

The Current state on the field of Social dialogue in the Slovenian metal industry

In 2023 in the Metal processing industry sector, collective negotiations were primarily focused on the Trade union's proposal on increasement the amounts of Minimum Basic Wages (slovenian NOP). After prolonged negotiations, the amounts in the tariff part of Collective Agreement (CA) were raised by 15%. It was the largest increase since 2015, when the Collective agreement for the Metal industry was revised, updated, and newly adopted. Additionally, a clause was added in the Annex (part of CA), obliging both parties to continue negotiations in 2024, primarily on changes and amendments inside the normative part of the Collective agreement.

Meetings between employers and unions continued in 2024, mainly negotiating for the amount of Holiday pay. During the negotiations regarding the amount of Holiday pay, various opinions, views and particularly disagreements between both negotiation parties were exchanged. Employers side offered an alternative "package proposal«, which included a reduction in seniority bonuses, but it was flatly rejected. After lengthy and challenging negotiations, employers were unable to reach a mutual agreement with the Trade Unions, so both sides unanimously decided to conclude the matter for the current year.

In the fall, within metalworking sector, an increase of Minimum Basic Wages (NOP) by 6% was proposed by the Trade unions. They justified their proposal as maintaining the real value of NOP compared to 2015. The employers' side of bargaining committee received a mandate from their association bodies to discuss and continue negotiations with TU. The Union's proposal is currently under thorough review and the continuation of social dialogue is scheduled for November.

On the other hand, both negotiating parties were able to reach a partial agreement on the content of selected proposed articles from the Collective Agreement. Certain articles are related to the national Employment Relationships Act (ZDR-1D), which was adopted in November 2023. The others were submitted by companies and the professional services of the Chamber of Commerce and Industry (GZS) and the Association of Employers of Slovenia (ZDS). Negotiation parties successfully reached an agreements on some proposals (*termination of employment contracts, limitation of annual leave days, deadlines for holiday pay, and certain editorial corrections*). Based on the final agreement between the social partners, Annex No. 7 was adopted. Other proposals (*seniority bonuses, performing other work, reimbursement of expenses, unpaid leave, etc.*), which were submitted to the Unions, have been rejected and still awaiting thorough review.

Moreover, employers side submitted a additional proposal to the Unions. A comprehensive review of the Collective Agreement is set for the last quarter of the year to be undertaken. The set of changes and starting points from the normative part of the Collective Agreement for the Metal industry has been prepared by the employers side, supported by comments of expets from the GZS and ZDS legal departement. Regarding changes to other provisions of the Collective Agreement, along with the proposal to supplement the Right to Disconnect (ZDR-1), a professional working group of GZS and ZDS was established to review and revise all proposals, submitted by both negotiating parties. Additionally, Working Time Recording is also currently under review at the national level under Economic Social Council (ESS). Main focus is on »lunch break time removal« and sanction measures that will apply only to possible violators.

Right to Disconnect

Regarding the proposed provisions of the normative part of the Collective Agreement and the proposal to supplement the Right to Disconnect (ZDR-1), the prevailing view is that negotiations should continue towards changes that will be more favorable and positive for the employers' side. The Right to Disconnect is currently under consideration and coordination with the Trade Unions. In October, the employers submitted the first part of a package proposal to the Unions for review. Package includes a proposed amendments regarding Right to Disconnect, which was legislated in November 2023 with the adoption of the Amendment to the Employment Relationships Act (ZDR-1D).

The law grants the employee the right to ensure, that the employer does not infringe on employees' free time during daily or weekly rest, use of annual leave, or other justified absences from work. Employers must adopt appropriate measures regarding the right to disconnect by November 16, 2024. The Amendment stipulates that the measures which must be adopted by employer, should be defined by a Collective Agreement at the sectoral level. If these are not defined in this way, they must be defined by a narrower-level of collective agreement. If the employer is not bound by any Collective Agreement, the right to disconnect must be defined in internal Act of the company. If not, the Employer must submit the proposed measures for review to the Works Council or Employee representative before adopting the measures. Employer must review and respond to the opinion before implementing the measures.

Within the EU, practices are various ... and so are the measures; since job roles differ significantly, the measures can also be diverse. The most common practice distinguishes between "soft" measures (*raising awareness of the dangers of constant use of ICT tools, regular reminders to employees, setting precise times when an employee is available to the employer, etc.*) and "hard" or "technical" measures - meaning a complete termination of communication; for example, employees are unable to access the organization's servers or email after a certain hour.

It is really important that all proposed measures which ensure the right to disconnect are clearly defined. In the case of a dispute, when employee claims that the employer acted against his right to disconnect, the employer will need to prove that the right to disconnect was granted and respected.

Remote work

At the national level, remote work as a specific form of employment, is defined by the Employment Relations Act (ZDR-1). Remote working refers to work performed by the employee at their home or in a location of their choice, though outside the employer's premises. The employment contract for working remotely must specify the locations where the work will be performed, which is important from the perspective of occupational health and safety regulations. Remote work under Employment Relationships Act (ZDR-1) also includes telework, which is the most common form of remote work in practice. However, remote work cannot involve tasks that are harmful or that pose a risk of becoming harmful. If the employer allows remote work, it must be available to all employees under the same objective conditions—linked to the specific job position and not the person currently holding the position. Discretionary decisions by the employer could lead to allegations of unequal treatment or discrimination.

Given the technical possibilities and other specificities of certain job positions and the competencies required for the employee to perform their work successfully, the employer can decide to include all additional conditions and competencies in an internal rulebook or general

act on job classification. The employer is free to choose where these contents will be regulated and is not obliged to include them in the job classification act.

Remote work is not specifically regulated by Collective Agreement for the Metal industry. However, it can be defined in the employment contract, and companies may implement it themselves if there are a specific needs. The employer and employee can within the employment contract agree, that the employee will perform work at home which falls within the employer's activities, or is necessary for performing those activities for the entire duration or just for partial working time.

As an addition to this report: this year, the professional service of the Metal Industry Association prepared a summary of the document named »Comparative Study of Wage Models in Selected EU Countries and Guidelines for updating the Salary model in Slovenia«, which has been developed by the Research Center of the Faculty of Economics in Ljubljana. The study will serve as one of the foundations on which social partners in Slovenia aim to update the salary model for the economy. The **main purpose** of this study is to provide social partners with initial expert material that will support their collaborative work in establishing a new common framework for the Salary model in Slovenia.

Aktualno stanje na socialnem dialogu v slovenski kovinski industriji

Na socialnem dialogu v panogi kovinske industrije so bila v letu 2023 pogajanja fokusirana predvsem na sindikalni predlog glede višanja zneskov najnižjih osnovnih plač v tarifnem delu kolektivne pogodbe za kovinarsko dejavnost. Po dolgotrajnih pogajanjih so se zneski v tarifnem delu dvignili za 15 %, kar je največji dvig od leta 2015, ko je bila prenovljena, posodobljena in na novo sprejeta kolektivna pogodba za kovinsko dejavnost. Poleg tega je bil v Aneks h kolektivni pogodbi dodan še člen, ki je obe strani za leto 2024 zavezal k nadaljevanju pogajanj o spremembah oz. dopolnitvah normativnega dela kolektivne pogodbe.

V letu 2024 so se srečanja med delodajalci in sindikati nadaljevala predvsem na tematiko višine regresa za letni dopust. Na teh pogajanjih so bila izmenjana zelo različna mnenja, pogledi in stališča, predvsem pa razhajanja glede višine zneska regresa za letni dopust. Delodajalci smo ponudili alternativni »paketni« predlog, ki je poleg višine regresa vseboval še pogojno nižanje dodatka na delovno dobo, ki pa je bil gladko zavrnen. Ker po dolgotrajnih in zahtevnih pogajanjih s sindikati nismo uspeli priti do končnega medsebojnega dogovora, smo se enoglasno odločili, da zadevo za tekoče leto zaključimo.

Sindikat je jeseni podal še predlog dviga najnižjih osnovnih plač (NOP) za 6 %. Svojo obrazložitev so utemeljevali kot ohranitev realne vrednosti NOP glede na leto 2015. Delodajalska stran je za obravnavo ter nadaljevanje pogajanj v tej smeri pridobila mandat svojih organov. Predlog sindikatov je trenutno v obravnavi, nadaljevanje socialnega dialoga v zvezi s to tematiko pa je predvideno v mesecu novembru.

Na drugi strani pa smo se s socialnimi partnerji vseeno uspeli uskladiti glede vsebine nekaterih členov iz kolektivne pogodbe. Določeni so vezani na Zakon o spremembah in dopolnitvah Zakona o delovnih razmerjih (ZDR-1D), ki je bil sprejet novembra 2023. Preostali predlogi členov za obravnavo so bili podani s strani podjetij ter strokovnih služb GZS in ZDS. Del predlogov (odpoved pogodbe o zaposlitvi, omejitev števila dni letnega dopusta, rok za izplačilo letnega dopusta ter določeni redakcijski popravki) smo s sindikati uspeli uskladiti. Na podlagi dogovora med socialnimi partnerji je bil tako sprejet zadnji Aneks št. 7. Ostali predlogi (dodatek za delovno dobo, opravljanje drugega dela, povračilo stroškov, odsotnost z dela brez nadomestila plače itd.), ki so bili posredovani sindikatom, pa so (zaenkrat) zavrneni oz. še niso prišli do obravnave.

Delodajalci smo zato sindikatom podali predlog, da bi se v zadnjem kvartalu lotili celostne obravnave prenove kolektivne pogodbe za kovinsko dejavnost. Nabor sprememb ter izhodišč iz normativnega dela KP za kovinsko dejavnost (KPKIS) je pripravila delodajalska stran, podkrepljena s komentarji strokovnih služb GZS in ZDS. V zvezi s spremembami ostalih določil KPKIS, skupaj s predlogom za dopolnitev pravice do odklopa (ZDR-1), se je ustanovila tudi strokovno-delovna skupina GZS in ZDS, ki bo pregledala in revidirala vse podane predloge delodajalcev in delojemalcev. Institut Evidence delovnega časa pa je trenutno v obravnavi na ravni strokovnega odbora ESS. Glavna poudarka sta na prekrškovnih ukrepih, ki bodo veljali samo za kršitelje, ter »brisanje odmora«.

Pravica do odklopa

V zvezi s predlaganimi določili normativnega dela KP ter predlogom za dopolnitev pravice do odklopa (ZDR-1) velja stališče, da je pogajanja potrebno nadaljevati v smeri sprememb, ki bodo ugodnejše in pozitivne za delodajalsko stran. Pravica do odklopa je trenutno v fazi obravnave in

usklajevanj s sindikati. Delodajalska stran je tako v začetku oktobra sindikatom v obravnavo posredovala prvi del paketnega predloga, ki je vseboval predlog dopolnitev pravice do odklopa, ki je bila uzakonjena novembra 2023 s sprejemom novele Zakona o delovnih razmerjih (novela ZDR-1D).

Delavcu uzakonjena pravica daje možnost, da delodajalec ne posega v njegov prosti čas v času dnevnega ali tedenskega počitka, izrabe letnega dopusta ali druge upravičene odsotnosti z dela. Delodajalci morajo ustrezne ukrepe glede pravice do odklopa sprejeti do 16. novembra 2024.

Novela določa, da se ukrepi, ki jih mora sprejeti delodajalec, določijo s kolektivno pogodbo na ravni dejavnosti. Če ti niso določeni na tak način, se določijo s kolektivno pogodbo ožje ravni. V kolikor delodajalca ne zavezuje nobena kolektivna pogodba, mora biti pravica do odklopa opredeljena v internem aktu podjetja ali pa delodajalec predlog ukrepov pred sprejetjem posreduje v mnenje svetu delavcev oziroma delavskemu zaupniku. Pred sprejetjem ukrepov mora delodajalec posredovano mnenje obravnavati in se do njega opredeliti.

Prakse v EU so različne, prav tako ukrepi, saj se tudi delovna mesta med seboj zelo razlikujejo, zato so lahko ti ukrepi različni. Praksa najpogosteje razločuje med t. i. »mehkimi« ukrepi (ozaveščanje o nevarnostih nenehne uporabe IKT orodij, redni opomniki zaposlenim, natančen čas, ko je delavec na razpolago delodajalcu ipd.) in »trdimi« ukrepi oziroma tehničnimi ukrepi, ki pomenijo konkretno prekinitev komunikacije, npr. delavci po določeni uri ne morejo več dostopati do strežnika organizacije ali elektronske pošte.

Dobro je, da so ukrepi za zagotavljanje pravice do odklopa jasno določeni. Če bo namreč delavec v primeru spora navajal, da ste kot delodajalec ravnali v nasprotju s pravico do odklopa, boste morali vi kot delodajalec dokazati, da temu ni tako in da ste pravico do odklopa delavcu zagotavljali in jo tudi spoštovali.

Delo na domu

Na nacionalni ravni delo na domu, kot posebno obliko opravljanja dela po pogodbi o zaposlitvi, opredeljuje Zakon o delovnih razmerjih – ZDR-1. Delo na domu definira delo, ki ga delavec opravlja na svojem domu ali v prostorih po svoji izbiri, ki so izven delovnih prostorov delodajalca. V pogodbi o zaposlitvi za opravljanje dela na domu se prostori, v katerih se bo delo opravljal, natančno opredelijo, saj je to pomembno z vidika zahtev predpisov o varnosti in zdravju na delovnem mestu. Za delo na domu se po ZDR-1 šteje tudi delo na daljavo, ki ga delavec opravlja z uporabo informacijske tehnologije, kar je pravzaprav v praksi najpogostejša oblika opravljanja dela na domu. Na domu pa se ne more opravljati delo, ki je škodljivo ali če obstaja nevarnost, da postane škodljivo. Če delodajalec omogoči delo na domu, mora biti to omogočeno vsem delavcem pod enakimi objektivnimi pogoji – torej vezano na določeno delovno mesto in ne na osebo, ki trenutno na določenem delovnem mestu dela. Če bi delodajalec o tem odločal diskrecijsko, bi to lahko privedlo do očitkov o neenaki obravnavi delavcev oziroma očitkov o diskriminaciji delavca.

Glede na tehnične možnosti ter druge specifične določenih delovnih mest in glede na kompetence, ki jih ima delavec, da uspešno opravlja svoje delo, se lahko delodajalec odloči, da vse dodatne pogoje in kompetence zapiše v svoj interni pravilnik ali splošni akt o sistemizaciji delovnih mest. Delodajalec je prost pri izbiri, kje bo te vsebine urejal, in ni obvezan, da navedene vsebine vključi v akt o sistemizaciji.

Delo na domu na ravni kolektivne pogodbe za kovinsko industrijo ni posebej urejeno. Lahko pa je opredeljeno v pogodbi o zaposlitvi in ga podjetja sama uveljavljajo, če obstaja določena potreba

po njem. S pogodbo o zaposlitvi se delodajalec in delavec lahko dogovorita, da bo delavec na domu opravljal delo, ki sodi v dejavnost delodajalca ali ki je potrebno za opravljanje dejavnosti delodajalca za celotno trajanje oziroma le del delovnega časa delavca.

Kot dodatek pa še ena zanimivost: strokovna služba Združenja kovinske industrije je v tem letu pripravila povzetek dokumenta **Primerjalne študije plačnih modelov v izbranih državah EU** ter smernice za prenovo plačnega modela v Sloveniji, ki jo je pripravil Raziskovalni center Ekonomske fakultete v Ljubljani. Študija bo eden izmed temeljev, na katerem želijo socialni partnerji v Sloveniji prenoviti plačni model za gospodarstvo. Glavni namen študije je ponuditi socialnim partnerjem izhodiščno strokovno gradivo, ki bo podpiralo njihovo sodelovalno delo na vzpostavitvi novega skupnega okvira za plačni model v Sloveniji.