
Protocol for the Legitimation of Collective Bargaining Agreements

As you are aware, on May 1 of this year the Decree was published reforming the Federal Labor Law and other secondary laws in matters of labor justice, freedom of association and collective bargaining negotiations.

The Eleventh Transitory article of this Decree established that until the Federal Conciliation and Labor Registry Center (Center) begins operations, the Ministry of Labor and Social Welfare (MLSW) must issue within the next three months the protocol to accomplish the verification of the consultation relative to the legitimation of the current collective bargaining agreements, by personal, free, direct and secret vote.

Therefore, yesterday the Protocol for the Legitimation of Existing Collective Bargaining Agreements (Protocol) was published in the Official Federal Gazette, where the rules and procedures are established to verify that the majority of the workers approve the content of the collective bargaining agreements that are currently filed before the Conciliation and Arbitration Boards.

Among other issues, the Protocol establishes the following points:

- That the union holding the collective bargaining agreement must give notice electronically to the MLSW within at least 10 days before the correspondent employees' consultation that it will consult with the workers to determine if the majority support the collective bargaining agreement that is executed. For this, the MLSW will establish an electronic platform containing all the forms authorized for carrying out the consultation procedure and, as a result, documents that have not been generated through that platform will be invalid.
- It is established that in the process of consulting the workers, the union may choose to have it verified by a certifying public official or even by the labor authority. Also, and notwithstanding the intervention of a certifying public official, the labor authority may verify compliance with the requirements established in the Protocol for the consultation.
- Once the Union issues the call for verification, it must give notice to the employer of the date, time and place indicated for the consultation and the employer must facilitate its carrying out, delivering a printed copy of the collective bargaining agreement to the workers. The employer will not intervene in the voting process.
- Once the consultation procedure has been done, it is established that the union must advise the MLSW, through the electronic platform, of the result of the vote. Furthermore, the act of voting and the list of workers must be digitalized and uploaded on that platform even when the consultation has been verified by a labor authority. If a certifying public official is involved, the corresponding certification must be digitalized and attached.

- The MLSW must verify that the consultation proceeding complied with the requirements established in the Protocol and will incorporate a registry with the information relative to the legitimation of the collective bargaining agreements, which it will eventually transfer to the Center.
- If the collective bargaining agreement subject to the consultation does not receive the support of the majority of the workers, it will be considered terminated, but the workers will preserve the benefits and conditions established in it.
- The MLSW may request the Conciliation and Arbitration Boards to ask the unions that have collective bargaining agreements deposited to legitimate their contracts before May 1, 2023 or the contract will be considered terminated.
- The legitimation procedure is independent from the process of salary and complete review of the collective bargaining agreements.
- According to the transitory article, the Protocol entered into force on the day after its publication and it will remain in force until the Center begins operating.

For more information, we share the link to the publication in the Official Federal Gazette
http://dof.gob.mx/nota_detalle.php?codigo=5566910&fecha=31/07/2019

We would be glad to assist you should you have any questions regarding the reform or need help in implementing this new legal framework.

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Sincerely,

Von Wobeser & Sierra, S.C.

Mexico City, August 1, 2019.