

The challenges for Croatia in European social dialogue*

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The paper addresses the role of social partners in the European integration process. It gives an overview of the social dialogue structures and experiences in the European Union (EU) and evaluates the achievements and experiences in developing social dialogue in the former and present candidate countries (Croatia) during the accession process. The first part of the paper is focused on the challenges that the European social dialogue is facing in terms of governance, Lisbon strategy and enlargement. It gives introduction into the role of social dialogue during the accession process. The second part of the paper deals with the social dialogue in Croatia and challenges of anticipated accession to EU. It evaluates the practice of social dialogue and leads to the conclusion that further efforts are needed to strengthen the capacities of the social partners and enhance their participation in social dialogue at national and European level. For the purpose of this paper a survey (interviews) on key social partners' representatives and public authorities have been carried out in Croatia.

Key words: Social dialogue, social partners, trade unions, employer's associations, good governance, Lisbon strategy, EU accession.

1. Social Dialogue in the European Union

1.1. Introduction

The European social dialogue is important component of the European Social Model and driving force behind economic and social reforms in the

EU. It includes discussions, consultations, negotiations, information-sharing and the joint actions undertaken by the social partner organisations representing the two sides of industry (the management and the labour), or undertaken among representatives of the EU (or national governments) and social partners. It is essential means by which the social partners assist in defining the European social standards and influence in the governance of the Union (Commission of the European Communities, 2003). The European social dialogue contributes to reaching the understanding between social groups which represent different interests aiming to achieve a solution to problems of mutual concern. It is supposed to be an efficient mechanism of policy formation since it has the role in lawmaking, coordination and implementation of the EU policies and consultation¹.

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The Treaty Establishing European Community has institutionalized European social dialogue at the highest normative level. The EC Treaty gives substantial competence to the European Commission and to the social partners, in the field of the social dialogue². The Commission legislative proposals in social policy are to be subject of a mandatory two-stage consultation process. On the other hand, the Treaty provides basis for the social partners to undertake independent social dialogue through negotiating agreements which will later become laws. They can enter into inter sectoral or sector agreements, which can become part of the EU law, or establish a company level social dialogue. European social partners are empowered to regulate a number of work related issues through the conclusion of agreements.³

The social dialogue at the European level has evolved from consultation to social governance. The bipartite dialogue is developed between the European employers and trade union organisations (the latter representing employees), while a tripartite dialogue is carried out between the social partners and the public authorities (European, national, local). It compliments the national practices of social dialogue which exist in most EU member states. The main body for bipartite social dialogue at European level is the Social dialogue committee (SDC), established in 1992. The tripartite social dialogue has cross-industry character. The Tripartite Social Summit, established in 2003, aims to ensure greater consistency in a tripartite concentration and enable the social partners to contribute in a best possible way to different components of Lisbon strategy.

The results of the European social dialogue are various initiatives, such as legally binding Agreements between social partners⁴, process-oriented texts, joint opinions, declarations and tools, as well as procedural texts. A "new generation" of texts entailing a greater implementation and monitoring role for the social partners consists of charters, codes of conduct and agreements.

The consultation and negotiation functions of European social dialogue should be stressed. The process of developing modern policies in the EU is impossible without serious involvement of social partners. Furthermore, social dialogue is a part of a comprehensive civil dialogue, which involves different civil society actors, such as associations, foundations, non-profit institutions and civil initiatives.

One of the key problems for implementing the social dialogue in practice of the EU member states is lack of the well defined and precise follow-up provisions. The overall impact depends on the political will of national administrative bodies to implement the agreements/texts as well as on local technical

capacities and their representativeness. Effective implementation is the problem in many EU member states where administrative capacities need to be enforced. However, the possibilities provided by the EU funds for strengthening capacity of social partners are not always efficiently used (Commission of European Communities, 2004a).

1.2. The role of social partners in developing public policies

Two relevant issues will be dealt with in this context. The first one is the role of social partners in better governance, while the second one is the social dialogue and economic and social modernisation in the context of Lisbon strategy.

Better governance in the EU relies on the active involvement of all actors in the decision making process and in implementation. One of the key principles of participatory governance is that those who could be affected by a decision (holders) have to be involved in it's' creation and implementation. Secondly, participatory democracy requires that parties who are affected by legal provisions need to be involved in the opinion forming process and should be given the opportunity to put forward their proposals (Obradović, 2005: 3). Being representatives of employees and employers, social partners are entitled to deal with issues that might affect groups/stakeholders they are representing - such as working conditions, organisation of work and working time, definition of wage standards, pension system, social protection, continued training etc.

Efficient and transparent consultation of the parties interested in the policy definition is a key factor in improving the quality of legislation. The Article 138 of the Treaty provides for a compulsory two-stage consultation procedure. The Commission is required to consult the social partners on possible direction of Community action before presenting proposals in the social policy field and, secondly, on completion of the first stage if the action proposed is desirable, the Commission has to consult the social partners on the actual content of the proposal.⁵ Such consultation contributes to more appropriate formulation of policies, particularly those that have social dimension.

Contribution of the social dialogue to better European governance is promoted by the Commission through proposals asking for improved consultation, social partners' representativeness, tighter links and greater involvement at different levels, transparency in dialogue, etc. The legitimacy and effectiveness of the social partner consultation is

based on their representativeness: the requirements regarding it are limited in the case of simple consultation, but more binding where the social partners can lay down rules which become laws.

The experience shows that there is a need for more interaction between the European institutions, national governments, regional and local authorities and civil society, of which the social partners are coming from. Social partners should be consulted by the Commission on main initiatives having social repercussions. On the other hand, the social partners need to reinforce mutual cooperation, particularly within sectors, and should improve their internal decision-making machinery necessary for establishing negotiating mandates and concluding agreements. The capacities of social partners need to be strengthened through stronger investment into training of people who are expected to take up positions on drafts of future legal acts.

Finally, the initiative to build partnership for change involving the social partners, civil society and the public authorities (European Council, 2004) tried to stimulate making stronger ties between the social and civil dialogue. Namely, the social partners have important role and influence within civil society, and therefore development of dialogue with other interested parties in civil society, particularly NGOs, is important and could create synergies between the social dialogue and wider civil society consultation mechanism.

Another issue that deserves attention is the social dialogue and economic and social modernisation in the context of Lisbon strategy (LS).

The EU strategy to achieve the Lisbon goals was important step in improving and strengthening social dialogue. At the Lisbon Council the EU member states committed themselves to work together towards achieving highly ambitious goals to become the most competitive and dynamic knowledge-based economy until 2010, capable of sustainable economic growth with more and better jobs and greater social cohesion⁶.

"Achieving this goal requires an overall strategy aimed at ...modernising the European social model, investing in people and combating social exclusion" (European Council, 2000). Lisbon strategy strengthened the social dimension of the EU and the social issues became more present and discussed at the European level in formulating policies. The European social dialogue was seen in this context as a force which promotes changes through the positive management (COM 2002), leading to improvements towards full employment, development of new forms of flexicurity, lifelong learning, improving mobility,

active aging strategies, promoting equal opportunities, diversity etc.

Social partners are involved in the Lisbon Strategy implementing mechanisms, particularly the open method of coordination, defining integrated (particularly employment) guidelines, as well as in the implementation and monitoring of Lisbon strategy results.

The open method of coordination (OMC) is based on the assumption of participation of social partners in policy making. The OMC is particularly suitable to the areas where the principle of subsidiarity is fully applicable (employment, social inclusion, social protection, pensions). It is based on the "soft law" governance processes, designed to help member states to develop their own policies, reflecting their individual national situations, to share their experience, and to review the outcomes in a transparent and comparable manner⁷. However, the negative side of the OMC is the fact that it represents a weak instrument in comparison with the tougher regulatory powers within the *acquis communautaire* (Begg and Bergham, 2002).

The social partners are consulted on the employment guidelines and on their content in the context of OMC. The areas that open ground for consultations with social partners are related to social inclusion and exclusion, pension strategies and health care in the context of social protection, etc. There are numerous documents that EU member states are preparing where such consultative procedures are necessary (through defining common objectives on poverty and social exclusion, preparing national action plans against poverty and social exclusion, preparing of joint memoranda and joint reports on social inclusion, and participating in the process of constructing EU indicators on social inclusion (Stubbs - Zrinščak, 2005: 167).

The social partners take part in macroeconomic dialogue, together with representatives of the Commission, Council and ECB at technical and political level. Social Summits were organised twice-yearly and are now replaced by the tripartite Social Summit for Growth and Employment.

The renewed Lisbon strategy continued modernisation of social systems emphasizing the need for improving the adaptability of workers and enterprises and the flexibility of labour markets, it made the ground to set up in Member States' economic and social committees and other partner organisations an interactive network of civil society initiatives aimed at promoting the implementation of the strategy. The role of social partners in this context became even more stressed.

2. Challenges of Social Dialogue in the EU Accession

2.1. New dimension of social dialogue

The process of transition of countries of Central and Eastern Europe (CEE) introduced deep changes in the area of industrial relations and brought new challenges to the social order, and to their social policies. All CEE former candidate countries have gradually established tripartite forums for dialogue between social partners and introduced modern labour legislation. One of the most significant changes in the field of social dialogue was the introduction of pluralism of trade unions and abolishment of compulsory union membership. It resulted in an excessive fragmentation of labour movements, leading also to enormous decline of unionization levels in CEE. In average, unionization level in CEE declined from 100% (which is the result of compulsory membership during the socialism) to the rate of 25-30% (Avdagic, 2002: 5).

The enlargement reinforced the need for social dialogue and promoted its' new understanding, not primarily as means for mediation and conciliation, but as a new form of policy making and a collaborative governance mechanism (Iankova, 2008, pp 10). The accession process introduced a series of new requirements for the applicant countries, which lead to adoption of new models of labour relations and social dialogue, giving them more active role in the policy-making process in which the state takes a mediating role.

The requirements for the development of social dialogue and strengthening of the role of social partners were introduced in a number of Commission recommendations for the acceding countries and became the element in regular annual reports for the candidates. They are particularly stressed as priorities in the Accession Partnerships. These were important requirements having in mind the fact that after becoming EU member states, these countries would be obliged to fully participate in the European social dialogue and contribute to the development of the European social model. It should be mentioned that defining the ways and forms of conducting and practicing social dialogue was left to be defined by the candidates themselves.

Regarding the request for establishing appropriate structures for the social dialogue, the former candidates have set up tripartite forums for consultations and introduced new labour legislation. Many of these changes have been introduced in order to conform to the *acquis communautaire* in the social field.

The social partners in candidate countries are involved in different activities, through the process of establishing broad-based social consensus on the EU accession in the country. They are involved in consultations over the harmonization of legislation with the *acquis* and its implementation; they participate in negotiations and policy making, take part in implementation of technical assistance programmes, in developing the related strategic documents in the context of employment strategy, and in preparing national development plans for defining priorities for assistance under the pre-accession funds (after the accession Structural Funds, particularly the European Social Fund - ESF).

Furthermore, social partners are expected to take active role in the working groups for the accession negotiations. Apart from representatives of government institution bodies, the negotiation working groups, established for each particular chapter of the *acquis*, usually include representatives of social partners, civil society and academia. Besides, the social partners are to be consulted and take part in drafting the key strategic documents which became the obligation for all the candidate countries during the process of the EU accession, namely the Joint Inclusion Memoranda (JIMs)⁸ and Joint Assessment Papers (JAPs)⁹.

During the accession process European social partners are encouraged to establish cooperation with the social partners from candidate countries, to help the strengthening of independent trade union and employers' organizations. Furthermore, the Commission supported the initiatives that offer possibility to the social partners from the applicant countries to participate in the European forums of social dialogue and has established different programs that aimed at encouraging the development of the social dialogue in candidate and accession countries¹⁰. Namely, joint consultative committees (JCC), commonly set up with the European Economic and Social Committee (ESC); provide an important opportunity for capacity building and European networking of trade unions' and employers' organizations' representatives.

It is evident that the process of fifth enlargement introduced significant changes in the social dialogue setting and institutions. In general, a new philosophy of social dialogue was developed, perceiving it as a part of social governance rather than in a sense of more narrow "social peace" and interest intermediation mechanisms. Secondly, the scope of participants in social dialogue is broadened beyond the existing tripartite structures, as a broader civic engagement. Finally, a more autonomous and multi-level social dialogue is being developed among the social partners, without participation of the state, and

especially in regard to the lower sectoral and regional levels, while the capacity of the social partners to participate in social dialogue at the European level is (to a certain extent) strengthened (Iankova, 2008, pp 8).

2.2. Lessons learned by the new member countries from CEE

Although the European Commission expectations regarding the role of the social partners were high, the developments in many accession countries did not fully conform to it. The most common obstacles shared by the majority of applicant countries were the following: lack of solid infrastructure, lack of well functioning consultation mechanisms and institutions with financial and human resources, lack of clear procedures and rules; insufficient political will in particular on the part of the government to reach out to social partners, to educate them and to take into consideration their proposals, to engage in a mutual dialogue with them in order to build consensus on public policies; lack of experience and technical capacities of social partners to represent effectively the interests of their constituencies, but also to conduct bipartite and tripartite negotiations and consultations, search for allies and develop common strategies in policy-making processes.

Most candidate countries have established different models of the Economic and Social Councils (ESC) composed of main trade unions' and employer organizations' representatives and Government representatives. The joint consultative committees were set up with Economic and Social Council (JCC) with the objective to ensure stronger involvement of social partners in the EU accession negotiations. However, it seems that the main benefit for the social partners was limited to the opportunity to get more acquainted with the European social dialogue mechanisms. In many countries the activities of the joint committees were not very much linked with the negotiations that took place at the high political level. Apart of it, many trade unions in CEE countries have established their own working groups for social issues in EU-accession process.

It seems that the accession process remained to be predominantly handled by the governments. This can be explained by the relative low capabilities of unions to participate in the process and by the low transparency and lack of willingness to actively include unions from side of the governments.

Therefore the overall impact of social partners on the substantive negotiation issues had been rather limited. There are examples that dialogue institutions

were usually created pro forma, were marginalized and were not very effective in terms of the execution of public policies. The lack of transparency had restricted the access of social partners to the relevant information, and further weakened their position in the issues regarding the EU accession (Avdagic, 2002: 13).

Another key feature was the low level of utilisation of the EU pre-accession funds were not used to a high extend by the CEE countries in the area of social dialogue. This suggests that future candidate countries should invest more effort in the enhancing procedures and readiness for attracting financial means from EU funds like IPA. It should be noted European trade unions have helped in promoting sectoral dialogue by creating cooperation initiatives for CEE in certain sectors.

During the fifth enlargement, the European social partners assisted the social partners from the candidates in capacity building through different initiatives. For example, trade unions and employers from EU Member States have established bilateral contacts with individual unions in acceding countries; they have assisted the social partners from candidates in the preparation for the transposition of the *acquis* through the setting up of integration committees in the respective countries. On the other hand, employers' associations from Member States have organized with the support of the European Commission a series of round tables which encompassed representatives of the respective employer's organizations in both the EU and the applicant countries (European Commission, 2004a).

It is evident that building capacities of social partners from acceding countries to participate in the EU-level social dialogue proved to be a rather difficult task (Iankova, 2007: 5). Even the current social dialogue in some new member states is still generally characterised by the predominance of tripartite cooperation only, with weak structures for bipartite negotiations between labour unions and the employer associations as well as by the lack of technical capacity of social partners.

3. Social Dialogue in Croatia and Challenges of the EU Accession

3.1. Institutional, legal and organizational frame for the social dialogue

The social dialogue is not deeply enrooted within the Croatian society, similar to other former socialist countries. The first steps towards creating institutional and political framework for social dia-

logue in the country was taken in 1994 with the establishment of the national Economic and Social Council and identifying its competences. Over the next several years, the functioning of the social dialogue was rather limited and reduced to a rather formal and declaratory action (Zrinščak, S., 2005). After the parliamentary elections in 2000 the new Government had restored tripartite dialogue at the national level¹¹ and launched new framework for the development of the social dialogue.

Legal basis for the development of social dialogue process were established within the Constitution of the Republic of Croatia¹², the Labour Code and the number of other normative acts¹³. Legal protection of workers right is ensured within civil procedure laws.

Croatia has ratified a number of International Labour Organization (ILO) Conventions and the European Social Charter. Institutional basis for the social dialogue in Croatia is comprised of the Economic and Social Council (ESC) and the Government Office for Social Partnership. Process of establishing local Economic and Social Councils in Croatian regions is closing its completion¹⁴.

The Croatian Economic and Social Council (ESC) is a forum in which key social partners (high representatives of the Government, employers associations and trade unions) discuss and negotiate important decisions on key economic and social issues. The Economic and Social Council has commissions for the following topics: wage policy and the tax system, employment and social policy, collective bargaining, privatization, education and labour market, legislation, regulation implementation and legal protection, international relations and accession, national budget, pension and health care, and alternative resolution of labour disputes. The ESC can suggest discussing any legislative proposal from the Government before it enters into parliamentary procedure. In majority of cases, such suggestions are accepted. Each social partner has the right to a one vote in ECS and its bodies. Members of ESC can also give a separate opinion but this opinion is not visible when a particular legislative proposal enters into a parliamentary procedure.

General feature of social partners in Croatia is union fragmentation in opposite to monolith structure of employer organization and strong role of Government and it agencies in social dialogue. The Croatian Employers Association is the only employer's organization meeting criteria for representation. The Croatian Employers Association has approximately 5000 members (the number varies constantly), three regional offices (Osijek, Rijeka and Split) and 24 sector branches. There are a large number of trade

unions in Croatia. Majority of them is affiliated in five union confederations: the Croatian Independent Trade Unions (NHS), the Union of Independent Trade Unions of Croatia (SSSH), Matrix of Croatian Trade Unions in Public Services (Matica), Croatian Trade Union Association (HUS), and the Workers Trade Union Association of Croatia (URSH)¹⁵. Upon recently there were six union confederations, but the smallest one, UNI—CRO Trade Union of Services (having affiliated only four trade unions) has merged with Matrix of Croatian Trade Unions in Public Services. The Union of Independent Trade Unions of Croatia is the biggest Croatian union confederation, both in terms of membership numbers and in technical capacities.

Croatian Government established in 2001 the Office for Social Partnership as an official state institution for providing support to the process of social dialogue. The Office organizes meetings of the ESC, round tables and various seminars and lectures. Furthermore, it is involved in transferring social dialogue know-how from other more developed European regions to Croatia¹⁶.

Participation of representatives of trade unions and employers associations in governance of strongest public institutions¹⁷ has been ensured by law. Furthermore, representatives of trade unions, the Croatian Employers' Association, the Croatian Chamber of Economy and the Croatian Chamber of Trades and Crafts are members of the relevant parliamentary committees.

Similar to other CEE countries, tripartite social dialogue at national level is quite developed, unlike bipartite dialogue which is still facing many difficulties. Collective agreements have covered almost all employees in the public sector, as well as in the most of the state-owned companies. Capacities of trade unions are not fully prepared to participate in the sector dialogue and, consequently, sometimes there is a lack of initiative for such dialogue on their part. Furthermore there is a lack of a tradition of social dialogue in general and unwillingness of private sector to accept trade unions as partners, particularly in collective bargaining. Number of collective agreements in private sector is notably lower than in the public sector. However, in relation with bipartite dialogue latest initiatives of the Governments Office for Social Partnership indicates progress¹⁸.

Unionization of work force levels in Croatia have been substantially reduced when compared with the unionization levels from socialist times. This is quite understandable considering the differences between two political systems. Out of totally 1,700,000 employed people in Croatia only 460,000 workers are members of the trade unions (approximately).

However, such minor unionization levels are seriously affecting the capacities of trade unions for social dialogue in many areas, especially in the field of the sector dialogue.

As a response to the global financial crisis the social dialogue became increasingly important in Croatia. Namely, in order to strengthen its efforts to mitigate expected negative effects of the issue, the Croatian Government has established in November of 2008 the advisory board comprised of 15 respected national experts and of members of the national ESC, called Economic Council. The most important economic issues were discussed by the Council, such as the possibility of freezing the salaries in public sector, the Government budget, measures for alleviating the impacts of financial crisis on Croatia's key sectors, etc. However, it was very difficult to reach the consensus and the trade unions have expressed their dissatisfaction with the initial work of the Economic Council.

3.2. Key challenges for social dialogue during the EU accession process

Social partners have indispensable role in the accession process in Croatia, although minor unionization levels combined with lack of technical capacities of trade unions represent obstacle for further development of the social dialogue.

The Stabilization and Association Agreement (SAA) that Croatia signed with the EU deals with the social policy issues in general, but it does not create any specific obligation for Croatia in the area of social dialogue in particular¹⁹. The level of development of the social dialogue was estimated in several European Commission documents. Avis for Croatian membership in the EU concluded that social dialogue in Croatia is "quite developed" (Commission of the European Communities, 2004b).

In the EU Commission Progress Report for Croatia in 2007 it is noted that there has been limited progress in social dialogue, especially in general awareness-raising activities and training activities on settling individual labour disputes and at local government level. Progress Report 2008 for Croatia (Commission of the European Communities, 2008) has recognized that tripartite social dialogue is already well established and that its influence on the decision making process and policy design has slightly improved (good example for that is collaboration of all social partners on the Minimum Wage Act). Progress Report 2008 describes capacities of social partners as weak, and sectoral dialogue as poor, especially in relation to the fact that the agreements

on sector level are rare. Non adoption of representation criteria for participation of trade unions in collective bargaining is recognized as a pressing issue (Commission of the European Communities, 2008).

As regard to the representativeness criteria mentioned in the Progress Report for 2008, it should be noted that criteria for employers associations have been adopted and trade unions are currently working on a proposal for a new legislation on representativeness criteria on trade union confederations. The latter is currently regulated by an act which dates from 1999 and seems to be inadequate in practical terms.

The EU - Croatia Joint Consultative Committee (JCC) was established in 2007 with social dialogue among its competences, and social partners among its members. In its conclusions and 2007/2008 agenda Joint Consultative Committee as regard to social dialogue has recognized the need for strengthening the autonomy of social dialogue and need to tackle with gap between developments in tripartite and bipartite dialogue.

Recently, two documents that represent the EU requirements in the sphere of social policy and employment have been adopted. Both of them refer to the level of social dialogue development in the country (Samardžija, 2007).

The first one is Joint Inclusion Memorandum - JIM from 2007 (Government of the Republic of Croatia, 2007), which evaluates the development of social dialogue in Croatia stating that: "*Despite established institutional mechanisms and some positive examples of active participation by social partners in the formulation and implementation of individual policies (e. g. during the vocational education reform or the preparation of the national employment programme), social dialogue has not yet reached a satisfactory level since such positive practices are still more the exception than the rule*" (Government of the Republic of Croatia, 2007, pp 51). JIM expresses criticism when it comes to the social dialogue at the level of particular industrial branches and companies, noting that obstruction of the work of labour union councillors and workers' representatives is a frequent practice. Furthermore, it has been noted that the violation of workers' rights is a frequent occurrence in the absence of appropriate preventive mechanisms.

The second document is the Joint Assessment Programme JAP on employment priorities (Government of the Republic of Croatia, 2008) that was concluded in May 2008. JAP especially warns on the problem of union fragmentation²⁰.

Croatian labour legislation is currently ongoing the process of changes in purpose of harmoniza-

tion with the *acquis*. Further substantial changes in the labour legislation are planned for the 2009. Trade unions have already publicly expressed their serious concerns with afore mentioned changes in the Labour Act. Employers Association is pushing forward for changes in labour legislation from the standpoint of increasing productivity and competitiveness of Croatian economy. Along with the changes in the Labour Act, further activities are planned in other related areas of legal harmonization such as in implementing European Works Councils into Croatian legal system (Directive 94/45/EC) etc.

In the Croatian National Programme for the Accession to EU strengthening of collective bargaining and bipartite dialogue is on the list of priorities for 2008. However, it is not clearly elaborated how these priorities will be achieved. Positive development is the decision that in the process of legal harmonisation with the *acquis* each particular legal act must undergo the consultation process with social partners.

Although Croatian trade unions and Employers Association have established cooperation with their counterparts in the EU member countries and regional organizations, capacity of social partners to participate in the European social dialogue is still not adequate. This can be especially noted regarding participation in European sectoral social dialogue. Possible issue in the future, as Croatia progresses towards EU membership, is a question of enforceability of Agreements of social partners on the basis of the EC Treaty which have become the part of the European Law. This issue can be raised generally regarding the capacity of the Croatian judiciary and state administration to deal with the EC Law issues.

In conclusion it could be stated that Croatia has quite developed tripartite social dialogue at the national level but the influence of social partners on policy making process is still not adequate. Local and regional tripartite social dialogue is established and needs to be strengthened. However, enhancing the bipartite dialogue and weak sector and industrial dialogue remain priorities.

3.3. Some estimations of social dialogue development in Croatia - views of shareholders

Introductory remarks on the survey undertaken for this purpose

For the purpose of this paper a survey has been carried out with limited number of qualitative interviews encompassing the key representatives of so-

cial partners in Croatia. The interviews were conducted with the representatives of all five Croatian trade union confederations which are covering vast majority of the unionized work force in Croatia. The interviews were also conducted and with the representatives of the Croatian Employers Association (HUP²¹) and with the representatives of the Government Office for Social Partnership. Survey is focused on nine key areas of social dialogue - namely, its' impact on legislation, level of development of bipartite and tripartite dialogue, sectoral and local dialogue, problems and positive examples in social dialogue, human resources, participation in EU accession process and participation in European social dialogue.

Impact on legislation

The general standpoint of Croatian trade union confederations is that they are not satisfied with their overall influence on legislative process. Despite the fact that they have representatives in the relevant Parliamentary committees, and in the organs of the ESC, it is they believe that there is not enough time to consult in debt on specific legislative proposals with their respective members. This opinion is shared by all five Croatian trade union confederations. In the Croatian Independent Trade Unions they emphasize a need for a regulatory impact assessment (RIA) in the area of labour legislation.

Considering that their institution is formed in the purpose of giving logistical support to the process of social dialogue, representatives of Government Office for Social Partnership are generally satisfied with the impact of their activities on the legislation.

The Croatian Employers Association holds that their impact on legislation varies from case to case, since Economic and Social Council is (only) a consultative body. Their representatives believe that it depends heavily on the capability to prepare the opinion or position-paper on respective subject. Therefore, both having enough time for preparation and having sufficient number of experts are key elements for improving impact on legislation.

Development of tripartite and bipartite social dialogue

The Croatian trade union confederations are in general satisfied with development of the tripartite social dialogue at national level. They recognize efforts of the present Government in enhancing the quality of the tripartite social dialogue. However, real influence of trade unions on the decision making and policy design is still not adequate. Some of the trade union confederations perceive the Government Of-

Office for Social Partnership as mainly state agency and not as support base for all social partners, which was original purpose of the office. Considering the bipartite social dialogue, Croatian trade union confederations are of the opinion that it could be improved. However, they believe that quality of bipartite dialogue is considerably higher in large state owned companies and public sector.

Representatives of the Government Office for the Social Partnership believe that all necessary conditions for continuing tripartite social dialogue at the national level have been met. Bipartite social dialogue is not a process in which Government Office for Social Partnership could be directly involved.

Views expressed by the Croatian Employers Association are that recently situation has been improved, both in tripartite and bipartite social dialogue. The quality of dialogue depends on the real willingness to work together and genuine commitment to achieve shared goals.

Sectoral and local dialogue

The Croatian trade union confederations recognize that sectoral dialogue is weak. They believe that main problem in its development is lack of willingness and technical capacity. Lack of common policy of all trade union confederations in establishment of sectoral social dialogue contributes to the present problems. The Croatian Independent Trade Unions holds that lack of nationally accepted sector division (due to the obsolete Croatian National Classification of Economic Activities - NCEA) is main contributing factor for a poor state of sector dialogue. When it comes to the social dialogue at the local level, all trade union confederation have recognized improvements but they believe that local dialogue is still in its grassroots. It seems that the quality of local social dialogue differs substantially from region to region. The will of local authorities for conducting social dialogue is decisive factor here.

The Government Office for Social Partnership finds that a main reason for underdeveloped sectoral social dialogue is a lack of technical capabilities and willingness on the part of the trade unions. They believe that trade unions are generally unprepared to participate in this process. When it comes to the local social dialogue Government Office for the Social Partnership conducts a number of activities in order to assist local authorities in facilitating local social dialogue. Good example is the project of development of local social dialogue in cooperation with Flandria region in the EU.

Representatives of the Croatian Employers Association are not completely satisfied with level

of development of sectoral and local dialogue, but they notice some positive signs. However, there are sectors where co-operation between social partners has not started yet. Croatian Employers Association has organized internal committees in 24 sectors in order to prepare for better functioning of dialogue at sector levels.

Positive examples

The Croatian trade unions mentioned a number of examples where the quality of social dialogue was satisfactory. Most positive examples were in the areas such as employment and health benefits for workers that have contracted professional illness, abolishment of the rules for licensing in the building industry, introducing a number of social clauses in the contracts dealing with privatization, drafting the latest Minimum Wage Act, protection at work, etc. The Croatian Employers Association recognizes as positive example the process of tripartite negotiations concerning the new labour legislation. Achieved co-operation includes joint work of social partners in the tripartite drafting tripartite group including discussing of some specific chapters and/or articles of the new Labour Act.

Problems

The Croatian trade union confederations in general believe that they do not have enough time for preparation of their positions in consultation during the legislative process. There is a lack of cooperation between trade unions and Government Office for the Social Partnership. In the process of the drafting the latest changes of the labour legislation Croatian it seems that the trade union confederations' voice is not always being heard to a satisfactory extent. In the Union of Independent Trade Unions of Croatia they particularly emphasize trade union's property (especially real estates) as an obstacle in the union activity. This relates especially to unsolved legal issues concerning union real estates (buildings of high value) which were inherited from the old socialist trade union and were previously considered as a property of the people.

The Government Office for the Social Partnership perceives two main problems in the development of the social dialogue, namely the low-level of worker's unionization and lack of technical capabilities of trade unions. The first problem arises from the fact that only 460,000.00 (approximately) out of 1,700 000.00 workers in total are members of the trade unions. Union fragmentation (five trade union confederations) combined with small unionization

level's affects the capabilities of the trade unions to fully participate in the social dialogue.

The Croatian Employers Association emphasize two problems in functioning of social dialogue - lack of time for serious preparation of their standpoints in tripartite bodies and the overall destructive influence of union fragmentation.

Human resources

The Croatian trade union confederations are in generally facing the problem of inadequate capacities and insufficient human resources in almost all aspects of their activities. Even the Union of Independent Trade Unions of Croatia as the largest confederation with a regular working staff larger than one hundred employees, faces the lack of human resources, especially in terms of experts.

The Office for the Social Partnership is functioning as the part of the Croatian Government and all members of its staff are state employees.

The Croatian Employers Association can hardly manage to continue present activities with their current human resources. They believe that there is a need for more specialists. However, in order to employ more experts their number of members and/or membership fees should be increased.

EU accession negotiations

The Croatian trade union confederations are generally satisfied with the level of their participation in the EU accession negotiations although they believe that participation of Croatian Parliament and parliamentary review of the negotiations should be increased. Furthermore, they have found that Government often misuse legal harmonization in order to push forward certain unpopular reforms. The representatives of the trade unions are satisfied with the work of the EU - Croatia JCC since they perceive its meetings as the opportunity to question actions of Croatian public authorities in front of the EU officials. While trade unions had rather strong influence in drafting the Joint Inclusion Memorandum (JIM); this was not the case with Joint Assessment Programme (JAP).

The Government Office for the Social Partnership has important role in the EU Accession negotiation.

The Croatian Employers Association finds that the quality of their participation in EU accession negotiations is very high. They have nominated experts in all negotiating groups within relevant chapters of the *acquis*.

Participation in the European social dialogue

The only Croatian trade union confederation with membership of the European Trade Union Confederation (ETUC) is the Union of Independent Trade Unions of Croatia. Other Croatian trade union confederations have established some kind of international cooperation with their counterparts in the EU member countries and within the region. For example, the Croatian Independent Trade Unions were participating in some conferences organized by the European Economic and Social Committee. However, it does seem that further preparations are needed in order to fully participate in the process of European social dialogue.

The Croatian Employers Association has excellent cooperation with their sister organizations at the EU level, the Business Europe and UEAPME, as well as with some national organizations in EU member countries. In Croatian Employers Association there is a belief that they are ready to participate in the process of European social dialogue.

4. Conclusions

The paper shows that social partners have important role in the process of developing EU policies. Their role became particularly important during the EU accession process and in dealing with the crisis. The enlargement process promoted the new understanding of such dialogue, not primarily as means for mediation and conciliation, but as a new form of policy making, as a collaborative governance mechanism. Furthermore, the enlargement introduced a series of new requirements for the applicant countries which implied the adoption of new models of labour relations and social dialogue, characterized by an active role of organized interests (trade unions and employer organizations) in the policy-making process and in which the state takes only a mediating role. The requirements for the development of social dialogue and strengthening of the role of social partners became the element in regular annual reports for the candidates and are particularly stressed as priorities in the Accession / European Partnerships. Transposition of the *acquis* into practice and the possibilities of its' effective implementation is highly dependent on cooperation of social partners, including participation of civil society.

The social partners in candidate countries are involved in the different activities, ranging from establishing broad-based social consensus on the EU accession in the country to their active involvement in the implementation of the *acquis* at micro level.

They are involved in consultations over the harmonization of legislation with the *acquis* and its implementation; they participate in negotiations and policy making, take part in implementation of technical assistance programmes, in developing the related strategic documents and in preparing national development plans for defining priorities for assistance under the pre-accession funds (after the accession Structural Funds, particularly the European Social Fund - ESF). However, their influence depends on their capacities to participate and on the political will of the Government.

Social dialogue was in the former candidate countries during the accession period generally characterised by the predominance of tripartism, relatively new social partner organisations and under-developed bipartite social dialogue. The most common obstacles shared by the majority of applicant countries were the lack of solid infrastructure, well functioning consultation mechanisms and well as established clear procedures and rules; insufficient political will of the government to engage in a dialogue with social partners aimed to build consensus on public policies; lack of experience and technical capacities of social partners, but also to conduct bipartite negotiations, search for allies and develop common strategies in policy-making processes. Similar problems exist in Croatia, as well.

Croatia has established legal and institutional framework for social dialogue. The joint mechanisms with the EU are formed and the key strategic instruments are developed. The quality of social dialogue highly depends on the organised infrastructure. However, while the tripartite social dialogue is quite developed, the bipartite dialogue remains the challenge for the future. The influence of social partners on policy making process needs to be improved. Trade

union's fragmentation, small unionization levels and low human and financial capacities are negatively affecting the quality of the dialogue. On the other hand, Croatia has developed only one employers association which is also underdeveloped in comparison with the EU structures. Therefore, it is necessary to strengthen the capacities of all social partners and to build up specific knowledge on the procedures of social negotiations at all levels. Social dialogue will have paramount importance in the final stage of the accession of Croatia to the EU. Raising the technical capacities of all social partners will be crucial for successful EU membership having in mind the fact that the procedures of social dialogue are much wider and deeper in the EU as compared with the countries which are acceding to the Union. Croatian trade union confederation should improve their mutual cooperation while criteria for union representation should be clearly defined by the state for all social partners. Full cooperation and interaction between European and national levels of social dialogue will become even more important in the coming years.

Las but not least, it is important to promote awareness and understanding of the role of the social dialogue, to enhance the dialogue respecting full independence of social partners, respect of principle of equality of social partners, freedom of association, representativity, autonomy and non-involvement in internal affairs of employers and workers' organization as well as to ensure the transparency of the social dialogue results to all those who are involved in negotiation process. Social dialogue is being developed hand in hand with democratic and civil dialogue and therefore it is important to invest in human resources development which is the basic precondition for its efficient functioning. ■

NOTES

1 The paper is partly based on the study *"The Role of the Social Partners in Preparation for the Accession"* prepared by Samardžija, V., Vidačak, I. and Vuletić, D. (2008).

2 The Article 138 defines the role of the European Commission in *"promoting the consultation of management and labour at Community level and [taking] any measure to facilitate their dialogue"*, while the Article 139 provides the basis for establishing contractual relationship between the social partners themselves. Consolidated versions of the Treaty on European Union and on the Treaty Establishing European Community, Official Journal of the European Union, 29.11.2006.

3 The first consultations with the social partners were initiated during 1960s and 1970s. With a launch of a bipartite cross-industry social dialogue in 1985 which was initiated by the Commission (*"Val Duchesse"* process), nowadays features of social dialogue started to develop. After the agreement between the social partners was integrated into the Protocol on Social Policy and annexed to the Maastricht Treaty (1993) and later into Amsterdam Treaty (Articles 138 and 139), the possibility of giving

the legal effect to the agreements negotiated by the European social partners was introduced.

4 Such agreements were reached on a range of issues such as parental leave, part-time and fixed-term employment contracts, work councils and working time.

5 Between 1993 and 2002 the social partners have been consulted 12 times regarding the main initiatives having social repercussions (Commission of the European Communities, 2002).

6 See more Samardžija 2006

7 It is implemented through the fixing guidelines and common objectives for the Union combined with specific timetables for achieving them and translating these guidelines into national and regional policies taking into account national and regional differences; establishing quantitative and qualitative indicators and benchmarks, combined by the periodical monitoring, evaluation and peer review organised as mutual learning process and accompanied by indicators and benchmarks as means for comparing best practices (European Council, 2000).

8 The Joint Inclusion Memorandum (JIM) presents the key policy measures related to tackling poverty and social exclusion in the light of translating the EU common objectives into national policies. Its purpose is to assist candidate countries to modernise their systems of social protection as well as to help preparing their full participation in EU policies in the area.

9 The Joint Assessment Paper on employment priorities (JAP) aims to assess and progressively adjust the employment policies and institutions for participating in the EU-wide employment policy coordination after the EU accession. It is aimed at ensuring that both the EU pre-accession financial support and preparations for the European Social Fund focus on supporting the employment policy priorities.

10 Financial assistance through several projects under the PHARE program aimed at encouraging the social dialogue in the applicant countries.

11 In 1999, six opposition parties concluded the Agreement for a Legal Croatia with biggest trade union confederations. See more in Stubbs and Zrinščak, 2005.

12 Articles 43 and 59 of the Constitution of the Republic of Croatia regulating freedom of association and right to form trade unions and employers associations.

13 *Exempli gratia*: various other laws like Health Care Act, Act on Insurance of Workers Claims in the Cases of Employers Bankruptcy, Protection at Work Act, administrative decisions like Decision of the Ministry of Economy, Labour and Entrepreneurship on Determining Trade Unions Complying With the Conditions for Representation in Tripartite Bodies at National Level etc.

14 Local ESC are established in 20 of 21 Croatian regions.

15 Croatian names for trade union confederations and trade unions are: Nezavisni hrvatski sindikati - NHS, Savez samostalnih sindikata Hrvatske - SSSH, Hrvatska udruga sindikata -HUS, Matica hrvatskih sindikata zaposlenih u javnim službama - Matica, Udruga radničkih sindikata Hrvatske - URSH.

16 Namely, it organizes cooperation between Flandria region tripartite social dialogue body and social partners from three Croatian regions.

17 Retirement insurance Administration, the Employment Service, the Institute of Health Insurance, the Council for Media, the Vocational Training Agency, the Advisory Council of the Fund for Development and Employment, the Fund for Professional Rehabilitation and Employment of People with Disabilities, and the Commission for Adult Education.

18 The organization of conference on collective bargaining and the launching of the project on mediation in individual labour disputes are recognized by the EU as useful initiatives.

19 Croatia signed SAA in 2001; Article 91 regulates the social policy issues.

20 "... there are at the moment no clearly defined criteria for social partner representation at any level of the social dialogue, and there is fragmentation of trade unions", Government of the Republic of Croatia, 2008, pp 44.

21 In Croatian: Hrvatska udruga poslodavaca (HUP)

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