes, such as the «Bonus» (profit sharing schemes) as a way to achieve this goal.

This is particularly relevant within the SME's companies, where employees and companies should work together for their own benefit.

For such purpose the partners agree that the way to debate and to introduce this is within collective bargaining once this can be influenced by the individual conditions of each company and /or branch.

- **New work forms**

Having into consideration the need to guarantee the equality of all non-standard workers and workers in platform companies,

Partners agree that the employees covered by the new work forms shall be protected in full compliance with international and European instruments on human, trade union, social rights and occupational safety and health.

Employees covered by the new work forms must have access to information and consultation, on a regular basis and within what is established for the workers working in person in their workplace. If it is the case, and to comply with the safety measures in place due to COVID 19, such can take place using the digital tools available, namely digital platforms.

- **Anticipation scenarios**

Partners agree that employees' information and consultation mechanisms play an important role in anticipating scenarios and in finding out solutions for the challenges ahead by working on it in advance.

For such purpose the partners also agree that training, in a way to anticipate future needs) play an important role, such as training needs, reskilling, upgrading skills.

- **Pandemic situation – COVID 19**

The world is facing a severe and unprecedented sanitary crisis due to COVID-19. The partners agree on the need to take measures to secure individuals and economies. With such goal in mind the partners agree on the importance of privileging a quality social dialogue as the way to secure continuity of the operations and keep the employment. Necessary measure should be taken within the scope of the collective bargaining.

For such purpose the partners agree on the important role played by the employees' information and consultation mechanisms.

Social partners must play an important role in the measures to be taken not only in order to prevent social and economic consequences, as well to promote the recovery of the companies, securing employment and creating safe workplaces with the necessary safety conditions, creating a secure and healthy environment.

Having this in mind the partners agree on enhancing the role of employees' information and consultation not only to find solutions for the problems raised by the pandemic situation as it is a very important tool to anticipate measures/needs and to prepare the work in the future. The actual situation we are living in has shown that it has not been well prepared and it was necessary to face the actual situation to gain awareness of such. If the mechanisms were in place and functioning it was not need to wait to see that it was not the case.

Done at Podgorica, Montenegro

Date: January 19th, 2021.

Suzana Radulović

Secretary General



Srđa Keković

Secretary General

