

**Negotiation skills  
for effective collective bargaining**

# **On collective bargaining and collective agreements**



## **Negotiation skills for effective collective bargaining – compendium**

### **Bundle 1: On collective bargaining and collective agreements**

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# Introduction

Collective bargaining, as the topic of this bundle, is a form of communication, like any other negotiation in life. It is a test of the quality of communication.

People are social beings – we realise ourselves through the responsiveness of our environment: Our living, working, global environment... Each social group, including trade unions and employers, wishes to be accepted, taken into account and to feel good in the environment in which it lives and works. All this is gained through negotiations.

The negotiation process tests mutual trust, knowledge, mutual relationships, personal attitude, cooperation, as well as the personal ethics of the negotiators. Only mutual respect, a positive attitude and an honest intent to reach a good agreement guarantee that an agreement will actually be reached and that it will also be successful in practice. A concluded agreement, in our case a collective agreement, is a document that successfully withstands all tests only if it is concluded with an honest intent and a future common good in mind.

I hope this bundle can be a small contribution to negotiators on succeeding in their quest.

Metka Penko Natlačen

Editor

# I. History of collective bargaining in Slovenia<sup>1</sup>

## 1. Introduction

Each collective agreement arising from various legitimate interests of its contracting parties is an important upgrade to the existing legal order. A quality compromise between trade unions and employers, it is important for common, united and productive cohabitation in individual companies, as well as at the level of individual industries, the economy and the entire country.

Twelve years have passed since the adoption of the Slovenian Collective Agreements Act (*Zakon o kolektivnih pogodbah*) in 2006, and collective bargaining is today well established in the public and private sectors. In Slovenia, this process began to be developed only at the beginning of the 1990s, after the Enterprise Act (*Zakon o podjetjih*) was adopted in 1989.

Collective agreements as an independent source of labour law emerged in the second half of the 19th century, during the strike movements. They focused primarily on agreements concerning wages.

## 2. The period of regulating workers' rights until 1990

In 1945, after the Second World War, collective bargaining was declared as unnecessary due to the rule of the working class. The Associated Labour Act (*Zakon o združenem delu, ZZD*)<sup>2</sup> from 1977 brought a more comprehensive regulation of the socio-economic status of employees, the self-government of associated labour and the manner of organisation of self-government of workers within the framework of associated labour. Under the aforementioned act, »organisations or employers« were forms of »association of labour and assets«, named basic organisations of associated labour or TOZD.

This was the period when policies of general social importance were established through **social agreements** (*družbeni dogovori*). **Other types of social**

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1 Adapted from: Kolektivna pogajanja (Collective Bargaining), GZS (Chamber of Commerce and Industry) 2014, practical guidelines, article: Kolektivno dogovarjanje v Sloveniji nekoč in danes (Collective Bargaining in Slovenia, Past and Present), author: Metka Penko Natlačen.

2 Zakon o združenem delu (Associated Labour Act), Ur. l. SFRJ (Official Gazette of the Socialist Federal Republic of Yugoslavia), Nos. 53/76, 57/83, 85/87 (ZZD).

**agreements** (*socialni sporazumi*) regulated individual groups of workers with the view of realising individual interests, e.g. to organise a TOZD or an OZD.

Workers concluded such through special **self-governing agreements on the association of labour and assets**.

In enterprises, employment relationships were regulated by **self-governing general acts**, adopted by the work council. These basic documents were characteristic of associative employment relationships of the time.

Collective agreements were used only to regulate employment relationships with private employers.

### 3. A period of renewed collective bargaining after 1990 – From associative to contractual employment relationships

In 1989 and 1990, as a logical consequence of the adoption of a federal Enterprises Act, which signified the transition to the system of a free market economy and socio-economic relationships based on ownership, **new grounds for collective bargaining emerged in Slovenia**. Collective agreements once again became independent sources of labour law.

In the field of labour law, two acts were adopted that represent a categorical shift from associative employment relationships: the **Act on Basic Rights Stemming from Employment** (*Zakon o temeljnih pravicah iz delovnega razmerja, ZTPDR*)<sup>3</sup> from 1989 and the state **Employment Relationships Act** (*Zakon o delovnih razmerjih, ZDR90*)<sup>4</sup>. A chapter on collective bargaining appears for the first time in the Act on Basic Rights Stemming from Employment (ZTPDR). Those provisions were further developed in the Employment Relationships Act (ZDR90), which represents a foundation for collective bargaining in Slovenia.

A provision of the Act on Basic Rights Stemming from Employment (ZTPDR) thus provided that a **general collective agreement and collective agreements for individual industries concerning organisations and employers in the field of commercial activities should be concluded by competent bodies of a trade**

3 Zakon o temeljnih pravicah iz delovnega razmerja (Act on Basic Rights Stemming from Employment), Ur. l. SFRJ, Nos. 60/89 and 42/90, which abrogated Chapters IV (Mutual Relationships of Workers Under Associated Labour) and V (Protection of Workers' Rights) of the Associated Labour Act (ZZD).

4 Zakon o delovnih razmerjih (Employment Relationships Act), Ur. l. RS (Official Gazette of the Republic of Slovenia), Nos. 14/90, 5/91, 71/93 (ZDR90).

**union and a chamber of commerce and industry**<sup>5</sup>. The law also provided that a collective agreement **at the level of an organisation (employer)** should be concluded by a trade union and the management board or another competent body under the law, i.e. the employer.

Collective bargaining as a manner of regulating employment relationships in private and public sectors, therefore, only emerged again under the Act on Basic Rights Stemming from Employment (ZTPDR). **From then onwards, the Employment Relationships Act (ZDR90) also applies equally to all employees, thereby implementing the unification of regulation of employment relationships.**

The first general collective agreement for all employees was concluded in 1990<sup>6</sup>. Then, in 1993, the **General Collective Agreement Concerning the Business Economy** (SKP93) was concluded<sup>7</sup>. It remained in force until the conclusion of the **General Collective Agreement for Commercial Activities** in 1997<sup>8</sup>. In 2005, the General Collective Agreement for Commercial Activities of 1997 was rescinded and it expired in June 2005. It regulated the contents of a contract of employment and provided a basis for a unified regulation of payment for work, while it also represented a minimum standard for all industries, even those where collective bargaining was not organised. At the same time as the General Collective Agreement Concerning Commercial Activities, other collective agreements in the fields of individual industries soon followed.

It was characteristic of collective bargaining after 1991 that many provisions from the Act on Basic Rights Stemming from Employment (ZTPDR) and the Employment Relationships Act (ZDR90) – as well as from a few other acts – referred to collective

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5 Since employers' organisations were not yet established, the Act on Basic Rights Stemming from Employment (ZTPDR) and the Employment Relationships Act (ZDR90) provided that the chambers were the only organised forms of enterprises/employers authorised for collective bargaining.

6 Splošna kolektivna pogodba za gospodarstvo (General Collective Agreement Concerning the Business Economy), Ur. l. RS, No. 31/90 (SKP90).

7 Splošna kolektivna pogodba za gospodarstvo (General Collective Agreement Concerning the Business Economy), Ur. l. RS, No. 39/93 (SKP93). It was signed by the Chamber of Commerce and Industry of Slovenia together with the Chamber of Craft and Small Business (Obrtna zbornica, which was, at the time, still part of the Chamber of Commerce and Industry), and by six representative Slovenian trade union confederations, of which all but the Association of Free Trade Unions of Slovenia (Zveza svobodnih sindikatov) were newly established and registered in accordance with the Act on Representative Trade Unions (Zakon o reprezentativnosti sindikatov) from 1993.

8 Splošna kolektivna pogodba za gospodarske dejavnosti (General Collective Agreement Concerning Commercial Activities), Ur. l. RS, Nos. 40/1997, 10/2000, 31/2000, 54/2000, 64/2000, 45/2002, 113/2002, 38/2003 and 90/2005–termination of contract (SKPgđ).



agreements. This characteristic – that a legal field is further regulated in a collective agreement – was retained even later in the Employment Relationships Acts ZDR-A and ZDR-1.

#### 4. Collective bargaining based on new laws on employment relationships of 2003 and 2013 (ZDR-A and ZDR-1)

After 2003, collective agreements became shorter, partly due to a stark decrease in the number of provisions referring to a collective agreement in the new Employment Relationships Act<sup>9</sup> (ZDR-A), which decreased from 130 to 50. The contracting parties to collective agreements also did not want to repeat the statutory provisions, and wished to leave some room for collective bargaining at the level of an individual company

Labour law is slowly but surely moving in the direction of **civil contractual relationships for all employees**. Collective agreements are a way of implementing this. The law only establishes the basic framework for employment, while everything with regard to payment concerning work is regulated under collective agreements or their tariff chapters.

#### 5. The role of the Chamber of Commerce and Industry in collective bargaining

The Chamber of Commerce and Industry (GZS) has played an active part in the process of collective bargaining since 1990. In spite of mandatory membership, it was deemed a qualified employers' organisation, which took the lead in implementing activities and contributed expert content to the process. Since voluntary employers' organisations were not yet established, the Act on Basic Rights Stemming from Employment (ZTPDR) and the Employment Relationships Act (ZDR90) authorised the chambers of commerce and industry to participate in collective bargaining as the only organised forms of enterprises/employers. Also, in 1994, the Chamber actively supported the establishment and activities of the **Economic and Social Council** (*Ekonomsko-socialni svet*), which emerged to form part of a trilateral social dialogue, thereby representing an important upgrade to the bilateral dialogue.

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9 Zakon o delovnih razmerjih (Employment Relationships Act), Uradni list RS, Nos. 42/02 and 103/07.

Important milestones in collective bargaining were reached during this period. The first was brought about in 1997 by the Chamber with the modernisation of collective bargaining in the private sector by withdrawing from the General Collective Agreement Concerning the Business Economy then in force, which was based on self-government agreements and social agreements, and suggesting that a new one be concluded. Another important shift was triggered in 2006 by the Collective Agreements Act (*Zakon o kolektivnih pogodbah*)<sup>10</sup> and the Chambers of Commerce and Industry Act (*Zakon o gospodarskih zbornicah*)<sup>11</sup>. The Chamber turned into an employers' organisation with non-mandatory membership, which changed the conditions of collective bargaining.

The new Employment Relationships Act from 2002 and its amending act ZDR-A from October 2007 did not bring such fundamental changes to collective bargaining as might have been expected from a new labour legislation, adopted twelve years after Slovenia gained independence. However, the new Employment Relationships Act (ZDR-1), in force as of 12 April 2013, brought further changes concerning the flexibility of the labour market.

The Employment Relationships Act of 2013<sup>12</sup> (ZDR-1) established a new basis for concluding collective agreements concerning individual industries; it also brought several provisions that increase the flexibility of employment relationships. In 2013 and especially in 2014, based on the implementation of the Employment Relationships Act of 2013 (ZDR-1), employers began investing a lot of energy into renewal of collective agreements concerning individual industries.

## 6. Closing remarks

Collective bargaining in individual industries today takes place entirely autonomously, in accordance with the wishes and needs of the contracting parties. Development phases of collective bargaining are an important contribution to the quality of collective bargaining and to the drafting of provisions of the normative and the contractual part of collective agreements. Of note is the content of the normative part in the field of payment for work, also the possibility of out-of-court resolution of individual labour disputes through mediation and arbitration, which was introduced into the Slovenian legislation in 2002 and later in 2008. However,

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10 *Zakon o kolektivnih pogodbah* (Collective Agreements Act), Uradni list RS, No. 43/2006; in effect as of 6 May 2006 (ZKoLP).

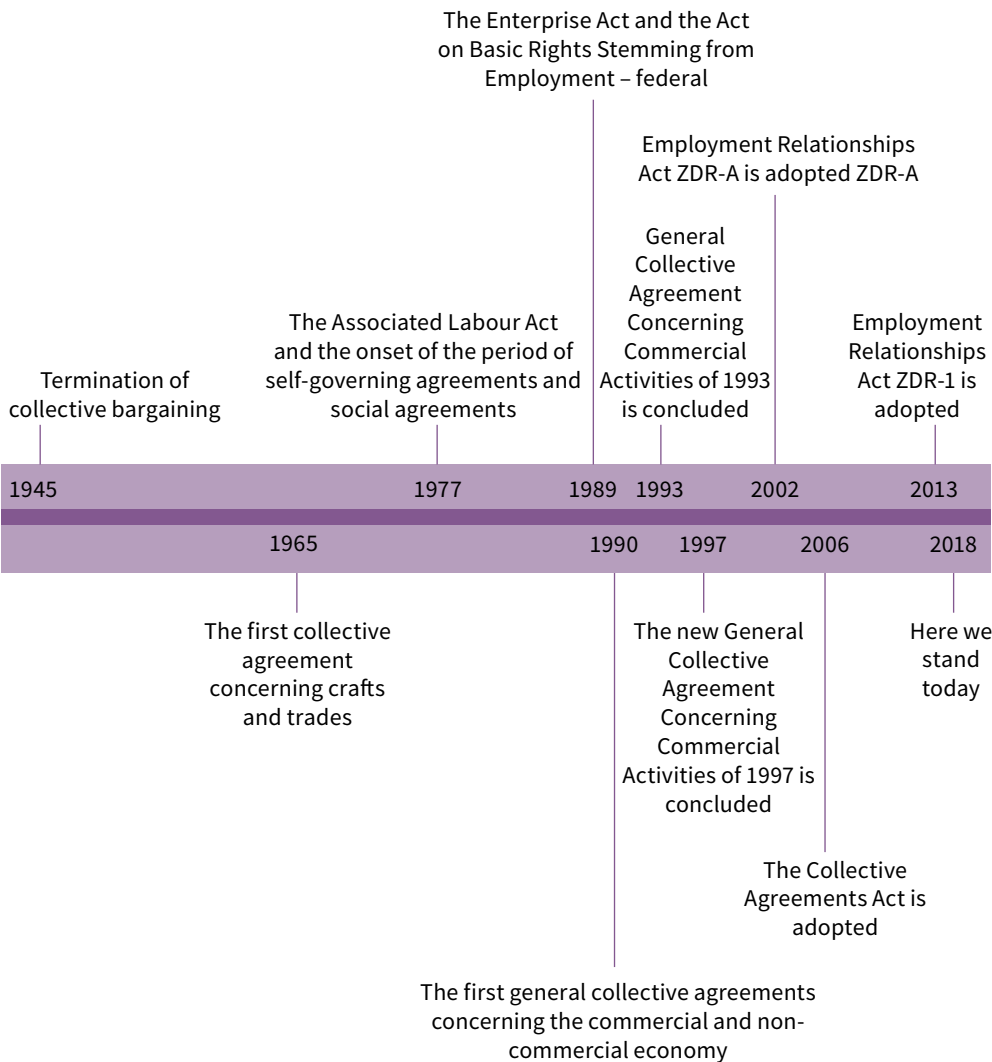
11 *Zakon o gospodarskih zbornicah* (Chambers of Commerce and Industry Act), Uradni list RS, No. 60/2006 (ZGZ).

12 *Zakon o delovnih razmerjih* (Employment Relationship Act), Uradni list RS, Nos. 21/13 and 78/13–correction.

out-of-court resolution of collective labour disputes is a chapter that has been traditionally included in all collective agreements since the year 1990.

Collective bargaining will undoubtedly have to meet new challenges concerning the subject matter of collective bargaining, the parties to a collective agreement, and the personal application of such documents.

Collective bargaining time-line





## II. What one needs to know about the contents of a collective agreement<sup>13</sup>

### 1. Introduction

We are rarely aware of the fact that next to the Employment Relationships Act, collective agreements are, due to their effect, the second most important national source of labour law. Even though they are not adopted in the form of a law, but in the form of a contract, they carry the effect of a law. Through collective agreements, one of the fundamental principles of labour law is implemented – the **freedom of contract (the autonomy)** of social partners in regulating employment relationships, which is a fundamental characteristic of collective bargaining and collective agreements.

Collective agreements comprise of the contractual and the normative part.

The **contractual part** regulates the issues concerning the **parties to a collective agreement** and their mutual rights, the process of concluding an agreement, its validity and termination, as well as resolution of labour disputes by mutual agreement. In legislation, these issues are regulated by the **Collective Agreements Act**<sup>14</sup> (ZKolP). The **normative part** regulates the rights and obligations of **workers and employers**. The **Employment Relationships Act**<sup>15</sup> (ZDR-1) regulates the negotiations and the interpretation of the normative part of a collective agreement.

The purpose of contractual provisions is to regulate the relationship between the parties, therefore, its effect is only *inter partes*. However, in the normative part the parties exercise their competence to regulate the rights and working conditions under the relationships between workers and employers who are bound by the agreement (the participants). The provisions of this part of a collective agreement are mandatory and **directly affect all participants (effect erga omnes)**, much like a law or another regulation<sup>16</sup>.

13 Adapted from: Kolektivna pogajanja (Collective Bargaining), GZS 2014, practical guidelines, article: Kolektivna pogodba in njena vsebina (Collective Agreement and its Content), by Polona Fink Ružič, and article: Stvarna veljavnost kolektivnih pogodb gospodarskih dejavnosti (Subject-Matter Validity of Collective Agreements Concerning Commercial Activities), by Metka Penko Natlačen and Cvetka Furlan.

14 Uradni list RS, Nos. 43/06, 45/08.

15 Uradni list RS, Nos. 21/13 and 78/13–correction.

16 Kresal Šoltes, K.: Vsebina kolektivne pogodbe (Contents of Collective Agreements), publisher: GV Založba, Ljubljana. 2011, pp. 215–216.

## 2. Contractual part

With regard to the use of collective agreements concerning individual industries in practice by the employers, attention must be paid to the subject matter, personal and temporal validity of agreements; such provisions are contained in the contractual part. Contractual provisions are often placed at the beginning and end of collective agreements.

### 2.1. Subject-matter validity

Subject-matter validity of a collective agreement **determines which employers are bound by which collective agreements**. The subject-matter and personal validity of a collective agreement depend on its parties.

Under the basic rule, a **collective agreement binds the members of an employers' association/employer, who entered into the collective agreement**. Furthermore, it determines which members of the association are bound by an agreement with regard to the Standard Classification of Activities (SKD) of 2008.

The subject-matter validity of a company collective agreement only covers an individual employer; its personal validity covers all employees of a particular employer, if concluded by a representative trade union.

With regard to the subject-matter validity of individual collective **agreements concerning commercial, i.e. gainful activities**, it is important to note that since 1991, **two general collective agreements** have been concluded in Slovenia, namely concerning **commercial and non-commercial activities**. As framework collective agreements, they covered all persons and entities, in addition to collective agreements concerning individual industries, if such were concluded. The second – Collective Agreement Concerning Non-commercial Activities – is still in force<sup>17</sup>, while the General Collective Agreement for Commercial Activities<sup>18</sup> (SKPgd) ceased to be valid in 2005 when the employers' side withdrew from it.

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17 Kolektivna pogodba za negospodarske dejavnosti v Republiki Sloveniji (Collective Agreement for Non-Commercial Activities in the Republic of Slovenia), Ur. l. RS, Nos. 18/91-I, 53/92, 13/93–ZNOIP, 34/93, 12/94, 18/94–ZRPJZ, 27/94, 59/94, 80/94, 64/95, 19/97, 37/97, 87/97–ZPSDP, 3/98, 3/98, 39/99–ZMPUPR, 39/99, 40/99–correction, 99/01, 73/03, 77/04, 115/05, 43/06–ZKolP, 71/06, 138/06, 65/07, 67/07, 57/08–KPJS, 67/08, 1/09, 2/10, 52/10, 2/11, 3/12, 40/12, 1/13 and 46/13).

18 Splošna kolektivna pogodba za gospodarske dejavnosti (**General Collective Agreement for Commercial Activities**) Ur. l. RS, Nos. 40/1997, 10/2000, 31/2000, 54/2000, 64/2000, 45/2002, 113/2002, 38/2003, **90/2005**–withdrawal from an agreement (SKPgd).

In accordance with a collective agreement concerning individual industries, a company collective agreement is concluded with an employer where employees have organised into a trade union.

Collective agreements concerning commercial activities cover employers:

1. Who **are** members of a selected employers' association, i.e. the Chamber of Commerce and Industry of Slovenia, the Slovenian Chamber of Commerce, the Association of Employers of Slovenia, the Chamber of Craft and Small Business of Slovenia, the Association of Employers in Craft and Small Business of Slovenia, or the Association for the Development of Slovenian Private Security Services, the Energy Industry Chamber of Slovenia, and the Tourism and Hospitality Chamber of Slovenia;
2. Who perform their activities **for profit** and their status is also organised accordingly, in accordance with the Companies Act (Zakon o gospodarskih družbah)<sup>19</sup>;
3. Whose **main/majority activity** (entered as such in the business register<sup>20</sup>) is one of the activities listed in the **collective agreement concerning the industry under its subject-matter validity**.

## 2.2. Extended validity of a collective agreement

Extended validity of a collective agreement concerning an industry represents an exception from the basic principle that a collective agreement concerning an industry is only binding on the members of an employers' organisation that is entering into a particular collective agreement. **Collective agreements concerning individual industries with extended validity are binding on all employers who perform the activities listed in the collective agreement, regardless of their membership of the Chamber or other employers' organisations.**

The minister responsible for labour decides, by issuing a relevant decision, on extending the validity of the entire collective agreement or of its part, based on a proposal of one of the parties to the collective agreement. The minister recognises an extended validity of a collective agreement if one of the parties to it submits a proposal for this purpose, and if the employers bound by the collective agreement employ more than 50 % of all employees at employers for whom an extension of the collective agreement has been proposed. The law only provides for an extension of validity of a collective agreement with regard to a **business**

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19 Zakon o gospodarskih družbah (**Companies Act**, official consolidated text; ZGD-1-UPB3).

20 Zakon o poslovnem registru Slovenije (**Business Register of Slovenia Act**), Ur. l. RS, Nos. 49/06 and 33/07-ZSReg-B (ZPRS-1).

**activity or part of a business activity. In deciding, the minister is bound by the application submitted.**

## 2.3. Personal validity

Personal validity of a collective agreement **determines which workers are bound by the collective agreement**. Two separate positions must be distinguished:

In addition to the basic rule, which follows from the voluntary nature of entering into collective agreements and the validity of a collective agreement only with regard to the parties to it or their members, the law also provides the so called **general validity of collective agreements**. This means that a collective agreement entered into by one or more **representative trade unions** covers all workers with an employer or employers regarding whom the collective agreement is concluded.

If a party to a collective agreement is one or more non-representative trade unions, the collective agreement **only covers the members of a trade union**.

## 2.4. Temporal validity

### 2.4.1. Fixed or indefinite term

A collective agreement may be concluded for a fixed or indefinite term. The contracting parties are entirely free to decide on the term of the agreement. What is important is the rule that **a collective agreement concluded for a fixed term cannot be terminated early**. When negotiating on the term of a fixed-term collective agreement, one needs to also take into account the agreed term of an extended use of a collective agreement – a period in which labour standards still apply and are enforceable.

The contracting parties may withdraw from an indefinite-term collective agreement in accordance with the agreed notice period. The notice periods usually agreed in collective agreements concerning individual industries are 3 to 6 months. If the contracting parties fail to establish a notice period, the 6-month notice period established by the Collective Agreements Act (ZKoiP) for such purposes applies. In the event of a withdrawal, a partial withdrawal is not possible, unless the parties expressly agree that it is possible.

The same applies to company collective agreements.

A tariff annex is usually concluded for a fixed term of one year. This applies if a collective agreement is concluded for a fixed or an indefinite term. It should be noted that **a tariff annex forms part of the normative part of a collective agreement**



**and shares its fate entirely**, unless expressly agreed otherwise. **An extended use also applies** to the tariff annex, unless expressly agreed otherwise.

However, regardless of whether a collective agreement is concluded for a fixed term or an indefinite term, the parties may always agree on the termination of the collective agreement. In such instances they may agree on terminating the entire collective agreement or only part thereof (e.g. the tariff annex). **An extended use also applies** in the event of termination by agreement, unless expressly agreed otherwise.

#### 2.4.2. Extended use

With the purpose of ensuring stability, predictability and safety of employment relationships, and thereby also social cohesion and stability of an employer's business operations, a special legal concept applies to collective agreements – **the extended use of a collective agreement after its termination**. The extended use of a collective agreement applies with regard to all manners of termination of a collective agreement, even in the event of cessation of extended validity and in the event of termination by agreement. The majority of provisions of the normative part of a collective agreement remain in use for 12 months (Collective Agreements Act (ZKolP)) after its validity expires, unless the parties agree otherwise in the collective agreement.

### 2.5. Territorial validity

Collective agreements concerning individual industries apply in the territory of the Republic of Slovenia.

A **collective agreement applies to posted workers** if the employer is not required to ensure a right to such workers under the regulations of the country where the work is temporarily performed (the country to which a worker is posted), due to the fact that these are more favourable than in the country from which a worker was posted.

### 3. Normative part

The Collective Agreements Act (ZKolP) provides that the normative part regulates the rights and obligations of workers and employers:

- With regard to conclusion of a contract of employment;
- During the employment relationship; and
- With regard to termination of a contract of employment;
- With regard to remuneration for work and other personal benefits and payments concerning work;
- With regard to health and safety at work; or
- With regard to other rights and obligations arising from the relationships between employers and workers;
- As well as with regard to the assurance of conditions for the performance of activities of a trade union with an employer.

In accordance with the autonomy of subject matter, the parties to a collective agreement may also agree on other issues concerning individual or collective employment relationships.

#### 3.1. Limitations to the autonomy of subject matter

However, regardless of the aforementioned, parties to a collective agreement must abide by the following restrictions to the autonomy of subject matter when concluding a collective agreement:

- A collective agreement **may only include rights that are more favourable to a worker than the ones provided by the law** (in favorem laboratoris);
- It may be less favourable to a worker **only if a law or a broader level collective agreement expressly so provides** (in peius).

#### 3.2. The principle of more favourable treatment (in favorem)

The principle of more favourable treatment (in favorem laboratoris) **is a fundamental principle of labour law, which applies in relationships between various sources of labour law.** Under this principle, the rights of workers in collective agreements, general acts and contracts of employment **may only be determined more favourably for workers compared to their determination in law.**

The issue of **whether a regime is more favourable for the worker must be determined with regard to each right or working condition and each worker independently**, not only in general and in a group.

### 3.3. Less favourable regime (in peius)

There are certain exceptions to the basic principle in favorem, namely:

- Under expressly provided circumstances, the Employment Relationships Act (ZDR-1) permits that rights and working conditions may be **less favourably determined in a collective agreement than in the law if the collective agreement concerns an entire industry** (Article 9(3) of the ZDR-1); a collective agreement of a narrower level cannot provide a less favourable regime;
- Under Article 5 of the Collective Agreements Act (ZKolP), these minimum standards may be disregarded if a broader level collective agreement so permits; the broader level collective agreement must determine the circumstances and conditions when this is possible.

## 4. Parties to a collective agreement

Article 2 of the Collective Agreements Act (ZKolP) as a fundamental source of law in the field of conclusion of collective agreements as of 2006 provides that collective agreements are concluded by:

- **Trade unions or associations of trade unions** as a party on the side of the workers, and
- **Employers or associations of employers** as a party on the side of the employers (hereinafter referred to as the Parties).

The Collective Agreements Act (ZKolP) determines the subject-matter validity of collective agreements in the following manner: A collective agreement is binding **on its Parties or their members**. Furthermore, the Collective Agreements Act (ZKolP) provides that a collective agreement, signed (among others) by associations of trade unions or associations of employers, must provide to which members of the association it applies. In a collective agreement concerning an individual industry, this is provided by a more detailed determination of the codes of business activities under the standard classification of activities of 2008.

Under ILO conventions, organisations of employers and trade unions that conclude collective agreements and participate in the social dialogue, must:

- Be voluntary with regard to pooling members;

- Be independent from governmental and other centres of power or politics; and
- Have their activities determined in their founding documents.

There is no statutory form required for employers' organisations; however, with regard to trade unions, the Representativeness of Trade Unions Act (Zakon o reprezentativnosti sindikatov) determines the conditions required to gain the status of an independent legal entity.

## 5. A list of collective agreements concerning commercial activities

In accordance with the Collective Agreements Act (ZKolP), a list of collective agreements concluded at the national level **is entered in the register** kept by the Ministry of Labour, Family, Social Affairs and Equal Opportunities<sup>21</sup>. The register also includes any recognition of extended validity of a collective agreement.

The Parties must **publish** a collective agreement concluded at the national level, and a certificate that it was entered in the register, **in the Official Gazette of the Republic of Slovenia**. The text of a collective agreement is also published on the Chamber's website, under the title Plačni kažipot (Guidelines on calculation of wages).

Collective agreements concerning commercial activities are listed here in alphabetical order (in accordance with their Slovenian title)<sup>22</sup>. The following are collective agreements concerning commercial activities (listed in alphabetical order in accordance with their Slovenian title):

1. Collective Agreement on the Slovenian Banking Sector (Kolektivna pogodba dejavnosti bančništva Slovenije)
2. Collective Agreement Concerning Cellulose, Paper and Paper Processing Activities (Kolektivna pogodba celulozne, papirne in papirno predelovalne dejavnosti) \*
3. Collective Agreement on Road Passenger Transport in Slovenia (Kolektivna pogodba za cestni potniški promet Slovenije) \*

21 The address of the website EVIDENCA kolektivnih pogodb (REGISTER of collective agreements) kept by the Ministry of Labour, Family, Social Affairs and Equal Opportunities is listed at the end of this article.

22 Collective agreements that are concluded by the Chamber through their associations/chambers of individual sectors are marked with an asterisk.

4. Collective Agreement for the Newspaper, Publishing and Bookselling Sector (Kolektivna pogodba časopisnoinformativne, založniške in knjigotrške dejavnosti) \*
5. Collective Agreement Between Workers And Companies In The Small Business Sector (Kolektivna pogodba med delavci in družbami drobnega gospodarstva) \*
6. Collective Agreement for the Electricity Generating Industries (Kolektivna pogodba elektrogospodarstva Slovenije)
7. Collective Agreement for Slovenia's Electrical Industry (Kolektivna pogodba za dejavnost elektroindustrije Slovenije) \*
8. Collective Agreement for the Hospitality and Tourism Industries (Kolektivna pogodba dejavnosti gostinstva in turizma Slovenije)
9. Collective Agreement on Forestry in Slovenia (Kolektivna pogodba za gozdarstvo Slovenije) \*
10. Collective Agreement for the Construction Industry (Kolektivna pogodba gradbenih dejavnosti) \*
11. Collective Agreement for the Graphics Sector (Kolektivna pogodba grafične dejavnosti) \*
12. Collective Agreement for the Chemical and Rubber Industry of Slovenia (Kolektivna pogodba za kemično in gumarsko industrijo Slovenije) \*
13. Collective Agreement for the Agriculture and Food Processing Industry (Kolektivna pogodba za kmetijstvo in živilsko industrijo Slovenije) \*
14. Collective Agreement for Public Utility Services (Kolektivna pogodba komunalnih dejavnosti) \*
15. Collective Agreement for the Metal Products and Foundry Industry (Kolektivna pogodba za dejavnost kovinskih materialov in livarn Slovenije) \*
16. Collective Agreement for the Slovenian Metal Sector (Kolektivna pogodba za kovinsko industrijo Slovenije) \*
17. Collective Agreement for the Wood Industry (Kolektivna pogodba za lesarstvo) \*
18. Collective Agreement for the Extraction and Processing of Non-Metallic Minerals Industry (Kolektivna pogodba za dejavnosti pridobivanja in predelave nekovinskih rudnin Slovenije) \*
19. Collective Agreement for the Craft and Business Sector (Kolektivna pogodba za obrt in podjetništvo)
20. Collective Agreement for the Real Estate Business (Kolektivna pogodba za dejavnost poslovanja z nepremičninami) \*
21. Collective Agreement for Postal and Courier Services (Kolektivna pogodba za poštne in kurirske dejavnosti) \*

- 22. Collective Agreement for the Slovenian Coal Mining Industry (Kolektivna pogodba premogovništva Slovenije)
- 23. Collective Agreement for the Textile, Clothing and Leather Industry in Slovenia (Kolektivna pogodba za tekstilne, oblačilne, usnjarske in usnjarsko-predelovalne dejavnosti Slovenije) \*
- 24. Collective Agreement for Slovenia's Trade Sector (Kolektivna pogodba dejavnosti trgovine Slovenije) \*
- 25. Collective Agreement for the Insurance Sector (Kolektivna pogodba za zavarovalstvo Slovenije) \*

More detailed information on collective agreements (publication, temporal validity, extension of validity) are available on the website of the Ministry of Labour, Family, Social Affairs and Equal Opportunities, under Registers of collective agreements (Evidence kolektivnih pogodb) kept by the ministry.

EVIDENCA KOLEKTIVNIH POGODB (REGISTER OF COLLECTIVE AGREEMENTS), Ministry of Labour, Family, Social Affairs and Equal Opportunities.

PLAČNI KAŽIPOT (GUIDELINES ON CALCULATION OF WAGES), a list of collective agreements concerning commercial activities currently in force, in full text (unofficial consolidated versions) and calculations of work-related costs with regard to selected collective agreements concerning commercial activities, available on the website of the Chamber of Commerce and Industry of Slovenia.



## III. Structure of a collective agreement

To simplify the use of collective agreements in practice, provided below are the fundamental elements of a collective agreement.

A collective agreement **is basically a contract**, therefore, it begins and ends with a complete indication of its parties.

Once a collective agreement is signed, only **its contractual part** comes into effect between the parties; then, once it is registered and published, **its normative part** also becomes applicable to the users in whose name it was concluded, i.e. the workers and the employers.

### 1. GENERAL PROVISIONS

#### Parties to a collective agreement

##### Definitions

- It is advisable to define the terms used in the collective agreement

##### Minimum standards

- Derogation from the minimum standard is permitted at the level of a collective agreement of a narrower level only in circumstances and under conditions provided by the law, and when a collective agreement of a broader level so permits/provides.

### 2. CONTRACTUAL PART

#### Subject-matter validity

#### Personal validity

#### Temporal validity

- Fixed or indefinite term

#### Manner of amendment and withdrawal

- Notice period, no notice period, termination by agreement, extended use

#### Period of extended standards of use

#### Positive duty to implement

#### Negative duty to implement



## **Commission for the interpretation or monitoring of the implementation of a collective agreement**

### **Resolution of collective disputes**

- Mediation
- Arbitration

## **3. Normative part**

### **3.1. Rights, obligations and responsibilities under an employment relationship**

- Traineeship
- Induction
- Notice periods
- Other examples of concluding fixed-term contracts of employment
- Definition of project work in a particular industry
- Conditions and examples of ordering work not specified in a contract of employment

### **3.2. Remuneration under an employment relationship**

#### **General provisions concerning benefits under an employment relationship**

All amounts stipulated in a collective agreement concerning personal benefits of workers under an employment relationship are determined **in gross amounts**, unless a collective agreement determines otherwise.

#### **Personal benefits of workers under an employment relationship consist of:**

##### **3.2.1. Salary or wage compensation and thirteenth salary, if determined as a salary;**

- Definition of basic salary, definition of lowest basic salary
- Criteria to establish work performance
- Supplements for work during less favourable working hours
- Supplements for work in less favourable working conditions
- Supplements based on seniority

### **3.2.2. Other types of payments, including:**

- Other personal benefits
- Reimbursement of work-related costs

### **Other types of personal benefits include:**

- Holiday allowance determined in a collective agreement may exceed the allowance determined in the Employment Relationships Act (ZDR-1) or the collective agreement concerning a particular industry
- Example of deferral of payment until 1 November in the event of insolvency
- Various types of severance pay: Termination due to business reasons, termination due to incompetence, upon retirement, fixed-term contract
- Seniority bonus
- Solidarity assistance

**Reimbursement of work-related costs** regarding which the Employment Relationships Act provides that they should be determined in a collective agreement

- Reimbursement of costs of commuting to and from work
- Reimbursement of costs for meals during working hours
- Reimbursement of costs for work-related travel in one's own country
- Reimbursement of costs for work-related travel abroad

## **3.3. Resolution and prevention of disputes – individual disputes**

### **3.3.1. Arbitration**

- A collective agreement must determine the procedure and competence or either a permanent arbitration or an arbitration for each individual case; between the parties, the determination of arbitration has the power of a final judicial decision.

### **3.3.2. Mediation**

- The parties resolve their dispute themselves, with the assistance of a third neutral person, and they define the agreement themselves after the onset of the dispute; their agreement is enforceable if concluded in the form of a court settlement, notarial settlement or a settlement concluded before a labour inspector.

#### 4. Transitional and final provisions

- Date when the collective agreement takes effect
- Which collective agreement is repealed once the new one takes effect
- Place and date of signature
- Signatures of the parties





## IV. Seven rules of a quality negotiation process<sup>23</sup>

Negotiations must take place in the form of a constructive dialogue, which leads to harmonised solutions in the common interest. When preparing for such negotiations, it is good to know that they have certain characteristic features. The progress of such negotiations can be summarised into seven rules.

### 1. Rule number one: Negotiations between the representatives of workers and employers should be cooperative

Negotiations can be either competitive or cooperative. The first are in essence competitions, where one side wins and the other loses. Such negotiations usually leave a sense of being cheated to the negotiating side that had to concede more. This is why such forms of negotiations are only conditionally appropriate for situations where the two sides would never meet again. However, no such circumstances exist in negotiations at the level of an employer or at the level of an industry, which is why these should be cooperative.

### 2. Rule number two: Keep in mind the common end goal

An important principle of cooperative negotiations is keeping in mind the common goal. During the preparation for negotiations, as well as during the actual negotiations, both sides need to clearly define their **common interests**. Negotiations often begin with demands or initial positions that are usually at least a little excessive on both sides. In negotiations, each side knows that they would have to make some concessions, so they intentionally increase their demands to create some leeway for tactics and concessions, but also to lower the expectations of the other side and draw it closer. Therefore, the first principle of cooperative negotiations is that both sides should **agree on their common long-term interest**.

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23 Adapted from: Kolektivna dogovarjanja (Collective bargaining), GZS 2014, practical guidelines, article: Konstruktivno vodenje pogajanj (Constructive negotiations) by Rudi Tavčar.

### 3. Rule number three: Knowing when to concede to a winning combination

The essential parts of any negotiation are persistence and concessions. Sometimes, when arguing for our demands, we can be blind to a good new solution emerging. It is often possible to find a way for one side to concede concerning an element that is not of key importance to them, in order to gain what they consider significant. **During negotiations, both sides must seek and find the solution they will be satisfied with in the long-term.** Such negotiations are called win-win.

### 4. Rule number four: Know the alternative if negotiations fail

In searching for common goals in negotiations, participants must often, even during the preparatory phase, answer the question of what would happen if no agreement were reached. If we carefully consider what other options are available in addition to the agreement suggested by the other side, we can judge more clearly whether the agreement on the table is good or bad. Even during preparation for negotiations, we should consider a few alternative scenarios for our own and for the other side.

### 5. Rule number five: Use objective criteria

Above all, objective criteria must be used during negotiations. Wording of provisions in agreements must be clear, so that they can be measured and defined in numbers. It is of key importance that both sides understand the agreement in the same manner; however, that is not possible if agreements are not defined with measurable attributes or examples from practice.

### 6. Rule number six: Negotiations are a strictly structured process

Negotiations are a structured process, comprising of individual phases that must be followed. The phases in the process of cooperative negotiations are as follows:

1. **Preparation and assembly** of a negotiating team
2. **Commencement of negotiations and adoption of rules of procedure**
3. **Examination:** Determination of the true interests of each negotiating side, and common long-term interests

4. **Searching for solutions and negotiating solutions**
5. **Conclusion and adoption of an agreement**
6. **Implementation of the agreement and monitoring** of its implementation

## **7. Rule number seven: Cooperation does not end with the signing of an agreement**

Cooperation does not end with the signing of an agreement. This is when the quality of our agreement is actually tested, because all that was agreed must now be brought into practice.

Modern negotiations demand that in addition to our interests, we also have to properly address our needs and the needs of the other side. This will ensure the **long-term effectiveness** of the negotiated agreement and create a lasting satisfaction of a common achievement. The advantage of negotiations is that **both sides can manage the problem at the same time. The results and the success are then reached simultaneously by both sides.**

## On the author and editor

Metka Penko Natlačen, univ. dipl. prav., has completed a university law degree and passed the state legal examination. She serves as a specialist in the fields of individual and collective labour law in the Legal Department of the Chamber of Commerce and Industry of Slovenia. She has extensive professional experience in industry, in the judiciary and in the field of research. As part of professional training in the field of collective labour law, she has attended seminars in Dublin, Turin, Warsaw, Prague, Florence and Lyon; and in the field of amicable dispute resolution at the appropriate institutions in Prague, Dublin, London and Birmingham.



She has attended the meetings of the International Labour Organisation several times as a member of the state delegation. She regularly participates in individual projects as an international expert of the European Commission in the field of collective bargaining and amicable dispute resolution, e.g. in 2013 in Montenegro, in 2015 in Ukraine and in 2017 in Peru.

Holding the status of an approved authorised person for the prevention of mobbing in the workplace, she also received the NLP Master Coach certificate. She is an active mediator and is the head of the Mediation group at the Chamber of Commerce and Industry of Slovenia, specialising in labour disputes. Between 2003 and 2006 she served as the head of the sector for collective bargaining at the Chamber; she is currently serving as a deputy director of the Legal Department.

For several years, she has served as a lay judge at the Labour and Social Court, as a member of expert committees for the preparation of labour legislation, and committees for interpretation of certain activities concerning collective agreements; she is also listed as an arbitrator at the Ministry of Labour, Family, Social Affairs and Equal Opportunities for arbitration proceedings between work councils and employers.

She gives lectures and publishes, mostly in the fields of individual and collective labour law, non-violent communication, negotiating skills and amicable resolution of labour disputes. She is the editor and co-author of a study and a journal on amicable resolution of disputes in the work environment (*Študija o mirnih načinih reševanja sporov*, Zbornik o mirnih načinih reševanja sporov, GZS, 2010), and of the publication *Vodnik po delovnih razmerjih* (Guidelines on Employment Relationships, GZS, 2013), as well as the expert editor of the *Priročnik o kolektivnih pogajanjih* (Manual for Collective Bargaining, GZS, 2014).



# About the Chamber of Commerce and Industry of Slovenia

The Chamber of Commerce and Industry of Slovenia as an effective business lobby and a renowned organisation of employers represents companies (its members) as business subjects and employers. It represents its members toward the State and the trade unions with regard to ensuring the design of working conditions and conduct of business, and with regard to ensuring the conditions for economic development. It ensures its members new opportunities for development, to achieve competitiveness and to penetrate foreign markets. As an organisation of employers, it cooperates in designing 22 collective agreements on individual business activities concerning the contents of working conditions and employment, while striving to establish a model bilateral social dialogue at the level of individual business activities.

The Chamber's Legal Department deals with commercial status law, contractual law and employment law.

The Chamber's Legal Department is leading the project Strengthening the Competences of Social Partners in a Collective Bargaining Process (2017–2021).



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## **Negotiation skills for effective collective bargaining – compendium**



### **Bundle 1:**

#### **On collective bargaining and collective agreements**

- The history of collective bargaining
- Insight into the contents of a collective agreement
- Structure of a collective agreement
- Seven rules for successful negotiation concerning collective agreements

*Author of the first bundle:*

*Metka Penko Natlačen*

*PROJECT: Strengthening the Competences of Social Partners in a Collective Bargaining Process (2017–2021)*

The envisaged contents of the following bundles in the compendium

**Negotiation skills for effective collective bargaining:**

- **How to participate in creating a quality and effective negotiation process**
- **Remuneration under an employment relationship as an important aspect of every collective agreement**
- **The strength and importance of mediation as an out-of-court manner of dispute resolution**

*Participants to the project STRENGTHENING THE COMPETENCES OF SOCIAL PARTNERS IN A COLLECTIVE BARGAINING PROCESS:*

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## **On collective bargaining and collective agreements – Bundle 1**

