



Collective Bargaining Agreement

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COMMENTARY

Collective bargaining is a process of negotiation between employers and a group of employees aimed at agreements to regulate working salaries, working conditions, benefits, and other aspects of workers' compensation and rights for workers. The interests of the employees are commonly presented by representatives of a trade union to which the employees belong. The collective agreements reached by these negotiations usually set out wage scales, working hours, training, health and safety, overtime, grievance mechanisms, and rights to participate in workplace or company affairs.

The definition of a collective bargaining agreement can be found in the Co-determination Act, which states that a collective bargaining agreement is an agreement in writing between employer's organizations or an employer on the one hand and an employee's organization on the other hand, which regulates conditions of employment or the relationship between employers and employees. An agreement is deemed to be in writing if its contents has been recorded in approved minutes or where a proposal for an agreement and an acceptance thereof have been recorded in separate documents. Oral agreements, or agreements which do not concern the relationship between employers and employees are not deemed a collective bargaining agreement.

Some collective bargaining agreements pertain to the general relationship between an employer or an employer federation and the trade unions. Such agreements normally regulate such matters as co-determination, procedures for negotiations and the outlining of common objectives relating to the future development on the labour market and for the employers. Agreements with the above subject matters are normally entered into between the nation-wide employer's federations and their nation-wide central trade union counterparts.

The two most important consequences of a collective bargaining agreement are:

- that departures in individual agreements from the terms of a collective bargaining agreement are invalid if both parties to the individual agreements are bound by the collective bargaining agreement and the departure is not expressly permitted by the collective bargaining agreement (This is called the "mandatory effect of collective bargaining agreements").
- as a rule, it is not permitted to resort to industrial actions (e.g. strikes and lock-outs) during the term of an agreement with the objective of altering the agreement or exerting pressure in the event of a dispute over the implications of a collective bargaining agreement (this is called the "peace obligation").

A collective bargaining agreement is reached by means of negotiation. The Co-determination Act makes it clear that each union organization and employer or employer organization shall have the right to negotiate in all areas which affect the relation between employer and employee. This may be a question of regulating by means of an agreement issues remaining unresolved between the parties or of replacing previously existing regulations by new ones. A right to negotiate for one party means an obligation for the other part to participate in the negotiations. However, there is no legal obligation to come to an agreement (For further information, see under the section "Co-determination at the workplace").