Relations industrielles
Industrial Relations

Comparative Study of the Legislation on Conciliation and Arbitration
V - France

Volume 6, Number 4, September 1951

URI: https://id.erudit.org/iderudit/1023142ar
DOI: https://doi.org/10.7202/1023142ar

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Publisher(s)

Département des relations industrielles de l'Université Laval

ISSN

0034-379X (print)
1703-8138 (digital)

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Cite this article

(1951). Comparative Study of the Legislation on Conciliation and Arbitration : V - France. *Relations industrielles / Industrial Relations*, *6*(4), 115–117. https://doi.org/10.7202/1023142ar

Comparative Study of the Legislation on Conciliation and Arbitration *

V — FRANCE

In France, conciliation and arbitration are regulated by the Act of February 11, 1950, concerning collective agreements and procedures for the settlement of collective industrial disputes. [1] At the outbreak of the second world war, the effect of the legislation on conciliation and arbitration was suspended. The return to free collective bargaining was naturally to be followed by a revival of the conciliation and arbitration systems. Briefly, the French legislation provides for compulsory conciliation and voluntary arbitration.

A—Conciliation

In section 5 of chapter II, part II, of the above mentioned Act, it is said that all collective industrial disputes must immediately be submitted to conciliation. In one of its publications, the International Labour Office [2] recalls that the Government Bill would have required recourse to conciliation and arbitration in every case of collective industrial dispute before a strike or lockout could take place (Part II of the Bill). This provision for compulsory conciliation and arbitration was dropped in the face of unanimous opposition by the employers' and workers' organisations, reflected in the Economic Council, and by the majority of the National Assembly. As the Economic Council pointed out, "Part II of the Bill, relating to conciliation and arbitration, constitutes an infringement of the right to strike, which figures in the Constitution, and a contradiction of the principle of a return to the free negotiation of agreements". Conciliation procedures may be opened, in the event of a dispute, by either of the parties, by the Minister for Labour and Social Security or by the Prefect.

Every collective agreement must contain a provision regarding the conciliation procedure to which a dispute between the employers and workers covered thereby shall be submitted. Disputes which have not been submitted to such a contractual procedure, established either by the collective agreement itself or by a special agreement, must be brought before a national or regional conciliation board.

The conciliation boards shall include representatives of the employers and workers in equal numbers, together with not more than three representatives of the authorities. A public administration by-law determines the composition, the operation and the territorial jurisdiction of the conciliation boards. The national board of conciliation is presided by the minister or his representatives, whereas the regional boards are presided by local labour inspectors or their representatives.

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* Fourth study of a series prepared by a Professor in the Industrial Relations Department of Laval University.

(1) Journal officiel, February 12, 1950.

(2) Industry and Labour, April 15. 1950, Vol. III, No. 8, International Labour Office, Geneva.

B—Arbitration

While conciliation of collective industrial disputes is compulsory, arbitration is entirely voluntary, although the Act seems to favor it.

The Act stipulates that a collective agreement may include provision for an arbitration procedure and for the establishment of a list of arbitrators acceptable to both parties. In this case, that is when the dispute is submitted for arbitration, the parties are required to place on record a joint statement to the effect that conciliation has failed, specifying the object of the dispute and the points submitted for arbitration. Failing arbitration procedure provisions in the agreement, the parties may agree to submit to arbitration any dispute still outstanding after termination of the conciliation procedure.

As regards the functions of the arbitrator, the Act defines them as follows: « The arbitrator may issue an award only on the matters at issue as defined in the joint statement, or on others which may arise out of events subsequent to the statement and resulting from the same dispute. He is called upon to give rulings based on law in disputes arising out of the interpretation of current legislation or collective agreements; his rulings will be based on equity in disputes over wages and working conditions which are not the subject of any regulation, and those arising out of the negotiation or revision of collective agreements. The awards must state the reasons on which they are based. » There is no appeal from arbitration awards, save for the appeal before the Higher Court of Arbitration.

C—Higher Court of Arbitration

The Court is composed of the Vice-President of the Council of State (or President of a Section of the Council), as chairman; four Councillors of State; and four other magistrates. This Court is to examine objections brought by the parties against arbitration awards on the ground of action *ultra vires* or contrary to law.

Any objection which is not suspensive shall be submitted within eight days from the date of notification of the arbitral award. Objections shall, under penalty of inadmissibility, include the contested awards and a summary of the reasons therefor. The court's ruling must be given within eight days of receiving an objection.

When the court orders the annulment of all or part of an award, it refers the matter back to the parties who may appoint a new arbitrator. If a fresh award, as a result of objections, is also annuled by the Court, the latter instructs one of its own reporters to make a further investigation of the case. Wihin fifteen days of the issue of a second annulment order, the court, having heard a report on this investigation, assumes arbitral powers and issues an award for which there is no appeal.

D—Application of settlements and awards

Due to the importance of the section of the Act concerning the application of settlements and awards, and of the following section, we shall give, here, a textual quotation thereof:

> "Sec. 16. — The conciliation agreement as well as the arbitral awards are binding. In principle, they are enforceable from the date of submission of the request for purposes of conciliation. The arbitral award is made known to the parties through the arbitrator, within the 24 hours following the date of issue. This notification is made by means of registered letters, with proof of receipt. The minutes of the agreement or award is, within the same delay, filed with the secretary's office of the board of conciliation or, in the absence of a board of conciliation with the

clerk's office of the court of conciliation of the place where deposit has been made to the collectice agreement or of one of the agreements referred to in section 31 of volume 1 of the Labour Code, or section 21 of this Act or, failing agreements, of the place where they were rendered. Such deposit is made, at common costs, as regards the conciliation agreement, by the most diligent party and, as regards the arbitrator. Once deposited, the agreement or award has the force of law. Orders and awards of the Higher Court of Arbitration are published every three months in the Journal officiel."

"Sec. 17. — When ever a conciliation agreement or arbitral award having force of law relates to the interpretation of clauses of an existing collective agreement, to wages or working conditions, such agreement or award, providing it is deposited as mentioned in section 16, shall have the same effect as that of a collective industrial agreement. Should the agreement or award be entered into for the purpose of settling a dispute which has arisen in a branch of activity covered by a collective agreement extended under section 31-j or volume 1 of the Labour Code, such agreement or award shall, upon request from the organisations parties to the extended collective agreement, be extended by an order under the provisions of sections 31-j, 31-k and 31-l of volume 1 of the Labour Code. Such order may be reported as provided for under the second paragraph of section 31-m of volume 1 of the Labour Code. The provisions of article VIII, chapter IV bis of part II of volume 1 of the Labour Code, apply to conciliation agreements as well as to arbitral awards covered by an order of extension. There shall be no charge for the registration of any action taken under the provisions of the present part."

Teamwork in Industry *

Labour-Management Production Committees

An animated colony film which points the way to more harmonious labour-management relations was recently given its Canadian premiere in an Ottawa theatre.

Invitations to attend the screening came from the Hon. Milton F. Gregg, federal Minister of Labour, for whose department the film was produced.

The film, "Teamwork, Past and Present", traces the growth of co-operation among men from the beginning of history, pointing out its benefits and the part it has played in the spread of civilization. It shows how, with the ever-growing increase in the size of industrial establishments, the worker lost practically all opportunity for creative expression, found he no longer had an outlet for his ideas, and, feeling frustrated, became discontented with his lot. It shows, too, how the workers turned to the trade union movement in increasing numbers until it became strong enough to stand in opposition to owners and management, a situation more likely to erupt into strike than to progress to partnership.

Into this situation, as the film then portrays, there entered an idea, that of co-operation and consultation between the two participants in industry. The idea was not a new one. As the film shows, it had its birth early in man's history; but it was forgotten in the rush of rapid industrialization. It was the method of applying the idea which was new. The film's final minutes are devoted to encouragement for this new method.

The method? Labour-Management Production Committees, whose voluntary establishment in Canadian industry is promoted by the Government of Canada through the Labour-Management Co-operation Service of the Industrial Relations Branch, Department of Labour.

A Labour-Management Production Committee, LMPC for short, is a

* Article prepared in the Federal Department of Labour, Ottawa.