The role of the social partners in the European Employment Strategy Part II
edited by Céline Lafoucriere and Lars Magnusson
The enlargement of social Europe

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Part II

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The enlargement of social Europe OR the uncertain future of the European Social Model

Céline Lafoucriere¹ and Lars Magnusson²

1. One year into the EU-25

This second publication presenting the results of a close collaboration between the SALTSA programme of the Arbetslivsinstitutet¹ and CREER,⁴ forms part of an extensive and intensive effort to gather empirical and analytical information regarding the development of social partner institutions and the present situation of social dialogue in the new and future Member States of the European Union (EU). In the first publication we highlighted the fact that too little attention had been paid to the issues of social dialogue in the new Member States, both on the eve and in the aftermath of the biggest European enlargement hitherto. The social agenda of Europe – and the role of the social partners – has gained increasing importance amongst the Member States. This series of papers, focused on national evaluations of the democratic preparations under way in the new and future Member States to ensure full participation of the social partners in the European Employment Strategy, is intended to serve as a reference for future work on the enlargement of the EU’s social domains to the central and eastern European region and the possible future of the European Social Model (ESM) or Concerted Regulatory Model (CRM).

In May 2004 eight central and eastern European countries – Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovak Republic, Slovenia – as well as Cyprus and Malta, gained accession to the EU. These countries have highly different political and social traditions. Six of them – Czech Republic, Cyprus, Estonia, Hungary, Poland, Slovenia – plus Bulgaria were covered by the first volume in this two-part series. The remaining four – Latvia,
Lithuania, Malta and Slovakia – plus Romania and Turkey are covered in this second volume.

Nearly a year into the latest enlargement, it is clear that the sheer scale of this historic process has already called for some serious readjustments of European bodies and their structures, which is reflected in the European Constitution. As already mentioned, this is also the first time that the EU has welcomed countries in such a broad range: from small Mediterranean islands to former Soviet satellites, even former Soviet republics, the EU is today faced with an extreme variety of political and social traditions. The latest enlargement process offers a historic opportunity to reunify the old continent. However, the question we shall raise is whether this reunification will also constitute an opportunity to strengthen the ESM. Based on a careful balance between social protection and some degree of market liberalisation, the last few decades have permitted the EU to build its own social model, distinct from the North American model of broad deregulation. Within the framework of European integration Member States’ social models have not been retained only at national level but have been, to some extent, pooled at European level with a view to creating an ESM with enhanced workers’ participation – by means of intensified social partner action – as one of its underlying principles. The constant strengthening of social policy from the creation of the EU to the Lisbon Strategy, which established the social model as a long-term competitive advantage within the framework of developing the most dynamic and competitive knowledge-based economy in the world, will certainly be tested by the latest enlargement process. What will be the future of the ESM? Will the newcomers strengthen or weaken the established, but nonetheless still fragile social order? In the first publication we noted that there was an undeniable risk that the future members, having suffered from long and heavy traditions of ‘imposed egalitarianism’, might be tempted to follow the more ‘liberalised’ path – mirroring the UK – rather than the socially balanced option. Nearly a year into the new EU-25 we can already draw some tentative conclusions on the future of the ESM.

2. The European Social Model or Concerted Regulatory Model

The literature on the ‘varieties of capitalism’ demonstrates that the European countries have long opted for a different economic model from the one observed in the USA (Soskice and Hall 2003). Although the European Union has chosen to further deregulate its markets, with the Cardiff process
started in 1998, its goals are quite different from those of the dominant model of laissez-faire capitalism (Regini 2003). Having reached a consensus on the burden of government regulations on European markets, thus hampering productivity and competitiveness – as demonstrated over the last twenty years – the European Union launched a global reform process in 1997 at the Luxembourg summit. Described as a three-level process the so-called European Employment Pact (EEP) encompasses (i) reforming labour markets with its European Employment Strategy (EES) (1997), (ii) restructuring product and capital markets via the Cardiff process (1998), and (iii) establishing a macroeconomic dialogue as established in the Cologne process (1999). These three processes form what we believe to be the basis for the ESM in the sense that it focuses less on finding common solutions to common problems and more on providing common tools for tackling Europe-wide problems (such as high rates of unemployment and changing work organisation), constituting an alternative to the approaches found in some EU countries and the USA.

This model – which we choose to call the ‘Concerted Regulatory Model’ (CRM) – focuses more on ‘process’ than on ‘content’ and moves away from heavy general government legislation, only addressing the lowest common denominator for all sectors of the economy in order to achieve more appropriate sectoral/enterprise-based concerted regulation. While issues of content are important, it is in terms of process that the North American and the European models are most divided. As opposed to the US concept of broad deregulation of social policy, which consists in making labour markets more flexible by abolishing employment regulations and liberalising wage setting (to be determined by the market), the CRM aims at re-regulating the labour market at different levels (Green and Lafoucriere 2004). Although it shares the same targets of high productivity and competitiveness, the CRM differs strongly from the US model of labour market flexibility and deregulation, focusing on a constantly evolving balance between economic dynamism and social protection. In order to achieve this, the CRM aims at triggering a process of competition and deregulation at national level but with a view to integrating and re-regulating at all other levels, as far as possible, thereby ensuring the participation of all social forces, including wider workers’ involvement (Green and Lafoucriere 2004).

The latter establishes what we believe to be an intrinsic regulatory pillar of the CRM. The principle of re-regulation, to be efficient, must involve
different partners and establish strong and coherent social partnerships. The social partners are thus given a key role in establishing the CRM.

2.1. Social partnership as an intrinsic pillar of the ESM or CRM

One of the main ideas behind the developments between Jacques Delors’ white paper of 1994 and the Lisbon strategy of 2000 has been that in the EU sustainable development of long-term productivity growth and high levels of competitiveness should be achieved hand in hand with effective social policies. Industrial developments and changing labour market needs have also raised the issue of workers’ participation. Moves towards a knowledge-based society (KBS) have changed the structure of the labour market and of workplaces. The reduction of working time, the growing number of atypical contracts and the increasing dichotomy between high- and low-productivity jobs have changed traditional labour values. Overall, the European Union has come to realise that government legislation no longer constitutes a satisfactory option; and if room is now needed for customisation on the labour market, it is also needed for the customisation of social decisions to different sectors and activities, with concomitant needs for collective bargaining and social partnership in general (Green and Lafoucriere 2004).

The CRM, therefore, is based on a progressive realisation – by the Member States as well as the European institutions – that:

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. Social dialogue is flexible: partners may meet whenever they deem necessary. But it may also be strategic: aimed at securing long-term rather than short-term gains. (Richly and Pritzer 2003) [our emphasis]

The concept of the ‘long-term solution’ is crucial to the development of social partnership within the context of the CRM. Since they are closer to sectoral and enterprise levels, the social partners have a better understanding of their needs. The developing use of collective agreements should therefore aim at gradually complementing government legislation, which will in turn become increasingly lighter, aimed only at ensuring minimum standards.

As Jepsen and Serrano (2003) note, there are strong structural and organisational differences between European economic policy as reflected in EMU, with its closely monitored and obligatory character, and European
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social policy as reflected in the European Employment Strategy (EES), which is only a guidance process, but which is already sending strong messages for the creation of Europe-wide social partnerships, including what concerns the more sensitive macroeconomic questions. The Lisbon summit, held in 2000, strengthened this position by stating that:

As well as preserving macroeconomic stability and stimulating growth and employment, macroeconomic policies should foster the transition towards a knowledge-based economy, which implies an enhanced role for structural policies. The macroeconomic dialogue under the Cologne process must create a relationship of trust between all the actors involved in order to have a proper understanding of each other’s positions and constraints. The opportunity provided by growth must be used to pursue fiscal consolidation more actively and to improve the quality and sustainability of public finances. (Lisbon 2000)

Whilst setting European economic objectives for the coming years, the Council recognised the involvement of all actors as a driving force behind successful and effective economic reform, and as intrinsic to economic and social progress for the whole Community. Crucially, the Cologne process offers access to the macroeconomic dialogue to social partners for the first time in the history of the European Union. Essentially, it established the ESM as a key competitive advantage of the EU in policy terms. By the same token it is crucial to understand that the social model sees the economy as embedded in the social structure and as depending on that structure for its capacity to operate effectively … It sees a need for the active cooperation of workers in the work process … and it recognizes the importance of institutions and the role they play in creating a framework in which a market operates, in mediating the relationship between the economy and society, and in reconciling economic efficiency with other social goals. (Osterman et al. 2001)

The above concept is intrinsic to the success of the CRM. Both economic and social policy must be envisaged as depending on one another. As a reflection of this it is important to take into consideration that the role of the social partners has shifted from income policy to greater labour market flexibility: higher employment, less rigidity and the ability to create new jobs; as well as reform of labour markets and, to some extent, participation in the reform of social security systems, although the latter two objectives are much more difficult and complex to achieve by concerted means than, for example, traditional income policies. However, one condition is crucial to the efficiency of a European CRM: in order that it be permeable to
pressures and attain high stability the involvement of various social groups in decision-making must be regarded less as a hindrance to the decision-making process than as a way of ensuring its success. As Regini (2003) has explained, it is precisely on the trade-off between a slower decision-making process and the greater likelihood of successful implementation that the competition between the different models of economic regulation pivots today. Successful implementation has been very difficult to achieve, as the last couple of decades in the ‘old’ EU-15 have shown, and which the advent of the new EU-25 will complicate still further.

2.2. Social dialogue in the context of the European Employment Strategy

According to a recent ILO definition,

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. (Rychly and Pritzer 2003: 2)

This definition encompasses the very sensitive issues which still surround the concept and definition of ‘social dialogue’. In industrial relations, consultations and negotiations are generally conducted between the parties independently of the state, even in the public sector. In the domain of social dialogue, however, the state (or supra-state) establishes the conditions and topics for consultation and negotiation and incorporates the outcomes in its action (Winterton 2004). It is in the latter sense – although evolving towards the former – that social dialogue is envisaged in the ESM. Guided by the Member States and the European institutions (supra-state) the social partners are being asked to negotiate amongst themselves, as a result of which they will acquire enough experience and awareness to slowly become independent. As Rychly and Pritzer (2003) note, social dialogue is an idea which is neither politically nor ideologically neutral. This raises some crucial questions for the new Member States. Considering their historical backgrounds and political traditions social dialogue may be thought to impinge on the role of government in the new Member States. Equally, we might fear that social dialogue is seen there as incompatible with the notion of an efficient market economy, in strong contrast to the ESM view, which is that it contributes not only to conflict resolution, but also to improving productivity and competitiveness, as well as developing social and economic policies. As Bercusson et al. (1996) explain, the value of social dialogue as an instrument for social and labour regulation with the European Union depends upon the
effectiveness of social partner representative organisations within the Member States. In the new Member States, and as can be observed in most national reports, it is feared that employers’ associations are insufficiently developed and/or that labour organisations have not yet sufficiently evolved in terms of independence from the state, thereby threatening the future of the ESM as a whole.

The requirements of the EES as regards social dialogue are particularly important. The four former pillars of the strategy, which are clearly reflected in the new guidelines, call on the social partners to play a strong innovative and independent role. Although the EES is considered to be a guidance process, having adopted a non-obligatory format, the notion of social dialogue within it has much more importance than is at first apparent. As Vaughan-Whitehead (2004) explains, social dialogue is part of the *acquis* in horizontal terms. The formal need to consult with the social partners is present in the texts of several directives, which include references to the principle of workers’ consultation.

The directive on European Works Councils provides an instrument for social dialogue and workers’ representation across borders and is particularly relevant in view of prospective European Union enlargement and intensified capital movements in an enlarged Europe. (Vaughan-Whitehead 2004)

However, it is crucial to note that social dialogue is also part of the institutional *acquis*. Article 138 includes an obligation to consult the social partners on most prospective EU legislation. Furthermore, the social partners may choose to interrupt the legislative process by initiating negotiations for the purpose of reaching agreements. The autonomy enjoyed by the social partners in initiating negotiations clearly highlights the fact that social dialogue has become a real ‘driving force’ behind European social and economic progress. The European Employment Strategy, the Employment title of the Treaty and the Lisbon strategy clearly offer new opportunities for social partner action.

All these institutionalised forms of social dialogue represent unavoidable mechanisms of social progress which must be taken into account by the applicant countries and integrated in their national systems and structures. Much is therefore at stake for the social partners of applicant countries. (Vaughan-Whitehead 2004)
To this end, the social partners have important work to do in most of the new and future Member States to ensure that genuine structures of social partnership develop. It is in order to consolidate these essential elements of the ESM or CRM that the national reports presented in this publication have concentrated on collecting and analysing empirical data in a number of new and future Member States and on evaluating the current social dialogue situation there.

3. Tentative initial observations and potential conclusions
Although social dialogue has strong historical roots in the new Member States, as collective bargaining developed well before Communism, its structures today seem ambivalent. Following the collapse of Communism in 1989, and in the rush towards decentralisation and the establishment of market economies all new policies were directed by government alone and did not seem to lead to the democratisation of decision-making. Critically, strong tripartite structures were developed in the following years in order to proceed to an ambiguous process of ‘mutual legitimisation’ of trade unions and governments. From the national reports we observe that both old Communist trade unions and new trade unions found themselves in dire need of re-legitimisation or legitimisation and thus welcomed their government’s call for tripartism. Cooperation with the state comes across as having been a safe way of ensuring their role in the new society, thereby attracting new members and ensuring representativeness. By the same token new governments also used this collaboration to heighten their legitimacy amongst the population (Lafoucriere 2004). Since the underground trade union movement was highly active against the old regime their cooperation with new governments would boost the latter’s credibility amongst the young. This process of mutual recognition can generally be seen as the historical root of the supremacy of tripartism in the new Member States. The national reports highlight that all new and future Member States have developed a main tripartite body dealing with social and economic issues. Although representation and legal status vary, these bodies seem to be fairly well organised and meet on a regular basis. However, two main issues arise from the data. First, the inadequate participation of the social partners, on a day-to-day basis, in these platforms is striking. Across the board, individual interviews with social-partner and government representatives highlighted the fact that, in countries where these institutions are regulated by tripartite agreements with no legal basis, social partners tend to avoid these meetings.
relatively often. This is the case in Latvia, Lithuania, Czech Republic, Hungary, Malta and Cyprus. The data seem to highlight a widespread lack of technical expertise amongst the social partners, which could explain their absence from some of these meetings. Others make the point that in countries where the trade unions are ideologically divided, such meetings tend to become a platform for arguments among the latter, and so do not lead to concrete measures and/or decisions which would require agreement from trade union representatives. This is particularly the case in Malta (Lafoucriere and Zammit 2004, mimeo).

Many of the interviews indicated that the social partners favour these platforms because they provide a sound basis for information and consultation on the part of government, and fear the creation of autonomous social dialogue platforms which might be seen not only as a betrayal of the government but also as jeopardising their participation in tripartite platforms which they often regard as a ‘privilege’ (Lafoucriere 2004). The continuing dominance of the state therefore seems to explain the success of tripartism. Although some of these structures have evolved, most seem to retain the same format. Tripartism still rules across the board and raises the question of state dominance in the new Member States, which contrasts strongly with the decision-making decentralisation promoted by the ESM in Western Europe.

A key part of the enlargement challenge is therefore to ensure that Social Europe grows and that the values and standards achieved so far are fully maintained. However, while Europe’s social dimension is considered to be engrained in the values and principles which form the acquis, little attention has so far been paid to the social criteria for convergence. Economic criteria are still at the forefront and although accession countries have been required to adopt the Social Chapter (Chapter 13) into their national legislation, little attention seems to be paid to actual implementation. Although all national experts report positively on the efforts to transpose social directives into national legislation very little evidence of practical implementation can be observed.

This is due above all to the fact that although the EES has been in existence for the last six years the notion of social dialogue in Europe remains obscure and puzzling in many senses. The main reason for this, alongside the desire to respect each Member State’s social traditions, is the absence of a commonly agreed definition of ‘social dialogue’. Although many have spoken of a European model of social dialogue it remains difficult to describe. At
European level well-functioning social dialogue is regarded as essential. This entails not only the involvement of the social partners in employment policy, but also that they take the initiative in ensuring their full involvement in employment policy, at all levels of governance. In order to implement national social policy they are asked to work in a tripartite fashion, in close collaboration with Government. However, the two-way social dialogue, suited to social and industrial relations, between the independent representatives of employers and workers is highlighted as essential. At EU level the Maastricht protocol on social policy gives priority to collective bargaining between the social partners rather than to legislation. Although the EES also gives a central role to the social partners in modernisation and increasing employment and employability through a consensual approach, little detail is given concerning social dialogue.

Within the EU the concept of dialogue between governments, employers’ associations and trade unions is generally accepted as part of good governance, even if its modalities and its extent may differ substantially from one Member State to another and are often sensitive to electoral cycles. Social dialogue therefore could be defined as any form of negotiation, consultation and information sharing among representatives of governments and social partners or between social partners on issues of common interest relating to economic and social policy. If social dialogue still needs to be strengthened at EU level, much has already been done for its healthy development. Encouraged by European social partners and EU institutions, national social dialogue has already evolved significantly and national social partners have increasingly been involved in the National Action Plans for Employment (NAPEs). This is well reflected in the German NAPE which today includes the social partners’ views and positions.

Within this context, however, one might ask whether this message has been properly transmitted to the new and future Member States. Crucially, all six national contributions seem to arrive at the same conclusion: although national governments have tried hard to harmonise their national legislation with the Social Chapter there is little evidence of implementation. The tight time-frame in which these states have had to work has certainly not helped the implementation process. However, the lack of social partner involvement and information raises some crucial questions. Will the lack of clear information and guidance in the field of social dialogue and social partner involvement not lead to governments, at a later stage, simply imposing the social directives on the labour market, trade unions and employers’
associations, thereby repeating the all-too-familiar patterns witnessed in some of the most reluctant Member States, of consultation-less practices?

Ozola’s and Gruzevskis’s contributions clearly show that very little has been done to establish a healthy order amongst social partners in the Baltic states. Overall trade union representation and collective agreement coverage are critically low. This has led to a rather unhealthy imbalance between employers’ associations and trade unions, giving the employers a strong position. The lack of organisation among the social partners has been attributed to the general underdevelopment of civil society and citizens’ lack of initiative.

A similar situation can be observed in Cziria’s contribution which notes that trade union density is declining in Slovakia. This has contributed to the declining recognition of trade unions as a partner in social dialogue. This is mainly due to a high level of animosity between the national unions to the detriment of the Tripartite Commission. An analogous situation threatens the representation of the employers’ associations. Their lack of organisational strength, together with the lack of trade union representation, means that social partner influence is virtually nil, which threatens to disrupt participation in the EES.

Although the social partners are active in national employment issues the EES seems to have attracted very little attention. In fact, participation in the EES does not seem to be a central issue in any of these countries. Having harmonised their national legislation with the Social Chapter, these countries seem to be adopting a ‘wait and see’ attitude towards the EES. Time seems to be an important factor, with social partner involvement postponed to a later stage. The lack of general information and consultation is a striking feature of all the national reports.

Furthermore, although some trade union membership rates are much higher in the new than in some of the old members, trade unions tend to remain relatively weak across the region. Their weakness can be seen at two different levels: (i) their lack of autonomous action and (ii) their relatively low influence on national government policy. Ideological divides between trade unions resulting in a lack of autonomous social dialogue and action is prominent in the Southern European members. Interestingly, this is a striking feature of two of the new Members with the highest union density: the British bipolarisation model appears to have left significant traces in both Cyprus and Malta.
Representing the ‘new breed’ in Central and Eastern Europe, employers also remain badly organised. Three reasons for this seem to emerge from the data:

1. As already mentioned, employers are new actors in the previously centralised region and therefore still have to organise themselves into viable organisations.

2. Most of the employers in the region tend to be foreign investors who have no interest in organising on the national level and tend to apply their own national social organisation format, if at all.

3. Recurrently, employers do not express any wish to organise in umbrella organisations which would enable them to act autonomously in relation to the trade unions. Throughout the interviews employers seemed to follow the same course of action. Being well aware of their influence over government economic policy, employers clearly favour tripartite consultation over bipartite autonomous action. Sectoral bargaining in particular is not regarded as desirable by the employers in Latvia, Slovakia and Malta. This tendency prevents voluntaristic social dialogue and gives industrial relations more of an obligatory format, leaving some of the crucial issues – such as sectoral collective bargaining – to fall by the wayside.

Despite a number of achievements in promoting Social Europe not much has been done to promote autonomous social dialogue in the new member states. This could be seen as a weakness on the part of the European institutions, although we would argue that it is a spillover of repeated attempts by several old member states to undermine social rights in the belief that they would be costly for enterprises and foster too much rigidity in labour markets. We have been able to take this issue further and to draw attention to the fact that this trend, which has obviously had some effect on the latest enlargement, represents an imminent danger for the future of the ESM as it may become the dominant trend in the EU-25. Although the Lisbon strategy’s aims centre on demonstrating the intrinsic link between economic performance and social progress, and present social progress by the social partners as a production factor, the message does not appear to have been fully taken on board by the new Member States. As a result of these structural weaknesses sectoral bargaining is particularly underdeveloped. The national reports observe that the low use of collective agreements is clearly linked to the lack of organisation of both trade unions and employers’ associations. This is particularly the case in Poland, Estonia, Latvia and Lithuania. A certain inflexibility in the extension of collective agreements also seems to be reflected in the social partners’ low organisational density. It is important to
note that although one of the new Member States can be found in the upper echelons of collective agreement coverage, with values of more than 90 per cent (Slovenia), most can be found at the other end of the scale, together with the UK and Ireland, with collective bargaining coverage of less than 50 per cent and in three of the new members below 20 per cent (see Table 1). Leaving aside the exceptional Slovene case the following typology, drawn up according to the empirical findings included in this series, demonstrates that a large majority of new members share similar collective agreement coverage rates with the Anglo-Saxon model, including Slovakia, the Czech Republic, Poland, Hungary, Estonia, Latvia and Lithuania. In light of these findings we support the view that although the Anglo-Saxon and continental European models have competed for many years it seems that today the Anglo-Saxon model is prevailing. European Union legislation has moved towards more deregulation and privatisation. The dawn of a new Labour Party in Britain, and the opening up of businesses in many former communist countries are just another example of this trend. (European Commission 2002)

Table 1: Towards a typology of autonomous social dialogue and collective bargaining

<table>
<thead>
<tr>
<th>Categories</th>
<th>Rates of collective agreement coverage and extension possibilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Continental EU-13</td>
<td>Between 75% and 98%, reflecting frequent extension of collective agreements</td>
</tr>
<tr>
<td>Anglo-Saxon EU-2 (UK and Ireland)</td>
<td>Between 36% and 45%, reflecting rare extension of collective agreements</td>
</tr>
<tr>
<td>Mediterranean type (Malta/Cyprus)</td>
<td>Between 60% and 70%, reflecting frequent extension of collective agreements</td>
</tr>
<tr>
<td>Eastern type (Slovenia/Slovakia)</td>
<td>Between 48% and 98%, reflecting frequent extension of collective bargaining</td>
</tr>
<tr>
<td>Central-Eastern type (Czech Republic/Poland/Hungary)</td>
<td>Between 30% and 42%, reflecting possible extension of collective agreements</td>
</tr>
<tr>
<td>Baltic type (Estonia/Latvia/Lithuania)</td>
<td>Below 20%, reflecting strong inflexibility in extension of collective agreements</td>
</tr>
</tbody>
</table>

Source: National reports and authors' research.
Pre-enlargement fears that the momentum gained by autonomous social dialogue at both European and national levels might be lost in the face of predominant trends towards purely capitalist economies may therefore have been realised. More critically, this typology tends to demonstrate that the Anglo-Saxon model of deregulation, underrepresented within the European Union, now seems to have acquired a substantial number of ‘working partners’. This may threaten the future of the ESM in its concerted regulatory form. In the hope that the national contributions in this volume will shed some light on these issues we leave these general questions to the reader.

References


1. Introduction

On 1 May 2004 Latvia, together with nine other countries – Estonia, Lithuania, Poland, Slovakia, Slovenia, the Czech Republic, Hungary, Malta and Cyprus – became a full fledged member of the European Union.

The latest EU enlargement marked a further step in the reunification of Europe, a process that had required more than a decade. In 1991 the European Commission recognised the Baltic States as independent countries, and two years later the first economic cooperation and trade agreements between Latvia and the European economic community were concluded.

In 1995 Latvia applied for admission to the European Union. Two years later the European Commission undertook its first assessment of the readiness of the candidate states to start talks on EU accession. Accession talks began in spring 2000 and concluded in December 2002 in Copenhagen. The EU Accession Treaty was signed in April 2003 in Athens.

2. Historical background

2.1. Economic and political background

Fifteen years ago (21 August 1991), when the Supreme Soviet declared Latvia an independent state, it was clear that henceforth every day would bring fundamental changes both for individuals and the state. Everybody fully understood the challenge facing the country: as a state Latvia had to be developed anew. The policies pursued by the USSR were of no use in the sustainable development of Latvia as an independent country.

The beginning of the 1990s was a period of rapid and unpredictable changes, when Latvia had to deal with a variety of problems that seriously affected the welfare state. After independence the transition from a planned to a market economy was one of the main objectives. The existing social security system could not be retained. Within the planned economy the state
was the only provider of services and the financing of the social security system was centralised; entitlement depended only on membership of a particular social group. Social security benefits were not related to individual needs and institutional care was dominant; persons with specific needs were isolated from society and rendered ‘helpless’.

The fall of the USSR and the ensuing economic reforms (liberalisation of prices and trade, privatisation) caused a rapid decline in economic activity. Manufacturing declined constantly, but in services – starting with 1993 – there was some development, which halted the fall in GDP (see Figure 1).

Figure 1: GDP dynamics 1985–1990 (1985=100%)


In 1991 economic activity declined in almost every sector, due to the general uncertainty, when the authorities in Moscow and Riga were mostly concerned, respectively, with the political problems of preventing the collapse of the Soviet Union and regaining independence. The economy continued only by
inertia and in most cases existing economic ties were retained. Under conditions of a shortage of goods exports were impeded.

Construction was hardest hit, declining by 40 per cent. Projects were frozen. Commerce was also badly affected.

2.2. Political economy

It was clear that a new economic system had to be developed based on a market economy. The first new social laws of the independent Latvia were drafted, but due to the rapid changes several legal acts could not be implemented due to the lack of a sustainable economic and financial background. Besides, social issues are politically sensitive and balanced, economically and socially well-founded decisions are always problematic.

The Soviet legacy and the policy of separating the Latvian economy from that of the USSR contributed to an economic crisis, with high inflation, rapid collapses of consumption and industrial production, and a fall in GDP. This strongly affected living standards and poverty emerged as a major social problem.

The Latvian economy changed substantially in the wake of independence in 1991. Considerable progress was made in the creation of a market economy; private property came to dominate; foreign trade and prices were almost fully liberalised; and the majority of institutions needed for the functioning of a market economy were established. Latvia made significant progress in stabilising the economy: consumer price inflation had dropped to 7.0% by 1997 and the national debt to 12.2% of GDP. At the end of 1997 there was a fiscal surplus of the general state budget. Stabilisation of the national economy was also assisted by the fact that since the beginning of 1994 the nominal exchange rate of the lat against XDR (IMF Special Drawing Rights) had not changed.

In response, international institutions such as Standard & Poor’s, Moody’s, and FitchIBCA awarded credit ratings which put Latvia among the best performing Central and East European states and corresponding to the so-called ‘investment grade’. Remarkably, starting with 1996 there was economic growth in almost every sector of the economy: in 1997 GDP grew by 6.5%.

Investor interest in Latvia also grew rapidly. In 1997 total accumulated foreign investment in Latvia rose by 42%.
The difficult global economic situation, especially in Russia, in the second half of 1998 and in 1999 also affected the development rate of the Latvian economy. The Russian crisis reduced exports and caused problems for some commercial banks, production in Latvia declined, financial indicators deteriorated, budgetary revenues fell and unemployment increased. Nevertheless, growth in construction and services compensated for the industrial and agricultural decline caused by the Russian crisis. GDP therefore continued to rise overall, and the falls in 1998 and 1999 due to the negative impact of the Russian crisis were gradually overcome. A positive trend became clearly discernible in 2000 (see Figure 2).

Figure 2: GDP growth 1996–2005 (%)

Exports and productivity went up, and the turnover of goods via railways and ports was high. Investments grew and the financial system was stable. In the first nine months of 2000 compared to the same period in the previous year GDP grew by 5.4%, mostly based on domestic demand (trade, commercial services, finance) and transit related services (ports, railways, shipping), and to a smaller extent industrial output. Construction also developed steadily, basically because of repair and reconstruction work. Industrial growth was mainly provided by sectors with stable Western markets (wood processing, metal working). Production stabilised in textiles and machine building, but in food and in chemicals production continued to decline as these industries
were unable to readjust after losing the Russian market. At present, Latvia exports to Russia only 3–4% of its total commodity exports, compared to 16% in mid 1998 and approximately a quarter of what Latvia used to export there before the crisis.

In the period 1996–2003 Latvian GDP grew on average by 6.1% a year (7.5% in 2003). Despite the slowdown in the global economy since 2000, the Latvian economy continues to develop. High domestic demand (private consumption and investment) combined with the ability of Latvian enterprises to find new export markets was the main reason for growth in recent years. Manufacturing, construction, trade, commercial services, transport and communications have been the major contributors to GDP growth. In 2003 the highest growth rates were registered in wood, machine building and metal working. In recent years the appreciation of the euro has had a favourable effect on the competitiveness of Latvian manufacturing in the EU. Meanwhile, exports are growing not only to the euro zone countries, but also to the rest of the EU and the CIS. Manufacturing remains among the highest growth sectors. Updating and reconstruction of production facilities, as well as utilisation of EU funds will promote the productivity and competitiveness of this sector. Dynamic development continues in construction (10.8% in 2002 and 13.7% in 2003).

In previous years growth was registered also in agriculture. However, in 2003 agricultural output fell somewhat, mainly because of unfavourable weather conditions. Low productivity and external competition were the main obstacles to development in this sector. The EU provides a level playing field for farmers on internal EU markets but the renovation and diversification of agriculture will also be promoted using EU funds.

High domestic demand is boosting the development of services, especially those related to the wholesale and retail trades (in 2002 growth was 12.7%, while in 2003 it reached 11.3%). The dynamics of domestic demand are stable and supported by income growth, financial stability, widening of crediting facilities and accession to NATO and the EU.

High growth is in prospect for tourism which has developed very rapidly over recent years, particularly since EU accession.

Transit services are of great importance for the Latvian economy. They constitute approximately 15% of the revenue from Latvian exports of goods and services or about 5% of GDP. In 2003 cargo turnover in Latvia’s seaports grew by 5%, while on the railways it increased by 17%,
contributes 8.9% to the growth of transport and communications. Two-thirds of the growth in this sector depends on domestic demand (development of communications, warehousing, parking services, tourism, and so on), and only one-third on external demand (transit). The domestic use of transport services is growing more rapidly than its external use.

2.3. Institutional background

Since 1992, Latvian governments have strived to reform social and labour standards in order to meet the criteria set by international and European institutions, and the environment necessary for a renovated industrial relations system has been created. The emergence of autonomous social partner institutions and reform of the legislative framework are the main features of the new industrial relations system.

In the 1990s, independent organisations representing workers’ and employers’ interests appeared. Unlike most Central European countries in which trade unionism decreased sharply during the transition, the trade union movement was still covering around 30% of the Latvian workforce in 1997. Today it stands at about 20% (see Table 1).

Table 1: Fall in trade union membership 1993–1995; 2000–2004

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</thead>
<tbody>
<tr>
<td>LBAS membership</td>
<td>624 707</td>
<td>465 212</td>
<td>320 572 to 222 000</td>
<td>206 354</td>
<td>194 657</td>
<td>188 256</td>
<td>175 106</td>
</tr>
</tbody>
</table>

Source: LBAS statistics.

On the employers’ side, an umbrella organisation representing private and state-owned enterprises in almost all sectors was created in 1993. Along with the political parties and the government, they are the actors best able to play an active role in shaping the new Latvia through social concertation.

The second major change that has permitted the development of social dialogue is the reshaping of the legislative framework. Labour and social legislation was intended to introduce democracy at work on the one hand, and employment conditions suitable for the needs of a market economy on the other.
Since 1992 numerous and rapid legislative changes have occurred within the framework of a strong commitment to EU membership. Latvia ratified ILO Conventions No. 98 on Collective Bargaining and No. 87 on Freedom of Association in 1992, recognising the role of independent social partners and laying the groundwork for the establishment of social dialogue. However, the consultative mechanisms for sound social partnership need to be further strengthened. Autonomous organisations representing workers and employers were acknowledged and acquired legal status. The main legal basis for trade union activities is the Law on trade unions of 13 December 1990. Employers’ organisations are regulated by the Law on public organisations and their associations of 15 December 1992. The new legislation also provides a legal basis for social dialogue, regulating negotiations between the social partners and labour disputes (Law on dispute settlement of 2002). The methods and procedures of collective bargaining are defined in the Law on collective agreements of 26 March 1991. A new Labour Code, adopted by Parliament on 20 June 2000 and entering into force in June 2002, has updated the collective bargaining process and labour dispute settlement mechanisms.

The institutional framework was completed with the creation of the National Tripartite Collaboration Council on 25 February 1999. This tripartite council is the successor of the Latvian Tripartite Employers, State and Trade Unions Consultative Council.

3. Anatomy of national social dialogue

Labour relations are regulated by a number of laws, including the new Labour Code which took affect from 1 June 2002, as well as legislation on trade unions, employers’ associations, strikes, labour conflicts, the labour inspectorate and labour protection.

The trade unions are regulated by the Law on trade unions of 1990. The minimum requirement, pursuant to Art. 3 of this law, for the establishment of a trade union (and its registration and assumption of legal personality) is that the union cover no fewer than 50 members or no less than one-quarter of the workforce in an enterprise, institution, organisation, profession or branch. The main trade union rights include rights to participate in the development of labour-related state programmes and laws, to represent their members in relations with the employers and to defend their labour, professional and social rights and interests in state institutions and other organisations relevant to labour relations, in cases of compensation for
occupational injury, and in relation to housing and other social and economic interests, and in individual and collective disputes, to apply to the courts on behalf of their members, as well as to declare a strike.

The Law on employers’ associations came into effect in 1999. Under this law, employers’ organisations can be founded by at least five employers – natural or legal persons who employ at least one person on the basis of an employment contract, while at least three organisations may form an employers’ association; an employer who employs at least 50 persons can be a member of the association even if he is not a member of any employers’ organisation. At the national level the interests of employers are supposed to be represented by the association of employers’ organisations uniting the employers employing the largest proportion of persons in the country and which is a member of the ILO. Only one organisation meets these criteria, the Latvian Employers’ Confederation – LDDK. The law also specifies that the employers’ organisations represent the interests of their members in relations with trade unions, state institutions and local government institutions when issues related to the functions of employers’ organisations and their associations are discussed, co-operate with the trade unions in collective bargaining, and participate in the settlement of labour disputes, including strikes.

The agreement on the National Tripartite Cooperation Council (NTSP) signed between LBAS, LDDK and the government on 30 October 1998 is the basis of the national tripartite system.

3.1. LBAS – Free Trade Union Confederation of Latvia

In Latvia the trade unions are organised on a sectoral (industry) and regional basis. This often results in small and fragmented trade unions, which are undermined by a lack of unity and a small membership. Moreover, some sectors are internally divided and have several trade unions representing the workers of one branch (metal working, health care, agriculture, food, roads and construction). LBAS itself justifies this with the argument that internal competition provides an incentive to better defend the interests of the members, but this explanation is not very credible in the eyes of independent experts.

On the trade union side, Latvia’s experience is somewhat different from most other countries in the region, where the largest trade unions have generally fragmented into many small associations or new ones have been created. In Latvia, one main trade union has survived and represents workers’ rights.
This newly independent trade union organisation was established at the beginning of the 1990s, replacing the old-regime association. The new Confederation of Free Trade Unions of Latvia (LBAS) has redefined its functions and declared itself independent of all political parties. LBAS unites some 30 member organisations mostly representing industry, agriculture and the public sector. Despite a fall in membership after independence, the 230,000 trade union members – out of a workforce of one million – constitute a unionisation rate (30%) which is rather high compared to the Western European average. Several explanations can be found for the sharp fall in trade union membership.

*Trust in trade unions* is not high: during the interviews only about 17% of respondents answered that they trusted trade unions to some extent, and this means that the trade unions have a lot to do in order to improve their image.

Another important reason for the sharp decrease in the 1990s was *privatisation*. This was often accompanied by restructuring into smaller units, making it difficult for the trade unions to maintain their position. Especially in the service sector, jobs in privatised enterprises, which tend to be quite small, are very differentiated which results in the (often young) employees taking a more individualistic attitude. Finally, employers sometimes exploited privatisation to exclude trade unions from new enterprises.

*The economic situation* also played a role, making many employees reluctant to pay membership fees, while unemployment reduced the number of potential union members.

Trade unions have to modernise in order to halt the decline in membership, changing the image of workers’ representation inherited from the past and achieving recognition in the new economic sectors (services, private enterprises).

LBAS is the biggest non-governmental organisation in Latvia, protecting the interests of trade union members at the branch and inter-branch level. Its main operating principle is solidarity, involving the joint coordination of affiliates. LBAS represents its members’ interests and protects their rights in the socio-economic field.

LBAS participates in the elaboration of economic and social development programmes and the evaluation of draft laws, in working groups on improving working conditions, wages, tariff policies, compulsory social protection, health care, employment, vocational education and lifelong learning.
Together with the government and the Latvian Employers’ Confederation, LBAS participates in the National Tripartite Council. LBAS observes the principles of social dialogue in cooperation with the social partners.

Particularly important aspects of LBAS’s daily activities are consultation for trade union members concluding collective agreements, and the monitoring of labour disputes and of social and economic discord in general. At present, LBAS represents 175,106 members in around 3,000 state, municipal and private enterprises. It has 24 affiliates and 17 regional trade union centres.

As already mentioned, LBAS is also organised at regional level in inter-industry trade union centres or trade union coordination centres (Arodcentri). Administrative decentralisation allows regional centres to implement common activities of LBAS member organisations from different sectors. There are 17 Arodcentri and they cooperate intensively with municipalities.

At present, Latvia does not have pluralistic trade unionism in the sense of several trade union confederations with a distinctive ideological and political vision. However, LBAS – the sole trade union organisation at national level – does function on the basis of an internal pluralism. This means on the one hand that it unites employees with different political views and on the other hand that it tries to take these different views into account.

In this respect Latvia follows the Scandinavian model where trade unions are organised on an occupational basis rather than on the basis of political or ideological principles.

Notwithstanding the new Labour Code and the Law on information and consultation of employees in community-scale undertakings and groups of undertakings which came into force in January 2001, there are virtually no works councils in Latvia.

During the interviews representatives of LBAS and its affiliates stressed that they were against the introduction of works councils at present. They pointed out that under the legislation employees’ representatives could be appointed by employers, enabling them to manipulate works councils. If there were guarantees against employer manipulation, LBAS would support works councils. Some LBAS affiliates consider that works councils would compete with trade unions and reduce their influence even more.

During the pre-accession period, LBAS devoted much attention to the issues related to Latvia’s path to EU membership. One of its most important tasks was to provide information to its members about the EU, especially the
integration process. It was essential to present the role of the trade unions and the opportunities which would become available to them, and to explain the rights of employees guaranteed by the EU. With ETUC support, in February 1997 the LBAS National Integration Committee (NIC) was established.

LBAS also participates in the activities of the ILO, cooperates with the Nordic Trade Union Council (NFS) and was one of the founders of the Baltic Trade Union Council (BTUC) in November 1994. LBAS is a member of ICFTU and ETUC.

3.2. LDDK – Latvian Employers’ Confederation

A number of independent business and professional associations have emerged in Latvia since 1991. Currently, there are about 70 organisations representing business interests, which can be divided into sectoral organisations, businessmen’s clubs, interest groups and/or associations. These associations have the legal status of non-governmental organisations or limited liability company. The most influential is the Latvian Chamber of Commerce and Industry, with a network of regional branches and wide-ranging international links. The Union of Small and Medium-Sized Enterprise Organisations of Latvia brings together 16 small and medium-sized enterprise organisations and represents the interests of small enterprises. The Latvian Chamber of Crafts and Trades represents the interests of craftsmen.

The employers are organised sectorally and territorially. At national level, sectoral and regional associations are (since 1997) members of the Latvian Employers’ Confederation (LDDK), established in 1993, the only employers’ organisation which participates in national-level social dialogue.

At sectoral level, the Association of Latvian Commercial Banks represents 23 commercial banks, while the Latvian Traders’ Association represents about 5% of all retailers.

The Latvian Employers’ Confederation represents the business community’s interests on the NTSP and in tripartite and bipartite negotiations. LDDK is the umbrella organisation of several branch associations. Both state-owned and private employers are represented by the same organisation, resulting from the merger in 1993 of the Latvian Employers’ Central Union (state-owned enterprises) and the Latvian Private Enterprise Union. A subsequent change in LDDK’s statute allowed the direct membership of individual companies. In 1997, LDDK had 70 direct members and 20 member
associations. Most leading Latvian companies are members. LDDK provides assistance to members in various fields, ranging from information to legal advice and economic or financial consultancy. Like LBAS, LDDK played an active role in preparing its members for successful accession to the single market, and helped them to adopt the *acquis communautaire*.

Employers’ organisations in Latvia must be registered and any employer with more than 50 employees can join the Confederation. New members are admitted by a board decision, based on a written application. Applications (signed by the head of the enterprise or their appointee) must be accompanied by the following documents:

- copy of the registration card;
- copy of the decision to join the LDDK made by the enterprise’s decision-making body;
- power of attorney given to the authorised person by the enterprise (organisation) decision-making or executive body, or an extract from the decision granting the authorisation;
- description of enterprise (association) activities;
- copy of entrance-fee payment order.

After receiving these documents, the Directorate of the Latvian Employers’ Confederation informs the applicant of the board’s decision. If the answer is positive, the applicant’s authorised representative receives a written invitation to participate in board meetings.

The main activities of the Latvian Employers’ Confederation include:

- boosting the representation of members in the legislative process;
- organisational development, cooperation with members, attraction of new members;
- international activities;
- creation of a public image;
- cooperation with government and public administration;
- cooperation with strategic partners;
- participation in the development and implementation of foreign projects.

LDDK has observer status in UNICE.
4. Collective bargaining and consultation

4.1. Bipartite relations

After Latvia regained its independence, it faced serious economic and social difficulties. The government had to create a Western-style social protection system. For the development of social dialogue, trade unions and employers’ associations, as well as workers’ participation, are necessary since the social partners are an integral part of social dialogue (see Figure 3). Latvia’s experience has been different from other Central and Eastern European countries in which trade unions and employers’ organisations are divided at national level. LBAS is the biggest trade union organisation, uniting about 175,000 members (2003) in about 3,000 state, municipal and private enterprises. LBAS organises only about 20% of the workforce in Latvia.

LDDK is the main employers’ organisation, comprising 51 companies and 19 employers’ organisations. It organises about 25% of Latvian employers.

Figure 3: Bipartite social dialogue in Latvia

Source: Bipartite social dialogue, policy paper.
Latvian laws and regulations facilitate consultation of employees, employee organisations or employees’ and employers’ representatives on different labour relations issues.

Several articles in the Labour Code specify an obligation to consult. For instance, Article 21 provides that an employer is not entitled to refuse to negotiate a collective agreement (general agreement), and Article 11 prescribes that employees’ representatives are entitled to receive information in good time and to consult with the employer before the latter takes decisions which may affect employees’ interests, particularly in relation to wages, working conditions and employment. Within the meaning of the Labour Code, consultation signifies the exchange of views and dialogue between employee representatives and the employer for the purpose of achieving agreement.

The Law on employers’ organisations prescribes that employers’ organisations and their confederations shall negotiate, enter into collective and general agreements, and seek to prevent or resolve conflicts with the trade unions.

The Law on trade unions prescribes that employers shall make decisions concerning labour, social and economic issues in coordination with the trade unions.

Bilateral consultation takes place between LBAS and LDDK. This was strengthened by the general agreement which contains a procedure for signing collective and other agreements, and a procedure for reviewing disputes at all levels (enterprise, sectoral and national). In conformity with the general agreement, every year LBAS and LDDK sign a general agreement on the minimum wage and on basic principles for raising it in accordance with inflation.

Collective agreements are the outcome of bilateral social dialogue, by which means the interests of employers and employees are harmonised. No trade union member is left without rights. Collective agreements are usually signed at enterprise level. If there is no trade union, employees’ rights are not exercised. As of 1 January 2000, 2,057 collective agreements were registered in Latvia, rising to 2,237 in 2002, 2,368 in 2003, and, as of 1 January 2004 – according to LBAS information – 2,419 (see Figure 4) (including other agreements).
Collective agreements are signed at enterprise level between trade union and management. Theoretically, collective agreements may take four forms:

1. national level – bilateral between trade unions and employers’ organisations;
2. national level – tripartite;
3. regional level – between trade unions and employers’ organisations;
4. enterprise level – between employer and local trade union or employees’ representatives.

Nevertheless, bipartite dialogue in Latvia should be strengthened by interest harmonisation not only at national level, but at enterprise and sectoral level. Latvia should strive to bring employers and employees together at enterprise level based on the partnership principle, without confrontation. Government support will be necessary to foster a new industrial relations climate. It would also help if there were progressive employers who wanted to motivate workers, as well as workers who knew their rights and entitlements. The state should provide a favourable economic and legislative environment for the development of free enterprise, on which basis it may properly expect that companies will see it as in their interest to be good tax payers and good employers.
The weakness of existing bipartite dialogue is partly due to the different organisational structures of LBAS and LDDK, as a result of which it is sometimes not possible to find a partner with which to negotiate. Employers should be more interested in supporting the creation of trade unions; at the same time, the trade unions are not strong negotiating partners.

In conclusion, efforts are under way to establish a new approach to industrial relations and the following should serve as a basis:

- the economic role of the labour force should be recognised and valued;
- a common understanding should be reached about economic aims;
- employees should develop their abilities;
- there should be close cooperation between representatives of employers and employees. There should be cooperation (respecting the interests of all parties) in relation to employment issues.

The general agreement on the basic principles of social partnership concluded in 1996 and determining the bargaining procedure for collective agreements and dispute settlement at all levels is worth mentioning separately. This agreement, *inter alia*, provides that each year LBAS and LDDK should conclude a general agreement on the minimum wage and its increase in accordance with inflation. LBAS data (as of 1 January 2004) on collective agreements include the following:

- Trade union membership in Latvia is estimated to be 20% (38% in the public sector but a mere 8% in the private sector).
- Collective agreements exist in 26% of workplaces (37% and 19% in the public and private sectors, respectively).
- The total number of collective agreements was 2,018 at the enterprise level and 10 at sectoral level by January 2000; the number of collective agreements had risen to 2,368 by the beginning of 2003, while sectoral agreements had increased to 32; in 2004 the number of collective agreements stood at 2,419.
- A number of bilateral agreements, including several on minimum wages (exceeding the minimum set by the government) have been concluded by LBAS and LDDK.
- The percentage of employees covered by a collective agreement was estimated to be under 20%, despite the fact that, unless the agreement provides
otherwise, a collective agreement concluded at enterprise level applies to all persons employed by the company.

Both the unionisation rate and the collective agreement coverage rate are clearly still very low.

There is also a framework of organisations at sectoral level on both sides. However, although most organisations have a counterpart (on the employees’ side, several sectors are internally divided, with several unions in the same branch: for example, there are two health care unions), sectoral-level social dialogue is still in its infancy, although the number of agreements did increase to 23 in 2002. The main reason for this state of affairs appears to be partly lack of resources and partly lack of awareness on the part of the social partners concerning the potential of social dialogue. At regional level the situation appears to be even worse, as there is no organisational framework on either side.

Collective action primarily takes place at company level, as indicated by the number of collective agreements concluded at this level – more than 2,000 – but coverage is still clearly inadequate.

In recent years, the income of employed people, adjusted for inflation, has gone up by 3.5% per annum in real terms. Public sector wages rose faster than those in the private sector.

In Latvia, traditional branch-level wage-rate agreements are not concluded; instead, there are collective agreements, conventions, and general conventions (one exception is the agreement of the Latvian Builders’ and Construction Workers’ Association).

Leaving aside the contents of collective agreements, a number of negative tendencies in this regard should be noted:

- The total number of agreements at enterprises is low, and is only slowly increasing.
- The poor financial position of branches and enterprises hinders the conclusion of collective agreements.
- Several trade union branches are financially weak and have low memberships.
- The social partners find it difficult to engage in collective dialogue.
The employers are not willing to discuss industrial relations issues constructively.

Employers are haphazardly organised. Numerous enterprises do not belong to any branch organisation. The number of small and medium-sized enterprises is large.

Sometimes it is difficult to establish the existence of a ‘branch’.

Often employers are functionally multi-structural and the trade unions cannot find a partner.

It is a complex matter to resolve certain issues, such as wage increases in branches with a differentiated remuneration system (as in the chemical and textile industries).

Often the contents of agreements are formal and implementation is not monitored.

Agreements concluded with the relevant ministries can mainly be considered cooperation agreements (informing, teaching, helping in the process of concluding collective agreements at enterprises, protecting trade union interests, and so on).

The large size of the informal economy.

4.2. Tripartite relations

Negotiations between employees’ organisations and employers or employers’ organisations are promoted by the National Tripartite Cooperation Council (hereinafter NTSP), with an equal number of representatives appointed by the Cabinet of Ministers, the Employers’ Confederation and the Free Trade Union Confederation. Each member appoints seven representatives, including a leader and deputy. The main task of the Council is to ensure cooperation between government, employers and employees (trade unions) at national level with a view to reaching coordinated solutions to problems of socio-economic development which affect society as a whole. It does this by developing and implementing strategies, programmes, laws and regulations on social and economic matters, promoting social stability and the welfare state. In this way the social partners bear increasing responsibility for decisions and their implementation.

The agreement on the National Tripartite Cooperation Council (NTSP) signed between the Free Trade Union Confederation (LBAS), the Latvian Employers’ Confederation (LDDK) and the government on 30 October 1998
forms the basis of the tripartite system at national level. The main objective of the NTSP is to promote cooperation between government, employers’ organisations and trade unions at national level in order to reach a consensus on resolving socio-economic problems. NTSP functions include:

- conciliation in collective disputes;
- promotion of cooperation at sectoral and regional level;
- discussion of and making proposals in relation to concept papers, programmes, draft laws, draft regulations of the Cabinet of Ministers on social security, state budget guidelines, economic development and regional strategy, health promotion, development of general and professional education, employment and professional qualifications, enforcement of ILO Conventions and government reports on their implementation, government reports relating to the international instruments of the Council of Europe;
- implementation of the recommendations of international institutions.

The NTSP may also require sectoral ministries to postpone submission of draft legal acts to the government so that it can discuss them. The Council has no decision-making power but is a forum for the social partners. It has 21 members (seven government representatives, and seven each from the employers and the trade unions). The NTSP meets every one to three months, and it has four subcommittees: (i) vocational education and employment, (ii) employment relations, (iii) social security and (iv) health care. Its decisions are made by consensus and are binding on participants.

At the regional level, there is one regional tripartite council – in Cesis – based on a special tripartite agreement. Thus, it would be safe to say that tripartism has really only been developed at national level.

Both the trade unions and the LDDK favour Latvia’s accession to the EU, and both favour social dialogue as part of EU and subsequent EMU membership, with a view to influencing social and economic policy, creating beneficent social conditions, raising productivity and fostering employment, business competitiveness and necessary restructuring. However, while there are promising trends, social dialogue still needs to be developed at all levels to be able to cope effectively with these tasks: while the legal basis for it exists, public awareness raising and training measures are needed. It would be difficult for the government to implement its policies without the support of the population, which can be mustered, among other things, through social dialogue.
Bilateral and tripartite dialogue at national level has been a success so far, although the number of collective agreements concluded at company level – and hence coverage – remains low, as does trade union membership. If social dialogue is to be able to support the EMU convergence process, steps need to be taken to foster it – for the benefit of all parties.

5. Social dialogue and the development of employment policy

5.1. Progress assessment of preparations for the European Employment Strategy

The EU Employment Strategy envisages the preparation of annual National Employment Plans (since 2004 – National Action Plans for Employment [NAPE]). To adjust Latvian employment policy to this requirement, a Concept on employment promotion was adopted by the Cabinet of Ministers in 1999 which envisages an annual National Employment Plan for Latvia in conformity with EU employment policies.


The structure of the NAPE (2004 onwards) is largely organised in accordance with the recommendations of the Employment Committee (EMCO). The measures aimed at promoting employment and improving objectively verifiable indicators take the form of specific employment guidelines. Information on NAPE employment indicators, employment legislation in Latvia, projects related to EU Structural Funds and other labour market issues is provided in the NAPE’s appendix.

NAPE 2004 was drafted by a steering group consisting of representatives of the following institutions and organisations: Ministry of the Economy, Ministry of Welfare, Ministry of Education and Science, Ministry of Agriculture, Ministry of Regional Development and Local Government, and the State Employment Agency, as well as the Union of Local and Regional Governments of Latvia, the Latvian Free Trade Union Confederation and the Latvian Employers’ Confederation. During the draft stage of the
document due consideration was given to proposals, clarifications and specifications submitted by the Ministry of Finance, the Ministry of Justice, EU experts and other organisations and entities. Assistance in plan development was provided by experts and consultants from the PHARE project ‘Employment Strategy’. Preparation of the draft National Action Plan for Employment was coordinated by the Ministry of the Economy.

5.1.1. Employability

The development of the Latvian economy in recent years has had a positive impact on the labour market and has fostered employment growth (see Table 3).

**Table 3: Key employment indicators**

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<th>2000</th>
<th>2001</th>
<th>2002</th>
<th>2003</th>
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<tbody>
<tr>
<td>Employed persons</td>
<td>917.6</td>
<td>937.5</td>
<td>962.5</td>
<td>981.5</td>
</tr>
<tr>
<td>Employment rate (%)*</td>
<td>57.5</td>
<td>58.6</td>
<td>60.4</td>
<td>61.8</td>
</tr>
</tbody>
</table>

* Share of employed persons in total number of economically active persons (aged 15–64).

Source: LFS.

All four quarters in 2003 saw an increase in employment, with a total increase over the previous year of 19,000, mainly in construction, transport and communications.

In almost every sector of the economy, growth has so far had little impact on employment. The developing private sector has given rise to competition in the post-privatisation period, forcing enterprises to cut costs, often in the form of redundancies. This is a result of low productivity.

In 2003 the employment rate increased by 1.4 percentage points compared with the previous year.

However, employment rates differ significantly by region. In 2003, the highest employment rate was in Riga region (66.0%), followed by Zemgale (62.2%), Kurzeme (60.8%) and Vidzeme (60.6%), while Latgale did significantly less well (52.1%). In 2003 due to recent economic developments Kurzeme experienced a significant improvement and the employment rate increased by 3.1 percentage points; the same indicator in Zemgale region was 1.2 percentage points, while in Vidzeme region it fell by 1.5 percentage points.
The main reason for these employment rate differences in the regions is low economic activity in areas remote from the capital city, Riga.

The low geographic mobility of the labour force, caused by inadequate transport infrastructure in economically less developed regions and relatively high housing costs (compared to wages) in areas of increased economic activity is an obstacle to further improvement.

Structural changes in sectors traditionally employing a large proportion of women (for example, trade, catering and commerce) mean that the female employment rate has increased rapidly, and now stands above the EU average, while the male employment rate currently lags behind the EU average.

Compared to the EU average, the Latvian labour force works relatively long hours, averaging 41.9 hours per week (2002) in comparison with the EU average of only 36.1 hours a week. Latvia has a relatively low number of part-time workers: in 2003 only 9.6% of the workforce were part-time in Latvia (9.1% in 2002). The EU average is approximately double that.

Illegal and undeclared employment is still a major problem in Latvia. Employing people without an employment contract and paying wages 'under the table' is still common practice. In many cases, employment is partly declared: employees are contracted and paid fixed wages, supplemented by informal and undeclared payments.

5.1.2. Entrepreneurship

At the end of 2003 there were around 41,000 enterprises in Latvia, with a 22% increase in the number of newly registered companies on the previous year. The number of enterprises per 1,000 inhabitants (19) is considerably lower than the EU average and indeed one of the lowest among the new EU member states.

The business environment in Latvia is constantly being improved as the legal framework is developed and harmonised with EU requirements. Furthermore, the business impact of administrative measures is monitored.

The new Commercial Code came into force from 1 January 2002, constituting a fundamental reform of the business environment, replacing the Law on business activities and consolidating various regulatory schemes.
Social dialogue in Latvia: a challenge for the social partners

The Action Plan for Improving the Business Environment has been implemented in Latvia since 1999. The plan is an inter-ministerial document on policy priorities and measures.

In recent years the government has reduced and is planning to further reduce the tax burden on entrepreneurs. The current taxation system focuses on attracting investment and promoting business development as a sound basis for creating new jobs. The Law on corporation tax provides for a reduction of the tax rate from 25% (in 2002) to 15% (in 2004), creating one of the most favourable corporate tax environments in Europe.

Recognising the development of SMEs as a business policy priority, the government developed the Small and Medium-Sized Enterprise Development Programme for 2004–2006. The purpose of the programme was to promote balanced development of SMEs throughout the country by ensuring a favourable environment, supporting business ideas, creating new enterprises and maintaining the growth of established SMEs and increasing their competitiveness.

In 2003 implementation of the Consultative Support Programme for Business Start-Ups was completed successfully. The purpose of this programme was to promote the establishment of new enterprises and the development of existing ones by gradually strengthening their position in the domestic market, as well as – in the near future – in the EU Single Market.

Since 2000 the bank Latvijas Hipotēku un zemes banka (LHZB) has been implementing the Provision of Credit for the Development of Latvian SMEs programme. So far, the programme has significantly facilitated capital availability to SMEs and in particular the participation of commercial banks in credit provision. On 26 November 2002, the Cabinet of Ministers approved Phase 2 of the Programme providing a government guarantee of LVL 20 million to LHZB to attract the necessary resources in the financial markets for providing credit to SMEs. This Programme facilitated the creation of over 2,650 jobs between 1 January 2000 and 30 September 2003.

Latvia endorsed the European Charter for Small Enterprises in April 2002, signing the Maribor Declaration in Slovenia together with other EU accession countries and thus undertaking to observe the Charter’s ten objectives.

The objectives of the multi-annual programme are achieved through a range of measures, including the creation of a network of European Information
Centres (EIC, originally *Eiro Info Centres*), financial instruments and policy development.

The first European Information Centre in Latvia was established in 1997 under the Latvian Development Agency. In May 2003 the tendering process was concluded for setting up the second European Information Centre in Latvia, which has already commenced operations.

The Programme’s financial schemes are managed by the European Investment Fund (EIF) and are aimed at improving the financial environment for enterprises, especially SMEs. The third phase of the programme covers the development of national SME policies within the framework of the BEST (Business Environment Simplification Task) Programme and horizontal projects aimed at building a better understanding of a range of issues concerning entrepreneurship development.

### 5.1.3. Flexibility

Promoting labour force and enterprise flexibility is an important part of employment policy. In this process particular attention should be paid to social partner participation. Currently, Latvia is characterised by inflexible working patterns and rigid forms of employment agreement.

Health and safety at work is an important factor in working conditions. Despite the decreasing number of accidents, especially fatal accidents, at workplaces in Latvia in 2003, their incidence rate is still high, exceeding the EU average.

The National Tripartite Cooperation Council is convened on a regular basis as a national-level forum for discussing important employment and social issues and their solutions.

The PHARE twinning project Promotion of Bipartite Social Dialogue was launched in 2002, aimed at facilitating bipartite social dialogue and strengthening the capacities of the social partners. Within the framework of the project, a database was developed for storing information on employees, employers and their cooperation schemes at different levels. The project also included publicity campaigns, developing and distributing printed materials on collective agreements, the importance of social dialogue and mediation as a peaceful method of solving labour disputes.

Increasing public awareness through the dissemination of information materials has a positive impact on compliance with and correct implementation
of labour legislation and other employment- and labour-related regulations, as well as facilitating social dialogue.

The number of collective agreements concluded in enterprises increased in 2003. In April 2004 the Latvian Free Trade Union Confederation (LFTUC) reached a general agreement with the Latvian Employers’ Confederation (LDDK). The document covers such important issues as wages and taxation policy, thus facilitating dialogue and cooperation with national authorities and municipal institutions.

Within the framework of social dialogue and in cooperation with the Labour Inspectorate, labour rights protection and labour dispute resolutions are promoted by means of discussion forums with lawyers, issuing information materials and organising seminars.

In order to improve working conditions, labour protection legislation has undergone significant modifications. By the end of 2003 harmonisation of Latvian labour protection legislation with EU requirements had been completed, giving the employees of Latvian enterprises equivalent legal rights to safe working conditions.

The establishment of a Focal Point of the European Agency for Health and Safety at Work should also be noted. At the beginning of 2003 the Focal Point launched a website providing information free of charge on issues related to health and safety at work.

In order to promote labour mobility, the information systems of the State Employment Agency are being improved within the framework of PHARE National Programmes with a view to ensuring international availability of information in accordance with EU requirements (EURES).

In order to estimate labour market supply and demand, the State Employment Agency undertakes semi-annual surveys of employers and collects information about potential increases or falls in the number of workplaces. It must be noted that the current employer sampling method and the quality of surveys are insufficient to provide high-quality forecasts.

In order to increase investment in education, training and improving workforce qualifications, the Ministry of Finance issued an informative report ‘Proposals for Possible Payroll Tax Exemptions Applicable to Employer Investments in the Education and Training of Employees’ analysing possibilities in relation to tax exemptions on employer
contributions to financing their employees’ studies in natural sciences and engineering (BA, MA, PhD).

As regards labour relations and social dialogue, new legislation and regulatory acts have been adopted in recent years to integrate the provisions of ILO conventions and EU directives. However, employers continue to pay little or insufficient attention to their obligations. Work contracts are often avoided or limited in scope. Inadequate wage regulations and provisions are also frequently observed.

In the EU-15 the number of working hours has shown a downward trend in recent years, while in Latvia the opposite has been the case: in 2003, average working time reached 42.0 hours per week, overburdening employees and reducing work efficiency.

As regards improving the work–life balance, flexible working hours and labour contracts are of crucial importance. Compared to the EU average, the situation in Latvia is particularly unsatisfactory. The proportion of employed women working part-time was 12.1% in 2003, only one-third of the EU-15 average. Limited child-care alternatives in Latvia mean that the social partners must increase their efforts to ensure greater availability of flexible working.

Changes implemented in recent years to improve workplace safety have not yet had much of an impact on working conditions. Nevertheless, the number of fatal accidents fell in 2003 in comparison with the previous year, although the incidence rate is still higher than in the EU-15 (4.3 per 100,000 employees as against the EU-15 average of 3.4). As regards occupational diseases, which show a rapidly increasing trend, the situation is likely to change only from about 2010 as the newly established OSH system and legislation start to produce positive results. Current growth in occupational diseases is the result of the poor working conditions which prevailed in enterprises in the 1970s, 1980s and early 1990s.

5.1.4. Gender equality

In order to facilitate women’s labour market integration, reduce the considerable male/female employment-rate gap and differences in gender-specific unemployment rates, an integrated approach must be pursued. Social partner participation will play an extremely important role in ensuring gender equality in the labour market.
Insufficient attention is paid to improving the work–life balance, ensuring access to child-care services and other care provisions for dependant family members with disabilities, and facilitating re-integration in the labour market after a period of absence. Although the number of kindergarten places is continuously growing, it is still well short of the target set by the EU.

The main indicators related to female employment (64.7% activity rate and 57.9% employment rate) in Latvia were above the EU average in 2003 (in the EU-15 women’s employment rate in 2003 stood at 56%). The employment rate of women in Latvia already exceeds the mid-term target for 2005 set in Stockholm; furthermore, it shows an upward trend. Although according to the Labour Force Survey women’s unemployment rate is decreasing (10.7% in 2003), it is still higher than the EU-15 average (8.9% in 2003).

Despite women’s relatively high participation rate and educational level, gender equality in the Latvian labour market is still some way off. For example, labour market segregation is high and the wage gap remains wide: women’s average wages are only 83% of men’s (see Table 4).

Table 4: Gender pay gap (%)

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Source: CBS data.

Flexible employment forms and opportunities to work part-time play a significant role in improving work–life reconciliation. Considering the limited alternatives in child care, the social partners must intensify their efforts to provide flexible employment forms, especially for women with children.

Unemployed women are more active than men in Latvia in registering with the State Employment Agency (SEA) and participating in SEA active labour market measures. The SEA observes the gender equality principle by ensuring a male/female balance among unemployed persons participating in active labour market measures and the respective ratio in the total number of registered unemployed, identifying persons returning to the labour market.
after child-care leave as a special target group, providing, for example, vocational guidance and career counselling services to women.

To ensure the consideration of gender equality issues at the highest level, the Gender Equality Council was established in March 2002. The main task of the Council is to promote the development of a common gender equality policy and ensure implementation of the Concept on Gender Equality. In July 2003, the Gender Equality Affairs Unit was established in the Ministry of Welfare.

An important role in facilitating the work–life balance is played by the Ministry of Children and Family Affairs.

6. Preparations for participation in EU social dialogue

6.1. Collaboration of social partners with the EU and international institutions

The Free Trade Union Confederation of Latvia (LBAS) has been an ICFTU member since 1997. In June 2003 LBAS became a full-fledged member of the ETUC, having previously enjoyed observer status and participating in many activities run by ETUC and other European organisations. The ETUC played an important role for LBAS during the accession period. The National Integration Committees (NIC) established in the accession countries (except Malta and Cyprus) by the ETUC served as an excellent means of getting acquainted with the European Union – its history, institutions, legislation, enlargement challenges and opportunities. On the current agenda, alongside LBAS’s own programme, is the implementation of ETUC guidelines on health and safety, collective bargaining, the working time directive, and information and consultation of employees. LBAS has been dealing with these issues for years, but others, such as the environment, stress and its consequences, and the services directive have yet to be addressed properly.

In the Baltic region LBAS is a member of the Baltic Sea Trade Union Network (BASTUN), established in Riga in 1997, which brings together 20 trade union confederations from around the Baltic Sea, most of them also ICFTU and ETUC members. The Nordic countries have played a significant role since Latvia gained its independence, particular Sweden and Finland. Existing contacts should be maintained and new areas of cooperation opened up, to the benefit of both sides.
In 1993 trade union confederations from three Baltic States decided to strengthen their cooperation by regular meetings and exchange of information among leaders, international secretaries and other experts. In this way the Baltic Trade Union Council (BTUC) was established.

Now that they are EU members cooperation between the Baltic states is more important than ever.

LBAS’s traditional partners are the trade union confederations of Germany, France, Russia, Hungary and Poland, but over the last two years very good contacts have been established with Belgium, and together with the ILO training centre in Turin bipartite social dialogue was implemented between LBAS and its counterpart LDDK (which has observer status at UNICE).

6.2. National government and the EU

In 1995 Latvia signed the Treaty of Europe in Luxemburg and made a commitment to respect EU requirements in the area of employment. The Cabinet of Ministers’ Concept on the Promotion of Employment was adopted in 1999 and envisages development of a National Employment Plan (NEP). The first NEP was elaborated in 2000. The employment-promoting activities of the 2003 NEP (the fourth) were collected into four main groups: (i) labour force development, (ii) enterprise development and job creation, (iii) promotion of flexibility among employers and employees and (iv) support for equal opportunities policy. The key task in promoting flexibility among employers and employees is the active continuation of bipartite and tripartite cooperation between the social partners, supported also by the PHARE projects ‘Promotion of Bipartite Social Dialogue in Latvia’ and ‘Improvement of the Work Environment in Private and Privatised Enterprises’. No less important are harmonisation of industrial relations with the new Labour Code (since June 2001), optimisation of individual work contracts and collective agreements, and motivation of employers to invest in training.

The Ministry of the Economy in cooperation with other Ministries and the social partners will develop National Employment Plans in the coming years.

Various employment promotion activities were selected after priorities had been established in accordance with the economic, social and political situation in Latvia. Implementation of the priority activities contained in the
fourth NEP will bring about further development in accordance with EU requirements.

The main objective of Latvian employment policy is to increase the employment rate, meeting the strategic requirements laid down by the EU, as well as tackling problems of unemployment on the basis of sound economic growth. The European Council at Stockholm, supporting the Lisbon Objectives for 2010, set the intermediate objectives for 2005: a total employment rate of 67% and an employment rate for women of 57%, supplemented by a new indicator – an employment rate of 50% for persons aged 55–64 to be achieved by 2010.

Measures aimed at implementing the national employment strategy will be in conformity with the Joint Assessment Paper on Employment Policy Priorities signed by the Latvian government and the European Commission in Brussels on 6 February 2003. Among the tasks laid down were: development of active and preventive labour market policies, improvement of the State Employment Agency, improvement of access to training and reduction of the unemployment rate. Among the most important tasks the need to continue the restructuring of the national economy should be mentioned. In this connection, the role of the social partners in reducing agricultural employment should be strengthened. Entrepreneurship and job creation should also be enhanced, particularly in the service sector in regions of slower economic development. Indeed, the reduction of regional disparities, including disparities between urban and rural areas, is a matter of extreme importance. The reduction of taxes and social contributions will favour the development of entrepreneurship, and better adaptation of education and training to labour market requirements will promote both employment and entrepreneurship. Finally, undeclared work should be transformed into regular employment. The long-term goals of Latvian employment policy are full employment, making it possible for everyone who wants to work to find a job, and ensuring economic and social mobility.

The Government Declaration on Employment Issues puts the main stress on reducing unemployment and creating new workplaces.

To develop social dialogue, the PHARE twinning project ‘Promotion of Bipartite Social Dialogue’ has been implemented. The project was established by the European Union. The project partners are the Ministry of Welfare, the National Tripartite Council, the Latvian Confederation of Employers’ Associations and the Free Trade Union Confederation of Latvia,
Social dialogue in Latvia: a challenge for the social partners
together with the German Ministry of Economic Affairs and Labour (BMWA) and the UK Advisory, Conciliation and Arbitration Service (ACAS). The project is aimed at strengthening autonomous social dialogue at different levels (national, sectoral, regional and enterprise).

7. Strengths and weaknesses
Latvia’s accession to the European Union (EU) has undoubtedly positively influenced the development of social dialogue. The government plays an active role in these processes and the current policies of the Ministry of Welfare are very favourable to social partnership.

Involvement of the social partners in the elaboration of employment programmes and development plans has increased in recent years. Social partner cooperation has become more professional. Through training and experience of social partnership in other countries (for example, Belgium) the social partners in Latvia have developed a better understanding of each other’s problems and needs, although many problems remain unsolved. Low membership and the different structures of the social partner organisations are obstacles to faster development.

7.1. Problematic issues
Reforms have had a positive effect on economic development. As regards industrial relations, while the legal basis for social dialogue is in place, there is still hardly any dialogue at the sectoral and none at the regional level. And while bilateral and tripartite dialogue at national level have been successful so far, the number of collective agreements concluded at company level remains low, as do coverage and trade union membership. If social dialogue is to be able to support national economic development (the EMU convergence process is another important area for social dialogue), steps need to be taken to foster social dialogue – for the benefit of all parties involved.

However, while there are promising trends, social dialogue must be developed at all levels to be able to cope effectively with these tasks: while the legal basis for it is in place, public awareness raising and training measures are needed. It would be difficult for the government to implement its policies without the support of the population, obtained, among other things, through social dialogue.
7.2. Obstacles
As regards bipartite social dialogue, there is often a lack of understanding or will to get under way. Often employers are not supportive, but employees may not be motivated to negotiate either. Unfortunately, the notion of bipartite social dialogue is met with some scepticism by many employers who remain unconvinced concerning the possible benefits to them. This is a legitimate point. The advantages must be made clear to them, above all improvements in the motivation and creativity of employees, and the better use of opportunities provided by the European Structural Funds as regards joint activities of employers’ and employees’ organisations and representatives.

Sectoral or branch dialogue remains undeveloped and mostly takes place between national social partners in particular sectors.

The lack of regional social dialogue is not surprising as the social partners have not yet developed regional structures or a regional administration.

7.3. Positive outcomes
Information and consultation of social partners is organised by the NTSP. NTSP meetings also feature regular exchanges of information and concertation of policies. Bipartite social dialogue takes place mainly at enterprise level, at larger enterprises with an adequate level of trade union membership and human resource management. It should also be mentioned that in enterprises with trade union representation, there are no European works councils.

As already mentioned, sectoral social dialogue must be further developed. However, this form of social dialogue has already resulted in several collective agreements (general agreements), mostly in the public sector but also in some branches of industry. The contents of these agreements include, for example, development of human resources and qualifications, workplace health and safety, transparency of wage systems, and communication and consultation procedures. Given the lack of development of sectoral social dialogue, the readiness to participate of a number of partners can be considered a positive outcome.

As regards regional social dialogue, as already mentioned, regional structures remain undeveloped, but there are a few exceptions. For example, in Cesis local cooperation has already led to tripartite agreements on social dialogue, while in Liepaja the local ‘Directors’ Club’ has declared itself ready to start talks with the trade unions, the local trade union centre reacting by accepting the ‘Directors’ Club’ as the official local representative of employers’
interests. This was achieved after several rounds of talks during which the various interests were clarified. The aim now is to draft a basic agreement on social dialogue that will contain the joint interests of the social partners in the development of local employment, qualifications and competitive infrastructures.

**Concluding remarks and suggestions**

Since Latvia’s accession to the European Union (EU), the Latvian social partners have contributed a lot of time and resources to informing their members about the new circumstances. The Employers’ Confederation has done much to develop conformity of goods and services with European and world standards, while the trade unions have informed their members about new challenges on the European labour market. Both confederations have sought to protect their members’ interests in non-governmental organisations worldwide, as well as in Europe. The most prescient employers’ and employees’ representatives have sought to help reorganise Latvia’s economy and society so that they can integrate in a single socio-economic space with countries whose democratic traditions are hundreds of years old.

The Latvian and EU institutions in which the social partners function serve as bridges between government and society. The strength of these bridges depends on all the actors involved: the social partners’ ability to express their opinions, and the Government’s willingness to listen. It all depends on whether the government realises that the social partners constitute a rich resource in terms of knowledge and practical experience for addressing all socio-economic issues.

To this end, consultation and exchange of opinions should become habitual, though not a mere duty paid to international organisations and instruments.

Both LBAS and LDDK stand for social peace and stability. This means that the members of those Confederations support the principles of cooperative social responsibility and that they are ready to join UN General Secretary Kofi Annan’s Global Compact Initiative on the observation of human rights, labour rights and environmental protection principles. Only social peace can give Latvia the opportunity to develop in our dynamic age.

Our strength lies in those employers and employees who are concerned not only about profit, but also about socio-economic processes in Latvia.
The platform for developing social dialogue in Latvia is already in place and now some practical steps are needed.

Social dialogue in Latvia also requires an economic, social and organisational knowledge base which should be improved by the implementation of a database on collective agreements. This could serve as a tool for the negotiation of collective agreements, as well as for involving employees and their representatives at enterprise level. Collective agreements would then better manifest the outcome of social partner efforts to potential members on both sides. Finally, the social partners should make effective use of the manuals that have been developed to support their efforts to achieve organisational strength.

In Latvia, as in other countries, social dialogue requires a joint strategy worked out by both partners. A strategic policy document will show the way to the further development of labour relations – between individual employees and employers, as well as between trade unions and employers’ associations. Social dialogue should start with joint interests and seek to avoid controversial issues. All over Europe successful development of social dialogue has been shown to be achieved best by means of small steps. Implementation of the jointly agreed Policy Document should be monitored and controlled within the NTSP and if needed expertise and advice may be organised. Social partners at the different levels should take the opportunities offered by the European Fund programmes to improve their situation and to contribute to the development of labour relations and competitive structures in Latvia.

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1. Introduction

Alongside the collapse of the Soviet Union Lithuania, together with other former Soviet republics, experienced significant political, economic and social transformations. These transformations had a direct effect on the country’s labour market and significantly changed labour relations. New labour legislation and labour market institutions were created. Generally, the Lithuanian situation at that time was very similar to those in other transition countries. Overall changes in the economic situation and liberalisation of employment protection legislation modified the labour market, the employment environment and the social security of workers. However, one special feature of Lithuania that might be stressed in this context is the particularly low level of labour force organisation (according to a number of different sources Lithuania stands at the bottom of the scale in terms of both trade union density and collective agreement coverage in Europe).

Since 1990 – the restoration of independence – a new regulatory system for labour relations has been established (and is still under development). By the end of 1991, new laws regulating labour relations were approved: laws on employment, individual income security, collective bargaining, trade unions, employment contracts and holidays. Almost all these laws and their amendments were prepared together with the representatives of trade unions and employers’ organisations. In developing labour relations in Lithuania, significant possibilities have been provided for direct dialogue between employees and employers.

At present, there are two main employers’ organisations in Lithuania: the Confederation of Lithuanian Industrialists and the Lithuanian Confederation of Business Employers. There are also three main trade union organisations: the Lithuanian Trade Union Confederation, the Lithuanian Labour Federation and the Lithuanian Trade Union Solidarumas (Solidarity).

Code is based upon legal acts of the European Union and the ILO and provisions of the European Social Charter. The Labour Code pays particular attention to the development of social dialogue and industrial relations; the concept of social partnership and principles of cooperation were defined in the Code for the first time. However, it has to be said that cooperation between the social partners is still at a very low level in Lithuania. Few sectoral collective agreements have been concluded in some branches (energy, telecommunications and education), and even they are of a formal nature. Approximately 5 per cent of enterprises and organisations have concluded collective agreements at local level. At the same time, social dialogue in Lithuania is being developed ‘from the top down’ and the national-level organisations are much more developed than local or enterprise-level organisations.

In order to consolidate social partnership and the regulation of industrial relations through collective agreements, the Lithuanian government, in accordance with the Tripartite Council recommendations, confirmed the Social Partnership Development Plan for 2003–2004 in January 2003.

Regardless of rather positive macroeconomic indices in Lithuania in 2002–2004, the country is still experiencing high unemployment and relatively low wages and social benefits.

As early as 2000, during drafting of the Programme for Increasing Employment for 2001–2004, the EU Employment Strategy was analysed systematically. Part of the draft Programme was in line with the four key EU employment-policy pillars: employability, adaptability, entrepreneurship and equal opportunities. The National Employment Policy pursued between 2001 and 2004 was regularly harmonised with the directives and decisions issued by various EU institutions.

The first National Action Plan for Employment (NAPE) was drafted in 2004. Employment policy will be further developed in line with the common EU Employment Strategy, Broad Economic Policy Guidelines and the recommendations of the European Commission to be drawn up after assessment of the 2004 NAPE.

Lithuania’s accession to the EU has had a positive impact on the development of social dialogue in the country and has encouraged the efforts of the social partners and particularly of the government to extend cooperation between employers and employees. However, irrespective of what has been accomplished, social dialogue is still in the formative phase in Lithuania.
Integration in the EU and implementation of the European Employment Strategy furnish new possibilities for the development of social dialogue in Lithuania. On the other hand, economic globalisation and the concomitant need to increase productivity and competitiveness to some extent set employers and employees against one another. The main factor consolidating the interests of the social partners is free movement of labour. Lithuanian employers have suffered from a shortage of qualified labour since 2002, and so have started to pay more attention to investing in the labour force as well as taking the initiative in social dialogue development.

At the moment, the future of social dialogue in Lithuania will depend on how industrial relations at the enterprise and branch level develop. Social dialogue in the context of the European Employment Strategy is understood as harmonisation of economic development and social security guarantees. Therefore, only broad and real collaboration between employers and employees at the lowest (enterprise) level will make it possible to attain this goal, and thereby promote economic and human development.

2. Historical background

2.1. Economic structure

GDP by economic activity

The annexation of Lithuania by the Soviet Union in 1940 destroyed the economy as an independent entity. The re-establishment of the Lithuanian economy began only in 1990, after independence was regained.

The Lithuanian economy has passed through several stages since regaining independence in 1990:

1. The initial transformation from planned to market economy took place between 1990 and 1994.
2. Between 1995 and 1997 the country’s market infrastructure was strengthened and the economy restructured. This was followed by an external shock-led recession in 1998–1999 in the aftermath of the Russian crisis.
3. Since 2000 the economy has recovered and growth accelerated, and the trend is expected to continue for some years.

These developments can be seen in the GDP data presented in Figure 1.
Lithuania was the first of the Baltic states to take steps towards privatisation and reform; perhaps too rigorously, because between 1992 and 1994 GDP (at constant prices) decreased by between 10 and 20 per cent (the highest percentage compared with the other Baltic states). GDP has grown in Lithuania since 1995 (with the exception of 1999, as a result of the Russian crisis – see Figure 2).
In the aftermath of the Russian crisis Lithuanian enterprises have successfully begun to reorient their exports from traditional eastern markets towards the more competitive EU markets. This has been a critical factor in the country’s export-led economic recovery.

Major changes in the structure of the economy occurred between 1992 and 1994. Whereas in 1992 the share of industry in GDP was 40 per cent, by 1994 this had fallen to 27 per cent, in favour of services (see Figure 3).

While Lithuania’s economic structure gradually shifts towards that of a developed market economy (the share of the agricultural sector declined from 12 per cent of GDP in 1995 to 7 per cent in 2002, whereas services increased from 62 per cent to 69 per cent in the same period), agriculture remains an important sector as far as employment is concerned (see Figure 4).
Figure 3: Structure of gross value added by activity in Lithuania in 1992–2002 (at current prices, %)

Source: Statistics Lithuania.

Figure 4: Structure of gross value added and employment by economic activity in Lithuania, 2002 (%)

Source: Statistics Lithuania.
Almost 17.8 per cent of the employed worked in agriculture and/or related activities in 2003. Hidden unemployment in rural areas is high. The sector is still mostly characterised by small-scale, semi-subsistence farms with low productivity: the added value generated by agricultural produce is marginal, accounting for only 7 per cent of total economic output. Consequently, the agricultural sector requires restructuring: for example, the plots of land the farmers obtained during privatisation are too small for profitable production.

In summary, Lithuania has made significant progress in stabilising its economy and implementing structural reforms and the economic structure now resembles that of an EU country; the planned economy has been fully transformed into a market-oriented economy. Wholesale, retail and other services have grown, while parts of agriculture and industry have declined. Such structural changes in the Lithuanian economy correspond to world economic development tendencies (growth in services and declining manufacturing).

**Inflation**

Strict fiscal and monetary policy in Lithuania has resulted in quite a significant reduction in inflation since 1995 (Figure 5).

**Figure 5: Annual inflation, Lithuania**

(December compared to December of previous year, %)

Despite the fact that in 2002 and 2003 the Lithuanian economy experienced deflation, analysts say this is less dangerous in Lithuania than in industrial countries in which the economy is inert. In addition, several years’ deflation are necessary before problems arise.

Employment and unemployment

The dynamics of average annual employment in Lithuania are presented in Figure 6.

Figure 6: Employed population in Lithuania in 1995–2003
(annual average; ‘000)

Source: Statistics Lithuania.

The number of persons employed in the Lithuanian economy began to decrease in 1998, a year of economic crisis, but began to grow in 2002. This fall in employment also had a direct impact on the growth of the unemployment index: unemployment started to increase in Lithuania in 1998 according to the Lithuanian Labour Exchange and in 1999 according to the Labour Force Survey (see Figure 7). The employment rate among the working age population in 2003 was 60.9 per cent.
2.2. Political economy

In 1940 the Soviet Union occupied Lithuania and the country remained under Soviet rule for the next half century. The Soviet regime was resisted by a partisan war (1944–52) that resulted in an estimated 40,000–60,000 dead. More than 350,000 were deported or perished in Soviet labour camps. In the decades that followed, the economy was industrialised and an attempt was made to ‘russify’ the population. But the desire for independence was not subdued by the 50-year occupation.

In the late 1980s, the advent of Mikhail Gorbachev’s perestroika brought an opportunity for change. In 1988, the non-communist Sajudis (Lithuanian Reform Party) conducted a successful campaign to restore Lithuanian as the official language and to legalise the old national symbols. In December 1989 the Lithuanian Communist Party separated itself from the Soviet Communist Party and Lithuania became the first Soviet republic to permit a multiparty system. In February 1990, Sajudis won an overwhelming majority in the free parliamentary elections, and in March independence was proclaimed. Moscow responded with an economic blockade that brought Lithuanian industry and transport to a standstill. In June the Lithuanians agreed to suspend their declaration of independence while negotiations were held to reach a solution. In January 1991 Soviet troops occupied strategic points in Vilnius in an attempt to stop the independence movement, and a number of civilians were killed in confrontations with the military. A
stalemate ensued that lasted for several months. Finally, in September 1991, after Boris Yeltsin’s reformers had gained the upper hand in Moscow, the USSR recognised the independence of Lithuania.

Currently, Lithuania is a multi-party, parliamentary democracy. There are about 40 political parties and organisations registered in Lithuania. The President, who is head of state, is directly elected for five years, commander-in-chief overseeing foreign and security policy, and nominates the Prime Minister and his cabinet and a number of top civil servants.

The parliament (Seimas) has 141 members, elected for a four-year term. About half the members are elected in constituencies (71), and the other half (70) on the basis of party lists. A party must receive at least 5 per cent of the national vote to be represented in the Seimas. The last parliamentary elections took place in October 2004.

Since 1991 Lithuanian voters have shifted from right to left and back again, but irrespective of political fluctuations, all the main political parties in Lithuania agree on the priority of development. On 3 December 2002 the principal political parties (the Lithuanian Liberal Union, the Lithuanian Liberal-Democratic Party, the Lithuanian Social-Democratic Party, the Modern Christian-Democratic Party, the New Union Party [social liberals], the Homeland Union [Lithuanian conservatives]) and public organisations signed the National Agreement on Economic and Social Development.

The National Agreement was drafted on the basis of the current long-term strategies: the strategy of Lithuanian economic development up to 2015 and the national long-term development strategy. The intention behind the National Agreement is to tackle Lithuania’s fundamental problems in the new phase of national development. The following priorities were agreed: creating a competitive knowledge economy capable of ensuring abundance of knowledge-related job opportunities; adapting education and science to the knowledge society and the European system of tertiary education and research; combating poverty and social exclusion; restructuring of rural areas by creating a competitive agriculture, modern infrastructure and active business opportunities; restructuring of state governance by creating the preconditions for implementation of these priorities.

All the major parties declared their support for Lithuania’s membership of NATO and the EU. Lithuania joined NATO on 29 March 2004 and the EU on 1 May 2004. Lithuania has 13 seats in the European Parliament, to which the first elections took place in June 2004.
In summary, the last decade has been a period of substantial political and economic change in Lithuania. The emergence of a market economy, with macroeconomic stability and progress on structural reforms, has established a favourable environment for economic growth and competitiveness.

2.3. Institutional background

The re-establishment of an independent Lithuania was followed by a vacuum in terms of social partner cooperation conditioned by the political, economic and social circumstances of the Soviet era. The years 1990–1991 represented the beginning of the formation of a new system of social partner institutions. The first steps were very difficult: trade unions, collective labour relations and the involvement of employees in management were regarded as elements of the former socialist system and thus unsuitable for a market economy. A number of measures were taken (for example, cancellation of centralised trade union membership fees) to restrict the opportunities of trade unions to influence social and economic processes, particularly at company level. Unfortunately, some elements of these attitudes remain unchanged.

At the same time, another attitude to social dialogue was being formed. Analysing the experience of EU and northern European countries, Lithuanian politicians came to appreciate the importance of social dialogue in a democratic society. Soviet notions of 'trade unions as schools of communism' were gradually substituted by the notion that 'cooperation between the social partners assures harmonious social development and directly serves the interests of the social partners'. A review of the 13-year history of cooperation between social partner institutions seems to indicate that in Lithuania more confrontational attitudes have tended to prevail. However, tripartite institutions cover more and more spheres of activity every year, the variety of social dialogue is improving and the number of collective agreements is increasing.

The tripartite system in Lithuania comprises a number of tripartite councils and commissions, most of them specialised. Most operate at national level, although some have extended their activities to regional level. The main tripartite organisation – the Tripartite Council of the Republic of Lithuania – was established in 1995 following the agreement on tripartite partnership by the government, the trade unions and employers’ organisations and in compliance with the provisions of ILO Convention 144 on tripartite consulting to implement international labour norms. The 15-member
Tripartite Council is constituted on the parity principle (five members each from trade unions, national employers’ organisations and the government).

Social dialogue in Lithuania is being developed ‘from the top down’, which means that:

• the national-level organisations are much more developed than local/enterprise level organisations and social dialogue is more developed at national than at local/enterprise level;
• agreements or settlements are reached in accordance with legislation (for instance, the first tripartite councils in Lithuania were established according to the provisions of the Unemployment Support Law in which the establishment of tripartite institutions at territorial labour exchanges was projected).

Legal provisions covering social partner activities include the following:
• The Constitution (in force since 25 October 1992), which covers trade unions.
• The Law on Associations (in force since 14 March 1996).
• The Labour Code (in force since 4 June 2002).
• The Law on Trade Unions (in force since 21 November 1991).

Lithuanian industrial relations are characterised by particularly low labour force organisation (as already mentioned, a number of different sources locate Lithuania at the bottom end of the EU scale in terms of both union density and collective agreement coverage). After the adoption of the new Labour Code in 2002 (entered into force 1 January 2003) a significant part of labour regulation was transferred to the local/enterprise level (on the responsibility of the social partners). However, given the low level of labour organisation a substantial part of Labour Code provisions are inoperative and the employers are the main actors in labour relations.

3. Anatomy of national social dialogue

3.1. Trade unions

There are three national-level trade union organisations:

• Lithuanian Confederation of Trade Unions (LCTU) was established in 2002 as a result of a merger of two national centres, the Lithuanian Association of Trade Unions (a member of ICFTU from 1994 and
associate member of the ETUC from 1998) and the Lithuanian Centre of Trade Unions. At the beginning of 2004 LCTU comprised 25 branch trade unions with 100,000 members. LCTU cooperates with the ILO, keeps close contacts with Swedish, Danish, German and other foreign trade unions and participates in the activities of the trade union councils of the Nordic and Baltic countries.

- **Lithuanian Trade Union ‘Solidarumas’** (LTU) (before 2002 – Lithuanian Workers’ Union or LWU). LWU was formed as a branch of the Lithuanian Revival Movement Sąjūdis. The first branch of the workers’ union was established in Kaunas in 1988. LTU ‘Solidarumas’ has been a member of ICFTU since 1994 and observer-member of the ETUC since 1998. LTU actively participates in the activities of the Baltic trade unions. At the beginning of 2004 LTU ‘Solidarumas’ comprised 22 branch and 10 regional trade unions with 58,000 members.

- **Lithuanian Federation of Labour** (LFL) was re-established in Lithuania in 1991 (a successor of the Christian Workers’ Trade Union established in Lithuania in 1919). In 1995 LFL merged with the Society of Trade Unions and in 1997 with the Lithuanian Association of Regional Trade Unions. Since 1996 LFL has been a member of the World Confederation of Labour (WCL). LFL is also a member of the Tripartite Council of the Republic of Lithuania with representatives in all national-level tripartite councils and commissions. At the beginning of 2004 LFL comprised 11 branch and 8 regional trade unions with 20,000 members.

### 3.2. Employers’ associations

There are two principal employers’ organisations in Lithuania:

- **Lithuanian Confederation of Industrialists** (LCI). In June 1989 the Constituent Assembly of the Lithuanian Association of Industrialists after 60 years re-established the Union of Businessmen that had operated in Lithuania before the war. LCI comprises 41 branch and 8 regional associations covering more than 2,700 enterprises of different profiles (most manufacturing enterprises, banks, trading companies, higher education establishments). LCI is a non-political public organisation not subordinated to the state. The Confederation has a significant influence over the Seimas and the government. The Confederation has 16 standing committees serviced by officials and qualified experts who operate on a voluntary basis.
• Lithuanian Confederation of Business Employers (LCBE) was established in 2000 as a result of the merger of the National Businessmen’s Confederation and the Lithuanian Confederation of Businessmen Employers. LCBE represents small and medium-sized businesses, including associations, enterprises and natural persons. An LCBE priority is the development of SMEs. The confederation has a regional structure. LCBE has influence over the Seimas, the government, the Tripartite Council, and other state authorities and commissions. LCBE has 14 committees one of whose main priorities is the drafting of business development documents.

4. Collective bargaining and consultation process

4.1. Bipartite relations
The experience of most European countries shows that labour market stability can be enhanced by giving the social partners an active role. Since in Lithuania all reforms (ownership, labour relations, law, pensions) took place at the same time, the process of developing social partnership was quite complicated. In the post-Soviet countries it has been difficult to change the habit of expecting the state to do everything.

In 2002 it was agreed at the Tripartite Council that negotiations should commence at branch level (previously agreements were mostly signed at enterprise level). For this purpose, employers’ organisations had to take responsibility for socio-economic problems in some branches. Enterprises in particular sectors would transfer their right to conclude collective agreements to the relevant employers’ organisation.

Consultations began between trade unions and employers’ organisations to identify partners in the different branches. For both employers and trade unions it would be easier to negotiate locally if there was a branch-level agreement concerning wages, remuneration for harmful conditions and social guaranties in case of collective or individual dismissals, holidays, working time, cooperation, exchange of information, and so on. No doubt, such agreements would also be determined by the economic situation, including unemployment and inflation, market situation and prognosis, productivity, trade union solidarity, branch traditions and the availability of information. The main goals of such agreements would be short-term
(minimum wage increase) or long-term (aimed at ensuring future labour supply, adaptability, qualifications, and so on).

In Lithuania negotiations between trade unions and foreign employers are conducted more quickly and far more rationally than with local employers. Foreign employers regard information and consultation of trade unions as normal, concluded agreements are implemented impartially, and there are regular meetings and consultations with employees’ representatives.\(^1\)

Unfortunately, the situation in most domestic enterprises is different. There is a lack of constructive negotiations and a call to conclude a collective agreement is often seen as a threat by an employer. Fortunately, the situation is changing and in future European traditions of social dialogue will hopefully come to prevail.

In some cases the experience and/or qualifications of trade union representatives are inadequate: for example, they are unable to properly evaluate the information they receive, they do not have appropriate expertise, and so on.

Wage negotiations are difficult because employers are not interested in introducing clearly defined wage systems with fixed hourly rates and other payment conditions. Negotiations are particularly difficult in small enterprises.\(^2\)

Several projects have been implemented in Lithuania in order to strengthen social dialogue at different levels.

In 2000 the largest Lithuanian trade union confederation, LCTU, with the assistance of the Trade Union Educational Support Fund participated in the PHARE project ‘Advancement of collective agreements at branch level between trade unions and employers’ organisations’. Within the framework of this project the problems of and possibilities for concluding collective agreements were discussed with representatives of both public and private sector employers.

\(^1\) Interview with Grazina Gruzdiene, representative of LCTU and member of the Tripartite Council of the Republic of Lithuania.

\(^2\) Interview with Grazina Gruzdiene, representative of LCTU and member of the Tripartite Council of the Republic of Lithuania.
The partners:

- acknowledged the importance of such negotiations;
- indicated potential negotiation partners;
- were informed about the possibility of negotiating minimum and average wage levels;
- were unanimously against government interference.

The following problems were identified:

- branch employers’ organisations are not authorised to assume the functions of individual employers (possible solutions include changing their statutes, obtaining authorisation from individual enterprises, ratification of branch collective agreements);
- scope: whether valid only for members or for every enterprise (if the agreement is approved by the Tripartite Council or the Government of the Republic of Lithuania).

With the adoption of the new Labour Code in 2002 the above-mentioned problems were solved. Currently, the Lithuanian government tends to regulate labour relations less and less and many matters are left for negotiations between the social partners.

The Lithuanian Confederation of Industrialists has been involved in projects on social dialogue with German counterparts.

Another joint project involving the European social partner organisations UNICE, ETUC, UEAPME and CEEP – ‘CEEC social partner participation in the European social dialogue: what are the social partners’ needs?’ – was conducted in 2003–2004. National social partner representatives from Slovakia, Lithuania, Czech Republic, Hungary and Poland participated in this project. This project contributed to the development of social partner collaboration between different EU countries; it also sought to analyse problems and to work out a national action plan for solving them.

However, although there is a legal framework for developing collective labour relations in Lithuania collective agreements are still few and far between. This is partly the result of the fact that the development of collective bargaining only started in around 1991–1992. Even today, when social dialogue is undergoing a lot of positive changes, many employers do not see any benefit from collective bargaining (on the contrary, they regard
it as a limitation on their freedom of action) and avoid entering into such agreements or tend to delay negotiations.\(^3\)

4.2. Tripartite relations

In Lithuania social partnership as an instrument for regulating industrial relations does not have the traditions of the EU-15 countries. The development of social dialogue started only in the 1990s: under the planned economy no negotiations were carried out between the state (as the sole employer) and trade unions (employers’ organisations did not exist).

Trade unions have been the most active partners in implementing tripartite cooperation. On 26 February 1993 an agreement was signed between the government and six trade union associations. Among other things the Agreement stipulated that ‘the contracting parties approve the principle of tripartite cooperation which is followed by the International Labour Organisation, and urge the creation of employers’ organisations’.

The Tripartite Council of the Republic of Lithuania (hereinafter, the Tripartite Council) as already mentioned was established on 5 May 1995 by agreement of the social partners and is based on equal rights and representation.

Permanent members of the Tripartite Council include representatives of the abovementioned trade union organisations: the Lithuanian Trade Union Confederation, the Lithuanian Labour Federation and the ‘Solidarumas’ trade union; the following employers’ organisations: the Lithuanian Confederation of Industrialists and the Lithuanian Business Employer’s Confederation; and of government: from the Ministry of Finance, the Ministry of the Economy, the Ministry of Justice, the Ministry of Social Security and Labour, and the Ministry of Agriculture.

The functions, rights, formation procedure and work organisation of the Tripartite Council are laid down in its Statute. The Statute can be amended and supplemented according to the same procedure. Amendments and supplements shall come into force in the manner specified in the Statute.

The representatives of trade unions, employers’ organisations and the government must furnish the Tripartite Council with all necessary information on the issues under consideration.

\(^3\) Interview with Mindaugas Kuraitis, Head of the Secretariat of the Tripartite Council of the Republic of Lithuania.
The main functions of the Tripartite Council are:

- To analyse social, economic and labour market problems and to make suggestions for solving them.
- To discuss existing laws and the drafts of legal acts concerning social, economic and labour issues and to offer opinions and make proposals to the Parliament and the government.
- To analyse ways of solving social, economic and labour questions on the basis of bipartite and tripartite partnership, and to make suggestions on the expansion of social partnership.
- To draft the annual tripartite agreement concerning social, economic and labour issues (signed by the authorised representatives of the government, the trade unions and the employers' organisations).
- To need be, to coordinate the activities of other social, economic and labour bipartite and tripartite institutions.
- To discuss questions arising under ILO Convention 144 ‘Concerning tripartite consultations to promote the implementation of international labour standards’ and to make decisions.
- To inform political parties and the public about its activities.

In performing these functions the Tripartite Council has the following rights:

- To make decisions and recommendations within its competence.
- To obtain the information it needs for its activities.
- If need be, to coordinate the work of other social, economic and labour bipartite and tripartite institutions.

The Tripartite Council has a chair who is elected for four months. If unable to participate in a session, the chair may be substituted by another member from his or her side (who is also a member of the Tripartite Council), informing the Tripartite Council of this in writing.

The parties present draft documents, agenda items and other relevant information to the secretariat of the Tripartite Council no later than ten days before the meeting. The secretariat no later than seven days before the meeting provides members of the Tripartite Council with the relevant material. Changing the agenda and/or adding other items is only possible at the start of a meeting.
A meeting of the Tripartite Council is valid only if at least half the representatives of each party participate. In exceptional circumstances a member of the Tripartite Council may delegate another person to a meeting.

The Tripartite Council reaches decisions only by majority agreement. Differing opinions are recorded in the minutes. The Tripartite Council may agree on further discussions if no agreement is reached.

Tripartite Council meetings are held at least once every two months (usually once a month).

To discuss some questions in more depth the Tripartite Council may set up permanent or temporary tripartite committees (permanent tripartite committees under the Tripartite Council include the Committee for Labour Relations and the Committee for Tripartite Consultations on Implementation of International Labour Law). Members of the Tripartite Council may also take part in the work of these committees.

The secretariat of the Tripartite Council was established on 1 May 1998. The secretariat carries out administrative and organisational tasks. The head of the secretariat is appointed and dismissed by the Minister of Social Security and Labour at the proposal of the Tripartite Council; officials are appointed and dismissed by the head of the secretariat.

Other trilateral or bilateral councils (commissions, committees) may be established according to procedures prescribed by special laws or collective bargaining agreements for addressing labour, employment, safety and health, and social policy implementation issues on the basis of trilateral and bilateral cooperation. Procedures for establishing trilateral or bilateral councils (commissions, committees) and their functions shall be established in the regulations of the relevant councils (commissions, committees). In the cases stipulated by law the government or subjects of collective bargaining agreements shall approve the regulations.

Other tripartite bodies functioning in Lithuania:

- The Council of the State Social Insurance Fund (CSSIF), established in 1991 on the basis of the Law on National Social Insurance. This Council comprises 15 members representing insured persons, employers and the state. The composition of the Council shall be approved by the Minister of Social Security and Labour or a member of the Council, authorised by the Minister. In 1998 the CSSIF approved the establishment of regional councils of the State Social Insurance Fund. These councils are established at
regional sections of the Board of the State Social Insurance Fund as public institutions (in cities/towns and regions).

- **Tripartite Commission at the Lithuanian Labour Exchange** (‘the National Commission’) was established in 1991 following the provisions of the Law on Employment (no longer valid). The National Commission has nine members. The Commission analyses changes in the Lithuanian labour market and makes recommendations to the Lithuanian Labour Exchange and Employment Council on labour market policy implementation, use of the Employment Fund and funding of active labour market policy measures. **Tripartite commissions at regional labour exchanges** have been established at regional level to analyse and resolve issues related to implementation of labour market policy. Each commission has six members. In Lithuania there are **46 tripartite commissions at the regional labour exchanges**.

- **Commission on Employees’ Safety and Health** (CESH) was established in 1994 following the provisions of the Law on Safety at Work (no longer valid). The CESH participates in the formation and implementation of policy on safety at work, considering and making proposals related to laws and other regulations governing safety at work, analysing safety at work, and so on. The CESH has 15 members, with a chair elected by rotation from members. Following the new Law on Safety and Health in 2002 regional tripartite commissions on safety and health were established in all counties (10).

- **Employment Council** at the Ministry of Social Security and Labour was established in 1996 under the Law on Support for the Unemployed. The Council makes proposals in order to improve the implementation of employment and labour market policy and approves the annual report on use of the Employment Fund. The Employment Council has 15 members and is presided over by the Minister of Social Security and Labour or a member of the Council authorised by the Minister.

- **Expert Council at the Lithuanian Labour Market Training Office** (‘the Expert Council’) was established in 1996. It has 15 members. The Expert Council is a deliberative and controlling body whose key task is to assist in the development of vocational training and consulting within the context of labour market requirements. The Expert Council has six **regional tripartite expert commissions** established at regional training and consulting offices.
EES implementation promoting the development of social dialogue in Lithuania

- **Compulsory Health Insurance Council** (CHIC) was established in 1996 in accordance with the Law on Compulsory Health Insurance. According to the new Law on Compulsory Health Insurance (2002) CHIC has 16 members. The chair is elected by the members. CHIC’s work is organised by the Health Care Fund under the Ministry of Health.

- **Lithuanian Council of Vocational Training** (LCVT) was established in 1998 under the Law on Vocational Training. It is a deliberative body engaged in consulting and coordination activities and has 18 members. Operational conditions are provided by the Ministry of Education and Science. In 2001–2002 the Council operated on an irregular basis; ways of making the Council more active were discussed.

- **Council of the Guarantee Fund** (CGF) was established in 2001 under the Law on the Guarantee Fund (it was preceded by the Council of the fund for meeting the claims of bankrupt companies or companies undergoing bankruptcy proceedings). The CGF manages the resources of the Guarantee Fund, taking allocation decisions, and so on. The Council has 12 members and the chair is appointed by the government.

Only the Tripartite Council has so far been able to exert much influence, however. In 2002 experts from ILO SRO Budapest carried out an assessment of tripartite consultative mechanisms in Lithuania. They positively evaluated the system of tripartite consultative organisations, and the Tripartite Council and the Commission on Safety and Health in particular. However, the impact of individual tripartite organisations on decision-making is not strong enough, the functions and rights of individual tripartite organisations are not always clearly defined, and cooperation between tripartite organisations is inadequate.

5. Social dialogue and the development of employment policy

5.1. Progress report on preparations for the European Employment Strategy

In 2000, in the course of drafting the Programme for Increasing Employment in the Republic of Lithuania 2001–2004, the EU Employment Strategy was comprehensively analysed. Part of the draft Programme was in line with the four key EU employment pillars: employability, adaptability, entrepreneurship and equal opportunities. The National Employment Policy pursued in 2001–2004 was regularly harmonised with EU directives and decisions.
In the course of implementing the provisions of the EU Employment Strategy, the role of social dialogue is constantly gaining ground in Lithuania. In 2003 the government, the trade unions and the employers’ organisations approved a Plan for the Development of Social Partnership Policies for 2003–2004. Under the Plan, conclusions and recommendations regarding social dialogue in Lithuania were drafted together with ILO experts. The Plan provides for a whole range of policies which should foster the development of the economy, increasing employment and harmonising labour relations.

On 25 March 2003 the social partners approved Lithuania’s accession to the European Union within the framework of the Tripartite Council. The emphasis was on a thorough analysis of potential changes and EU legal acts, as well as their proper adjustment to conditions in Lithuania in order ensure that all the benefits of accession serve all population groups. The need to promote investment in the development of human resources and the growth of living standards was also mentioned.

In 2004 the first National Action Plan for Employment (NAPE) was drafted. Employment policy will be further developed in line with the EU Employment Strategy, Broad Economic Policy Guidelines and the recommendations of the European Commission, which will be prepared after assessment of the NAPE 2004.

At the beginning of 2004, an interdepartmental Commission was set up to draft the NAPE. The government charged the Ministry of Social Security and Labour with the supervising the draft process. The participation and joint liability of high-ranking politicians (ministerial secretaries, departmental heads) in drafting the NAPE should ensure the quality and cohesion of the employment policy implemented.

With a view to increasing information on employment policy to the public, the social partners, non-governmental organisations and representatives of other interested institutions in order to promote discussions on the formation and implementation of the employment policy, a draft of the NAPE was placed on the website of the Ministry of Social Security and Labour. The draft was presented at the joint meeting of Seimas Committees (the Economic Committee, the Committee on Social Affairs and Labour, the Committee on Education, Science and Culture) and submitted to the Tripartite Council for discussion.
5.2. Principle goals of employment policy

5.2.1. Employability

During the transition the labour market in Lithuania changed very rapidly. Indispensable reforms caused a general reduction in employment: in 1991–2000 employment decreased by 15.5 per cent. In 2001, the total employment rate dropped to 57.5 per cent. This affected above all young people, persons above 50 years of age and persons working at large industrial enterprises and in agriculture.

Currently, rapid development of the Lithuanian economy has led to employment growth. More and more permanent working places are being established in Lithuania. According to Lithuanian Labour Exchange data, about 135,000 vacancies have been registered each year for the last three years.

There were 1,438,000 employees in Lithuania in 2003, the highest number of employed persons in the last six years. Men and women were distributed about equally. The employment rate is also increasing. In 2003, the employment rate was 61.1 per cent, closing the gap with the mean employment rate in the EU to 3.3 percentage points, from 5.6 percentage points in 2001. The employment rate for men was 64.0 per cent, while for women it was 57.9 per cent.

All the social partners in Lithuania acknowledge the increase in employment. As in other European countries, in developing employment in Lithuania the goal is to both increase employment flexibility and strengthen employees’ job security. Since social dialogue, as already mentioned, has been poorly developed at local level, legal regulation is very important, and the social partners disagree about the appropriate wording of certain Articles of the Labour Code (LC). The employers would like more liberalisation of labour relations, while the trade union representatives say that LC provisions are already flexible enough and correspond to economic conditions in Lithuania.

We shall now look at a number of issues currently under discussion in Lithuania.

Part-time employment. In the employers’ opinion, Lithuania has over-strict regulations on part-time employment which should therefore be liberalised: for example, restrictions on the proportion of employees working part-time should be reduced. Also, the list of areas in which employees may not be employed part-time should be shortened (here we may mention that since
1994 regulations on part-time employment have been improved for the benefit of employers several times).

**Working hours.** The Labour Code does not provide a concrete procedure for the accounting of working hours. Enterprises are increasingly getting involved in disputes concerning the accounting of working hours, particularly when people work extra hours, shortened working time, and so on. These issues should be considered when discussing amendments to the Labour Code.

**Changing conditions in the employment contract/dismissal.** The Labour Code provides for advance notification of employees regarding their dismissal or change of remuneration conditions. However, representatives of the trade unions and the Ministry of the Interior propose setting terms for notifying employees in case other conditions of the employment contract are changed.\(^4\)

In summary, potential changes in employment protection legislation are influenced by two contradictory tendencies in Lithuania. The employers are seeking to reduce restrictions on flexible forms of employment (as well as dismissals), motivated by production and market fluctuations. Employees’ representatives, on the other hand, are trying to improve the enforcement of Labour Code provisions and to secure employment guarantees.

**5.2.2. Entrepreneurship**

The Long-Term (until 2015) Economic Development Strategy of Lithuania provides assistance in starting and developing businesses, particularly with a view to increasing the number of small and medium-size enterprises, as an essential prerequisite of employment growth.

Growth in the number of small and medium-size enterprises (SME) is a basic element of economic growth, with a fundamental effect on the general development of the economy, new jobs and social stability.

According to the data of Lithuanian Statistics, the share in GDP of small and medium-size enterprises employing up to 250 persons was about 60 per cent in 2003, and they employed 69.6 per cent of total employees. From 2002, the number of registered SMEs exceeded the number of liquidated SMEs.

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In April 2002, Lithuania, together with the other candidate countries, signed the Maribor Declaration, expressing agreement with the European Charter for Small Enterprises, one of the most important EU documents concerning the development of small and medium-size businesses. At the same time, Lithuania committed itself to implementing actions promoting the development of SMEs, alongside implementing the recommendations in the Charter.

Development in this area is supported by both employers and trade unions. The Lithuanian Businessmen Employers’ Confederation is particularly active in this area.

Implementing the goal of developing entrepreneurship, the Law on Profit Tax currently in force provides the following special provisions promoting small and medium-size business:

- **Small companies may apply a lower profit-tax rate**: companies whose average pay roll does not exceed 10 persons and whose revenue does not exceed LTL 500,000 (EUR 145,000) are taxed at 13 per cent (not 15 per cent).
- **In their first tax year companies are exempted from advance profit tax**. Small enterprises are also **not obliged to pay advance profit tax** unless the taxable income of the previous tax period exceeded LTL 100,000 (EUR ~30,000).

The Law on Value-Added Tax provided for an **extension of the tax period** for VAT payers whose income from economic activities during the last calendar year did not exceed LTL 200,000 (EUR ~60 000).

An important policy underpinning the development of self-employment and small businesses is that the law requires the establishment of a company only in specific areas of activity.

In cooperation with local employers’ organisations (particularly, the Chambers of Commerce, Industry and Crafts), the infrastructure of business services is being constantly developed. Almost all counties have business incubators; a network of business information centres is also being developed.

However, the general and vocational education systems are not effective in developing entrepreneurial skills. On the other hand, the mechanisms supporting SMEs are still in their infancy. All SME support mechanisms are planned to be harmonised by 2006, particularly those promoting the development of SMEs in rural areas (though not in agriculture).
5.2.3. Adaptability

In order to organise labour relations in a more flexible way, respond appropriately to market changes and facilitate adaptability, the Labour Code provides:

- an enlarged list of types of labour contract;
- more flexible organisation of working time;
- an increased role for the social partners in making decisions on labour relations at company, branch, territorial and national level.

In order to create the conditions for more flexible labour relations, the Labour Code, alongside the basic form of employment (full-time permanent contracts of employment) provides for contracts of fixed-term, seasonal, temporary, supplementary and secondary employment, as well as other employment contracts.

The Labour Code provides for a range of other legal measures to organise work in a more flexible way and to reconcile work and family life: upon agreement with the employer, an employee may work part of a working day or week; employees whose work involves higher mental and emotional strain may work a shorter working day while being paid for a full working day; working days are shortened on the eve of holidays and weekends.

In Resolution No. 587 of 2003 the Government laid down a list of types of work in which a working day of twenty-four hours may be applied, established the conditions under which accounting of the ‘sum’ of working hours might be introduced and the procedure for introducing such accounting. It is permissible to specify a concrete accounting period not only in collective contracts but also in employment contracts, as well as in the rules on working procedure. The EU working time directive provides that an accounting period of longer than four months may be specified only in collective agreements. However, given that Lithuania has little experience in concluding collective agreements, a longer accounting period may be agreed both in employment contracts and rules on working procedure. Thus, laws should not limit the possibilities of social partners to agree on more flexible work organisation.

Vocational training in Lithuania consists of primary and labour market vocational training. The vocational training system does not fully meet the needs of the local labour market; it is unable to ensure general accessibility to vocational training and its continuity. There is a disproportion between
the need for vocational training, improvement of occupational skills and the possibilities of meeting such needs. This prevents persons striving for permanent employment from adapting themselves to the rapidly changing needs of the market.

In order to create greater opportunities for vocational training and to develop labour market adaptability, newly drafted strategic documents – the Vocational Guidance Strategy, the Strategy for Ensuring Lifelong Learning and the provisions of the National Education Strategy – provide for greater social partner participation in drafting the standards of training programmes and assessing the qualifications attained.

A working group consisting of the representatives of vocational training institutions, social partners and scientists, approved by prime ministerial decree at the end of 2003, drafted the proposals on adapting the system of vocational training to Lithuania’s economic needs. To bring vocational training into line with the needs of the labour market, qualifications will be monitored, including measures for social partner participation in assessing the quality of vocational training.

The recommendations of the European Commission point out that employers take little part in training and advise more investment in human resources. The problem of insufficient investment in the development of human resources was mentioned in the Strategy for Ensuring Lifelong Learning.

Until 2004 training was not directly supported from the state budget, but rather funded by individuals or employers. The Law on Investment, amended in 2003, provides for the establishment of a procedure enabling companies to get state support for retraining. In order to assist employees and companies in adapting to the changes, to promote investment in human resources by companies and make vocational training more available to the population, use of EU structural funds is envisaged.

The level of education in Lithuania is rather high: 84 per cent of the population aged 25–64 have secondary or higher education. Unfortunately, the continuous training of adults has been weak: only 8 per cent of those aged 25–34 years are studying, while the population of those aged 35–59 years are even less involved, only about 2 per cent of whom are studying, one of the lowest rates in the EU. The main reason for this is low motivation. As the surveys carried out by the Institute of Labour and Social Research in 2002 show, only about 30 per cent of adults in
Boguslavas Gruzevskis and Inga Blaziene

Lithuania are motivated to study. A considerable share of employers attach insufficient importance to staff training: the proportion of companies organising continuous training courses in Lithuania is one of the lowest among the new member states and approximately three times lower than the EU-15 average.

In recent years a lot of work has been done to organise the vocational training system to better meet the needs of the labour market. The following achievements should be mentioned:

- Regional vocational training centres which coordinate their activities with the local administration and employers have been established. This allows the more effective use of financial, material and human resources and facilitates social dialogue in the field of vocational training.
- Decentralisation of the management of vocational schools has increased.
- From 2003, the Ministry of Education and Science delegated the function of final assessment of qualifications to the Association of Lithuanian Chambers of Commerce, Industry and Crafts and the Lithuanian Chamber of Agriculture.

These actions are targeted at the primary vocational training system so that it can better meet the needs of the labour market and the qualifications acquired promote adaptability in the working environment.

5.2.4. Gender equality

The rate of women’s employment in Lithuania has already reached the 57 per cent average set by the EU. That means relatively high employment of women in Lithuania. In 2004, women made up more than half the population of Lithuania, at 53.3 per cent (114 women to every 100 men); the share of women in the total population has been gradually increasing in Lithuania since 1990. The difference between the number of retirement age men and that of retirement age women was rather large – women account for 68.6 per cent of the total retirement age population.

Integration of the gender issue into the management of social and economic processes is one of the government’s priorities in order to secure equal opportunities for men and women in education, getting a job, career

development, wages, access to positions in political, public and other prestigious sectors, and management. The appropriate legal preconditions have already been laid down.

Gender equality in Lithuania is considered one of the main principles of democracy and is based on equal rights, responsibility and opportunities in all spheres of life. There are no conflicts between the social partners in Lithuania on the issues of gender equality. In order to implement strategic goals in a purposeful and consistent way, a National Programme for Equal Opportunities for Women and Men for 2003–2004 was adopted in 2003. LTL 262,000 (EUR 75,900) were allocated for the implementation of Programme policies in 2003, and LTL 465,000 in 2004 (EUR 134,800). The Programme provides for the amendment and revision of legal acts (establishing the conditions of maternity leave, improving application of flexible employment forms to women and men who have children), development of special vocational training and consulting programmes for women, to promote the development of women’s NGOs.

In order to increase women’s opportunities to start up and develop businesses, the Ministry of the Economy together with the Agency for the Development of Small and Medium-Sized Businesses in Lithuania organised special seminars (roundtables) for businesswomen and implemented training and consultation projects encouraging women to start businesses. In 2003, about 1,200 hours of subsidised individual consultations were provided to 203 women employees working at small and medium-size enterprises. During the same period more than 2,500 hours of subsidised special training were provided for 847 women employees working at small and medium-size enterprises. The website www.svv.lt publishes information useful to businesswomen and examples of businesswomen’s success.

In 2003, the Ministry of Agriculture, in cooperation with the Farmers’ Association of Lithuania, organised seminars for women from rural areas who intend to start or are already engaged in agricultural businesses or in businesses as an alternative to agriculture in 23 municipalities. The Lithuanian Labour Exchange organises courses on business for unemployed women seeking independent employment and provides information to them regarding other employment issues. During 2003, 2,500 unemployed women completed free business courses organised at local labour exchanges.

In order to create favourable conditions for women/men to better harmonise work and family life, work is continuing on ratification of ILO Convention
No. 156 on assistance to employed men/women with family responsibilities. The Recommendations to employers and employees regarding flexible working provide them with an opportunity to use flexible working schedules and to coordinate working hours and workplaces so as to meet the needs of employers and employees.

6. Preparations for participation in EU social dialogue

6.1. Social partner collaboration with the EU and other international institutions

The Lithuanian Trade Union Confederation is a full member of ICFTU, which was set up in 1949 and has 234 affiliated organisations in 152 countries and territories on all five continents, with a membership of 148 million. The Lithuanian Trade Union Confederation is also a member of the ETUC, which is recognised by the European Union, the Council of Europe and EFTA as the only representative cross-sectoral trade union organisation at European level.

The LTUC and its branches have close relations with the corresponding trade union organisations in Latvia, Estonia, Russia, Germany, Denmark, Belgium, Finland and other member states. Approximately half of LTUC branches belong to different international organisations (for example, ICEM, IUF, ITFI, UNI, PSI); they are also members of European federations.

The Lithuanian Labour Federation maintains close relations with independent regional trade union associations and works together with other national centres. The organisational structure of the Federation is branch-regional. Since 1996 the Lithuanian Labour Federation has been a full member of the World Labour Confederation (WLC) and since 2002 a full member of the ETUC.

The trade union Solidarumas (Solidarity) is a member of ICFTU and an observing member of the ETUC. Solidarumas is actively involved in the activities of the Baltic trade union network.

The members of the Confederation of Lithuanian Industrialists (CLI) include most Lithuanian manufacturing enterprises, banks, trading companies, representative offices of foreign firms, research institutes and educational establishments. The Lithuanian Confederation of Industrialists maintains and develops relations with international organisations. The Confederation is a member of UNICE, ICIE and IOE. The Confederation maintains relations
with the ILO, EcoSoc, TAIEX, EFTA, WTO, CIM (Centrum für Internationale Migration und Entwicklung) and CBSC. The CLI has representatives in NATO IAG and BCCA/BAC.

The Lithuanian Business Employers’ Confederation cooperates with different European employers’ confederations such as UEAPME and CPME and organises common projects.

Collaboration with the abovementioned European and international trade unions and employers’ organisations is very important in the context of preparation for participation in EU social dialogue. The trade unions and employers’ associations in the old EU member states have a long history and the sharing of their experience should help social partners from the new EU member states to solve problems effectively.\(^6\)

The activities of European works councils have a very important role in EU social dialogue. Representatives of Lithuanian employees already participate in the EWCs of such multinational undertakings as Danisco Sugar, Kraft Foods, Statoil, Philip Morris and Telia Sonera. Participation in EWCs makes it essential to get acquainted with EU social dialogue.

We may mention several problems concerning the appropriate representation of Lithuanian employees in EWCs (and which will probably be fundamental to further participation in EU social dialogue too):

- It is very hard to find employees’ representatives who have a good knowledge of foreign languages. General knowledge of one or more foreign languages is not enough to understand all the information presented to EWC members at meetings. Although translation into the native language is guaranteed, knowledge of foreign languages is necessary during informal meetings and conversations.
- Employees’ representatives do not have enough information about EWCs and their activities, so they don’t understand the purpose of participation. Trade unions are trying to improve the current situation by organising seminars on EWCs and teaching employees’ representatives about the principles of EWC establishment, activities, information and consultation.

\(^6\) Interview with Danas Arlauskas, President of the Lithuanian Business Employers’ Confederation.
6.2. National government and the EU

Lithuania approved the conclusions of the Lisbon Council of 23–24 March 2000 and of the strategic goal (until 2010) of creating the most dynamic knowledge-based economy in the world, capable of maintaining regular economic growth, as well as reaching full employment and greater social cohesion.

At the same time, Lithuania favours labour market flexibility when setting national priorities of economic reform, implementing employment policy, fighting social exclusion, and looking for an effective compromise and compatibility between European and national priorities.

Lithuania, an EU member since 2004, accepts the major challenges of implementing the Lisbon goals and the European Employment Strategy, revised in 2003. National policies are aimed at compatibility of the main goals: full employment, quality of work, productivity and the strengthening of social cohesion. At the same time, it intends to carefully examine the Recommendations of the European Commission and to:

- extend the opportunities of employees and companies to adapt themselves to changing labour market conditions;
- attract more people to the labour market and establish possibilities for free choice of work;
- invest more in human resources and lifelong learning.

The Programme of the Government of the Republic of Lithuania for 2001–2004, the Programme for Increasing Employment in Lithuania for 2001–2004 and other important strategies, programmes and policies provide for the implementation of the abovementioned goals.

7. Strengths and weaknesses

Lithuania’s accession to the EU has had a positive effect on the development of social dialogue and has encouraged the efforts of the social partners, and particularly of the government to extend cooperation between employers and employees. However, irrespective of what has been accomplished, social dialogue is still in its infancy in Lithuania and a number of problems remain unsolved.
7.1. Problem issues
In Lithuania, as in other EU countries, social dialogue should help to harmonise effectively two, one might say opposite tendencies: increasing liberalisation of labour relations and employment flexibility on the one hand, and the development of employment protection securing appropriate living standards and social guarantees, on the other. However, the small trade union network, the lack of activity of employees and employers and the lack of collective negotiations do not ensure harmonious relations on the labour market. Liberalisation of employment protection legislation and low average wages:

- have a negative effect upon employees’ loyalty. According to TNS Gallup survey data, at the beginning of 2004 the loyalty of full-time employees (to enterprise and job) was low and amounted to around 35 per cent (in 2002 the rate was 36 per cent, compared with a global average of around 43 per cent).

Low employee loyalty promotes labour force mobility. However, in an open labour market free labour movement may drain skilled labour from the national labour market. This has been observed in Lithuania since 2002 with employers in the regions being unable to find the specialists and skilled workers they need.

This tendency took root after the accession of Lithuania to the EU; however, given the short period of time it is hard to draw conclusions. One may only note that in May–August 2004 the monthly data showed that the number of registered vacancies (about 16,000) exceeded the registered number of unemployed (about 15,000) for the first time since 1993.

- Do not encourage the inactive population to return to the labour market and increase the influence of the 'poverty trap'.
- Promote the rise of informal employment.
- Reduce human development possibilities since they restrict the motivation of employers and employees to invest in improvement of occupational skills, reducing possibilities of career planning.\(^7\)

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One may say that insufficient social dialogue exerts a negative influence upon the development of Lithuanian society, therefore the negative consequences may be even greater than portrayed here.

7.2. Obstacles

As already mentioned, labour force organisation in Lithuania is low: only a small part of employees are members of trade unions; about one tenth of Lithuanian employees are covered by collective agreements; and the Law on Works Councils has not yet been enacted.\(^\ast\)

The companies where employees are represented and where collective agreements are concluded usually provide a chapter which foresees additional protection in case of termination of the employment contract. For example, the term set for notice of dismissal is prolonged, the employee is granted several free days to look for a new job, and so on.

However, in the majority of companies the interests of employees are not represented, and so collective bargaining at company level plays no important role in Lithuania.

In this respect the situation might be improved by signing branch collective agreements (so far only a few branch collective agreements have been signed in Lithuania). However, the main trade union organisations are not united; they often compete with regard to representing the interests of employees and often have no common position on issues. Such disunity restricts the conclusion of branch agreements.

On the other hand, one should also mention the lack of competence and other resources needed to draw up branch agreements: the administrations of trade union organisations are very small, the leaders of branch organisations are often elderly people who gained their experience of trade union organisation under the planned economy, and so on.

Despite the above-mentioned deficiencies, in February 2003 the Lithuanian Trade Union Confederation appealed to the main employers’ organisations regarding the conclusion of branch agreements. On the whole, the employers supported this initiative, although no branch employers’ organisation started concrete discussions on the conclusion of a branch agreement.

\(^\ast\) It was adopted at the end of 2004.
The national collective agreement is often said to be a way out of the existing situation, making it possible to reach agreement on many of the important issues. However, such an agreement has not yet been concluded in Lithuania. In our opinion, in addition to the goodwill of employers’ and employees’ organisations, an important role should also be played by the state which, in addition to the creation of favourable conditions, should promote the development of social dialogue in Lithuania.8

7.3. Positive outcomes
Since the restoration of independence in 1990, Lithuania has made significant progress in developing dialogue between the social partners and in reconciling capital and labour. The transition imparted a new quality to the regulation of relations between employees and employers. The system regulating labour relations in Lithuania has been created anew and constantly improved. By the end of 1991 new basic laws on employment relations had been adopted: the Law on Support for the Unemployed, the Law on Individual Income Security, the Law on Collective Agreements, the Law on Trade Unions, the Law on Employment Contracts and the Law on Holidays. Nearly all laws and their amendments in this field were drafted together with representatives of trade unions and employers. The development of labour relations in Lithuania has gradually increased opportunities for direct dialogue between employees and employers.9

Whatever their political orientation, all political forces have declared a positive attitude towards cooperation between the social partners in the formation of labour relations and the mitigation of social tensions. In practice, however, after the collapse of the Soviet trade union system, employees’ opportunities to have a direct effect on employers’ decision-making decreased sharply, so the role of government regulation increased significantly. When the political right came to power in 1996 talks began on liberalising labour relations. This trend continues. Today, representatives of both right and left advocate more flexible labour relations regulations.

9 Interview with Algirdas Kvedaravičius, Deputy Chairman of the Lithuanian Confederation of Trade Unions.
The new Labour Code (in force since 2003) has had a major influence on the development of social dialogue. The Code attributes particular importance to collective labour relations and agreements. While the new Labour Code does validate the liberalisation of labour relations, it also increases social guarantees relating to employment.

In order to consolidate social partnership and the regulation of labour relations through collective bargaining, on the proposal of the Tripartite Council in January 2003 the government approved the 2003–2004 Implementation Plan for the Development of Social Partnership between Government, Trade Unions and Employers’ Organisations. This plan sets forth further development and improvement of the institutional system of social partnership, as well as improvement of the legal and normative framework. Particular attention is paid to the improvement of collective labour relations, promoting awareness among the social partners. However, the promotion of cooperation between the social partners has so far not been active enough.

In the European Employment Strategy context, the social partners cooperate mostly in developing and implementing labour market policies and vocational training measures. The role of the social partners (through the Tripartite Council) has been increasing since 2002 in the development of and implementation of wage and social policies. 10

Concluding remarks

Since the restoration of independence in 1990, Lithuania has made significant progress in developing dialogue between the social partners and in reconciling capital and labour. On the whole, the legal system regulating labour relations has been established anew and is still under development.

Analysis of the social situation and social dialogue demonstrates that Lithuania enjoys favourable conditions for cooperation between the social partners. The new Labour Code and the liberalisation of labour relations have created opportunities for more flexible regulation of industrial relations and optimal harmonisation of employers’ and employees’ interests.

However, analysis of the economic situation shows that social dialogue remains undeveloped. There is a relatively long delay (about two years) in Lithuania between economic growth and improvements in the social and employment sphere, which in fact runs counter to the aims of social dialogue within the framework of the European Employment Strategy.

In future, social dialogue should limit such one-sided economic development. The institutions handling employment and labour market policy should try to ensure that rapid economic growth should benefit all parties: employers, employees and the state.

Meanwhile, current labour market policy is, in our opinion, still inadequate to the new needs of the Lithuanian labour market. The main problem is that labour market policy is understood in a narrow sense as assistance for those who have lost their jobs; as a result, labour market policies are insufficiently coordinated with other measures, such as taxation, social protection, vocational training, and so on.

In principle, these labour market imperfections may be explained by the peculiarities of the transition: from 1991 the labour market developed continuously under conditions of a labour surplus and employers did not encounter labour shortages until 2002.11

In order to adapt successfully to the changing environment, the state should:

- use administrative and economic incentives to promote social dialogue at the enterprise and branch levels (and encourage the signing of a national collective agreement between employers and employees);
- promulgate the Law on Works Councils as soon as possible;12
- help resolve the issue of declaration of trade union membership;
- implement a procedure for registering collective agreements.

Given the weakness of both social partner institutions and negotiating skills, the government should pursue a more targeted policy on the development of social dialogue, more actively promoting cooperation between the social partners and developing an appropriate legal environment.

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11 Ibid.
12 As already mentioned, the Law on Works Councils was adopted by the Parliament (after almost three years of discussion between the social partners) at the end of 2004 (October).
On the other hand, it is important to ensure that the liberalisation of employment protection legislation in Lithuania should be closely coordinated with economic conditions as well as social goals. In our opinion, Lithuanian employers have a characteristically ‘consumerist’ attitude to the labour force to the detriment of social considerations, whose positive consequences for economic development they have so far failed to recognise.

Recent growth of the Lithuanian economy and free movement of labour have created particularly favourable conditions for raising social dialogue to a new level in the implementation of the European Employment Strategy, positively benefiting the development of the economy and ensuring effective human resource development and increases in living standards.

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Social dialogue in Malta: An ideologically divided, bipolar system

Céline Lafoucriere¹ and Edward Zammit²

1. Introduction

Social dialogue is widely recognised as one of the principles underlying the European social model. It is based on good governance, sound economic performance and a high level of social protection and education (ILO, 2003). In the European Union, the concept of dialogue between government, employers and workers’ organisations is generally accepted as 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. Following 1997, and the Extraordinary Luxembourg Employment Summit, the European Employment Strategy (EES) gave a key role in employment policies to the social partners. It remains a guidance process, but the general will of the Member States to comply with it has established the EES as an intrinsic part of the acquis communautaire.

In the aftermath of the biggest enlargement process to date, the capacity of the new Member States to comply with the EU’s social requirements is crucial. Although economic convergence in terms of a number of criteria has remained the main determining factor for EU entry, the development of democratic social structures is also essential. Among the ten Member States which were granted entry in May 2004,³ Malta is a rather unique case in many senses. Very different from the ex-communist group of candidate countries – for obvious historical reasons – Malta has a long-established market-oriented economy with a fairly flexible and educated workforce. Moreover, bilateral relations between the EU and Malta were established as early as 1970, when Malta became an associate member. This chapter provides an in-depth country analysis of Malta’s social dialogue structures.

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Section 1 briefly outlines Malta’s historical background, economic structure and current restructuring process, and political-economy and institutional background. Section 2 describes the anatomy of the current social dialogue structures; Sections 3 and 4 focus on collective bargaining processes and social dialogue arrangements in employment policy development. The different steps taken to prepare for participation in EU social dialogue and the EES are considered in Sections 5 and 6, while Section 7 identifies national strengths and weaknesses in the social processes.

2. Socio-economic background

2.1. Remnants of a colonial economic experience

The most significant shift in the Maltese labour market in recent decades followed the withdrawal of the British armed forces. At one time, these forces provided the main source of employment. In order to make up for this loss, determined efforts were made during the 1960s and 1970s to establish a strong private sector, particularly in areas such as manufacturing and services. However, the remnants of the colonial experience can still be discerned in the higher levels of government and public sector employment compared with other industrialised countries (Zammit et al., 2001). The transfer of public utilities to private ownership is proving to be a rather slow and gradual process. Furthermore, given that public sector productivity is generally considered as rather low, there may well be a higher level of unemployment than the official figures suggest. It is also essential to note that the number of agricultural workers has dwindled over the years (although, as a result of mechanisation and part-time work, agricultural output has remained practically unchanged): in 2003, only about 2% of the gainfully employed worked as full-time farmers and fishermen. On the other hand, the manufacturing sector, which was practically nonexistent before independence, now contributes around 22.3% to GDP and employs 21.9% of the total workforce. Industry is dominated by the private sector, with the particular exception of shipbuilding and ship repairs, a sector which today faces restructuring demands due to global competition, the emergence of new technologies and the recent EU enlargement. Recent years have witnessed further significant shifts towards the service sector, similar to

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Malta formed part of the British Empire between 1800 and 1964. The presence of the British armed forces ended in 1979.
those witnessed in other industrialised economies. These include commercial, financial and professional services and particularly services related to tourism. This new contributor to the Maltese economy currently accounts for 9.6% of the total workforce and 11.7% of GDP. However, there are also some important limitations on this sector’s future growth potential. The large number of tourists – currently around 1.2 million annually – is already putting a heavy strain on the small island’s infrastructure. The extent of environmental degradation and acute problems concerning waste disposal are further issues rendering substantial further tourism development unsustainable and thus uncertain (Zammit et al., 2001).

It is important to highlight the fact that women constitute only 29.2% of the gainfully employed, although this figure has been rising steadily in recent years (see Table 1). Female industrial workers traditionally stop working in their late twenties when they start having children. A large number of different forms of undeclared gainful employment must be taken into consideration, however. These are often found in agriculture and fisheries, construction and maintenance, services, trade, engineering and – particularly – catering and tourism. In the case of women, a common form of undeclared employment is as a housemaid, particularly in households where both husband and wife have full-time jobs outside the home. However, these forms of undeclared work are often performed on a part-time or seasonal basis and may thus be combined with other forms of regular, formal occupation. This partly accounts for the continuing popularity of government jobs: despite the relatively low wages, the conditions of government service are often not physically demanding, working hours tend to be regular and discipline, reportedly, not very strict (Zammit et al., 2001). Arguably, only in this way can a small society like Malta provide the full range of economic and social services required in an independent state with a buoyant economy. Nevertheless, the negative fiscal and social effects of a sizeable ‘informal economy’ cannot be ignored.

Although the unemployment rate currently stands at 8.2%, the total employment rate is only 53.7%, which is rather low in comparison with the EU average.5 Furthermore, approximately 7.3% (10,608) of the above total are employed on a part-time basis. This form of occupation is increasing at an average rate of 10.0% per annum and mainly attracts female workers (Zammit et al., 2001).

5 In the EU-15, it was 64.3% in 2003. Source: Benchmarking Malta in Europe (Malta, National Statistics Office, 2004), p. 26.
Table 1: Main occupational categories

<table>
<thead>
<tr>
<th>Category</th>
<th>Males</th>
<th>Females</th>
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<tbody>
<tr>
<td></td>
<td>72.1%</td>
<td>27.9%</td>
</tr>
<tr>
<td>Public sector</td>
<td>32.2%</td>
<td>67.8%</td>
</tr>
<tr>
<td>Manufacturing</td>
<td>19.0%</td>
<td></td>
</tr>
<tr>
<td>Market services</td>
<td>36.0%</td>
<td></td>
</tr>
<tr>
<td>Construction</td>
<td>4.7%</td>
<td></td>
</tr>
<tr>
<td>Agriculture and fisheries</td>
<td>1.6%</td>
<td></td>
</tr>
<tr>
<td>Others</td>
<td>0.8%</td>
<td></td>
</tr>
<tr>
<td>Registered unemployed</td>
<td>5.7%</td>
<td></td>
</tr>
<tr>
<td>N=</td>
<td>144,790</td>
<td></td>
</tr>
</tbody>
</table>


2.2. Economic background

Malta’s economic structure is based on two main sectors, manufacturing and services. Both are predominantly privately owned. The manufacturing sector accounts for 23% of GDP at factor cost. It is currently made up of two kinds of organisation. Some are global players and export most of their output, with hardly any home market for their products; currently such companies are facing intense competition, following the opening of central and eastern European markets over the last decade. Other companies are domestically oriented and, after the recent removal of protective tariffs, they too are having difficulty surviving. Maltese industries therefore need to restructure their operations in order to restore competitiveness. The same applies to the tourism sector which alone represents 14.2% of nominal GDP earnings. Between 1995 and 2000, the average rate of economic growth was 4.8% per annum. However, due to a combination of international factors, the rate of growth since then has been negligible or even negative. Nevertheless, GDP per capita is calculated as 69.1% of the EU average. Another major economic challenge is bringing the government deficit under control, from a

6 Benchmarking Malta in Europe, p. 47.
peak of 9.7% of GDP in 2003\(^7\) to around 3%, which would be more manageable. The same applies to the level of public debt, which needs to come down from the present 72% of GDP to around 60%.\(^8\) Since 2000, the rate of inflation has remained low at an average of 2.27% per annum but is now also showing an upward trend. Though in recent years the rate of foreign direct investment has been limited, one of the main attractions which Malta offers to potential investors is its capable human resources.

2.2.1. Political background

Since independence, Malta’s political scene has been dominated by two main parties. The Nationalist Party was in power up to 1971 and again since 1987 – except for a brief two-year period of Labour administration between 1996 and 1998. Between 1971 and 1987 Malta was ruled by a Labour Government (MLP) which systematically pursued ‘socialist’ policies. These included the establishment of a welfare state, active government intervention in the economy and a non-aligned foreign policy. While benefitting the working class, the poor and the marginalised, these policies bitterly antagonised the upper and middle classes – including those with middle-class aspirations. Popular support for such ‘divisive’ policies was secured through the Government’s tight control of the public broadcasting media and the unqualified support of Malta’s largest trade union.\(^9\) There were also occasional outbursts of political violence. Nevertheless, it should be noted that, apart from such isolated incidents, the basic democratic institutions always continued to function. In the meantime, the opposition Nationalist Party reorganised itself under a new leadership and managed to regain the support of the majority of the electorate. Soon after being re-elected, the Nationalist government began a process of trade liberalisation. It raised the salaries of public employees, which had been ‘frozen’ for many years, and established a number of semi-autonomous public corporations and institutions. No expense was spared by government in its efforts to appease any section of the population which had been aggrieved under the previous government and in securing industrial peace. A general atmosphere of well-being was

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\(^7\) Three percentage points of this figure were due to a one-off operation related to Malta Shipyards. The Prime Minister claimed in 2004 that the public deficit had been reduced to 5.2% and the government’s aim is to reduce it further to 3.7% in 2005 (as reported in The Times of Malta, 13 November 2004).


\(^9\) The General Workers’ Union was for ten years statutorily ‘fused’ with the MLP.
created and the government grew in popularity and increased its majority at the next election. However, serious problems were also created. These ‘popular’ policies fomented an explosion of middle-class aspirations and a spiral of consumer spending, which had been suppressed under the previous government. It later transpired that the result of such policies would be a heavy public deficit and a consumer society with the consequent social and environmental problems. In this context, the government’s policy of vigorously pursuing EU membership gave rise to a number of responses: some perceived it as a means of enabling further economic prosperity, thus fulfilling middle-class aspirations, while others saw it as a means of enforcing social and environmental standards, thus ensuring a desirable and sustainable quality of life. The Opposition’s view was that EU rules are not suitable for Malta’s small economy and that membership would effectively return the country to colonial status. The government won both the EU referendum and the subsequent election. However, after having been in power almost uninterruptedly for fifteen years, and with the prospect of a further four years, the government is now showing signs of fatigue. As it struggles to restructure the economy and restore an acceptable rate of economic growth in the face of a difficult international situation, its popularity has plummeted. This is reflected in opinion polls, as well as in the local and European parliamentary elections. There is also a growing disenchantment with EU membership despite the fact that the opposition Labour Party, which had vigorously opposed membership, has now reconciled itself to it.

2.2.2. Malta’s political system

The parliamentary system and procedure adopted in Malta follows the Westminster model. The head of state exercises moral authority, while political power is vested in the prime minister and his ministerial colleagues. The government is subject to the jurisdiction of the courts and to parliamentary scrutiny. There are currently two main political parties, the Nationalist Party and the Labour Party. There is also a third party, the Alternative Democratic Party, which is not represented in parliament. The political party which obtains a majority of popular votes is given a mandate to govern the country for a five-year term. In recent years, local councils have also been elected directly in every town or village but their jurisdiction is mainly limited to civic and environmental matters. The country’s Constitution has been amended several times since independence, always with the support of the overwhelming majority of members of parliament. The great importance given to work in Malta is reflected in the first article of the Constitution which declares unequivocally that ‘Malta is a democratic
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replica founded on work and on respect for the fundamental rights and freedoms of the individual’. A subsequent declaration states that ‘The State recognises the right of all citizens to work and shall promote such conditions as will make this right effective’.

2.3. Institutional background to social dialogue

Until independence, the colonial administration controlled all vital aspects of the economy, including the related social structures. The basis for Malta’s industrial relations system was established during the period of British colonial administration. The pioneering role played by Britain in industrialisation, with its worldwide trade and defence commitments, assimilated Malta within the imperial network and turned it into an important Mediterranean outpost for the implementation of its global strategy. As a result, Malta was exposed to a wide range of industrial regulations and experiences at an early stage, compared to its neighbours. These regulations were based upon a liberal pluralist political ideology and a strong perception that private enterprise is the main motor for industrial development (Zammit et al., 2001). In parallel with this, Maltese workers also showed a strong urge to develop an industrial relations regulatory framework. This led to the creation and recognition of free trade unions, appropriate legislation for employment protection and the settlement of industrial disputes. Still, even after forty years of independence the influence of British institutions is still very evident in many areas of social, political and economic life. This is particularly the case in industrial relations policy which continues to reflect that of Britain, within a European context. As a result, the established model of industrial relations in Malta is that of voluntary, bipartite collective bargaining at the enterprise level in a traditionally polarised relationship between employers and trade unions. In recent years, this model has evolved toward a pattern of corporate tripartite bargaining based on social partnership. This is in response to shifts in the balance of economic power and changing economic needs, such as creating new jobs and attracting foreign investment in a competitive international environment which limits the scope of collective bargaining.
3. Anatomy and historical background of social dialogue

3.1. Trade unions

The first Maltese trade union was created in the Naval Dockyard, today known as Malta Shipyards, a major ship-repairing establishment which formed part of the British naval base. During wartime, over 12,000 people, representing 14.2% of the total working population of Malta, were employed there. The physical hardship and constant redundancy threats that these workers were exposed to, apart from giving rise to a strong negative reaction to British colonial policies, led to the creation of Malta’s largest trade union, the General Workers’ Union (GWU), in 1943. Over the years the dry dock workers have tended to be the most militant section of the GWU.

According to the Registrar of Trade Unions, in 2002/2003 there were 86,501 members organised in five main unions, representing a density of 60.1% of the total workforce.10 Except for the last two years, Union membership has grown consistently since the Second World War. This growth is remarkable considering the major overhauls of the economy taking place during this period. This could be considered a tribute to the Union’s leadership and organisational effectiveness in a society in which ‘compliance with paternalism’ and ‘individualist pragmatism’ are among the traditional ways of coping with power (Zammit, 1984).

- **General Workers Union (GWU)** was founded in 1943 and represents workers from all sectors of the economy. It is traditionally strong among blue-collar workers in, for example, the shipyards, the ports, manufacturing, transport and printing. At the beginning of 2004 the GWU had a total of 47,653 members, representing 55.1% of organised workers. Before the GWU was established, the trade unions in Malta were small and generally weak, although a number of attempts had been made to set up craft unions in the aftermath of the First World War. Crucially important in the context of Maltese trade unionism was the reorganisation of the Malta Labour Party (MLP) at the end of the Second World War. The MLP was closely allied with the trade union movement from the start. At the same time, this contributed to a deterioration in relations between the GWU and the smaller, politically neutral Confederation of Malta Trade Unions (CMTU). The fact

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10 The real density is higher if one excludes the self-employed and other workers who are legally precluded from union membership, such as the police and the armed forces. The resulting density would be approximately 70%. However, there is also an unknown number of dual union memberships.
that the rank-and-file supporters of the MLP and the GWU tended to come from the same social background made it easy for these organisations to adopt a common front and mutual support. Shipyard employees formed the backbone of both the ‘industrial’ and the ‘political’ arms of the Malta Labour Movement (MLM). Following the election of the Labour Government in 1971, the GWU sought ideological legitimisation for its policy of cooperation with the government through the concept of ‘workers’ participation’. The GWU thus vigorously supported the Labour government’s wage policy designed to promote national economic self-sufficiency. In return, the government involved the union in all its decision-making organs. The union structure reflected developments taking place in the Maltese economy. Furthermore, the GWU acts as Malta’s official worker representative at the annual conference of the International Labour Organisation (ILO) and its General Secretary is currently a member of the ILO governing body. Finally, it is also important to highlight that the GWU also owns a number of commercial enterprises which provide additional services to its members, as well as a supplementary source of income. These include a print works which has become one of Malta’s leading presses, a travel and insurance agency and a cargo handling company. Currently, the GWU remains very strong in the public sector and in state owned/controlled enterprises, in private companies in the industrial sector and large business firms, as well as in small and medium-sized enterprises. The GWU has generally avoided any involvement in privatisation schemes and has declared itself against the full privatisation of essential services.  

• **Confederation of Malta Trade Unions (CMTU).** Unlike the GWU, which is a unitary trade union organisation, the CMTU is an umbrella organisation for a number of independent unions. Founded in 1959, its original intention was to coordinate and rationalise all trade union activities in Malta. However, the GWU refused the invitation to join. The objectives of the Confederation are to promote the interests of its affiliates and to further the ideals of a democratic trade union movement, as well as to improve workers’ economic and social conditions in general. Under the CMTU constitution, the Council is partly elected and partly nominated by the member unions in proportion to membership strength. The Council is vested with executive powers and its term of office runs for two years, at

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which time Congress, the Confederation’s supreme body, meets to elect a
new Council, to consider and approve the policy of the Confederation and
to deliberate on other congressional matters. Following a period of gradual
growth the CMTU made rapid gains from the mid-1970s onwards. This
can be considered as a spillover effect of both the statutory fusion between
the GWU and the MLP and the Nationalist Party’s appeal to workers to
join the ‘free trade unions’ among the CMTU ranks. The passing of the
Industrial Relations Act in 1976 gave official recognition to the CMTU as
a main negotiating partner alongside the GWU. Today, 11 trade unions are
affiliated to the CMTU. In light of the above, it is important to note that
the CMTU and its affiliated trade unions proclaim no formal political
allegiance and take pride in the fact that they resort to industrial action
whenever necessary, regardless of which party is in power. However, it
should be noted that their official policies often converge with those of the
Nationalist Party, reflecting the social background of most of their
members. The official fusion between the GWU and the MLP between
1978 and 1988 triggered strong solidarity among the various CMTU
affiliated unions. This tended to consolidate relations among them and to
confirm the need for cooperation and mutual support. The overall
philosophy of the CMTU can be described as reformist rather than radical.
They reject the socialist ideas often expressed by the GWU.

- **United Workers’ Union/Union Haddiema Magħqudin (UHM)** emerged
  as a general union, affiliated to the CMTU. It was created in 1978 in
  succession to the Malta Government Employees’ Union and today is
  Malta’s second largest union. At the beginning of 2004 the UHM
  accounted for 25,793 members, representing 29.8% of the total organised
  workforce. While the MLP urged workers to remain within the GWU and
to rally behind the MLM, the Nationalist Party encouraged them to leave
the GWU, which had allegedly ‘betrayed’ them, and instead to join the so-
called ‘free trade unions’. As a result of this politicisation of trade union
membership, both the CMTU and the GWU registered significant
increases in membership. There was a significant increase in trade union
consciousness, particularly among Malta’s non-manual workers. As a
result, the UHM’s strength still tends to be concentrated among white-
collar workers in the public sector. The UHM is affiliated with the CMTU
and continues to play a central role in that organisation. Between 1975 and
1994, its president was also the president of CMTU. The UHM is strong in
the public sector and in some state-owned or state-controlled enterprises
and is also fairly strong in private companies, large business firms and
medium-sized businesses. The union’s ability to mobilise workers through shop stewards’ and members’ meetings is considered to be very strong.12

- **Malta Union of Teachers (MUT)** is the only union to have survived the Second World War. Founded in 1919 it has 5,770 members (6.7% of total union membership) in both state and private schools. Over the years, through its militancy, the union has managed to improve teachers’ status and working conditions significantly.

- **Movement of Bank Employees (MUBE)** organises employees in banking and financial services. The union represents only 3.3% of total union membership, but it is very influential in the commercial banking sector.

- **Malta Union of Midwives and Nurses (MUMN)** organises 1,781 (2% of total union membership) paramedics, mostly former members of the GWU and UHM who left their union to get better services.

### Table 2: Growth of Maltese trade unions, 1984–2001

<table>
<thead>
<tr>
<th>Years</th>
<th>Labour force</th>
<th>Gainfully employed</th>
<th>Unemployment rates</th>
<th>Trade union membership</th>
<th>Density of gainfully employed</th>
</tr>
</thead>
<tbody>
<tr>
<td>1984</td>
<td>119,637</td>
<td>91.3%</td>
<td>8.7</td>
<td>46,434</td>
<td>42.5%</td>
</tr>
<tr>
<td>1987</td>
<td>127,551</td>
<td>95.6%</td>
<td>4.4</td>
<td>60,625</td>
<td>49.7%</td>
</tr>
<tr>
<td>1990</td>
<td>132,283</td>
<td>96.2%</td>
<td>3.8</td>
<td>68,638</td>
<td>53.9%</td>
</tr>
<tr>
<td>1993</td>
<td>139,868</td>
<td>95.8%</td>
<td>4.2</td>
<td>73,523</td>
<td>54.9%</td>
</tr>
<tr>
<td>1996</td>
<td>141,907</td>
<td>95.7%</td>
<td>4.3</td>
<td>79,136</td>
<td>56.4%</td>
</tr>
<tr>
<td>1999</td>
<td>146,525</td>
<td>94.7%</td>
<td>5.3</td>
<td>84,033</td>
<td>61.1%</td>
</tr>
<tr>
<td>2001</td>
<td>144,929</td>
<td>94.9%</td>
<td>5.1</td>
<td>87,158</td>
<td>63.4%</td>
</tr>
<tr>
<td>2003</td>
<td>144,016</td>
<td>95.0%</td>
<td>5.7</td>
<td>86,501</td>
<td>60.1%</td>
</tr>
</tbody>
</table>

*Source: Annual Reports of the Registrar of Trade Unions (the labour statistics are based on the administrative records of the Employment and Training Corporation provided through the National Statistics Office).*

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12 Interview with representative of UHM, September 2004.
3.2. Employers’ associations

In contrast to the ex-communist countries, organisations promoting private business and employer interests have existed in Malta since the nineteenth century. The Maltese Chamber of Commerce is a striking example of this, having been set up in 1848. However, a large number of more specialised organisations, representing sectional interests, have emerged only recently. Prior to the 1960s, private employers felt little need to organise. However, in the changing economic situation, with the onset of industrialisation in the wake of independence, larger firms, which regarded themselves as progressive employers, became aware of the need to develop personnel policies, welfare provisions and training. Individual employers who had to cope on their own found themselves at a disadvantage when dealing with trade unions on questions of working conditions and collective bargaining. They soon realised the need for an overall body that would represent firms in their negotiations with trade unions. This period saw the creation of the General Retailers’ and Traders’ Union and the Mill Owners’ Association in 1949, as well as the Farmers’ Association in 1956. The Malta Employers’ Association (MEA) was founded in 1965, reflecting an attempt to unite around 30 local employers’ organisations. The definition of an employers’ association found its way into legislation in 1976. However, despite the existence of the relevant legislation, a large number of employers are still not affiliated to any organisation and thus do not harmonise their actions. This has led to a situation in which numerous employers remain unclear about certain aspects of labour law and disciplinary procedures. The 2003 report by the Registrar of Trade Unions shows that the membership of employers’ associations stands at 8,547, up from 8,102 members previously.

The following list gives a clear overview of the striking fragmentation of employers’ organisations in Malta. The officially registered employers’ associations are:

- Chamber of Small and Medium-Sized Enterprises;
- Farmers’ Association;
- Malta Employers’ Association;
- Association of Private Hire Bus Owners;
- Hotels and Restaurants Association;
- Insurance Association;
- Rent-a-Car Association;
The role of the social partners in the European Employment Strategy

• Association of Meat Sellers;
• Association of Travel Agencies;
• Public Transport Association;
• Association of Confectioners;
• Association of Progressive Farmers;
• Association of Estate Agents;
• Association of Tractor and Trailer Operators;
• Gozo Bus Owners’ Association;
• Yacht Traders’ Association;
• Association of Fruit and Vegetable Vendors;
• Association of Small Retail Owners;
• Professional Diving School Association;
• Paceville and Nearby Restaurants Association;
• Textile Services Association;
• Association of Gozo Travel Sub-Agents;
• Kiosk Association;
• Malta Chamber of Commerce and Industry;
• Malta Federation of Industry.

The most important are the following:

• **Malta Chamber of Commerce and Industry (MCC)** is an autonomous institution open to all merchants, bankers, manufacturers and others. Its mission is stated as ‘promoting, servicing and representing Malta’s business community’. Its main objective is to promote and protect business interests within a framework of free competitive enterprise. Set up in 1848 the MCC was represented in the legislative assembly established under the first self-government constitution of Malta in 1921. The latter gave the Chamber the right to elect two senators. The MCC is also registered under the Commercial Partnerships Act. Its role and functions include advising government on commercial legislation and intervening on behalf of its members when necessary. It formulates its official views on matters of economic, industrial and commercial policy, represents the business community to outside bodies, and provides advice and services to its members.
members by maintaining its own research unit and library. It also provides legal advice for its members on legislation affecting industry and trade, tax legislation, import and export control and customs procedures. The MCC forms part of the national tripartite mechanism called the Malta Council on Economic and Social Dialogue (MCESD), which will be discussed later. The MCC represents different sectors of the economy, which make up its eleven sections, including IT, insurance and tourism. Twenty per cent of the enterprises represented by the MCC belong to the industrial sector, 78% to the service sector, and 2% to the public sector.

- **Federation of Industry (FOI)** was founded in 1946 and is an independent, non-political organisation, entirely financed by its membership of around 300 companies. The FOI is also registered under the Commercial Partnerships Act. The FOI’s main aim is to influence government policy to create and maintain a sound economic framework and pursue policies conducive to business in a free competitive environment. Its mission is stated as that of promoting and protecting the interests of manufacturing and services. The FOI also undertakes to ensure that the government understands the needs, intentions and problems of Malta’s manufacturing and service industries. It works to improve the competitiveness of Maltese industry in international markets, develop public awareness of the vital role of industry and provide advice and information for its members. The federation is represented on a number of government boards and committees, and also works closely with unions and government organisations, including the Malta Export Trade Corporation and the Employment and Training Corporation. The FOI also maintains close links with its counterparts in the rest of Europe. The FOI is a founder member of the MCESD, and represents manufacturing industry and several related enterprises in the service sector at the national, European and international levels. Its members make up approximately 80% of the companies in the sectors in which they operate.

- **Chamber of Small and Medium-Sized Enterprises (GRTU)** was formerly known as the Association of General Retailers and Traders, and before that as the General Retailers and Traders’ Union. It was established in 1948 and is registered as an employers’ association in the Industrial Relations Act of 1976. Under Maltese employment law there is no proper form of registration for a national organisation representing the self-employed. The GRTU acts as an association for the self-employed. Its stated mission is to act as a lobby group in favour of free enterprise, small business and minimum state intervention in the economy, as well as the
promotion of private entrepreneurship. The GRTU represents the largest group of retailers of goods and services, contractors, distributors, wholesalers and independent technical and professional services. The organisation has 6,831 members and represents traders and retailers on various national boards, including the MCESD, the Employment Relations Board, the Malta Environment and Planning Authority, the National Tourism Organisation and the Council for Consumer Affairs. The organisation’s main aim is to foster private enterprise and to aid the advancement of small and medium-sized enterprises. In recent years the GRTU has also tended to play a highly visible political role regarding such matters as taxation policy which affect the interests of its members. Among its main achievements the GRTU lists its long-standing battle for better recognition of small enterprises, including their right to act collectively despite the limitations of industrial law. The GRTU favours an overall shift in national economic policy from state intervention to a free market orientation and the development of social partnership with the devolution of social and economic policy. The GRTU claims to represent around 50% of the small and medium-sized enterprises in Malta, which are organised in six main divisions and are all privately owned: 2% of them are large enterprises, 5% medium-sized, 15% small, and 78% micro-enterprises; 15% of the enterprises represented belong to the industrial sector, while the other 85% belong to the service sector.

- **Malta Employers’ Association (MEA)** was founded in 1965 through the merger of the former Association of Employers and the Malta Employers’ Confederation. The Association regards itself as the employers’ ‘trade union’, registered and recognised by the law since 1976. This body represents employers’ interests in the areas of labour relations and social policy. It offers its members information services, particularly regarding industrial relations, assistance in negotiations and representation at industrial tribunals. The MEA also seeks to maintain the best possible relations with trade unions and employees. The Association is run by a chairman and a council elected annually from among its members. It is the MEA’s mission to bring together all employers, large and small, local and foreign, in a common endeavour to establish the most favourable mutual relations, as well as between them and their employees. In 1973 it set up a joint working group with the GWU. The MEA represents ten different industrial sectors at national level and has 225 members. Significantly, 93.9% of the enterprises represented by the MEA are privately owned; only 2.8% of its members are fully state-owned, 0.5% of
its members are partially owned by the government, while 2.8% are state-controlled. In terms of size, 8.9% of the enterprises represented by the MEA are considered as large, 5% are medium-sized, 48.4% are small, while 8.9% are micro-enterprises. In terms of sectoral representation, 40.8% of its members belong to the industrial sector, 53.1% to the service sector, and 6.1% to the public sector. The association looks after the interests of employers on tripartite bodies such as the National Employment Authority and the Employment Relations Board. Since 1966 it has represented Maltese employers in the tripartite national delegation to the annual International Organisation Conference of the ILO. One of the main past achievements of the MEA was the formulation of a ‘model collective agreement’. This was the outcome of negotiations with the GWU and remains the basis for collective agreements today.

- **Malta Hotels and Restaurants Association (MHRA)** was established in 1958 and is registered as an employers’ association under the Industrial Law. It is a member of the MCESD. The MHRA represents the interests of hotels and catering establishments in the hospitality and entertainment industry. It claims to represent 80% of enterprises in the sector. These enterprises are all privately owned. Due to the importance of tourism and related services in the Maltese economy, the MHRA is represented on various national bodies related to economic and social policy development.

### 4. Industrial relations in Malta

Industrial relations in Malta are regulated by the Employment and Industrial Relations Act (EIRA) of 2002. EIRA incorporates various earlier pieces of legislation, notably the Conditions of Employment (Regulation) Act of 1952 and the Industrial Relations Act of 1976. In addition, several ILO conventions relating to work and employment have been ratified by the Maltese government and incorporated into national legislation. EIRA recognises the right of workers and employers to form their own associations, provides for their official registration and rules of conduct, and grants them immunity from prosecution in the case of actions related to industrial disputes. The Act established the Industrial Tribunal which arbitrates in industrial disputes by means of a panel representing all actors. The Act also established the machinery for voluntary settlement of industrial disputes through conciliation. It is crucial that the state plays a prominent
mediating, conciliating and regulating role in industrial relations in Malta. This is reflected in:

- appropriate legislation regarding employment relations and conditions of work;
- the Malta Council for Economic and Social Development (MCESD);\textsuperscript{13}
- the tripartite Industrial Relations Board (ERB), which advises the Government on all matters relating to employment;
- the Department of Industrial and Employment Relations (DIER);
- the Employment and Training Corporation (ETC);
- the government’s role as the major employer, directly responsible for the working conditions of around 32.2% of the full-time workforce. Since 1993 collective bargaining on wages and working conditions has also been extended to the public sector.

4.1. Tripartite relations

It is evident from the aforegoing that the industrial relations system in Malta is strongly tripartite. Enterprise-level bargaining and legislation are the main means of establishing labour standards.

In addition to EIRA, there are several other pieces of legislation regulating employment and specific aspects of labour relations. A number of principles are laid down in the Constitution which affirm that it is the state’s duty to:

- protect work;
- establish the maximum number of working hours per day;
- establish workers’ entitlement to a weekly rest day, as well as annual holidays with pay;
- prescribe a minimum age for paid labour;
- promote equal rights for men and women in all socio-economic spheres;
- provide professional and vocational training for the advancement of workers;
- provide the means of subsistence for citizens incapable of working;
- determine the entitlement of workers to insurance on a contributory basis in case of accident, illness, disability, old age and involuntary unemployment.

\textsuperscript{13} The role of the MCESD is discussed later.
Finally, the state must promote the protection and development of:

- private enterprise;
- artisanal trades;
- the social function of cooperatives.

Although the above principles are not enforceable in any court, they are fundamental to good governance and intrinsic to tripartism in Malta.

In addition, one of the main provisions of EIRA established the tripartite Employment Relations Board (ERB) whose aim is to advise the government regarding the establishment of national and sectoral minimum conditions of employment. These cover a wide range of topics, including wages, overtime pay, working hours, holidays, and so on.

A number of other Maltese laws regulate employment and the labour market. These include one establishing the National Employment Authority (1990) which, together with the Employment Commission (1983), ensures that there is no discrimination in employment on political or other grounds. Simultaneously, the Employment and Training Corporation (ETC) was established in 1990 with the power to register and interview job seekers, as well as to obtain information regarding available employment from employers.

Historically speaking, a pattern of close collaboration and mutual support between trade unions and government on matters of industrial relations was started following election of the MLP in 1971. The government’s declared goal was to attain national economic independence. The GWU staunchly supported the government in its measures and the government, for its part, adopted measures favouring the working class, including a national minimum wage, a national pension scheme, and other social services. The practice of legally enforcing an annual inflation-related wage increase for all workers was also adopted. Enhancement of workers’ participation was invoked by GWU officials as a justification for its close collaboration.\(^\text{14}\)

This experience emphasises the crucial role played by the trade unions in Malta’s economic and social development, as well as the institutionalisation of national level bargaining. This also served as a catalyst for the reorganisation

\(^{14}\) The president and the general secretary of the GWU were offered seats in the ministerial cabinet whenever issues affecting the working class were considered. The same offer was made to the CMTU unions but declined.
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of the trade unions which today are affiliated to the CMTU, and particularly for the emergence of the UHM as a general union on the pattern of the GWU. Above all, the experience of the 1970s and 1980s underlines the role of tripartism in the formulation and implementation of national social and economic policies.

It is also important, however, to note that tripartism was also reinforced in Malta through the National Party’s 1987 election manifesto. Tripartism was presented as the only viable alternative to the divisive policies of the previous ‘socialist’ government, a model based on the National Party’s Christian Democratic principles. It was also part of its election programme to establish a National Council on Economic Development. This national mechanism would include not only trade unionists, businessmen, economists and government officials, but also pensioners, housewives and young people (Zammit, 2001).

The Malta Council for Economic and Social Development (MCESD) was established in November 1988, and originally known simply as the Malta Council for Economic Development. At that stage, the council was not established on a statutory basis and its role was only advisory. Its initial tasks were linked to preparation of a new development plan, proposing guidelines for a national wage policy and making sure that the cost of living index adequately reflected retail prices. The council was also responsible for recommending a set of criteria on the basis of which productivity incentive schemes were to be introduced.

Crucially, this initiative provoked a shift from the divisive policies and general political domination, as well as the informal and ad hoc relations which had characterised industrial relations in Malta to a more systematic and representative tripartite format.

There seems to be a general consensus among the social partners that the council’s performance was initially satisfactory. Subsequently, however, it seems to have lost its sense of direction. As the council became more and more concerned with short-term problem-solving, the social partners claimed that ‘the council had become increasingly top heavy, while their

16 Various interviews performed in September 2004.
They believed that the council had become:

reactive, used mostly by government to test-launch its own policy initiatives, excessively government-driven, and failing to achieve its original ‘think-tank’ role. The Council became increasingly prescriptive rather than persuasive, registering very slow progress on long-standing issues. It was crisis-driven, often only meeting on a sporadic basis, with frequent postponements of deadlines. It was clear that the Council was not yet institutionalised enough and thus lacked its own headquarters and staff. (Attard, 2001)

The government clearly stated its intention to implement the necessary changes in order to render the council more effective. Following further discussions within parliament and across the country, an act was eventually approved by parliament providing for reform of the old council and the creation of the MCESD. This aims to widen the council’s original terms of reference and include social and economic objectives. The government explained that:

The Malta Council for Economic and Social Development is hereby established as an advisory body in order to provide a forum for consultation and social dialogue between social partners and, where necessary, with organisations of civil society, and is entrusted with the task of advising government on issues relating to the sustainable economic and social development of Malta. (Cap. 431: 2001)

Generally speaking, the MCESD is authorised to regulate its own proceedings, including the rules governing the establishment of a quorum at its meetings. Simultaneously, the prime minister appears to have retained overriding power over these procedures. Thus, whether the council should reach its decisions by consensus or by majority voting remains an open question. Further changes proposed by the Act include the following: the Council was placed on a legal footing, under the Prime Minister’s Office; there are provisions for the Council to be equipped with administrative and technical staff and also backed with adequate funding. It should be noted, however, that the Government has opted for an advisory and consultative role for the MCESD. Admittedly, the possibility that the council may express its own independent opinions, even if critical of government

17 Interview with UHM, 22 September 2004.
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policies, is not precluded by law; nor does the Act preclude the Council from negotiating on specific issues. Nevertheless, the ultimate political responsibility for any decision remains firmly in the hands of government. The members of the reformed MCESD are appointed by the prime minister. The council is composed of the three ‘social partners’ as follows: a chair and deputy; nine representatives nominated by the national employers’ and workers’ organisations; four government representatives (through the ministries of finance, economic services, social policy and EU affairs) and the governor of the Central Bank.

4.2. Bipartite relations

Paradoxically, it was the widespread fear of a return to the high unemployment rates of the inter-war period that provided the impetus for trade union revival following the Second World War. The GWU was thus the product of a new labour leadership able to mobilise a workforce determined to prevent a return to high poverty levels. In 1945, the Trade Union and Disputes Ordinance gave the unions a legitimate function and laid the basis for the Conciliation and Arbitration Act of 1948, which provided for legal solutions to trade disputes. Once their role was defined by law, the trade unions were listed with the Registry of Trade Unions which published annual membership figures. The scene was thus set for voluntary, bipartite, plant-level collective bargaining on the British pattern (Zammit et al., 2001).

With the return to government of the Nationalist Party at the 1987 elections the GWU relinquished its formal, statutory ‘fusion’ with the MLP and for a time its relations with the CMTU appeared to be improving. A number of collective agreements were jointly negotiated by the GWU and the UHM in both the public and the private sector. The main unions also harmonised their policies on a number of issues and actively collaborated in the educational and research activities organised by the University of Malta’s Workers’ Participation Development Centre (WPDC). Nevertheless, inter-union relations have remained strained and, despite the intervention of officials from the British Trades Union Congress (TUC) and the European Trade Union Confederation (ETUC),\(^{18}\) it has not been possible to establish a consensual code of practice and dispute resolution. One main divisive issue

\(^{18}\) During a visit to Malta by John Monks, ETUC General Secretary, in June 2004, the suggestion to work towards the creation of a Maltese TUC was favourably received by trade union leaders.
remains the policies of the two main union organisations towards the two political parties, whether in government or opposition. Other issues include the poaching of each other’s members and their contrasting views about Malta’s EU membership. Inter-union cooperation can therefore be said to have been extremely elusive in Malta due to the ideological gap which separates the main unions.

A second factor contributing to the lack of inter-union organisation is the corresponding lack of organisation on the employers’ side. The interviews held with various leading actors revealed that the unions do not feel threatened by their ideological divide and still feel much stronger than the employers. However, in practice this might prove illusory. The benefits accruing to employers from their apparent lack of formal organisation may be greater than the trade unions imagine. The lack of a general employers’ umbrella organisation spares them from having to engage in sectoral level bargaining. Admittedly, at present sectoral bargaining is non-existent in Malta (see Table 3). However, although sectoral bargaining may appear desirable to the trade unions, the employers are not likely to share that opinion. As sectoral bargaining may make collective bargaining and work conditions more flexible across sectors, the employers would prefer to remain within the framework of formal, inflexible government legislation, supervised by tripartism. This evidently represents a danger to the future of social dialogue in Malta, particularly in the context of the European Employment Strategy (EES) which promotes greater flexibility of social dialogue and a more independent role for the social partners. The absence of autonomous social dialogue in Malta and the apparent reluctance to improve cohesion between trade union organisations and amongst employers’ associations, as well as the unwillingness to engage in autonomous social dialogue between trade unions and employers, lead us to question the real autonomy of the social partners in Malta. Furthermore, it raises important questions regarding the continuing dominance of the state in the industrial relations process.
Social dialogue in Malta: An ideologically divided, bipolar system

Table 3: Wage bargaining levels in the ten new Member States

<table>
<thead>
<tr>
<th>Countries</th>
<th>Intersectoral level</th>
<th>Sectoral level</th>
<th>Company level</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cyprus</td>
<td>△</td>
<td>□</td>
<td>□</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>□</td>
<td>△</td>
<td></td>
</tr>
<tr>
<td>Estonia</td>
<td>□</td>
<td>△</td>
<td></td>
</tr>
<tr>
<td>Hungary</td>
<td>□</td>
<td>0</td>
<td>△</td>
</tr>
<tr>
<td>Latvia</td>
<td>□</td>
<td>□</td>
<td>△</td>
</tr>
<tr>
<td>Lithuania</td>
<td>□</td>
<td>△</td>
<td></td>
</tr>
<tr>
<td>Malta</td>
<td>△</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Poland</td>
<td>□</td>
<td>△</td>
<td></td>
</tr>
<tr>
<td>Slovakia</td>
<td>△</td>
<td>□</td>
<td></td>
</tr>
<tr>
<td>Slovenia</td>
<td>△</td>
<td>0</td>
<td>□</td>
</tr>
</tbody>
</table>

*Source: Carley (2002).*

*Note: □ = Existing level of wage bargaining; 0 = Important, but not dominant level of wage bargaining; △ = Dominant level of wage bargaining.*

5. Collective bargaining and consultation

In light of the above it is important to emphasise that although there is no sectoral collective bargaining in Malta, there is a strong tradition of plant-level negotiation (Table 4). However, it must be noted that this enterprise-level collective bargaining is still circumscribed by national regulations and can contribute only towards an improvement of the national minimum standards imposed by formal regulations.

*Carley’s assessment based largely on EIRO report Industrial relations in the candidate countries.*
Apart from the basic work conditions and the national minimum wage established under EIRA, the principal means by which wages and other working conditions are determined is bipartite plant-level collective bargaining. In fact, EIRA caters mainly for employees who are not union members and hence not covered by a collective agreement. There are hundreds of collective agreements through which employees in particular enterprises may receive wages and working conditions above those established through EIRA.

As noted above, the institutions involved in the bargaining process are well established. Trade union recognition in a particular enterprise is normally based on a membership exceeding 50% of the workforce. Recently, however, there has been a tendency for particular categories of employee to claim separate recognition. There are also cases of unions being recognised by an employer and a collective agreement negotiated even though the union does not represent the majority of employees. The terms of a collective agreement normally follow a standard pattern and cover both procedural aspects relating to dispute resolution and substantive issues relating to conditions of employment. The standard duration of collective agreements is three years. An analysis based on a sample of collective agreements established in 1999 shows that wages rose by an average of 3.3% (Economic Survey, 1999). A similar exercise in 2003 revealed an increase of 3.1% in real terms over the previous year. As a result, the average weekly wage in 2003 was calculated in nominal terms as MTL 115.06 (USD 331).

When industrial disputes arise, the Department of Industrial and Employment Relations provides mediation and conciliation services. When they fail, following a request by one of the parties involved, the issue may be referred to the Industrial Tribunal, established as a quasi-judicial body by EIRA. The Tribunal’s decision is binding and may not be appealed for at least one year.

---

Table 4: Direct collective bargaining coverage, selected EU and candidate countries

<table>
<thead>
<tr>
<th>Country</th>
<th>Coverage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Belgium</td>
<td>100%</td>
</tr>
<tr>
<td>Slovenia</td>
<td>100%</td>
</tr>
<tr>
<td>Austria</td>
<td>98%</td>
</tr>
<tr>
<td>Sweden</td>
<td>94%</td>
</tr>
<tr>
<td>Finland</td>
<td>90%</td>
</tr>
<tr>
<td>France</td>
<td>90%</td>
</tr>
<tr>
<td>Denmark</td>
<td>85%</td>
</tr>
<tr>
<td>Spain</td>
<td>81%</td>
</tr>
<tr>
<td>Netherlands</td>
<td>78%</td>
</tr>
<tr>
<td>Cyprus</td>
<td>65%–70%</td>
</tr>
<tr>
<td>Germany</td>
<td>67%</td>
</tr>
<tr>
<td>Portugal</td>
<td>62%</td>
</tr>
<tr>
<td>Luxembourg</td>
<td>60%</td>
</tr>
<tr>
<td>Slovakia</td>
<td>48%</td>
</tr>
<tr>
<td>Poland</td>
<td>40%</td>
</tr>
<tr>
<td>UK</td>
<td>36%</td>
</tr>
<tr>
<td>Hungary</td>
<td>34%</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>25%–30%</td>
</tr>
<tr>
<td>Estonia</td>
<td>29%</td>
</tr>
<tr>
<td>Latvia</td>
<td>Under 20%</td>
</tr>
<tr>
<td>Lithuania</td>
<td>10%–15%</td>
</tr>
<tr>
<td>Malta</td>
<td>76%</td>
</tr>
</tbody>
</table>

6. Social dialogue provisions for the EES

As observed in previous sections, tripartite social dialogue at the national level is a long-standing tradition in Malta. Industry-level bipartite social dialogue in the shape of collective bargaining is also widespread. This situation seems to provide grounds for not further enhancing social partner participation in the development of employment policies. In addition, there is an apparent reluctance. Much attention appears to have been devoted to economic convergence and little to convergence with the EES requirement of autonomous social dialogue. Although all parties now claim to favour further European integration, most remain doubtful as to the value and suitability of the EES for the Maltese economy and labour market.\footnote{Interview with UHM and MEA, September 2004.}

This issue will be further examined later, but it might provide an explanation of the almost non-existent development of specific platforms by the social partners on both harmonisation with and implementation of the *acquis communautaire*.

**Figure 1: Degrees of consultation/negotiation with social partners in the candidate countries**

![Diagram showing consultation and negotiation levels in candidate countries](image)

*Source: European Commission, *Industrial Relations in the Candidate Countries* (2002).*\footnote{These figures provided by the European Commission are intended to provide indicative situations and trends on the basis of the available information and experts’ estimates, in the absence of comparative research.}
When trade union respondents were asked whether they were aware of the EES, they gave different answers, ranging from ‘a little’ to ‘full critical awareness’. The respondents seem to get their information from their trade union’s international links.

The GWU, for instance, which has established strong links with the ILO and the ETUC, seems to have highly informed and critical opinions on EES convergence. Employers appear to be better informed. They complain about the costs involved in the application of all the EU rules and regulations at plant level. On the other hand, this argument does not seem very convincing to the trade unions which complain of the lack of government will to involve the social partners fully in the implementation process.23

6.1. Social dialogue platforms for the harmonisation process

6.1.1. Government initiatives

The issue of creating specific social dialogue platforms in respect of the harmonisation and implementation process has created divergent views between the Maltese government and social partners. In the course of the EU negotiations, the government created the Malta EU Steering Action Committee (MEUSAC) with the participation of all stakeholders, including the social partners. This committee is being retained to inform all stakeholders about the new EU directives affecting Malta, as well as about the Economic and Social Council (ECOSOC). However, the committee seems to be rather ineffective. The trade unions tend to agree that very little information is actually being passed to the MCESD, which still represents the most influential consultation platform.24 Furthermore, the employers agree that participation in all these committees has placed a heavy strain on their human resources.25 The MCESD remains the most prestigious and well attended committee, and certainly no less influential than MEUSAC. Although it does not specialise in EU directives, it does provide a source of information on all new developments, including EU matters. In the course of various interviews, the government officials made it clear that the social partners are kept informed of all EU developments, particularly those likely to be adopted in legislation. This information is passed to the social partners

23 Ibid.
24 Interview with the GWU, September 2004.
25 Interview with the FOI, September 2004.
via both the MCESD and the ERB. They participate in both committees on a
voluntary basis and can express their opinions, which are duly recorded.\textsuperscript{26}
However, the social partners agree that so far these opinions have had very
little impact on the adoption or amendment of directives. The trade unions
interpret this situation as reflecting the government’s determination to
harmonise all national legislation with the EU \textit{acquis} in the shortest possible
time.\textsuperscript{27}

Furthermore, the government informs the social partners through
‘information leaflets’ which it distributes to all homes on a regular basis.
This practice sometimes leaves no room for consultation, thereby reversing
a fairly well-functioning process of social dialogue. According to the trade
unions, this could represent a threat to the future of Maltese tripartite social
dialogue.\textsuperscript{28} Admittedly, there are no indications whatsoever of government
effort to encourage the social partners to establish autonomous social
dialogue platforms.

\textbf{6.1.2. Social partner initiatives}

In light of the ideological divide between trade unions and employer
organisations, it is not surprising that all parties seem to agree that
autonomous action by the social partners in the field of EU legislation is not
desirable. There are several reasons for this. First, as tripartism is the most
common form of social dialogue in Malta, the social partners are reluctant to
create platforms which exclude government. Many of the interviews highlight the fact that this close collaboration with government is seen as a
benefit gained over the years. They share the opinion that this benefit should
be maintained rather than reduced. It also seems clear that autonomous
consultation is envisaged as a threat to tripartism on the island.

Secondly, it is also important to stress that despite the ideological gap which
still divides trade unions in Malta there is a desire that the two main unions
reach agreement. This emerged from the interviews. Although no closer
collaboration may be foreseen as yet,\textsuperscript{29} it is important to mention that,

\begin{footnotes}
\item[26] Interview with the Ministry of Labour and Social Affairs, September 2002.
\item[27] Interview with the GWU, September 2004.
\item[28] Ibid.
\item[29] Ibid.
\end{footnotes}
following John Monks’s visit to the island, the UHM foresees the possibility of such a collaboration developing within the next five years.30

A third factor which explains the lack of autonomous social dialogue on issues related to EU directives is the unwillingness of the employers.31 The employers do not show any desire to engage in an autonomous format and clearly perceive tripartism and the dominant role played by the government in the implementation of EU legislation as better suited to their needs. They fear that employment legislation would become too restrictive and thereby threaten competitiveness and productivity.32

All the social partners agree on maintaining their participation in the MCESD. This provides them with a strong tool with which to influence government policy. According to them, the creation of a new autonomous structure might threaten this privileged position and could lead to its replacement by an institution which they see as potentially less effective. It is important to note, at this stage, that the European Commission is critical of the tight tripartite social dialogue structures prevailing in Malta and, particularly, of the lack of autonomy of the social partners from government (European Commission, 2002). Nevertheless, the will of the social partners is to maintain this procedure.

6.2. Social dialogue platforms for the implementation process

6.2.1. A ‘worryingly’ low level of implementation

The Maltese social partners agree that the implementation process remains a ‘worry’, the most critical of them stating that the rushed harmonisation process, regardless of whether all the EU employment and social directives are suitable for Malta, was accomplished with the sole aim of entering the EU as soon as possible.33 Due to a lack of information and adequate discussion, not much can be said about the implementation process. The UHM stated that the implementation process is proving to be a complicated task. They highlighted an information gap between the social partners, as well as between trade unions and workers with regard to the new directives. Not much has been done on this front, however.

30 Interview with the UHM, September 2004.
31 Interview with the FOI, September 2004.
32 Ibid.
33 Ibid.
It is also worth noting that although all the social partners agree on the benefits of establishing a bipartite information platform for the implementation process, not all of them share the same priorities. Some employers, for instance, are not worried about the implementation process, claiming that the MCC already provides clear and concise information on standards and procedures. In the most prominent sector of the Maltese economy, the tourist industry, rules and regulations have been in place for years. Such divisions between trade unions and employers emerge as even wider in relation to particular sectors and these could present a further stumbling block to social partner cohesion.

7. Assessment of progress towards EES accession
Malta differs from the other candidate countries in a number of ways. Along with its unique political history Malta’s long-standing free-market economy provides it with more or less Western European economic standards.

7.1. Full employment
7.1.1. A viable objective?
The newly designed EES guidelines call for member states to get more people to enter and remain in the labour market. It is aimed at making work a real option for all by adjusting taxes and benefits, improving work incentives, and promoting entry into and retention of employment by older workers, women, young people, immigrants and the disadvantaged (Guidelines, 2004).

With respect to this guideline and the employment situation in Malta, it must be noted that although unemployment has risen in recent years, it still remains close to the EU average, at 7.9% (EU-15: 7.7%),\(^{34}\) as does the rate for long-term unemployment, which stands at 3.1% (EU-15: 3%). The weakness of the Maltese labour market clearly lies in the very low rate of female employment (see Table 5), which, at 33.7%, is the lowest in the European Union (EU-15: 55.6%). There is also a striking lack of skills among the unemployed and limited resources available to the ETC\(^{35}\) to meet

\(^{34}\) This rate is arrived at using the Labour Force Survey methodology, as distinct from the administrative data provided by the ETC.

\(^{35}\) Malta’s Public Employment Service (PES).
the new responsibilities assumed under the EES, particularly concerning vocational guidance, labour market forecasting, and monitoring, evaluation and implementation of ESF projects (ETC, 2004). The two main priorities identified by the Maltese government are: (i) to raise the female employment rate in the formal economy through, *inter alia*, increasing childcare facilities, and (ii) to reform the tax and benefit system so that the gap between minimum wage and benefit levels becomes less of a disincentive to work. The objective is for undeclared work to be transformed into regular employment (ETC, 2004).

Significant reforms are being implemented at the ETC in order to meet the requirements for active and preventive measures and to play a key role in the analysis, drafting and coordination process required by the EES. This has involved organisational restructuring, capacity building, the introduction of new active and preventive services and the redesign of existing ones. In particular, several measures have been planned with the social partners at the MCESD level with regard to female employment. These include:

- promulgating the Equality for Men and Women Act, drafted in 2004, which defines direct and indirect discrimination, and strengthens the machinery to address it;
- establishing childcare standards and subsidies which were so far rather weak in Malta;
- speeding up efforts to reduce gender segregation in employment and training;
- removing any ‘fiscal distortion’ that may serve as a disincentive to married women wishing to take up employment.

As far as tax/benefit interaction is concerned, the efforts made so far seem to have been focused on reforming the pension system. Early in 2004, this proposal was submitted by the ETC to government and the social partners and should soon be negotiated within the MCESD.

Although efforts have been made to tackle female unemployment, the issue remains rather sensitive in Malta. The strong Maltese culture and traditions at present do not allow a change in mentality concerning women’s employment. Although the social partners and government are fairly optimistic that this situation will evolve in time, a generational shift will most likely have to take place for results to be significant.
Table 5: Full-time employment by gender and sector, 1997 and 2002

<table>
<thead>
<tr>
<th>Sector</th>
<th>December 1997 Number</th>
<th>% of all full-time gainfully employed</th>
<th>December 2002 Number</th>
<th>% of all full-time gainfully employed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Private direct production</td>
<td>37 095</td>
<td>27.9%</td>
<td>37 705</td>
<td>27.5%</td>
</tr>
<tr>
<td>Men</td>
<td>27 389</td>
<td>20.6%</td>
<td>28 834</td>
<td>21.1%</td>
</tr>
<tr>
<td>Women</td>
<td>9 706</td>
<td>7.3%</td>
<td>8 871</td>
<td>6.5%</td>
</tr>
<tr>
<td>Private market services</td>
<td>44 937</td>
<td>33.8%</td>
<td>50 528</td>
<td>36.9%</td>
</tr>
<tr>
<td>Men</td>
<td>30 837</td>
<td>23.2%</td>
<td>33 340</td>
<td>24.4%</td>
</tr>
<tr>
<td>Women</td>
<td>14 100</td>
<td>10.6%</td>
<td>17 188</td>
<td>12.6%</td>
</tr>
<tr>
<td>Public sector</td>
<td>50 263</td>
<td>37.8%</td>
<td>47 556</td>
<td>34.7%</td>
</tr>
<tr>
<td>Men</td>
<td>38 058</td>
<td>28.6%</td>
<td>34 010</td>
<td>24.8%</td>
</tr>
<tr>
<td>Women</td>
<td>12 205</td>
<td>9.2%</td>
<td>13 546</td>
<td>9.9%</td>
</tr>
</tbody>
</table>


As regards the general employment rate, which is also rather low (53.7%), no specific actions are planned. The matter is being debated in the context of modernisation efforts by the ETC. Most striking is the absence of any call by the trade unions to the traditional training providers in Malta to intensify their efforts. In fact, some of the social partners claim that, despite the high unemployment rate, the ‘employability’ guideline does not address the right issues for the island.\(^36\) Their claim is directed towards the fact that the Maltese labour market still lags behind other European labour markets in many ways and that more time is needed for modernisation. The ‘employability’ pillar of the EES is seen as ‘jumping the gun’ by some social partners and therefore threatening the existing fragile labour market equilibrium. Both employers’ organisations interviewed for the purpose of this research also claimed that

\(^36\) Interview with FOI and GWU, September 2004.
the immense effort imposed on Malta to respond to these guidelines puts heavy pressure on the labour market and the economy in general and may thereby hamper competitiveness and productivity.37

7.2. Job creation and entrepreneurship

7.2.1. The context of entrepreneurship in Malta

Malta has a significant proportion of small and medium-sized enterprises (SMEs). It is interesting that the self-employment share of employment has grown by nearly 1.5% since December 2000, bringing the rate up to 14.3% in December 2003 (see Table 6).

<table>
<thead>
<tr>
<th>Activity</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wholesale/retail/catering/transport</td>
<td>47.4</td>
</tr>
<tr>
<td>Manufacturing</td>
<td>12.6</td>
</tr>
<tr>
<td>Financial/real estate/renting</td>
<td>11.7</td>
</tr>
<tr>
<td>Construction</td>
<td>11.5</td>
</tr>
<tr>
<td>Other service activities</td>
<td>9.1</td>
</tr>
<tr>
<td>Agriculture</td>
<td>7.7</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
</tr>
</tbody>
</table>


Over the past 20 years, employment in production and private market services is reported to have increased by around 10%, from 55.7% in 1983 to 65.4% in 2003. In terms of employment size, enterprises in Malta are distributed along similar lines to European Union averages, though slightly more skewed towards micro-firms:

- micro-firms, from 1 to 9 employees: 94% (EU-15 91%);
- small enterprises, from 10 to 49 employees: 5% (EU-15 8%);
- medium-sized and large enterprises, over 50 employees: 1% (EU-15 1%).

37 Interview with MEA, September 2004.
7.2.2. Progress towards entrepreneurship

In the 2004 NAP, the Maltese government clearly recognises entrepreneurship as a key factor in unlocking economic growth and increasing employment opportunities. Encouraged by a well-functioning national context, in which 99% of enterprises are small and employ around 60% of private sector employees, the government aims at strengthening its support and encouraging more individuals to become aware of business ownership as an alternative form of occupation (ETC, 2004). However, it is important to note that synergies in relation to job creation and employment still remain fairly weak and are identified by government as being in need of improvement across both government and social partners in the first National Action Plan (ETC, 2004).

In 2000 the government designed a six-point entrepreneurial strategy:
1. Encouragement of innovation in manufacturing, trade and services.
2. Simplification of bureaucratic procedures.
3. Improved access to finance.
4. Training in entrepreneurship.
5. Improved and faster regulation of trademarks and patents.

In line with this strategy the government made a few important regulatory changes to enhance entrepreneurship in Malta. In 2004 it established a new Ministry for Competitiveness and Communications responsible for the Small Business Efficiency Unit. Further to these cohesion efforts, in January 2004 Malta Enterprise was created as a general body uniting the different functions of the former Malta Development Corporation, the Institute for the Promotion of Small Enterprise and the Malta Export Trade Corporation. In summary its two core functions are business development and support for local business. However, the tourist sector remains outside the remit of Malta Enterprise and is still catered for by the Malta Tourist Authority.

The government reports that Malta Enterprise’s next step will be to set up an entrepreneurship task force in charge of evaluating the further changes needed. Malta Enterprise has responsibility for attracting investment with a view to creating further jobs and synergies within and across sectors and partners, and notably between entrepreneurs, government and social partners.
The replacement of the Industrial Development Act by the newly designed Business Promotion Act (BPA) in 2001 is also in response to the above strategy. It starts with the following official statement: ‘The BPA aims to help diversify Malta’s economic base to ensure both stability and growth’ (ETC, 2004). In other words the Act aims at introducing greater scope and covering a much wider range of qualifying sectors and activities with potential for growth and employment. It notably introduces new fiscal incentives, including reduced rates of income tax, investment tax credits, a value-added incentives scheme and investment allowances, as well as a reduced tax rate for reinvested profits. Non-tax incentives include the provision of industrial buildings at competitive rents, soft loans, loan interest rate subsidies, loan guarantees, exemption from import duties and, most importantly, incentives for job creation and training grants.

According to the 2004 NAP the BPA is currently being reviewed for improvement. This should be closely followed up and assessed on the basis of experience.

With a view to reducing bureaucracy, the Maltese government will also be setting up a Working Committee with the task of analysing the reporting required by government officials, streamlining such reporting and ensuring that the instruments used are as simple as possible. Two further initiatives are planned. The first one concerns the ETC and the Maltese Inland Revenue which are currently collaborating on streamlining the notification of engagements or terminations of employment so that the ETC may receive such information from the Department and no longer require the submission of forms by employers. The second concerns the creation of the Company Registration Office within the Malta Financial Services Authority which now provides a one-stop-shop service and can complete the registration of a company within 24 hours.

It is clear that although many further steps remain to be taken to increase the attractiveness of self-employment in Malta, much of the above is in line with the EES demand to simplify and reduce the financial burdens on SMEs.

Nevertheless, it is important to note that synergies in relation to job creation and employment remain fairly weak and have been identified by the European Commission as being in great need of improvement by both the government and the social partners (European Commission, 2003).

The Commission regards these measures as positive and continues to encourage the government in its intention to develop the self-employed part
of the economy (European Commission, 2002). In general, the situation should be seen as a positive advantage for the Maltese economy. The presence of a high number of SMEs is a healthy sign. However, it also presents new challenges, such as that of controlling the application of new EU rules and regulations and providing measures which enhance the adaptability of employees and businesses.

7.3. A flexible and adaptable labour market?

7.3.1. The structural constraints

The European Commission’s new guidelines for adaptability and mobility call on the social partners to play an active role at the local and enterprise levels in order to guarantee the modernisation of labour organisations and the greater flexibility of employees (Guidelines, 2003). According to the guidelines, the social partners have an important role to play in improving the quality of jobs and the competitiveness of undertakings through the elaboration of more flexible employment contracts. Simultaneously, flexible forms of work must safeguard workers’ security and make it possible to combine work, training and family life (Guidelines, 2003). For two reasons, it is difficult for the Maltese social partners to guarantee application of the new rules and regulations. First, as already discussed, SMEs in Malta represent a considerable part of the labour market. Some of these enterprises are micro-businesses employing only two or three people and do not fit the official European classification of an SME. The absence of trade union representation in SMEs makes the task nearly impossible for a considerable part of the labour market. Measures are being taken by the government to increase the number of inspectors to enforce rules and regulations. However, nothing has yet been done to ensure that continuing vocational training measures, as well as flexible contracts, become available to the workers concerned. The second reason is the cost of such measures for SMEs. It is extremely difficult for them to guarantee flexible contracts or reduced working hours. Measures would need to be taken to reduce costs and ensure greater social partner involvement. This also applies to the rest of the Maltese labour market.

7.3.2. Progress towards adaptability and flexibility

As already mentioned, the MCESD represents the main platform for information, consultation and discussion among the social partners on all national development issues. Although the social partners are actively involved in all economic reforms taking place in Malta, no autonomous
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The role of the social partners in the European Employment Strategy

platform for action is envisaged. This is crucial in relation to the adaptability and flexibility aimed at by the guidelines. The Commission clearly calls the attention of the social partners to the urgent need for their autonomy from national government.

The current situation is rather static. For example, although legislation has generally been well adapted to the acquis communautaire, little change can be observed in practice. The lack of implementation is evident under the adaptability guidelines. This clearly reflects the need to develop autonomous and more effective social dialogue.

Some key data clearly highlight the need for further sectoral and local action by the social partners:

- the low proportion of employees in part-time or fixed-term employment: 7.5% (EU-15: 28.7%);
- the marked gender gap in part-time and fixed-term employment (males = 3.2%, females = 17.4%);
- the very low proportion of workers undergoing training (6.1%);
- the low proportion of adults in lifelong learning (3.2%).

So far the only issue which seems to have received sustained government attention is the decentralisation of public services. In 2003 a White Paper on the Public Service was drawn up. It proposed greater decentralisation of authority from the Public Service Commission to department heads and the strengthening of results-based accountability in the civil service and public bodies. It was then decided that public officers at and below a certain level in the civil service would be entitled to apply for up to one year’s unpaid leave in order to establish a business or to try alternative employment. They would retain the right of reinstatement.

Nevertheless, the main issue for Malta remains the flexibility and training of its workers. The current rates are quite low despite the fact that in 2001 public expenditure on education as a percentage of GDP equalled the European average of 5%.

7.3.3. Development of human capital and lifelong learning

The proportion of people in Malta without higher secondary education is higher than the EU average. Participation in lifelong learning also remains very low, particularly for low-skilled workers. Apart from the ill-thought-out and hasty establishment of the Malta College of Arts, Science and
Technology (MCAST), little else has been done so far, particularly in relation to lifelong learning, by either government or social partners. It is worth noting, however, that in 2005 an evaluation exercise will begin to examine labour market skill mismatches. The subsequent report is intended to give rise to measures providing a more suitable basis for the funding of higher educational institutions, and also encouraging students to pursue courses of greatest relevance to the labour market.

In general, Malta seems more interested in developing basic education than in lifelong learning. This could be explained by the lack of autonomy of social partner action at the local level. Apart from the Malta Tourism Authority which has its own human resource and support services directorate, social partner action is not called for in the first NAP. This suggests that little such action is contemplated, a fact which also emerged from various interviews. This deficiency is also reflected in policies aimed at increasing the labour supply and promoting active ageing.

7.3.4. Increasing labour supply and promoting active ageing
In general, workers in Malta still enjoy considerable security of employment until retirement. However, the proportion of older workers remains low. It should be noted that less than one-third of the 55 to 64 cohort work (the official retirement age is 61 for men and 60 or 61 for women). Various early retirement schemes have been offered to employees in a number of publicly owned enterprises. Access to training for older workers also remains very low on the island.

Some measures are currently being developed to restrict early retirement schemes, reform pensions, promote active ageing and encourage older workers to participate in training. All these proposals are currently being discussed within the MCESD, but no data are available for assessment (ETC, 2004). This guideline thus remains the most poorly implemented.

7.4. Gender equality
Gender equality in Malta has had a firm legislative basis since 2003 due to the Equality between Men and Women Act which aims to strengthen the national machinery for gender equality. These measures were taken despite the fact that the gender pay gap remains relatively narrow in Malta, at 10% (EU-15: 16%). However, awareness of the need to promote women’s skill levels and employment opportunities seems to have risen sharply in recent years, as clearly reflected by the first guideline. As a result of the important
work done by civil society organisations in this connection, the social partners are giving them more attention. This is also reflected in the Gender Equality Action Plan for Employment 2002–2004 which was designed by the ETC and agreed among all partners within the MCESD. It led to the implementation of numerous campaigns, training schemes, the design of practical tools and studies on various aspects of gender equality.

Nevertheless, wide inequalities persist, mainly in the field of regulated and affordable childcare facilities, which are not yet widely available. These have a major effect on the employment rate of women (see Table 7).

**Figure 2: Employment rates by age and gender**

![Bar chart showing employment rates by age and gender](chart.png)


In terms of age, the gender gaps are highest in the 25–54 age bracket (54.5%), reflecting the age at which women have children and are therefore forced out of the labour market due to the lack of childcare facilities (Table 7).

Segregation is visible in both public and private sectors in Malta. Women also tend to be underrepresented in top level and decision-making posts in all sectors. In 2003 women accounted for 20% of judicial officers and only 7% of senior public officials.

Increasing employment and reducing the unemployment rate for women, together with reducing the gender wage gap, are urgent priorities for equal opportunities. However, there has been little social partner involvement in this area so far, particularly at local level. Most of the steps taken to promote
the employment of women seem more concerned with promoting full employment in Malta.

In 2003 a Childcare Technical Committee was established within the Ministry for Social Policy in order to study the development and quality of affordable childcare in Malta. So far the conclusions of this committee have not been made publicly available and no consultation with the social partners is indicated.

8. Strengths and weaknesses

As regards employment policy, Malta has so far shown a general will to participate in the EU accession process. Along with a healthy free-market economy, good levels of employment and a relatively well-functioning social dialogue, Malta is undeniably one of the best performing new Member States. The emphasis has been on economic convergence, as with the other candidate countries. Nevertheless, the European Commission has insisted that Malta address all aspects of EU policy. The Joint Assessment of Employment Policy Priorities (JAP) was submitted on time and signed by the Commission and the Maltese government in December 2003. As part of the monitoring process of the European Commission’s Employment Policy Review, a progress report on implementation of the priorities identified in the JAP was also submitted to the Commission by the Maltese government in June 2003. In the opinion of the Commission, this report represented an important means of assessing the extent to which Malta was both progressing towards the objectives of labour market reform and adapting its employment system in preparation for EES participation. However, while the Maltese government has complied with all the requirements on paper, the reports indicate that in reality things are slightly different. Before assessing concrete progress towards the EES, this analysis must be placed in both the national and the international context.

It would be unfair to assess Malta’s situation without relating it to previous enlargement experiences. First, it should be remembered that the EU was originally established as an economic alliance. Over time, the view was taken that economic progress could not be made without considering human resources. Nevertheless, employment policy has tended to remain a secondary consideration in the various enlargement processes. It is therefore pertinent to note that, although Malta exhibits a strong need to reform its labour market it is premature to be too critical of progress made so far.
Secondly, Malta’s national characteristics must not be ignored. For example, like Cyprus Malta was not part of the ex-communist block and so had the advantage of a strong labour market within a well-established and fairly well-functioning free-market economy. However, there are a number of potential threats to the Maltese employment situation and to the development of autonomous social dialogue.

8.1. Weak progress towards the EES

We shall critically assess the progress towards the EES achieved in Malta under two main headings. First, although Malta has so far been highly effective in transposing European directives into national legislation, transposition of EU social policy (Chapter 13) has been done rather hurriedly. Secondly – and closely linked to the first point – the slow process of implementation at the sectoral, local and workplace levels remains a worrying factor. Inevitably this is exacerbated by the lack of autonomous participation by the social partners. This factor is arguably more problematic than the first. Malta nevertheless has a well-functioning and active social dialogue at both national and international level. An in-depth evaluation of EES convergence thus far, however, seems to suggest looming difficulties as regards the future participation of the social partners and social dialogue as a whole. Efforts must be made by all parties to safeguard and enhance autonomous social partner action in Malta as part of the harmonisation process.

8.1.1. The lack of concrete action

To date, little enthusiasm has been displayed towards convergence with the EES. Indeed, it is difficult to determine whether any progress made by Malta in its employment policies has been achieved through its adherence to EES or traditional employment policies.

One major weakness is the absence of measures to enhance employability, particularly with regard to the retraining of older people. Some measures in this direction were announced in Malta’s budget for 2005, presented in parliament by the prime minister on 24 November 2004.
hindering the shift towards a knowledge-based society. Due to the lack of targeted employability policies and lifelong learning measures the ICT sector remains underdeveloped in comparison with other new Member States. Existing structures, such as the ETC and the other training organisations, should therefore be enhanced in accordance with the demands of the employability and adaptability pillars. This may serve to reduce the risk of the displacement of national workers by foreign workers in highly skilled sectors.

Measures to address current unemployment rates in Malta have been reactive rather than active. Although government and social partners are working together to develop active measures to enhance the effectiveness of the ETC, further action is needed if positive results are to be achieved. According to the EES, such policies form an integral part of a preventive and employability-oriented strategy. The European Commission advises that this should involve earlier and more regular ETC-initiated contact with those who become unemployed, building on the early identification of individual needs (JAP, 2002). It is crucial, however, that the social partners should be involved at the local level in order to better identify these needs and to help shift the emphasis towards support for active job seeking and, where necessary, access to relevant labour market programme opportunities.

Maintenance of good employability in Malta is also strongly related to the adaptability of workers and businesses. In this context, it is crucial that the social partners recognise the importance of their role in negotiating the enhancement of lifelong learning for workers, as well as for job seekers. The government has implemented a number of positive measures in reforming the system of basic education, but further efforts are needed in the field of vocational and technical training. Once again, existing structures should be further enhanced to take these needs into consideration, while further measures should be taken at sectoral and plant level to allow the early identification of skill needs. Provisions should also be made to develop those skills. The ETC and other training organisations should cooperate in order to address skill shortages. It seems crucial, therefore, that the social partners and the government combine to develop a coherent system of lifelong learning which would draw together initial and continuing vocational education and training.\(^{39}\) In addition, the European Commission

\(^{39}\) Several recommendations along these lines have been made in a detailed document entitled *A Human Resource Development Policy and Strategy for Malta: 2004–2005*. This 263-page
Social dialogue in Malta: An ideologically divided, bipolar system

stresses that the government should accelerate its efforts to establish an integrated national system of vocational qualifications with more transparency (JAP, 2002).

Measures seem to have been taken under the entrepreneurship pillar. Taking account of the important role played by SMEs in Malta, it appears that start-ups are being promoted in response to both the second EES guideline and a national desire to develop entrepreneurship. Clearly, the government is keen to develop new measures. However, weaknesses remain as regards ensuring that SMEs respect rules and regulations. All parties must therefore act to improve inspections and to increase social partner representation in what are frequently micro-structures. A plan has been devised to increase the number of public officers for the first of these purposes, but no concrete plan has yet been elaborated to improve trade union representation in SMEs. The likely creation of further SMEs in response to government measures may threaten the effectiveness of social dialogue. Hence measures are urgently needed to prevent loss of representation and the balance of power among the social partners.

The state of equal opportunities in Malta is another symptom of the lack of convergence with the EES. The government has transposed all EU directives into national legislation, but some examples of anti-discrimination policies can still be witnessed at the local level. Increasing employment and reducing unemployment among women, together with reducing the gender gaps in both pay and access to higher occupations, should be acknowledged as urgent priorities.

8.1.2. The EES: a cure for ideologically divided social dialogue?

In the latest JAP for Malta, the European Commission declared that the social partners have participated in the preparation of all legislative measures, ensuring that all parties expressed their views, and that they were informed about every part of the acquis. This enabled the social partners to inform their members, well in advance, about the new environment to which they have to adjust.

In reality, however, the situation may be different. As already mentioned, social dialogue is a long- and well-established practice in Malta. However, its structure is strictly tripartite and autonomous action by the social partners...
at the national and sectoral levels is nonexistent. Most enterprises are covered by plant-level, freely bargained collective agreements. However, the social partners must be made aware of the role the EES requires of them at the national and sectoral levels. Whether or not the social partners have indeed been informed of the new EU directives, and the related changes to rules and regulations at plant level, consultation has not been observed to the same degree. The speed at which the government has harmonised its national legislation with the acquis communautaire has prevented all dialogue between the social partners and the government on the content of the directives. The social partners explained the situation as a reflection of the government’s desire to obtain accession quickly. This might further threaten the future development of autonomous social dialogue in Malta. In the course of the harmonisation process, the Maltese social dialogue has changed from a strong formal consultation process to a simple process of passing on information.

This situation is explained by several factors. The Maltese government faced a deadline for harmonisation which had to be strictly observed. According to the GWU and the FOI, these time constraints seem to have paved the way for the acceptance of conditions which were not always suited to the Maltese economy. There is a lack of qualified staff within ministries. They claim that for a small country like Malta, most EES demands are too heavy and may hamper competitiveness and productivity over the next few years. This situation cannot be described as conducive to the development of autonomous social dialogue on the island. And although the government claims to be encouraging the social partners to act independently, little has been done so far to develop a concrete platform to facilitate discussions on the EU directives in an autonomous fashion. All the social partners are opposed to the creation of any autonomous body which operates independently of government. They are reluctant to give up the privileges they have gained over the years, particularly that of involvement in the MCESD, in a tripartite fashion. Although they expect a decision to be made by the government, it is clear that they should be making their own capacity-building efforts. Determined action by the social partners is required to sustain their power and influence. The unions in particular should reach an official agreement to respect each other’s differences of opinion and different strategies. The agreement should be accompanied by some sort of public manifestation of solidarity. The ideological divide which still separates the main trade unions represents a threat to the future of national social dialogue and therefore to the future of the EES in Malta.
The present divide has also led to a situation in which the employers do not feel the need to organise themselves better. This general lack of organisation might well lead to an imbalance of power between employers and trade unions in future and to an increasing tendency to de-regulate product and capital markets.

It is important to note that the balance of power between the trade unions and the employers’ organisations has already started to shift. A significant part of the economy – the tourism sector – is already regulated according to European standards and has developed better links with the EU. Hence, the employers in this sector appear much less concerned with the implementation process and, generally, do not seek a formal social dialogue platform to resolve their sectoral issues. Such threats could be highlighted by participation in the European process of structural reform which could alleviate the employers’ obligations even further. It appears crucial, therefore, that trade unions reach an agreement on the course of action to be adopted. The European Commission has pointed out that the implementation process is fraught with difficulties (JAP, 2002). The social partners and the government should therefore work together to ensure the smooth implementation of EU directives. Above all, urgent action is required by the social partners to resolve the differences which have emerged in this process and to safeguard social dialogue itself.

**Concluding remarks and suggestions**

The ideological divide between the main trade unions which still prevails in Malta remains the most significant threat to the European Social Model, which is strongly based on social dialogue. Arguably, tripartite social partnership does not quite correspond to the demand for autonomous social dialogue envisaged by the EES. On adaptability issues, the EES unswervingly allocates an autonomous role to the social partners and their actions at local, sectoral and national levels. All actors must be involved at all these levels. The situation in Malta, as in some other countries, is characterised by a number of missing links. Although there are hundreds of collective agreements at the enterprise level, no sectoral level bargaining has yet been developed. Furthermore, these enterprise level agreements are strongly regulated by national legislation. These two elements reflect the rather inflexible nature of collective bargaining in Malta. The abovementioned ideological division between the trade unions clearly works to the
employers’ advantage. They favour rigid working conditions rather than sectoral agreements which might induce more flexibility and therefore significantly benefit workers. Another missing link, derived directly from the first, is the lack of autonomous social dialogue at the national level. Constrained by their ideological division, trade unions are generally reluctant to cooperate with each other. Nevertheless, following a recent initiative under the auspices of the ETUC, they seem ready to abandon their rigid positions. No formal, concrete decisions have yet been taken to enhance cohesion between the trade unions, but they have all declared themselves ready to work towards the establishment of a Malta TUC within the next five years. The international community has clearly highlighted the danger presented by the present divisive situation and has called on the trade unions to try to maintain the equilibrium between employers and workers’ representatives.

References


ETUC General Secretary John Monks visited Malta in June 2004 and held talks with all Malta’s trade union leaders. It was agreed that the process towards achieving greater inter-union cooperation would continue and would be monitored by the ETUC.


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The role of social dialogue in Romania: impressive form, deficient content

Georgeta Ghebrea

1. Romania: A long and painful transition

At the beginning of the 1980s it was already apparent that the Romanian socialist economy had entered a profound structural crisis. Compared to the other socialist countries of the region, economic decline (accompanied by a catastrophic diminution of living standards) was accentuated by the following factors:

- drastic reduction in imports;
- lack of any liberalisation or reform;
- excessive centralisation;
- efforts directed towards paying off the entire foreign debt in record time, which led to the halting of investment.

As a consequence, GDP fell by 8% between 1987 and 1989 (Zamfir et al. 1994, 3).


Social and demographic indicators also deteriorated. The birth rate fell dramatically, especially after the legalisation of abortion and contraception. Simultaneously, mortality rates increased. The emigration restrictions imposed by the former regime were ended and so emigration rose. Romania now has negative demographic growth. Life expectancy – now about 70 years – has stagnated.
Real incomes – wages, pensions, benefits, and so on – fell because of inflation and price liberalisation. In 1999, average monthly wages represented only 60% of average wages in 1990 (National Human Development Report Romania 2003, 58). The poverty rate grew from 27.3% in 1989 (Zamfir et al. 1994, 9) to 41.2% in 1999 (Tesliuc et al. 2001, 26). Social services – such as health, education, day-care, social protection, sports, culture, and so on – became less accessible for the majority of Romanians as the state began to withdraw due to lack of resources. Some social services have been privatised.

Unemployment was theoretically non-existent before 1989 (hidden by official statistics). For the first time since 1950, many people lost their jobs due to plant closures and restructuring.

Poverty in Romania would probably have reached even more alarming levels if the population had had to rely exclusively on state support. The inability of the ‘official’ economy to use the labour force efficiently prompted the emergence of spontaneous mechanisms whereby the economy has adapted to scant resources. Thus, the unemployed or persons without access to the primary labour market find last-resort activities which enable them to maintain subsistence. Generally, such jobs are ill-paid, more or less seasonal, with difficult working conditions and no social security benefits. They are found above all in two areas (which often interlink): agriculture and the informal economy of commerce and services. These act as genuine barriers against destitution in Romania. Also, many Romanians work abroad illegally.

One of the first laws adopted by the new government after 1990 sought to return land to its former owners: at least, to peasants and their families. Agriculture became a major survival resource: many unemployed and retired people moved back to their birthplaces in the countryside. The importance of agriculture (and land ownership) in supplying the necessary resources for subsistence is also proved by the constant exodus from urban to rural areas. Rural–urban migration is traditionally a symptom of modernisation. This process usually reverses the proportion of rural and urban populations, such that the degree of urbanisation becomes indicative of the degree of modernisation. For decades (especially in the 1970s and 1980s, the peak years of forced industrialisation under Nicolae Ceauşescu), Romanian rural–urban migration outweighed urban–rural migration. After 1990, however, urban–rural migration became increasingly important, so that we can speak of a re-ruralisation of Romania. The reversal of the flow...
of internal migration (when, for the first time in Romanian history, urban–rural migration surpassed rural–urban flows) occurred in 1997. At that time, the government was laying off the industrial workforce on a massive scale. In Romania migration rates from rural to urban areas decreased (from 1.7% in 1990 to 0.49% in 1998), while migration rates from towns to villages increased (from 0.25% to 0.77% in the same period) (National Human Development Report Romania 2003, 55). The proportion of the population living in the countryside and working in agriculture is sizeable in Romania: the urban population accounts for only 55% of the whole.

This workforce relocation may offer a temporary solution for daily survival, but certainly cannot constitute a model for Romanian development, least of all its integration in a competitive international economy.

Nevertheless, the first signs of recovery appeared from 2000:

- foreign investment increased;
- privatisation grew rapidly;
- inflation fell;
- GDP grew;
- industrial production and exports increased;
- the poverty rate decreased and real wages increased: in 2002, net monthly nominal average wages increased as against 2001 by 26.1% and by 23.6% in 2003.\(^1\)

Reform of social services, public administration and public services remains modest. Romania’s goal of becoming a well-functioning market economy will require a sustained effort to reform the economy, administration and justice, and entail greater social partner involvement.

2. Economic and social context

2.1. Social costs of a free market economy

Before 1990, Romania had a command economy. Industry, especially heavy industry, was considered the most important economic sector. The others (agriculture, services, consumer goods) were marginal. The private sector

\(^1\) www.insse.ro Annual Social Indicators (accessed 24/08/04).
was practically non-existent, the state being the major owner. This involved centralised price controls and the use of production and labour subsidies.

Unemployment was non-existent: every citizen was entitled to have a job. Inflation was very low and poverty kept in check by subsidies, social insurance and family benefits.

After 1990, successive Romanian governments launched privatisation and restructuring processes. Foreign funds were also involved in these restructuring programmes, with a particularly important contribution from EU programmes. Unfortunately, these changes were quite slow and lacked transparency due to the influence of conflicting group interests. Governments had difficulty imposing collective redundancies (particularly in mining) and resolving other conflicts of interest between new owners and employees (especially in iron and steel). Current FDI is modest compared to the other CEE countries. The Romanian market economy is still fragile.

**Figure 1: Economic sectors as a proportion of GDP, Romania (2001)**

![Economic sectors as a proportion of GDP, Romania (2001)](source)

*Source: www.insse.ro Romanian Statistical Yearbook (accessed 24/08/04).*

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2 Ibid., p. 21.
### Table 1: Main economic indicators, Romania, 1990–2003

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<tbody>
<tr>
<td>GDP annual growth</td>
<td>-5.6</td>
<td>-12.9</td>
<td>-8.8</td>
<td>1.5</td>
<td>3.9</td>
<td>7.1</td>
<td>3.9</td>
<td>-6.1</td>
<td>-5.4</td>
<td>-3.2</td>
<td>2.2</td>
<td>5.8</td>
<td>5</td>
<td>4.9</td>
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<td>Inflation rate annual average</td>
<td>5.1</td>
<td>17.0</td>
<td>210</td>
<td>256</td>
<td>136</td>
<td>77</td>
<td>32.3</td>
<td>125</td>
<td>16.8</td>
<td>15.1</td>
<td>45.8</td>
<td>45.7</td>
<td>37</td>
<td>22.5</td>
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<tr>
<td>Budget deficit % of GDP</td>
<td>8.6</td>
<td>1.1</td>
<td>4.6</td>
<td>0.4</td>
<td>2.9</td>
<td>4.1</td>
<td>3.9</td>
<td>4.1</td>
<td>4</td>
<td>4.7</td>
<td>4</td>
<td>-</td>
<td>-</td>
<td>-</td>
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<tr>
<td>Annual growth in exports (%)</td>
<td>8.2%</td>
<td>on average, for 1990–1995</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>21</td>
<td>27</td>
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<tr>
<td>Annual growth in imports (%)</td>
<td>3.3%</td>
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<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>14</td>
<td>34.4</td>
<td></td>
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<tr>
<td>Industrial production annual growth</td>
<td>-22.8</td>
<td>-21.9</td>
<td>1.3</td>
<td>3.3</td>
<td>9.4</td>
<td>6.3</td>
<td>-7.2</td>
<td>-13.8</td>
<td>-7.9</td>
<td>4</td>
<td>8</td>
<td>6</td>
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<tr>
<td>Population (millions)</td>
<td>23.2</td>
<td>23.1</td>
<td>22.8</td>
<td>22.75</td>
<td>22.73</td>
<td>22.68</td>
<td>22.6</td>
<td>22.54</td>
<td>22.5</td>
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<td>21.1</td>
<td>21.79</td>
<td>21.73</td>
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<td>GDP per capita (USD at purchasing power parity)</td>
<td>4,418</td>
<td>3,854</td>
<td>3,592</td>
<td>3,643</td>
<td>3,790</td>
<td>6,095</td>
<td>6,595</td>
<td>6,422</td>
<td>6,153</td>
<td>5,441</td>
<td>5,533</td>
<td>5,931</td>
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The most significant changes in the Romanian economic structure since 1990 are as follows:

- Growth of the private sector and diminution of the public sector. The weight of the private sector in GDP grew from 16.4% in 1990 to 70% in 2002.³
- Decrease in the importance of industry in the economy and augmentation of other sectors, especially construction and services (Figure 1).

The most important trends in significant economic variables over the last decade are presented in Table 1. Concerning the labour force, there have been dramatic changes compared to the communist era. The most important (see Table 2) are:

- Reduction of the active population due to the growing number of retired people, the increasing student population and a higher proportion of housewives and jobless persons. In 2004 there were 6.3 million retired people and about 4.5 million employees in Romania.⁴
- The appearance of unemployment, a phenomenon unknown prior to 1989, except as something hidden.
- Falling activity and employment, especially among women.
- Structural changes in the composition of the labour force: fewer people are working in the public sector and more in the private sector: in 2001, 76.5% of civil employment (6.5 million persons) was in the private sector and only 23.5% (2 million persons) in the public sector. Most persons employed in the private sector are working in agriculture (3.5 million persons).⁵
- The diminishing role of industry in employment and the rise in other sectors, especially agriculture, where the percentage of the working population increased from 28% in 1989 to 42% in 2003 (see Figure 2) (National Human Development Report Romania 2003, 95).
The role of social dialogue in Romania: impressive form, deficient content

Table 2: Main labour force indicators, Romania, 1990–2003

<table>
<thead>
<tr>
<th>Year</th>
<th>Civilian employment (millions)</th>
<th>Economic activity rate (%)</th>
<th>Total wage-earners (millions)</th>
<th>Employment rate (%)</th>
<th>Unemployment rate (%) – total</th>
<th>Women’s unemployment rate (%)</th>
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<tr>
<td>1990</td>
<td>10.8</td>
<td>–</td>
<td>8.1</td>
<td>–</td>
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<tr>
<td>1991</td>
<td>10.7</td>
<td>–</td>
<td>7.5</td>
<td>–</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>1992</td>
<td>10.4</td>
<td>–</td>
<td>6.8</td>
<td>–</td>
<td>8.2</td>
<td>10.3</td>
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<tr>
<td>1993</td>
<td>10.0</td>
<td>–</td>
<td>6.6</td>
<td>–</td>
<td>10.4</td>
<td>12.9</td>
</tr>
<tr>
<td>1994</td>
<td>9.4</td>
<td>–</td>
<td>6.4</td>
<td>–</td>
<td>9.5</td>
<td>11.4</td>
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<tr>
<td>1995</td>
<td>9.3</td>
<td>–</td>
<td>6.1</td>
<td>–</td>
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<tr>
<td>1996</td>
<td>8.8</td>
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<td>5.9</td>
<td>60.4</td>
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<td>1997</td>
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<td>1998</td>
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<td>63.2</td>
<td>4.62</td>
<td>9.7</td>
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<td>1999</td>
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<td>4.61</td>
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<td>2000</td>
<td>–</td>
<td>59.9</td>
<td>–</td>
<td>59.6</td>
<td>–</td>
<td>9.5</td>
</tr>
<tr>
<td>2001</td>
<td>–</td>
<td>58.1</td>
<td>–</td>
<td>58.1</td>
<td>–</td>
<td>8.8</td>
</tr>
<tr>
<td>2002</td>
<td>–</td>
<td>51.3</td>
<td>–</td>
<td>51.3</td>
<td>–</td>
<td>8.4</td>
</tr>
<tr>
<td>2003</td>
<td>–</td>
<td>56.9</td>
<td>–</td>
<td>56.9</td>
<td>–</td>
<td>–</td>
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</table>


Figure 2: Civil employment by main activity, Romania (%)


Women constitute only 45.3% of the active population (see Table 3) (National Human Development Report Romania 2003, 94).

The role of the social partners in the European Employment Strategy

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Table 3: Activity and employment rates by gender, Romania (%)

<table>
<thead>
<tr>
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<tbody>
<tr>
<td><strong>Activity rate</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(for the working</td>
<td>M</td>
<td>73</td>
<td>72.7</td>
<td>72.5</td>
<td>71.4</td>
<td>63.5</td>
</tr>
<tr>
<td>age population)</td>
<td>F</td>
<td>59.4</td>
<td>57.4</td>
<td>57.7</td>
<td>56.3</td>
<td>49</td>
</tr>
<tr>
<td><strong>Employment rate</strong></td>
<td>M</td>
<td>67.5</td>
<td>68.1</td>
<td>68.3</td>
<td>66.7</td>
<td>–</td>
</tr>
<tr>
<td></td>
<td>F</td>
<td>54.3</td>
<td>53.2</td>
<td>54</td>
<td>53</td>
<td>–</td>
</tr>
<tr>
<td><strong>Long-term unemployment</strong> (% of total unemployed)</td>
<td>M</td>
<td>46</td>
<td>48</td>
<td>46</td>
<td>42</td>
<td>–</td>
</tr>
<tr>
<td></td>
<td>F</td>
<td>48</td>
<td>52</td>
<td>46</td>
<td>47</td>
<td>–</td>
</tr>
</tbody>
</table>


As regards the participation of women in the labour market, a very high percentage (70%) of unpaid family workers are women (see Figure 3).

Figure 3: Structure of active population, women, Romania, 1999

Modern Romania was established in several stages. In the first stage, two Romanian principalities (Moldavia and Wallachia – under Ottoman domination) formed the United Romanian Principalities in 1859, which later came to be called Romania. Romania won its independence in 1877 as a kingdom ruled by a dynasty of German origin. After the First World War, Romania reclaimed territories from adjoining empires (Russia and Austro-Hungary) and formed Greater Romania. The period between the two World Wars was particularly favourable for the Romanian economy, politics and culture. After the Second World War, Romania became part of the communist bloc, under Soviet control. Under the Ceauşescu regime, internationalist communism turned into nationalist communism. In 1989, the communist regime was removed after violent street confrontations.

After 1990 Romania became a democratic semi-presidential republic. The Constitution adopted in 1991 and modified in 2003 stipulates fundamental human and civic rights, a multi-party system, free elections and separation of powers: legislative (two-chamber Parliament), executive (government) and judicial (law courts). The President of the Republic – elected for five years by a direct universal ballot – must abandon his or her political affiliation during his or her term of office. The President appoints the Prime Minister, proposed by the winning party or coalition. The Prime Minister forms the Government, which is approved by the Parliament.

Romania is a NATO member and an EU candidate country. Many organisations (both governmental and non-governmental) are involved in preparations for EU accession, including transposition of the acquis communautaire into domestic legislation, as well as implementation and awareness raising. There is a Ministry of European Integration and every ministry has its own European Integration division. Romania is also a member of the UN, the Council of Europe, OSCE, IMF, ILO and Interpol.

2.3. Social dialogue: a tormented tradition

The first document on social dialogue dates from 1827 when the Prince of Wallachia suppressed a number of strikes involving salt miners. The first trade unions are mentioned around 1860. In 1872 the General Association of Romanian Workers was established. The Romanian Ploughmen’s Society was instituted in 1898. The General Union of Romanian Trade Unions was
set up in 1907, with separate organisations for women and young people. UGIR, the first Romanian employers’ confederation, was created in 1903.

The first Romanian trade unions were strongly influenced by Marxism and the socialist parties. They co-existed with guilds and other corporate bodies (organisations composed of both employees and employers).

After the First World War, the government and the unions initiated a dialogue in order to regulate relations between employees and employers, particularly regarding collective labour disputes. A law issued in 1920, after tough negotiations, limited the right to strike, particularly in state-owned companies. Even if quite active, trade unions were rather weak and most employees were not members.

UGIR became one of the most important European employers’ associations, with significant contacts with foreign companies. The organisation was very influential on the Romanian political stage and contributed to the following laws and institutions: the Customhouse Code, the Industry Law (providing incentives for industrial development), the Trade Consortium and industrial credit.

UGIR was abolished by the Communist regime in 1948 and all its assets confiscated.

Under the Communist regime, membership of the General Union of Romanian Trade Unions (UGSR) was compulsory. This was the only legally recognised trade union organisation and it was completely subordinated to the Communist Party. Post-communist studies focusing on the nomenclatura show that the UGSR was often used as a so-called ‘elephant cemetery’. Ceauşescu in time no longer sent his potential political adversaries (or simply people who had fallen into disgrace) to the gulag, as in the Stalinist era, but transferred them where nothing ever happened, hence to the UGSR.

Indeed, the organisation had no role in protecting employees’ rights. Its activities were limited to implementing Party decisions related to production plans, propaganda, ideology and the like.

Women made up a significant proportion of UGSR members and, compared to the Communist Party, were better represented in its governing structures. As always, tolerance was proportional to distance from the real locus of power.

In Romania, collective bargaining – as a decision-making process – was sanctioned by the new legislation entering into force in 1991. In the first seven years after 1989, there was no permanent committee for social dialogue and the social partners were not fully autonomous. Dialogue with the trade unions has been institutionalised since 1990 in the form of a government commission for consultation and negotiation. Employers’ organisations are also included (National Human Development Report Romania 1997, 83).

UGSR dissolved itself and other unions were created. Between 1990 and 1994, 12,118 union organisations were established in different companies, as well as 62 sectoral federations and 15 national federations. In 1992, three national and 62 sectoral collective labour agreements were concluded. These contracts covered only 12% of companies and the main topics of negotiations were minimum wages and job protection. Collective negotiations were protracted (seven months in 1992 and eleven months in 1993), and usually the unions took the initiative by making demands. The management negotiators lacked decision-making autonomy and were mostly messengers who needed constantly to obtain the approval of their superiors. Hence, every round of negotiations ended by involving the Ministry in charge of the respective sector and, eventually, the Government.

A characteristic feature of labour relations in Romania is their instability. Enterprise managers – in their capacity as employers – are replaced very often. Similarly, trade union structures are fragmented and are reconfigured frequently: for instance, there are usually several unions in the same company representing the same occupational category.

3. Influential unions – weak employers’ associations

3.1. Trade unions

After 1990, due to the restructuring of the Romanian economy, increasing unemployment and early retirements, the number of employees (men as well as women) fell dramatically. New jobs in the private sector often were not protected by union affiliation and were often ill-paid, insecure or even

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8 Ibid.
9 Ibid., p. 241.
informal. These mechanisms accentuated deunionisation: few trade unions were formed in or covered the private sector.

The most active trade union centres in Romania, formed soon after 1989, are: Cartel Alfa, the National Confederation of Trade Unions in Romania – Brotherhood (CNSRL–Frâţia) and the National Trade Union Block (BNS). Generally, these trade unions, like others with similar roles and power, are organised in branches where the state sector prevails: mining, metallurgy, machine-building, chemicals, and public services and utilities.

Two of these trade unions, CNSRL–Frâţia and BNS, took part in an international survey (Table 4):

Table 4: Union membership

<table>
<thead>
<tr>
<th>Organisation</th>
<th>Members</th>
<th>2000</th>
<th>2002</th>
<th>+/-</th>
</tr>
</thead>
<tbody>
<tr>
<td>CNSRL-Frâţia</td>
<td></td>
<td>656 709</td>
<td>250 000</td>
<td>–</td>
</tr>
<tr>
<td>BNS</td>
<td></td>
<td>–</td>
<td>150 000</td>
<td>–</td>
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</table>


Table 4 demonstrates the decrease in trade union membership even during the period 2000 to 2002, a fact that confirms – at least in the Romanian case – the powerful link between trade unionism and the size of the state sector. Proportionally to the decline in the state sector following privatisation, the closure of (often bankrupt) enterprises or the reduction of their activities, the rate of trade union membership dwindled significantly. However, the statistics provided by the trade unions themselves are much more optimistic, with each major union claiming about one million members. The estimated union density is 24% of total civil employment and 44% of employees (i.e. wage earners).10

**Cartel Alfa**

This confederation unites unions from the following branches: agriculture, metallurgy, chemicals, furniture, mining, light industry, education, health

10 Estimate by I.B., union consultant.
care, transport, public administration, media, associations of retired people, students and the unemployed.\textsuperscript{11} Between June 1990 and 2000, Cartel Alfa organised 15 significant meetings and demonstrations. Cartel Alfa is a formidable social partner in negotiations for collective labour contracts, both at sectoral and national level. It has representatives on the Social and Economic Council (SEC), the National Agency for Employment and the National House of Pensions and Other Social Insurance Rights and Benefits.

National Confederation of Trade Unions in Romania – Brotherhood (CNSRL–Frâția)

CNSRL–Frâția is a member of ETUC and ICFTU and unites 44 federations and 41 territorial branches.\textsuperscript{12} It has education, social, professional, international, communication and public relations departments. There is a special department responsible for social dialogue, with three sections: Labour Legislation, Social Partnership and Labour Disputes. The confederation is very active in promoting its point of view during debates on draft laws. It is a member of the SEC and of the board of the National House of Pensions and Other Social Insurance Rights and Benefits. It participates in social dialogue committees within ministries, especially the Ministry of Labour and Social Solidarity, which is dominated by former union leaders. Besides collective labour agreements, CNSRL–Frâția has negotiated and strongly influenced the content of the Labour Code, the Tax Code, the Pension Law, the Health Insurance Law, the Minimum Wage Law, as well as the payment of wages in accordance with inflation. CNSRL–Frâția has significant political influence, several of its leaders being co-opted in the Government. This proximity often leads the other union confederations to imply that CNSRL–Frâția is under the government’s thumb.

National Trade Union Block (BNS)

This confederation unites unions from the following branches: mechanical engineering, transport, energy, construction, telecommunications, electronics, agriculture, health care, public administration, culture.\textsuperscript{13} BNS organised – among other impressive events – the first general strike in Romania since 1945. It is a member of the Romanian tripartite bodies of ETUC and ICFTU.

\textsuperscript{11} www.cartel-alfa.ro, accessed 6/7/04.
\textsuperscript{12} www.cnsrl-fratia.ro, accessed 6/7/04.
\textsuperscript{13} www.bns.ro, accessed 30/08/04.
The unions have fought very actively for employees’ rights, especially during the period of rapid privatisation and restructuring (1997–2000). The government even accused the unions of being ‘anti-reform’. Sometimes, union leaders and managers of state-owned companies have formed coalitions against the government in order to prevent the restructuring or closure of companies and to maintain workplaces.

Figure 4 shows the dynamics of labour disputes between 1992 and 2000.

**Figure 4: Number of employees involved in collective labour disputes ('000)**

![Graph showing the number of employees involved in collective labour disputes from 1992 to 2001.](source: www.insse.ro Romanian Statistical Yearbook, accessed 24/08/04.)

After 1999 (the year with the most labour disputes), social tensions relaxed, partially due to the social agreements concluded in 2001, 2002 and 2003.

The demands which led to labour disputes in 2001 were as follows:14

- wages, (non-payment of wages or holiday bonuses on time, etc.) – 47.1%;
- labour force issues (underemployment, redistribution of staff, redundancies and collective dismissals, etc.) – 2%;
- work organisation (revision of labour norms, organisation of working time, schedules, lack of personnel files, etc.) – 1.3%;
- working conditions (lack of normal working and social conditions, promotion to a higher wage band, etc.) – 11.1%;

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The role of social dialogue in Romania: impressive form, deficient content

- working time (lack of days-off, additional hours and leaves, shifts, etc.) – 3.9%;
- social rights (lack of social security provisions, systems of social insurance, accommodation, vouchers for spa treatment, funds for social activities, etc.) – 8.5%;
- trade unions (conditions for union activity, union leaders unreasonably sanctioned by employers, lack of transparency, presence of leaders at negotiations, etc.) – 1.3%;
- other claims (changes in organisational structure, negotiation of collective contracts, etc.) – 24.2%.

Romanian public opinion is not well disposed towards the trade unions:

Attitudes towards the unions are complicated by a lack of confidence in them as organisations. They are suspected of representing the interests of powerful groups of employees or union leaders. Their necessity as part of a democratic system is however recognised. (National Human Development Report Romania 1997, 82)

The same source notes that only 28% of respondents – in an opinion poll – trust unions ('a lot/quite a lot'); 66% of the respondents have 'little/none' confidence in trade unions.

3.2. Employers’ associations

In the first years after 1989, due to the importance of the public sector in the economy, these associations were very weak and less influential than the unions. In fact, because privatisation was just beginning and the economy was still centralised in the government’s hands, the ‘employers’ consisted in the managers of public companies. Therefore, the government played two roles in the negotiation game: referee and player. Most managers were public employees and so both their decisions and their salaries were controlled by the government. Consequently, the government was the most important employer and player in the social dialogue process. Private employers started to create their own structures and organisations later on, in order to promote their interests and defend private ownership. The legal framework that regulates the role of the employers’ associations in social dialogue is as follows:

- Law no. 356/2001 – ‘Employers’ law’;
- Law no. 130/1996V1, regarding collective labour agreements – modified by Law no. 143/1997;
• Law no. 356/2001:
  – employers’ associations are established by economic activity and organised in sections, divisions, sectors and at national level;
  – employers are allowed to constitute associations, federations, confederations and other associative structures;

• Law no. 130/1996V1 mentions that, in order to become national representative organisations, employers’ associations must fulfil the following conditions:
  – they should have organisational and financial autonomy;
  – they should function in at least half of Romania’s counties (including Bucharest);
  – they should employ at least 7% of the total number of Romanian employees;
  – they should represent at least 25% of economic sectors.

Twelve employers’ associations obtained this status, by a Court decision. Eight of them are members of the Social and Economic Council. The most representative employers’ associations are: UGIR 1903 (it represents 7,567 companies with 1.8 million employees), the Confederation of Romanian Industrial Employers – CONPIROM (2,572 companies, with 1.4 million employees) and UNPR (1,712 companies, with 0.5 million employees).\(^\text{15}\)

Altogether these organisations cover about 87% of employees and 47% of civil employment.\(^\text{16}\)

The General Union of Manufacturers (UGIR 1903), which was founded in 1993, is a national confederation which represents employers and professional associations from the following sectors: agriculture, construction, transport, trade, armaments, publishing, chemicals, light industry, energy, health care, tourism and banking. This organisation intends to continue the Romanian tradition of employers’ associations.\(^\text{17}\)

\(^\text{15}\) www.ugir1903.ro European Industrial Relations Observatory; Romania – the development and the current situation of employers’ organisations – 2003, accessed 30/08/2004.

\(^\text{16}\) www.ugir1903.ro The real representation of employers’ associations in Romania, accessed 28/08/04.

\(^\text{17}\) www.ugir1903.ro accessed 28/08/04.
The National Union of Romanian Employers (UNPR) was established as a private, non-political organisation involving companies with domestic, joint and foreign capital (over 30% of the national economy). It was founded in 1991 with the purpose of protecting the interests of small and medium-sized business in services, commerce or manufacturing.\(^{18}\)

Unfortunately, the employers’ associations which are members of the SEC represent only 50% of Romanian employers’ associations.\(^{19}\)

4. Collective bargaining: lack of effective autonomy

4.1. Laws

The most important laws regulating employment issues in Romania are the Constitution and the Labour Code. The Romanian Constitution, adopted in 1991 and modified in 2003, stipulates, among other things, freedom of association, the right to a minimum wage and the right to free negotiations. The most important provisions of Law no. 53/2003 (the Labour Code) are:

- access to employment, vocational training and promotion;
- appropriate working conditions;
- protection against dismissal;
- organisation of working time, daily duration of working time, annual leave, weekly rest, night shifts;
- regulation of labour disputes.

4.2. Institutions

Law no. 109/1997 on the organisation and functioning of the Social and Economic Council stipulates that the Social and Economic Council (SEC) shall be constituted as an autonomous, tripartite public-interest body for the purpose of achieving social dialogue between the government, trade unions and employers and a climate of social peace.

For the fulfilment of its advisory role in solving the problems mentioned under Art. 5, the SEC shall have the following duties and obligations:

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\(^{19}\) www.ugir1903.ro, European Industrial Relations Observatory; Romania – the development and the current situation of employers’ organisations – 2003, accessed 30/08/2004.
to formulate, under the current law, advisory options on draft ordinances and resolutions of the government and on draft laws that are to be presented to Parliament;

- to signal to the government the appearance of social and economic processes calling for the elaboration of new statutory instruments;
- to examine the causes of conflicts which have arisen and to make proposals for their solution in the national interest;
- to follow-up the implementation of obligations arising from ILO Convention 144/1976 on tripartite consultation intended to promote the application of international rules on labour.

The SEC shall have a tripartite structure and consist of 27 members appointed on the parity principle by the social partners. The Council provides the trade unions and the employers’ associations with a genuine opportunity to participate in the elaboration of draft laws and to amend government bills. No draft law ever reaches Parliament nowadays without the approval of the Social and Economic Council. However, once the bills reach Parliament, every representative is free to act according to his own or his party’s views. Therefore, social dialogue in Romania is rather consultative than effective. Both unions and employers’ associations agree on the merely ‘formal’ role of social dialogue in Romania.20

In its five years of activity, the SEC has had a direct influence on only 29.7% of the adopted legislation.21 This shows that the main political institutions do not pay too much attention to the SEC. The SEC also reports that only 32% of its proposals are accepted regarding modifications in draft laws.

A number of other public institutions have responsibilities regarding employment policy design and implementation:

- Government decisions no. 314/2001 and 569/2002 stipulate the organisation of social dialogue at the sectoral and territorial levels, involving committees for social dialogue within ministries and prefect’s offices. The social dialogue committees within ministries play an important role in the social dialogue process; they debate draft laws and collective


labour agreements and discuss demands in labour disputes. Their actions concern the public sector and recently privatised companies where unions are still strong. The most important ministries which have responsibilities in social dialogue are: the Ministry of the Economy, the Ministry of Transport, the Ministry of Education, the Ministry of Health, the Ministry of Finance, and the Authority for Revaluation of State Assets.

- The Ministry of Labour, Social Solidarity and Family has the following duties:
  - policies, programmes and national plans regarding labour market and labour relations;
  - implementation and monitoring of these policies, programmes and plans;
  - formulation and proposal of draft laws regarding labour market and labour relations;
  - international cooperation on labour issues.
- The Ministry of Justice – through the County Courts – hears suits brought by employees who consider themselves unjustly treated. Labour disputes are under the jurisdiction of the sections for labour litigation and disputes.

4.3. Bipartite relations: the government as a major employer

Generally, the social partners are antagonistic to one another in Romania. Unions and employers are in constant disagreement and both of them fight the Government.

Nevertheless, the negotiation process has allowed the social partners to exchange information and to better understand their respective positions and common interests. The new Labour Code stipulates the employers’ duty to periodically communicate to employees the economic and financial status of the company and to consult with the unions on decisions that may have a substantial effect on the latter’s rights and interests.22

Unfortunately, a standard procedure on social dialogue is still missing and social and economic data are misinterpreted and used in their own interest by the social partners. However, recently the manner in which the social partners approach technical and complex issues has improved.

22 www.mmssf.ro, accessed 31/08/04.
An opinion poll amongst both union leaders and employers carried out by the Institute for Quality of Life of the Romanian Academy of Sciences in 1994 produced the following findings:

- the quality of information circulating amongst the social partners is poor;
- the technical services preparing documents for the negotiation process are still undeveloped;
- information is scarce, especially concerning economic indicators on companies;
- managements sometimes refuse to share information with unions;
- confidentiality is often misinterpreted and applied by the employers to keep information from unions;
- both social partners agree on the necessity of social dialogue.

Bipartite relations are usually conducted at company level. The most frequent topics of bipartite negotiations are:

- the minimum wage (which is at least equal to the legal minimum wage);
- wages, which are established in accordance with the minimum wage and employee’s qualifications;
- bonuses and other benefits, including holidays and leaves;
- organisation of working time;
- working conditions;
- privatisation contracts. Unions and employers (i.e., the government) negotiate the conditions of company privatisation: size of collective redundancies, level of future investment, and so on. These conditions are stipulated in the privatisation documents.

Collective bargaining is a recognised right under the 1996 law stipulating that collective agreements are to be renewed every year. The state may not interfere in the collective bargaining process. No sector is excluded by law from collective bargaining. However, collective agreements can only be negotiated in workplaces where there are at least 21 employees. Romanian unions reported that the most anti-union employers – usually foreign

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companies – make employment conditional upon the worker agreeing not to create or join a union. Some employers also do not provide their unions with offices, fax machines or telephones and deny unions access to economic and social information. Many employers do not respect the right to collective bargaining and do not conclude collective agreements with the trade unions.25

Usually, the trade unions are more active in the sectors controlled by the government. In these sectors (public or recently privatised) the managers are not completely free to take decisions. The government takes some decisions for them. Therefore, bipartite relations very soon turn into tripartite ones.

There have been situations when unions and employers have stood together in opposition to the government, for example, against abuses of power: modification of regulations without social partners’ consultation, appointment of officials to positions supposed to be negotiated with the social partners but without their approval, and so on. On other occasions, trade unions and managers of public companies have allied against government policy on restructuring.

According to both unions and employers, government institutions are inclined towards secrecy and (with rare exceptions) despite the transparency laws are reluctant to enter into dialogue with trade unions and employers’ associations.

Our interviews with trade union leaders also yielded the fact that relations with government institutions are often tense. For instance, the Labour Code was negotiated line by line by the trade unions; there were tense debates with the social partners (ministries, but above all with the employers).

Trade unions do not perceive the ministries and state representatives as neutral arbiters; more often they consider them adversaries because those institutions ‘hold the money and the resources, and they do not want to share them’ [B.A., trade union leader]. The authorities are not open enough and tend to operate only on a formal level. At the level of principles, press declarations and common seminars government institutions are willing to show a united front, but their intentions do not go much deeper.

Government organisations deny these allegations, pointing out that they have public relations departments and websites offering plenty of information about their activities.

25 Ibid.
Managers of state and private companies generally concur in the belief that legislation limits their freedom of action and so profitability. For example, the employers we talked to believe that the new Labour Code is not appropriate for the current stage of economic development in Romania and serves as an obstacle. The present legislation increases labour costs without justification and hinders labour market flexibility. Ultimately, they argue, this is equally bad for employees because it makes it increasingly difficult for them to find a workplace. One likely result of this will be growth of informal employment. The employers we interviewed believe that the present Labour Code belongs to a leftist ideology of ‘socialist-communist’ tenets [C.R., employer] and that it reiterates the propaganda of the former regime [E.G., employer].

4.4. Tripartite relations: government as a powerful actor

Tripartite relations are more frequent and more important than bipartite ones. Tripartite social dialogue operates at the sectoral, regional and national levels (see section 3.2).

The strongest position within tripartite dialogue is held by the government. The Romanian state remains highly centralised and bureaucratic and Romanians are used to strong government control of the social and economic spheres. For instance, the government interferes in wage policy:

- setting the minimum wage;
- setting wages in public institutions;
- monitoring wages in sectors in which the government is the main stakeholder;
- setting taxes.

The trade unions also play an important role due to their capacity to apply pressure both in relation to the functioning of the economy and on politicians eager to gain electoral support. The weakest position is that of the employers’ associations which do not yet constitute a strong pressure group. Their fragmentation and the fragility of the Romanian market economy perhaps explain this state of affairs.

Tripartite social dialogue started in 1993 with the establishment of a Secretariat for Social Dialogue, at which all trade unions and employers’ associations were represented.
Prior to 2000, social dialogue was mostly occasional, imposed by crises and social pressure. Trade unions and employers did not manage to achieve a common platform.

A significant year in the history of Romanian social dialogue was 2001, when the first tripartite Social Agreement was concluded. This agreement contained precise provisions, deadlines and responsibilities.

The next social agreements (2002, 2003) had the following outcomes:
- reduction of the unemployment rate;
- the Pre-Accession Programme;
- important laws, such as the Labour Code, the Employers Act, the Unions Act, the Employment Act and a law governing working conditions;
- increases in average and minimum wages;
- increases in pensions and child allowances;
- management of collective redundancies.

Government decision no. 737/3.07.2003 established – within the Ministry of Labour and Social Solidarity – the position of deputy minister in charge of social dialogue, tasked with meeting trade union and employer representatives on a regular basis.

There are many tripartite organisations in Romania: the Social and Economic Council, the National House of Pensions and Other Social Insurance Rights and Benefits, the National Agency for Labour Force Employment, the National Council for Adults’ Vocational Training, and so on. The Work Inspection Authority – which is in charge of Labour Code implementation and monitoring – plays a very important role in social dialogue, too.

The most significant documents deriving from tripartite relations are collective agreements, social agreements in anticipation of privatisation, the Labour Code, the Tax Code, the Minimum Wage Law and the Pension Law.

The most important topics of tripartite discussion are: the level of the minimum wage; the level of wages, pensions, bonuses and other cash benefits; working time; job protection; vocational training; working

conditions, especially health and safety. About 50% of companies are involved in collective bargaining.27 The agreements cover about 3.4 million employees, that is, 74% of Romanian employees and 40% of civil employment.28

Many of the laws and regulations with a clear social impact adopted lately did not bring about the expected results. After promulgation, it became apparent that some provisions would have to be modified or their application postponed (for example, the Labour Code, the Tax Code, the Employers Act, and so on).

In this context, there are proposals for the diversification and amplification of government communication with trade unions and employers’ organisations, both at central and local level, but there has been no mention yet of ways and means.29

5. Social partner participation in developing employment policy

5.1. Preparations for the European Employment Strategy

All the social partners in Romania include the new European Employment Strategy in their documents and practices. Romanian employment policies are devised in accordance with the objectives and main ideas of this Strategy.

The main objectives of Romanian employment policies are:

• reducing the impact of structural unemployment on young people, long-term unemployed and rural unemployed; these policies are attempting to improve the employability and adaptability of the Romanian labour force;
• promoting the concept of lifelong learning through training and retraining in both the public and private sectors;
• fighting social exclusion and improving access to education and the labour market for all social groups.

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The most important implementing and monitoring body is the National Agency for Labour Force Employment. The Agency coordinates employment programmes and provides a wide range of social services to the unemployed and job seekers. The Agency has a good regional network.

Non-governmental employment agencies (whether non-profit or for-profit) are still underdeveloped.


5.1.1. Employability: impressive efforts in implementing active policies

In Romania, unemployment was officially recognised in 1991 by Law no. 1/1991 on social protection and occupational reinsertion of the unemployed. The unemployment rate was relatively low compared to other CEE countries (seldom above 10%).

Concerning the structure of the unemployed, the National Employment Strategy 2004–2010 provides the following data: in 2004, about 70% of total unemployed were workers. Long-term unemployment (over 9 months) was almost half of total unemployment. Over 40% of the unemployed were under 25. One of the major causes of this was the education system’s failure to adjust to the needs of the labour market. The majority of unemployed persons have a low level of education and training. The national unemployment rate is about 7% but there are counties in which it is about 12% (where the economy is underdeveloped or where industry was restructured).

Table 5 presents the most recent data on unemployment.

As we can see, unemployment benefits are rather diverse in Romania, and paid according to work record and unemployment duration and cause. Unemployment benefits are rather small and do not encourage inactivity. These cash benefits are also conditional on a monthly visit to the public employment service, participation in training and/or other employment incentives. Unemployment benefits cease if the recipient refuses to look for work or rejects the jobs offered by the employment service.

Table 5: Number of unemployed registered at County Agencies for Labour Force Employment, March 2004

<table>
<thead>
<tr>
<th>Number of unemployed</th>
<th>Total</th>
<th>Women</th>
</tr>
</thead>
<tbody>
<tr>
<td>receiving unemployment benefit (75% of minimum national gross wage)</td>
<td>265 306</td>
<td>104 843</td>
</tr>
<tr>
<td>receiving unemployment benefit</td>
<td>41</td>
<td>17</td>
</tr>
<tr>
<td>receiving vocational integration allowance</td>
<td>15</td>
<td>7</td>
</tr>
<tr>
<td>receiving unemployment benefit (50% of minimum national gross wage)</td>
<td>49 424</td>
<td>21 624</td>
</tr>
<tr>
<td>receiving support allowance</td>
<td>664</td>
<td>172</td>
</tr>
<tr>
<td>receiving severance payments for collective dismissal, according to Government Emergency Ordinance no. 98/1999</td>
<td>1435</td>
<td>632</td>
</tr>
<tr>
<td>Unemployed persons no longer eligible for benefit</td>
<td>380 485</td>
<td>155 645</td>
</tr>
</tbody>
</table>


The unpaid unemployed are protected by the last-resort social safety net which provides a minimum income and other welfare provisions and services. This social support system is based on means testing.

Underemployment is another issue. Most of the underemployed labour force is working in agriculture and in rural areas.

The informal sector is significant, especially in the following branches: trade, services, tourism, transport. Many informal employees also have a job on the formal labour market or are officially unemployed. They use the informal job as a secondary occupation to boost their income. The National Institute for Labour and Social Protection estimates that the informally employed constitute 25–27% of employment, that is, almost three million people.\(^{31}\)

\(^{31}\) www.mmssf.ro, Joint Assessment of Employment Priorities in Romania, p. 9, accessed 30/08/04.
The main institutions in charge of employment policy are the following:

- The Ministry of Labour, Social Solidarity and Family: it has general responsibility for employment policy design and elaborates national action plans, programmes and strategies.

- The National Agency for Labour Force Employment elaborates and implements specific policies. It is the most important active organisation in the field. It is an independent public institution with good regional representation (250 local offices and 42 county agencies). It is run by a tripartite committee. The Agency prepared the first Romanian NAPE (June 2002). Its main responsibilities are:
  - job market;
  - active labour policies;
  - management of the unemployment insurance fund;
  - vocational and professional training of adults.

- The National Commission for Employment Promotion is a tripartite and consultative body, established by Law no. 76/2002 on the system of unemployment insurance and the stimulation of labour force participation.

Beside passive employment policies (that is, payment of cash benefits), there are several active policies intended to improve employability. The importance of these policies as a proportion of expenditure on employment policy has grown continuously: they now represent about one third of total expenditure.\(^{32}\)

Training courses for the unemployed (see Table 6) are organised by the National Agency for Labour Force Employment and by the County Agencies for Labour Force Employment. There are 23 centres for training the unemployed.\(^{33}\) These training courses are open to all unemployed persons and are complemented by occupational counselling and career management. According to Law no. 76/2002 on the system of unemployment insurance and the stimulation of labour force participation, participants in training courses for unemployed persons receive cash benefits and other provisions and social services. The public agencies work together with a few NGOs active in the field. The effectiveness of these training courses is

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\(^{32}\) Ibid., p. 30.

\(^{33}\) Ibid., p. 20.
rather low, as Table 6 indicates: only 1% of employed persons participate in these programmes; only about half of participants graduate; only about 18% of the unemployed participants manage to get a job.

**Table 6: Number of persons who attended initiation, qualification and requalification courses, as of 31 March 2004**

<table>
<thead>
<tr>
<th>Persons involved in training</th>
<th>Total</th>
<th>of which: 2004</th>
<th>Number of graduates</th>
<th>Number of unemployed who were employed after attending training courses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total unemployed</td>
<td>13 402</td>
<td>2 730</td>
<td>6 433</td>
<td>2 415</td>
</tr>
<tr>
<td>Attending training courses financed by the unemployment insurance budget:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>– paid unemployed</td>
<td>6 212</td>
<td>1 833</td>
<td>2 894</td>
<td>1 135</td>
</tr>
<tr>
<td>– unpaid unemployed</td>
<td>6 730</td>
<td>897</td>
<td>3 154</td>
<td>1 234</td>
</tr>
<tr>
<td>Attending training courses financed by other funds</td>
<td>460</td>
<td>–</td>
<td>295</td>
<td>46</td>
</tr>
<tr>
<td>At the request of companies</td>
<td>11 130</td>
<td>35</td>
<td>5 570</td>
<td>–</td>
</tr>
<tr>
<td>At the request of individuals</td>
<td>25 310</td>
<td>162</td>
<td>14 552</td>
<td>–</td>
</tr>
</tbody>
</table>


Other active policies include:

- Credits for unemployed people for establishing and developing a business.
- Support for graduate employment (subsidies – over 12 months – granted to companies that hire graduates: 60% of gross minimum wage for secondary school graduates and 70% for higher education graduates).
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- Support for employers for hiring unemployed persons. The employer receives – over 12 months – 70% of the national gross minimum wage for each person hired.

- Credits to SMEs for creating new jobs: in 1996, 17,915 new jobs were created, of which 11,125 went to unemployed persons (National Human Development Report Romania 1997, 59).

- Assistance in occupational insertion.

- Support for infrastructure and public works.

- Special programmes for Roma: equal opportunities (including positive discrimination and other affirmative action); incentives for developing traditional Roma occupations.

- Protected workplaces for persons with special needs.

- Active ageing policies: the retirement age will be raised; pre-retirement will be restricted; lifelong learning programmes; incentives for employers who hire older workers (over 45).

- PHARE Programmes: RICOP, economic and social cohesion, vocational training and unemployed protection, public works and infrastructure, and so on.

- World Bank programmes concerning the labour force and social protection.

Unfortunately, tax policy does not play a significant role in stimulating employability. In fact, taxation is very high in Romania and employers are not encouraged to create new jobs. Income taxes are between 18 and 40% of income, but the real burden is contributions to insurance funds – pension insurance, unemployment insurance and health insurance – which constitute an enormous 57% of the gross wage, divided between the employee (19.7%) and the employer (37.3%).34 It is therefore extremely expensive to create a new workplace.

5.1.2. An underdeveloped framework for entrepreneurship

The Romanian public still has difficulty accepting entrepreneurship. Concepts such as ‘capital’, ‘capitalist’ and ‘private ownership’ had negative connotations for long after 1989. Things have only recently begun to change, but very slowly.

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The private sector plays an important role in employment, especially in agriculture: 97% of those employed in agriculture work in the private sector, but only 57% of employees in industry and 45% in services.\(^{35}\)

From 1990, SMEs began to appear on the Romanian economic stage. According to the UGIR-1903 database,\(^{36}\) in 1990 only 81 new companies were established. By the end of 2001 669,887 SMEs had been registered: in Romania, there are 17.5 SMEs per 1000 inhabitants. In rural areas, however, the average is only 8.95. Most Romanian SMEs are micro companies or small family businesses: of total SMEs, 89.7% are micro-enterprises, 8.4% small enterprises and only 1.9% medium-sized enterprises.

The development of SMEs is one of the most effective ways of combating the social impact of economic restructuring. For instance, the SME sector created 700,000 new jobs in 1996–2001.\(^{37}\) Almost 50% of the Romanian labour force are employed in SMEs.

SMEs need a favourable framework in which to survive and grow. Unfortunately, in Romania this framework is not developed enough:

- institutionally: persistence of bureaucracy and corruption; lack of free competition and transparency;
- legally: legislation is too complicated, incomplete and very insecure;
- financially: high taxes and insignificant incentives; the financial institutions are still reluctant to lend to SMEs; access to funds is very difficult;
- culturally: the entrepreneurial culture is undeveloped and entrepreneurial values are not yet shared by the majority of the Romanian population.

The Romanian economic environment tolerates SMEs but does not encourage them. However, Romanian SMEs are dynamic and enduring, and account for 99% of all Romanian companies. They play an important role in economic growth, exports, structural change and employment. They contribute significantly to reducing unemployment. Romanian SMEs produce 60% of GDP and employ 40% of the active population.

\(^{35}\) www.mmssf.ro, Joint Assessment of Employment Priorities in Romania, p. 8, accessed 30/08/04.


\(^{37}\) www.mmssf.ro, Joint Assessment of Employment Priorities in Romania, p.8, accessed 30/08/04.
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The National Employment Strategy 2004–2010\textsuperscript{38} enshrines the development of SMEs as a priority. This document considers that Romania needs a business environment more favourable to SMEs. Bureaucratic and administrative barriers should be removed and social dialogue between government and employers should be more effective.

Nevertheless, no concrete instruments have been made available in order to achieve these goals. There is no effective dialogue with the social partners in this respect. Moreover, the Ministry of SMEs was abolished in 2003 and replaced by the National Agency for SMEs. This latter institution has even fewer instruments at its disposal compared to the former Ministry.

Romania intends to make effective use of the available European programmes for SMEs (especially the programmes implemented by the European Investment Fund). SMEs are supported also by the Phare 2000 and Phare 2001 programmes which grant financing and assistance for SMEs. The total amount provided by these programmes was about EUR 34 million in 2004.\textsuperscript{39}

5.1.3. Insufficient adaptability of the Romanian labour market

The Romanian labour market has poor flexibility and low adaptability. Economic restructuring is very challenging and many employees have been pushed into marginal positions, as unemployed, underemployed, non-paid workers or employed on the informal labour market.

The Romanian labour force was ill prepared for such a major change. Only recently, under pressure of pre-accession processes, was Romanian labour legislation adjusted to take account of the new social risks.

Unfortunately, many new institutions and principles have not yet been fully implemented. The interviews showed the difficulty of enforcing the new employment legislation. The main causes mentioned were: the poor awareness of the target groups; the ‘formalistic’ approach of the relevant monitoring bodies; mentalities; insufficient personnel and funding; bureaucratic administration; lack of coordination among enforcement procedures.


The government in its Strategy remarks on the need to involve the social partners in improving labour market adaptability and flexibility. Unfortunately, unions and employers do not see the issue in the same light and there are many tensions between them, especially regarding the Labour Code. The government avoids effective social dialogue, hoping to maintain ‘social peace’.

**Working conditions**

The provisions on labour protection remain rather formal and superficial, leaving employers room to evade their responsibilities. In fact, the many workplace accidents that continue to occur prove the need to reconsider implementation.

The most active institution regarding the enforcement of working conditions legislation is the Labour Inspectorate.

The Labour Inspectorate has as its main task to monitor employers’ fulfilment of their legal obligations in respect of labour relations, social insurance and working conditions. The Labour Inspectorate’s annual report for 2003 states that 20,180 reports assessing and sanctioning contraventions were carried out in 2003. Of these, 7,471 were in the field of health and safety at the workplace and 12,709 pertained to labour relations. The regional labour inspectorates forwarded 160 complaints. Over 80,000 employers were inspected.

The large trade union confederations (CNSRL–Frăţia, Cartel Alfa, Blocul Naţional Sindical) have their own working conditions departments with their own programmes: seminars, monitoring systems, independent checks on working conditions and legal representation for employees whose rights have been infringed. Nevertheless, the cases that do reach the courts are generally solved in the spirit of the laws transposing the European Employment Strategy.

The trade unions monitor how labour protection is observed. This is not simply on paper: there are joint commissions comprising owners and the Labour Inspectorate. The trade unions have legal councillors and any trade union member has the right to free legal representation. Trade unions bring to court owners who are found to be in breach of the law.

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Self-employment

Before 1989 self-employed people were scarce, if they existed at all. Generally, the regime discouraged all independent activities and attempted to incorporate them in the state system, which was easier to oversee and keep under control.

After 1989, the transition to a market economy meant the appearance and proliferation of the self-employed. In 1998, 1,453,000 self-employed workers were registered in Romania, of whom 32% were women, together with 1,192,000 non-remunerated family workers (most of them in agriculture), 70.6% of whom were women.\textsuperscript{42} Together, these categories represent almost 40% of the active population. Law no. 507/2002 on the organisation and development of economic activities by individuals (published in \textit{Monitorul Oficial} no. 586/6.09.2002) has tried to improve the status of the self-employed. The new laws give the self-employed the opportunity to join the social insurance system. Still, self-employed persons do not have the same benefits as employees:

- so far, no bodies representing self-employed workers have been formed;
- vocational training centres do not have any special legal competence regarding the self-employed.

Part-time work


Compared to the pre-1989 situation, part-time workers are better protected and their status is better defined. Discriminatory practices in comparison with full-time workers have been eliminated. The Labour Inspectorate is charged with implementing these provisions. There are employees interested in part-time working but employers are still reluctant because of labour costs and high social contributions. Most part-time workers are in the informal sector and so do not benefit from the legal protection provided by the Labour Code.

Occupational mobility

Occupational mobility in Romania has a spontaneous aspect. After the restructuring of mining and heavy industry, many dismissed employees returned to their birthplaces in rural areas. There is significant mobility in the main economic sectors: 94% in agriculture, 92% in industry and 91% in services.43

The new Labour Code adopted in 2003 introduced regulations concerning 'temporary working assignments', part-time individual labour contracts (minimum 2 hours/day), employees working at home, and regulations concerning agreements on personalised working schedules.

The National Employment Strategy is aware of the need to increase regional mobility within Romania and to deal with potential migration. The Agency intends to maintain a transparent and accessible database regarding available jobs. Still, the incentives for increasing regional mobility are not sufficiently developed. The legislation provides payments in the amount of:

- two minimum wages for employees accepting a job that is located farther than 50 km away from their residence;
- seven minimum wages when the employer requires a change of residence.

A major obstacle to Romanian labour market flexibility is the discrepancy between the vocational training system and the labour market. The vocational schools do not yet provide the qualifications required by the labour market. The government – in partnership with the unions, professional associations and employers – intends to modify the system, to make it more flexible and more diverse. The reform started in 1995 but is still in development. The programmes are co-funded by the World Bank and the EU (Phare RO 9405) and new curricula are planned in order to develop IT and entrepreneurial skills. The reform represents an opportunity for establishing partnerships between schools and local communities and employers.

Occupational mobility could also be improved by facilitating access for vulnerable groups to vocational retraining and lifelong learning. The National Employment Strategy mentions the need to involve the social

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partners in this process, as well. There are nine domains in which this partnership could be active.44

The National Council for Adults’ Vocational Training was constituted in 1999 (Law 132/1999) and legally recognised in 2000 (Statutory Order no. 129/2000 on vocational and professional training of adults, published in Monitorul Oficial no. 430/2.11.2000). It was expanded in 2003 (Law 253/2003, published in Monitorul Oficial no. 429/18.06.2003). It is an autonomous and tripartite organisation and has a consultative role only. Its main responsibilities are: authorising training providers; developing occupational standards; evaluating and assessing the level of competence achieved by graduates of training courses; coordinating the national education system with the lifelong learning system.

So far, the results of adult professional training are rather modest: in 1999 only 11% of companies organised training courses, and participation was in any case a mere 8–20%. Generally, these were small companies in the service and transport sectors.45 Almost all sectoral collective agreements contain a section on training but very few implement this provision.

5.1.4. Gender equality: progress and critical points

Laws and institutions

Romanian legislation is not gender discriminatory. Analysis of the harmonisation of Romanian legislation with the acquis communautaire on equality between men and women shows that Romanian legislation covers all the major statements in the European legislation, as the corresponding regulations are largely transposed into the national legislation by normative acts on respect for human rights. In addition, informing the social partners about binding legislation constitutes a first-order objective among policies aiming at equal treatment and is present in the National Action Plan for Equality between Women and Men adopted by Government Decision no. 1273/2000.

Legally and institutionally, gender equality is provided for by Law no. 202/2002 on equal opportunities for women and men and by the establishment of the Inter-ministerial Advisory Commission for Equal Opportunities

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The new Labour Code, Article 5(1), provides that the principle of equal treatment shall apply within the framework of labour relations. Article 154 provides that sex discrimination in wage determination is prohibited.

Concerning equality of opportunity between women and men, following reports of breaches of Law no. 202/2002, 15 employers were inspected and fines in the amount of ROL 23 million were levied. However, compared with the over 80,000 employers that were inspected, 15 is a tiny number. In the fourth quarter of 2004, the Labour Inspectorate planned a full-scale campaign to monitor adherence to equal opportunities between women and men and observance of measures for the protection of motherhood at the workplace. Legislation adopted in recent years in Romania has incorporated the main provisions of the European directives referring to equal treatment in the workplace.

A first step was the rigorous conceptualisation in the adopted legislation of such terms as:

1. direct discrimination;
2. indirect discrimination;
3. harassment;
4. sexual harassment.

In accordance with this:

- Government Ordinance no. 137/2000 on preventing and punishing all forms of discrimination (published in Monitorul Oficial no. 431/2.10.2000) defines (1) and (2) according to EU definitions.

- Law no. 202/2002 on equal opportunities for women and men (published in Monitorul Oficial no. 301/8.05.2002) defines (1), (2), (3), and (4) according to EU definitions.

- Law no. 53/2003 of the Labour Code (published in Monitorul Oficial no. 75/5.02.2003) defines (1) and (2) within the framework of labour relations.

- Law no. 61/2002 on the approval of emergency government ordinance no. 89/2001 for the modification and supplementation of a number of provisions in the Penal Code concerning the decriminalisation of homosexuality (published in Monitorul Oficial no. 65/30.01.2002) defines (4) in accordance with the EU.

- In 2003, the Romanian government approved the emergency ordinance on the protection of motherhood at the workplace with a view to
fulfilling their obligations assumed by the Position Document for negotiating Romania’s accession to the European Union, in Chapter 13 – Social Policy and Employment.

Progress

• The prevention of all forms of discrimination on ground of sex – in particular harassment and sexual harassment at the workplace – represents an absolute novelty in the legislation and practice of labour relations in Romania. To prevent and punish any infringement of existing equal treatment legislation, two institutions were founded: the National Council for the Prevention of Discrimination and the Labour Inspectorate.

• Today, civil society organisations, especially trade unions, play an active role in transposing, implementing and enforcing the equality acquis, a role which is also explicitly written into the legislation and embedded in the structure of the equality institutions. Trade unions have special departments for equal opportunities which organise seminars, training sessions and talks on awareness of women’s rights and enforcing them, as well as information campaigns and equality courses in which male leaders are also called to participate, together with representatives of enterprise owners. Still, fewer and fewer employees belong to trade unions, especially in the private sector and in the sectors (services, small commerce) in which women are most prominent (often as illegal workers).

• Romanian legislation is becoming ever more favourable to women, containing more precise provisions and more detailed statements, especially with respect to the obligations of employers and women’s opportunities to defend their rights, with the support of trade unions.

• Article 12 of Law 202/2002 states that it is forbidden to dismiss an employee in response to a complaint of discrimination. Section VI contains provisions on the resolution of complaints, claims and petitions regarding discrimination on ground of sex. Employees are able to pursue their claims by judicial process before courts specialising in labour conflicts, after possible recourse to the trade union or employees’ representatives.

• Although few in number so far, there have been cases of women, most frequently with the support of trade unions and various NGOs, going to court when their rights have been infringed.
Critical points

- Indirect discrimination is prohibited but there are no specific provisions for action.
- The legislation and institutions that implement and monitor the observance of equal treatment at the workplace take no particular interest in women’s discrimination, as women are treated together with other discriminated categories (the disabled, Roma, homosexuals).
- The equal treatment directive concerning occupational social security schemes has not yet been transposed. The Romanian government recently approved a bill regarding privately managed compulsory pension funds, the draft being subsequently transmitted to the Parliament for debate and approval.
- The reversal of the burden of proof in sex discrimination cases has only been accepted with regard to work relationships.
- Equal treatment for the self-employed and their spouses if they assist them is not sufficiently specified. For instance, participation in the social security system for agricultural workers is voluntary, and most of the self-employed opt against insurance. They are hence deprived of a number of rights and social benefits.
- The status of household labour is not regulated.
- There is no unified system regarding job classification. The wage hierarchy differs in accordance with the degree of complexity of the work and is established by particular normative acts or the collective agreement. For employees in the private sector, wage coefficients are related to the minimum wages negotiated by companies and trade unions.
- In fact, even after the transposition and implementation of the European directive on equal pay, differences between the wages of women and men persist, particularly because of the sectors of activity in which women form the majority, where, as a rule, earnings are up to a third below the average wage in the economy (education, health care, social assistance, commerce, hotels, textiles). Furthermore:
  - in industry, where female employees account for a little over two fifths, their gross average wage represents only 87% of the gross average wage for the branch;

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- the wage ratio between women and men suggests a greater concentration of women in the lower wage stratum.

• Directive on maternity leave. The study ‘Women’s access to the labour market’, using a sample of 78 women aged between 25 and 35 years and with a medium level of education, employed and unemployed, married and single, mothers or childless, from eight cities throughout Romania, yielded the following results:
  - During maternity leave employees do not enjoy wage increases or other monetary benefits and suffer from a constant fear of job insecurity, as a result of which they tend to return early to work.
  - There are frequent cases of direct discrimination due to pregnancy and motherhood.
  - Returning to work is more insecure in the private sector.
  - Often employers tend to dismiss women first, or to restructure their position during the parental leave, although they know that it is against the law and risk penalties.

6. Preparations for participation in EU social dialogue

6.1. Pro-European social partners

The social partners in Romania have good relations with international and European networks and platforms. Their awareness of the standards governing EU social dialogue is illustrated by their documents: statutory documents, programmes, activity reports, official statements, press releases, and so on. Social dialogue issues are also included in their training curricula.

Domestic legislation has transposed the main provisions of the acquis communautaire on employment. The most significant laws in this respect are:

- Law no. 53/2003 on the Labour Code;
- Law no. 76/2002 on the system of unemployment insurance and the stimulation of labour force participation;
- Law no. 202/2002 on equal opportunities for women and men.

47 Ibid.
Generally, the social partners participated in the formulation of these laws. For example, they were discussed in the Social and Economic Council. Several public information campaigns were organised, with the participation of trade unions, women’s NGOs, several disadvantaged groups (ACCEPT – the Romanian gay and lesbian organisation, several Roma organisations, several organisations of disabled persons, and so on).

Our interviews showed that existing legislation is comprehensive, but further efforts in the direction of awareness raising and deeper involvement are needed to use this legislation to the advantage of social partners. For instance, Romanian equality legislation can be considered a success, but it was not the women’s movement that brought equality issues onto the political agenda, but the negotiations on Chapter 13 with the European Union.

The European Union, all the networks of women’s organisations worldwide, the ILO itself, created an outside pressure which was more effective than the domestic impetus coming from the trade unions or from the NGOs. [R.R., trade union leader]

The interviews with trade union leaders and employers demonstrated their dissatisfaction concerning the effectiveness of social dialogue in Romania. Even if the main laws and institutions are in place, effective involvement of the social partners in the decision-making process is still limited, for the following reasons:

- Transposition of the employment *acquis* reminds us of a policy of form without content: there are laws but they are not implemented, there are institutions but they do not function, and there are rights but they are not known. Many interviewees believe there is an increasing interest in social dialogue, but this does not come at the request of Romanian society, but is rather due to adaptation and compliance with European standards.
- Information campaigns are formal and ineffective. Better collaboration is needed between the public authorities and the social partners, as well as a rigorous evaluation of their impact upon the target groups, and upon public opinion in general.
- Despite the existence of legislation, there are major problems with regard to enforcement. There is an urgent need for more labour inspections and internal proceedings within organisations.
- There is insufficient quantity and quality in terms of human resources. Only a few people in the government are trained in social dialogue. Some
ministries have a few persons who are appointed as experts in this domain, but they do not really know what to do and expect prompting from the government.

- Inconsistency is another problem. Sometimes there are too many institutions of social dialogue functioning separately, so they end up lacking coherence.

- Financial resources are lacking. According to S.D. [bureaucrat], the only major obstacle has nothing to do with the government’s attitude, but rather with the lack of funding. The legislation is in place, but the necessary financing is lacking to render these policies effective.

- Mentalities and the heritage of the past are also a problem: employees see employers as ‘exploiters’, while the employers consider the new legislation as a reiteration of the ideas of the Communist regime connected with the advancement of the ‘proletariat’. These perspectives produce resistance and even rejection concerning practical enforcement.

Unions

Most issues on which the trade unions are active concern working conditions, wage increases and social security:

- The trade unions ensure that the European acquis is written into collective agreements at national, branch and enterprise level. Analysis of the collective contracts published in Monitorul Oficial al României confirms the accurate transposition of the European acquis, with the exception of the directive about sexual harassment.

- The trade unions also organise training sessions for trade union leaders, employers and employees regarding the acquis communautaire on employment and the European Employment Strategy.

- Trade unions often conduct research on the enforcement of the European acquis at the workplace.

- Trade unions have specific departments for relations with foreign trade unions and European and international platforms, such as ETUC and ICFTU. They are developing a number of projects together.
Employers’ associations

• The employers’ associations are not satisfied with their participation in the process of negotiation and preparation for joining the European Union. They consider that successive Romanian governments have not managed to involve them properly and so the negotiation results were often unfavourable to domestic entrepreneurs. The employers’ associations consider that they are less prepared for participation in the EU social dialogue process because they were forced into a marginal position in these negotiations.

• They organise seminars and other actions together with employers’ associations from other European and candidate countries; most of topics debated in these seminars, workshops, and so on, focus on European enlargement issues.

• They are involved – even if not to a significant degree – in the management of pre-accession European programmes; the employers’ associations are interested in more effective participation and in more transparent administration of these funds.

The Social and Economic Council

The Social and Economic Council constitutes a platform that brings together the social partners in preparations for participation in EU social dialogue. Its main achievements in this respect are:

• Participation in sessions of the EU–Romania Joint Consultative Committee; this participation is effective and the SEC has made several significant contributions: studies, statements and so on.

• The Department for International Relations and public relations within the SEC has close relations with European and international labour organisations and with other SECs or similar European institutions.

• Research and studies financed by the European Training Foundation. The project ‘Action plan for promoting the culture and the practice of social dialogue in South-eastern Europe’ was carried out during four month in 2002. Another project was ‘Social dialogue in Romania – 2001’.

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- Seminars and conferences (main topics: ‘The European experience regarding the consolidation of social dialogue’, ‘Culture and practice of social dialogue in Romania and in the European Union’).
- Documents expressing the points of view of the social partners – unions, employers’ associations – regarding the enlargement and the policies transposing the *acquis communautaire*.
- Information campaigns concerning opportunities for accessing European programmes and funds.
- Progress reports on implementation of Chapter 13.
- Participation in the elaboration of the National Programme for Romania’s accession to the European Union.
- Receiving visits from commissioners for European policies and for social policy.
- Setting up of the Social Dialogue Partners’ Committee for the European Union. The founding protocol supports Romania’s accession to the EU and was signed by the trade unions and the employers’ associations that are representative at national level (employers’ associations: UGIR, CONPIROM, UGIR 1903, UNPR, CNIPMMR, CNPR, PNIR and CoNPR; trade unions: CNSLR–Fratia, CNS Cartel Alfa, BNS, CSDR, CSN and Meridian).

6.2. The Romanian government: a good student

The Employment and Social Affairs Commissioner and the Romanian Minister of Labour and Social Security signed the Joint Assessment of Employment Priorities in Romania on 28 October 2002.

After 2002, the National Action Plan on Employment (NAPE), which aims at reinforcing all four employment policy pillars, was developed and approved by the Romanian government. This Plan is financed by the state budget, Phare programmes and loans from the World Bank. The Plan is intended to achieve a coherent employment policy, involving the social partners in the process. The present NAPE would strengthen social cohesion and social inclusion. Its success would contribute to full implementation of the European Employment Strategy in Romania.
The monitoring and assessment of NAPE implementation is a joint process, involving both the social partners and the relevant institutions. Progress in implementing NAPE is periodically reported and available on the website of the Ministry of Labour, Social Solidarity and Family.

The *acquis communautaire* is almost fully transposed into national legislation on the following issues: labour market, equal treatment, vocational training and other employment issues. Chapter 13 – Social Policy and Employment – was closed in April 2002.

In conclusion, the majority of international and EU standards have been transposed into domestic employment policies and legislation. Slowly but surely, active policies have become increasingly important in terms of the state budget: their share in total expenditure on employment policies has grown constantly in recent years. Many projects in this field are financed by Phare 2003 and 2004–2006, the EU’s Economic and Social Cohesion Programme: assistance and support to SMEs (Phare 2000 and Phare 2001) and human resource development in an economic restructuring context (Phare 2000). These projects complement the programmes financed by the Unemployment Insurance Fund.

New institutions have been established for implementing the new legislation. The most important are:

- The National Agency for Labour Force Employment;
- The Labour Inspectorate;
- The National Agency for SMEs;
- The National Council for Adults’ Vocational Training;
- The Inter-ministerial Advisory Commission for Equal Opportunities.

Within the Ministry of Labour, Social Solidarity and Family, there is a Department for European Affairs and International Relations. This department is in charge of the implementation of government policies on EU accession and international cooperation. The Department prepares documents related to the development of accession negotiations and the drafting of new laws and regulations in harmony with the *acquis communautaire*. The Department is also responsible for dealing with assessed employment priorities in Romania, and for the financing of specific projects funded by Phare and other EU programmes.
Concerning the immediate objectives of social dialogue development, the government refers to:\(^{50}\)

- initiating negotiations with the social partners in order to conclude social agreements to secure an appropriate social climate and a favourable attitude to government policies;
- the contribution of social dialogue to accelerating implementation of the *acquis communautaire*;
- more effective implementation of the subsidiarity principle; clarification of the responsibilities of institutions involved in the social dialogue process – for instance, issues of national interest, such as the Social Programme, the Pre-accession Programme, general policies, national strategies, require social partner consultation at the top level; meanwhile, sectoral issues should be debated with the competent authorities, such as the National House of Pensions and Other Social Insurance Rights and Benefits, the Authority for the Revaluation of State Assets, the National Agency for Labour Force Employment, the Labour Inspectorate, the Ministry of Education and Research, and so on;
- diversification of communication procedures with representatives of trade unions and employers’ associations by involving the ministries’ regional structures;
- new legislative elements for promoting social dialogue at SME level and at local community level;
- tripartite discussions on improving collective agreements and finding solutions to collective labour disputes;
- finding more flexible procedures for social dialogue: interministerial committees, informal partnerships, informal frameworks, and so on;
- information and awareness campaigns regarding the usefulness of social dialogue for the proper functioning of Romanian society.

7. Strengths and weaknesses

7.1. Characteristic features Romanian labour relations

Independently of – or rather running counter to – transposition of the employment acquis into national legislation, the Romanian business sphere is somewhat biased towards liberal ideas, praising the market as the optimal mechanism for producing economic growth and wealth. Probably in reaction to the hypertrophy of the totalitarian state, these groups see the state as irremediably opposed to private initiative, and any state intervention in the economy and in labour relations is deemed noxious. Implementation of the employment acquis has reminded policy-makers of the state’s right to intervene in labour relations and in managing wealth creation with a view to limiting the risk that employers might disregard employees. In practice, this has meant to some extent abandoning the trend towards deregulation that had become manifest in the labour sphere, balanced by a consolidation of the role of the state and of the trade unions in this field. Romanian social policy has increasingly approached the redistributive model of the welfare state. Social dialogue is predominantly conducted between the government and the trade unions, while the employers find themselves disadvantaged.

Other conditions characteristic of Romania – insufficiently considered when transposing/adapting European legislation – include:

- The very low incomes of the population generally: to increase their income, however modestly, employees are willing to accept infringements of their rights, which they often consider of little comparative importance. What is really needed is a higher minimum wage and fairer retirement benefits (the trade unions are already involved in this almost hopeless struggle).

- The imbalance between the active and inactive populations: the burden of pensions and other benefits is very difficult to support for both employees and employers. In Romania there are 6.3 million retired people compared with about 4.5 million employees.

- Significant employment in agriculture.

- The existence of a very large occupational category of unpaid family workers. European legislation was not designed to deal with this, but conceived for standard employees.

- New jobs in the private sector often do not benefit from trade union protection.
Concerning progress towards EES accession, the main problematic issues are:

- The effectiveness of training courses for the unemployed is rather low: only about 18% of the unemployed participants manage to get a job.
- Lifelong learning is still undeveloped. So far, the results of adult professional training are rather modest: in 1999 only 11% of companies organised training courses for their employees.
- Tax policy does not play an important role in stimulating employability. In fact, taxation is very high in Romania and employers have no incentive to create new jobs.
- The Romanian economic environment tolerates entrepreneurship but does not encourage it.
- The Romanian labour market has low flexibility and adaptability.
- Many workers occupy marginal positions, as unemployed, underemployed, non-paid family workers or employed on the informal labour market.
- The incentives for increasing regional mobility and part-time working are not sufficiently developed.
- Women are still discriminated against in many respects: wages, career advancement, security and protection of the workplace, sexual harassment.

7.2. Characteristics of social dialogue in Romania

Concerning social dialogue, the main problematic issues are:

- Relations between the social partners are usually tense. Mentalities and the heritage of the past are also a problem: employers are seen as ‘exploiters’ by employees, while employers consider the new legislation as a reiteration of old Communist ideas connected with the ‘advancement of the proletariat’. These perspectives produce resistance to and even rejection of social dialogue.
- The government remains the most important player in social dialogue.
- Social dialogue in Romania is rather consultative than effective. There are discussions, consultation, information and negotiation between the government and the social partners. Furthermore, the social partners’ role in decision-making remains marginal. Taking decisions is still a government prerogative.
- Tripartite relations are more frequent and more important than bipartite ones. The government is too deeply involved in the social dialogue process and leaves too little room for bipartite negotiations.
Management negotiators lack decision-making autonomy.

Social dialogue is too centralised. The local level is less significant and social partners often lack autonomy at this level.

Some unions are very involved in politics and consequently less autonomous.

The employers’ associations are weaker and less influential than the unions. In Romania, employers’ associations are fragmented: generally, they do not work together.

The government has not provided concrete means for improving social dialogue. Many interviewees believed there is increasing interest in social dialogue, but that it is driven not by Romanian society, but rather by the requirements of adaptation and compliance with European standards.

The Social and Economic Council plays mainly a consultative role. The lack of effectiveness of social dialogue within the SEC is also demonstrated by the fact that social partner involvement is reduced virtually to only the final stage of the process, that is, after draft laws have already been written and just before they go to the Parliament. The SEC reports that only 32% of its proposals are accepted.

Insufficient awareness. Unfortunately, most employees do not know their rights, including those enshrined in the Constitution. This is why few ever go to court to defend their rights, although the new Labour Code makes access to justice easier.

Insufficient enforcement. For instance, provisions on labour protection remain rather formal and superficial, leaving employers plenty of room to evade their responsibilities.

There is a resource deficit: there is not enough money, not enough equipment and not enough personnel to implement the new employment policies properly.

The private sector is very little unionised.

Active employment policies are so far ineffective.

Fiscal incentives are inadequate.

The discrepancy between the vocational training system and labour market needs constitutes a major obstacle to improving the flexibility of the Romanian labour market.

There is no unified system of job classification. Wages differ according to the degree of complexity of the work, and are established by specific
normative acts or collective agreement. For private sector employees, wage coefficients are related to the minimum wages negotiated by each company and the trade union. The system should better reflect the differences between employees regarding qualifications and productivity.

- Discrimination on the labour market persists: many interviewees mentioned growing difficulties in entering the labour market, especially for older workers, disabled persons and ethnic minority groups.

7.3. Progress in preparing for the European Employment Strategy

- Domestic legislation transposes the main provisions of the _acquis communautaire_ in the employment field. The most significant laws in this respect are:
  - Law no. 53/2003 on the Labour Code;
  - Law no. 356/2001 on employers;
  - Law no. 130/1996V1 on collective agreements – modified by Law no. 143/1997;
  - Law no. 76/2002 on the system of unemployment insurance and the stimulation of labour force participation;
  - Law no. 202/2002 on equal opportunities for women and men.
- Generally, the social partners participated in the formulation of these laws, which were discussed in the Social and Economic Council.
- New institutions were established for implementing the new legislation. The most important are:
  - the Social and Economic Council;
  - the National Agency for Labour Force Employment;
  - the Labour Inspectorate;
  - the National Agency for SMEs;
  - the National Council for Adults’ Vocational Training;
  - the Interministerial Advisory Commission for Equal Opportunities.
- Recently, the social partners have improved in terms of how they prepare themselves and approach technical and complex issues.
- The laws are better, clearer and more favourable to employees. Besides the implementation of new laws, there is better enforcement compared to the pre-1989 situation; we now have monitoring bodies and awareness
campaigns for employees’ rights and for human rights in general. There is still a long way to go in many respects, but transposing the employment acquis is a good start.

- The social security system is more complete, more flexible and more comprehensive. Women’s position, especially if they are mothers – especially single mothers – or unemployed, is better today.
- Trade unions are more effective in protecting employees. In some cases employees have the courage and the freedom to voice their discontents. Trade unions are more independent and play a role in monitoring the implementation of legislation. For instance, the trade unions monitor the ways in which labour protection is adhered to. This is not simply ‘on paper’: there are joint commissions, comprising members of both management and the Labour Inspectorate.
- At the microeconomic level, there have been some changes in the means by which the leaderships of organisations and employees are better informed concerning the rights granted them by European directives.
- Important changes have occurred in terms of legal practice. Before 1989, the employer was none other than the Communist state and people were genuinely afraid to bring law suits against it; even if they mustered the courage, they rarely won. Our interviews showed that the laws adopted more recently favour employees and, what is more, wherever the law leaves room for interpretation, the judges tend to side with the employees against the employers. It must be noted here, however, that the law is rarely on the employers’ side:

  It is true that the law is for the most part favourable to the employees, and that it may seem overburdensome to the employers [D.M., judge].

Still, employees – especially in areas particularly hard hit by unemployment – often find it difficult to stand up for their rights for fear of dismissal or other sanctions, and rarely initiate actions against employers.

- Besides passive employment policies (that is, payment of cash benefits), there are several active policies intended to improve employability. The share of such policies in total expenditure on employment policy has continuously increased.
- The development of SMEs is one of the most effective solutions for fighting the social impact of economic restructuring.
The role of social dialogue in Romania: impressive form, deficient content

- The new Labour Code adopted in 2003 introduced regulations concerning ‘temporary working assignments’, part-time individual labour contracts, employees working at home and agreements on personalised working schedules. These provisions should improve the adaptability and flexibility of the Romanian labour market.

Concluding remarks and suggestions
- Bipartite social dialogue should become more important and the social partners (trade unions and employers) more autonomous; that would improve the adaptability and flexibility of the Romanian labour force and Romanian companies.
- Government interference in bipartite negotiations should diminish.
- Social dialogue should be less centralised and more developed at the local level.
- Social partner involvement in decision-making – regarding laws, institutions and policies – should increase.
- Employees of non-unionised enterprises should be involved in the social dialogue process, as well.
- A more favourable attitude to employers’ associations should be fostered, particularly regarding their self-regulation and involvement in social dialogue.
- The SEC should be made more effective, particularly in relation to its ability to influence the final shape of laws and regulations and the resolution of labour disputes. Its contacts with Parliament and government should be more frequent and more substantial.
- Awareness campaigns are currently too formal and ineffective. Better collaboration is needed between public authorities and social partners, as well as a rigorous evaluation of their impact upon target groups and upon public opinion in general.
- Even where legislation exists there are major problems regarding enforcement. There is an urgent need for more labour inspections and internal procedures within organisations.
- Employment policy should be more decentralised: responsibility for job creation, and for employment in general, should be divided between the social partners at the local level.
• There should be effective tripartite control over the Unemployment Fund.
• The comprehensiveness and effectiveness of the training and retraining of both the unemployed and employees in general should be improved.
• The quality of the employment service should be improved; one solution might be privatisation and competition among different agencies providing such services.
• Investment in human resources should be encouraged, especially at enterprise level.
• Employment programmes should be diversified, for example, by developing special programmes for different categories of person, including the most disadvantaged (National Human Development Report Romania 1997, p. 35).
• The taxation system – and fiscal policy in general – should be harnessed as an engine of employment and economic growth.
• A more friendly environment should be created for SMEs.
• Part-time working and other flexible work arrangements should be more accepted and the legislation made simpler and more favourable.
• There should be special employment programmes for rural areas, agriculture and, especially, non-paid family workers: training programmes, support for entrepreneurship, and so on.
• Labour force mobility should be actively fostered.
• There should be a more open, more inclusive and more accessible labour market for marginal groups, such as Roma, young people, older workers and women.
• There is no unified system of job classification. The system should better reflect the differences between employees regarding levels of qualifications and productivity.
• The vocational training system should be made more flexible and better adjusted to national and local labour markets. There should be more opportunities to establish partnerships between schools and local communities and employers.
• More research and studies of the Romanian labour market are necessary.
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1. Introduction

1.1. Historical background

Slovakia has existed as an independent state since 1 January 1993. Before that it was part of Czechoslovakia. The economic and social gap between what are now the Czech and the Slovak Republics have been closing continuously for the last 50 years. A particularly important step in relation to development was taken in 1968 when Slovakia gained limited autonomy in some areas within Czechoslovakia.

Development since 1989 has been characterised by distinct development trends in the economic and social spheres. After the split of the Czechoslovak state the main economic indicators of the Slovak economy deteriorated. However, over the following two to three years continuous economic growth was achieved. Some indicators reached or even rose slightly above 1990 levels, before the transformation process started.

The population of the Slovak Republic is relatively stable at around 5.4 million. Employment was severely hit by the transformation process and fell precipitously in a few years: while in 1989 more than 2.6 million people were employed in Slovakia, by 1993 this had fallen below 2.1 million. Employment has continued to fluctuate around this figure: in 1999 it stood at 2.132 million, of whom 45.4% were women (the total active population was 2.573 million). In 2003, 2.163 million people were employed, with the proportion of women remaining more or less the same.

Real wages fell soon after the transformation process started in 1990. This was caused mostly by gradual price deregulation. There have been continuous nominal – and also some real – wage increases since 1993. The minimum wage has been increased almost every year (usually on 1 October), rising from SKK 2,200 in 1992 and SKK 2,450 in 1993, to SKK 6,080 in 2003 and SKK 6,500 in 2004.
While the average wage in 1993 was SKK 5,380, by 2003 it had reached SKK 14,365. Successive governments have tried to keep nominal wage increases in line with inflation. After six years of continuous growth in average real wages, however, they started to fall again in 1999 (by 2.9 percentage points). In 2001–2002 real wages rose again slightly, but in 2003 they fell again. According to the Statistical Office of the Slovak Republic average nominal wages in 2003 increased by 6.3%, but due to inflation real wages fell by almost two percentage points. In 2004 average nominal wages increased by 10.2% and real wages increased by 2.5%. However, real wages have still not reached their 1989 level. The wage forecast for 2005 is also optimistic.

One of the most frustrating phenomena in Slovakia is the long-lasting high unemployment. While the unemployment rate in 1990 was almost zero, by 1992 it had already risen above 10% (according to the Labour Force Survey – LFS), climbing further to 14% in 1993. By 2000 the unemployment rate had risen to 20%. High unemployment badly hits living standards, especially in the worst hit regions where unemployment is as high as 30% or more. GDP growth stagnated or even fell in the first years of economic and social transformation. After independence in 1993, Slovak GDP fell by 3.7% compared to the previous year. However, GDP then regularly increased – by between 4.4% and 6.9% – until 1998, before slowing again to only 1.9% in 1999. GDP growth then stabilised again, fluctuating between 3% and 5% between 2000 and 2003. In 2004 GDP grew by 5.5%. Although GDP has grown continuously, it has not been enough to combat high unemployment and to improve the social and economic situation. Poorly executed privatisation and restructuring, a restrictive budgetary policy aimed at reducing high external deficits and the lack of significant domestic and foreign direct investment are the main reasons for the persistent high unemployment. Since 2003 registered unemployment has fallen, currently fluctuating around 14–15% (according to LFS figures the unemployment rate is about 2–3 percentage points higher).

1.2. Political economy (system regulation)

After the collapse of the communist regime a system of democratic pluralist political parties and parliamentary democracy was established in Slovakia. Although, as already mentioned, the Slovak Republic had become a relatively autonomous part of the Czechoslovak Federal Republic in the late 1960s, Slovakia’s first years as a truly independent state were very difficult. New state administrative bodies had to be set up quickly. A national currency
and international relations had to be established. All this took place, fortunately, without major conflicts.

Parliamentary democracy in Slovakia is based on national elections every four years. Regional government elections also take place every four years. A market economy has sporadically been under construction since 1990. The development of the labour market and the privatisation of state property, including banking and other state monopolies, were the most important but also the most problematic issues. Almost the whole economy is now privatised (with the involvement of foreign investment) and the role of the state in the economy is now mostly regulatory.

In the political arena, developments have been more controversial, particularly during the ‘Mečiar era’. After the general election in 1998 the new government implemented changes to reinforce democratic principles. It also started to make changes in economic and social policy, and in 1999 introduced the so-called ‘social package’ to reduce the imbalance in public finances and improve economic competitiveness. The social package included such measures as deregulation of energy prices and increases in the minimum wage and in pensions, while introducing severer conditions for receiving social benefits. In 2000 the government decided to privatise state monopolies such as telecommunications, gas and some banks. A majority of enterprises are now in private hands and the share of GDP generated by the private sector is above 80%, while more than 65% of the labour force are employed in the private sector.

A new government came to power at the 2002 general election. The Party of the Democratic Left (SDL) and the Party of Civic Understanding (SOP) – both to the left of the political spectrum – are no longer part of the government, which now consists of the Slovak Democratic and Christian Union (SDKU), the [ethnic] Hungarian Coalition Party (SMK) and the Christian-Democratic Movement (KDH), all of which have previously participated in government, together with the liberal Alliance of the New Citizen (ANO), the only new government party. The government has introduced more radical changes in economic and social policy, which were not feasible previously. Preparations for social insurance reform have also commenced with the aim of more effectively funding retirement pensions. The statutory retirement age was also raised. Government policy is now more right-oriented than previously.
1.3. Institutional background – employers’ associations, trade unions, collective bargaining

The fall of the communist system made it possible to break the previous close link between the trade unions and the communist party state. The first free elections organised in 1990 saw the emergence of new trade union officials and consolidated the process of fundamental change. After the dissolution of the Revolutionary Trade Union Movement (ROH) in March 1990, a new Trade Union Confederation was established in Czechoslovakia, fully recognising ILO principles. However, some trade union representatives remained from the former regime and continued their activities in newly formed unions.

The formation of new trade union structures was accomplished within the framework of the Federal State of Czechoslovakia in 1990, when the trade unions constituted two relatively independent confederations: the Trade Union Confederation of Bohemia and Moravia (Konfederácia odborových zväzov Čech a Moravy) and the Confederation of Trade Unions of the Slovak Republic (Konfederácia odborových zväzov Slovenskej republiky, KOZ SR). These two national confederations were associated at the federal level in the form of the Czech and Slovak Trade Union Confederation. This structure made it possible for the national Confederations to remain more or less unchanged after the division of Czechoslovakia.

Employers’ organisations have developed completely differently. At a time when trade union structures were already in place, employers’ representation had only just started to get under way. This delay was caused by the fact that in the past the state was almost the sole employer. Apart from state enterprises and organisations, the only sector worth mentioning was the cooperatives which brought together members of production and consumer cooperatives throughout the country.

The formation of employers’ organisations was slower than that of the trade unions because privatisation was carried out in several stages. The employers’ organisations were established alongside so-called minor privatisation (concerning mostly retail outlets and services), but particularly ‘major’ privatisation (involving industrial companies), mostly in 1991. Most became members of the Federation of Employers’ Associations (Asociácia zamestnávateľských zväzov a združení Slovenskej republiky, AZZZ SR). The establishment of employers’ organisations is now more or less complete and they are ready to bargain collectively with trade unions at sectoral or branch level. However, there is some restructuring and fragmentation. After
ten years as the sole employers’ peak organisation AZZZ SR split in April 2004, and recently a new employers’ organisation representative at national level was established, the National Employers’ Union (Republiková únia zamestnávatelov Slovenska, RUZ SR).

The social partners represented by KOZ SR, AZZZ SR and RUZ SR are independent of the state and can establish independent legal entities. Their boards are elected in line with their internal rules.

The state as a partner in social dialogue has also undergone a remarkable transformation. Previously, the state was the largest employer, but its role has changed substantially. As a result of privatisation and development of the market economy, the role of the state in the economy has been redefined. There is far less direct intervention in individual branches, sectors and enterprises, and instead indirect fiscal tools are employed.

Since 1990, relations between the social partners and the state have played an important role in the process of economic and social transformation. Although this process was not entirely without conflict, strife between the social partners did not result in any radical social action. In fact, the railway workers’ strike of January–February 2003 was the first in the Slovak Republic. In the area of industrial relations, the state established a framework for the labour market and social policy. The main role of the state in industrial relations is now to legislate, including the rules on collective bargaining. The state is still a significant employer in the public sector, however, which in addition to the central and regional civil service includes public services such as health care and education. The state therefore sometimes takes part in public sector collective bargaining at sectoral level. Collective bargaining has a long tradition in Slovakia and takes place at sectoral and enterprise level in both the public and the private sector. Since 1991 collective bargaining has been regulated by Act No. 2/1991 Coll. of Laws on collective bargaining, as amended.

State participation in social dialogue takes place primarily within the framework of tripartite concertation, together with AZZZ SR and RUZ SR on the employers’ side and KOZ SR for the employees, in the Economic and Social Concertation Council (Rada hospodárskej a sociálnej dohody, RHSD).
2. Anatomy of national social dialogue

2.1. Trade unions

The Confederation of Trade Unions of the Slovak Republic is still the largest trade union organisation in Slovakia, bringing together almost all sectoral and branch trade unions. The membership of the trade unions in KOZ SR is about 550,000. There are a number of other trade union associations in Slovakia, the biggest being the Independent Christian Trade Union of Slovakia (Nezávislé kresťanské odbory Slovenska, NKO) with about 13,000 members and the Confederation of Art and Cultural Workers (Konfederácia pracovníkov umenia a kultúry, KUK), whose membership is only a few hundred. Trade union density in Slovakia is around 26–28%.

According to its statute, KOZ SR is a voluntary association of independent trade unions for the purpose of defending members’ rights and interests. Freedom of association is one of the fundamental rights and freedoms guaranteed by the Constitution, as well as by the Charter of Fundamental Rights and Freedoms which became an integral part of the Constitutional Act No. 23/1991 Coll. of Laws. Further significant documents concerning the assertion of trade union rights adopted by the Slovak Republic are ILO Convention No. 87 on Freedom of Association and Protection of Unionisation and ILO Convention No. 98 on the Right to Unionisation and Collective Bargaining.

The KOZ SR statute is based on the confederation principle, which grants its member unions freedom of action. Individual member unions are not obliged to accept KOZ SR decisions, and if they wish they may leave the Confederation. Relations between KOZ SR and member unions are mediated by formal structures such as the Congress, sessions, presidency and Council of the KOZ SR President or through the KOZ SR programme, decrees and conference resolutions.

KOZ SR covers about 90% of all trade unions. During the past decade no substantial changes have occurred in trade union structures, but there has been a fall in trade union membership, particularly in the private sector: in 1990 trade union membership was almost 2.4 million, falling to 1.8 million in 1993 and to only 655,000 in 2001. As already mentioned, the number of members currently covered by KOZ SR is about 550,000. Trade unions are organised according to sector or industrial branch, rather than by profession or occupation. The trade union associations of professional drivers, doctors and teachers are exceptions.
KOZ SR activities are funded by sectoral trade union associations but KOZ SR itself does not provide services directly to members. Sectoral and branch trade unions, as well as local trade unions in enterprises and organisations, provide these services, including free legal assistance, aid in retraining, use of trade union recreation facilities, provision of information and training for union officials.

KOZ SR’s most important role is coordination of the activities of sectoral and branch trade unions in relation to negotiations with the employers and government representatives in national tripartite social dialogue. KOZ SR represents member trade union associations also in EU and other international organisations.

The 37 trade unions currently associated in KOZ SR are organised on the basis of economic sector or industrial branch. In general, the management and professional staff of sectoral or branch trade unions consist of one or two members but in the largest unions this can reach 25. Trade union membership is higher in public sector organisations than in the private sector. The 10 largest sectoral or branch trade unions account for more than 70% of total trade union membership.

According to trade union data, the largest trade unions are the following: the Metalworkers’ Union (Odborový zväz KOVO), with about 85,000 members; the Trade Union of Employees in Education and Science (about 83,000 members); the Slovak Trade Union of Health and Welfare Workers (about 72,000 members); the Trade Union Association of Railway Workers (about 45,000 members); the Trade Union of the Wood Processing Industry (about 43,000 members); and the Slovak Trade Union of Public Administration (about 30,000 members).

In accordance with its statute, KOZ SR has a number of regional trade union organisations. The KOZ Regional Council (Krajská rada KOZ) represents the KOZ SR regional bodies. They have their own statute based on the sample statute issued by KOZ SR. Their mission is to help regional trade union organisations to participate in regional social dialogue, addressing serious problems specific to that region. Every KOZ SR member trade union which operates at regional level has the right to delegate one representative to the KOZ Regional Council. Delegates’ activities are coordinated by the trade union organisation which nominated them. However, the role of regional trade union structures remains undeveloped. KOZ SR abolished its regional structures in 2004. Sectoral trade unions can now establish their own regional structures.
2.2. Employers’ organisations

Employers’ organisations started to form in Slovakia while the Federal State of Czechoslovakia was still in being, in 1991. Several dozen employers’ organisations have been formed since then, most of them associated in the Federation of Employers’ Associations of the Slovak Republic (AZZZ SR). AZZZ SR brings together employers’ associations in industry, transport, telecommunications, cooperative farms, small and medium-sized enterprises, banks and insurance companies, education, food industry, and so on. It also has five affiliate members. AZZZ SR is the leading representative of employers and a social partner alongside the government and the trade unions. AZZZ SR had 37 member associations from the business sector, the cooperative sector and the public sector. It represents employers’ interests and has legal personality. It was established in 1991 with the purpose of creating conditions for dynamic economic development in Slovakia, as well as protecting and promoting members’ interests. In 1991 two representative bodies were established: AZZZ SR and the Industrial Federation (Zväz priemyslu). However, the Industrial Federation was abolished in 1995 and AZZZ SR became the sole employers’ representative.

Membership of AZZZ SR is voluntary and conditional: members must be representative, have national competence and, as a rule, be responsible for concluding collective agreements. AZZZ SR coordinates the activities of its members in dealing with common problems and preparing common statements, commenting on draft legislation affecting the interests of employers – for example, in cooperation with the National Labour Office and other professional and consultative bodies. It submits its own proposals and lobbies for the development and adoption of important decisions on national and international political and economic issues, helps entrepreneurs to develop their international activities and assists in the development of commercial diplomacy. AZZZ SR also provides training programmes and consultation, and organises professional events, seminars and conferences.

AZZZ SR plays an important role in coordinating the activities of sectoral or branch employers’ associations in relation to negotiations with KOZ SR and the government within the framework of the national tripartite council, the RHSD. AZZZ SR represents its members also in several EU and international organisations.

AZZZ SR activities are managed and coordinated by the AZZZ Office, headquartered in Bratislava. AZZZ SR also has three Regional Offices. AZZZ SR activities are directed by a presidium and a council. It also
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pursues its interests through its links with political parties and by parliamentary lobbying. The main issues are development of the business environment and employers’ problems. Priority questions recently addressed by AZZZ SR include government measures to support more favourable conditions for business development in Slovakia, including liberalisation of labour legislation, especially the Labour Code, and reduction of the tax burden on employers.

AZZZ SR is independent of the state. Its constitutive bodies are elected in line with internal guidelines. The relationship between AZZZ SR, the government and KOZ SR played an important role in the process of economic and social transformation from as early as 1990, and especially from 1993 when the Slovak Republic was established. Membership of AZZZ SR fluctuates and has fallen slightly over the last five years. According to the available information, approximately 520,000 employees (close to 25 per cent of the workforce) were covered by AZZZ SR in 2002. Approximately 70–80% of large companies (employing more than 500 employees) are AZZZ members.

Among the largest and most influential AZZZ SR employers’ organisations in Slovakia is the Slovak Council of Industrial Unions (Slovenská rada priemyselných zväzov). Other employers’ organisations in the business sector are associated in the following: Cooperative Unions, Unions of Small and Medium-Sized Enterprises, and Financial and Business Unions. Another set of employers worth mentioning is the Union of Municipalities, Health Service and Education. This group of employers is important because of the large number of people employed in its member organisations, for example, in schools and hospitals.

Until the split in April 2004, about 50% of the 63,000 or so companies active in Slovakia were AZZZ SR members. In addition, approximately 5,000 self-employed persons were members of the Association of the Self-Employed, which is also a member of AZZZ SR.

Individual employers’ associations vary significantly in size. The most influential employers’ associations are: the Slovak Council of Industrial Unions, with about 120,000 members; the Association of Transport, Post and Telecommunications, which associates 40 member organisations with about 80,000 employees; the Association of Metallurgy, Mining and Geology, which associates 39 member organisations with more than 40,000 employees; the Association of Construction Employers of Slovakia, which
associates 250 member organisations representing more than 60% of employees working in construction and public works; the Association of Farms and Commercial Organisations, which associates 850 member organisations with approximately 25,000 employees; and the Association of the Machine Industry, which associates almost all machine-making companies.

AZZZ SR is involved in informal cooperation, involving consultations on economic policy proposals, with the chambers of which employers’ organisations are also members.

The Slovak Chamber of Commerce and Industry (Slovenská obchodná a priemyselná komora, SOPK) is a public institution. Slovak National Council Act No. 9/1992 on the Chambers of Commerce and Industry Code specifies its status under the provisions of the Slovak National Council Act No. 121/1996. Its activities focus on member support and protection of business activities both at home and abroad. Membership is voluntary. SOPK has signed cooperation agreements with more than 80 national chambers of commerce. It is also a member of the International Chamber of Commerce in Paris and an associate member of Eurochambers in Brussels.

The Slovak Chamber of the Agro and Foodstuffs Industry (Slovenská poľnohospodárska a potravinárska komora, SPPK) is regulated by Act No. 30/1992. The Chamber is a non-state public institution with a mission to pursue its members’ interests in the development of economic and social policy.

Neither chamber has the right to engage in collective bargaining with trade unions and they are not directly represented in the tripartite Economic and Social Concertation Council.

As far as AZZZ SR’s organisation is concerned, little changed for ten years until the split in April 2004. Employers which were not satisfied with AZZZ SR and its management board established a new national-level employers’ organisation, the National Employers Union (Republiková únia zamestnávateľov Slovenska, RUZ SR). According to the available information, about half of AZZZ SR’s members moved over to the new peak organisation (according to official data AZZZ SR now covers about 230,000 employees and RUZ SR about 270,000 employees). RUZ SR members seem to be fairly influential and financially strong. The biggest employers’ associations – the Slovak Council of Industrial Unions, the Association of Transport, Post and Telecommunications and the Association
of Metallurgy, Mining and Geology are now RUZ SR members. The split in the employers’ peak organisation caused temporary problems for employer representation in the national tripartite Economic and Social Concertation Council: the two national representative bodies were not able to agree on how many seats they would each have.

3. Collective bargaining and consultation

3.1. Bipartite relations (discussions, consultation, negotiation, information)

There is a long tradition of collective bargaining at different levels in Slovakia. Collective bargaining today utilises the previous experiences of the social partners, and is usually conducted at two levels:

1. sectoral or branch level, at which so-called higher-level collective agreements (Kolektívne zmluvy vyššieho stupňa, KZVS) are concluded between representatives of the appropriate employer and trade union organisations; and

2. enterprise or organisation level, at which collective agreements are concluded between local trade union organisations and the management of the enterprise or organisation.

Act No. 2/1991 on collective bargaining, as amended, provides for collective bargaining regulating individual and collective labour relations, and the rights and duties of the parties concerned. Until 1 April 2002, collective bargaining was uniformly governed by this Act and by the Labour Code. This situation has changed through implementation of new labour legislation which includes the adoption of special acts on the civil and public services. According to the new legislation, sectoral collective agreements and collective agreements at enterprise or organisation level may be concluded in both the private and the public sector.

Collective bargaining is usually initiated by one of the parties’ (usually the trade unions) submitting a written proposal to the other to conclude a collective agreement. The contractual parties have a duty to bargain, unless this is against their legitimate interests. The parties have a duty to initiate negotiations in order to conclude a new collective agreement or to replace the existing one at least 60 days before expiry of the current collective agreement. From the date of submission of the proposal, the partners have at least 60 days for negotiation before either party is allowed to call in a mediator. Collective agreements which do not specify a duration are presumed to last for one year.
Collective agreements may improve upon the rights stipulated by the Labour Code, other laws or government decrees, but their provisions cannot be at a lower level than existing labour law. An important principle provides that the minimum or maximum standards stipulated by relevant sectoral or branch-level collective agreements as regards agreed conditions of employment and wages, must be respected in collective agreements at local, enterprise or organisation level. That means that only employment and wage conditions which are more favourable to employees than those laid down in the sectoral collective agreement may be agreed upon in an enterprise or organisation collective agreement.

A collective agreement is legally binding if its provisions do not contradict the respective minimum or maximum standards stipulated by law. The validity of sectoral or branch collective agreements is subject to their registration at the Ministry of Labour, Social Affairs and Family. Collective agreements have to be deposited with the Ministry but their legal effect is not dependent upon such registration, apart from non-signatory employers that might be bound by extension following registration of the agreement with the Ministry.

Sectoral or branch collective agreements (agreed by multiple employers) may be extended to non-signatories in the same sector or branch by ministerial administrative procedure. This extension process for collective agreements occurs at the request of the relevant trade union or employers’ association, or on the suggestion of the Ministry. The collective agreement can be extended to employers pursuing similar business activities under similar economic and social conditions as those that concluded the agreement. Extension is intended to protect the employees of employers which are not members of an employers’ association, or to protect employers not covered by the collective agreement. The signatories have a duty to deposit a copy of the relevant agreement with the Ministry, as well as related decisions made by arbitrators up to five years after its expiry. The relevant trade union has a duty to acquaint employees with the agreement’s contents within 15 days of its conclusion.

Sectoral or branch collective bargaining in Slovakia is relatively widespread and, according to estimates, about 30% of employees are covered by collective agreements concluded at this level. The total number of sectoral or branch collective agreements registered by the Ministry between 1995 and 2002 is shown in Table 1. The available data indicate that sectoral collective bargaining is fairly stable.
Table 1: Development of sectoral collective agreements

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<tr>
<td>Number of collective agreements</td>
<td>23</td>
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<td>29</td>
<td>37</td>
<td>43</td>
<td>43</td>
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3.1.1. Bargaining scope

As of 1 April 2002, the scope of collective bargaining regarding employment conditions was fully liberalised in the private sector – the social partners can bargain on any issues of common interest. However, collective agreements usually focus on the following main topics:

- **Cooperation and communication between the trade union organisation and the management.** It covers matters such as: employers’ duties to consult, inform and make decisions in cooperation with the union; confidentiality clauses; employers’ support for trade union activities by providing them with technical facilities, and so on.

- **Employment and working conditions:*** employment contracts and termination of employment; principles of redundancy policy in the case of collective redundancies; working time and working time schedules; and holiday and paid leave.

- **Wages and remuneration:** the wage system and minimum wage tariffs; payment for working overtime and for working on holidays; extra payments for difficult and risky working conditions and night work; and severance payments in the event of collective redundancies.

- **Occupational safety and health**: employers’ duties and cooperation with trade unions on safety and health issues; preventive and corrective measures to improve working conditions and to reduce risk at work; and the establishment of trade union safety and health delegates in companies.

- **Human resource development and other social issues:** training and human resource development activities; and the creation and utilisation of a Social Fund in enterprises (the Social Fund is financed – under Act No.
152/1994, as amended – by a minimum of 0.6% of the wage bill, and is most commonly used to subsidise the cost of meals for employees).

- **Resolution of conflicts between management and trade unions:** procedures to be applied in the event of serious disagreements between the social partners.

The topics most frequently covered by collective agreements are shown by the survey conducted by the Research Institute of Labour, Social Affairs and Family (RILSAF). The survey covered 56 sectoral or branch collective agreements, concluded for the period 1999–2003. It shows that wages, other remuneration issues and rules for managing collective redundancies were the primary issues covered by agreements. Vocational education and training issues were included in about 40% of the agreements. Provisions on work organisation, including changes, were exceptional. The agreed provisions were often formulated in a general manner and sometimes merely regurgitated the provisions of the Labour Code setting out the employer’s duties and employees’ rights regarding social issues.

A completely new element influencing the wage bargaining of public sector employees was implementation of the new labour legislation for the public sector in 2002. Proposals for acts on civil service and public service employment were approved by the tripartite Economic and Social Concertation Council and both were implemented from 1 April 2002. According to the legislation, the wage development of civil servants and public servants could be determined by sectoral collective agreements. Sectoral collective agreements were concluded for civil servants and public servants for 2003 and 2004, and included wage increases. Special higher wage increases were agreed for teachers, researchers and health care services. Sectoral collective agreements for civil and public servants took effect concurrently with the Act on the state budget for 2003 and for 2004. According to recent changes in legislation, collective bargaining in the civil service can also take place at local level.

Employee participation is an important issue in collective bargaining. Trade unions have information and consultation rights on a number of issues. These rights are stipulated by the Labour Code and are applied, as a rule, prior to worker dismissals and significant organisational changes. According to the Labour Code, employers should also:

- **decide jointly** with the trade union on utilisation of the Social Fund and on the introduction of working time schedules;
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- consult with the trade union on terms of employment, especially those of women taking care of children and of young and disabled people; on improvements in working conditions and health and safety issues; and on any other measures concerning considerable numbers of employees; and
- inform the trade union about the enterprise’s economic results and its development programmes and prospects.

The trade union participation rights set out in collective agreements usually exceed the abovementioned Labour Code standards. For example, union representatives may participate in decision-making on issues such as application of rules on women’s night work, setting company holiday dates and dismissal of union delegates. Trade unions are often provided with information on labour costs and wage developments, organisational changes and new and terminated employment contracts.

Workers’ participation generally applies to all employees, but until 2002 only the trade union organisation was entitled to represent employees’ rights and interests. As of 1 April 2002, the new Labour Code provided for the election of works councils in all enterprises and organisations where no local trade unions are established. The latest Labour Code amendment on 1 July 2003 allows the establishment of a works council at any company, whether there are trade unions there or not. Works councils are legitimate employee representatives in social dialogue with the management. They have rights to information, consultation and control, but no rights to collective bargaining and joint decision-making.

3.2. Tripartite social dialogue (consultation, information, negotiations, agreements)

Tripartite concertation in Slovakia was established in late 1990 when the Federal Czechoslovak government decided in cooperation with the Czech and Slovak national governments and representatives of the newly formed employers’ and trade union organisations to establish the Federal, Czech and Slovak tripartite councils for economic and social concertation. Tripartism was established with the aim of carrying out the transformation process in cooperation with the newly formed social partners’ representative bodies. At the same time, agreement was sought concerning the goals of economic and social development in order to avoid social tensions and to create conditions for the preservation of social peace. Although the idea of tripartism was quite new, consensus was achieved and a federal-level General Agreement (Generálna dohoda) for 1991 was signed, followed by Czech and Slovak
General Agreements for 1991. Similar general social pacts were signed for 1992.

The government of the independent Slovak Republic also adopted the idea of tripartism. The tripartite Economic and Social Concertation Council (Rada hospodárskej a socialnej dohody Slovenskej republiky, RHSD SR) continued its operations practically unchanged. Government (the president is usually the Minister of the Economy), trade unions and employers each have seven seats. Employer and trade union membership is determined by their representativeness.

The Council deals with topical social and economic problems of particular concern to the three partners. It discusses and gives its opinions on items put on the agenda and on legislation concerning employment, labour relations, working conditions and economic and social issues. There are also tripartite committees – permanent and temporary – which are established ad hoc at tripartite meetings. According to the rules the RHSD is entitled to prepare statements on all important measures proposed by the government in the areas of economic and social policy. General social agreements sometimes emerge. The RHSD gives its opinions on important changes in the economic and social fields proposed by the government, for example, legislation concerning employment, labour relations, working conditions and other relevant economic and social issues. The results of tripartite concertation are not legally binding. However, some conclusions of RHSD tripartite concertation may become a starting point for sectoral collective bargaining, for example, agreements on the national minimum wage (for more details see 3.2.1). Issues such as national annual wage increases are usually not on the tripartite agenda. No national collective agreement, recommendation or guideline on wage negotiations has been agreed at the tripartite RHSD. Nevertheless, wage development coordination issues were discussed in 2001–2002. As a result of the discussions (initiated mostly by the trade unions and accepted by the previous government) it was agreed to establish a working group on wage development at the tripartite RHSD in 2002. The current government does not consider wage development coordination at national level a priority, and according to the available information the wage development working group at the RHSD is not active.

General agreements and real development

The Slovak Government signed five General Agreements with the social partners for 1993, 1994, 1995, 1996 and 2000. The adopted measures mainly concerned the duties of the government and implementation of
economic and social reforms. However, implementation did not always respond properly to rapidly increasing unemployment and falling real wages. This contributed to increase tensions between the tripartite parties. Disagreements culminated in 1996–1997 when the government proposed a new wage regulation. Although the social partners did not agree with the proposal, the government acted unilaterally and the social partners, especially the trade unions, refused to sign the General Agreement for 1997. They also broke off tripartite negotiations at the RHSD and the official tripartism ceased to function in 1997 and 1998. However, social peace was not broken and the transformation process continued. In 1999, when the previous government came to power, tripartite negotiations at the RHSD started again. Trade union representatives opened discussions on how to go beyond the ‘gentlemen’s agreement’ form of tripartism and to make tripartite agreements more binding (discussions on this topic had been going on for several years). The outcome was the adoption of a law on tripartism by the new government in 1999, Act No. 106/1999 on economic and social partnership. According to this act the government is obliged to submit to tripartite negotiation at the RHSD all proposals for measures likely to have an impact on living standards. Nevertheless, the new act only incorporated previous operational guidelines into law.

After a three-year break, the parties signed the tripartite General Agreement for 2000, dealing with four main policy areas: the economy, employment, incomes and social affairs.

As regards economic policy the government was obliged to improve the institutional and legal framework for private business, including improvements in company competitiveness, support for and development of SMEs, restructuring of the banking sector and state monopolies, attraction of foreign investment and reducing the tax burden. Special attention was paid to regional development plans, including facilitation of social partner access to information on potential business development activities.

Employment policy was a fundamental issue because of the continuously high unemployment rate (formerly about 20%, currently about 17% on average, but 25–30% and above in some regions). According to the General Agreement for 2000 the Government, in cooperation with the employers, had to implement measures to reduce the unemployment rate by at least 3% by the end of 2000. The highest priority was given to regions with more than 25% unemployment. To combat unemployment effectively the National Labour Office implemented special development programmes for young unemployed. In
order to reduce long-term unemployment the government provided special supplementary funding from the state budget for public works. Other employment measures included elimination of informal work, more effective protection of working conditions and occupational safety and health and a better response to labour market needs on the part of the education system.

*Incomes policy* is usually a sensitive issue in tripartite general agreements and that certainly applies to the General Agreement for 2000. The government promised to adopt measures aimed at supporting real wage increases in both the public and the private sector. The government agreed to adopt a new wage framework for the civil and public services, to develop the taxation system and not to apply the wage regulation in the business sector. The government also promised not to introduce any proposals for increasing prices and taxes without prior consultation with the social partners. The employers and the trade unions at sectoral and branch level promised to agree on wage increases which would at least compensate the effects of inflation on real wages.

Concerning *social policy* the government promised to reform the social insurance system. For example, as from 2001 it promised to provide more effective supplementary retirement insurance and health care insurance based on individual personal accounts, as well as ensuring that all children would be entitled to child benefit, regardless of family income. The majority of commitments laid down in the General Agreement for 2000 concerned the government, which declared its willingness to consult with the social partners on all relevant measures in economic and social policy.

In spring 2001 the parties evaluated the agreed tasks and the trade unions made several criticisms. Some tasks had been fulfilled (there had been some reduction in the tax burden), but others had not (increasing real wages and reducing unemployment). The Confederation of Trade Unions declared its dissatisfaction with the government and refused to negotiate a General Agreement for 2001. Trade union representatives temporarily ceased negotiations concerning the next tripartite general social pact. Neither the employers nor the government took the initiative to restart negotiations and no tripartite General Agreement has been signed since.

Although the results of tripartite concertation generally do not have legal force (in contrast to collective agreements) minimum wage agreements constitute an exception because the agreed minimum wage is determined by act of Parliament.
The national minimum wage serves as a reference for sectoral wage bargaining in both the public and the private sector. The minimum wage is used as the basic wage rate in wage rate systems and is negotiated each year by tripartite concertation at the RHSD. However, the minimum wage increases in 2002 (from SKK 4,920 to SKK 5,570) and 2003 (to SKK 6,080) had to be decided solely by the government because the social partners could not reach agreement. In 2004, the employers argued for a lower minimum wage increase due to increased non-wage costs (energy and other material costs) and the need to remain competitive. The government argued the potential impact on inflation (though real wage development in recent years has been strongly supported by productivity increases), and tried to find a compromise between the positions of the two social partners. The trade unions argued for a higher minimum wage increase in order to compensate for inflation and living cost increases. They also argued that the minimum wage should represent at least 60% (by EU comparison) of average wages. Finally, the government again had to set a minimum wage increase because the social partners could not agree. The new minimum wage, valid since 1 October 2004, is SKK 6,500. This sum represents less than 50% of the average wage, down on the previous level. The government intends to adopt an automatic mechanism for minimum wage increases, which therefore will no longer be a topic of tripartite negotiation.

Parliament, on the government’s proposal, abolished the above-mentioned Law on tripartism, and the tripartite Economic and Social Concertation Council ceased to function. The Ministry of Labour, Social Affairs and Family, in cooperation with KOZ SR, AZZZ SR and RUZ SR, has prepared new operational guidelines for tripartism. The statute of the new national-level tripartite body – the Economic and Social Partnership Council (RHSP) – came into force on 1 December 2004. Tripartism is now up and running again, although it is less binding on the government than previously.

4. Social dialogue arrangements in developing employment policy
4.1. Progress assessment concerning preparations for the European Employment Strategy

The preparation of the National Action Plan on employment for 2003 (NAP 2003) was based on EU employment policy, Programme Declarations of the Slovak government and the Support Strategy for Employment Increase through Changes in the Social System and Labour Market. The current
situation in the domestic labour market was also taken into consideration. High unemployment is the most significant macroeconomic imbalance caused by the strong pressure to achieve competitiveness. The present labour market exhibits the full range of structural unemployment features: long-term unemployment, unemployment of the low- or unskilled, high unemployment among young people, wide regional disparities, very high unemployment among some minorities, low labour force mobility and insufficient implementation of flexible employment forms. Employment and labour market policy is part of a wider process also including social protection reforms, which should have a significant impact on increasing the employment rate.

NAP 2003 was also linked to the Sectoral Operation Programme Human Resources (under implementation since January 2004 using resources from the European Social Fund) and to priorities resulting from the Common Assessment of Employment Priorities in the Slovak Republic. Some NAP mechanisms were prepared in the course of 2003 and were implemented in 2004.

One of the basic objectives of NAP 2003 was to involve ministries and other state administrative bodies, local self-governments, social partners and other organisations active in employment policy implementation in improving the labour market situation.

In 2002, six horizontal objectives were added to the directives related to EU employment policy. All these objectives sought to incorporate the priorities defined in the European Employment Strategy during meetings of the European Council held in Lisbon and Santa Maria da Feira. The objectives also seek to maintain continuity regarding the EU strategic goal of becoming the most competitive and dynamic economy in the world, able to secure sustainable economic development with the highest possible proportion of ‘good’ jobs and better social cohesion. These new horizontal objectives have been included in all guidelines and are aimed creating conditions for achieving full employment in a knowledge-based society. Their contents can be briefly characterised as follows:

• Increasing employment, with a view to achieving full employment in the EU.
• Maintaining and improving quality of work.
• Development of a comprehensive and coherent lifelong learning strategy.
• Development of comprehensive partnership with the social partners within the framework of the Luxembourg Process.
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4.1.1. Employability

Under Pillar I – Improving employability – seven guidelines directed towards serious labour market problems have been elaborated:

1. Tackling youth unemployment and preventing long-term unemployment.
3. Developing a policy for active ageing.
4. Developing skills for the new labour market in the context of lifelong learning.
5. Developing e-learning for all citizens.
6. Active policies to develop job matching and to prevent and combat emerging bottlenecks in the new European labour markets.
7. Combating discrimination and promoting social inclusion by access to employment.

4.1.2. Entrepreneurship

Pillar II – Development of entrepreneurship and job creation – includes the following guidelines:

1. Making it easier to start up and run businesses.
2. New opportunities for employment in the knowledge-based society and in services.
3. Regional and local action for employment.
4. Tax reforms for employment and training.

4.1.3. Adaptability

Under Pillar III – Encouraging adaptability of businesses and their employees – the following guidelines were elaborated:

1. Modernising work organisation (including better application at workplace level of existing health and safety legislation, and improving work organisation and flexibility)

2. Supporting adaptability in enterprises as a component of lifelong learning.

In the process of priority-setting for this pillar, the emphasis is on collective bargaining on the issues at all levels. Support is also emphasised for lifelong learning as a tool for the adaptation and renewal of qualifications and skills, especially in ICTs, in order to increase competitiveness.

4.1.4. Gender equality

The scope of the Pillar IV – Strengthening equal opportunities policies for women and men – consists of three guidelines:

1. Gender mainstreaming approach – general enforcement of the equal opportunities principle.

2. Tackling gender gaps in employment.

3. Reconciliation of work and family life.

The priorities are consistent enforcement of equal opportunities for women and men in the implementation of all guidelines included in NAP 2003, and implementation of support programmes, control mechanisms and sanctions towards the elimination of gender discrimination in the labour market and in remuneration. There is a special focus on improving the reconciliation of work and family life by reducing the obstacles which prevent men and women caring for children or other persons in need from finding work.

NAP 2003 may be described as fundamental and progressive. In comparison with the previous NAP for 2002–2003, it includes significant systemic employment policy measures in close connection with the social protection system, including legislative changes. At the beginning of 2003 changes in the Law on employment took effect, tightening the conditions of labour office registration and unemployment benefit claims for the unemployed. Unemployed persons have to report to labour offices and prove that they are
actively looking for work more frequently. The latest changes in the Labour Code, which took effect on 1 July 2003, increased flexibility in relation to employment relationships and dismissals.

The manner of funding NAP 2003 activities has also changed, with more intensive co-financing from the relevant EU funds. Implementation of NAP 2003 was financed from several sources as it had a cross-sectoral character and related to other sectoral and central state administration policies. Within the framework of national financial sources, the plan has been financed from the state budget via the financial departments of the relevant ministries. Further financial resources have been allocated from the EU pre-accession programmes (PHARE, SAPARD, ISPA) within the framework of the Law on the state budget for 2003. In 2004 further financial resources were drawn down from EU funds. Apart from national budget funding, the National Labour Office’s budget for 2003 was an important financial source – more than SKK 10 billion – in covering the costs of labour market policy and its own running costs.

4.2. Social partner participation in preparation and implementation of employment NAPs

Trade unions and employers’ representatives were involved in the preparation of NAPs (mainly commenting on the proposals of the Ministry of Labour, Social Affairs and Family and submitting suggestions), and also in implementation as cooperative partners.

As far as NAP 2003 is concerned, the social partners were involved in implementation of the majority of the 18 guidelines, as follows:

**Pillar I: Improving employability**

KOZ SR and AZZZ SR representatives were involved in implementation of the following guidelines:

**Guideline no. 1** – AZZZ SR declared its support for graduate placement. Indeed, employer interest in employing graduates from secondary or higher education in subsidised jobs and on fixed-term contracts was greater than the available resources and students.

**Guideline no. 2** – AZZZ SR and KOZ SR were asked to reach agreement on a minimum wage increase; however, after they failed to reach agreement the minimum wage was set unilaterally by the government.
Guideline no. 3 – KOZ SR was asked to support employers in wider implementation of flexible forms of employment. According to enterprise collective agreements, implementation was very narrow.

Guideline no. 6 – AZZZ SR and KOZ SR were involved in the implementation stage but no results are yet available.

Pillar II: Development of entrepreneurship and job creation

KOZ SR and AZZZ SR representatives were not involved as cooperative partners in the implementation of any guidelines under this pillar. However, the employers were very successful in lobbying for a reduction in their tax burden, and a relatively low flat tax has been in place since January 2004.

Pillar III. Encouraging adaptability

KOZ SR and AZZZ SR representatives were involved as cooperative partners in the implementation of the guidelines:

Guideline no. 13 – KOZ SR and AZZZ SR were encouraged to incorporate increasing flexibility of work organisation in collective bargaining. No official figures on this are available yet. However, analysis of selected sectoral and, particularly, company collective agreements shows that work organisation flexibility is present in very few, and what provisions there are on this issue are very general, merely repeating the provisions of the Labour Code. In general, modernisation of work organisation and related issues are not yet being included in collective agreements.

Guideline no. 14 – KOZ SR and AZZZ SR involvement and participation were similar to the case of Guideline no. 14.

Guideline no. 15 – KOZ SR and AZZZ SR were involved in supporting vocational education through collective bargaining. No official results are yet available, although the above-mentioned analysis of selected collective agreements indicates that this issue was also rarely specified in collective agreements.

Pillar IV: Gender equality

KOZ SR and AZZZ SR representatives were involved in implementation of guidelines as cooperative partners:

Guideline no. 16 – Representatives of employers and trade unions were asked to cooperate in order to prevent discrimination in employment. Data on outcomes are not yet available.
Guideline no. 17 – Representatives of KOZ SR and AZZZ SR were involved in implementation of the guideline, but without specification of their tasks. Evaluation of their activities is not available. Since the gender wage gap increased in 2003, compared to the previous year, it might be said that they were not particularly successful.

Guideline no. 18 – The task of the trade unions was to encourage employers to take a more family-friendly approach to employees, for example, parents taking care of young children. More than 20 companies participated in the Family-Friendly Employer competition run by the Ministry of Labour, Social Affairs and Family in 2003. We can assume that the trade unions in these companies supported the activities of the management.

Given these outcomes, we can assume that social partner participation in implementation of the guidelines was rather formal. Trade unions and employers’ representatives at national and sectoral level declared their willingness to support the proposed guidelines and measures, but the available information from sectoral and enterprise collective agreements indicates that the social partners’ role in the implementation of NAPE 2003 was probably below their declared ambitions. In the meantime, the Ministry of Labour, Social Affairs and Family has prepared the new NAP for 2004–2006.

5. Preparations for participation in EU social dialogue

5.1. Collaboration with the EU (social partners)

The social partners are gradually building up relations with their EU partner organisations at different levels. At the EU level national employers’ representatives AZZZ SR and RUZ SR have ambitions to participate effectively in the activities of UNICE. The employers’ representatives are also cooperating with different European employers’ confederations (for example, UEAPME) and are participating in several projects. Sectoral employers’ organisations are cooperating with EU sectoral or branch organisations and are also participating in a number of different projects (for example, training activities). The employers’ organisations are also working with international organisations, such as the International Organisation of Entrepreneurs and the ILO.
According to the employers’ representatives cooperation with these institutions is demanding and requires capacities which AZZZ SR and RUZ Slovak Republic are still not fully able to provide.

Turning to the trade unions, KOZ SR is a member of ETUC and ICFTU. The Confederation has declared its willingness to support implementation of the EU Employment Strategy and the guidelines contained in NAP 2004–2006. KOZ SR will also contribute to creating conditions for implementation of the ETUC Action programme adopted by its May 2003 Congress in Prague. Like the employers, the sectoral trade unions are developing regular contacts with sectoral EU-level trade union organisations, for example, in construction, metals and chemicals. KOZ SR also represents its members at the ILO. In addition, in cooperation with the Trade Union Advisory Committee, KOZ SR represents its members at the OECD.

Social partner representatives have stated their willingness to play their part in creating the necessary conditions for the relevant bodies and institutions to implement the goals and guidelines of the European Employment Strategy aiming at full employment, higher quality work and good partnership, including implementation of the guidelines included in NAP 2004–2006. The social partners consider the specific recommendations of the European Commission for the Slovak Republic (Increasing adaptability of workers and enterprises; attracting more people into the labour market and making work a real option for all; more effective investment in human capital and lifelong learning) as important and appropriate for the country. They wish to contribute to the practical implementation of these recommendations.

5.2. The Slovak government and the EU

The Slovak government, especially the Ministry of Labour, Social Affairs and Family, has regular contacts and cooperates actively with DG Employment and Social Policy. Implementation of the Lisbon employment strategy, involving the development of National Action Plans on employment, is among the Ministry’s main activities. There are regular joint assessments in this area. NAP 2003 formed part of the gradual implementation of the European Employment Strategy in Slovakia. This process started with development of the National Employment Plan (Government Resolution No. 908 of 8 November 2000) and has continued via elaboration of the National Action Plan on employment for 2002 and 2003 (Government Resolution No. 362 of 10 April 2002). Progress has been assessed by evaluation reports, discussed by the government in October 2001 and February 2003. NAP 2003 was elaborated separately in compliance
The role of social dialogue in Slovakia’s accession to the European Union

with EU employment guidelines on increasing employment and taking into consideration the four strategic pillars.

Recently, the Ministry of Labour, Social Affairs and Family prepared the NAP for 2004–2006 with new guidelines. The social partners were involved in preparations within the broad network of organisations set up in accordance with good governance and partnership principles.

6. Strengths and weaknesses

6.1. Problematic issues

6.1.1. Social partner structures

Comparison of the social partners’ capacities with regard to social dialogue indicates that employers are some way behind the trade unions. Apart from historical reasons (the employers started to organise later) employers are more concerned with maintaining competitiveness than with investing more resources in the development of organisational structures. According to AZZZ SR representatives, employers’ representatives are mainly full-time managers, which does not allow them to devote enough time to their representative duties.

6.1.2. Collective bargaining and consultation

Participation of the social partners in the preparation and implementation of NAPs on employment has been rather formal so far. According to the trade unions, the only tool available is sectoral and enterprise collective bargaining, and there is little negotiation on such issues as productivity, work organisation and implementation of changes in companies.

Current national-level tripartite social dialogue could be considered problematic. Disagreements between trade unions and government have continued in tripartite negotiations at the RHSD. The social partners and the government have not shown any interest in negotiating a new social pact (General Agreement), and twice during the last three years tripartite concertation at the RHSD has temporarily broken down. Trade union opposition to a number of unpopular economic and social reforms led to several disagreements within the framework of tripartite concertation. Disagreements have also occurred regularly with regard to minimum wage increases. In the last three years, the trade unions have demanded higher minimum wages but
were unable to reach agreement with the employers, so that the government had to act unilaterally.

6.2. Obstacles

6.2.1. Social partner structures

The recent split of AZZZ SR and the establishment of RUZ SR has generated problems in relation to employer organisation representativeness. Representatives of the two organisations could not reach agreement concerning representation on the tripartite Economic and Social Concertation Council. AZZZ SR and RUZ SR representatives have asked for a mediator.

6.2.2. Collective bargaining and consultation

After introduction of the new Law on economic and social partnership, tripartite negotiations became more demanding due to expansion of the agenda, although tripartite agreements did not become legally binding. Employers wish to narrow down the agenda to what they consider to be the most important questions, namely those which relate to their interests.

To increase the pressure on government the Confederation of Trade Unions organised several protest actions in September 2003, including a one-hour nationwide strike in order to test the water with regard to their ability to call a general strike. The trade unions issued a petition seeking a referendum on an early general election. The referendum took place, but it was invalidated by the low turnout. Coalition politicians blamed the trade unions for seeking to act like a political party; at the same time, opposition parties supported the initiative.

National tripartite social dialogue has been called into question by the government, which declared its intention to change the Law on tripartism in order to make negotiations less binding on the government. Tripartite social dialogue was interrupted for a few months in the wake of this.

6.3. Positive outcomes

6.3.1. Social partner structures

Despite sporadic internal pressures the largest trade union confederation, KOZ SR, has still not split. As the current trade union centre it unifies the vast majority of trade unions in Slovakia and so it is obviously in a stronger position when negotiating with the government and employers than a
number of smaller trade union centres would have been. This is an argument for keeping the current centre.

Trade union structures are well equipped both for bipartite sectoral and enterprise collective bargaining and for tripartite negotiations. Recently, the employers successfully lobbied for a more favourable business environment, including a 19% flat rate corporate tax. They also initiated changes in the Labour Code. Recent changes in business and labour legislation have improved the employers’ position in labour relations and to a certain extent impaired that of the trade unions, hitherto sole representatives of employees. Since 1 July 2003, however, works councils have been able to operate at enterprise level in parallel with trade union organisations. It is hoped that works councils will also be established in non-unionised (usually small) companies where there is no employee representation.

6.3.2. Collective bargaining and consultations

Stable trade union and employer bargaining teams have been established at all negotiation levels. Usually, each party has a team of three–five members and can invite experts if necessary. Negotiators on both sides are usually well prepared for negotiations and have developed strategies, especially as regards wage bargaining. A number of sectoral collective agreements are concluded each year and the number of employees covered by collective agreements in companies is relatively high.

According to the available statistics, after three years of continuous decline, real wages finally increased in 2001 and 2002, perhaps as a consequence of more effective wage negotiations. Another indicator of the effectiveness of collective bargaining may be the decrease in the number of collective disputes. There was no significant social action, such as strikes.

Despite a number of conflicts in national tripartite concertation one of the most important achievements was new labour legislation, especially the new Labour Code and the new Laws on the civil service and the public service in 2001, and the agreement on new amendments to the Labour Code in 2003.

After an optimistic restart in 1999 tripartism ran into trouble again during 2001 when the General Agreement for 2000 was evaluated (real wage increases and lower unemployment were not achieved). However, since then average real wages increased in 2001–2002, and several employment policy measures were implemented and unemployment gradually reduced.
After the abolition of the Law on tripartism, national tripartism started up again under the Statute of the RHSP issued by the Ministry of Labour, Social Affairs and Family. Although the social partners had initially objected to the proposed changes in tripartism they decided to continue tripartite concetration.

7. Concluding remarks and suggestions

High unemployment is still a significant economic and social problem and political issue in Slovakia. However, some positive results were achieved by implementation of the new, more comprehensive employment policy and active labour market policy measures in 2003–2004. Further measures are included in NAP 2004–2006.

Tripartism worked well for several years and after a relatively short period of crisis it is working again. Well-developed sectoral and company level collective bargaining, together with an effective collective dispute resolution mechanism, have contributed to peaceful industrial relations in Slovakia (only one significant strike during the last ten years).

Employers’ representatives are relatively satisfied with the government’s employment policy, which has accepted their demands for more flexible employment conditions and a reduced tax burden. However, the employers consider further changes in labour market flexibility, minimum wages and reduction of labour costs as necessary to increase employment.

The trade union representatives have a number of objections to government employment policy, mainly its failure to bring down high unemployment, particularly in the regions. They are also critical of the low real wages, which have not increased in the last two to three years. According to the trade unions, the government is doing well on reducing unemployment by administrative means (for example, by stricter criteria for registration of the unemployed), but it is not doing enough to create new jobs. Although quite a few new jobs are being created by new investment, a substantial number of jobs are being lost due to enterprise restructuring.

The NAPs have played an important role in employment development, but social partner participation in their elaboration and implementation remains insufficient. The social partners were actively involved in preparing a proper legal framework for implementation of the EU Employment Strategy in
Slovakia. The latest changes in labour legislation increased the role of local level collective bargaining.

Concerning the current EU employment guidelines and specific recommendations of the European Commission for the Slovak Republic the social partners did contribute but with rather narrow scope. According to KOZ SR, the trade unions can at present contribute to implementation of the guidelines at sectoral and local level only by collective bargaining. The social partners have negotiated better terms and conditions of employment, including remuneration and working conditions, at these levels. Nevertheless, the trade unions consider their participation in implementation of the employment guidelines as inadequate. A survey of selected sectoral and enterprise collective agreements showed that measures concerning the employment guidelines were included in collective agreements only to a limited extent.

The trade unions and employers’ representatives AZZZ SR are worried by the reduced importance of social dialogue in solving employment problems, for example, termination of the tripartite management of the former employment offices and the fact that NAP 2004–2006 was not discussed in the tripartite RHSD. The social partners have also identified a number of inadequacies in NAP 2004–2006. Employers’ representatives AZZZ SR and trade union representatives KOZ SR consider the lack of social dialogue, especially at regional level, as a weakness with regard to the NAPs. According to the trade unions, NAP 2004–2006 should pay more attention to job creation. NAP 2004–2006 does not contain implementation measures specifying responsibility and deadlines. Monitoring and evaluation of implementation are also missing.

The development of NAPs is extremely important given Slovakia’s major employment problems. If the social partners and the government wish to make progress in solving these problems they must take this task very seriously. Development of NAP 2004–2006 in particular was an important political task, and preparation of the document required more advanced conceptual and coordination work than previous NAPs. The Ministry of Labour, Social Affairs and Family entrusted one of its departments with preparing this NAP, and also involved a wider range of partners than in the past. The employers’ input was more varied because a second employer peak organisation was established in Slovakia in 2004.
If social partner participation in the preparation and implementation of NAPs were more effective, they would take the matter more seriously. Limited and formal participation of the social partners does not lead to a higher quality NAP.

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Employment and social dialogue in Turkey from the perspective of EU integration

Dualistic labour market: labour aristocracy alongside informalised/marginalised labour

M. Kemal Öke

1. Introduction

Turkey has for a major part of its history been characterised by a mixed economic system, involving at different times both public and private enterprises in varying proportions. From the establishment of the Republic of Turkey to 1933, the economy was based on liberal principles. The first five-year plan, launched in 1934, initiated a form of industrial development which has continued to varying degrees as the public and private sectors have competed with one another. Furthermore, while one period might be dominated by import substitution policies, a later period might be dominated by export oriented policies within a market economy. Since 1980 neoliberal policies have been implemented. Privatisation, deregulation and downward pressure on wages are significant characteristics of this period.

Turkey’s contacts with the Western world date back before the Crusades. However, it seems most appropriate to begin with the nineteenth century in relation to the process of conscious Westernisation. During the first quarter of the nineteenth century, the first educational institutions based on European models were established in a few urban centres. The most important development, however, was probably the emergence of a civil service. The regulations governing the conduct and training of civil servants were based on Western models. This group, which began to crystallise with the foundation of a modern state and government organisation, came to be regarded by the public as representing Westernisation and it played the primary role in the implementation of change. Although government-directed changes were aimed at the country as a whole, most reforms were implemented most effectively in relation to the urban population rather than the peasants. As part of his many national reforms, Atatürk abolished Islamic law – shari‘ah – and substituted the Swiss Civil Code. The Turkish Labour Code, promulgated
in 1936 with 148 articles, was drawn largely from the French Labour Code and was influenced by ILO conventions (Dereli, 1968).

The foundations of industrial relations in Turkey in the modern sense were laid by the Constitution of 1961, which recognised not only the right of both workers and employers to organise but also the rights to bargain collectively, strike and lock out. The Law on Unions No. 274 and the Law on Collective Agreements, Strikes and Lockouts No. 275, issued in 1963 pursuant to the guidelines of the 1961 Constitution, fostered a system of democratic industrial relations. The constitution of 1982 – still in force today – regulated industrial relations in more detail. Today, fundamental rights such as the right to organise, to bargain collectively, to strike and to lock out are governed by Laws 2821 and 2822 in accordance with the Constitution.

1.1. Objectives of the study
The main objective of this study is to provide information on the labour market in Turkey, emphasising employment, participation and unemployment. Meanwhile, social dialogue is discussed in relation to European Employment Strategy (EES) targets.

1.2. Methodology
This study relies on published research, reports, statistics and interviews with representatives of the social partners, and experts from ministries and government agencies. In addition to providing data, the weaknesses and strengths of the social partners and the influence of NGOs on decision-making processes are discussed.

2. Economic background
2.1. General trends
The Turkish economy has suffered several major shocks during the past decade. These have resulted in substantial fluctuations in the standard of living. Four events in particular – which are responsible for the falls identified in Figure 1 – are worth describing. In January 1991 the Gulf War started. Trade between Turkey and Iraq and other countries in the region was adversely affected. The next crisis was a domestic one. Due to mounting concerns about the Government’s handling of public sector borrowing, the lira (TL) lost 70% of its value against the US dollar during
the first three months of 1994. Inflation and interest rates skyrocketed after the stabilisation programme was adopted in April 1994. In early 1999, the delayed impact of the Russian crisis was felt in Turkey. In the second half of the year, two earthquakes devastated the eastern part of the Marmara region, which accounted for 5% of companies, more than 6% of the workforce and about 15% of the value added in Turkish manufacturing in 1997. Finally, 2001 went into the record books as the year of the severest economic crisis in Turkey since the 1950s. Financial markets came to the brink of collapse in November 2000, but the actual crash came only in February 2001 (Tunalı, 2004).

Figure 1: GNP per capita (at current prices) and growth rate, 1988–2002

During 2002 and early 2003, the economy started to recover from the sharp recession of 2001. Economic output surpassed pre-crisis levels and inflationary pressures declined. So far, exports and restocking have been the main sources of growth. Recently, domestic demand appears to have strengthened, which has led to a deterioration in the balance of payments. Inflationary pressures have diminished, although real interest rates have remained high and unemployment has continued to increase. Foreign direct investment (FDI) inflows have remained negligible (see Table 1) in Turkey. However, they play a significant role in at least half of the CEE countries: in 1995–97...
the ratio of FDI to gross fixed capital formation was over 40% in Latvia, 30% in Hungary and 15% in Estonia, Poland and Bulgaria (Tóth and Langewiesche, 2000). The situation of public finances is improving, although the 2002 general government deficit still amounted to 10% of GDP. The real exchange rate has appreciated over the last year, reflecting high interest rates but also improved market confidence (Progress Report, 2003).

Table 1

<table>
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<th>Main Economic Trends (as of 30 September 2003)</th>
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<td>- December-on-December</td>
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<td>- debt service ratio</td>
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<td>Foreign direct investment inflow</td>
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<td>- balance of payments data</td>
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</table>

* Inflation not yet harmonised

* Source: European Commission

p: Provisional figures

Source: Eurostat unless otherwise indicated
3. Labour market

3.1. Background
In the 1980s, public investments and social expenditure were curtailed and real wages fell, while in the 1990s there was large-scale privatisation. The basis of corporatism in the public sector has therefore largely eroded, with lower real wages and more precarious jobs. According to the trade unions, they have lost thousands of members due to privatisation. Another effect of privatisation was to turn the few remaining formal jobs in the economy into informal and precarious employment. The beginning of the 1990s saw significant economic expansion due to investment inflows from abroad. After the 1994 crisis real wages came under steady pressure despite the rise in labour productivity, while from the 2001 crisis real wages fell drastically across the whole economy, especially in the private sector (see Figure 2).

Figure 2
3.2. Current situation

Social and regional disparities are substantial. GDP per capita in terms of PPP improved slightly from 22% of the EU average in 2001 to 23% in 2002. However, income disparities are still very pronounced. Labour market imbalances have deteriorated further. The rate of labour force participation was 49.6% in 2002 (71.6% for men and 27.9% for women). The share of agricultural employment in total employment was 34.9% in 2002. The fact that a significant percentage of the agricultural labour force has low productivity brings down the efficiency of the labour market overall. In 2002, while the labour force grew by 1.3% compared to the previous year, reaching 23.8 million, employment fell by 0.8% to 21.3 million. The unemployment rate rose from 8.4% in 2001 to 10.5% in 2003, reaching 12.4% in the first quarter of 2004, while the underemployment rate fell slightly (see Table 3). Thus, the rate of idle labour was 15.7% in 2002. In the same period, the rate of idle labour increased in urban areas rather than rural areas. Economic recession has influenced employment, particularly in non-agricultural sectors, and has led to an increase in urban unemployment (Pre-Accession Economic Programme; SIS).

Unemployment rates vary strongly, between 13.2% in urban and 6.3% in agricultural areas. Youth unemployment has increased to more than 20%. Given the relatively high hidden unemployment, the actual imbalance between labour supply and demand is probably significantly higher than indicated by official labour market statistics. Despite a significant deterioration in income disparities in recent years, the emergence of absolute poverty was avoided. Traditionally strong family ties and widespread informal casual work are important factors. As a result of the export-driven recovery, regional growth differentials have increased, favouring export-oriented regions (EU Progress Report 2003).

3.3. Labour market policies

According to Turkey’s Pre-Accession Economic Programme, increasing employment and reducing unemployment by means of sustainable economic growth, productive investments and active labour market policies are the main objectives. It is important to transform the structure of employment in favour of non-agricultural sectors, to increase the qualified labour force needed by the economy, to raise the quality of the labour force in line with the requirements of the Information Age and to increase labour market efficiency and labour productivity.
Small and medium-sized enterprises (SMEs) – which represent more than 95% of firms and create 35% of total value added in the manufacturing sector – account for 65% of total employment. Therefore, it is important to increase the support given to SMEs and individual undertakings in the fields of training, projects, financing, organisation, marketing and technology.

3.4. Composition of employment

The fundamental problems of the labour force remain. In 2002, the share of agriculture in total employment was 34.9%, that of industry 18.5% and that of services 46.5% (see Table 3). In EU countries, the shares in total employment of agriculture, industry and services are 4.9%, 36.2% and 58.9%, respectively.

In 2001, only 4.9% of the female labour force worked in agriculture in EU countries, whereas in Turkey this rate is 61.1% due to the widespread phenomenon of unpaid family workers.

Due to important structural changes, industrialisation efforts are still progressing. This process has gradually affected the composition of employment and the share of agriculture in total employment is falling year by year. Despite this positive development, the current labour market structure is very far from the EU average.

Consider Table 2. It is obvious that the population is growing much more rapidly than employment, which is flatlining or even falling. Turkey is unable to create jobs to meet the requirements of a growing population. Therefore compared to the other EU accession and candidate countries, Turkey has the lowest employment rate. One of the main reasons for this is the low participation rate of women, which is far below the EU average and the Lisbon target (Kenar, 2004).
### Table 2

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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. NON-INSTITUTIONAL CIVILIAN POPULATION (000)</td>
<td>14240</td>
<td>14240</td>
<td>14240</td>
<td>14240</td>
<td>14240</td>
<td>14240</td>
<td>14240</td>
</tr>
<tr>
<td>2. POPULATION 15 YEARS AND OVER (000)</td>
<td>14240</td>
<td>14240</td>
<td>14240</td>
<td>14240</td>
<td>14240</td>
<td>14240</td>
<td>14240</td>
</tr>
<tr>
<td>3. LABOUR FORCE (000)</td>
<td>11876</td>
<td>11876</td>
<td>11876</td>
<td>11876</td>
<td>11876</td>
<td>11876</td>
<td>11876</td>
</tr>
<tr>
<td>3.1. Employed</td>
<td>10515</td>
<td>10515</td>
<td>10515</td>
<td>10515</td>
<td>10515</td>
<td>10515</td>
<td>10515</td>
</tr>
<tr>
<td>3.1.1. Underemployed</td>
<td>319</td>
<td>319</td>
<td>319</td>
<td>319</td>
<td>319</td>
<td>319</td>
<td>319</td>
</tr>
<tr>
<td>3.2. Unemployed</td>
<td>325</td>
<td>325</td>
<td>325</td>
<td>325</td>
<td>325</td>
<td>325</td>
<td>325</td>
</tr>
<tr>
<td>4. NOT IN LABOUR FORCE (000)</td>
<td>3384</td>
<td>3384</td>
<td>3384</td>
<td>3384</td>
<td>3384</td>
<td>3384</td>
<td>3384</td>
</tr>
<tr>
<td>4.1. Not seeking a job but available to start a job</td>
<td>266</td>
<td>266</td>
<td>266</td>
<td>266</td>
<td>266</td>
<td>266</td>
<td>266</td>
</tr>
<tr>
<td>4.2. Seasonal workers</td>
<td>416</td>
<td>416</td>
<td>416</td>
<td>416</td>
<td>416</td>
<td>416</td>
<td>416</td>
</tr>
<tr>
<td>5. LABOUR FORCE PARTICIPATION RATE (%)</td>
<td>46.3</td>
<td>46.3</td>
<td>46.3</td>
<td>46.3</td>
<td>46.3</td>
<td>46.3</td>
<td>46.3</td>
</tr>
<tr>
<td>6. UNEMPLOYMENT RATE (%)</td>
<td>15.1</td>
<td>15.1</td>
<td>15.1</td>
<td>15.1</td>
<td>15.1</td>
<td>15.1</td>
<td>15.1</td>
</tr>
<tr>
<td>6.1. Unemployment rate of youth (%)</td>
<td>15.8</td>
<td>15.8</td>
<td>15.8</td>
<td>15.8</td>
<td>15.8</td>
<td>15.8</td>
<td>15.8</td>
</tr>
<tr>
<td>7. THE RATIO OF UNDEREMPLOYED PERSONS TO LABOUR FORCE (%)</td>
<td>2.7</td>
<td>2.7</td>
<td>2.7</td>
<td>2.7</td>
<td>2.7</td>
<td>2.7</td>
<td>2.7</td>
</tr>
<tr>
<td>7.1. Underemployment rate of youth (%)</td>
<td>2.7</td>
<td>2.7</td>
<td>2.7</td>
<td>2.7</td>
<td>2.7</td>
<td>2.7</td>
<td>2.7</td>
</tr>
</tbody>
</table>

**NOTES:**
- Population: People within 15-64 age group.
- Total figures may not be exact due to rounding of the numbers.
- The Household Labour Force Survey. 2004 | Period

---

The enlargement of social Europe – Part II
Table 3

<table>
<thead>
<tr>
<th></th>
<th>2001</th>
<th>2012</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Number</td>
<td>Proportion (%)</td>
</tr>
<tr>
<td>Agriculture</td>
<td>8,089</td>
<td>37.6</td>
</tr>
<tr>
<td>Industry</td>
<td>3,774</td>
<td>17.5</td>
</tr>
<tr>
<td>Services</td>
<td>5,051</td>
<td>44.8</td>
</tr>
<tr>
<td>Total</td>
<td>21,524</td>
<td>100.0</td>
</tr>
</tbody>
</table>

Source: SPO and SIS.

3.5. Education and employment

There is a close link between labour participation and education. For instance, the participation rate of workers without a secondary education is less than 70%, while the percentage for university graduates is more than 80%. The participation rate of educated women is higher than that of women overall (Gürsel, 2002). The level of education of the workforce in Turkey is a significant problem; according to 2002 data, 70.8% of the labour force and 72% of employees had attended only primary or secondary school, while some had little by way of formal education or were illiterate. This demonstrates the urgent need to upgrade the quality of the labour force (see Table 4).

The Preliminary National Development Plan, which covers the period 2004–2006, emphasises the youthful population and attaches importance to improving the education system in order to meet the needs of the economy. The plan focuses on life-long learning. Moreover, the education of women shall be increased in order to expand their role in society and to ensure that they can enjoy equal opportunities.

3.6. Final assessment on employment

As stated in many official plans and documents, the government’s main aim is to increase employment. Meanwhile, increasing the employment rates of disadvantaged groups, such as the disabled, women, those with poor qualifications, and so on, and reducing long-term unemployment are serious challenges, in addition to creating equal opportunities in employment, reducing unregistered employment and making the labour market more flexible.
4. Labour relations in Turkey

4.1. Background of industrial relations

The characteristics and problems of a transitional society have also influenced industrial relations in Turkey. While the percentage of employees in modern economic sectors is growing, there are still many unpaid family workers. Also, the self-employed — and so un-unionised — make up a significant share of employment. In addition to these structural problems, trade unions face legal restrictions. The unions have been hindered not only in the field of workplace organisation but also in their influence in society. Civil servants were prohibited from organising unions for a long time and then given a limited amount of freedom. These limitations have restricted opportunities for institutionalised industrial relations except at large-scale enterprises.
Unionisation and institutionalised relations have been influenced by frequent political and legal changes. In addition to its decisive role in legislation, the state has played a dominant role in industrial relations as an employer because of the high number and large size of state enterprises. As a consequence, trade unions have become more and more dependent on the state to come up with solutions to their problems (Koray, 1992).

The role of the state, indeed, is the main characteristic of industrial relations in Turkey, due to the segmented and decentralised trade unions. Since the 1980s there has been micro- or enterprise-level collective bargaining rather than sectoral or national. Even today the system covers less than one-quarter of employment, resulting in a lack of effectiveness not only in the economic arena but also in social, cultural and political life. An important characteristic of Turkish trade unions is their so-called 'wage unionism', focusing on economic gains rather than employee participation. Finally, unionisation in Turkey is low.

4.2. Union density and collective bargaining coverage

Labour Ministry statistics show that there are 104 trade unions, four confederations, 49 employer’s associations and one employer’s confederation. Table 5 shows the number of unionised workers and the unionisation rate.

<table>
<thead>
<tr>
<th>Period</th>
<th>Number of workers</th>
<th>Number of unionised workers</th>
<th>Unionisation rate (％)</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 2004</td>
<td>4 916 421</td>
<td>2 854 059</td>
<td>58.05</td>
</tr>
</tbody>
</table>

Source: www.calisma.gov.tr.

These figures cover only workers with an employment contract; public employees are excluded. On the other hand, when we look at collective bargaining coverage, a completely different picture emerges in contrast to EU countries (see Tables 6 and 7).
The number of unionised workers is 2.8 million, while collective agreements concluded in 2003 covered only 629,240 workers. There is therefore a serious gap between the two figures. The first explanation for this is that legislation requires renegotiation of collective agreements every two years: if we consider both 2002 and 2003, this brings coverage up to 884,299, although the gap between collective bargaining coverage and the number of unionised workers is still very large. In fact, the official figures are wildly inaccurate as regards unionisation: according to our calculations the true figure is below 20% (Öke and Kurt, 2003).

Finally, the main characteristics of labour relations are their segmentation and their dualistic structure: on the one hand are ‘informalised’ and marginalised workers who are non-unionised and on low wages because they are not covered by collective bargaining; on the other hand is a very small percentage of employees who are covered by collective bargaining as members of a trade union with reasonable wages and relatively good working conditions. More than a hundred trade unions share this small percentage and compete in order to survive.
### Table 7: Unionisation and coverage of collective contracts, 1999

<table>
<thead>
<tr>
<th>Country</th>
<th>Unionisation (% of employed)</th>
<th>Coverage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Finland</td>
<td>80</td>
<td>95</td>
</tr>
<tr>
<td>Greece</td>
<td>30*</td>
<td>95</td>
</tr>
<tr>
<td>Austria</td>
<td>45</td>
<td>90</td>
</tr>
<tr>
<td>Slovenia</td>
<td>43</td>
<td>90</td>
</tr>
<tr>
<td>Belgium</td>
<td>55</td>
<td>90</td>
</tr>
<tr>
<td>Italy</td>
<td>38</td>
<td>90</td>
</tr>
<tr>
<td>France</td>
<td>10</td>
<td>85</td>
</tr>
<tr>
<td>Sweden</td>
<td>80</td>
<td>80</td>
</tr>
<tr>
<td>Portugal</td>
<td>25</td>
<td>80</td>
</tr>
<tr>
<td>Denmark</td>
<td>80</td>
<td>75**</td>
</tr>
<tr>
<td>Germany</td>
<td>30</td>
<td>74</td>
</tr>
<tr>
<td>Netherlands</td>
<td>28</td>
<td>70</td>
</tr>
<tr>
<td>Spain</td>
<td>18</td>
<td>70</td>
</tr>
<tr>
<td>Slovakia</td>
<td>38</td>
<td>48</td>
</tr>
<tr>
<td>Ireland</td>
<td>45</td>
<td>45</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>30</td>
<td>45</td>
</tr>
<tr>
<td>UK</td>
<td>30</td>
<td>35</td>
</tr>
<tr>
<td>Poland</td>
<td>30</td>
<td>30</td>
</tr>
<tr>
<td>Hungary</td>
<td>25</td>
<td>30</td>
</tr>
<tr>
<td>Estonia</td>
<td>12</td>
<td>20</td>
</tr>
<tr>
<td>Lithuania</td>
<td>10</td>
<td>8</td>
</tr>
</tbody>
</table>

**Notes:**  
* private economy only.  
** difference due to those not covered by collective agreement.  
*** almost exclusively in the public sector.

**Sources:** Tóth and Langewiesche (2001), *The unity of Europe* (ETUI); H. Kohl (2001); WSI-Tarifarchiv; einblick 1/00 (info service of the DGB); F. Draus, *Social Dialogue in EU candidate countries* (2000).
As regards public servants the situation is completely different in terms of laws, rights and responsibilities, negotiation procedures, and so on. According to the latest figures, 787,882 public servants are unionised in various public service unions: that is, the unionisation rate for public employees is 50.35%, which is higher than for workers in general (Official Gazette, 2004).

The current structure of industrial relations in Turkey is strongly influenced by enterprise size. As already mentioned, the great majority are small and medium-sized enterprises. For example, in manufacturing, the employment share of SMEs – more than one third of which employ 1–9 workers (see Figure 3) – is 65%. Turkey ranks first among OECD countries concerning micro-level employment. Naturally, this is not conducive to unionisation or active unionism.

4.3. Labour relations policies

Despite all the negative structural evidence, substantial progress been made in Turkish labour relations. Many restrictive clauses have been removed from the Constitution and labour legislation over the past decade, such as those concerning relations between trade unions and political parties or NGOs in accordance with EU standards. Furthermore, a number of basic ILO standards have been adopted.

Source: Statistics Directorate, Structural Economic Statistics, OECD.
Labour market policies have been brought more into line with international standards, although despite the current difficult economic situation, concern for labour market issues remains inadequate. The adoption of the Labour Code in June 2003 was an important step towards meeting international standards. The legal position of employees was improved, and innovations such as flexible working time were introduced. Incentives to take up formal employment were also increased. However, the number of employees benefiting from this legislation remains low. Finally, in order to improve job matching in the labour market, an employment agency was established.

5. Government commitments

According to the Preliminary Development Plan (2004–2006), the main objective of macroeconomic policy during the period 2004–2006 is to increase social welfare. To this end, strengthening macroeconomic stability and improving the resources available for social policy implementation will be the primary aims.

One of the main objectives, based on the medium-term strategy set forth in the Eighth Five Year Development Plan, is high and sustainable economic growth, alongside the development of human resources and increasing employment. This entails providing the labour force with the skills needed by the economy, improving the link between vocational training and the labour market, and increasing the women’s participation in the development process. Improvements in the quality of education will be brought about by means of information and communication technologies. The plan also aims to further harmonise labour legislation with international norms and standards, particularly with those of the ILO and the EU.

The Preliminary Development Plan stipulates active labour market policies as a priority with a view to increasing labour market efficiency, while encouraging entrepreneurship and ensuring equal employment opportunities. The plan also envisages support for the employment of disadvantaged groups and reducing the risk of unemployment for the low skilled. It also aims to promote employment among young people. Another overriding aim is to promote the adaptation of all groups, including employers, to changing market conditions.

Education is a priority. Apart from a general improvement in the quality of the education system, cooperation between the labour market and the
The enlargement of social Europe – Part II

The other major document outlining government commitments is the National Programme 2003. Among other things this prioritises ‘Harmonisation of Turkish labour law with EU legislation’. This includes individual and collective labour law, health and safety at work, social dialogue, gender equality and combating discrimination. A second priority is ‘Alignment with the EU acquis in the field of public health and participation in the relevant Community action programme’. This also includes participation. A third priority is ‘Development of social protection and social inclusion’, including development of the social security system and improvements in social benefits. Other important aims are ‘Development of a national employment plan consistent with the European Employment Strategy’, and ‘Strengthening the administrative capacity of the Ministry of Labour and Social Security and participation in the European Social Fund and the Dublin Foundation’.

On this basis a number of measures were introduced and several targets achieved. In respect of the active labour market policies envisaged by Law No. 4747, retraining programmes and the provision of vocational and employment consultancy services have continued. Law No. 4904 on the Turkish Employment Agency was adopted on 25 June 2003 and foresees the maintenance, improvement and extension of employment, assistance in combating unemployment and implementation of unemployment insurance services. The Law also authorised the establishment of private employment offices, which is an obligation stemming from international agreements. Within the framework of EU–Turkey financial cooperation, the Active Labour Force Strategy Project has been developed in order to enhance the administrative capacity of İŞKUR and to support approximately 350 projects on active employment measures. The Project, at a total cost of 50 million euros, was launched in September 2003. Turkey’s Background Study on the Labour Market and Employment, an initial step towards Turkey’s involvement in the European Employment Strategy, was also completed and delivered to the European Commission.

Measures were introduced to increase employment opportunities, particularly for young people, women and the disabled, as well as policies aimed at alleviating unemployment among unskilled workers, for example by improving their skills, and projects intended to raise the employment level in less developed regions.
Significant progress has been made in adjusting labour legislation to changing conditions, as well as ILO and EU standards. For example, Labour Law No. 4857 was adopted on 22 May 2003 with provisions on non-standard employment, flexible working time, temporary employment relationships, establishment of a Guarantee Fund providing protection for workers in the event of the insolvency of their employer, transfer of undertakings, the employer’s obligation to inform employees, establishment of a tripartite Advisory Board, job security, and effective implementation of occupational health and safety measures, in line with the relevant EU legislation. The Labour Code has also incorporated in full Council Directives 80/987/EEC, 2002/74/EC and 91/383/EEC and the relevant provisions of Council Directive 94/33/EC. In addition, 98/59/EC, 2001/23/EC, 91/533/EEC, 97/81/EC, 93/104/EC and 99/70/EC have been partially incorporated. It is expected that informal labour market activities will decrease and the number of formally employed persons will rise as a result of Law No. 4857. Furthermore, Turkey is currently working with the European Agency for Health and Safety at Work in accordance with Council Regulations 2062/94 and 1643/95, as well as the Committee for Senior Labour Inspectors, mentioned in Commission Decision 319/95.

An Unemployment Insurance Fund was created by Law No. 4447. In its wake, TL 118.2 trillion was paid out to the unemployed between 31 March 2002 and 31 July 2003 (Pre-Accession Economic Programme).

6. Dialogue between social partners

With the exception of collective bargaining, there is little dialogue between the social partners in the Turkish industrial relations system. In the public sector there are some mechanisms of information, consultation and involvement in decision-making, while within the collective bargain system there are some mechanisms concerned with information and consultation. However, there is no co-determination. At enterprise and sectoral level there is limited dialogue. At national level new legislation and institutions were adopted recently.

As we shall describe in more detail, there has been some social dialogue but broadly speaking the trade unions have largely ignored this mechanism so far, while for their part the employers’ associations have been interested in dialogue with governments but not with the unions.
6.1. Employee side
There are three trade union confederations; the biggest is Türk-İş (Confederation of Turkish Trade Unions), the others being DISK (Progressive Workers’ Union Confederation) and Hak-İş (Confederation of Turkish Real Trade Unions). There are also four union confederations for public employees, the oldest and one of the biggest of which is KESK (Confederation of Public Workers’ Unions); others include the Kamu-Sen and Memur-Sen confederations. More than 150 workers’ and public employee unions are gathered under these confederations.

6.1.1. TURK-IS (Confederation of Turkish Trade Unions)
TURK-IS was founded in 1952. It was the first and remains the biggest confederation, with 35 affiliates and, according to the latest statistics, about two million members (Labour Ministry Statistics, July 2004, www.calisma.gov.tr). Its activities focus on employment and the informal economy and emphasise investment, job creation and combating unemployment. It also argues that employment flexibility is not sufficient and that public investment must be increased in order to combat unemployment. The confederation believes that participation in the Economic and Social Council is important, and that it should be a real platform for social dialogue.

The Confederation has the following international affiliations: ICFTU, APRO, OECD–TUAC and ETUC. It is also a member of the executive committees of ICFTU and ETUC. The confederation sends representatives to the ILO and other international organisations as the largest national confederation.

Domestically, as a representative organisation it has seats in the participatory bodies of the following institutions: the Economic and Social Council, the High Arbitration Board, the Labour Council, Parliamentary Committees and Commissions, the Board of the Social Security Institution, the Unemployment Insurance Fund Management Board, the National Productivity Centre, the Minimum Wage Board, the High Board of Health of the Social Security Institution, the Board Empowered to Use the Fines Imposed Upon Wages, the Apprenticeship and Vocational Training Board and the Turkey–EU Joint Advisory Committee (Turk-IS 2004).
6.1.2. DISK (Confederation of Progressive Trade Unions of Turkey)

DISK was founded in 1967. Its main aim is to play a central role not only in industrial relations but also in the economic, social and political arenas. DISK has done a great deal for freedom of organisation, including the right of free choice with regard to trade union membership. DISK has had an important role in everything the Turkish trade union movement has achieved for the working class. It has 22 affiliated trade unions, eight regional offices and more than 300,000 members. The organisation’s main revenue source is membership fees.

Particularly during the neo-liberal period since the 1980s, all unions but especially DISK have lost power and influence due to falling membership. Many DISK affiliates have struggled to survive. Government economic policies and downward pressure on wages in order to achieve cheap labour make it harder than ever to organise and to achieve collective agreements in workplaces.

DISK has attached great importance to international relations since its establishment. It is a member of both ICFTU and ETUC, and is represented at OECD–TUAC.

DISK is a nationally representative confederation and has seats on the boards of several consultative bodies. However, its representation is restricted, as in the case of the Economic and Social Council.

DISK also participated in the first meeting of the Tripartite Advisory Committee, recently regulated by the Labour Code. DISK has long been active in relation to many of the problems under discussion, such as employment. The social partners want to address such issues in conjunction with the ILO (DISK, 2004).

6.1.3. HAK-IS (Confederation Of Turkish Real Trade Unions)

The Confederation of Turkish Real Trade Unions (HAK-İŞ) was set up on 22 October 1976 in Ankara, and has nine affiliate trade unions. HAK-İŞ regards it as essential to respect human rights, universal principles and values, the Constitution and the rule of law. It is also committed to national unity.

The principal aim of the Confederation as stated is to protect and improve the rights and interests of working people in a spirit of pluralism and true democracy. It considers human and labour rights as ‘high’ values. In this
connection, it considers its main duty to be an innovative, principled, responsible and resolute struggle.

The Confederation is affiliated to ICFTU and ETUC. It has also been represented in Turkey’s Workers’ Delegation to the ILO since 1997. The Confederation also has a seat on the EU–Turkey Joint Consultative Economic and Social Committee, and is an affiliate of IIRA (International Industrial Relations Association).

Domestically, the Confederation has a seat on the Economic and Social Council and the National Consumer Council. However, its influence is largely due to current legislation (HAK-IS 2004).

6.2. Employers’ side

6.2.1. TOBB – Union of Chambers of Commerce, Industry, Maritime Trade and Commodity Exchanges of Turkey

TOBB’s main aim can be summarised as the promotion of solidarity between chambers and commodity exchanges, development of trade and industry in accordance with its members’ interests, facilitating professional activities, conducting itself in public affairs with probity, and promoting professional ethics and discipline.

In Turkey, commercial and industrial enterprises are obliged to register with a Chamber of Commerce or a commodity exchange in their region and are categorised according to sector. TOBB, as the largest civil economic organisation in Turkey, is also a semi-public organisation. Its board is elected by its delegate members and not by appointment.

TOBB maintains its influence in the Turkish economy through its participation in official, social and commercial institutions and establishments, including: the National Productivity Centre (MPM), the Turkish Standards Institute (TSE), the Export Promotion Centre (GAME), the Small and Medium-Sized Industry Development Organisation (KOSGEB), the Social Insurance Association for Tradesman and Craftsman and Other Freelance Workers (BAĞKUR), the High Committee of Science and Technology, the Central Bank of the Republic of Turkey and the Credit Guarantee Fund (TOBB 2004).

6.2.2. TUSIAD (Turkish Industrialists’ and Businessmen’s Association)

Founded in İstanbul at 1971 by private sector industrialists, TUSIAD has become one of Turkey’s most important civil organisations. For over 30
Employment and social dialogue in Turkey from the perspective of EU integration

years. TÜSİAD has been striving to achieve its fundamental aim of institutionalising the market economy and consolidating democracy in Turkey.

TÜSİAD is a non-governmental organisation under the Law on Associations. As of December 2003, it had 525 members. TÜSİAD also has two platforms composed of industrial branch associations and local industry and business associations representing several thousand companies. TÜSİAD’s membership is composed of owners and managers of individual firms, groups of companies and holding companies operating in the Turkish manufacturing and service sectors. The number of companies represented is approximately 1,300. The main revenue source is membership fees.

TÜSİAD’s member companies are prominent in the Turkish economy. In 2000, the total sales of the 227 companies, groups and holding companies surveyed was USD 69.6 billion, incorporating USD 30.6 billion of value added. TÜSİAD’s members – with more than 414,000 employees – produce 47% of Turkey’s value added.

The association’s fields of activity focus on developing stability and social consensus, enhancing economic competitiveness, international integration and expressing the opinions of the membership.

TÜSİAD’s orientation as an NGO has been towards political liberalism and structural reform. At the beginning of 2003 TÜSİAD set out a new ten-year agenda concentrating on the development of a competitive economy that will create jobs, increase per capita income and attract foreign direct investment. TÜSİAD’s new agenda overlaps with the European Union Lisbon Strategy which aims to bring about economic, social and environmental renewal. The association’s resources put it in a good position to achieve its objectives.

TÜSİAD is a member of UNICE, through which it has gained valuable experience of EU harmonisation since 1987. It has also been a member of BIAC (Business and Industry Advisory Committee, OECD) since 1999.

TÜSİAD is not an umbrella organisation, but plays an important role in the establishment of large platforms for industrial and business organisations. It also has a seat on the Economic and Social Council. Recently, TÜSİAD has stressed the importance of social dialogue and consensus between social classes and social groups. To this end it engages in important research work in economics, social issues, democracy and participation. The Association is
one of the most prestigious and influential NGOs in relation to the government, the administration and government bodies (TUSIAD 2004).

6.2.3. **TISK (Turkish Confederation of Employers’ Associations)**

TISK was founded on 15 October 1961 when six employers’ associations organised under the name ‘Union of Istanbul Employers’ Associations’. After extending itself nationally, the name of the Union was changed to the ‘Turkish Confederation of Employers’ Associations’ on 20 December 1962.

The right to organise trade unions and employers’ organisations is explicitly stated in Article 1 of the Act on Associations. At present TISK has 21 members and derives its revenues from membership dues. The level of institutionalisation is extremely high for both companies and employer organisations which are affiliates of TISK. The Confederation covers both the private and the public sector, and both industry and services. Membership density is much higher than for the average trade union. As an umbrella organisation, TISK at present covers more than one million workers and represents 8,000 workplaces. TISK is a representative organisation and has played a very important role in social dialogue since the 1990s. Its resources put it in a good position to achieve its objectives.

TISK is represented on several important international and national bodies: ILO, IOE and BIAC; and the Economic and Social Council, the High Arbitration Board, the Labour Council, Parliamentary Committees and Commissions, the Board of the Social Security Institution, the Unemployment Insurance Fund Management Board, the National Productivity Centre, the Minimum Wage Board, the High Board of Health of the Social Security Institution, the Board Empowered to Use the Fines Imposed upon Wages, the Apprenticeship and Vocational Training Board, the Advisory Committee for the EU, the Foreign Economic Relations Board, the Turkey–EU Joint Advisory Committee, the Turkish Patent Institute (Advisory Board), Business Councils within the Chambers of Commerce, Industry, Maritime Trade and Commodities (TOBB), the High Board for Disabled Persons, the Professional Standards Commission, National and Regional Works Councils, State Planning Organisation Expert Committees, the State Institute of Statistics (SIS) and the Labour Market Information Board.

As a social partner TISK participates in a number of tripartite consultative bodies and social dialogue platforms, and signs tripartite agreements. Its affiliates are widely engaged in collective bargaining (TISK 2004).
6.2.4. TESK (Confederation of Turkish Tradesmen and Craftsmen)

TESK is the largest civil organisation in Turkey. It has five million (obligatory) members in both the production and service sectors. Although generally small in size, member enterprises represent more than 90% of the Turkish economy.

The organisation’s economic and social aims are to raise the level of the Turkish trade and craft sectors for the benefit of the whole country, to represent Turkish tradesmen and craftsmen at national and international level, and to promote vocational training centres, export promotion agencies, and so on.

TESK participates in the development of policies affecting its members’ interests, including legislation, vocational training, marketing, consultancy services, and so on. TESK also conducts research. However, current capacities are inadequate to meet the organisation’s needs.

Organisational structure is bottom-up, with democratic elections at every level: five million tradesmen and craftsmen, 3,483 local chambers organised by activity, 82 provincial associations of chambers and 13 sectoral federations.

With a view to performing its tasks under Law 507, TESK cooperates with a number of national and international organisations, including TURBO-B (Turkish Research and Business Organisations, Brussels). TURBO is based in Brussels and is dedicated to promoting EU ideals and Turkey’s membership of the European Union. TURBO also coordinates the private and public sectors and the academic world for the benefit of SMEs.

TESK represents its affiliates and members in many formal and informal platforms, such as the Economic and Social Council, the Board of the Employment Agency, the Social Security Institution, the Turkey–EU Joint Consultation Board and the Vocational Training Committee. Some of these platforms are tripartite, others are consultation boards.

6.3. The social partners’ role in the labour market

As already mentioned, almost 2,400 collective agreements are concluded bi-annually between trade unions and employers’ associations in Turkey, covering about 800,000 workers. Direct social partner influence in the economy therefore takes place via the collective bargaining system. Otherwise trade unions have no adequate arena in which to participate and influence decision-making. Employers’ associations and organisations such
as TOBB, TUSIAD and TESK have much more direct influence on the government. Bipartite and tripartite platforms for the social partners are lacking. All parties claim to be in favour of European integration, but much needs to be done to improve the situation of the social partners.

6.4. Social dialogue assessment

Jacques Delors coined the term ‘European Social Model’ in the mid 1990s to designate an alternative to the American form of ‘pure’ market capitalism. The basic idea behind the European Social Model is that economic and social progress must go hand in hand: in other words, economic growth is to be combined with social cohesion (Jepsen and Pascual 2004). Social dialogue is a central element of the European Social Model, accompanying European integration from the beginning and progressively strengthened over the years. There have been three main phases of development. The first, based on the 1957 Treaty of Rome, established social partnership between the Commission and the social partners. Initially established in an advisory capacity, tripartite concertation was strengthened in the 1970s with particular focus on employment issues. The second phase was a new process of social dialogue between the European social partners, commencing in 1985 in Val Duchesse when Jacques Delors took the initiative to bring the social partners together for the first time for a bipartite meeting, so that they could find common ground on economic and social issues. Henceforth social dialogue played a major role at European level, leading to intensive dialogue at cross-industry level. The third phase – a veritable new era – commenced in the early 1990s, particularly during the 1991 intergovernmental conference when the European social partners agreed a joint text on an enhanced role for the social partners at European level. The text of this agreement was inserted virtually unchanged into the Social Protocol adopted at Maastricht in December 1991 by all member states (apart from the UK) and became operational in November 1993. The resulting new social dialogue procedure was incorporated in the Treaty of Amsterdam in 1997. Social partners have acquired new rights to be consulted on social policy and to opt to replace the traditional legislative route by the negotiation and conclusion of framework agreements that can also be converted into council directives. The ‘joint opinions’ period has thus gradually given way to the negotiation of ‘European framework agreements’, and the social partners have become key actors in what could be defined as ‘shared social governance’ (Vaughan-Whitehead, 2000).
A White Paper emphasises this approach as a major pillar of the EU’s relationship with civil society. A code of conduct for consultation will identify responsibilities and improve the accountability of all partners. It will also enhance dialogue and contribute to openness in civil society.

The social partners have proposed not only that consultation be mandatory on relevant legislation, but also that a procedure should be established whereby the Council would be given the power to transpose agreements between EU-level social partners into community law.

In this context, the Turkish government has made commitments concerning not only the labour market and employment, but also social dialogue. In the Eighth Five-Year Development Plan the approach to civil organisations is described as follows:

the role and importance of non-governmental organisations will gradually increase as a third sector besides the public and the private sectors in national development efforts. Their role in activating national and international resources and encouraging participation are becoming increasingly widespread. Basic objectives include the development of democracy and effective participation of all sectors of society in economic, social and cultural development. Internal and external capabilities of NGOs, such as resource management, service provision, revenue generation and undertaking responsibilities, as well as problem-solving, shall be strengthened.

The Eighth Five-Year Plan also stipulates participatory social dialogue and reinforcement of multilateral consultation mechanisms.

The Turkish Economic and Social Council (ECOSOC), which is a major forum for participatory social dialogue, was established to this end. Currently, efforts are being made to change ECOSOC’s structure and composition to bring it into line with EU standards. The main criticism made by the social partners is that in the current structure government representatives dominate. Meetings take place irregularly and there is no mechanism for economic and social problem-solving. In EU countries, social dialogue forms part of the legal acquis: consultation with the social partners is enshrined in several directives, including areas such as labour law, safety and health and anti-discrimination. Several also refer to the principle of workers’ participation (Vaughan-Whitehead, 2000).
The Economic and Social Council was established in 2001 by Law 4641. Thirteen committees were set up under the act, including the Macroeconomic Policy Committee, the Agricultural Committee, the Energy Committee, the Human Resources Committee and the EU Committee. However, only the Employment and Working Life Committee is active and meets regularly with the participation of the social partners. The Employment Committee has also prepared a report, entitled ‘Factors preventing employment growth and proposed solutions’ (ECOSOC, 2004).

Finally, apart from the collective bargaining system, there is no culture of social dialogue. Serious attempts are being made to involve NGOs in the EU integration process, however, and so there is hope for the future within the framework of the European Employment Strategy.

6.5. What has happened so far?

In the field of social policy there have been both institutional and legislative developments. In terms of the latter, for example, the Labour Ministry is examining a number of EU directives with a view to incorporating them in national legislation, including 77/187/EEC, 98/59/EC, 91/533/EEC, 94/33/EC, 80/987/EEC, 93/104/EC, 97/80/EC and 92/85/EEC. ILO convention 144 on tripartite consultation boards has been approved by Parliament and incorporated in Law 3851.

In terms of institutions, new bodies have been set up, including the EU Secretariat of the Labour Ministry and the Turkish Employment Agency. In relation to the latter EU relations are particularly important, and the Agency has taken a number of steps to comply with the European Employment Strategy.

As regards ‘equality of treatment between men and women and combating discrimination’ the Council Decision of 19 May 2003 on the Accession Partnership with the Republic of Turkey envisages adoption of a programme for transposition of relevant EU legislation in the short term, and transposition and implementation of relevant EU legislation in the medium term. The Decision also made possible Turkey’s participation in the Community Programme on Gender Equality and Combating Discrimination.

An Action Plan has been prepared and approved by government agencies and the social partners (in the form of the general assembly of the Turkish Employment Agency). To begin with only the social partners were meeting regularly. Their concerns centred on employment, social dialogue and active
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Labour market policies. The Opinions issued at this time have since been succeeded by Action Plan decisions (Minutes 2003). The social partners and government agencies involved were: the Labour Ministry, the Education Ministry, the State Planning Organisation, the State Statistical Institute, TOBB, TESK, TURK-IS, TISK, HAK-IS, DISK and KESK.

The joint committee adopted a number of recommendations on employment: Social dialogue should be implemented more effectively. Economic policies should focus on production, investment, export and employment. Policies should be implemented to eliminate regional disparities in employment. Job creation and entrepreneurship should be encouraged in all sectors. An active employment policy should be implemented to combat unemployment. The informal economy should be squeezed out in favour of the formal economy. Other policy initiatives should include reducing the burden on employment, increasing labour force and enterprise flexibility in accordance with labour market developments, promoting lifelong learning and investing in human resources, women’s participation in the labour market, encouraging employment among disadvantaged groups and eliminating child labour.

7. Conclusion

Apart from legislation, Memorandums of Understanding have been drawn up in relation to a number of Community programmes, such as combating discrimination, gender equality, and so on. Another one envisaged for spring 2005 is social exclusion. Other projects concern employment promotion and harmonisation with the European Employment Strategy.

Nevertheless a number of problems remain in relation to the labour market and employment: for instance, employment participation among women and the composition of employment more generally – the share of agriculture in total employment is far above not only the EU average but also those of the other accession and candidate countries. Such problems are not susceptible to short-term solutions. Another important issue in relation to Turkey is the disparity between population and employment growth.

Some steps have also been taken towards the institutionalisation of industrial relations. However, despite the evident goodwill, problems remain in the field of social dialogue. In many countries – especially EU members – based on either a neo-corporatist or a pluralist industrial relations model, participation is institutionalised, facilitating national tripartite or bipartite agreements and
development of a broad range of social policies (Crouch, 1999). Apart from the Anglo-American and accession countries, collective agreements cover almost all employees, whether because of the influence of the trade unions or extension procedures (see Table 7). There is still a gap between the unionisation rate and collective bargaining coverage in Turkey, as in the accession countries.

Finally, the latest statistics indicate a very positive economic performance on the part of Turkey in 2003 and 2004, but limited development in the social field. Since the Treaty of Rome the EU has demanded social change alongside economic progress and democratic development. In Turkey some democratisation and social programmes have been directed towards NGOs and the social partners, especially over the past decade, such as better involvement, global governance, and so on (White Paper, EC Com 2000). In the 2000s a restructuring of the social acquis in relation to European social dialogue is expected to be a force for innovation and change (Council Decision 2003; Council Decision 2002). Turkey intends to pursue social change but not as rapidly as Europe.

**SWOT analysis**

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<tr>
<th>Strengths</th>
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<tr>
<td>* Physical, cultural and human infrastructure</td>
<td>* High unemployment rate</td>
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<tr>
<td>* Young population</td>
<td>* Weak relationship between education and labour market</td>
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<tr>
<td>* Reduced population growth rate</td>
<td>* Low female employment participation rate</td>
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<td>* Dualistic labour market (<em>Labour aristocracy</em> alongside informalised/marginalised labour)</td>
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<th>Opportunities</th>
<th>Threats</th>
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<tr>
<td>* EU membership</td>
<td>* Brain drain</td>
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<tr>
<td>* Structural reforms</td>
<td>* The size of informal economy</td>
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<tr>
<td>* Education reform</td>
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<td>* Structural reforms in the economy</td>
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White Paper http://europa.eu.int/comm/governance/


**Interviews**

TURK-IS 2004, Interview with President Salih Kılıç

DISK 2004, Interview with President Süleyman Çelebi

HAK-IS 2004, Interview with Consultant to President Şahin Serim

TOBB 2004, Interview with Consultant to President İsmail Bayer

TUSIAD 2004, Interview with Deputy General Secretary Ebru Dicle

TISK 2004, Interview with Deputy General Secretary Ferhat İliter

TESK 2004, Interview with Consultants to President Ersen Yavuz, İrfan Yazman

**Websites**

www.dpt.gov.tr (State Planning Organisation)

www.die.gov.tr (State Statistics Institute)

www.calisma.gov.tr (The Ministry of Labour)

www.iskur.gov.tr (Turkey Employment Agency)
About the authors

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