Challenges and Solutions for Economic and Social Councils in the Western Balkans and Moldova at a time of crisis

Report on the Sub-Regional Tripartite Conference on the Role of Economic and Social Councils in the Western Balkans and Moldova at a Time of Crisis

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Foreword

The ILO Global Jobs Pact calls on governments and workers’ and employers’ organizations to work together to jointly tackle the global job crisis through policies in line with the ILO Decent Work Agenda. The Pact also contains a commitment by governments to engage in social dialogue with the social partners to maximize the relevance of crisis response measures to the needs of the real economy.

The Sub–regional Tripartite Conference on the Role of Economic and Social Councils in the Western Balkans and Moldova at a Time of Crisis, held in Ohrid in June 2010, was a fitting, region–wide recognition of tripartite social dialogue as an essential component of economic recovery strategies.

In the last decade, Economic and Social Councils have become an expression of modern participatory democracy in the sub–region. They offer a national forum for the social partners to express their members’ views. Thus, the concerns of the two sides of industry and the realities of the workplace are brought closer to policy makers. This is important because the workplace is where the impact of labour market policies is seen first.

However, it is also essential for national social dialogue institutions to prove their effectiveness and to be seen to make a difference. For this, it is crucial that they have human, technical and financial capacity to provide sound, well–founded advice on complex economic and social issues.

The present report summarizes the challenges currently faced by the relatively new tripartite bodies established in the Western Balkans and Moldova as expressed by the Deputy Prime Minister of Moldova, the Ministers of Labour of Albania, the former Yugoslav Republic of Macedonia, and Kosovo (as defined by UNSC Resolution No. 1244), the Assistant Minister for Civil Affairs of Bosnia and Herzegovina and the Secretary of State in the Ministry of Labour of Serbia.

Lessons learned and good practices developed by the more experienced Economic and Social Councils of the Netherlands, the Czech Republic, Romania and Slovenia are also presented. In its final chapter, the report makes some proposals for the national tripartite social dialogue institutions in the Western Balkans and Moldova to improve their functioning and increase their political influence.

We trust that the information provided in the report will serve as a source of inspiration for tripartite constituents in the Western Balkans and Moldova on how find their way to make job–rich recovery a reality. This can only be achieved through genuine negotiations among the three actors of the labour market – partners who listen and relate to each other in a meaningful way.

I would like to thank the Government of Austria for the financial support provided for the promotion of a culture of social dialogue in the Western Balkans and Moldova, in general, and for their support to the Ohrid Conference in particular. This support has been provided within the framework of the ongoing ADA–ILO technical cooperation project on “Consolidating the Legal and Institutional Foundations of Social Dialogue in the Western Balkan countries and Moldova”.

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The opinions expressed in the individual sections of this report do not necessarily reflect the views of the ILO.

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1. Introduction

The conference

The conference format was designed in such a way that it would provide an opportunity for both formal and informal consultations, thereby making it possible to reflect on and identify possible solutions to challenges facing national tripartite social dialogue in the Western Balkans and Moldova, as well as to build further partnerships to deepen practical expertise in solution implementation.

National tripartite bodies from the Netherlands, the Czech Republic, Romania and Slovenia were invited to share good practices and lessons learnt regarding their composition, role and proper functioning. Special sessions were dedicated to the role and mandate of Economic and Social Councils (ESCs) at a time of economic crisis and how best to ensure more gender-balanced representation in social dialogue institutions.

The country delegations were made up of the president (government), the two vice-presidents (one employers’ and one workers’ representative) and the head of the secretariat (government employee) of each national tripartite body.

The Deputy Prime Minister of Moldova, the Minister of Labour, Social Affairs and Equal Opportunities of Albania and the Minister of Labour and Social Policy of the former Yugoslav Republic of The former Yugoslav Republic of Macedonia attended the conference in their capacity as chairs of national tripartite bodies. Kosovo’s (as defined by UNSC Resolution No. 1244) delegation comprised the Minister of Labour and an UNMIK representative.

The country delegations were asked to produce a PowerPoint presentation in accordance with the Terms of Reference prepared by the ILO. The focus of the country presentations was the challenges currently faced by national tripartite bodies and possible solutions, identified in the good practices presented by the more experienced Economic and Social Councils during the conference. Each delegation also appointed a spokesperson to deliver the presentation at the dedicated conference session.

The participants in the panels on the role of ESCs at a time of crisis and gender mainstreaming in national tripartite bodies, respectively, were also provided with discussion points prepared by the ILO.
2. Key challenges to social dialogue in the Western Balkans

2.1 The former Yugoslav Republic of Macedonia

Minister of Labour and Social Policy of the former Yugoslav Republic of Macedonia Xhelal Bajrami stressed the importance of a functional and efficient social dialogue for the creation and implementation of policies in his country. He stressed two important prerequisites for an effective social dialogue: a functioning legal and institutional framework and sufficient resources. As a first but important step, the former Yugoslav Republic of Macedonia changed its representativity criteria, making the social dialogue more inclusive and giving more social partners the opportunity to participate. As a result, new partners have been admitted to the ESC in the former Yugoslav Republic of Macedonia. A new agreement establishing the Economic and Social Council (ESC) has been signed by the most representative organizations of workers and employers. One of the main priorities for future policies should be to build up the capacities of the social partners, for which purpose a number of projects have been developed.

2.2 Bosnia and Herzegovina

Mr Damir Dizdarevic, Assistant Minister of Labour of Bosnia and Herzegovina, stressed, first of all, his dissatisfaction with the results of the anti-crisis measures taken in Bosnia and Herzegovina and the region as a whole. Especially in Bosnia and Herzegovina, it is difficult to implement coherent crisis recovery measures due to the country’s decentralised political structure. Social dialogue in Bosnia and Herzegovina is not adequately developed: for example, there is no ESC at national level. At the entity level, ESCs exist but are insufficient. Nevertheless, there are a handful of good examples of functioning social dialogue in Bosnia and Herzegovina, such as a mid-term development strategy for social inclusion and an employment strategy developed by the Council of Ministers, in cooperation with the social partners.

2.3 Serbia

Mrs Snezana Lakicevic, State Secretary of the Ministry of Labour and Social Policy of Serbia, pointed out that tripartism and social dialogue are relatively new in most countries of the region. Nevertheless, a Social and Economic Council has existed in Serbia since 2001 and now meets regularly, once a month, and plays a significant role in the legislative process. Furthermore, many SECs exist at the municipal level. Serbia recently revised the law on the agency for the peaceful settlement of labour disputes, whose services are used extensively by employers and workers to avoid long-lasting and costly conflicts. Serbia has introduced various new laws related to social dialogue in the areas of gender equality, voluntary work and bullying in the workplace. New measures will be introduced, especially in the pension system, where Serbia is struggling with the implications of the financial crisis and the demands of the International Monetary Fund (IMF). According to Mrs Lakicevic, Serbia will lower the representativity criteria for the social partners to make social dialogue at all levels more inclusive. In 2011, the preparation of a new general collective agreement will commence. At the branch level, social dialogue is particularly strong in the public sector, whereas in the private sector there are no collective agreements to date.
2.4 Albania

Mr Spiro Ksera, Minister of Labour, Social Affairs and Equal Opportunities of Albania, stressed the importance of the social partners in Albania’s socio-economic development, as well as the efforts made by his Ministry to include the social partners in the policy development process. Besides the National Labour Council founded in 1995, various other tripartite institutions are operating in Albania: the Tripartite Consultative Council related to Education and Vocational Training, the Consultative Council concerned with Business, the Administrative Board of the Social Insurance Institute and the Administrative Board of National Employment Services. The National Labour Council has been consulted on various key issues in recent years, including the Strategy on Employment and Vocational Training, the Strategy on Equal Opportunities and information on increases in wages and pensions. Regional social dialogue is still not very active in Albania, for which reason the government has developed a strategy to create tripartite ESCs in all twelve prefectures.

Mr Gezim Kalaja, deputy chair of the National Labour ESC of Albania, described its functioning as considerably less effective than described by Mr Ksera. According to him, meetings have been held infrequently and issues within its mandate have not been approached as they should have been. According to Mr Kalaja, the government is unwilling to support the National Labour Council. It should be given a stronger decision-making role. Mr Kalaja stressed that, in his opinion, the government does not acknowledge the existence of an economic crisis in Albania, and hence coherent policy is lacking. The National Labour Council cannot participate in finding solutions until the government becomes active. The social partners have to some extent turned their backs on the National Labour Council and are engaging in open dialogue with each other. Mr Kalaja argued that such discussions should rather have taken place in the National Labour Council.

2.5 Moldova

Mr. Ion Negrei, deputy Prime-Minister of Moldova, explained that Moldova has a relatively “young” tradition of democratic practices, including in the area of social dialogue. Therefore, the existing legal and institutional frameworks of tripartite and bipartite social dialogue still need to be fully aligned with international labour standards and further strengthened.

2.6 Summary

The four country reports identify a number of challenges and shortcomings that can substantially disturb tripartite social dialogue at the national level. Although these are often quite specific in nature, there are several challenges which are relevant for all countries in the region. They include the following:

- Functional legal and institutional framework is important for the effective operation of tripartite dialogue. This includes an adequate legal basis for the creation and operation of ESCs at all levels and adequate representativity criteria to enable the social partners to participate in tripartite social dialogue.
- Social partners need to build capacities of their own to participate effectively in tripartite social dialogue. Hence, it is important that the social partners ensure a strong membership base and are effective in raising funds of their own.
- ESCs should have sufficient resources. This includes a secretariat staffed, equipped and financed in such a way that it can handle administrative tasks.
- The commitment of all the partners involved and the willingness to reach a sensible compromise is a significant prerequisite of tripartite social dialogue. However, the will of the government side has frequently been questioned.
3. National Tripartite Bodies

3.1 Mandate of Economic and Social Councils

3.1.1 Responsibilities of Economic and Social Councils

The main responsibilities of the Economic and Social Councils (ESCs) under discussion are generally twofold. On the one hand, ESCs can at the request of the government or parliament provide opinions, recommendations or standing points on economic and social policies, draft laws, national strategies, etc. On the other hand, ESCs are always able to take the initiative to reach joint opinions on economic and social matters under their competence. Thus, the general role of ESCs is to connect the agenda of the main political decision-makers in a country – the government, parliament, ministries and so on – with the economic actors on the ground (employers and workers) to facilitate participatory policy making processes.

Among the responsibilities and working areas of national ESCs, the following were mentioned by the conference participants:

- Social security, health care and pensions (Slovenia, Serbia, the former Yugoslav Republic of Macedonia, Montenegro and Albania)
- Wages, prices and taxes (Serbia, the former Yugoslav Republic of Macedonia, Albania, Slovenia and Montenegro)
- Industrial relations, collective bargaining, labour relations and the implementation of collective agreements (Slovenia, Serbia, the former Yugoslav Republic of Macedonia and Montenegro)
- Impact of economic systems and policies (Slovenia, Serbia, the former Yugoslav Republic of Macedonia and Montenegro)
- Economic and social legislative acts (Moldova, the former Yugoslav Republic of Macedonia, Albania and Montenegro)
- Employment issues (Slovenia, Serbia and Albania)
- Education and training (Serbia, Albania and Montenegro)
- International cooperation and implementation of international norms from institutions such as the ILO, the EU and so on (Slovenia and Albania)
- Competition and productivity (Serbia and Montenegro)
- Privatisation and other issues of structural adjustment (Serbia, Montenegro)
- Demographic trends (Serbia, Montenegro)
- National economic and social development programmes (Albania and Montenegro)
- Workers’ participation (Slovenia)
- Legal certainty (Slovenia)
- Settlement of collective labour disputes (the former Yugoslav Republic of Macedonia)
- Budget, fiscal and tariff policies (Moldova)
- Occupational health and safety (Albania)
- Protection of the working and social environment (Montenegro)

The list shows that the scope of responsibilities, as defined for each ESC in the countries concerned, is generally fairly wide. It includes every area of economic and social policy-making which concerns the social partners. Especially prominent are issues of social security, health care and pensions, wages, prices and taxes and industrial relations, collective bargaining and labour relations.
3.1.2 Obligation or practice of the government and/ parliament to ask the ESC’s opinion

In general, the governments and parliaments of the countries concerned are not obliged to ask the ESC for its opinion. Nevertheless, all the ESCs concerned have the ability to become active on their own account. It is therefore less a matter of obligation for governments and parliaments to ask an ESC for its opinion than a matter of transparent communication between policy-makers and the ESCs.

In Romania, the government is obliged to consult the ESC before submitting bills to parliament. The period within which the ESC can issue its comments is fairly short. It can comment on ordinary laws and decisions within a maximum of ten days and on organic laws within a maximum of 20 days.

In some countries, the relationship between the ESC and the government and parliament is based solely on mutual trust. Such is the case in the Netherlands, where the ESC has a long tradition of expertise in its field and a very high reputation among decision-makers. Although its opinions are not binding, they are highly valued by the government and in most cases have a considerable impact on policy- and law-making. Also, in the Czech Republic and Slovenia, the ESCs have a strong normative influence, although there is no obligation on the government and parliament to contact them. For instance, the Czech ESC played a key role in developing crisis recovery measures in 2009. The Slovenian government is in frequent contact with the social partners, in most cases contacting the ESC in the earliest stages of the policy preparation process.

Although governments and parliaments are generally not obliged to ask ESCs for their opinion, it is often the case that certain obligations apply after receiving an opinion, whether at their request or that of the ESC. For example, in the Netherlands, the government is obliged to formulate a justification of its actions if it did not comply with the opinion of the SER (ESC). In Montenegro, the ESC submits its opinion at the first stage to the responsible ministry. If the ministry does not react to this in any form within thirty days, the ESC is allowed to contact the government. Furthermore, the Ministry cannot pass any law or regulation which is within the scope of the ESC to the government for further treatment if the ESC has not submitted its opinion. In Serbia, the ESC (SEC) is allowed to issue a formal proposal to amend a specific law.

3.1.3 Role of government members

The role of the government members generally does not differ from that of the social partner members. They are generally involved in the same activities and participate in voting on an equal footing, despite the fact that they are both subject and object of the ESC’s recommendations.

The number of government members who participate in ESCs in relation to the number of employers’ and workers’ representatives differs between countries.

ESCs in which government representatives have lower representation than employers and workers:
- **Albania** (7 government representatives, 10 employers’ representatives, 10 workers’ representatives)

ESCs with an even number of representatives:
- **Romania** (15 representatives each)
- The former Yugoslav Republic of Macedonia (an equal share of employers’, workers’ and government representatives)
- **Montenegro** (11 representatives each)
- **Moldova** (6+4 representatives each)
- **Slovenia** (up to 8 representatives each)

ESCs in which there are more government representatives than employers’ and workers’ representatives:
- **Czech Republic** (8 government representatives, 7 employers’ representatives and 7 workers’ representatives)
3.1.4 Stage of involvement of the ESC in the legislative process

ESCs can be involved at various levels of the legislative process and on a variety of different topics. In the law-making process, ESCs can be involved in the preparation of draft laws or policy papers, such as national strategies, by the government. Other areas of involvement include recommendations on extension of collective agreements or providing opinions on policy initiatives or action plans of other institutions. National ESCs can in various cases also become active on their own account, developing strategies or even draft laws and regulations. In the countries concerned, ESCs are involved at the following stages:

**Serbia**

In Serbia, the ESC is involved mainly in the draft phase of laws within its scope before they are submitted to the government or parliament. In some cases, the social partners are even involved in specific working groups, drafting laws from scratch. The ESC is one of the main actors in setting the minimum wage. The ESC can take a decision on minimum wages through tripartite negotiations. If the ESC fails to reach agreement, the government is entitled to take a decision. The ESC can recommend to the Ministry of Labour the extension of a collective agreement after its signature. The ESC can issue recommendations to members of national tripartite bodies, such as the management boards of the national employment agencies. The ESC may also discuss and comment on reports of other institutions within its scope, such as the agency for the peaceful resolution of labour disputes and the solidarity fund.

**Czech Republic**

The Czech Council for Economic and Social Agreement holds tripartite discussions on legal drafts before their submission to the government and parliament.

**The former Yugoslav Republic of Macedonia**

ESC in the former Yugoslav Republic of Macedonia gives opinions on draft laws before they are presented to the government or parliament. Furthermore, it is to be involved in the whole process of the drafting of strategic documents by the government, on matters within its scope.

**Moldova**

The Commission for Consultation and Collective Bargaining is involved mainly at the level of draft legislation, before it is submitted to the government or parliament.

**Albania**

The National Labour Council primarily issues its opinions on draft laws, laws and government strategies.

**Montenegro**

The Social Council of Montenegro gives opinions on proposed laws and regulations within its remit. The SC may also be involved in drafting proposals for laws through the creation of working groups. Furthermore, the SC plays a major role in negotiations on amendments to the general collective agreement.
Romania

The ESC is involved in an early stage of law making through the members of its standing committees, who are at the same time members in the tripartite commissions of social dialogue set up in key ministries. It can also provide opinion on the economic and social situation and may issue proposals on its improvement.

Slovenia

The ESC examines draft legislation covering the entire spectrum of economic and social relations between employers and workers. Furthermore, it can comment on government strategic development papers.

3.1.5 Examples of ESC involvement

The list presented here is intended to demonstrate the wide range of issues which are within the scope of ESCs and on which ESCs can influence policy- and law-making processes.

Serbia

In 2009, the ESC held two extraordinary sessions which dealt with the following:

- government measures for mitigating the effects of the global financial crisis and
- workers’ protests and possible social consequences.

In 2009, the Serbian ESC held seven regular sessions which dealt with the following:

- Decisions were made on the minimum wage due to a lack of consensus during the crisis.
- Favourable opinions were given on:
  - the further development of social dialogue;
  - the draft law amending the Law on the amicable resolution of labour disputes;
  - the draft Law on the prevention of harassment at work;
  - the Draft Strategy and action plan on safety and health at work;
  - the draft Decision on the active employment policy programme in RS for 2009;
  - the draft Law on gender equality.
- An unfavourable opinion was adopted on the draft Law on employment and unemployment insurance and a request was made that it be withdrawn from the procedure considering that the law had become a bill before the ESC discussed it in the form of a draft. The bill was not withdrawn and was soon presented to parliament and adopted.

Slovenia

The main topics dealt with between 1994 and 2010 included the following:

- wages, pension reform and the Minimum Wage Act;
- the Labour Relations Act and the Collective Bargaining Act;
- the Unemployment Insurance Act, the Medical Insurance Act and the Social Security Act;
- national budget documents;
- the Lisbon Strategy;
- anti-crisis measures and related laws;
- workers’ participation in company profits;
- Law on income tax;
- social agreements for various periods;
- ILO and EU documents.

**Montenegro**

Most recently, the Montenegrin SC has produced the following:

- opinion on the proposed Law on trade union representativity;
- opinion on the proposal to limit the number of work permits for foreigners for 2010;
- opinion on the proposed Law on unemployment benefit
- Memorandum on Social Partnership in the context of the global economic crisis.

SC working groups are currently examining:

- the draft Law on labour inspection;
- the proposed amendments to the Labour Code;
- the proposed amendments to the Law on Social Council.

**The former Yugoslav Republic of Macedonia**

The main areas of influence of the former ESC included:

- the Labour Relations Law, the Law on health and safety at work, the Law on employment and unemployment benefit and the Law on compulsory social contributions.
- the development of measures to combat the crisis by the business sector.

**Albania**

The National Labour Council has been consulted on the following:

- the strategies for employment and vocational training and for equal opportunities;
- the Strategic Document on Health and Safety at Work;
- the Health and Safety at Work Act and challenges of implementation;
- the Gender Equality Act;
- the situation of unfair competition in the labour market and the role of the Labour Inspectorate;
- the energy situation and measures to improve the energy supply;
- clothing manufacturing in Albania (advantages, problems and solutions); the situation and problems related to vocational training and its prospects;
- the draft law “On a National Qualifications Framework”.

3.2 Impact of ESC opinions

3.2.1 Law making

The ESC of the former Yugoslav Republic of Macedonia has had considerable impact on the formulation and creation of acts such as the Labour Relations Act, the Health and Safety at Work Act, the Employment and Unemployment Insurance Act and the Compulsory Social Insurance Contributions Act. In Moldova, the NCCCB reached consensus on key legislation. The influence of the Social Council of Montenegro on the formulation of draft laws is also substantial since the government cannot pass any legislation in that area without taking into account the ESC’s opinion.

3.2.2 Influencing public policy and policy change

The ESC of the former Yugoslav Republic of Macedonia has been involved in the preparation of a number of key strategic documents, such as the National Employment Strategy 2010 and the National Employment Action Plans 2004–2005, 2006–2008 and 2009–2010. In Moldova, the NCCCB has had a considerable influence on policy changes in the recent past in areas such as compliance with labour law, wages and salaries, occupational health and safety and the worst forms of child labour.

In Slovenia, the ESC reached four tripartite agreements and five wage agreements, the last one signed in October 2007. Furthermore, through the creation of an expert group, agreements were reached between the government and the social partners on the reform of the pension system in 1999 and the reform of the Labour Relations Act in 2002. Furthermore, in 2007 a consensus was reached on the further amendment of the Labour Relations Act.

3.2.3 Generating public support for policy change

The public profile of national ESCs is generally relatively low-key. ESCs must step up their efforts to publicise their work and their influence on the policy- and law-making processes. Furthermore, ESCs should be frontline actors in promoting the values of social dialogue.

In Serbia, the ESC regards it as one of its main priorities to generate public debate on policy change. The influence of the Czech Republic’s ESC, on the other hand, reaches out to the general public through its members.

3.2.4 Management of the financial and economic crisis

Since late 2008, the financial crisis has been a major focal point for regional policy-makers and social partners in the areas of employment and social policy. ESCs were involved in finding solutions to the crisis.

The ESC of Serbia played mainly an information-providing role. In some cases, agreements were reached, such as on the further development of social dialogue in times of crisis. Overall, the ESC was reported to have played an active role in the management of the crisis, but with limited success. The ESC of the former Yugoslav Republic of Macedonia was involved in the development of anti-crisis measures by the business sector. The NCCCB of Moldova reached consensus on the management of the economic and financial crisis. Furthermore, a Memorandum on Social Partnership during the global economic crisis was concluded under the auspices of the Social Council of Montenegro.

3.2.5 Required legal and practical changes to raise impact

The representative of the Romanian ESC expressed his view that a strong legal basis is crucial for ESCs in newly formed democracies to work effectively. Furthermore, those ESCs that do not have a legal basis should consider whether it is solid enough or could be improved. The representative of the ESC of Slovenia, for example, mentioned that the current basis, the wage agreement, may indeed not be sufficiently solid.
The situation is particularly problematic in Bosnia and Herzegovina, where no ESC exists at national level. According to the Ministry of Civil Affairs, the establishment of an ESC at that level is feasible only with the most representative social partners in the country as a whole and not only parts of it. One possible solution is an agreement between the representatives of entity- and district-level employers’ organizations and trade unions, enabling them to jointly participate in tripartite social dialogue with the authorities of Bosnia and Herzegovina.

3.3 Working methods

The Netherlands

The SER drafts opinions on a wide range of issues. This includes matters of only national interest, but also international issues such as an advisory report on sustainable globalisation. Opinions are drafted either on request or on the ESC’s own initiative. They are prepared confidentially in committees. The opinion is either accepted unanimously or rejected at a public meeting of the ESC.

The SER employs over 120 persons and has a budget of 15 million euros. It receives no government funding. The SER is a highly influential institution in Holland. The reasons for its success include the fact in the Netherlands there are sufficient independent organisations of employers and workers, representing large segments of society, which come together in the SER.

Czech Republic

The plenary session is the highest negotiating body which sets the agenda of the Council for Economic and Social Agreement (RHSD) and meets six times a year. The plenary session is chaired by the prime minister. The executive body of the RHSD is the presidium, also chaired by the prime minister, with seven other members and the general secretary of the RHSD. Opinions and publications are drafted by working teams and working groups: working teams are permanent expert bodies and working groups are extraordinary bodies, created to deal with particular issues. The administrative work is carried out by a permanent secretariat which is headed by the general secretary.

Romania

All members of the ESC are present at the plenary session. Between sessions, the ESC is run by the Executive Bureau, composed of the president and two vice-presidents of the ESC representing the three parties and the secretary general. The ESC runs six permanent committees specialising in issues of social and employment affairs, such as social protection, labour relations and wages. Other permanent and temporary committees exist which work according to internal regulations. The administrative workload is borne by a permanent secretariat, including the general secretary and their staff. The specialized committees draft the first opinion on an issue. This opinion is submitted to the plenary session and debated on the basis of the conclusions of ministerial level social dialogue. In terms of draft laws, the draft opinions should either be in favour or against. Furthermore, the draft opinion may include proposals for amendments. The opinion is then voted on at the plenary session and adopted into the final opinion. The opinion of the ESC, or the opinions of the partners in the case of a failure to reach agreement at the plenary session, accompany the legal draft throughout the legislative process. The ESC is funded from the state budget.

Slovenia

The president of the ESC and their deputy are appointed at the nomination of the parties concerned. The various groups in the ESC take turns to nominate the president and their deputy. Each group has the right to
one year in office. The ESC usually meets in plenary sessions, with meetings held either at the request of one of the groups or at least once a month. The sessions are not public. The sessions are chaired and the agenda is set by the president of the ESC. In some cases, the partners can forward their view electronically, especially if a consensus can be expected. The ESC sets up standing and temporary working groups to deal with draft documents and to prepare solutions for further decisions taken at the level of the ESC. The working groups are made up of representatives of the social partners and independent experts. Decisions are always taken unanimously. If unanimity cannot be achieved, the positions of the partners are forwarded to policy-makers. The ESC has no secretariat, but has a general secretary, who is a civil servant, paid by the government. The funds for the ESC are also provided by the government.

Serbia

The administrative and technical work of the SEC is carried out by its secretariat. The main problem facing the secretariat is that it is understaffed – only three people – and underfunded. The SEC has four standing working bodies, specializing in legislation, economic issues, health and safety and collective bargaining and peaceful resolution of labour disputes. The creation of these bodies has raised the level of discussion in the SEC and has helped to build capacities. The standing working bodies also cooperate with local and international actors in particular projects. It is a major problem for the SEC that it still does not receive all draft laws for the opinions which it is entitled to give. Also, the time given for the SEC to respond (20 days for laws, 10 days for bylaws) is too short to go through the required institutional procedures and prepare a proper opinion. The SEC receives funds from the Ministry of Labour.

Former Yugoslav Republic of of Macedonia

The draft agreement on the new ESC provides for work sessions, which are to be convened by the chair at least once every three months. A proposal to hold a meeting may be made by any member of the ESC. The agenda is determined at each meeting.

Albania

The National Labour Council (NLC) examines documents and procedures related to employment and social affairs. They include draft labour legislation, national social, wage or pension policies and national economic and social development programmes. The NLC has six specialised tripartite committees, dealing with legal affairs; employment and vocational training; wages and pensions; health, working conditions and safety at work; equal opportunities; and economic and financial issues. The NLC is funded by the Ministry of Labour.

Montenegro

The SC operates on the basis of plenary sessions and in seven sections. These sections specialise in: work, social policy and gender equality; employment, development of the labour force and labour market adjustment; privatization and competitiveness; the economy and finance; international relations and EU accession; equal regional development and support for SMEs; occupational safety and health. The SC generally gives its opinions at regular sessions, but can also initiate extraordinary sessions in special cases. The secretary general is employed full-time by the SC and appointed by the government. For other services, the resources of the respective ministries can be used. The main problem is the lack of a secretariat to aid the work of the ESC.
4. Special sessions

4.1 The role of ESCs at a time of crisis

The panel discussion on the role of ESCs at a time of crisis focused on the contribution of national social dialogue institutions in shaping the crisis response.

4.1.1 Intervention of the representative of the European Economic and Social Committee

Mr Staffan Nilsson explained the role of the EESC in the European Union’s policy design process and presented the benchmarks of the “EESC Integrated Report to the European Council: The post-2010 (Lisbon) Strategy: Proposals from organized civil society”. Among the lessons the EESC has drawn from the financial and economic crisis, Mr Nilsson mentioned: the need for the effective regulation and redesign of the financial markets; return to growth underpinned by investment in innovative sectors of the real economy; high quality job creation and environmental sustainability; and the promotion of vocational and lifelong learning programmes.

The EESC published a report in early 2010 called “Europe 2020: A new European strategy of jobs and growth”. Its aim is to influence the path taken in the wake of the Lisbon Strategy, taking into account the global economic crisis. The paper includes various recommendations which may be taken on board by most ESCs in order to overcome the economic crisis and the movement towards sustainable growth and jobs.

An important point mentioned under the heading of ways out of the financial crisis is the aim of returning to growth underpinned by investment in innovative sectors of the real economy, fair distribution, creating high quality jobs and environmental sustainability. Another point mentioned under this heading is the aim of boosting growth and productivity through investment in and promotion of human resources, education, vocational training and lifelong learning.

The EESC promotes labour market reforms towards more flexicurity. The idea behind flexicurity is to find the most appropriate solutions to combine security for workers with flexibility for employers. Various European states have developed innovative solutions which may be used as best practices. Promoting entrepreneurship is an important policy area in overcoming the crisis. Legislation should favour the creation of SMEs by cutting red tape and improving the framework for company finance.

The EESC has expressed its commitment to the region in offering its help and the readiness of its members to share their expertise. One of its main recommendations at the Third Western Balkans Civil Society Forum was to reinforce ESCs in the Western Balkans.

4.1.2 Intervention of the representative of the Austrian Ministry of Labour, Social Affairs and Consumer Protection

Ms Iris Dembsher pointed out that social dialogue plays a crucial role in Austria. No important decision is taken by the Government without social partner consensus. Austria has implemented a range of measures to address the consequences of the financial and economic crisis and to accelerate recovery, such as stabilization of the banking sector, two economic stimulus packages and tax reform to minimize the impact on the real economy and three labour market packages to mitigate the downturn in the labour market. The most important and successful crisis instrument has been the intensive use of short working time schemes, which can be introduced only by agreement between the employer and the works council at the enterprise level.
Furthermore, the focus on good qualifications, meeting labour market requirements, was stepped up, together with the setting up of sector-wide labour foundations. The concept of labour foundations is unique to Austria. Labour foundations are created with the cooperation of the Public Employment Services, the employer concerned and other financing bodies, such as regional governments. These stakeholders design, finance and implement targeted training measures for workers to support adjustment processes due to structural change.

The second package included the extension of short-term working schemes, part-time allowance schemes for older workers, subsidized educational leave and the establishment of a solidarity premium model and a youth foundation. The third package focused on encouraging the acquisition of higher qualifications by workers and the unemployed through specific measures and subsidized wages for young workers.

4.1.3 Intervention of the ESC representative from the Czech Republic

Mr. David Kadeca emphasized that the anti-crisis measures introduced in the Czech Republic were developed in the Council for Economic and Social Agreement and fully adopted and implemented by the Government. The package comprises 38 concrete, mainly short-term measures to cushion the immediate impact of the crisis.

The measures were developed mainly by the working teams on economic policy and discussed in the ad hoc working groups created for this purpose within the relevant ministries. The Government adopted the proposed measures as part of the national programme to combat the effects of the economic crisis.

4.1.4 Intervention of the SER representative from the Netherlands

Mr. Steven Duursma stated the social partners in the Netherlands have been involved in the design of several anti-crisis packages. Consultations took place in the context of the economic crisis. Social partners were not involved in consultations on the implications of the financial crisis with regard to the government’s rescue of the major banks.

Intensive consultations were held at the Labour Foundation and the SER. These consultations resulted in a package of measures produced by the government and a set of recommendations issued by the Labour Foundation. The government package was largely short-term in nature and included budgetary stimulus measures and various labour market measures. The short-term measures were complemented by structural reforms, such as the increase in the retirement age from 65 to 67. The ESC was asked two questions in this context, which it failed to reach agreement on, and therefore no report was delivered. After the old government fell and a new one came to power, the Labour Foundation restarted the debate with the social partners and came to an agreement. They drafted a report with proposals for new reforms, such as occupational and public pension schemes.

4.1.5 Intervention of the ESC representative from Romania

Mr. Valentin Mocanu pointed out that the social partners participated in the development of crisis response measures. Packages of measures were developed as a result. After wage cuts were decided on by the government on a large scale, the trade unions withdrew from all tripartite bodies in protest.

Nevertheless, the Romanian government introduced a number of tough measures, such as the redundancy of 55,000 civil servants and a VAT increase from 19 per cent to 24 per cent. Furthermore, the government enacted some crisis recovery measures, such as a state increment in the case of technical leave of up to 90 days which accounts for 25 per cent of the wage.
4.1.6 Intervention of the ESC representative from Slovenia

Mr. Igor Antauer explained that Slovenia introduced three anti-crisis measures, which were all discussed with the social partners. The first package consisted of financial measures that encapsulated elements of the EU financial reforms. The second package included structural reforms in the real economy, coupled with cuts in public expenditure. The third package constituted a labour market package, including partial subsidies for full-time working.

4.2 Towards gender mainstreaming in national tripartite bodies

The panel discussions on gender mainstreaming in national tripartite bodies pointed towards two major issues with regard to gender equality: equal representation of women and men in Economic and Social Councils and inclusion on ESC agendas of issues relevant to both women and men in the world of work, such as equal remuneration for work of equal value, eradication of gender-based violence and harassment in the workplace and the elimination of gender stereotypes.

4.2.1 Intervention of the representative of the European Economic and Social Committee

In the EESC, 75 per cent of all members are male. This profile has been improved by the latest EU enlargement and is expected to be further improved as enlargement continues. In July 2010, the EESC will decide on its new composition, and hopes to include more female participants.

At the same time, each social partner organization should educate its workers and members concerning different ways of thinking about men and women. They should further be made aware of the idea that pure gender quotas are not a real solution since men and women want to be employed based on their competences, not because of a quota.

4.2.2 Intervention of the ESC representative from the Czech Republic

In the Czech Republic, the ESC does not act at all in the field of gender equality, apart from issuing an annual study on the gender balance. There are no regulations on the equal representation of men and women, hence there are considerably more men representatives than women. Gender equality is an integral part of the social partners’ education and training programmes, such as the current project on discrimination against women in the workplace. There is clearly scope for further action in the Czech Republic since the gender pay gap is about 20 per cent.

4.2.3 Intervention of the Dutch SER representative

In the SER there are currently more men than women. Nevertheless, in the secretariat, gender representation is more balanced, as slightly more women are employed than men.

In general, the SER deals with the empowerment of women. On issues such as equal pay, equal treatment and matters of wage bargaining, recommendations are issued. The participation of women has increased in the past 20 years and a large amount of part-time work has been made possible in the Netherlands by adequate rights and facilities. It is not limited only to women who take care of small children. Male workers frequently resort to part-time employment, too, for various reasons.
4.2.4 Intervention of the ESC representative from Romania

The gender imbalance in the ESC in Romania is significant: out of 45 members only seven are women (one on the employers’ side, two on the workers’ side and four on the government’s side). Members of expert committees are around 35 to 40 per cent women and the secretariat staff is approximately 70 per cent female.

4.2.5 Intervention of the ESC representatives and representatives of the Ministry of Labour from Slovenia

In Slovenia’s ESC, one in seven employers, one in eight trade union representatives and two in eight government representatives are women. In addition, eight alternating members of the ESC are women, as are many regularly participating experts. The ESC’s representative stated that, currently, there is no discrimination on the basis of gender in the context of the ESC.

The representative of the Ministry of Labour echoed the view that gender discrimination is not a major problem in Slovenia. According to her, there is a tradition in Slovenia and other former Yugoslav countries of men and women supporting the family equally. Gender equality principles are enshrined in the Slovenian constitution. Several approaches and programmes have been developed and implemented to strengthen gender equality. They include a document on the inclusion of fathers in child care activities and programmes on equal opportunities and family friendly enterprises.

The government’s Office on Gender Equality is constantly pressing for more action on equal opportunities and employs a watchdog in each government ministry that monitors whether the principles of gender equality are being complied with. Some issues of gender discrimination occur only in areas where, traditionally, mainly men are employed.

4.2.6 Intervention of the ESC representative from Serbia

In Serbia, only two out of 18 members of the ESC are female. However, in the four permanent expert bodies of the ESC, half of the 16 members are female.

There are a number of new laws being drafted, such as the Labour Law, the Law on labour inspection and the Law on the pension and insurance system which are all supposed to take gender principles into account. For that reason, the Standing Body on Legislation receives gender training. A set of existing laws will also be looked at again from a gender perspective.

4.2.7 Intervention of the representative of the Austrian Ministry of Labour, Social Affairs and Consumer Protection

Austria has a gender pay gap of around 23 per cent, putting it into second last position in the EU27. The social partners are striving for more equal pay, but to achieve this, more income transparency is needed. In Austria, the social partners have discussed gender equality and have agreed to introduce more income transparency through negotiations on wages by category of employment, but also by gender in all companies with more than 150 workers.

4.2.8 Intervention of the deputy Prime minister of Moldova

In Moldova, the government committee on gender equality analyses data on gender in order to achieve a higher level of representation of women in the public administration. The proportion of women in the parliament and in the administration is small, although the employment of women in the regional administration is growing.
Men in Moldova have to be trained to take care of their children since women often go abroad to work. Government policies have been drawn up on domestic violence and violence against women, as well as human trafficking and the sexual exploitation of women. One of the main forms of discrimination against women is their lower retirement age, 57, which allows many women only a very small pension.
5. Possible solutions to current challenges

5.1 Empowerment of national tripartite bodies

Despite considerable progress recently, the national tripartite bodies that have emerged in most Western Balkan countries and Moldova in the past decade still have only a minor say in policy-making processes. The main causes, which are to be sought in national industrial relations systems, are historical, political and legal in nature. The latter are discussed below.

Two types of regulation usually govern the establishment and organization of national tripartite bodies for social dialogue: a tripartite agreement between the government and the social partners or a special law defining, among other things, their role and mandate.

As a form of participatory democracy, complementary to parliament, these bodies have been given a consultative role in policy-making processes. Through their tripartite structure, they are meant to bring the realities of the workplace closer to decision-makers.

This merely consultative role does not necessarily mean that their role in law-making and policy-designing processes is weak, provided that the institutions concerned are nationally recognized, which allows their voice to be heard and respected by political decision-makers. A sine qua non for this is that tripartite partners work together over time and develop a robust network of formal and informal, private and official links, whose essential elements are trust and respect.

It appears that where such a routine of regular contacts exists, soft regulations generally defining the framework of institutional support for this routine are sufficient. Where the process of building up such networking and relationships is not yet mature, as is the case in the Western Balkans and Moldova, the government is called upon to pro-actively encourage and support it. It can do so by legally committing itself to seeking the opinions, positions or recommendations of the national tripartite body on wider economic and social matters of common concern when designing and implementing economic and social policies.

The timing of requests for opinions is essential. For the ESC’s consultative advice on the government’s legal initiatives to have any impact on the decision-making process, it must be sought prior to the discussion of these initiatives in the government and their submission to parliament.

To further facilitate the law-making process, it is advisable that the record of debates is appended to the ESC’s opinion, recommendation or position until adoption or rejection by parliament, thereby providing law-makers with all the standpoints of the tripartite actors participating in debates.

Early involvement of the ESC through its technical support units (usually tripartite standing or ad hoc committees) in law-making is also very important in order to provide well-founded advice. It is worth mentioning the practice of the Dutch SEC, which has developed a regular feedback mechanism, both formal and informal, with various ministerial departments. Members of tripartite committees of the Romanian ESC also participate in tripartite committees of social dialogue established in key ministries where draft laws are discussed in the first place.
A good practice which has proved effective in building trust and good working relations between ESCs and governments is a legal obligation on the part of the government to notify the ESC when it decides not to follow its advice and to justify that decision.

It goes without saying that a legal obligation on the part of the government to ask for the ESC’s opinion does not constitute a legal obligation to follow it. Essential prerequisites for this to happen, eventually, are the technical quality of advice, its added value in terms of political action and a certain pragmatism on the part of decision-makers. Where governments have understood that it is in their interest to obtain the support of the social partners in policy-making processes, national tripartite bodies have been given a high profile and their opinions considered. However, it has been proved that national tripartite consultations cannot replace collective bargaining. Experience presented at the conference clearly shows that meaningful tripartite social dialogue is dependent on sound collective bargaining foundations at various levels.

5.2 Building the technical capacities of Economic and Social Councils

Building the technical capacity of national tripartite bodies so that they are able to deliver high quality advice is another challenge faced by national tripartite constituents in Central and Eastern European countries.

Since ESC mandates usually cover a wide range of matters from wage and tax setting, labour legislation, social security and labour market policies to the impact assessment of economic and social policies and international cooperation, it is essential that they have easy access to the necessary expertise.

Practice in the region shows that the involvement of experts in the work of ESCs may take different forms, from fully–fledged members of the national advisory body, as in the Dutch SEC, to members of standing committees alongside the government and social partner representatives, as in the Slovenian ESC.

A permanent technical secretariat can also play a key role in technically backstopping the advisory process. In addition to administrative tasks, it can provide background research for ESC members. It goes without saying that for such complex tasks sufficient human and financial resources should be secured independently of other budget allocations.

When, due to budgetary constraints, the secretarial tasks of the tripartite body are undertaken by a unit in the Ministry of Labour, it is crucial for the proper functioning of the body that sufficient staff are assigned to these tasks, given that they cover a wide range, from preparing and disseminating background information to awareness-raising and international relations.

Both governments and social partners are called on to make all necessary efforts to secure wider access on the part of their members in national tripartite bodies to lifelong learning and training, and to support ESCs in building networks with universities, think tanks and research institutions.

5.3 Building trust among the actors involved in social dialogue

Experience so far proves that social dialogue is an ongoing process of learning and confidence building. This is not always acknowledged by all participants, who may be influenced by political developments, individual personalities and subjective perceptions.

Trust can develop only when the parties become partners in negotiations conducted in good faith and with the aim of reaching agreement. It implies mutual recognition of the legitimacy and bargaining power
of the other party. The social partners are most likely to require such recognition in the process of collective bargaining on the terms and conditions of employment and labour relations.

In the Western Balkan countries and Moldova, workers’ and employers’ organizations rarely meet in bipartite negotiations at various levels and prefer instead to lobby the government. Mutual recognition between the social partners is not widespread and thus the sine qua non of mutual trust is not always met. In the absence of such “natural identification”, the need to establish “who’s who” has, in most Western Balkan countries, led to legal initiatives to lay down statutory criteria of representativity for the social partners.

Collective bargaining offers a flexible framework for developing a culture of constructive compromise when tackling issues of common interest for workers and employers in the labour market. Therefore, the social partners should make use of this powerful tool to the fullest extent to build trust-based relationships.

On their side, governments are called on to play a more pro-active role in encouraging and supporting workers and employers to find constructive solutions through negotiation. Legal and practical incentives to engage in collective bargaining at various levels – such as improving the negotiation skills of bipartite and tripartite actors, setting up specialized bodies, developing databases on collective agreements and social partner membership – prove to be valuable initiatives for fostering the quality of social dialogue.

5.4 Higher participation in the design and implementation of structural reforms

Tripartite social dialogue at the national level has been widely recognized as an important tool of good governance in general, and of crisis management in particular in all Western Balkan countries and Moldova, enabling governments to share responsibilities and reach social consensus or constructive compromise with the social partners in the design and implementation of economic recovery policies.

During the conference it was pointed out that the economic crisis has provided both opportunities and threats for social dialogue and Economic and Social Councils in the region. Three phases of debate in the crisis response can be identified: (i) financial stabilization; (ii) labour market measures; and (iii) structural reforms. In the first phase, governments intervened quickly and unilaterally using the financial mechanisms at their disposal; in the second stage, tripartite actors in the labour market have, in many cases, reached a compromise with the government to heavily subsidize work arrangements negotiated by the social partners. The biggest challenge to social dialogue has come in the discussion of structural reforms, where tripartite negotiations have been marked by numerous setbacks.

The ILO Global Jobs Pact calls on governments and workers’ and employers’ organizations to work together to jointly tackle the global jobs crisis through policies in line with the ILO Decent Work Agenda. It includes a commitment by governments to engage in social dialogue with the social partners to maximize the impact of crisis responses on the needs of the real economy.

Good illustrations of how to transpose a political commitment into reality are provided by the Austrian tripartite consensus on every important decision relating to crisis recovery packages and the practice developed by the Czech Council of Economic and Social Agreement of regularly monitoring the implementation of crisis response measures.
5.5 Advancing towards gender mainstreaming in national tripartite bodies

It is generally agreed that gender-related issues are not a confrontational topic of tripartite social dialogue. Gender equality has acquired the status of a moral principle and tends to be taken for granted by tripartite actors when negotiating pension reform or employment policies. However, gender inequality persists in the labour market, while it is not a top priority on the tripartite agenda.

If this principle is to be implemented, early education, promotional policies and the proactive involvement of all those concerned are needed.

Initiatives such as the ones launched by the Government of Slovenia and the Government of Moldova, which have specialized bodies monitoring gender equality, could be transposed to national ESCs. The social partners also have to multiply good practices in training their members in gender issues and further encouraging women’s participation in bipartite and tripartite social dialogue.

5.6 Social dialogue: a joint endeavour

As the conference discussion highlighted, overcoming the current challenges to tripartite social dialogue requires the joint efforts of governments and social partners and represents the key to increasing the participation of national tripartite bodies in negotiating a job-rich economic recovery. While there is no “one size fits all” solution in terms of the structure, financing and working methods of national tripartite bodies, it is important that ILO principles of tripartism be observed.
## 6. List of Participants

Sub regional Tripartite Conference on the Role of Economic and Social Councils in the Western Balkans and Moldova at a Time of Crisis 30 June–1 July 2010, Ohrid

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<td>Ms. Natasha Yukasinovic</td>
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<td>Ms Cedanka Andric</td>
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<td>22</td>
<td>Mr Nebojsa Atanackovic</td>
<td>President, Serbian Association of Employers</td>
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<td>24</td>
<td>Mr. Shahzad Bangash</td>
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<td>UNMIK KOSOVO</td>
<td>Pristina</td>
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<tr>
<td>No</td>
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<td>25.</td>
<td>Ms. Iris Dembsher</td>
<td>Head of International Social Policy Unit, Labour Law and Central Labour Inspectorate Federal Ministry of Labour, Social Affairs and Consumer Protection</td>
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<td>AUSTRIA</td>
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<td>26.</td>
<td>Mr. Ondrej Jukl</td>
<td>Secretary General of the Council for Economic and Social Agreement</td>
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<td>27.</td>
<td>Mr. David Kadecka</td>
<td>Counsellor for international relations of the Council for Economic and Social Agreement</td>
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<td>28.</td>
<td>Mr Steven T. Duursma</td>
<td>Deputy Secretary-General of the Social and Economic Council</td>
<td></td>
<td>The NETHERLANDS</td>
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<td>29.</td>
<td>Mr Valentin Mocanu</td>
<td>Vice-president of the Economic and Social Council Secretary of State Ministry of Labour, Social Protection and Family</td>
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<td>30.</td>
<td>Ms Meta Štoka Debevec</td>
<td>Secretary, Ministry of Labour, Family and Social Affairs</td>
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<td>31.</td>
<td>Ms Danica Cvetko</td>
<td>Secretary General of the Economic and Social Council</td>
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<tr>
<td>32.</td>
<td>Mr Edvard Kržišnik</td>
<td>Confederation of New Trade Unions of Slovenia</td>
<td></td>
<td>SLOVENIA</td>
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<tr>
<td>33.</td>
<td>Mr Igor Antauer</td>
<td>Secretary General of the Association of Employers in Craft and Small Business of Slovenia</td>
<td></td>
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**INTERNATIONAL ORGANISATIONS AND AGENCIES**

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<tr>
<td>34.</td>
<td>Mr. Staffan Nilsson</td>
<td>President of Group III (Various Interests’ Group)</td>
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<td>35.</td>
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<td>36</td>
<td>Mr. Nafi Saracini</td>
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<tr>
<td>No</td>
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<td>48.</td>
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