SLOVAKIA: From Extension to Dilution

Experiences with the extension of higher-level collective agreements

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Overview

- Industrial relations in Slovakia – basic characteristics and main challenges
- Extension of collective agreements – legal developments and main principles of extension
- Practice of collective agreements’ extension
- The extension discourse – attitudes of social partners
- Current situation and prospects
Industrial relations in Slovakia (I)

- Three dominant levels of social dialogue and collective bargaining:
  - national level: tripartite council as advisory body to the government, no collective bargaining at this level
  - sector level: sector-wide or multi-employer bargaining in most sectors (exception in CEE countries)
  - establishment level
- Structure of social partners' organization:
  - principle of sectoral organization
  - peak-level confederations: KOZ SR (28 union federations), AZZZ SR (24 employer federations, employers and chambers), RUZ SR (38 employers/federations)
Industrial relations in Slovakia (II)

Change in total trade union membership, 2003-2008 (%) 

Source: EIRO
Industrial relations in Slovakia (III)

Developments in industrial action (2005-2009)

Working days lost through industrial action per 1,000 employees, annual average 2005–2009

Source: EIRO
Challenges to industrial relations in Slovakia (IV)

- Persistence of long-term unemployment
- Post-enlargement migration – labour shortages in some sectors
- Post-crisis public sector austerity: decentralization of organizational forms, privatization, corporatization
- Low trust of society vis-a-vis trade unions (politics, pre-1989 developments, transformation/use of trade union property)
- Political developments: challenge to the stability of IR pillars
- Declining coverage of collective agreements: from about 50% in mid-2000s to about 20%
- Bargaining decentralization – growing importance of establishment-level bargaining
- Legal regulation increasingly fosters bargaining decentralization (i.e. revoked flat extensions, revoked union codetermination in anti-crisis measures, revised representativeness criteria)
Extension of collective agreements – legal developments (I)

- Basic principle of coverage of collective agreements
  - Company-level agreements cover all employees
  - Sector/multi-employer agreements cover all employees of employers organized in signatory employers’ federation

- Challenge of extension mechanism: to cover employees in employers that are not members of a signatory employers’ association

- 1991-2010: 11 amendments to Act No. 2/1991 on collective bargaining, centre-right and social-democratic governments

- After 2001: labour market reform, flexibilization and decentralization, extension of collective agreements conditioned by the concerned employer’s accord

- 2007-2010: debate on extensions intensifies, shift from voluntary extension to a flat sector-wide extension mechanism
Extension of collective agreements – legal developments (II)

- Gradual implementation of a flat extension mechanism of higher-level collective agreements (multi-employer) within economic sectors (SK NACE classification)

- Principle: upon a joint written request of signatory parties of a higher-level collective agreement, the Ministry of Employment, Social Affairs and Family may extend the validity of a higher-level collective agreement to an employer with prevailing business activity in the sector in which this agreement has been concluded. The extension is published as a legal decree in Trade Publications.

- Amendment: upon a joint written request of signatory parties or a written request of one of the signatory parties of a higher-level collective agreement, the Ministry of Employment, Social Affairs and Family may extend the validity of a higher-level collective agreement to all employers in the sector (SK NACE) in which this agreement has been concluded. The extension is published as a legal decree in Trade Publications.
Extension of collective agreements – legal developments (III)

- Extension requests may be filed up to **6 months before expiration** of the agreement to be extended.
- The Ministry establishes a **tripartite expert group to process extension requests** (including the formal criteria) and decide on extension.
- The employer, on which extension has been requested, may file **comments/complaints against such extension within 30 days** after the date when the extension request has been published in Trade Publications (earlier provision: Ministry contacts each employer and requests a statement on extension).
- **Extensions of amendments to collective agreements** – if social partners of a higher-level agreement, subject to extension, agree on an amendment to this agreement within the period of the agreement’s validity, this amendment is automatically extended (in form of a legal decree) onto the employers on which the original agreement has been extended. An extension request of social partners is no longer necessary.
Extension of collective agreements – legal developments (IV)

- **Exceptions to extension:** a higher-level collective agreement extended by legal decree is not valid for an employer
  - a. covered by another higher-level collective agreement on the first day of effect of the extended,
  - b. legally declared bankrupt
  - c. employing less than 20 employees according to the average monthly number of employees declared in the in the month preceding the month in which extension entered force,
  - d. employing more than 10 % of employees with a health handicap (according to the average monthly number of employees declared in the in the month preceding the month in which extension entered force)
  - e. affected by an extraordinary condition (legally defined), whose effects still last on the day on which extension entered force
  - f. operating its business for a period not exceeding 24 months, if this employer is not a legal successor of another employer
Extension of collective agreements – legal developments (V)

- **Reformulation of the representativeness criteria of social partners**
- Original provision: extension possibility limited to higher-level agreements that have been concluded by
  - employers’ associations employing the **largest number of employees** in the sector where extension is requested; or
  - a higher-level trade union organization, which represents the **largest number of employees** in the sector where extension is requested;
- 2009 amendment: extension of a collective agreement possible if employers organized in a particular employers’ organization and already covered by the agreement **employ more employees in the respective sector than employers organized in another employers’ organization**, which also concluded a higher-level collective agreement in the respective sector.
Extension of collective agreements – legal developments (VI)

- Changes to the formal/structural aspects of extension request
  - Less formal requirements, the extension request no longer requires:
    a. the full version (print and electronic format) of the higher-level collective agreement attached to the extension request;
    b. the specification of sector with its NACE code
    c. List of employers already covered by the higher-level collective agreement to be extended
    d. List of employers, which are members of other employers' organizations in the same sector and the number of their employees
    e. Sufficient to list the number of employees already covered by the particular higher-level collective agreement in the sector

Result of post-2009 changes:
Extension simplified, flat extension stipulated, from fragmented to centralized bargaining coverage
Extension of collective agreements – legal developments (VII)

- Reversal to the flat extension mechanism in 2010: simplifying, but at the same time limiting extensions
  - Extension request again conditioned by joint written request of the signatory employers’ association and trade union(s)
  - Return to earlier provision: extension to employers in the sector in which this agreement has been concluded (not ‘all employers’).
  - Concerned employer’s consent reintroduced
  - Revoking exceptions to extension

- Only two conditions for extension:
  - Employer, which is the object of extension, is not covered by another higher-level collective agreement
  - Employer, which is the object of extension, has to provide a consent with such extension

Result: fragmentation of bargaining coverage
Practice of extension of collective agreements in Slovakia (I)

- **Prior to flat extension (2001 – 2007)** – extensions marginal
  - 2005: coverage 40-50% (estimate), *2 agreements extended*
  - 2006: 56 higher-level collective agreements (increase by 30%), coverage 40-50%, *2 agreements extended*

- **During flat extension (2007 – 2010)** – two trends:
  - number of **concluded higher-level collective agreements declined** (low unionization, declining organization of employers, mergers/splits on the side of employers’ associations and unions)
  - number of extensions increased compared to pre-flat-extension period, but in **general declined compared to the 1990s**.

- **After the flat extension period (since 2011)**
  - further erosion of higher-level collective agreements (setting minimum standards, diversity of employers’ interests)
The extension discourse (I)

- **2006 – 2010 government – aims of flat extension**
  - strengthening social dialogue and coverage by collective agreements through a sustainable solution
  - reflecting the interests of employers and trade unions alike
  - equal business conditions for all employers, avoiding social dumping and the preferential position of non-covered employers e.g. in public tenders
  - non-discrimination in employment conditions for employees working in a particular sector

- **Current government (since 2010)**
  - continued trend of labour market flexibilization (Labour Code amendment, amendment to Act on Collective Bargaining)
  - aims to improve business conditions: revoking an extension request in the machinery subsector right upon taking the office
  - limiting trade union codetermination, fostering decentralized company-level bargaining
The extension discourse (II)

- **Trade unions**
  - Signed a memorandum of cooperation with the political party SMER (2009)
  - Union achievements to strengthen social dialogue and bargaining coverage directly dependent on strong political support of SMER

- **Views on extension:** Standard practice in Europe, decrease regional diversity in wages and living standards; would accept extension onto companies with trade unions (not necessarily a flat extension)

- **Critique of the SK practice:**
  - SK NACE rule for extensions (diversity of employers, business activities ranging across several NACE codes)
  - Extended agreements too general
  - Critique of employers’ refusal: individual interest over public interest; paradox: most employers against extension are covered by a higher-level collective agreement (thus serving non-members and not members)

**Validity of a legal act shall not be limited to those who agree with it**
The extension discourse (III)

- **Employers**
  - Strong opposition, but a variation in reactions of individual employers and peak employers’ association
    - Economic aspect of extension – increase of operational costs
    - Legal/rights-based aspect of extension – consent by employer, individual rights, compliance with the Constitution
    - RUZ voicing critique, appeal to the constitutional court (flat extension not in compliance with the Constitution); AZZZ never against extensions
  - Seeking political support in parliament, within the parliamentary opposition (current government parties), then the court appeal

- **Employer critique of the extension mechanism/consequences**
  - Spillover effects/consequences of extension need further elaboration (e.g. conflict resolution, mediator involvement, mass redundancies, trade union monitoring in firms onto which extension applies)
Evaluation: current situation, prospects, conclusions

- Reasons for failure of flat extension:
  - trade unions politicization, strong focus on political support instead of membership-based support of union action
  - change in the government
  - employer dissatisfaction with basic legal conditions of extension (the question of individual rights)
  - diversity of employers’ interests
  - Issues related to the extension mechanism lacked detailed elaboration (i.e. Rules of compliance for non-unionized companies onto which extensions have been applied)
  - Lack of control mechanisms on compliance with collective agreements
  - Timing: economic crisis, growing unemployment

Prospects: voluntary extension, flat extension virtually impossible through current legislation and the interests of employers
Thank you for your attention!

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