

**InFocus Programme on Social Dialogue,
Labour Law and Labour Administration**

Working Paper

**Social Dialogue at National Level in the EU
Accession Countries**

**Ludek Rychly
Rainer Pritzer**

International Labour Office – Geneva

February 2003

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FOREWORD

Membership of the European Union (EU) will soon become a reality for an important group of European Countries. This is good news for Europe but also for the ILO. The values of the European social model and the concept of the ILO's decent work approach, are closely related. One of the basic values shared by these two institutions, is the dialogue between governments, employers' and workers' organizations which is considered as part of good governance.

Good governance was a critical aspect of far-reaching social and economic changes, experienced by all the EU Accession Countries during the last decade. These changes – accompanied by high expectations and hope in the beneficial effects of the rapid introduction of market reforms – were accompanied by huge social risks. The introduction of radical measures such as price liberalization, cuts in state subsidies, convertibility of national currencies and mass privatisation was not always coordinated with appropriate legal and institutional measures. Traditional social protection systems were unable to cope with the new social risks created by mass redundancies and the sharp decline in purchasing power resulting in high unemployment and the threat of poverty.

The risks of transition could not have been taken without widespread national consensus. Effective consultations at national level were necessary from the outset to strengthen (and later to restore) the confidence of people in reform measures. National tripartite bodies were created in all the Accession Countries and played a positive role, even if their efficiency varied from country to country. Through these bodies, major reforms were the subject of consultations with the social partners, with the result that major social conflicts were, in the main, successfully avoided.

Now, it is time to take stock of these developments, and also to look further, beyond the horizon of EU enlargement. *Acquis communautaire* has been successfully incorporated into the legislation but if it is to be effective, a great deal of effort is necessary, including further improvement of industrial relations. The social partners have to be strengthened and all the parties to dialogue will need to maintain a strong will to cooperate.

The strategic issues of employment and sustainability of pension schemes are particularly challenging. Both the ILO and the EU promote full employment and social dialogue on comprehensive national employment policies as ways of achieving this objective. The Government's role is to create an enabling environment for such dialogue but the social partners, representing large societal groups, also have their share of responsibility, especially in the field of organization of work and skills enhancement. The employment policy should be fully mainstreamed into government policy with the aim of increasing the employability of the workforce, entrepreneurship, more flexible labour markets and combating discrimination. Pension reforms should also be based on a broad consensus across the political spectrum and beyond electoral cycles. Social dialogue can contribute significantly to this. Employers and employees who are the main contributors to pension schemes have a powerful incentive to ensure that they are sustainable.

To make full use of EU Membership, new member States will have to make a significant effort to improve their industrial relations systems and make them compatible with European standards. This is particularly true for sectoral social dialogue which is lagging behind significantly. But national dialogue also needs new impetus. It needs more creativity when dealing with issues related to the globalization of the economy and its effects on the competitiveness of national economies. It also needs better, less formal, but more efficient national tripartite bodies.

And last but not least, it goes without saying that process of European integration will not be accomplished without close cooperation with other European countries, especially in the Balkan region and the Commonwealth of Independent States (CIS). The experience of the new EU members, most of

which had to face a similar challenge of transition to democracy and a market economy, can be useful. We hope that this publication will also contribute to this objective.

Ludek Rychly
Senior Social Dialogue Specialist
IFP/DIALOGUE

Rainer Pritzer
Labour Administration Specialist
IFP/DIALOGUE

INTRODUCTION

The purpose of this working paper is simple: to provide readers with information and guidance on the potential of national social dialogue in transitional economies, with special reference to the process of EU enlargement.

The paper is in three parts: the first chapter deals briefly with social dialogue as a part of good governance worldwide, the second and the third chapters focus more on the needs and realities of the 13 EU Accession Countries.

The second chapter provides some guidelines and suggestions on issues that are usually or should be a part of tripartite consultations. The eight topics covered are: employment policy; wages; human resources development and training; social protection; labour legislation; occupational safety and health; European integration; and ILO matters. Of course, this list is not necessarily exhaustive as there is no one model of social dialogue and the parties are free to engage in exchange of information, consultation or negotiation in any other area where social dialogue – taking national conditions into account – might be useful and effective.

Nevertheless, almost all ILO Conventions and Recommendations, as well as some EU Directives and other legal and political texts contain provisions on the social partners' involvement, and therefore social dialogue may be politically desirable if not actually legally binding.

The third chapter provides information on the legal and institutional framework of social dialogue in the 13 EU Accession Countries. It describes the composition of tripartite bodies, the appointment of chairpersons, the different sub-committees, provides information on the secretarial support of the tripartite bodies as well as on the procedures of the meetings. The authors hope that this information on a variety of national practice could serve as valuable resource material for those who wish to reflect on further improvement of their own laws and practices. It is an everlasting challenge to keep tripartite bodies working efficiently whilst keeping abreast with the country's overall development. Experience accumulated during the last decade could also be interesting outside of Europe, especially in countries with transitional economies.

The data for this study was collected between September and December 2002. The authors of the study are most grateful for the generous information provided by the governments of all 13 EU Accession Countries and for the assistance received from the ILO National Correspondents in Bulgaria, Estonia, Poland, Romania, Slovakia as well as the ILO Branch Office in Turkey.

CHAPTER 1 – SOCIAL DIALOGUE: PART OF GOOD GOVERNANCE

Social dialogue, democracy and the market economy

Social dialogue is widely recognized as one of the principles underlying what is known as the *European social model*, based on *good economic performance, a high level of social protection and education and social dialogue*. In Europe, the concept of dialogue between governments, employers' and workers' organizations is generally accepted as a part of good governance, even if its modalities and its extent may differ substantially from one country to another and are often sensitive to electoral cycles.

In spite of this general acceptance, social dialogue is an idea which is neither politically nor ideologically neutral.

While the concept of parliamentary democracy has been developing for centuries, that of social dialogue is relatively new, a phenomenon of the 20th century. The creation of the International Labour Organization, based on the constitutional principle of tripartism, contributed largely to both the recognition and the universal propagation of this idea.

The relative novelty of social dialogue, and especially its interaction with more traditional governing methods, make it more vulnerable to attack or at least to questions such as: does the involvement of the social partners not infringe the role of parliaments, governments, or other bodies issued from elections? Is social partnership compatible with an efficient market economy? Are employers' and workers' organizations sufficiently representative to take part in discussions concerning society as a whole? Is social dialogue (with its European origins) really universal?

These questions are even more acute in the new democracies of Central and Eastern Europe. Involvement of organized groups other than classical political parties in decision-making sometimes creates questions and doubts. Social partnership is sometimes confused with the corporatism or neo-corporatism practised by totalitarian regimes.

Issues of tripartism and social dialogue are also being raised within the ILO, most recently during the International Labour Conferences of 1996 (general discussion on *Tripartite consultation at the national level on economic and social policy*) and in 2002 when a *Resolution on tripartism and social dialogue* was adopted.

These discussions led to a number of conclusions which have generally been accepted by governments and social partners and which may be useful for internal debates within the ILO member States:

- **Social dialogue does not supplement but complements classical parliamentary democracy.** Allowing large groups in society to participate in the policy formulation and decision-making processes regarding economic and social policy can strengthen and consolidate traditional policy mechanisms. Democracy should not be limited to voting in periodic elections. Social dialogue is **flexible**: partners may meet whenever it is deemed necessary. But it may also be **strategic**: aimed at securing long-term rather than short-term gains. On the other hand, social dialogue is fully efficient **only in a democracy**, in a society which not only professes but also practises basic human rights and freedoms.
- **Social dialogue is not in contradiction with the market economy.** On the contrary, it can help to sustain its effective functioning by dealing with its social aspects. It may prevent or

solve unnecessary and violent social conflicts by achieving acceptable compromises between economic and social imperatives, and it may **improve the business and investment environment**. It is also an instrument of better productivity and competitiveness.

- **Social dialogue is not an end in itself, but rather a tool for dealing with various economic and social problems.** The European Union considers it as the driving force behind successful economic and social reforms. Social dialogue is recognized as having special merits in such innovative areas such as enhancing skills and qualifications, modernizing the organization of work, promoting equal opportunities and developing active ageing policies. Chapter 2 describes how social dialogue can contribute to employment, social protection and other issues.
- **There is no universal model of social dialogue.** It is a concept flexible enough to be adapted to the most diverse situations. Chapter 3 of this paper describes a variety of existing national institutional and legal frameworks, but in general, form is not a sufficient criterion for the assessment of the efficiency of social dialogue: content and impact on real social and economic life are what should be assessed.
- **Social dialogue is not just a form of crisis management.** Unfortunately, governments sometimes turn to the social partners uniquely in a situation of economic crisis when they are seeking support for unpopular measures. This approach is fundamentally flawed: dialogue must be based on mutual trust and confidence built up over long years of **cooperation in good faith**. Therefore, social dialogue should be used not only in adverse but also in favourable economic circumstances.

What do we mean by social dialogue?

Various attempts have been made to describe social dialogue concisely but comprehensively. As suggested above, there is no universal model so the universal definition must be of a general nature.

From a practical point of view, let us stick to the most recent definition used by the ILO:

“ Social dialogue represents all types of negotiation, consultation and information sharing among representatives of governments, social partners or between social partners on issues of common interest relating to economic and social policy.”

Some brief remarks on three aspects of this definition follow below.

The **purpose** of social dialogue (negotiation, consultation or information) differs according to its **content** and may differ substantially from one country to another. It can be represented as a pyramid: at its base, there will be a wide range of issues on which social partners just exchange information without wishing to influence their respective positions. On a more limited number of issues, the partners prefer to consult each other, with a view to converging their positions. Only a very narrow range of issues is usually subject to real negotiations with a view to reaching an agreement, most frequently in the form of a compromise acceptable to all parties.

The **method** of social dialogue (bipartism or tripartism) depends on whether the parties prefer the government's involvement or just meet between themselves. Whereas at industry level, bipartism is the general rule, at national (inter-occupational) level, the government's involvement is desirable and can even be necessary. In most EU accession countries, governments have been strongly involved since the very beginning of the reforms and were usually also the initiators of tripartite meetings destined to deal with urgent and large-scale reforms. In some countries, social dialogue is extended to include others, such as NGOs and community groups.

The **content** of national social dialogue is first of all dictated by the realities of economic and social life. It may therefore differ according to the needs of society at different stages of economic and social development. Often, however, it has to react to urgent events. This issue will be dealt with in Chapter 2.

Conditions for efficient social dialogue

Social dialogue is a mechanism which does not simply exist in a vacuum. Its efficiency depends on a number of objective and subjective factors, both external or internal.

The main condition – and the condition *sine qua non* – is the strong and enduring political will of all parties involved. By **political will** we do not mean behaviour dictated by pressure of circumstances. Enduring political will must be based on **awareness** of the potential of social dialogue to contribute to economic and social development.

This awareness should not be taken for granted. Commitment to social dialogue, since the concept was first mooted, has been closely related to economic and social crisis. The history of the ILO itself is a clear example of commitment to tripartism, the result of lessons learned from major events such as World War I (ILO Constitution, 1919), World War II (Philadelphia Declaration, 1944) or economic globalization (Declaration on Fundamental Principles and Rights at Work, 1998).

In the European Union, the role of social policy and the involvement of the social partners has also undergone tremendous changes since the adoption of the Treaty of Rome in 1957. While at the beginning social policy had a very limited and purely complementary role (to deal with distortion of the market), subsequent amendments to the Treaty have seen a shift of employment and social affairs (and social dialogue) into the heart of the EU policy making. The Single European Act (1986) provided a social dimension as a complement to the internal market, the Maastricht Treaty (1989) introduced a new social chapter thereby defining the scope of social policy at European level and the Treaty of Amsterdam (1997) brought an innovative approach to the coordination of employment policies (with a clearly defined role and responsibility for the social partners). Quite clearly, in the European Union, social dialogue became a progressive part of a general strategy designed to make Europe more competitive vis-à-vis its main world partners.

Besides political will, other conditions for social dialogue should also be mentioned, which determine its importance for economic and social life. These are in particular:

- **Appropriate political environment**, a pluralist democracy in particular, necessary for open political dialogue as well as sharing of basic values by all actors;
- **A market economy** providing the main stakeholders with a real choice in their decision making (as opposed to central planning);
- **A legal framework**, especially labour laws, enabling the social partners to negotiate terms and conditions of employment;
- **Efficient institutions** which serve as the “ hardware “ of social partnership (see Chapter 3);
- **Free, independent, sufficiently representative and democratic employers’ and workers’ organizations;**
- **Technical competency among all stakeholders.**

In the EU accession countries, the relative weakness of the social partners, especially employers’ organizations, seems to be the most problematic issue, but any analysis of this is far beyond the scope of this paper.

Nevertheless, what should be underlined in this connection is the critical role of governments as a catalyst for national social dialogue.

The *Resolution concerning tripartism and social dialogue*, adopted by the International Labour Conference in 2002, invites governments to ensure that the necessary preconditions for social dialogue exist, including respect for the fundamental principles and the right to freedom of association and collective bargaining, a sound industrial relations environment, and respect for the role of the social partners. It also urges governments, as well as workers' and employers' organizations to promote tripartism and social dialogue, especially in sectors where tripartism and social dialogue are absent or hardly exist.

CHAPTER 2 – CONTENT OF SOCIAL DIALOGUE

Broad or narrow concept?

As stated earlier, social dialogue is not an end in itself, but a tool in the hands of governments and social partners.

The purpose for which this tool is used depends on the parties to the dialogue. In this chapter we will try to show which considerations are generally taken into account when defining the scope of dialogue at national level. In the case of EU accession countries social dialogue can contribute to:

- **Accomplishing far-reaching economic and social reforms;**
- **Facilitating EU integration process;**
- **Maintaining competitiveness in the globalized economy;**

The unusual extent of the reforms implemented by all of these countries during the last decade easily explains why all of them opted for a very large content of national social dialogue, going far beyond more traditional issues such as setting of wages and other conditions of work, social protection, labour market policies or occupational safety and health.

The only comprehensive definition of the scope of national social dialogue contained in ILO instruments is that of the ILO *Recommendation on Consultation and Cooperation between Public authorities and Employers' and Workers' Organizations at the Industrial and National Level, 1960 (No. 113)*.

The Recommendation (especially Articles 1, 4 and 5) formulates as a general objective of consultation and cooperation the **promotion of mutual understanding and good relations** between public authorities and social partners, as well as between social partners themselves, with a view to **developing the economy as a whole or individual branches thereof, improving conditions of work and raising standards of living**.

The Recommendation draws a clear distinction between **joint consideration** of “matters of mutual concern” with a view to arriving, to the fullest extent possible, at “agreed solutions” and the **process of consultations**, when the competent public authorities seek the views, advice and assistance of employers' and workers' organizations in respect of such matters as -

- the preparation of laws and regulations affecting their interests;
- the establishment and functioning of national bodies, such as those responsible for organization of employment, vocational training, labour protection, industrial health and safety, productivity and welfare, and;
- the elaboration and implementation of plans of economic and social development.

Reading this ILO Recommendation, which dates back to the year 1960, proves that even though the language has changed slightly in the meantime, the focus on a broad range of issues and a highly comprehensive approach to both social and economic issues is still modern and corresponds perfectly to the current economy, which is more universal and more globalized than that of the sixties.

More specific ILO standards deal with tripartite consultations. Two Conventions and two Recommendations shall be mentioned here in particular. These are firstly the *Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)* and its accompanying *Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152)*. These standards address tripartite consultation relating to ILO activities, and, more particularly, the ratification and application of International Labour Standards.

Secondly, reference has to be made to the *Convention concerning Labour Administration: Role, Functions and Organisation (No. 150), 1978*, and its accompanying *Recommendation concerning Labour Administration: Role, Functions and Organisation (No. 158), 1978*. These two standards outline that the “system of labour administration covers ... any institutional framework ... for consultation with and participation by employers and workers and their organisations” (Art.1b). Convention No. 150 specifies the arrangements of such an institutional framework and Recommendation No. 158 gives indications concerning its implementation.

With regard to tripartite discussions, Convention No. 150 requires that countries shall make arrangements appropriate to national conditions and secure, within the system of labour administration, consultation, co-operation and negotiation between the public authorities and the most representative organizations of employers and workers, or – where appropriate – employers’ or workers’ representatives (Article 5). The formal creation of a tripartite body can help to ensure consultation, cooperation or negotiation, in particular in transition countries and emerging democracies. Recommendation No. 158 outlines that consultations and cooperation shall take place with employers’ and workers’ organizations on a broad range of issues. The labour administration system should provide for consultation with employers’ and workers’ organizations on the elaboration, application and review of labour standards (Paragraph 5). There should be labour administration programmes aimed at the promotion, establishment and pursuit of labour relations which encourage progressively better conditions of work and working life and which respect the right to organise and bargain collectively (Paragraph 8). The competent bodies within the labour administration system should be responsible for establishing, or promoting the establishment of, methods and procedures for ensuring consultation of employers’ and workers’ organizations on employment policies and promotion of their cooperation in the implementation of such policies (Paragraph 13). The labour administration system itself should be present in the consultative bodies that deal with social and economic policies (Paragraph 19). The structures of the national system of labour administration should also be kept constantly under review, in consultation with the most representative organizations of employers and workers (Paragraph 21).

Chapter 3 will summarize the legal and institutional framework in which social dialogue between government, employers’ and workers’ organizations takes place in the EU accession countries.

BUSINESS ENVIRONMENT

National social dialogue, to be accepted as a part of good governance, should serve the interests of all actors involved. Obviously, they all share the long term objective of sustainable economic growth, increase in the standards of living as well as an interest in maintaining social peace. Nevertheless, in the short run, their goals may differ.

Governments are obviously interested in social partnership to find balanced approaches to various political issues and to implement its policies effectively. Trade unions are interested in guaranteeing through this dialogue, necessary protection for their workers, to protect their job security and to insure their participation in the distribution of the wealth created by the society.

Employers may also benefit from the various effects of a sound tripartite dialogue that can substantially improve the business and investment climates in their country. Social dialogue can be conducive to:

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- Macroeconomic stability resulting from responsible wage negotiations respecting the relationship between the wage and labour productivity;
 - Balanced labour legislation enabling employers to adapt to changing markets and thus maintain their competitiveness;
 - Effective social security systems which protect their clients but which do not create an unbearable burden for enterprises and other tax payers;
 - Cooperative industrial relations preventing and solving unnecessary and damaging industrial conflicts;

Employers may also be interested in putting other more specific issues on the agenda such as:

- Investment promotion. Government and social partners should agree on specific measures on how to increase both domestic and foreign investments, including measures promoting human resource development or by taking fiscal measures.
- Privatization. Actors of social dialogue may agree upon measures on how to accelerate and make more efficient (and socially acceptable) privatization of state-owned enterprises.
- Vocational training for improved competitiveness. Social partners could agree on measures to promote vocational training, in particular for young persons entering the labour market.

Employers are therefore interested in the efficient functioning of national tripartite bodies. They should systematically put issues related to business environment on their agenda and improve their own technical capacity to deal with complex economic and social issues.

Employment Policy

Employment is a central political concern of both EU Member States and EU accession countries. A high level of employment is recognized as being a key element in finding solutions to the most urgent social problems, such as ageing, sustainability of pension schemes, competitiveness or social cohesion.

The ILO and EU employment policies are quite complementary and, to put it simply, converge on two main approaches:

- **Employment policy should be comprehensive**
- **Social partners should be involved**

Both ILO standards and the EU *acquis* provide us with excellent guidance, and are in many respects similar.

The main ILO instrument is still the *Employment Policy Convention, 1964, (No. 122)*. This Convention is very brief and is focused on the issue of employment promotion, whereas the main EU tool, the *Employment Guidelines*, are renewed every year and are therefore much more flexible and more specific on measures to be taken.

Both of these instruments consider social partnership as a key tool for their implementation. Nevertheless, the *Employment Guidelines* go further than the ILO Convention: the social partners are not only supposed to be consulted by governments, but they are invited to **take their own measures** based on their specific **responsibility**.

The *ILO Employment Policy Convention, 1964, (No. 122)* obliges Member States "**to declare and pursue, as a major goal, an active policy designed to promote full, productive and freely chosen employment**". The said policy shall aim at ensuring that:

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- there is work for all who are available for and seek work;
 - such work is as productive as possible;
 - there is a freedom of choice of employment.

This policy shall take due account of the stage and level of economic development and the mutual relationship between employment objectives and other economic and social objectives.

Each Member shall:

- decide and keep under review, within the framework of a coordinated economic and social policy, the measures to be adopted for attaining the objectives of the Convention
- take the necessary steps, including when appropriate, the establishment of programmes for the application of these measures."

In Article 3, the Convention clearly states that, in its application “ **representatives of persons affected by the measures to be taken, and in particular representatives of employers and workers, shall be consulted concerning employment policies, with a view of taking fully into account their experience and views and securing their full cooperation in formulating and enlisting support for such policies.**”

The principles set forth in Convention 122 are further developed by the *ILO Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169)*, especially in the area of promoting equal treatment, combating illegal employment, transfer of workers from the informal to the formal sector, adjustment to structural change or transfer of undertakings. This Recommendation also provides a very practical guide to social partners on their own possible action (see part V. “Action by employers and workers and their organizations “).

Following the adoption of the *Amsterdam Treaty* which introduced a new title for employment, it was agreed at the *Luxembourg Jobs Summit (1997)* that this strategy should be built on thematic priorities, grouped in four pillars and described in the *Employment Guidelines*. Every year, these Guidelines are translated into *National Action Plans for Employment* by Member States. The *Plans* are analysed by the Commission and the Council and result in a Joint Employment Report as well as country specific recommendations for Member States. A similar procedure was also introduced vis-à-vis EU accession countries which are obliged to elaborate – together with the European Commission – the so-called Joint Assessment Papers (JAPs). These are evaluations of those countries' labour market policies, taking into account their future obligations based on the European Employment Strategy.

The role of the social partners in implementing the new EU employment strategy is crucial. *The 2001 Employment Guidelines* are quite explicit:

“The Member States will develop a **comprehensive partnership with the Social Partners for the implementation, the monitoring and the follow-up of the Employment Strategy**. The Social Partners at all levels are invited to step up their action in support of the Luxembourg process... the Social partners are invited to develop, in accordance with their national traditions and practices, their own process of implementing the guidelines for which they have the key responsibility, identify the issues upon which they will negotiate, and report regularly on progress as well as the impact of their actions on employment and labour market functioning. The Social Partners at European level are invited to define their own contribution and to monitor, encourage and support efforts undertaken at national level.“

What are the guidelines for which social partners have the **key responsibility**?

- Modernization of organization of work (Guideline 14): the social partners are invited to negotiate and implement, at all appropriate levels, agreements to modernize the organization of work, including flexible working arrangements, with the aim of making undertakings productive and competitive, achieving the required balance between

flexibility and security, and increasing the quality of jobs.... Subjects to be covered may include, for example, introduction of new technologies, new forms of work (e.g. telework) and working time issues such as the expression of working time as an annual figure, the reduction of working hours, the reduction of overtime, the development of part-time working, and access to career breaks...

In addition to Guideline 14, which is addressed to the social partners, Guideline 15 asks the Member States where appropriate with the social partners to:

- review the existing regulatory framework of the labour market;
- ensure better application of existing health and safety legislation;
- examine the possibility of incorporating more flexible types of contract in national law, and ensure that those working under new flexible contracts enjoy adequate security and higher occupational status.

Guideline 16 deals with the **renewal of skill levels as a component of Lifelong Learning** the Social Partners are invited – at all relevant levels – to conclude agreements on life long learning and to encourage companies to identify and disseminate best practices on this issue.

The social partners are also expected to cooperate with governments in the **elimination of labour market bottlenecks**, mainly through measures concerning labour market administration and by making more efficient active labour market policies by:

- developing the job-matching capacities of employment services;
- developing policies to prevent skills shortages;
- promoting occupational and geographical mobility;
- improving databases on jobs and learning opportunities.

Another area of labour market policies, where social partners are supposed to play an important role, is the **strengthening of equal opportunities for women and men and reconciling work and family life** (Guidelines 18 and 19).

Social partnership, dialogue and negotiations– along with traditional legislative and administrative measures - clearly represent the most important way of implementing the *Employment Guidelines*.

The *EU Employment Guidelines*, together with *ILO Convention No. 122* and *ILO Recommendation 169*, provide excellent guidance for national tripartite councils and their Constituents. The social partners possess information about the labour market that is essential for any successful employment policy, but they are also the key actors in effectively carrying out agreed policies. The social partners should be involved in all three important stages of employment promotion, i.e.

- **policy setting,**
- **developing programmes that support the strategies chosen and**
- **evaluating policies and programmes.**

In order to make these consultations effective, all parties involved should have access to reliable **labour statistics** and other necessary information, and have the **technical capacity** to deal with these complicated issues.

Wages Policy

Wages policy is the most traditional issue of social dialogue and collective bargaining especially at enterprise and industry level, and it has the most direct impact on the day-to-day lives of

workers as well as on the competitiveness of business. It is also a source of potential conflict as it has different implications for employers and workers.

At national level, it is one of the macroeconomic factors influencing the inflation rate, general competitiveness of economy, employment levels, state of public finance or levels of investment. Wages in the market economy are basically the outcome of collective bargaining, but governments are vitally interested in maintaining some influence, directly or indirectly, on wage trends. Coordinated but decentralized wage bargaining is considered by some influential economists as an instrument to maintain a healthy economic environment.

Very early in their economic reforms, most of the EU accession countries abandoned administrative and centrally planned wage mechanisms and methods and thus opened the way for social dialogue on wages.

At central level, social dialogue dealt with:

- **legislative framework** regulating collective bargaining on wages and implementing some basic principles of wages policy (non-discrimination, equal pay for work of equal value, protection of wages);
- specific legislation on the **minimum wage**, often accompanied by more or less formal tripartite negotiations concerning minimum wage-fixing, its amount and adjustments;
- **political guidelines for wage development** based on joint assessment of criteria such as expected economic growth, increases in productivity, competitiveness of businesses, comparison with expected wage increases in the public sector;
- **legislation on public service pay and negotiation** of the salaries of individual categories of public service employees.

Probably the most problematic area of all was the **statutory minimum wage**, which rapidly became a source of intense political and economic controversy. This is clearly an area where social dialogue has a crucial role to play.

The topic of minimum wages has been a subject of close attention since the ILO's creation, and during its existence, the ILO has adopted several instruments setting standards on the principles and methods of minimum wage regulation. For the sake of clarity, let us focus just on the most recent major instruments, the *Minimum Wage Fixing Convention, 1970 (No. 131)* and the *Minimum Wage Fixing Recommendation 1970 (No. 135)*.

The Convention (Article 1) lays down the obligation for ratifying States to **establish a system of minimum wages** that covers all groups of wage earners whose terms of employment are such that coverage would be appropriate.

Contrary to earlier instruments on the same subject, the Convention (Article 4) creates a general and absolute **obligation to create minimum wage-fixing machinery**.

It is also the first minimum wage Convention to contain specific provisions on **criteria to be used in determining the level of the minimum wage** (Article 3).

One of the core requirements of the Convention is **consultation and participation of the social partners**. The Convention provides that consultation should apply at two different levels:

1. On the preliminary question of the **determination of the groups of wage earners to be covered** (Article 1, par. 2);

2. On the **establishment, operation and modification of the minimum wage-fixing machinery** (Article 4, par. 2).

Moreover, in paragraph 3 of that Article, the Convention provides for **direct participation by the social partners** in the **operation** of the wage-fixing machinery.

Together with the even more detailed provisions of the accompanying Recommendation, the above provisions give clear guidance on the role and objectives of national social dialogue on minimum wage fixing.

Another area of national wage negotiations mainly concerns the issue of **future wage trends**.

Obviously, the instruments available to governments and national employers' and workers' organizations in the market economy are quite limited. Administrative wage regulation measures were abandoned in most EU accession countries at the very beginning of the reform process and , as social dialogue at branch level is quite weak, wages are negotiated mainly at enterprise level.

Nevertheless, general wage trends are still a priority issue for governments, at least from the point of view of:

- **containing inflation rates within acceptable limits;**
- **maintaining relativities between sectors and occupations;**
- **maintaining the competitiveness of enterprises, as well keeping the national economy as a whole attractive to foreign investors;**
- **Achieving gradual convergence of both price and wage levels with the European Member States.**

These goals are certainly shared by both social partners, but the priority, weight and measures taken in order to achieve them may differ. National social dialogue, based on shared long-term values (and shared objective macroeconomic data and statistics) can help employers and workers to negotiate wage increases at branch or enterprise level which are compatible with national interests. Examples of such policies exist in EU Member States, often anchored in the medium-term social pacts. Most transition countries still use the more traditional methods - yearly general agreements - which are often just a list of objectives and do not represent real strategies agreed between the government and social partners.

In order to be effective, any wage strategies and guidelines agreed at national level must be understood and accepted by the social partners at industry and enterprise level. It is important that any compromise agreed by umbrella organizations of employers and workers is taken after consulting with their members. If these recommendations are clear and based on generally accepted economic facts, they have a chance of being taken into consideration in collective bargaining which has to adapt the national targets to the conditions of the specific branch or enterprise.

The European Union considers wages policy as an element of a macroeconomic policy which plays a key role in sustaining growth and employment and in preserving price stability, especially with the creation of the euro zone. Wage development in Member States should reflect different economic and employment situations. Governments should promote the **right framework conditions for wage negotiations by social partners**. For wage development to contribute to an employment-friendly policy-mix, the social partners should pursue a responsible course and conclude wage agreements in line with the general principles set out in the broad economic policy guidelines.

The *Council Recommendation on the Broad Guidelines of the Economic Policies of the Member States and the Community* (2001/483/EC) defines three objectives of wages policy:

- an increase in nominal wages should be consistent with price stability;

- an increase in real wages should not exceed growth of labour productivity taking into account the need to strengthen, where necessary, and subsequently maintain, the profitability of capacity-enhancing and employment-creating investment;
- wage formation processes should take account of productivity differences, *inter alia*, related to skills, qualifications or geographical area.

Since wages are recognized as being essential for the worker's and his/her family's maintenance, provisions to protect **workers' claims in the event of their employers' insolvency** are one of the most traditional measures of social protection. To avoid a situation where wage earners are deprived of their livelihood upon the bankruptcy of their employer, provisions have to be made to guarantee a rapid settlement of debts by employers to their employees. The *Protection of Wages Convention, 1949 (No. 95)* set out in Article 11 the almost universally recognized principle according to which wage claims should be treated as privileged debts in the event of bankruptcy or judicial liquidation of the enterprise.

The principle of preferential treatment of wage claims in the event of the employers' insolvency was later substantially reinforced through the adoption of the *Protection of Workers' Claims (Employer's Insolvency) Convention, 1992 (No. 173)* and accompanying *Recommendation, 1992 (No. 180)*, introducing a new tool for employees' claims protection: **wage guarantee institutions (funds)**.

ILO and European Union standards on this matter are quite similar. With respect to guarantee institutions, the provisions of ILO Convention No. 173 were inspired to a certain extent, by *European Council Directive 80/987/EEC of 20 October 1980*.

National law and practice on wage guarantee funds varies considerably from one country to another. Both ILO Convention No. 173 and the EU Directive set forth only generally worded principles rather than detailed rules regarding the operation of these funds. Neither ILO nor EU standards give a precise definition of the "guarantee institution". The Convention (Article 11) leaves it to ratifying States to regulate, by means of laws or regulations or by any other means consistent with national practice, the modalities of its application including the **organization, management, operation and financing of wage guarantee institutions**. The Directive also states (Article 5) that "Member States shall lay down detailed rules for the organization, financing and the operation of the guarantee institutions, complying with some basic principles: inaccessibility of the assets to insolvency proceedings, employers' contribution to their financing, institutions' liability even in the case of non-fulfilment of the obligation to contribute to financing".

A very general wording of both ILO and EU standards means that the Member States are quite free when implementing their provisions in national laws and practice. Since all aspects of wage protection are of common concern to the social partners, it is **highly recommended or perhaps even essential to involve the social partners in decisions concerning:**

- **general legal framework of wage protection and wage guarantee funds in particular**, including the necessary changes and amendments in Labour Codes, bankruptcy laws, civil law proceedings etc.;
- **financing of wage guarantee funds**, in particular its sources and extent of contribution by the State and employers, utilization of already existing funds etc.;
- **organization and administration of wage guarantee funds** (including possible utilization of existing institutions such as employment offices or social security administration and the role of the social partners in administration of these institutions) and **reimbursement procedures**;
- **definition of workers' claims and extent and conditions of payments from these funds**, taking into account provisions of both ILO and EU standards;
- **regular assessment of the functioning of these funds and their efficiency**.

Human Resources Development and Training

Both the ILO and the European Union recognize that peoples' skills and capabilities, and investment in education and training, constitute the key to economic and social development. Both of them recognize that the social partners have resources and experience to contribute to planning, organization and implementation of HRD and training policies.

In Lisbon (2000) , the European Union set itself a new strategic goal for the next decade: “ to become the most competitive and dynamic **knowledge-based** economy in the world capable of sustainable growth and better jobs and greater social cohesion “. To fulfil this ambition, the Broad Economic Policy Guidelines (BEPGs) set out a comprehensive policy strategy. This strategy consists of growth- and stability-oriented macroeconomic policies and comprehensive economic reforms of labour, product and capital markets.

The policy recommendations in the Broad Economic Policy Guidelines associate the social partners with various envisaged measures, and – in particular – ask the Member States to “ facilitate occupational labour mobility by improving, **in dialogue with the social partners**, education, training and life-long training in order to reduce early school leaving and preparing for a successful transition to the knowledge-based economy and improve job quality. “

Human Resources Development (HRD) and Training traditionally represent an integral part of the contribution of ILO policies to the critical challenge that faces society, namely, to attain full employment and sustained economic growth in the global economy and social inclusion. The ILO' s framework of decent work addresses both the quality and quantity of employment and provides a basis for new education and training policies and strategies. Human resources development, education and training contribute significantly to promoting the interests of individuals, enterprises, the economy and society.

As observed in the Report for the International Labour Conference 2000, “ Governments typically retain primary or sole responsibility for organizing, financing and providing education and training, particularly in developing and transition countries. However, governments tend to be poorly informed about the training needs of enterprises and workers; and they are ill-equipped to adjust training programmes and policies, without input from the private sector.”

However, in the main ILO instruments in this field, the *Human Resources Development Convention, 1975(No. 142)* and *Human Resources Development Recommendation, 1975 (No. 150)* the role of the social partners is clearly defined :

“ Policies and programmes of vocational guidance and vocational training shall be formulated and implemented in cooperation with employers' and workers' organizations and, as appropriate and in accordance with national law and practice, with other interested bodies. “ (Article 5 of the Convention No. 142).

Other, more detailed provisions on the social partners' involvement in the field of vocational guidance, vocational training, vocational training standards and guidelines and training for managers and self-employed persons are contained in Recommendation No. 150. This Recommendation also deals with the **institutions** of training:

“ Representatives of employers' and workers' organizations should be **included in the bodies responsible for governing publicly operated training institutions and for supervising their operation**; where such bodies do not exist, representatives of employers' and workers' organizations should in other ways participate in the setting-up, management and supervision of such institutions.”

Other ILO instruments, Conventions and Recommendations, envisage the social partners' involvement in issues related to vocational rehabilitation and employment of disabled persons and paid educational leave.

It should be noted that this legal framework should soon be significantly modernized with the adoption of a *new Human Resources Development Recommendation*, as recommended by the International Labour Conference in 2000. This new ILO instrument should give more room for demand and labour market considerations and provide more guidance on the many issues central to contemporary training policy and systemic reforms. Among other issues, this new instrument should deal with policy, governance and the regulatory framework of training and the **roles and responsibilities of parties other than the State** (including the social partners) **in policy formulation, investing in training and provision of learning opportunities.**

The concept of partnership in HRD and training is quite natural: learning, education and training benefit individuals, enterprises and society alike.

Education and training makes **individuals** employable, helps them to gain access to decent work and escape poverty or marginalization. By investing in their human resources, **enterprises** can improve productivity, and compete successfully in increasingly integrated world markets. HRD and training contribute to improved productivity in the economy, reduce skill mis-matches in the labour market, and promote a country's international competitiveness. And finally, education and training underpin the fundamental democratic values of **society**: equity, justice, participation in economic and social life, and social cohesion. Economic growth and social development are invariably associated with large and sustained investment in education and training. Countries with the highest incomes are also those where workers are most educated.

All three parties to social dialogue are therefore equally interested in this issue. In most European countries, training for work in a lifelong perspective has become one of the key subjects in dialogue among the social partners, and between them and governments. However, the scope and effectiveness of social dialogue and partnership in training are currently limited by the capacity and resources of the stakeholders. It varies between countries, sectors and large and small enterprises. It is clear that the process of European integration brings a new dimension to social dialogue on training and the new Member States will have to work hard, in capacity building especially, to keep up with other Members.

The most recent guidelines on the agenda for social dialogue and training are to be found in the *Resolution concerning human resource training and development*, adopted by the International Labour Conference in 2000:

“ The social partners should strengthen social dialogue on training, share responsibility in formulating education and training policies, and engage in partnership with each other or with governments for investing in, planning and implementing training. In training, networks of cooperation also include regional and local government, various ministries, sectors and professional bodies, training institutions and providers, non-governmental organizations, etc. Government should establish a framework for effective social dialogue and partnership in training and employment. This should result in a coordinated education and training policy at national level and long-term strategies, which are formulated with the social partners and coordinated with economic and employment policies. It should also include tripartite, national and sector training arrangements, and should provide for transparent and comprehensive training and labour market information systems. Enterprises are primarily responsible for training their employees and apprentices, but also share responsibility in initial vocational training of young people to meet their future needs. “

What is the institutional framework of social dialogue and partnership in this area?

First of all, an important role is played by **national tripartite bodies**, which give the broad policy orientations for national economic, social and labour policies. As described in Chapter III, democratization and reforms in the EU accession countries led to the creation of these institutions in all of them.

Nevertheless, lifelong learning and training strategies create new challenges for policy and programme coordination, financing and provision of learning opportunities for all. They call for an integrated vision of education and training; a wide range of education and training pathways; new settings for learning and training, including formal and informal modes; and an expanded range of partners. It also demands new systems of resource allocation; new incentives, including skills recognition, certification and guidance to motivate individuals to learn; and changes in collective and individual behaviour. There is a need for a **modern institutional framework**.

The common trend is to establish national frameworks for human resources development and training that provide overall guidance on the reform of education and training systems and institutions in an new lifelong learning perspective. Governments have generally taken the lead in developing these frameworks, but **with the support and participation of the social partners**. Under different names tripartite and bipartite institutions (training councils or boards) for the governance of learning and training were created.

It should be noted that such a forum also exists at the European level, in the form of the **European Training Foundation**, created in 1990 by *Council Regulation (EEC) No 1360/90*. The social partners are closely associated with this Foundation and represented in its advisory forum.

Social Protection

Social protection systems in the transition economies were and are facing a double challenge:

- the old social security schemes had to be replaced or at least substantially transformed in order to be able to face new risks related to the market economy in general and to the consequences of rapid economic transformation in particular;
- the sustainability of social security schemes is under pressure from demographic ageing.

During the last decade, far-reaching reforms were undertaken in nearly all sectors of social security and health care, and an unemployment insurance scheme was introduced for the first time. These processes were quite often accompanied by intensive dialogue between the State, employers, workers and other partners involved. Also new institutions were created, especially social insurance companies, some of them under the joint supervision of the State and representatives of insured persons.

This development is in line with a long-standing ILO policy. It has long been considered important that the social partners, both insured workers and employers who contribute to the funding, be **involved in designing and running social security schemes**. The *Income Security Recommendation, 1944 (No. 67)*, states that “ the administration of social insurance should be unified or coordinated within the general system of social security services, and **contributors should, through their organization, be represented on the bodies** which determine or advise upon administrative policy and propose legislation or frame regulations”.

Under the terms of the *Social Security (Minimum Standards) Convention, 1952 (No. 102)* "where the administration is not entrusted to an institution regulated by the public authorities or to a government department responsible to a legislature, representatives of persons protected shall

participate in the management, or be associated therewith in a consultative capacity, under prescribed conditions; national laws and regulations may likewise decide as to the participation of representatives of employers and the public authorities”.

Similar requirements are also found in later instruments, such as the *Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128)*, the *Medical Care and Sickness Benefits Convention, 1969 (No. 130)*, and the *Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168)*.

There are several reasons for tripartite dialogue on social protection issues and for participation by the social partners in social security management:

- social protection should be based on a broad consensus so as to be accepted as fair and equitable;
- social protection is always a result of compromise between social, economic and political considerations;
- social protection schemes are financed wholly or predominantly by the contributions of employers and workers and/or directly or indirectly from general tax revenues;
- in some countries responsibilities for the provision of social protection, especially retirement pensions, are ascribed to enterprises;
- association of the protected persons in the administration of social protection schemes may increase transparency and public confidence in social protection institutions and reduce political influence on their functioning.

International experience shows clearly that social dialogue is especially vital when **pension reforms are planned and implemented**. Pensions are probably politically and financially the most sensitive social security branch, and any sustainable reform should be **long-term** and based on a **broad societal consensus**. Social dialogue on pension reforms can help to overcome the sometimes short-sighted objectives of political parties linked to electoral cycles.

Finally, it should be underlined, that social protection is an area in which not only governments, social security administration and the social partners are involved, but also a wide range of others – NGO's, individual enterprises, families or local solidarity networks, as well as the international community. These may also have to be included in a broader-based dialogue than the traditional tripartite consultation. But, once again, social dialogue has no universal model and, the scope of permanent or *ad hoc* arrangements for dialogue should be adapted to national conditions and to the specific situation in the area of social protection.

Labour Legislation

All the EU accession countries have recently reformed their labour legislation in order to bring it in line with EU standards but also to adapt it better to the needs of changing labour markets.

This adaptation is a continuous process with which the social partners should be closely associated. In fact, labour law reform is so important for the future of industrial relations that employers' and workers' organizations should not only be informed and consulted, they should also participate in the **elaboration of draft legislation**.

In general, new labour legislation should take into account the impact of the market economy on labour regulation. Future EU membership and economic globalization mean that enterprises (most of them recently privatized) and their inexperienced management have to adapt rapidly to the challenges of international competition as well as to cyclical and structural changes. The **mobility of labour** as well as **new patterns of work organization** obviously have consequences for **job security**. This

development, which is objective and unavoidable, is to be accompanied by a new legislative framework, sensitive both to employers' and workers' needs. The role of serious and continuous dialogue is to strike the right balance between the interests of the two parts of industry.. This is fully recognized by the *EU Employment Guidelines 2001* which invite the social partners to “negotiate and implement at all appropriate levels agreements to modernize the organization of work, including flexible working arrangements, with the aim of making undertakings productive and competitive, achieving required balance between flexibility and security, and increasing the quality of jobs.”

Another major issue for social dialogue will certainly be the introduction and widespread use of **so-called atypical employment relationships**, such as part-time, fixed-term contracts of employment, triangular arrangements or probationary contracts. The legal framework of such arrangements should be the subject of consultations and, if possible, agreement with the social partners in order to reconcile the interests of all parties involved. If properly used, such schemes can also serve as a useful tool both for harmonizing work and family responsibilities or for facilitating the insertion of disadvantaged categories of workers (young or old workers, workers with disabilities etc.) into the labour market.

Recent ILO standards dealing with “atypical” employment relationships give very useful guidance on the above and provide also for extensive tripartite or bipartite consultations, for example:

- The *Home Work Convention, 1996 (No. 177)* provides for the adoption, implementation and periodic review of a national policy on home work aimed at improving the situation of workers, **in consultation with the most representative organizations of employers and workers and, where they exist, with organizations concerned with homeworkers and those of employers of homeworkers;**
- *The Homework Recommendation, 1996 (No. 184)* goes even further and declares that “as far as possible, use should be made of **tripartite bodies** or organizations of employers and workers in the formulation and implementation of this national policy “ (Article 3,2)
- *The Part-time Work Convention, 1994 (No. 175)* also makes several references to social dialogue and requests, in particular, that the most representative organizations of employers and workers should be consulted before any law or regulations implementing this Convention are adopted (Article 11).
- The *Part-Time Work Recommendation, 1994 (No. 182)* requests employers to “**consult the representatives of the workers concerned on the introduction or extension of part-time work on a broad scale, on the rules and procedures applying to such work and on the protective and promotional measures that may be appropriate**”(Article 4)
- Both the *Convention on Private Employment Agencies, 1997 (No. 181)* and the *Recommendation on Private Employment Agencies, 1997 (No. 188)* provide for an extensive role of social partners. Recommendation (Article I.1(1)) envisages that Tripartite bodies or organizations of employers and workers should be involved as far as possible in the formulation and implementation of provisions to give effect to the Convention.

It should be noted that all ILO conventions concerning labour conditions, especially hours of work, weekly rest or holidays with pay suppose that various arrangements will be negotiated or the subject of consultation with the social partners. Even the very first ILO legal instrument, the *Hours of Work (Industry) Convention, 1919 (No.1)* provides in its article 2b for irregular arrangements of hours of work by agreement between employers' and workers' organizations.

To help its tripartite constituents in the legislative process, the ILO recently elaborated “ILO Labour Law Guidelines” providing a variety of examples of how different member states have legislated to promote the fundamental principles and rights at work. These guidelines are available on the web-site <http://www.ilo.org/public/english/dialogue/ifpdial/llg/main.htm>

Another way to assist Governments to reform their labour law, and for the social partners to work together during this process, based on Article 10, 2 (b) of the ILO Constitution, is the provision of direct assistance in the legislative process, including the elaboration of ILO comments on draft legislation and consultation with experts. If the comments are elaborated at the request of the Government or one of the social partners, ILO recommends that these comments be shared with other parties to the social dialogue.

With their entry to the European Union, the social partners from the new Members States will take part in the European consultation and legislative process, which also covers labour law issues. Since the Treaty of Rome, a number of mechanisms have been set in place to increase the social partners' involvement. The Maastricht Treaty with its social chapter brought in an obligation of the Commission (Article 137) to consult the social partners in advance of adopting legislative proposals in areas such as workers' health and safety, working conditions, information and consultation of workers or equality between men and women with regard to labour market opportunities and treatment at work.

Article 138 of the Treaty entitles the social partners to be consulted at two stages : a) on the need for and the possible direction of Community action; and b) on its content. At the end of this consultation process, the organizations can present an opinion or a recommendation to the Commission or inform the Commission of their intention to open bipartite negotiations on the subject covered by the consultation. In this case, the social partners have an initial period of nine months to reach an agreement.

These provisions have been used quite regularly since 1993 and led, *inter alia*, to other new EU legal instruments on parental leave (1995), part-time working (1997), fixed term contracts (1999) and teleworking (2002).

Occupational Safety and Health

To bring the situation in most EU Accession States nearer to EU standards of occupational safety and health will take years and it will certainly be the most expensive part of the *acquis communautaire* in the social field to implement. Even if the situation is gradually improving, especially thanks to foreign investments bringing new technologies, these improvements are uneven from country to country and from sector to sector. Technical equipment is often quite old and its modernization and adaptation to required safety standards is expensive and often impossible. Newly privatized enterprises are under-capitalized and the new owners, repaying privatization credits, are unable to invest significant amounts in modernizing machines or buildings.

Almost half of the international standards adopted by the International Labour Conference relate directly or indirectly to occupational safety and health. Four recommendations were adopted back in 1919, at the first session of the ILC. The respective EU Directives are also among the first EU legal documents on working conditions. Both the ILO and the EU adopted **general policy standards** such as the *Occupational Health Services Convention, 1985, (No. 161)* or the *Framework Directive 98/39/EEC*, and more specific legal instruments providing protection in *specific branches* or against *specific risks*.

What is also common to the ILO and the EU is the **role of social partners** in occupational health and safety.

ILO Convention 155 (Article 4) provides that “ each Member shall in consultation with the most representative organizations of employers and workers, **formulate, implement and periodically review a coherent national policy in occupational safety, occupational health and the working environment .”**

This policy, adopted on the basis of the Article 4, "... shall indicate **the respective functions and responsibilities** in respect of occupational safety and health and the working environment of the public authorities, **employers, workers and others**, taking into account both the complementary character of such responsibilities and of national conditions and practices. "

Whereas the key activities for protection of workers must be carried out at enterprise level (Part IV of the Convention), Convention 155 reiterates in its Part III that a series of decisions is also to be taken at national level, and in consultation with **representative organizations of employers and workers**.

These decisions, which should be the subject of consultation at national level, comprise:

- the enforcement of laws through an adequate and appropriate **system of inspection**;
- the provision of **guidelines to employers and workers** so as to help them to comply with legal obligations;
- a series of measures to **give effect to the national policy on occupational safety and health** (for detailed description see the Article 11 of the Convention);
- measures vis-à-vis those who **design, manufacture, import, provide or transfer machinery, equipment or substance for occupational use**;
- the inclusion of occupational safety and health issues into **all levels of education and training**;
- ensuring **coherence of the national policy** through **the necessary coordination between various authorities and bodies or creation of a central body, after consultation at the earliest possible stage with the most representative organizations of employers and workers**.

These provisions of the Convention 155, together with the more detailed provisions of the accompanying *Occupational Health and Safety Recommendation, 1981 (No. 164)* provide a useful framework for national tripartite dialogue in the National Tripartite Bodies.

Quite similar provisions with basic requirements concerning **occupational health services** can be found in *ILO Convention 161*. Each Member is required to formulate, implement and periodically review a coherent national policy on occupational health services, and this in consultation with the most representative organizations of the employers and workers (Article 2). The competent authority will also consult the most representative organizations of employers and workers on the measures to be taken so as to give effect to the provisions of this Convention (Article 4) and these employers, workers and their organizations should cooperate and participate in the implementation of the organizational and other measures relating to occupational health services on an equitable basis (Article 8). Again, more detailed provisions are contained in an accompanying *Occupational Health Services Recommendation, 1985 (No. 171)*.

It should also be noted that Part II of the *Labour Inspection Recommendation, 1947 (No. 81)* deals with **collaboration of employers and workers in regard to health and safety**, including promotion of collaboration between officials of the labour inspectorate and organizations of employers and workers.

Occupational safety and health issues (see Chapter Three) are within the purview of all national tripartite bodies in the EU accession countries. Taking into account the technical complexity of these issues, the creation of a specialized subcommittee of the National Tripartite Body is highly to be recommended. In this connection, it is worth remembering that an *Advisory Committee on Safety, Hygiene and Health Protection at Work* was set up as early as 1974, to assist the European Commission, as well as to facilitate cooperation between national administrations, trade unions and employers' organizations. This committee has a tripartite structure.

European Integration

In the majority of the EU accession countries the social partners are involved in the European integration process through national tripartite bodies, special working parties for EU affairs or on an *ad hoc* basis.

European integration issues are difficult to define as they can be understood as various legal or economic measures taken in order to harmonize national policies with *acquis communautaire*, measures destined to analyse positive or negative consequences of the EU accession or just as an attempt to coordinate the positions of various governmental bodies and social partners during the accession negotiations. Sometimes it is also difficult to distinguish between matters of internal policy and matters with a European background: during the last decade the perspective of EU accession almost became a more or less integral part of national policies.

The involvement of the social partners in EU matters is particularly helpful and desirable in the following areas:

- **Analysis of EU laws and policies and their consequences for competitiveness, employment, wages, social protection etc.** Such an analysis should provide governments and social partners with reliable data and should therefore be done by a competent and reliable research institute or by a group of experts appointed by tripartite constituents.
- **Public information on economic and social aspects of EU Accession.** The decision on EU membership should be taken by the whole population and should be based on an objective knowledge of the EU and of the consequences of enlargement for both businesses and workers. Sharing their experience with employers' and workers' organizations in EU member States as well as in other countries in transition which look to EU membership as their long-term goal, is a part of this exercise.
- **Harmonization of the *acquis communautaire* with national laws.** Consultation with the social partners can make the harmonization process more effective (EU rules are better adapted to national needs and conditions) and easier. Strong involvement of the social partners' is particularly necessary when EU Directives concerning workers' information and consultation or new forms of social partnership (works councils, European works councils) are incorporated into national law.
- **Implementation of EU policies.** In some cases, such as employment policy, the social partners' involvement is not only desirable, but obligatory, for example, as far as the implementation of employment guidelines is concerned. The social partners also have a crucial role to play in implementing policies on discrimination in employment, vocational training and education in general.
- **Structural funds.** The social partners should be consulted on the general priorities of the national regional development plans which are supported from the European structural funds. Particular attention should be paid to the human resources development component. Government and employers' and workers' umbrella organizations should also promote social dialogue concerning EU funds at any other appropriate level, especially in regions undergoing structural change.
- **Free movement of workers.** Both employers' and workers' are interested in the early liberalization of movement of workers within all EU Member States, shortening the period of provisional arrangements and the smooth and efficient functioning of the common labour market. Governments should consult with them on any measures in this area.

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- **Participating in the formulation of negotiating positions.** This task was particularly important through the whole process of negotiation of individual chapters of the accession agreements but should also continue after joining the EU. Governments should also rely on the support and advice of the social partners in future discussions on EU developments, including future enlargement.

ILO Matters

In most countries, the national responsibility for ILO matters is shared between the Ministries of Labour and Foreign Affairs. Taking into account the unique tripartite structure of the ILO and especially its specific role in achieving **cooperation between governments, employers and workers** in furtherance of social justice by the regulation of labour matters at international level, it is logical that the social partners at national level should be closely involved in the elaboration of national policies vis-à-vis this Organization.

The legal basis for this approach is to be found in the *ILO Constitution (Article 23)*, in many ILO Conventions and Recommendations and, most significantly, in the *Tripartite Consultation (International Labour Standards) Convention, 1960 (No. 113)*, *Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)*, and *Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152)*. The principles enshrined in these legal documents were further developed by *Conclusions on Tripartite Consultation at the National Level on economic and social policy, International Labour Conference, 1996*, and *Resolution concerning tripartism and social dialogue, International Labour Conference, 2002*.

In practical terms, ILO constituents in any member State should decide on both the **content** as well as the **form** of tripartite cooperation on ILO matters.

Concerning the **content**, the best guidance is provided by Convention No. 144 and Recommendation No. 152.

Convention No. 144 sets out five matters on which consultations should take place:

- **Items on the ILO Conference agenda**
- **Submissions to the national authorities of newly adopted ILO Conventions and Recommendations for consideration on their ratification or implementation**
- **Re-examination of non-ratified Conventions and Recommendations**
- **Reports to the ILO on ratified Conventions**
- **Proposals for the denunciation of ratified Conventions**

The *Recommendation* goes much further. Article 5(c) suggests that consultations should be held "... on the preparation and implementation of legislative and other measures to **give effect to international labour Conventions and Recommendations, in particular to ratified Conventions (including measures for the implementation of provisions concerning the consultation or collaboration of employers' and workers' representatives)**).

Acceptation of the *Recommendation* would therefore mean that a broad range of national policies related to ILO Conventions (described in the previous chapters) should be subject to national tripartite consultations.

Moreover, many other International Labour Conventions contain provisions establishing that the representative organizations of employers and workers are to be associated in their application. Three types of measures can be envisaged in this respect:

- Any exceptions to their application should be made only after consultation with the organizations of employers and workers concerned;
- Institutions to ensure consultation of employers' and workers' should be established;
- Public authorities should seek the cooperation of employers' and workers' organizations in the application of the legislation intended to give effect to the Convention.

ILO Standards leave considerable room for governments to determine the most appropriate form of consultation on ILO matters. It is not necessary to set up any particular institutional arrangement. Formal, informal, permanent or *ad hoc* procedures can be used, however, a formal framework may help the constituents to safeguard the cooperation. This could also help in difficult times when informal contacts are strained.

Some options that can be considered are:

- a committee specifically constituted for ILO matters;
- a body with general competency in the economic, social and labour field;
- a number of bodies with responsibility for certain areas;
- written communications;
- *ad hoc* committees and meetings.

CHAPTER 3 – Institutions of National Social Dialogue

Introduction

This chapter gives an overview of national tripartite bodies in the thirteen EU accession countries. It reflects the legal and administrative context of the central tripartite bodies and the permanent secretariats which support them.

The information for this comparative overview was collected from the Ministries dealing with social dialogue and tripartism as well as ILO National Correspondents in all thirteen countries. The information given in the following chapters is based on the replies received from the Governments and ILO National Correspondents respectively in response to a questionnaire sent to each country.¹ Each chapter also contains a summary of the completed questionnaires in table format.

Institutional framework

The completed questionnaires confirmed that all EU accession countries have one main tripartite body and most countries have a number of further tripartite bodies at the national level, dealing with more specific questions.

Regarding the policy fields of competence of the central tripartite body, the questionnaire highlighted ten different policy areas.² In eight out of thirteen countries the main tripartite body deals with the full range of labour and employment issues, as referred to in the questionnaire. Most countries deal with at least seven of these ten policy fields. Some issues, however, are being discussed in the central tripartite body of all thirteen countries (i.e. social policy, and economic policy in general) or almost all (i.e. in twelve countries: employment policy, wages, labour law, social protection, EU affairs). In three countries the main tripartite body deals with one to three additional topics.³ The Economic and Social Council in Turkey, however, addresses only three out of the ten policy fields⁴, but it should be noted that Turkey has five additional tripartite bodies dealing with specific issues. Interestingly, in those countries where no additional tripartite body is reported, the main national tripartite body covers all ten policy fields⁵ or more⁶.

With a view to additional tripartite bodies, it is noted that nine countries have such bodies at the national level. These countries have usually two or three additional tripartite bodies, dealing with more

¹ Additional background material, sent by the Ministries and Correspondents as well as from other reliable sources, was also evaluated.

² The questionnaire highlighted the following 10 policy fields: economic policy in general, social policy, wages, labour law, occupational safety and health issues, social protection, educational and vocational training, gender affairs, EU affairs.

³ The additional topics which are being discussed in the main national tripartite bodies are State budget, regional development, health promotion (in Latvia), public service salaries (in the Czech Republic), taxes, legal security, workers' participation in management (in Slovenia).

⁴ Social policy, economic policy in general, EU affairs

⁵ This is the case in Latvia, Czech Republic, Slovenia and Malta.

⁶ See footnote 3

specific questions. However, Romania reports six and Lithuania seven additional national tripartite bodies that deal with specific issues. The mandate of these bodies is usually limited to one specific issue. They are generally independent from the main body, but submit annual reports for information purposes. It appears that the most frequent separate tripartite body is a national board dealing with social security affairs (five countries), a council on the working environment or a separate council on employment policy (four countries each). It is not only the number, but also the importance of additional tripartite bodies which varies considerably among the countries. Cyprus, however, indicates a second, equally important tripartite body, which deals with general economic issues (the Economic Advisory Committee) which is chaired by the Minister of Finance.

See Table 1 (over).

Table 1 - National tripartite bodies

| | Name of main national tripartite body | Name of other national tripartite bodies | Policy fields of main body |
|----------------|--|---|-----------------------------------|
| Estonia | Social and Economic Council | 1-Estonian ILO Council 2-Working Environment Council | 9/10 |
| Latvia | National Tripartite Cooperation Council | None | 10/10 + 3 more |
| Lithuania | The Tripartite Council of the Republic of Lithuania | 1-Employment Council 2-Workers' Safety and Health Commission 3-State Social Insurance Fund Council 4-Guarantee Fund Council 5-Vocational Training Council 6-Tripartite Commission at the National Labour Exchange 7-Council of Experts at the Lithuanian Labour Exchange Training Service | 8/10 |
| Czech Republic | Council of Economic and Social Agreement of the Czech Republic | None | 10/10 + 1 more |
| Slovakia | Council of Economic and Social Concertation (Agreement – Social Pact) of the Slovak Republic | 1-Board of Directors of National Labour Office 2-Board of Social Insurance Company 3-Board of General Health Insurance Company | 10/10 |
| Poland | Tripartite Commission for Socio-Economic Issues | 1-National Employment Council 2-Commission for Collective Labour Agreements | 10/10 |
| Hungary | National Reconciliation Council (NRC) | 1-National ILO Council (NRC) 2-Integration Council (NRC) 3-National Labour Fund | 10/10 |
| Slovenia | Socio-Economic Council | None | 10/10 + 3 more |
| Bulgaria | National Council for Tripartite Cooperation | 1-National Council on Employment Promotion 2-National Council on Working Conditions | 7 / 10 |
| Romania | The Economic and Social Council | 1-National Employment Agency 2-National Institute for Pensions and other social rights 3-National Institute for Health Insurance 4-National Council for Adult Vocational Training 5-National Commission for Promoting Employment 6-National Council for Certification and Occupational Standards | 10/10 |
| Malta | Malta Council for Economic and Social Development | None | 10/10 |
| Cyprus | Labour Advisory Board | 1-Economic Advisory Committee 2-Social Insurance Board 3-Redundancy Board 4-Central Board for Annual Holidays with Pay | 8/10 |
| Turkey | Economic + Social Council | 1-Board of Social Insurance Institute 2-Board of Social Insurance Institution for the Self-Employed 3-Minimum Wage Committee 4-Arbitration Board 5-Employment Office Board | 3/10 |

Legal framework

In all thirteen countries, the tripartite body has a consultative and advisory role. In most countries (10 out of 13) it also serves as a forum for exchange of information. Some completed questionnaires state that the tripartite body also acts as a decision-making body, but it has not become clear whether there is legislation to allow a tripartite body to take the final decision on national policy issues, without further approval from the Government or the Parliament.⁷

Seven countries have based the establishment of national tripartite bodies on legal grounds. In all seven countries, the general procedures and standing orders of the relevant body are regulated by law, which, in all cases, are further specified by either administrative regulations (three countries) or a tripartite decision (four countries). In three countries, the establishment of tripartite bodies is based on administrative regulations, and these countries also regulate the procedures and standing orders through administrative regulations. In two countries (Czech Republic and Hungary) the tripartite bodies were established by a tripartite agreement, and the procedures and standing orders are also regulated in tripartite agreements. The Council in Latvia was established by decision of the Cabinet of Ministers, and the procedures were determined in a tripartite manner.

There are also tripartite bodies at a decentralized (regional or local) level in all countries (with the exception of Latvia and Malta).

See Table 2 (over).

⁷ This does not relate to a decision concerning the internal functioning of the tripartite body itself. See also chapter on outcome of meetings and Table 8.

Table 2 - Institutional and legal framework

| | Role of the main tripartite body | Legal framework concerning the establishment of the main tripartite body | Legal framework concerning procedures and standing orders of the main tripartite body | Tripartite bodies at regional / local level |
|----------------|---|---|--|--|
| Estonia | Consultation/Advisory + Exchange of information | Administrative Regulation + Tripartite Agreement | Administrative Regulation | Yes |
| Latvia | Consultation/Advisory + Exchange of information + Decision-making | Concept paper of the Cabinet of Ministers on tripartite cooperation at national level | Tripartite Agreement | No |
| Lithuania | Consultation/Advisory + Exchange of information + Decision-making | Law + Tripartite Agreement | Tripartite Agreement ("Regulations") | Yes |
| Czech Republic | Consultation/Advisory + Exchange of information + Decision-making | Tripartite Agreement | Tripartite Agreement | Yes |
| Slovakia | Consultation/Advisory + Exchange of information + Decision-making | Law | Law + Tripartite Agreement | Yes |
| Poland | Consultation/Advisory + Exchange of information + Decision-making | Law | Law + Tripartite Agreement ("Working Regulations") | Yes |
| Hungary | Consultation/Advisory + Exchange of information + Decision-making | Tripartite Agreement | Tripartite Agreement | Yes |
| Slovenia | Consultation/Advisory + Exchange of information | Administrative Regulation | Administrative Regulation | Yes |
| Bulgaria | Consultation/Advisory + Decision-making | Law | Law + Administrative Regulation | Yes |
| Romania | Consultation/Advisory | Law | Law + Administrative Regulation | Yes |
| Malta | Consultation/Advisory | Law | Tripartite Agreement | No |
| Cyprus | Consultation/Advisory + Exchange of information | Administrative Regulation | Administrative Regulation | Yes |
| Turkey | Consultation/Advisory + Exchange of information | Law | Law + Administrative Regulation | Yes |

Membership of employers' and workers' organizations in national tripartite bodies

The criteria for membership in the central tripartite body are laid down in the legislation in some countries, whereas they are determined through established practice in others. These criteria can be of a quantitative nature or a qualitative nature. Naturally, they differ from one country to another, and a combination of several criteria is usually found in each country. Upon meeting the requirements, a workers' or employers' organization is acknowledged as being representative or 'the most representative organization' by decision of the relevant ministry, a specialized governmental agency or by a court decision. Among the different criteria, the more common ones shall be summarized here: The organization has to be registered; it practically always has to be a nation-wide organization; operational activities have to cover a geographically important part of the country and/or represent a concrete number of employees or employers and/or originate from a certain number of sectors, financing is secured primarily through membership fees and own resources. However, information obtained on this issue was not sufficiently clear-cut in all cases. We therefore decided to limit ourselves to the legislative texts and the information received which is presented in the table below.

Table 3 – Representation of social partners in the central tripartite body

| Country | Criteria established | Short description of criteria |
|-----------|--|---|
| Estonia | Agreement of tripartite body | W' + E' organizations are independent to nominate their representatives. The composition of the Council is confirmed by a Government regulation. |
| Latvia | Agreement of tripartite body + Agreement within groups | The most representative W'+E' organization is a member in the Council. According to by-law, an equal number of representatives is appointed by member parties that form the Council. Representatives are appointed by decisions of the respective deciding institutions. |
| Lithuania | Law + Agreement of tripartite body | W' + E' organizations have to be at national level. Representatives of employers/employees are delegated by W'+E' organizations by their agreement. |
| CzechRep | Agreement of tripartite body | Members were initially determined in the Statutes of the Council. The Plenary Session can take a decision on new members. Criteria to be met: W'+E' organizations are established, registered, independent and have a nation-wide scope of activities. W' organizations are engaged in trade union activities, especially in collective bargaining, they are a confederation with at least three TU that represent different branches, and have at least 150'000 organized members. E' organizations have at least 200'000 employees in its enterprises and represent either industry, building industry, transport, agriculture, trade and services. |
| Slovakia | Law | W'+E' organizations represent majority of economic branches. They have activities in at least five regions. W' organizations have at least 10% of organized membership in relation to total number of employees in the country. E' organizations employ at least 10% of total number of employees in the economy. |
| Poland | Law | Initial members are determined by law. Other W'+E' organizations may be determined as representative by a court, as long as they are 1) nationwide 2) active in more than half of the economic sectors 3) have more than 300'000 members (for W' organizations) or 300'000 employees (for E' organizations). |

| Country | Criteria established | Short description of criteria |
|----------------|-----------------------------|---|
| Hungary | Law | W'+E' organizations have to 1) be registered by judicial decree 2) be settled in Hungary 3) have a valid constitution, representative system, and be operational continuously since their establishment 4) have member organizations (MO) in at least three sectors and ten sub-sectors of the economy, and the MO are justified 5) MO have at least five local organizations in different counties 6) MO together have active organizations in at least 100 enterprises 7) W' organizations have at least 100'000 organized members or E' organizations represent at least 1000 employers. |
| Slovenia | Law | W' organizations that finance themselves primarily through union dues and its own sources, plus nationwide confederation with trade unions from different economic sectors and at least 10% of the workers of these sectors or if no confederation then 15% of workers in that sector. No legislation for representativeness of E' organizations yet, but proposal being discussed with similar requirements as for W' organizations. |
| Bulgaria | Law | W' organizations have to have 50'000 members and 50 organizations with 5 members each in more than half of classified industries and local bodies in more than half of the municipalities and a national managing body. E' organizations have to have 500 members with not less than 20 employees each and 10 organizations in more than 1/5 of classified industries and local bodies in more than 1/5 of municipalities and a national managing body. Their representative character shall be verified once every three years. |
| Romania | Law | Both W'+E' organizations have to be confederations at national level, be active in at least half of municipal districts, have member organizations or employers in at least 1/4 of economic sectors, membership of at least 5% (W' organizations) or employ at least 7% (E' organizations) of the national workforce respectively. |
| Malta | Law | Member of the Council is appointed by Government based on established criteria. The Malta Council for Economic and Social Development Act, 2001, states that the Prime Minister has to appoint nine persons to the Council, nominated by representative national W' and E' organizations constituted bodies. These organizations and constituted bodies shall be listed in a Notice published in the Government Gazette and this Notice shall also indicate the number of members representing each organization and constituted body. |
| Cyprus | Tripartite Agreement | Established practice |
| Turkey | Law | The law specifies the number of representatives and the names of organizations among which the representatives can be selected, and the decision is taken by the Prime Minister. |

Composition of tripartite bodies

In most countries, the main national tripartite body has between 14 and 22 members (in nine countries), whereas this number is greater in three countries.⁸ The Labour Advisory Board in Cyprus does not have a fixed membership, as government members (and government agencies as appropriate) are invited to the tripartite meetings according to requirements and the topics for discussion. Five questionnaires indicate the presence of alternate members (usually a lower number than the number of ordinary members) and five indicate that the statute does not provide for alternate members. Concerning female representation in the main tripartite body, only four countries can confirm a number exceeding 15 per cent (Estonia, Lithuania, Hungary and Slovenia). Romania, Bulgaria and Malta report the presence of only one woman in the Tripartite Council, and Turkey currently has no female representative in the Tripartite Council.

Only five countries have an equal number of members among representatives from government, workers' and employers' organizations. A further five countries have less government representatives than Workers' or Employers' representatives. Only two countries have more government members than representatives of the social partners (Czech Republic, Turkey). It is interesting to note that six countries envisage participation of other government agencies in the tripartite body, some on a regular basis (including, for instance, the Central Bank, Statistical Office, Institute of Macroeconomic Analysis, etc.), and some on an *ad hoc* basis depending on the agenda.⁹ The ministry responsible for the tripartite body is in most cases the Ministry of Labour, if not the Prime Minister's Office. It is rare that the Ministry of Labour holds more than one or two seats among the government members. Generally the seven or eight government seats are shared among seven or eight ministries, an indication of the involvement of many government actors in tripartite discussions on social and economic issues.

In eight countries, there are as many workers' as employers' representatives in the tripartite body, whereas in four countries we see a higher number (sometimes considerably higher) of employers' than workers' representatives (the ratio can be as much as 28:14 in Poland). Cyprus is the only country to have more workers' than employers' representatives (7:6) in the tripartite board. A large number of countries have no more than two or three different organizations represented among the social partners. In Latvia, all seven workers' representatives as well as those representing the employers, come from one organization only.

According to the completed questionnaires, three countries provide for regular representation of civil society organizations either in the tripartite body directly (Estonia, Turkey) or through a separate committee (Malta). Estonia includes three private research institutes in the Social and Economic Council on a permanent basis.¹⁰ In Turkey, three representatives of non-governmental organizations and public servants, appointed by the Prime Minister, have a seat in the Economic and Social Council.

⁸ The Economic and Social Council in Romania has 27 members, the Economic and Social Council in Turkey has 34 members, and the Tripartite Commission for Socio-Economic Issues in Poland has 49 members.

⁹ These other governmental agencies are as follows:

Malta: Central Bank

Romania: National authority for privatization and state ownership

Slovenia: Office of Prime Minister, Institute of Macroeconomic Analysis and Development

Turkey: Under-Secretary of State Planning Organization, Under-Secretary of Customs, President of State Personnel Department

Poland: National Bank, Central Statistical Office, others if required

Hungary: as required and Cyprus: as required.

¹⁰ Research Centre Praxis, Institute for Future Studies, Centre of Social Studies

Malta is a particular case, insofar as the Malta Council for Economic and Social Development has appointed a separate Civil Society Committee with nine representative non-governmental organizations as members¹¹ and the Council consults this Committee on all relevant matters. All countries but one provide for *ad hoc* participation of experts, although some questionnaires state that despite a provision in the legislation, this has not been put into practice in reality.

Table 4 - Composition of tripartite body

| | Number of members, women (and deputies) | Government Members and governmental agencies | Worker Members (different organizations) | Employer Members (different organizations) | Civil Society | <i>Ad hoc</i> participation of experts |
|----------------|---|--|--|--|-------------------------|--|
| Estonia | 18 – 6 | 2+ Central bank | 6 (2) | 6 (1) | 3 | Yes |
| Latvia | 21 – 3 (0) | 7 | 7 (1) | 7 (1) | 0 | Yes |
| Lithuania | 15 – 4 | 5 | 5 (3) | 5 (2) | 0 | Yes |
| Czech Republic | 22 – 2 (alternates) | 8 | 7 (2) | 7 (2) | 0 | Yes |
| Slovakia | 21 - 2 (6) | 7 | 7 (umbrella organization) | 7 (umbrella organization) | 0 | Yes |
| Poland | 49 – 4 (0) | 7+ Central bank + 1 agency + <i>ad hoc</i> | 14 (2) | 28 (4) | Yes (not practised) | Yes |
| Hungary | 18 – 30% (0) | 3 + <i>ad hoc</i> | 6 (6) | 9 (9) | 0 | Yes |
| Slovenia | 15 – 3 (9) | 5 + 2 agencies | 5 (4) | 5 (3) | 0 | Yes |
| Bulgaria | 14 – 1 (14) | 2 | 4 (2) | 8 (4) | 0 | Yes |
| Romania | 27 – 1 (0) | 9 + 1 agency | 9 (5) | 9 (8) | 0 | No |
| Malta | 16 – 1 (14) (including Chairperson) | 4 + Central bank | 4 (3) | 5 (5) | Civil Society Committee | Yes |
| Cyprus | Number of members varies | No fixed number, ministries and agencies as required | 7 (5) | 6 (2) | 0 | Yes |
| Turkey | 34 – 0 (0) | 16 + 3 agencies | 9 (3) | 9 (3) | 3 | Yes |

Chairperson and subcommittees

In six countries, the central tripartite body is chaired by a Minister, the Prime Minister or the Deputy Prime Minister. In five countries, the position of Chairperson is held on a rotating basis among the three constituents. Malta provides an interesting case in that the Chairperson is external (neither a Government official nor a social partner) and is appointed by the Prime Minister following consultation with the social partners. Generally, when the Chairperson comes from the Government, the position of the Vice-Chairperson is shared between workers' and employers' representatives. However, in two countries the Vice-Chairperson is also a Government official. Where the Chairperson rotates among the three parties, he or she was usually elected as the Chair of his/her own group.¹²

¹¹ Representation on the Civil Society Committee covers quite distinct groups such as local councils, youth, the elderly, persons with disabilities, pensioners, consumers, professional bodies, women, environmental groups and one subregion.

¹² In Romania, the Chairperson rotates among the constituents and is appointed by Parliament.

The number of subcommittees of the Central Tripartite Body varies considerably. Whereas six countries have relatively few subcommittees (Malta with three subcommittees having the smallest number, others between four and six), four countries have a great deal more (from nine up to eighteen in the Czech Republic). In three countries, the tripartite body does not have permanent subcommittees, but establishes working groups on an *ad hoc* basis (Estonia, Slovenia, Cyprus), as the need arises. The Chairperson of a subcommittee is generally elected from within the subcommittee itself, in five countries on a permanent basis from the tripartite members, in six other countries on a rotating basis.

The policy fields of these subcommittees vary as much as their number among the different countries. They often cover traditional fields such as wage issues (in eight countries), social security (seven countries) and labour relations, but in several countries they also cover broader economic policy issues, such as national development plans, industrial restructuring and regional development, taxes, fiscal issues and national budgets. Furthermore, international affairs – EU or ILO related questions – are dealt with in separate subcommittees, as are issues with a sectoral perspective such as construction work, energy, forestry, civil service. In some countries, too, the tripartite body has created specific subcommittees on overarching issues such as statistics, the information society, illegal imports, equal opportunities, consumer advice, environment, etc. Another interesting example is the Tripartite Council in the Czech Republic, which has a subcommittee composed of the chairpersons of all its other subcommittees, to discuss the agenda of the subsequent plenary sessions. This albeit not exhaustive catalogue of so many different policy fields shows that social dialogue can be exercised in a practically unlimited range of issues, if only it is supported by the appropriate institutions¹³.

See Table 5 (over).

¹³ The different subcommittees per country and in detail are as follows:

Estonia: *ad hoc* working groups, currently: employment, vocational training, social security, legislation, poverty, wages.

Latvia: 4 subcommittees: Social protection, health care, vocational education and employment, legal affairs.

Lithuania: 4 subcommittees: Labour relations, pay, unemployment and social guarantees, international work conditions.

Czech Republic: 18 subcommittees: Tripartite and organizational issues, rules and procedures, labour relations and collective bargaining and employment, economic policy, social and welfare, safety at work, wages and salaries, civil service, transport, education, taxes and insurance, regional development, health care, industrial restructuring, illicit imports, general agreement, EU affairs, ILO affairs.

Slovakia: 4 subcommittees plus *ad hoc* working groups: Wages, safety and health, vocational training, ILO affairs.

Poland: 7 subcommittees: Labour law and collective agreements, social insurance, economic policy and labour market, budget and salaries and social benefits, social dialogue, public services, ILO affairs.

Hungary: 10 subcommittees: Wages and collective agreements, information and statistics, labour force market, labour codification, safety and health, vocational training, economic affairs, social affairs, national development plan.

Slovenia: *ad hoc* working groups, currently: Employment, social agreement, construction works.

Bulgaria: 5 subcommittees: Labour legislation, wages, social security, privatization, national budget.

Romania: 10 subcommittees: Economic restructuring, privatization, industrial relations, wages, equal opportunities, social protection and health, education and research, NGOs and international relations, SMEs, fiscal policies.

Malta: 3 subcommittees: Economic and financial, employment, social policies. In addition, the Council has appointed a Civil Society Committee

Cyprus: *ad hoc* working groups.

Turkey: 13 subcommittees: Labour life, macroeconomic, EU affairs, agriculture and forestry and rural, industry and technology and productivity, energy, commerce, tradesmen and SME, consumers, environment, regional development, human resources, information society.

Table 5 - Chairperson and subcommittees

| | Chairperson of central tripartite body | Chairperson appointed or elected by | Vice-Chairperson from | Number of subcommittees (for policy areas see below)* | Chair of Subcommittee |
|----------------|---|---|--------------------------------|---|------------------------------------|
| Estonia | Government official | Appointed by Government | Workers +Employers | <i>Ad hoc</i> working groups. Subjects changing, according to needs | Rotating |
| Latvia | Rotating | Elected by THAT group | One Vice per group | 4 subcommittees | Rotating |
| Lithuania | Rotating | Elected by THAT group | None | 4 subcommittees | Rotating |
| Czech Republic | Prime Minister | Appointed by Government | Government +Workers +Employers | 18 subcommittees | Government +Workers +Employers |
| Slovakia | Dep. Prime Minister | Appointed by Government | Workers + employers | 4 subcommittees (+ <i>ad hoc</i> , if needed) | Member of subcommittee |
| Poland | Minister | Appointed by Prime Minister | Workers + employers | 7 subcommittees | Member of subcommittee |
| Hungary | Rotating | Nominated by THAT group | - | 10 subcommittees | Rotating |
| Slovenia | Rotating | Appointed by Council | Rotating | <i>Ad hoc</i> working groups, currently 3 in place | Government or Workers or Employers |
| Bulgaria | Minister | Appointed by Council of Ministers | Deputy Minister | 5 subcommittees | Rotating |
| Romania | Rotating | Appointed by Parliament | Rotating | 10 subcommittees | Rotating |
| Malta | External expert | Appointed by Prime Minister, after consultation | Government official | 3 subcommittees | Like main body |
| Cyprus | Minister | Established practice | None | <i>Ad hoc</i> working groups, According to needs | Government official |
| Turkey | Prime Minister | By law | Workers + employers rotating | 13 subcommittees | Chosen by Council |

* See the various subcommittees in detail in the previous paragraph.

Permanent Secretariats

In all thirteen countries, the central tripartite body is supported administratively by a permanent secretariat. However, the size and role of the permanent secretariats vary considerably. In one case only, the secretariat is an autonomous body (Romania). In all other countries, the secretariat is linked in one way or another to the governmental structure: either to the Ministry dealing with social and labour affairs (six countries) or to the Government or Prime Minister's Office (six countries). The permanent secretariat's budget is in all cases entirely borne by the State or the Government (allocation in either the State budget, or the Ministry's budget).

In most countries, the permanent secretariat is a relatively small unit. In nine countries, it employs four people or less, sometimes composed of administrative staff only, to support the Chairperson. In three countries, the secretariat has between seven and ten employees. The Economic and Social Council in Romania can rely on a team of thirty employees in its secretariat. Being autonomous, the secretariat of the ESC in Romania prepares its documents independently, before submission to the Council for discussion. In all other countries, the secretariat prepares the documents using existing staff and some completed questionnaires indicate that in certain countries the secretariat can avail itself of the services of the related ministries. In several countries, the tripartite body may also receive documents for discussion prepared by trade unions and employers' organizations. Whoever prepares the documents does so from their own resources. In the majority of countries, but not all, the tripartite meetings themselves are financed from either the State budget or the Ministry budget. Three questionnaires indicate that there is no need for additional costs such as travel expenses or daily allowances (Latvia, Lithuania, Cyprus), whereas in two countries these expenses are borne by the groups themselves (Czech Republic, Slovakia).

Taking into account the government's financial commitment to the permanent secretariat, it is no surprise to see that in almost all countries the Director of the Secretariat is a government official. Consequently, in most countries, too, the Director is appointed by the Government or the Minister, although in some cases in agreement with the social partners. In three countries the tripartite body nominates the Director itself (Romania, Malta and Latvia). In two countries the present Director is a non-government official (Romania, Lithuania). The seniority of the Director of the Secretariat varies and ranges from the rank of Senior Officer (in five countries), Director of a Department (four countries) to Under-Secretary (Turkey). The management of the Permanent Secretariat of the Council in Hungary is a bit different as it is not managed by one "Director", but by the three Secretaries of the constituents jointly (secretary of the employers, the workers and the government).

See Tables 6 and 7 (over).

Table 6 - Permanent Secretariat I

| | Linked to a governmental structure | Source of Finance | Total N° of staff | Meetings financed by |
|-----------|--|--------------------------|------------------------------|--------------------------------|
| Estonia | Ministry | Ministry | 0.5 | Ministry |
| Latvia | Ministry | Ministry | 2 | No need |
| Lithuania | Ministry | State budget | 3 | No need |
| Czech Rep | Office of the Government | Government | 4 | Groups themselves |
| Slovakia | Office of the Government | Office budget | 2 | Groups themselves |
| Poland | Ministry | State budget | 10 | State budget |
| Hungary | Ministry | Ministry | 7 | Ministry |
| Slovenia | Office of the Government | State budget | 1 | State budget |
| Bulgaria | Council of Ministers | State budget | 4 | Budget of Council of Ministers |
| Romania | Autonomous | State budget | 30 | Budget of ESC |
| Malta | Prime Minister's Office | State budget | 3 | State budget |
| Cyprus | Integrated within the Ministry | Part of Ministry | No fixed number, as required | No need |
| Turkey | State Planning Organisation (SPO), attached to Prime Minister's Office | State budget | 9 | State Planning Organization |

Table 7 - Permanent Secretariat II

| | Director appointed by | Is the Director a government official ? At which level? | Professional and Admin staff |
|-----------|--|--|-------------------------------------|
| Estonia | Government / Minister | Yes. "Director" is a career government official | 0.5-0 |
| Latvia | Agreed by all parties | Yes. Senior Officer | 0-2 |
| Lithuania | Minister | No | 3-0 |
| Czech Rep | Government / Minister | Yes. Director of Department | 2-2 |
| Slovakia | Government | Yes. State Adviser | 1-1 |
| Poland | Minister | Yes. Director of Department | 10 |
| Hungary | No one Director, managed by the 3 constituents jointly | Not applicable | 4-3 |
| Slovenia | Government / Minister | Yes. "Director" is a career government official | 1-0 |
| Bulgaria | Government / Minister | Yes. Director of Department at the Council of Minister | 3-1 |
| Romania | Plenary of ESC | No | 24-6 |
| Malta | The Council itself | Yes. Director of Department | 0-3 |
| Cyprus | Government / Minister | Yes. A ministry official serves as "Secretary" | Flexible, as required |
| Turkey | Government / Minister | Yes. Under-Secretary | 9 |

Agenda, frequency and outcome of meetings

Agendas of meetings of the tripartite bodies are set in many different ways, chiefly, but not always, with the full involvement of the tripartite partners. In many countries it is the whole tripartite body that decides on the agenda (five countries) or a tripartite presidium (three countries). In three countries, it is the Chairperson alone who decides on the topics to go on the agenda, in two of these countries it is the Minister, whereas in the third, the Chairperson is elected on a rotating basis among the three constituents. In two other countries, the Chairperson decides together with the Vice-Chairperson – who in one case only represents the tripartite structure of the body. Three countries allow several stakeholders to influence the agenda (including the Chairperson or secretariat), and in all these countries the tripartite body as a whole can take a decision on the agenda. In Lithuania, each individual member can put an item on the agenda.

Generally, the main tripartite body meets five times or more per year in plenary – it is only in Estonia and Turkey that the tripartite body meets less often. In many countries meetings of specialized subcommittees are held less often than plenary sessions. The formal outcome of a meeting is generally in the form of conclusions or recommendations. Four countries conclude General Agreements and/or National Pacts. In no country evidence could be found that the decision of the tripartite body on national policy issues is the last and final word. The modus of decision-taking is by consensus in all countries - except Turkey, where the modus of ‘one person, one vote’ is used¹⁴. Three countries provide for a vote in the rules (‘one group, one vote’), with no indication whether this is current practice or not. In the Labour Advisory Board in Cyprus, if consensus cannot be reached, the decision is left to the Chairperson (Minister) and is respected by both sides.

As regards the follow-up to the tripartite meetings, all countries keep some form of written records. Countries keep either written summaries of the discussions (ten countries) or written records of the decisions (nine countries) or both (six countries). In three countries, records are also taken verbatim.

Generally, the outcomes of the meetings are circulated to a wide range of authorities and institutions concerned. Ten countries submit a report on the outcome to the relevant Ministries, ten countries submit a report to Parliament and eight countries submit a report to the Prime Minister’s Office. In addition, the results are presented to relevant governmental institutions or administrative services (in five countries), to the President’s Office (in Bulgaria), the legal offices of the Government and of the Parliament (Romania), to the Public (Turkey) or published in the Official Gazette (Hungary). Two countries inform the major social partners in official form of the results (Estonia, Slovakia). However, the Tripartite Body gets regular and formal feedback on the follow-up and implementation of its decisions in only five countries. Each time the Labour Advisory Board in Cyprus meets, it receives a progress report on decisions taken at previous meetings. According to the questionnaires, there is no formal feedback at all in six countries.

See Table 8 (over).

¹⁴ In this context it is interesting to note that Turkey is one of the few countries that has more Government members in the body than employers’ or workers’ members.

Table 8 – Agenda, frequency and outcome of meetings

| | Agenda set by | Frequency of Plenary Sessions per year | Frequency of Subcommittees per year | Outcome of Meetings | Decision Modus | Written records | Results presented to | Formal Feedback |
|----------------|-----------------------------|---|--|--|-----------------------------|---|--|------------------------|
| Estonia | Whole body | 2-4 | - | Conclusions Recommendations | Consensus | Verbatim, Summary of discussions, Record of decisions | Prime Minister, Ministries, Parliament, workers + employers | No |
| Latvia | Secretariat + whole body | >5 | >5 | Conclusions Recommendations | Consensus | Record of decisions | Prime Minister, Ministries, Relevant organizations | Yes |
| Lithuania | Secretariat +Chair +Members | 7-11 | >5 | Conclusions Recommendations General Agreement National Pact | Consensus | Verbatim, Summary of discussions, Record of decisions | Prime Minister, Ministries, Parliament, Relevant organizations | Sometimes |
| Czech Republic | Chair + Vice | >5 | As needed | Conclusions Recommendations General Agreement National Pact | Consensus or Voting (group) | Summary of discussions, Record of decisions | Prime Minister, Ministries, Parliament | Informal |
| Slovakia | Secretariat + whole body | > 5 | 2-4 | Conclusions Recommendations General Agreement | Consensus or Voting (group) | Summary of discussions, Record of decisions | Prime Ministry, Ministries, Parliament, workers + employers | Yes |
| Poland | Presidium (tripartite) | >5 | >5 | Opinions | Consensus | Summary of discussions, Record of decisions | Ministries, Parliament, Relevant organisations | Yes |

Table 8 – Agenda, frequency and outcome of meetings (contd.)

| | Agenda set by | Frequency of Plenary Sessions per year | Frequency of Subcommittees per year | Outcome of Meetings | Decision Modus | Written records | Results presented to | Formal Feedback |
|----------|---|---|--|--|-----------------------------|-------------------------------|--|------------------------|
| Hungary | Whole body | >5 | 2-4 | General Agreement, Opinions, Recommendations | Consensus or Voting (group) | Summary of discussions | Published in official Gazette | Yes |
| Slovenia | Secretariat proposes + Chair | > 5 | > 5 | Conclusions Recommendations | Consensus | Summary of discussions | Ministries, Parliament, Relevant organisations | Yes, depends |
| Bulgaria | Chair | >5 | >5 | Conclusions Recommendations | Consensus | Verbatim, Record of decisions | President, Prime Minister, Ministries, Parliament | No |
| Romania | Bureau of 9 (tripartite) | >5 | >5 | Recommendations | Consensus | Summary of discussions | Parliament, Legal Offices of Government and Parliament | No |
| Malta | Chair + Vice | >5 | 2-4 | Conclusions | Consensus | Summary of discussions | Prime Minister, Ministries | No |
| Cyprus | Chair | >5 | #1 | Recommendations | Consensus (Minister) | Summary of discussions | Ministries, Parliament, Relevant administrations | Yes, progress report |
| Turkey | Permanent Secretariat of Members (tripartite) | 4 | #1 | Recommendations | Voting (person) | Record of decisions | Prime Minister Ministries, Parliament, Public | No |

Public relations

Sittings of the national tripartite body are public in six countries and closed in seven. The Socio-Economic Council in Slovenia can approve in advance the holding of its session publicly. Following the tripartite meetings, the public is informed about the outcome via the media in all countries (radio and/or TV), and through a press conference in eight countries. Six countries have created a specific Website - as part of the Ministry's Website or a separate Website - where information about the tripartite body and its activities is available.

It appears that not all national tripartite bodies are in contact with tripartite institutions of other countries. Seven countries report such contact, mainly through bilateral relations with one or more EU countries. Only a few national tripartite bodies are related to an international network of tripartite bodies (four countries), and, according to the completed questionnaires received, the main national tripartite body in six countries has no international relations at all.

Table 9 - Public relations

| | Meetings are | The public is informed through | Internet address of Website | International Relations of the Tripartite Body |
|-----------|---------------------|---------------------------------------|--|---|
| Estonia | Public | Press Conference Media Website | www.sm.ee | Bilateral (EU) International |
| Latvia | Public | Press Conference Media Website | www.ddd.lv www.lbas.lv | None |
| Lithuania | Public | Press Conference Media Website | www.socmin.lt | Episodic |
| Czech Rep | Closed | Press Conference Media | www.vlada.cz | Bilateral (EU) |
| Slovakia | Closed | Press Conference Media Website | www.vlada.gov.sk | Bilateral |
| Poland | Closed | Media | In preparation | None |
| Hungary | Public | Press Conference Media | No | None |
| Slovenia | Closed / or public | Press Conference Media | No | Bilateral (EU) Regional (PHARE) |
| Bulgaria | Public | Media | In preparation | None |
| Romania | Public | Press Conference Media Website | www.ces.ro | Bilateral (EU) International |
| Malta | Closed | Media Website | www.mcesd.org.mt | International |
| Cyprus | Closed | Media | No | None |
| Turkey | Closed | Media | No | None |

Summary and Conclusions

Most countries have one main national tripartite body and several other tripartite bodies of a more specific nature at national level. The role of the tripartite body is merely consultative and advisory, and is not decision-making. The size of the tripartite bodies varies enormously, and it is only sometimes that government, workers and employers have the same number of representatives. Women are generally under-represented, and civil society groups are rarely connected to the tripartite body. The Chairperson is generally an official either at ministerial level or on a rotating basis among the constituents. The number of subcommittees varies enormously. In all countries, the main tripartite body is supported by a permanent secretariat, which is financed entirely from Government resources. The agendas of meetings are often decided jointly by the tripartite constituents, and sometimes by the Minister alone. Tripartite meetings seem to take place regularly and results are usually widely disseminated. Formal feedback on follow-up activities, however, is limited. In general, there is little contact with tripartite bodies in other countries.

The institutional framework in the thirteen countries is designed to hold regular tripartite meetings. Despite the diversity of the arrangements, the minimum requirements are generally met. This indicates a certain maturity among all the stakeholders in conducting an effective tripartite social dialogue in the region.

However, as policy-making is a constantly evolving process, the institutional and administrative environment needs to keep pace. This overview may allow a country to compare its own system with those of other countries with comparable political and economic situations. It may give food for thought for a further evolution of the tripartite social dialogue and when changes of external parameters are being discussed. An adequate framework, however, can neither replace nor guarantee efficient dialogue as such, as this depends largely on the capability of the partners to discuss, the substance of the discussions as well as their commitment to follow up on the agreed results¹⁵. But an adequate framework nevertheless has to be considered as a *conditio sine qua non* for an emerging and functioning tripartism. In this sense, tripartite bodies have an important role to play in the overall development of a country. This must not be underestimated and should encourage all the stakeholders at all times to ensure an adequate institutional, legal and administrative framework conducive to effective and efficient social dialogue.

¹⁵ Please refer to Chapter 2 for more details.