

Changes to the Protocol for the Legitimation of Collective Bargaining Agreements

Today the Directive amending the Protocol for the Legitimation of existing Collective Bargaining Agreements (hereinafter, “the Directive”), was published in the Official Federal Gazette (DOF).

The Directive basically establishes a proceeding for addressing the complaints filed by the workers regarding irregularities in the consultation events within a proceeding for legitimation of collective bargaining agreements. It is relevant to point out that the legitimation of collective bargaining agreements is essential to comply with the Federal Labor Act and in line with the provisions of the USMCA regarding freedom of association and collective bargaining negotiations.

In this regard, the following are, among others, the changes to the Protocol:

1. The Protocol will be in force until the Federal Conciliation and Labor Registry Center begins its registry functions and issues the corresponding Protocol or guidelines.
2. There must be a commission responsible for the organization and implementation of the legitimation process and the document recording its designation must be attached to the notice that the union gives to the Ministry of Labor and Social Welfare (hereinafter, “the STPS”) in order to initiate the consultation process.
3. The labor authority may verify compliance with the requirements contained in the Protocol, before, during and after the legitimation process, regardless of whether or not it has been done before a certifying public official.
4. All the workers covered by the collective bargaining agreement submitted to legitimation may complain before the STPS with respect to the irregularities that exist during the consultation proceeding. The complaints, in general, will be made according to the following:
 - ✓ Any act or omission that violates the principles of security, transparency, reliability and certainty of the vote or that affects the right of the workers to issue a personal, free, direct, secret, pacific, agile and secure vote will be understood as an irregularity. In this respect, the Directive lists, without limitation, certain conducts that would be considered irregularities before, during and after the consultation event.
 - ✓ The complaint must be presented with as much evidence as possible. If there is no evidence, the description of the facts must be supported by at least two witnesses, attaching a simple copy of their identification. The authority will also request statements and evidence from the union, employer and, if necessary, the work inspector or notary public that attended the consultation event; as well as interviews with the petitioners or other witnesses, always safeguarding their identity.

- ✓ If the complaint lacks any of the required elements, the authority may ask the worker to remedy it within no more than 3 business days; if the elements are not provided in that period, the complaint will be considered not filed.
- ✓ If the complaint evidences the occurrence of irregularities that are decisive for the development of the consultation or for the results of the vote, the STPS will declare the proceeding invalid and, in this case, the union may make a new consultation.

For more information on the Protocol, we share the [link](#) of our news released on August 1, 2019; as well as the [link](#) of its publication in the Official Federal Gazette.

We are available for any questions you may have regarding the amendments to the Protocol and to support you with legitimization strategies for your collective bargaining agreements.

To download the Directive press [here](#).

To obtain additional information contact our expert:

Rodolfo Trampe, Partner:

+52 (55) 5258 1054 | rtrampe@vwys.com.mx

Alix Trimmer, Associate:

+52 (55) 5258 1016 | atrimmer@vwys.com.mx

Alejandro Pérez, Associate:

+52 (55) 5258 1054 | alperez@vwys.com.mx

S I N C E R E L Y

VON WOBESER Y SIERRA, S.C.

Mexico City, February 4, 2021.

VON WOBESER Y SIERRA, S.C.

Paseo de los Tamarindos 60

05120 Mexico City

+52 (55) 5258 1000

vonwobeser.com