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SOCIAL PARTNERSHIP IN OCCUPATIONAL SAFETY AND HEALTH

Abstract: *Social partnership is of key importance when dealing with a problem in occupational safety and health. A consistent and honest dialogue based on mutual respect between all parties (the government, employer and the workers union) and dedication to achieve a common goal is the recipe for success in solving difficulties associated with occupational safety and health. Within the system of occupational safety and health the collective work agreements take a special place, because they are autonomous legal acts which are negotiated and signed by social partners. Except basic rights and obligations, collective work agreements contain legal norms which regulate occupational safety and health, and working conditions for workers' representatives. Because of that, the workers' representatives have an important role, and are an integral part of the occupational safety and health system.*

Key words: social partnership, trust, workers union, system improvement.

WHAT IS SOCIAL DIALOGUE?

According to the definition of the International Labour Organisation social dialogue encompasses: “all kinds of negotiation, counselling or simply exchange of information between government representatives, employers and workers or just among social partners on issues of common interest concerning economy and social policy. It can exist as a tripartite process in which the government is an official party in the dialogue, or it can be a bipartite relationship between workers and the board (i.e. trade unions and employers' associations) with or without direct involvement of the government. A social dialogue process can be informal or institutionalised, and often is a combination of both. It can be led at national, regional or at company level. It can be inter-sectoral, sectoral or combined.” [1]

As it can be seen from the above definition, various kinds of social dialogue are possible, encompassing collective negotiation, but there are also other forms of negotiations, counselling and communication between social partners and the government. In contrast to these forms, the internal regulations of a company as unilateral documents should not be considered forms of social dialogue.

Strengthening of the social dialogue is one of the four strategic and key goals of International Labour Organisation which are focused on the promotion of dignified work for all employees in the world and which – together with the social dialogue also encompass working standards, basic principles and working rights, the opening of new work places that will offer safety and dignity as well as social protection to women and men.

Social dialogue is also a part of European social model with reference to the fact that: “it reflects a democratic principle (included in Article 11 of the Treaty on

European Union) that representative associations should be in position to publish their standpoints, to be consulted and to lead dialogue with public authorities” and that employers and employees should be “included in bringing decisions on issues which directly concern them” [4]. An additional legitimacy to these principles can be derived from the Charter on Fundamental Rights of the European Union which includes the right of employees to information and counselling within company as well as the right to collective negotiations and collective activities (article 27 and 28) [1,6].

FUNCTIONING AND ADVANTAGES OF SOCIAL DIALOGUE

Key aspect of a social dialogue is its approach founded on social partnership. It starts from the presumption that the trade unions and the employers' associations admit the existence of a common problem and are committed to undertake joint activities in order to solve it.

The tripartite social dialogue is understood as a participative way of democratic decision bringing process. As such, it contributes to the legitimacy of state activities, as well as of trade unions and employers' associations who have their own interests and benefits from participating in decision making processes. A tripartite and equally a bipartite form of social dialogue follow a practical, co-operative approach in order to reach common understanding of the problem, find out compromise solutions and achieve mutual agreements on solutions. As a tool for achieving agreements and decreasing the number of misunderstandings, the social dialogue is precious especially in times of economic crises and transitions.

There are some important preconditions for the functioning of social dialogue. With reference to the

fact that the social dialogue institutions are a “natural habitat” of social partners, the first precondition for their adequate functioning are democratic foundations and a legal system which enables social dialogue. There must exist strong and representative organisations of employers and employees so that they might be the actors in a dialogue process. Furthermore, there should exist some common interest and readiness of all parties involved to initiate such co-operative and constructive dialogue. In reality, however, the goals of involved parties are often very different. It is not always possible to attain situation which will satisfy everybody, or a compromise, and sometimes there is even not sufficient readiness for dialogue. Therefore, a key issue is to meticulously select the issues of negotiations in a social dialogue. [2]

It is useful to start a social dialogue by discussing topics where there is some space for reaching consensus and where success can be achieved. Some of the themes which are not so complicated can be protection at work, equal possibilities and non-discrimination, or professional training and lifelong learning.

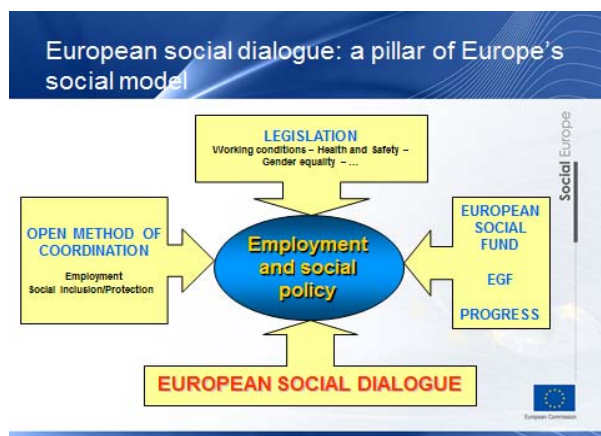


Figure 1. European social dialogue

Another central and often problematic aspect is to ensure the enforcement of reached agreements. The first key issue in the matter is to which extend is the achieved result of a social dialogue binding for social partners. [1]

EUROPEAN SOCIAL DIALOGUE

At the European level, the term Social Dialogue is used for the bipartite work of the social partners, trade unions and employer associations. Articles 151 to 155 of the Treaty on the Functioning of the European Union (TFEU) commit the European Commission to consulting social partners on economic and social policy issues and give social partners the right to pursue autonomous negotiations at European Community level. Such bipartite Social Dialogue is an

integral part of the European Social Model, and the institutions of the European Union have the task to actively promote Social Dialogue (Article 152 TFEU).

European Social Dialogue exists at the cross-industry and sectoral levels. On both levels, it may be generated by consultation under the auspices of the European Commission or as an autonomous negotiation process. At the cross-industry level the main body for discussion is the Social Dialogue Committee which meets three times a year. It is composed of 32 representatives of each of the two sides of the European social partners and chaired by the European Commission. Workers are represented by the European Trade Union Confederation (ETUC), while the employers are represented by three different European associations: the Confederation of European Business (BUSINESSEUROPE, formerly UNICE), The European Centre of Enterprises with Public Participation and of Enterprises of General Economic Interest (CEEP) and the European Association of Craft Small and Medium-Sized Enterprises (UEAPME).

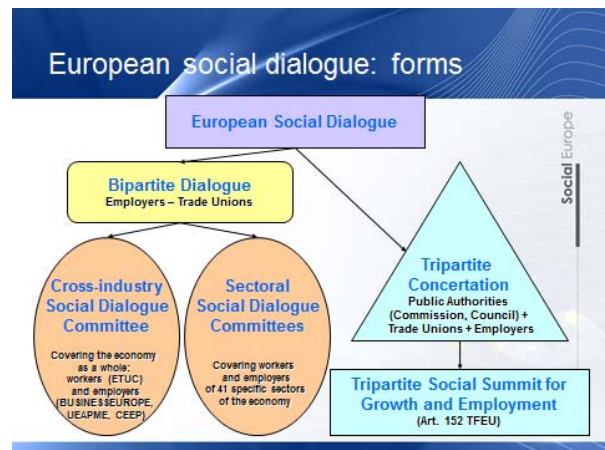


Figure 2. European social dialogue - forms

At the sectoral level, in 2012, there were 41 different Sectoral Social Dialogue Committees (SSDC), covering some 145 million workers, i.e. more than three quarter of the EU's workforce. In these committees, 63 European-level sectoral employers' bodies and 15 sectoral trade union organisations were involved. Most of the trade union organisations were European Trade Union Federations affiliated to the ETUC. SSDCs can be formed on the joint request of the social partners concerned. In order to be admitted to the discussions, the social partners must be representative and organised at the European level. Their member organisations must be a recognised part of Member States' social partner structures, have the capacity to negotiate agreements and possess adequate structures to ensure effective participation at the European dialogue level (Decision of the European Commission: 98/500/EC). SSDCs must meet at least once a year. Representatives of all national affiliates of the European federations can

participate in these meetings. All Social Dialogue meetings on European level are funded by the EU which reimburses travel costs and accommodation and provides for the technical and administrative infrastructure.

The most important function of European Social Dialogue is the establishment of social partner agreements. When consulted by the Commission, the social partners can simply issue a joint opinion on the Commission's legislative proposal which will then be discussed, eventually amended and voted by the Council and the European Parliament. Alternatively, they may also engage in their own negotiations which may lead to a social partner agreement. A social partner agreement can be implemented in two ways. The social partners can ask the Commission to implement it as a Directive, and in this way, once accepted by the Council, the agreement is legally binding and has the force of law. On the other hand, the social partners can decide to implement the agreement on their own, and in this case it is the responsibility of the national social partners to ensure that the provisions of the agreement are carried out in all EU Member States 'in accordance with the procedures and practices specific to management and labour and the Member States' (TFEU Art 155). In this case, the concrete forms of implementation may vary from country to country. In addition, social partners both at the cross-industry and the sectoral level can decide at any time to launch their own autonomous negotiations to reach agreements on policy issues of joint interest. As further forms of autonomous Social Dialogue, the European social partners can produce various types of outcomes. These mostly deal with policy priorities and orientations, strategies and action plans, either oriented towards the European institutions or engaging the social partners themselves (see the table at the end of the module). They might also engage in transnational projects such as joint publications, seminars, conferences and capacity building in New Member States, or follow-up the implementation of signed agreements at the national level.

THE BENEFITS AND CHALLENGES OF EUROPEAN SOCIAL DIALOGUE

European Social Dialogue can be used as a powerful tool to improve working conditions and to establish common minimum standards throughout Europe. Looking at its outcomes so far, two phases can be distinguished since 1990s. In the second half of the nineties, three cross-industry agreements were reached in response to consultation of the social partners by the Commission and finally implemented by Directives – on parental leave (in 1996, revised in 2008), on part-time work (1997) and fixed-term work (1999). From 2001 onwards, cross-industry social partner initiatives took a more autonomous form, resulting in a series of autonomous agreements implemented by the social partners themselves at the national level. These

autonomous agreements cover issues such as telework (2002), work-related stress (2004), harassment and violence at work (2007), as well as inclusive labour markets (2010). Moreover, in this period, social partners signed the first three cross-industry multi-annual work programmes as well as two frameworks of action. The latter indicated policy priorities in the fields of lifelong learning (from 2002 to 2006) and gender equality (2005 to 2009).

At the sectoral level, there were some social partner agreements implemented by Directives and others autonomously implemented by national social partner organisations. Five agreements were implemented by Directives: working time regulations for seafarers (1998) and mobile civil aviation staff (2000), working conditions for cross-border mobile workers in the railway sector (2004), minimum employment conditions again for seafarers (2008), and workers' protection against 'sharp injuries' in the hospital and healthcare sector (2009). For two further agreements such implementation by means of a directive has been requested by the social partners. These two agreements have been signed in 2012 and regard the organisation of working time in inland waterway transport and the protection of occupational health and safety in the hairdressing sector. In early 2013, social partners are expected to send another request to the EC regarding the implementation of the ILO Work in Fishing Convention (C188). Five agreements have instead been autonomously implemented by the national social partners: the first one in the railway sector regarding the introduction of a European license for drivers (2004), the second as a multi-sectoral agreement covering 14 industries regarding health and safety protections for workers exposed to crystalline silica (2006), a third one on a European certificate and common training standards for hairdressers (2009), and a fourth one regarding competence profiles and minimum core competences for process operators and first-line supervisors in the chemicals industry (2011). The latest autonomous agreement which still has to be implemented by the social partners was signed in April 2012. It deals with minimum requirements for standard player contracts in professional football.

Besides these agreements, many joint texts have been produced through Social Dialogue processes: 667 different documents until 2011. The large majority are joint opinions on economic and social policy issues. The most frequently treated topics are economic and/or sectoral issues, Social Dialogue procedures, training and lifelong learning, health and safety, employment promotion, working conditions, social aspects of EU policies, corporate social responsibility, working time, gender equality, and sustainable development.

Despite the benefits and the high relevance of the issues covered in these agreements, European Social Dialogue has also had to face a series of challenges. First of all, as already mentioned in the introduction, the concept of dialogue presupposes a shared willingness to engage in a cooperative, constructive and

consensus-oriented form of interaction. Whereas, in reality, the aims of the parties involved often are very different. Generally speaking, the ETUC in principle is in favour of achieving legally binding EU-wide rights and protection for workers. Employers, and especially Business Europe, are generally opposed to EU-wide regulations, but might nonetheless be inclined to sign European social partner agreements if the alternative is a Directive.

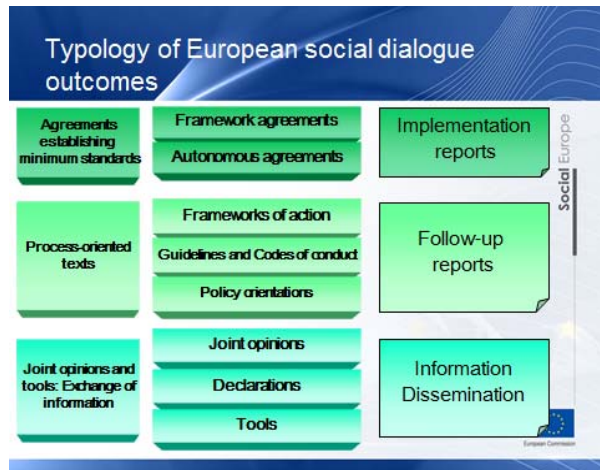


Figure 3. *Typology of European social dialogue outcomes*

Clearly, in order to enjoy the maximum benefits from European Social Dialogue, implementation is crucial. This is still an important challenge. While, as seen above, considerable effort goes into the preparation and negotiation of joint texts and opinions, the number of binding agreements achieved is still modest. Among these, the most effective ones are those implemented as Directives, as these achieve the status of European law. When it comes to the autonomous agreements, implementation is more difficult. As a result of national differences in industrial relations systems, implementation often remains patchy, without effectively achieving common minimum standards throughout the EU. The link between the European and the national level is complicated also because the national member organisations of the EU-level social partners do not always have a direct bargaining role at the local level and often possess only limited authority over their affiliates. Due to these implementation problems, the described shift in cross-industry dialogue from agreements implemented by Directives towards autonomous ones, as well as the growing focus on declarations of intent (be it in form of 'work programmes' or 'frameworks for action'), can be considered as weakening the effectiveness of European Social Dialogue.

Additional challenges for European Social Dialogue result from a lack of tools and structures: Often there are not enough information, data, financial and human

resources as well as training available to the national level to ensure effective participation in European level dialogue as well as implementation of agreements. In addition language is a serious barrier to full participation. These various structural obstacles are strongest in the Central and Eastern European Countries which generally have weaker industrial relations systems. In these countries, representative employers' associations are often lacking, and trade unions are more fragmented. While European Social Dialogue as such will not resolve these particular national problems, commitment from all countries' social partners at the European level helps to reinforce social partners' positions at the national level. [1]

NATIONAL SOCIAL DIALOGUE

The most significant form of a social dialogue in a country is collective negotiation, which presumes the negotiations between trade unions and employers on salaries and work conditions that usually result in binding and applicable collective agreement. However, there are also other kinds of social dialogue, from negotiations over counselling to information exchange. Social dialogue can be led on different levels: national, sectoral, at company or department level. Further, it can be in bipartite form, only between trade unions and employers, but also tripartite - among trade unions, employers and the government.

National social dialogue usually encompasses the issues which are tightly connected to the issues of industrial relations and work conditions (as is the case with collective negotiation), or can treat wider issues of economic and social policy. Social partners can be involved in a social dialogue in three different ways. Firstly, social partners can participate in a policy creating process, e.g. by giving advice and by counselling on the drafts of laws proposed by the government or by publishing mutual bipartite standpoints and statements of intention. Secondly, they can participate in making, regardless of the fact whether the talk is on government policies or autonomous, bipartite agreements and collective negotiation. Thirdly, social partners can play a role in management and monitoring of the implementation of reached agreements and defined laws, as e.g. in France, Germany and Italy where social partners jointly manage the social insurance system.

INSTITUTIONAL FRAMEWORK

Institutional framework for social dialogue is different from country to country. When the talk is on structures of national tripartite dialogue, in some countries there are special institutions for harmonising policies as e.g. economic and social councils. Consulting with social partners in the framework of these forums can be government's legal obligation (as it is in France) or can be simply based on informal, agreement approach (as in Austria). In other countries, where there are no special institutional structures, it is possible to sign

national agreements on ad hoc basis, but this depends on the readiness of the government to dialogue (in Italy, Spain or Germany). In all cases, however, institutions can serve as a framework to support social dialogue, but they are no guarantee that the dialogue will indeed efficiently function, since for this to happen necessary is the commitment of all involved parties. [7]

National tripartite social dialogue is important in a large number of EU states. This is the main level of social dialogue in Central and East European countries while it is less present in Scandinavian countries (where bipartite social dialogue is a rule), Germany (with mostly informal and ad hoc co-operation) and the United Kingdom (where there is no national social dialogue). In all Central and East European states national tripartite dialogue takes place within the framework of special formal institutions which are usually called Economic and Social Council. Unlike Economic and Social Committee on European level which encompasses three groups Employers Group, Employee Group and a Group of various interests economic and social council in Central and East European states, in the sense of tripartite value of International Labour Organisation, is composed of the representatives of governments, trade unions and the employers' associations. The only exceptions are Bulgaria, Hungary and Romania where these councils are open also to representatives of civil society and non-governmental organisations.

Sectoral social dialogue is the most developed in the countries of West Europe (especially in Austria, Belgium, Denmark, Finland, France, Germany, Greece, Italy, Holland, Portugal, Spain and Sweden) where it has the form of regular collective negotiation. [1,7]

ADVANTAGES AND CHALLENGES OF SOCIAL DIALOGUE

Main potential benefit from a social dialogue as an instrument for managing industrial relations is that it can help solve conflicts through finding compromise and mutually acceptable solutions. Social dialogue opens space for interactions and decision making of social partners and offers trade unions and employers' associations a chance to take active, institutionalised and recognised role in national decision-making process, either through autonomous agreements or through tripartite dialogue on governmental social policy and work market policy. National sectoral and inter-sectoral dialogue are especially important in the form of collective negotiation as the means for determining minimum standards of work and employment conditions and thus avoiding the fragmentation of work force and competition based on differences in labour costs and work conditions.

A special challenge for sectoral bipartite social dialogue is its frequent non-uniformity, especially in Central and East European states. This fragmentation results in general deterioration of work conditions and work standards. This is closely connected with the

weakness of institutions of industrial relationships as well as of sectoral trade union structures in these countries.

In many European states, there is a rising trend of decentralisation and fragmentation of collective negotiation as the consequence of neoliberal work market strategies and reforms of industrial relationships, as well as the pressure of employers for introduction of more flexibility.

"DEVELOPMENT PLUS" - A PROJECT FOR STRENGTHENING OF THE SOCIAL DIALOGUE, AN EXAMPLE OF GOOD PRACTICE

As part of the "Europa 2020" initiative, Ministry of Labour and Pension System of the Republic of Croatia brought an operational Program "Development of Human Potential" which among other supported a number of measures aimed at promotion of social dialogue and strengthening of the role of civil society in social and economic growth and democratic development. Thus, the measure 5.1 of the program "Promotion of Social Dialogue" offers support in strengthening human and organisational capacities of social partners with the goal to promote and increase the quality of social dialogue. The Republic Trade Union of Croatian Workers and the central trade union organisation - The Independent Trade Unions of Croatia, as a co-operator in the project, have recognised the importance of improved knowledge skills and the capabilities of social partners in their efforts to promote, stimulate and improve the quality of social dialogue in the Republic of Croatia.

The project "Development Plus" has the goal to strengthen social dialogue, improve co-operation between trade unions and enable more efficient communication, better quality cooperation with employers connected with trade unions and state and local bodies through developing of social skills, knowledge and competencies of all stakeholders in the social dialogue.

The project is financed from the European Social Fund of the EU and the funds of Republic Trade Union of Croatian Workers.

During the realisation of the project, from October 2014 to October 2015, various activities and trainings were organised, divided in four thematic blocks:

- development of competency manual
- development and implementation of educational programs for development of competencies
- organisation of round tables for exchange of best practice on following themes: gender equality, protection of employees' rights, awareness of ecology and protection at work and of corporate, social and society responsibility
- research of quality of social dialogue.

This project contributes to the series of initiatives of the European Commission whose goal is the improvement of social dialogue.

ROUND TABLE "PROTECTION AT WORK 2020 IN THE REPUBLIC OF CROATIA"

Within the project "Development Plus", organised by the Republic Trade Union of Croatian Workers, a round table with the topic "Protection at Work 2020 in the Republic of Croatia" was held with the participation - as lecturers - of the representatives of the Ministry of Labour and Pension System, Croatian Employers' Association, trade unions' headquarters - Independent Trade Unions of Croatia. Other participants in the debate were recognised experts and individuals from political institutions (Parliament of the Republic of Croatia, Committee for Labour, Pension System and Social Partnership), state institutions (Institute for Improvement of Protection at Work, Croatian Institute for Health Protection and Safety at Work), academic community (Institute of Social Sciences Ivo Pilar), representatives of employers, trade unions, and activists and representatives of civil society and ecological associations.

Participation of all stakeholders in the field of health protection and safety at work became a priority issue in national and European preventive strategies. Unfortunately, many European and national strategies do not pay sufficient attention to the huge potential of representing professional associations and interest groups and also to representing workers in the field of protection at work, although this could create that significant overbalance of active policy derived from the needs and initiatives of all stakeholders in the system over prevention understood as mere justification of its own existence.

Striving to continue to provide space for learning and communication, exchange the ideas and knowledge, cooperate on new projects and joint initiatives in improving the system of protection at work and especially the prevention, the participants at the Round Table formulated the following conclusion:

"Life, health and preservation of working ability and life and working environment are of special social interest in the Republic of Croatia. Continuous cooperation between social partners, state institutions, employers and trade unions - as representatives of workers, starting from the creation of legal framework to its application in practice are needed and necessary. The exchange of experiences and skill, cooperation and mutual esteem and coordinated work of all stakeholders on common initiatives are basic preconditions for synergy action and continuance of advancement of the health and safety protection system in the Republic of Croatia".

CONCLUSION

Strengthening social dialogue is one of the goals of the International Labour Organisation, aimed at promotion of dignified labour for all employees in the world, which together with social dialogue also encompasses working standards, basic principles and rights at work and opening of new work places which will offer security and dignity and social protection to all men and women.

The most important form of social dialogue is collective negotiation, which includes negotiations between trade unions and employers on salaries and work conditions and usually results in binding and applicable collective agreement.

Major potential benefit of the social dialogue as an instrument of managing national industrial relationships is that it can help solve conflicts through finding compromised and joint solutions. Social dialogue opens space for interactions and decision making of social partners and gives an opportunity to trade unions and employers' associations to take active, institutionalised and recognised role in national processes of creating policy - either through autonomous agreements or through tripartite dialogue on government's social and work market policy - and gives also an opportunity of finding quality solutions in the advancement of health and safety at work protection system.

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BIOGRAPHY

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Coordinator of Health and Safety Committee of the Independent Trade Unions of Croatia, graduated at The Technical University in Zagreb, a course for Post, and High School for Security in Zagreb, a professional degree course for Safety at work. While working in the field of protection of health and safety at work, he has been promoting the importance and the role of the occupational safety representatives, as well as works council representatives and Trade Unions in the Republic of Croatia.



SOCIJALNO PARTNERSTVO U ZAŠTITI NA RADU

Cvetan Kovač

Rezime: *Socijalno partnerstvo je od iznimnog značaja za rješavanje izazova unapređivanja sustava zaštite na radu. Dosljedan socijalni dijalog utemeljen na povjerenju socijalnih partnera (Vlade, poslodavaca i sindikata) i predanost ostvarenju zajedničkih ciljeva, neosporivi je mehanizam postizanja kvalitetnih rješenja unapređivanja sustava zaštite zdravlja i sigurnosti na radu. U sustavu pravila zaštite na radu posebno mjesto imaju kolektivni ugovori ili sporazumi, kao originalni autonomni pravni akti koje dogovaraju i potpisuju socijalni partneri. Osim osnovnih materijalnih prava i obveza, kolektivni ugovori sadrže i pravna pravila kojima se uređuje zaštita na radu, te uvjeti za rad radničkih predstavnika. Na taj način radnički predstavnici dobivaju istaknutu ulogu i postaju aktivni sudionici sustava zaštite zdravlja i sigurnosti na radu.*

Ključne riječi: Socijalno partnerstvo, povjerenje, sindikat, unapređenje sustava

