

27 May 2016

CENTRAL ARBITRATION COMMITTEE

TRADE UNION AND LABOUR RELATIONS (CONSOLIDATION) ACT 1992

SCHEDULE A1 - COLLECTIVE BARGAINING: RECOGNITION

DECISION WHETHER TO ACCEPT THE APPLICATION

The Parties:

Unite the Union

and

National Bank of Greece

Introduction

1. Unite the Union (the Union) submitted an application to the CAC 15 May 2016 that they should be recognised for collective bargaining purposes by National Bank of Greece (the Employer) for a bargaining unit consisting of “Accounts officers, Clerks, Bank Clerks, Messenger/Administration Officers, Computing Department Assistants, Relationship Managers, Banking Officers, Head of Retail Banking, HR Administration Managers, Administrators, Messenger/Administration Officers, Private Bankers, Finance Officers, Head of corporate and credit Administration, Chief Dealers, Head of Financial and Management Accounting Department, Senior Relationship Managers, Head of Back Office and Settlements, Head of Loans and Trade Finance Administration”. The CAC gave the parties notice of receipt of the application on 17 May 2016. The Employer submitted a response to the application dated 17 May 2016 which was duly copied to the Union.

2. In accordance with section 263 of the Trade Union and Labour Relations (Consolidation) Act 1992 (the Act), the CAC Chairman established a Panel to deal with the case. The Panel consisted of Her Honour Judge Stacey, Chairman of the Panel, and, as Members Mrs Jackie Patel and Mr Michael Leahy OBE. The Case Manager appointed to support the Panel was Linda Lehan.

Issues

3. The Panel is required by paragraph 15 of Schedule A1 to the Act (the Schedule) to decide whether the Union's application to the CAC is valid within the terms of paragraphs 5 to 9; is made in accordance with paragraphs 11 or 12; is admissible within the terms of paragraphs 33 to 42 of the Schedule; and therefore should be accepted.

Summary of the Union's application

4. In its application the Union stated that it had sent its written request for recognition to the Employer on 15 April 2016, a copy of which was enclosed, but no response was received.

5. According to the Union, there were 34 UK workers employed by the Employer. The Union stated that there were 33 workers in the proposed bargaining unit of whom 21 were union members. When asked to provide evidence that a majority of the workers in the proposed bargaining unit were likely to support recognition for collective bargaining, the Union said that it could provide, on request, a collective bargaining petition received from the workforce on 20 April 2016.

6. The Union explained that the reason for selecting the proposed bargaining unit was that all union members within the National Bank of Greece were covered by a legacy recognition agreement from 1989 and after receiving no pay rise for 6 years had approached them to submit a collective pay claim. The Union stated that as a result of them submitting a collective pay claim the Employer had given them notice of de-recognition and that their members had approached them expressing their continued desire to be represented. The

Union stated that the workers also formed a defined group of workers who were previously covered by a voluntary recognition agreement.

7. When asked if there was any existing recognition agreement which covered any workers in the bargaining unit the Union stated that the existing recognition agreement had been terminated by the Employer on 16 April 2016 and a copy of that letter was enclosed. The Union also enclosed a copy of their reply in which they stated that they were disappointed to have received the notice of derecognition.

8. Finally, the Union said there had not been a previous application in respect of this or a similar bargaining unit and that it held a current certificate of independence.

Summary of the Employer's response to the Union's application

9. In its response to the Union's application the Employer stated that it had received the Union's written request for recognition on 15 April 2016 and that no response was made.

10. The Employer stated that it had received a copy of the application form from the Union on 16 May 2016.

11. The Employer stated that it had not, before receiving a copy of the application form from the Union, agreed the bargaining unit with the Union. Subsequently when asked do you agree with the proposed bargaining unit the Employer answered "yes".

12. The Employer stated that it employed 34 workers and did not agree with the number of workers stated by the Union in the proposed bargaining unit as there were only 30 explaining that four members of staff were employed on Greek contracts of employment.

13. The Employer stated that there was no existing agreement for recognition in force covering any of the workers in the proposed bargaining unit confirming the previous agreement ceased on 15 April 2016.

Considerations

14. In deciding whether to accept the application the Panel must determine whether the admissibility and validity provisions referred to in paragraph 3 of this decision are satisfied. The Panel has considered all the evidence submitted by the parties in reaching its decision.

15. The Panel is satisfied that the Union made a valid request to the Employer within the terms specified in paragraphs 5 to 9 of the Schedule to recognise them for collective bargaining in respect of the proposed bargaining unit as described in paragraph 1 of this decision. The request was made in writing and identified the Union, the proposed bargaining unit and the request was made under the Schedule. The Panel is also satisfied that the application is not rendered inadmissible by any of the provisions in paragraphs 33 to 35 and 37 to 42 and that it was made in accordance with paragraph 11 of the Schedule. The remaining issues for the Panel to decide are whether the admissibility criteria contained in paragraph 36(1)(a) and paragraph 36(1)(b) of the Schedule are met.

Paragraph 36(1)(a)

16. In accordance with paragraph 36(1)(a) of the Schedule the Panel must determine whether or not members of the Union constitute at least 10% of the workers in the Union's proposed bargaining unit. The Union stated in its application that within its proposed bargaining unit of 33 workers (although the Employer stated that there were only 30 workers), 21 are Union members, a membership level of 70% based on the figure provided by the Employer. The Employer did not dispute the accuracy of the Union's membership. Without either an assertion or evidence to the contrary the Panel accepts the Union has in membership at least 10% of the workers in its proposed bargaining unit and that the requirements of paragraph 36(1)(a) of the Schedule are met.

Paragraph 36(1)(b)

17. The test in paragraph 36(1)(b) is whether a majority of the workers constituting the proposed bargaining unit would be likely to favour recognition of the Union as entitled to conduct collective bargaining on behalf of the bargaining unit. In its application the Union stated that it had a collective bargaining petition received from the workforce on 24 April 2016 which it was happy to supply on request.

18. As with the test in paragraph 36(1)(a), the Employer has not disputed the Union's assertion that it has a majority of workers in the proposed bargaining unit in membership. The Panel therefore concludes that in light of the Union's declaration of its level of members within the bargaining unit it is likely that a majority favour recognition.

19. For the reasons given above the Panel is satisfied that a majority of the workers in the proposed bargaining unit would be likely to support recognition of the Union and the test set out in paragraph 36(1)(b) is therefore met.

Decision

20. For the reasons given in paragraphs 15 – 19 above, the Panels decision is that the application is accepted by the CAC.

Panel

Her Honour Judge Stacey, Chairman of the Panel

Mrs Jackie Patel

Michael Leahy OBE

27 May 2016