

State aid and pay cuts

By Paul F. van der Heijden

We live in hard times. Companies and employees are in serious financial difficulties. Sometimes the government assists, such as with KLM. The state aid is subject to conditions in all kinds of areas: sustainability, bonuses, wages, to name a few. I would like to draw brief attention to those wages.

Take KLM. The government has offered a large package of help, largely in the form of (subordinated) loans. As a condition, KLM is asked, among other things, to reduce the wages of its staff, in a scale up to 20%. The pilots the most, the least earning the least, strongest shoulders etc.

Is it possible, in current collective labor agreements, to lower wages on behalf of the (rescuing) government? There is indeed a problem with this current practice.

In our country and most other countries, wages are set in free negotiations between unions and employers, the government has to stay out of that. This is also laid down in EU and international law. ILO Conventions 87 and 98 guarantee trade union freedom and collective bargaining freedom. The Netherlands is bound by this, the treaties are the "cornerstone" of the ILO, these are fundamental labor rights.

In the previous crisis (2008-2014), several countries took drastic wage measures, such as Spain, Greece and Portugal. Wages in current collective contracts were lowered by law.

Understandably, unions have stood up against this with the International Labor Organization (ILO). The results of this can be read in statements of the ILO Committee on Freedom of Association (CFA). The Greek case (CFA 2012 No. 2820), the Spanish case (CFA 2013 No. 2918) and the Portuguese case (CFA 2015, No. 3072) have repeatedly emphasized the need to respect social dialogue even in difficult crisis situations. The CFA regrets the absence of a genuine consultation process (Spain), and recalls that measures that might be taken to confront exceptional circumstances ought to be temporary (Greece).

Now the above concerned generic wage measures that applied to all collective agreements.

In the Netherlands, Article 10 of the Wages and Salaries Act (WLV), under the influence of ILO regulations, grants very limited power to the Minister of Social Affairs and Employment to take a generic wage measure in the event of a crisis. That has not happened so far.

The KLM case involves interventions in a number of specific collective agreements. Ground crew, cabin crew and airline pilots have their own union and their own collective labor agreement. Article 10 of the WLV has not been written for interventions there. We have no national legislation for it. Aid to KLM must be given a basis in special emergency legislation, of course also to respect the budget law of the House of Representatives.

This is the difficulty. Although the Minister of Finance demands KLM that collective agreement wages are lowered, he has not consulted the unions involved. Those unions are party to the current collective contract. A clear omission, therefore, in the light of the ILO conventions on the right to collective bargaining. There is also no clarity about the temporality of the measures.

Everyone understands that in times of severe crisis and survival, action must be taken quickly and sometimes off the beaten track. Wage sacrifices can also be part of an aid package. Unions understand that, and there is no doubt that it can be talked about. However, crisis management by the government in the area of contractually agreed wages must take place with due observance of the basic rule that you consult the contract parties beforehand, and not only the employer.

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Publication: NEDERLANDS JURISTENBLAD – 17-7-2020 – AFL. 28 2049