



Trade Union of Physicians of the Republic of Srpska

Number: 176/19

Date: 26 August 2019.

EUROPEAN CONFEDERATION OF INDEPENDENT TRADE UNIONS

Avenue de la Joyeuse Entrée, 1-5,

B-1040 Bruxelles

SUBJECT: *Protecting the right to collective bargaining, request for assistance.* -

We hereby kindly address You with the following request for CESI, within its capabilities, to assist the Trade Union of Medical Doctors of the Republic of Srpska acting as the representative union within the Federation of Trade Unions of Health Workers of the Republic of Srpska, in order to allow for the protection of the fundamental right to collective bargaining that is being denied by the Government of the Republic of Srpska through its unlawful activity, as the employer.

Description of facts of unlawful denial of the right to collective bargaining hereby provided as follows:

1. On 18 August 2016, the Government of the Republic of Srpska, as the employer, signed a Special Collective Agreement for Health Employees in the Republic of Srpska with the Trade Union of Health and Social Care of the Republic of Srpska, as one of two representative trade unions. The Second representative union (which the Trade Union of Medical Doctors is the part of), as a participant in the Collective Agreement, refused to sign this agreement.
2. Pursuant to the provisions of Article 252 of the Labour Law, the said Collective Agreement has been signed for a period of three years and its termination shall expire on 2 September 2019.
3. On 4 July 2019, the Government of the Republic of Srpska, signed the Agreement on the extension of the validity of the Collective Agreement until 2 September 2020, together with the aforementioned Trade Union of Health and Social Care of the Republic of Srpska as the sole prior signatory of the said Agreement, without informing the second representative trade union that is a party to the Collective Agreement, which includes the Trade Union of Medical Doctors.

4. The Association of Trade Unions of Health Workers of the Republic of Srpska (which the Trade Union of Medical Doctors is the part of), as a representative trade union in the field of health care, immediately upon learning that the Government of the Republic of Srpska signed the said Agreement, on 12 July 2019 submitted its objection, requesting that the Government, as the employer, annuls this Agreement as unlawful as was not possible for other representative trade unions to declare their opinions on the said Agreement.
5. The Government rejected the given objection as unfounded on the grounds that only the trade unions which had previously signed this Collective Agreement were entitled to sign this Agreement, thereby excluding any other representative trade unions.
6. The Agreement on the Extension of the Special Collective Agreement entered into force on 27 August 2019.

Relevant regulations:

- Article 237 (1) of the Labour Law stipulates that the representative trade unions have the right to collective bargaining and to conclude a collective agreement on an adequate level;
- Article 240, paragraph 3 of the Labour Law stipulates that the parties to dedicated collective agreements are the Government of the Republic of Srpska and representative trade unions;
- Article 252 of the Labour Law stipulates that Collective Agreements shall be concluded for a period of three years and that upon expiry of this term the Collective Agreements shall cease to be valid, unless otherwise agreed by the parties to the Collective Agreement no later than 60 days prior to the expiry of the Collective Agreement.

In accordance with the aforementioned factual and legal basis, we require CESI assistance and support, particularly towards the Government of the Republic of Srpska in respect of relevant ILO conventions, the Constitution, laws and other regulations, whereas the Trade Union plans to undertake appropriate action before the competent courts in Bosnia and Herzegovina, in accordance with the status of the case.

Yours sincerely,

President

Prim.dr.Miodrag Femic





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PREDMET: Zaštita prava na kolektivno pregovaranje, zahtev za pomoć. –

Ovim putem vas obraćamo sledećim zahtevom da CESI, u okviru svojih mogućnosti, pomogne Sindikatu ljekara Republike Srpske koji deluje kao reprezentativni sindikat u Savezu strukovnih sindikata zdravstvenih radnika Republike Srpske, u kako bi se omogućila zaštita osnovnog prava na kolektivno pregovaranje koje Vlada Republike Srpske uskraćuje nezakonitom aktivnošću poslodavca. Opis činjenica o nezakonitom uskraćivanju prava na kolektivno pregovaranje dat je na sledeći način: 1. Vlada Republike Srpske je, kao poslodavac, 18. avgusta 2016. godine, sa Sindikatom zdravstvene i socijalne zaštite Republike Srpske, kao jedan od poslodavaca potpisala Posebni kolektivni ugovor za zdravstvene radnike u Republici Srpskoj. dva reprezentativna sindikata. Drugi reprezentativni sindikat (u čijem sastavu je Sindikat lekara), kao učesnik Kolektivnog ugovora, odbio je da potpiše ovaj sporazum. 2. U skladu s odredbama člana 252. Zakona o radu, navedeni kolektivni ugovor potpisan je na tri godine, a njegov raskid ističe 2. septembra 2019. godine. 3. Vlada Republike Srpske je 4. jula 2019. godine potpisala Sporazum o produženju važnosti Kolektivnog ugovora do 2. septembra 2020. godine, zajedno sa gore pomenutim Sindikatom zdravstva i socijalne zaštite Republike Srpske kao jedini prethodni potpisnik pomenutog sporazuma, bez obaveštavanja drugog reprezentativnog sindikata koji je stranka Kolektivnog ugovora, u koji je uključen i Sindikat lekara. 4. Udruženje sindikata zdravstvenih radnika Republike Srpske (u čijem je sastavu i Sindikat ljekara), kao reprezentativni sindikat u oblasti zdravstva, odmah nakon saznanja da je Vlada Republike Srpske potpisao je navedeni Sporazum, 12. jula 2019. godine podnio je prigovor, zahtijevajući da Vlada, kao poslodavac, poništi ovaj Sporazum kao nezakonit jer to nije bilo moguće da drugi reprezentativni sindikati izjasne o svom mišljenju o navedenom Sporazumu. 5. Vlada je odbila dati prigovor kao neosnovan s obrazloženjem da samo sindikati koji su prethodno potpisali ovaj Kolektivni ugovor imaju pravo da potpišu ovaj sporazum, isključujući tako bilo koji drugi reprezentativni sindikat. 6. Sporazum o produženju Posebnog kolektivnog ugovora stupio je na snagu 27. avgusta 2019. godine.

Relevantni propisi: - Član 237 (1) Zakona o radu predviđa da reprezentativni sindikati imaju pravo na kolektivno pregovaranje i zaključivanje kolektivnog ugovora na adekvatnom nivou; - Član 240. stav 3. Zakona o radu predviđa da su strane u posebnim kolektivnim ugovorima Vlada Republike Srpske i reprezentativni sindikati; - Član 252 Zakona o radu predviđa da se kolektivni ugovori zaključuju na period od tri godine i da istekom ovog roka Kolektivni ugovori prestaju da važe, osim ako se strane Kolektivnog ugovora drugačije dogovore ne drugačije od 60 dana prije isteka Kolektivnog ugovora. U skladu sa gore navedenim činjeničnim i pravnim osnovama, potrebna nam je pomoć i podrška CESI, posebno prema Vladi Republike Srpske u pogledu relevantnih konvencija ILO, Ustava, zakona i drugih propisa, dok Sindikat planira da preduzme odgovarajuće mere pred nadležnim sudovima u Bosni i Hercegovini, u skladu sa statusom predmeta. Iskreno Vaš,

President

Prim.dr.Miodrag Femic

