



The new collective labor law: renewed need for change due to procedural aspects

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On 25.12.2022, the new Law No. 367/ 2022 on Social Dialogue (Social Dialogue Law, "**SDL**" for short) entered into force. This law has changed Romania's collective labor law.

Despite a long legislative process, several problems were identified shortly after the SDG came into force. The following article is a description of the procedural problems that arose due to the lack of coordination with the Labor Code and their solution, which already required law draft amendments.

Jurisdiction of the courts over individual labor disputes

First, it should be noted that the new SDL no longer includes a definition of "individual labor conflict." This has not only a theoretical but also a practical relevance, as the term is still used in the Labor Code and other standards. These are conflicts in connection with individual claims of the employer and the individual employee (e.g. claims for payment, actions for protection against dismissal, etc.).

With regard to the substantive jurisdiction of the courts in the area of individual labor disputes, the **old** SDG explicitly regulated that all such disputes were decided **exclusively by the district courts** (Tribunals) at the plaintiff's place of residence or place of work.

The **new** SDL **no** longer contains any rules on jurisdiction in this case, so that currently only the provisions of the Labor Code apply. However, these are limited to the statement "*labor disputes fall under the jurisdiction of the courts in accordance with the law*".

In the absence of special regulations, jurisdiction must therefore be based on the Code of Civil Procedure (*Codul de Procedura Civila*). According to this, the following courts have subject-matter jurisdiction:

- the local courts (*Judecatorii*) for all petitions with an amount in dispute of up to RON 200,000, and
- the district courts for all applications that do not fall under the jurisdiction of other courts.

As a result, since December 25, 2022, actions in the area of labor law must currently be addressed to the local court if their amount in dispute is below the above-mentioned threshold. If the threshold is exceeded or the action has no amount in dispute, the district courts have jurisdiction.

Consequences regarding the organization of the courts

According to Law No. 304/ 2022 on the organization of courts, complaints about labor disputes must be analyzed and judged by specialized panels consisting of one judge and two assistant judges. Such specialized bodies currently exist only at the district courts, but not at the local courts. This is likely to significantly increase the already existing staffing needs of the local courts.

In addition, the judges' panels of the district courts must also be reorganized. Since the district court is responsible not only for certain labor law actions in the first instance (see above), but now also as appeal court with regard to the judgments of the local courts as the first instance, new panels of two specialized judges would have to be introduced.

Different appeal deadlines for individual and collective labor disputes.

According to the **old SDL**, the appeal period against judgments on *individual* labor disputes was 10 days from the date of service of the judgment, which is a deviation from the general appeal period of 30 days. The **new SDL** no longer contains any specific provision, so that the above-mentioned general appeal period currently applies.

However, the new SDL provides for a special appeal period of 15 days in the case of *collective* labor disputes.

Drafts for solving the above problems

The above problems were certainly not intentional. To eliminate them

- on Feb. 16th, 2023, a bill to amend the Labor Code and
- on Feb. 22nd, 2023, the draft emergency ordinance amending and supplementing the new SDL

were submitted.

These are intended in particular to correct the above-mentioned procedural aspects or harmonize the regulations; among other things, the exclusive jurisdiction of the district courts and a uniform appeal period of 10 or 15 days are to be reintroduced.

In their current form, however, both drafts are not (yet) flawless, since, for example, the definition of the individual labor dispute and the clarification of some provisions in need of interpretation with regard to the territorial jurisdiction of the local courts are missing.

Conclusion

The new law on social dialogue aims to solve problems introduced by the old law, which the trade unions saw as affecting employees' rights. This goal was largely achieved from a substantive law perspective (there are still shortcomings here as well). Unfortunately, however, considerable procedural problems arose, the solution of which requires the immediate intervention of the legislator.

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