**LAW ON AMICABLE RESOLUTION OF LABOUR DISPUTES**

**(Official Gazette of RS Nos.**[**125/04**](http://we2.cekos.com/ce/faces/index.jsp%3F%26file%3Df30564%26action%3Dpropis%26path%3D03056401.html%26domen%3D0%26mark%3Dfalse%26query%3Dzakon%2Bo%2Bmirnom%26tipPretrage%3D1%26tipPropisa%3D1%26domen%3D0%26mojiPropisi%3Dfalse%26datumOd%3D%26datumDo%3D%26groups%3D-%40--%40--%40--%40--%40-)**,**[**104/09**](http://we2.cekos.com/ce/faces/index.jsp%3F%26file%3Df70791%26action%3Dpropis%26path%3D07079101.html%26domen%3D0%26mark%3Dfalse%26query%3Dzakon%2Bo%2Bmirnom%26tipPretrage%3D1%26tipPropisa%3D1%26domen%3D0%26mojiPropisi%3Dfalse%26datumOd%3D%26datumDo%3D%26groups%3D-%40--%40--%40--%40--%40-)**, 50/18)**

**I. BASIC PROVISIONS**

**1. Scope**

**Article 1**

This law stipulates method and procedure of amicable resolution of collective and individual labour disputes, selection, rights and duties of conciliators and arbiters and other issues relevant for amicable resolution of labour disputes.

The procedure for amicable resolution of labour disputes shall be initiated and conducted in accordance with the Law hereof, unless the ruling in the same dispute has been made in accordance with labour regulations.

**2. Main concepts**

**Article 2**

Collective labour dispute (hereinafter: collective dispute), in terms of the Law hereof, shall be a dispute resulting from:

1) Conclusion, amendments and/or supplements or implementation of Collective agreement;

1а) Implementation of Collective agreement in whole or certain provisions thereof;

2) Implementation of general act which regulates the rights, obligations and responsibilities of employees, employers and trade unions;

3) Realization of rights of association into trade unions and realization of rights to determine the representativeness of trade unions with employers;

4) Strike;

5) Realization of rights to be informed, rights to consult and rights of the employees to participate in management, pursuant to this law.

 5а) Determining the minimum work process, in accordance with law.

General act, in terms of this Law, shall be Labour Rulebook and Agreement between the Employer and Trade Union, pursuant to this Law.

Party to collective dispute shall, in terms of this Law, shall imply employer, trade union, employees or a representative of employees, strike committee, public companies’ founder, for-profit corporations founded by a public company, for-profit corporations and public services founded by the Republic, autonomous province or local self-government unit.

**Article 3**

Individual labour dispute (hereinafter: individual dispute), in terms of this Law, shall be a dispute on,

1) termination of employment contract;

2) working hours;

3) exercising the right to annual leave;

4) payment of salaries/wages, reimbursement of salaries/wages and minimum salaries in accordance with law;

5) reimbursement of expenses for meals at work, reimbursement for expenses for commuting to and from work, payment of subsidy for annual leave and reimbursement of other expenses in accordance with law;

6) Payment of severance pay upon retirement, payment of jubilee award and other incomes in accordance with law;

7) discrimination and workplace harassment

A party in individual dispute, in terms of this Law, shall imply employer and employee except in case referred to in paragraph 1, item 7) of this Article, where the dispute parties are determined in accordance with law (hereinafter: party to the dispute).

**Article 4**

Conciliation, in terms of the Law hereof, shall be a procedure in which a conciliator assists the parties in collective dispute with the aim to conclude an agreement on dispute resolution or in which a conciliator gives a recommendation to the parties in collective dispute on method of amicable resolution of dispute.

Arbitration, in terms of the Law hereof, shall be a procedure in which an arbiter is resolving on the subject matter of an individual dispute.

**3. Basic principles**

1. ***Principle of voluntary participation***

**Article 5**

Participants in conclusion of collective agreement are free to decide voluntarily on participation of conciliator in collective bargaining.

Parties to the dispute are free to decide voluntary to accede to amicable resolution of dispute, unless it is otherwise stipulated by the Law hereof.

1. ***Principle of independence and impartiality***

**Article 6**

Conciliator or arbiter shall proceed impartially.

Conciliator or arbiter shall participate in the process of amicable resolution of labour disputes, with an impartiality.

**II. REPUBLIC AGENCY FOR PEACEFUL SETTLEMENT OF LABOUR DISPUTES**

1. **Establishment and scope of activity**

**Article 7**

The Republic Agency for Peaceful Settlement of Labour Disputes shall be established as a special organization (hereinafter: Agency).

**Article 8**

The Agency shall perform the following duties relating to:

1) Amicable resolution of collective and individual labour disputes;

2) Selection of conciliators and arbiters;

3) Keeping the Directory of conciliators and arbiters (hereinafter: Directory);

4) Professional training of conciliators and arbiters;

5) Decisions on challenge of conciliators and arbiters;

6) Records on procedures of amicable resolution of individual and collective labour disputes;

7) Other statutory duties.

**2.** **Agency Director**

**Article 9**

Agency operations shall be managed by the Director.

The Director shall be appointed by the Government of the Republic of Serbia (hereinafter: Government).

**III. PROCEDURE ON AMICABLE RESOLUTION OF LABOR DISPUTES**

1. **Joint provisions**
2. ***Initiating the procedure***

**Article 10**

The procedure of amicable resolution of labour disputes shall be initiated by filing a motion to the Agency.

Parties to the dispute may file jointly or individually.

The motion shall contain in particular:

1) Name and address or company name and seat of parties to dispute;

2) Subject matter of dispute.

Parties to the dispute shall provide documentation regarding the subject matter of dispute, as well as the names of witnesses, if any.

Article 11

If the motion has been filed by one of the parties to the dispute, the Agency shall submit the motion and documentation to the other party to the dispute inviting such party to declare, within five working days, whether it accepts amicable resolution of dispute.

***2) Appointment of conciliator or arbiter***

**Article 12**

Conciliator or arbiter shall be selected by the parties to the dispute from the Directory, as a joint proposal, or three days after the adoption of an individual proposal, at the latest.

Should the parties to the dispute fail to agree on conciliator or arbiter, the Agency Director shall appoint by the decision.

**Article 13**

Agency shall submit the motion and documentation regarding the subject matter of dispute to the conciliator or arbiter appointed for the dispute in question.

***3) Cost of procedure***

**Article 14**

Each party to the dispute shall bear its own costs of the procedure, except for the cost of conciliator or arbiter.

**Article 15**

Minister in charge of labour issues shall stipulate in details mode of communication of participants in amicable resolution of labour disputes and the procedure, in accordance with the Law hereof.

1. **Collective dispute**

***1) Participation of conciliators in collective bargaining***

**Article 16**

Participants in collective agreement (hereinafter: participants) may file a motion to the Agency asking for participation of conciliators in collective bargaining in order to provide assistance and prevent dispute from arising.

Participants may file the motion jointly or individually.

If the motion has been filed by one of the participants, the Agency shall submit the motion and documentation to other participants inviting them to state, within three days, whether they agree with participation of the conciliator in collective bargaining.

The motion shall state the type of collective agreement, participants, location and time of bargaining, whereas joint proposal shall state name, family name and address of conciliator, as well.

**Article 17**

The conciliator in the collective bargaining process shall:

1) Attend the bargaining process;

2) Indicate proposals that violate legal and other regulations;

3) Provide assistance to the participants in order to prevent the occurrence of a dispute**.**

***2) Dispute in activities for the common good***

**Article 18**

Parties to the dispute from Article 2, Paragraph 1, items 1), 1a), 3), 4) and 5a) of the Law hereof, in activities that require minimum service pursuant to the Law which stipulates the right to strike, shall accede to amicable resolution of collective dispute, pursuant to this Law.

**Article 19**

In activities referred to in Article 18 of the Law hereof, parties to the dispute shall file a motion not later than three working days after the dispute has arisen**,** pursuant to the Law hereof.

If the parties to the dispute fail to file a motion, the Agency Director shall, *ex officio*, initiate the conciliation procedure and shall appoint the conciliator from the Directory.

***3) Conciliation body***

**Article 20**

The conciliation procedure in a collective agreement shall be led before the Conciliation Panel (hereinafter: Panel).

The Panel shall be composed of one representative of each of the parties to the dispute and conciliator.

***4) Conciliation procedure***

**Article 21**

Conciliator shall schedule a hearing not later than three working days after receipt of the motion and documents on the subject of dispute. He shall notify the parties to dispute accordingly.

Parties to the dispute shall designate their respective representative on the Panel and notify the conciliator accordingly by the day of the scheduled hearing at the latest.

 If the parties to the dispute fail to designate their representative within the term set in Paragraph 2 of the Article hereof, the conciliation process shall be led by the conciliator in direct contact with parties to the dispute.

**Article 22**

Conciliator shall chair the Panel.

Conciliator shall open and chair the hearing.

Representatives of parties to the dispute shall present their respective cases and proposals at the hearing.

**Article 23**

Conciliator may collect information and other data from representatives of parties to the dispute elsewhere, as well, and not only at the hearing.

**Article 24**

After the conciliation procedure has been concluded, the conciliator shall close the hearing and, after deliberations with the Panel members give recommendation on how to resolve the dispute (hereinafter: recommendation).

**Article 25**

Panel shall give recommendation in written and substantiate it.

Consensus of all Panel members is needed for a recommendation.

If the Panel fails to give recommendation, referred to in Article 24 of this Law, three days after conclusion of the hearing, conciliator may give, upon request of one of the parties to the dispute, his own recommendation to parties to the dispute.

**Article 26**

Recommendation shall not be binding upon the parties to the dispute.

The parties to the dispute can conclude an agreement on the settlement of dispute based on the recommendation referred to in Article 24 and 25, paragraph 3 of this Law, or independently thereof.

If collective agreement is the subject of dispute, the agreement becomes a grounds for conclusion, amendments and/or supplements to the Collective agreement.

If collective agreement is not the subject of dispute, the agreement has the power of writ of execution.

**Article 27**

The party to the dispute that fails to accept the recommendation referred to on Article 24 of this Law is obliged to immediately state the reasons for failure and deliver them to the conciliator.

Upon advice of the conciliator, the Agency may announce the recommendation and reasons for refusal thereof in the mass media.

**Article 28**

The conciliation procedure shall be closed before the Panel if the parties to the dispute conclude the agreement on resolution of the dispute 30 days after the first hearing.

At the request of the parties to the dispute, the Panel may decide to extend the deadline referred to in paragraph 1 of this Article for another 30 days.

**Article 29**

(Deleted)

**3. Individual dispute**

**Article 30**

Individual dispute may be resolved before an arbiter, in accordance with provisions of the Law.

If a court procedure between the parties to the dispute based on the same facts and based on the same legal ground is in progress, the Court shall discontinue the proceedings.

Parties to the dispute shall notify the Court on initiation of the proceedings pursuant to the Law hereof.

***1) Proceedings before the arbiter***

**Article 31**

Arbiter shall schedule a hearing three working days after receipt of the motion and enclosed documentation at the latest. He shall notify the parties to the dispute accordingly.

The hearing shall be conducted in the presence of parties to the dispute and arbiter.

Arbiter shall open the hearing and determine whether all invited persons are present at the hearing.

If one of the parties to the dispute is unjustifiably absent from the hearing, the arbiter may conduct the hearing in absence of such party, taking into account documentation submitted by such party.

During the proceeding, the arbiter informs the parties to the dispute about the possibility of amicable settlement of dispute.

Each party to the dispute may withdraw the motion for initiation of proceedings before the arbiter until the day of the hearing at the latest.

**Article 32**

The hearing shall be open to public, except for disputes regarding discrimination and workplace harassment.

Arbiter may decide to conduct the hearing before closed door upon the request of parties to the dispute with justified reasons for such request.

**Article 33**

Arbiter shall chair the hearing, take depositions from the parties to the dispute and other relevant persons in the process, present evidence and take care that all the facts relevant for decision making are presented.

Parties to the dispute are entitled to presenting their respective cases on the subject of dispute and respond to statements of the other party to the dispute before the Arbiter.

Arbiter shall decide whether the hearing shall be adjourned, *ex officio* or upon the request of a party to the dispute.

In case referred to in Paragraph 3 of the Article hereof, Arbiter shall schedule a hearing five days after the initial one has been adjourned, at the latest.

**Article 33а\***

The parties to the dispute may hire an expert witness.

This Law’s provisions on the challenge of an arbiter shall accordingly apply to expert witness.

**Article 34**

Deleted

**Article 35**

Parties to the dispute shall be entitled to closing statement at the hearing.

If the arbiter finds that the subject of dispute is discussed sufficiently to be able to rule, he shall close the hearing.

1. Completion of proceedings before an arbiter

**Article 35а**\*

The proceeding before and arbiter is completed with the decision of the arbiter:

1) Based on the agreement of the parties to the dispute;

2) By which the arbiter decides on the subject of the dispute;

3) If the arbitration proceeding became impossible;

4) On termination of the proceedings in accordance with this Law.

The decision referred to in paragraph 1, items 1) and 2) of this Article shall have the power of writ of execution.

**Article 35b\***

Notwithstanding Article 35a, paragraph 1, item 2), a dispute regarding workplace harassment and discrimination is completed by arbiter’s decision made based on the agreement of the parties to the dispute.

If there is no agreement on settlement of dispute referred to in paragraph 1 of this Article, the arbiter shall terminate the proceeding in accordance with Article 35a, paragraph 1, item 4) of this Law, and a legal proceeding on the same legal matter may be conducted, in accordance with law.

**Article 36**

Arbiter shall issue a Decision referred to in Article 35a of this Law 30 days after the initial hearing at the latest.

The Decision shall contain:

1) Preamble;

2) Disposition;

3) Rationale;

4) Legal remedy;

5) First name, Family name and signature of Arbiter;

6) Decision number and date of issuing;

7) Agency seal.

This decision cannot be appealed against.

Decision shall be valid and enforceable on the day when it is delivered to parties to the dispute, except the decision referred to in Article 35b, paragraph 2 of this Law. If, however, the decision stipulates that an action that is the subject of dispute can be performed within a set term, the decision becomes executive with expiry of that term.

**Article 37**

Parties to the dispute shall notify the Court on decision issuance if the proceedings before the Court were adjourned.

**IV. CONCILIATORS AND ARBITERS**

**1. Selection of conciliators and arbiters**

**Article 38**

Any person meeting the eligibility criteria listed below can be selected as a conciliator or an arbiter:

1) Citizenshipof the Republic of Serbia;

2) To have acquired high education of undergraduate academic studies of minimum 240 ECTS credits, master academic studies, specialized academic studies, specialised professional studies, or undergraduate studies of minimum four years or specialized studies at a faculty and minimum five years of work experience in the field of labour relations;

3) No history of conviction to a mandatory prison sentence to no less than 6 months or conviction for a crime that makes him unworthy of the office;

4) That he is worthy of the office of conciliator or arbiter.

An arbiter might be any person meeting the criteria from Paragraph 1 of the Article hereof provided that such person passed bar exam or is a full professor of legislation in force at the Faculty.

Provision 38 of paragraph 1, item 1) of this Article, in terms of citizenship of the Republic of Serbia shall not apply to citizens of European Union member states from moment of accession of the Republic of Serbia to the European Union.

**Article 39**

Conciliators and arbiters are recruited by a public announcement placed in Official Gazette of the Republic of Serbia by the Agency.

Selection of conciliators and arbiters shall be made by the Panel for selection of conciliators and arbiters (hereinafter: Panel).

The Panel shall be composed of two representatives of the Government, two representatives of representative trade unions set up for the territory of the Republic of Serbia and two representatives of representative associations of employers set up for the territory of the Republic of Serbia.

Representatives of the Government shall be appointed by the Government, whereas the Economic and Social Council set up for the territory of the Republic of Serbia shall appoint representatives of trade unions and associations of employers upon the proposal of representative trade unions and representative associations of employers – members of that Council.

Chairperson shall be selected from the Panel members.

**Article 40**

The Panel shall pass a decision on selection of conciliators and arbiters 60 days after the deadline for application.

The decision shall be considered final when a two-third majority of the Panel endorses it.

The decision is final and only administrative procedure may be filed to contest it, in accordance with the Law.

**2. Term of office**

**Article 41**

Conciliator and arbiter shall be appointed for a four year term and may be re-elected.

The term referred to in Paragraph 1 of the Article hereof starts when the decision on the appointment becomes valid.

**3. Directory**

**Article 42**

The capacity of conciliator or arbiter is acquired with entry into the Directory.

Based on the decision on selection of conciliators or arbiters the Agency Director makes a decision on entry into the Directory.

The Decision contains first name, family name, address and professional qualifications of conciliator or arbiter.

**4. Content of Directory**

**Article 43**

The Directory is kept by the Agency.

The Directory shall contain the following information:

1) First name, family name of conciliator or arbiter;

2) Address;

3) Professional qualifications;

4) Name and seat of employer, if employed;

5) Number and date of decision on selection;

6) Number and date of entry to and deletion from the Directory.

**Article 44**

Conciliator and arbiter shall notify any change of data referred to in Article 43, Paragraph 2, points 2) and 4) of the Law hereof three days after effectuation of the change at the latest.

**5. Deletion from the Directory**

**Article 45**

The capacity of conciliator and arbiter shall cease by deletion from the Directory.

Conciliator or arbiter shall be deleted from the Directory:

1) If it subsequently appears that the conditions stipulated in Article 38 of the Law hereof were not fulfilled;

2) If requirements referred to in Article 38, points 1), 3) and 4) of the Law hereof are no longer fulfilled;

3) After a term for which he is elected, if the arbiter or conciliator is not re-elected;

4) If he refuses to pursue advanced training;

5) If he performs his duties with lack of competence and lack of dedication;

6) If he fails to comply with duties entrusted by the Agency;

7) If he unjustifiably prolongs or stalls the amicable resolution of labour dispute;

8) Upon personal request;

9) Due to loss of business capacity;

10) Due to death;

11) If he does not act in accordance with the code of ethics.

**Article 46**

Agency Director shall issue a decision on deletion from the Directory in cases referred to in Article 45 Paragraph 2, 15 days after the reason for such deletion occurs, or 8 days after the reasons for deletion have become disclosed.

Decision on deletion from the Directory in cases referred to in Article 45 Paragraph 2 Points 4)- 7) and 11) of the Law hereof, Agency Director passes a decision on deletion from the Directory in agreement with the Economic and Social Council founded for the territory of the Republic of Serbia.

Decision on deletion from the Directory is final, and administrative procedure may be started to contest it, in accordance with the law.

**Article 47**

Decision on entry in or deletion from the Directory shall be published in the *Official Gazette of the Republic of Serbia*.

**6. Challenge of conciliators and arbiters**

**Article 48**

A party to the dispute may challenge the conciliator or arbiter under the following conditions:

1) If he or she represents one of the parties to the dispute or has represented one of the parties to the dispute in the last five years;

2) If he or she is a direct relative in any degree or side relative to the fourth degree to any of the parties to the dispute, or if he or she is a spouse or relation by marriage to a second degree to any of the parties to the dispute;

3) If he or she is in labour or membership relations with any of the parties to the dispute, or such relation existed in the last two years;

4) If he or she is affiliated with parties to the dispute in any way whatsoever that may affect judicial impartiality.

Conciliator and arbiter shall, ex officio, consider all reasons for the challenge in the course of the proceedings and shall notify the Agency Director accordingly.

The decision on challenge shall be passed by the Agency Director upon notification of the arbiter or conciliator and upon request of party to the dispute not later that eight days after the reasons for the challenge have been disclosed.

In case of challenge, the process of amicable resolution of labour dispute shall be continued with appointment of a new conciliator or arbiter in accordance with the Law hereof.

**7. Duties and rights of conciliators and arbiters**

***1) Duties of conciliators and arbiters***

**Article 49**

Conciliator and arbiter shall proceed fairly and to the best of their knowledge in order to resolve the dispute among the parties to the dispute.

The conciliator and the arbiter are obliged to comply with the code of ethics in the proceeding of amicable settlement of labour disputes adopted by the minister in charge of labour matters.

**Article 50**

Conciliator and arbiter shall pursue professional training in the line of their work.

**Article 51**

Conciliator and arbiter shall notify the Agency regularly on starting, course and closure of the proceedings of amicable resolution of labour dispute.

***2) Rights of conciliators and arbiters***

**Article 52**

Conciliator and arbiter shall be entitled to remuneration for their work and reimbursement of the expense they incurred in the course of the proceedings.

Government shall define conditions under which right to remuneration and reimbursement of the expense can be claimed and the amount thereof.

Funds referred to in Paragraph 1 of the Article hereof shall be provided in the Budget of the Republic of Serbia.

**Article 53**

Conciliator and arbiter shall be entitled to unpaid leave of absence during the time they arbitrate in the process of amicable resolution of labour disputes in accordance with this law.

**Article 53а\***

The conciliator and the arbiter are entitled to the identification document.

Detailed conditions regarding issuing of identification documents shall be prescribed by the minister in charge of labour matters.

**V. RECORDS ON CASES OF AMICABLE RESOLUTION OF LABOR DISPUTES**

**Article 54**

Agency shall keep the records on amicable resolution of labour disputes.

These records shall contain particularly:

1) First name, family name and address or name and seat of parties to the dispute;

2) First name and family name of conciliator or arbiter;

3) Subject matter of dispute;

4) Date of initiation of proceedings;

5) Date and mode of dispute termination.

Upon the request of Economic and Social Council founded for the territory of the Republic of Serbia, Agency delivers notifications regarding the record keeping, as well as notifications on other issues crucial for the procedure of amicable resolution of labour disputes.

**VI. TRANSITIONAL AND FINAL PROVISIONS**

**Article 55**

Government shall point the Agency Director 30 days after the enactment of this law at the latest.

Selection of conciliators/arbiters and their entry into the Directory shall be done by December 31st 2004.

Provisions of this law relating to the procedure of amicable resolution of labour disputes shall be applied as of January 1st 2005.

**Article 56**

This law shall come into force eight days after publication in the *Official Gazette of the Republic of Serbia*.

**PROVISIONS NOT INCLUDED IN CONSOLIDATED VERSION**

***Law on amendments and supplements to the Law on Amicable Settlement of Labour Disputes
("Official Gazette of RS ", No. 104/09)***

**Article 15**

Selection of conciliators/arbiters and their entry into the Directory shall be accomplished not later than 30 days after the enactment of the Law hereof.

**Article 16**

This Law shall enter into force on the eight day from the day it is published in the “Official Gazette of the Republic of Serbia”.

**PROVISIONS OF THE LAW ON AMENDMENTS AND SUPPLEMENTS TO THE LAW ON AMICABLE SETTLEMENT OF LABOUR DISPUTES WHICH WERE NOT INCLUDED IN THE AMENDED TEXT**

**("Official Gazette of the Republic of Serbia” No. 50/2018)**

**TRANSITIONAL AND FINAL PROVISIONS \***

**Article 33.**

The by-laws adopted in accordance with the provisions of this Law shall be adopted within six months from the day this Law entered into force.

**Article 34.**

The by-laws adopted pursuant to provisions of the Law on Amicable Settlement of Labour Disputes (“Official Gazette of the Republic of Serbia”, No. 125/04) shall remain in force until the by-laws enter into force in accordance with this Law, providing they are in contrary to provisions thereof.

**Article 35.**

The amicable settlement of labour disputes proceedings which commenced before the date this Law entered into force shall be concluded according to regulations which were in force until this Law was implemented.

**Article 36.**

This Law shall enter into force on the eighth day from the date of its publication in the "Official Gazette of the Republic of Serbia".