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# Legal Bulletin



## Employment

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### Amendments and Supplementations to Law No. 62/2011 on Social Dialogue - Law on Social Dialogue

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Law No. 1/2016 amending and supplementing Law No. 62/2011 on social dialogue („Law No. 1/2016”) was published in the Official Journal of Romania, Part I No. 26 of 14 January 2016.

The main amendments to the Law on social dialogue address the withholding of the trade union contribution and the employees' representation in the collective negotiations held at unit level.

#### 1. Amendments regarding the withholding of the trade union contribution

Further to the amendments to Law No. 1/2016, the trade union contribution may be withheld provided that two conditions are cumulatively fulfilled, i.e. (i) the trade union organization requested so and (ii) the trade union members agreed to it.

Hence, the trade union contribution cannot be withheld by the employer on the payroll, to be later transferred to the trade union, unless the trade union members expressly agreed to it.

The trade union contribution amounting to maximum 1% of the gross income obtained by the employees is deductible according to the Fiscal Code.

#### 2. Amendments regarding the employees' representation in the collective negotiations held at unit level

Law No. 1/2016 provides new rules regarding the employees' representation in the collective negotiations held at unit level. Thus, according to the old regulation, in absence of a representative trade union set up at unit level, the participants in the collective negotiations held at unit level were those representatives selected by the employees.

Nevertheless, according to the new regulation, it seems that the employees' representatives are excluded from the collective negotiations if there is a non-representative trade union set up at unit level, which is affiliated to a representative federation at the level of the sector the unit is part of, and such federation will participate in the collective negotiations held at unit level.

The employees' representatives will participate in the collective negotiations held at unit level unless no trade unions are set up at unit level.

The new provisions are likely to entail interpretation problems at least from the perspective of the employees' representation in the collective negotiations at unit level, as they seem not to be correlated with the provisions of Article 146(2) of the Law on social dialogue regarding the possibility to register the collective bargaining agreement without all parties' signatures. Therefore, according to Article 146(2) of the Law on social dialogue, *"At unit level, the collective bargaining agreement shall be registered without all parties' signatures provided that the signatory party representing the employees covers more than half of the total number of employees"*. However, if there is a non-representative trade union set up at unit level, the registration of the collective bargaining agreement is no longer possible, as the mere affiliation of the trade union to a representative federation at the level of the activity sector such unit is part of is not likely to cover more than half of the total number of the employees of such unit.

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## Editors

**Employment** is one of the practice areas in which our lawyers have acquired extensive experience, ranging from management schemes tailored for both entities undergoing privatisation or private entities set up by international corporations in Romania, to preparing and negotiating collective and individual labour agreements and related specific clauses (employee benefits, restrictive covenants, stock option plans and trade option plans). Our attorneys also deal with employment related matters in relation to mergers & acquisitions and privatisations, involving redundancy programs, negotiations with trade unions, pension issues raised in transactions, investment management agreements etc. Our specialists are frequent lecturers on employment law issues and regular contributors to local and foreign publications, whilst being actively involved in the activities of reputed domestic and international associations and organisations such as the European Employment Lawyers' Association (EELA), Multilaw, AmCham etc.



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