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## Summary

The report presents the results of the research on the institution of social dialogue - the Tripartite Council in Lithuania. The research was conducted in summer 2005. The research was focused on the functioning of the Tripartite Council and the role of the social partners within this institution. The role and influence of the government in the Tripartite Council was of particular interest. In order to get the deeper insight into functioning of the Council and the roles of the social partners within it, two issues were selected as the particular examples of the work of the Tripartite Council: (1) discussions over the Labour Code draft in conducted in 1995-2002; and (2) the debates on the increasing of the minimal monthly wage in May 2005.

The report is organized as follows: the introduction and the short description of the methodology are followed by the presentation of the brief historical survey of the Tripartite Council and the presentation of the current condition of the social dialogue in Lithuania. It is followed by the analysis of the functions and procedures of debates in the Council as well as the short description of the social partners. The following part deals with the issues of accountability, transparency, legitimacy and efficiency in context of the Tripartite Council. Then, the issues chosen for analysis are discussed. Finally, the issue of weakness and strength of social partners and its impact on the functioning of the Tripartite Council are analysed. The report closes with conclusions.

## Contents

<b>I. INTRODUCTION</b> .....	<b>4</b>
<b>II. METHODOLOGY AND SCOPE OF THE RESEARCH</b> .....	<b>5</b>
<b>III. SOCIAL DIALOGUE IN LITHUANIA</b> .....	<b>6</b>
III.1 TRIPARTITE COUNCIL OF THE REPUBLIC OF LITHUANIA: BRIEF HISTORICAL SURVEY .....	7
III.2 THE TRIPARTITE COUNCIL: STRUCTURE AND FUNCTIONS .....	9
III.3 PROCEDURES .....	11
III.4 OTHER TRIPARTITE INSTITUTIONS.....	13
III.5 FUTURE PERSPECTIVES .....	14
<b>IV. SOCIAL PARTNERS</b> .....	<b>16</b>
IV.1 NATIONAL TRADE UNION ORGANIZATIONS .....	16
<i>Lithuanian Labour Federation (Lietuvos darbo federacija, LDF)</i> .....	16
<i>Lithuanian Trade Union Confederation (Lietuvos profesinių sąjungų konfederacija, LPSK)</i> .....	17
<i>Lithuanian Trade Union “Solidarumas” (Lietuvos profesinė sąjunga “Solidarumas”)</i> .....	17
IV.2 NATIONAL EMPLOYERS ORGANIZATIONS .....	17
<i>Lithuanian Confederation of Industrialists (Lietuvos pramonininkų konfederacija, LPK)</i> .....	17
<i>Lithuanian Business Employers’ Confederation (Lietuvos verslo darbdavių konfederacija, LVDK)</i> .....	17
IV.3 PROBLEMS OF REPRESENTATION OF SOCIAL PARTNERS.....	18
IV.4 FORMS OF DIALOGUE WITHIN THE TRIPARTITE COUNCIL.....	19
IV.5 COMPETITION OF THE SOCIAL PARTNERS IN THE TRIPARTITE COUNCIL.....	20
<b>V. ACCOUNTABILITY AND TRANSPARENCY</b> .....	<b>21</b>
V.1 CHANNELS OF COMMUNICATION.....	21
V.2 OPENNESS TO OTHER ASSOCIATIONS .....	22
<b>VI. LEGITIMACY AND EFFICIENCY: THE ROLE OF TRIPARTITE COUNCIL IN A STRATEGY OF GOVERNMENT</b> .....	<b>23</b>
<b>VII. ROLES OF THE GOVERNMENT AND SOCIAL PARTNERS: TWO CASE STUDIES</b> .....	<b>26</b>
VII.1 DEBATES ON THE LABOUR CODE DRAFT .....	27
VII.2 DEBATES ON INCREASING THE MINIMAL MONTHLY WAGE.....	28
VII.3 TWO CASES COMPARED.....	29
<i>Strength of the government</i> .....	29
<i>Strength of the social partners</i> .....	30
<i>Legitimacy and effectiveness</i> .....	30
<b>VIII. WEAKNESS / STRENGTH OF SOCIAL PARTNERS AND ITS IMPACT ON THE FUNCTIONING OF THE TRIPARTITE COUNCIL</b> .....	<b>30</b>
<b>IX. CONCLUSIONS</b> .....	<b>32</b>
<b>X. ANNEXES</b> .....	<b>35</b>
X.1 BIBLIOGRAPHY .....	35
X.2 SOCIAL PARTNERS, SHORT BIO NOTES.....	37
<i>National Trade Union Organizations</i> .....	37
<i>National Employers Organizations</i> .....	37
X.3 LIST OF INTERVIEWED PERSONS .....	38
X.4 OTHER TRIPARTITE INSTITUTIONS IN LITHUANIA.....	39

## I. Introduction

The Tripartite Council of the Republic of Lithuania (*Lietuvos Respublikos Trišalė taryba*) is the most important institution embodying the idea of the tripartite partnership on the national level in Lithuania. This institution enables and stimulates social dialogue among the trade unions, employers' organizations and the representatives of the government. Therefore, the focus of the research was on the role each social partner plays in the Council. In particular, the role of the government was of special interest, namely, the formation of state policy on social and economic issues in relation with the consultations within the Tripartite Council. Specifically, the impact of the government on the social partners and the process of the consultations were of particular interest.

Consequently, the tasks of the research were as follows:

- Analysis of the social consultations with the social partners in the Tripartite Council and the motivations of the social actors;
- Analysis of functioning of the Tripartite Council, the role of the social partners, their influence in the decision making process and the formation of the social policy of the state;
- Analysis of the degree of the influence of the social partners activities on the effectiveness of the decision making process.

The paper is a contribution to the New Modes of Governance project a part of which concentrates on the new modes of governance introduced in the institutions of social dialogue. The main question posed is how the main features of new modes of governance (NMGs) – such as reliance on bargaining, dialogue, decentralization of governance -- are affecting the weak state. In particular, the impact of the NMGs on the pathologies of the weak state (i.e. lack of transparency, lack of accountability, confusions of tasks and responsibilities) are of particular interest. The research accounts for the changes in the functioning of the Tripartite Council, the effectiveness of the negotiations and implementation of the government programs.

The underlying governance mechanisms – departure from the traditional and hierarchical modes of governance, subsidiary, reliance on bargaining, dialogue – which are present within the Tripartite Council are new, different from the modes of governance employed during the Soviet period and affecting the state as well as the social partners. The NMGs were introduced in Lithuania in the process of democratic transition and are yet to be fully understood and implemented.

The research of the Tripartite Council was constructed to test the following hypotheses:

- *Hypothesis 1:* New modes of governance, because of their logic, may deepen some features of weak state, such as the lack of transparency, the lack of accountability, confusion of tasks and responsibilities, the lack of formal rules or, in other cases, excessive formalization.
- *Hypothesis 2:* Some new modes of governance introduced in order to increase legitimacy of policy making may lead to their lower efficiency [e.g. negotiations with social partners]. Other NMGs introduced in order to increase the efficiency of policy making may lead to lack of accountability [e.g. executive agencies].
- *Hypothesis 3:* Some new forms of governance are introduced in CEE countries only in order to formally fulfil EU requirements and/ or legitimise (justify) policy decisions ex post.

- *Hypothesis 4:* The similarities between some of the new modes of governance to socialist institutions (i.e. social dialogue) may facilitate their implementation but they may also have negative impact on their effectiveness and legitimacy.
- *Hypothesis 5:* CEE countries not only have weak states but also weak social partners which may negatively impact the implementation of some NMGs.
- *Hypothesis 6:* In the long run EU requirements can strengthen social partners if they are consistently implemented.
- *Hypothesis 7:* The pace of transformation process and the scope of reforms in CEE countries affect execution and evolution of NMG through changes in rules, strengthening and weakening positions of given political and social actors and common situations of political and economic turmoil [radical changes].

The hypotheses were tested and the functioning of the Tripartite Council is illustrated using two cases of the Council's works as examples. The first case deals with the discussions on the Labour Code draft (adopted in 2002), which involved mostly the trade unions and the employers' organizations, with government playing a minor role in the debates. The second case demonstrates the debates on the increasing the minimal monthly wage in May 2005 which involved government and social partners into intense consultations within the Tripartite Council.

The Tripartite Council, the most important national institution of social dialogue in Lithuania is functioning for ten years already. However, the profound analysis of the activities and functioning of the Council was not undertaken so far. Therefore, there is a need for deeper insight an evaluation of the role of this institution and the mechanisms of its functioning.

These two issues were taken as two examples demonstrating the process of work in the Tripartite Council. They were selected for several reasons. First of all, the works over the Labour Code draft is considered both by researchers as well as the members of the Tripartite Council and the government as the most important achievement of the Tripartite Council throughout since its establishment and had an immense importance for the labour relations in Lithuania. Almost ten years of work of the Labour Code was the most significant task the Tripartite Council performed so far, which was crucial for the economy and social policy of the state. Second, the issue of discussions over the minimal monthly wage periodically appeared in the agenda of settings of the Tripartite Council. In addition, this issue was mentioned as the important one by all the interviewed members of the Tripartite Council, since it is a vivid example of the process of negotiations among the government, the trade unions and the employers' organizations. Finally, these both issues have deep social meaning and as any other issue discussed in the Tripartite Council receives a wide coverage in mass media.

## **II. Methodology and scope of the research**

As it was mentioned already, the case of Lithuania is specific, since by now, there were no extensive studies on the Tripartite Council conducted. Therefore, the researcher had to rely on the information provided by the secretariat of the Tripartite Council, which was very basic. These materials were used while presenting the history of the Tripartite Council and the background of the social partners as well as current state of affairs.

For the purposes of this study, there were two qualitative research methods employed. First of all, the most important source of information were the interviews with the members of the Tripartite Council (representing the government, trade unions and employers' organizations), the secretary and several former members of this institution. Altogether there 15 in-depth in-

interviews conducted.<sup>1</sup> The interviews were aimed to find out the role of a representative of the social partner in the Council, the expectations and interest the social partner organization vests into the Tripartite Council and the methods of negotiation and interests' promotion are employed. The questions were also targeted to find out the strategies the social partners use to prepare for the sitting of the Tripartite Council.

Furthermore, the materials provided by the secretariat of the Tripartite Council and the social partners (especially trade unions) were used for the purposes of this research. They included several publications by the secretariat of the Tripartite Council, minutes of the proceedings, publications by the social partner organizations and the newspapers of the trade unions: *Lietuvos profsąjungos* and *Lietuvos darbininkas*. In addition, the information from the web pages of the social partners was also used for the purposes of the research.

Finally, the publications in the most popular Lithuanian daily newspapers – *Lietuvos rytas*, *Verslo žinios*, *Kauno diena*, *Respublika* - covering the activities of the Tripartite Council were analyzed for the purposes of the research.

The paper is organized as follows: the presentation of the brief historical survey of the Tripartite Council and the presentation of the current condition of the social dialogue in Lithuania is followed by the analysis of the functions and procedures of debates in the Council as well as the short description of the social partners. The following part deals with the issues of accountability, transparency, legitimacy and efficiency in context of the Tripartite Council. Then, the issues chosen for analysis are discussed. Finally, the issue of weakness and strength of social partners and its impact on the functioning of the Tripartite Council are analysed. The report closes with conclusions.

### **III. Social dialogue in Lithuania**

The history of independent Lithuanian trade unions and employers' organizations is relatively short. Though trade unions were numerous during the Soviet period, Lithuanian unions began to play a more important role in labour relations only after the restoration of the independent republic of Lithuania. During the Soviet period the government was the only employer and the independent employers' organizations were not established until after 1990. Due to this fact situation and the fact that trade unions are at present relatively weak, while employers' organizations usually appear to be reluctant to engage in wider social issues, bipartite social dialogue in Lithuania is still weak. Therefore, the government plays a relatively active role and the social dialogue in Lithuania is being developed "from the top down", which means that in general:

- (a) Tripartite (at the national level) relations are much more developed and, thus, have a stronger impact on policy-making than bipartite ones; and
- (b) Various agreements/ settlements are signed/ concluded on the basis of legislation instead of being developed as a consequence of any bipartite negotiations.<sup>2</sup>

It was in 1990 the formation of a new system of social partner organizations began in Lithuania. The first steps were very difficult, since trade unions, collective labour relations and involvement of employees in business management were regarded by some as elements of the former socialist regime and thus unsuitable for the market economy. Economic, social, legal,

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<sup>1</sup> See Appendix 3 for details.

<sup>2</sup> Tripartite partnership institutions examined. Available at: <http://www.eurofound.eu.int/2005/01/feature/lt0501103f.html>

and other developments reduced the influence of trade unions over social and economic issues, in particular, at the company level. Some of these circumstances remain unchanged today. Despite the situation, some trade unions managed to survive and the basis on the contemporary trade unionism in Lithuania is formed by ‘old’ trade unions that have been renovated to a large degree and adapted to the present situation.

The establishment of employers’ organizations in Lithuania was primarily related to the wish of employers to represent and defend their own business interests, with the government seen as the key partner.<sup>3</sup> According to some commentators, the development of bilateral relations between employers and employees indicates - with some exceptions - that employers currently do not see employees as equal partners, and it is claimed that the interests of capital prevail over those of labour or social partnership.<sup>4</sup> However, it should be noted that the social partnership situation is to some extent different in large companies, and especially ones with foreign ownership, where ‘western’ investments have brought different attitudes towards relations between employers and employees and social partnership. Usually, in these companies there are collective agreements signed that provide more favourable working conditions for employees as compared to companies that do not have collective agreements. The situation is also different in the areas of employment covered by the state budget and in state enterprises, where strong trade unions have traditionally existed - like education system and the railways. The state as the employer is seen as a more favourable partner for unions/employees than private employers, and particularly in small-scale ones.

Given this situation, Lithuanian trade unions sought to obtain support from the government and to initiate tripartite cooperation. Believing in the importance of social dialogue in a democratic society, the government supported this trade union initiative. The trade unions were familiar with the social dialogue model of the Scandinavian countries and were willing to implement it in Lithuania.<sup>5</sup> A number of tripartite institutions have been established and tripartite agreements signed since 1991, following this trade unions’ initiative supported by the government.

Lithuania now has a number of tripartite councils and commissions, most of which have specialized roles. The majority operates at the national level, though some have extended their activities to the regional level as well. The most important forum is the Tripartite Council of the Republic of Lithuania, which had a tangible effect on the national social and economic policy and development of employment relations.<sup>6</sup>

### **III.1 Tripartite Council of the Republic of Lithuania: Brief Historical Survey**

The history of the Tripartite Council is rather short. Before 1991 no negotiations were carried out between the Government and the trade unions and there were no employers’ organizations either.

The trade unions were the most important actor seeking to implement the idea of tripartite cooperation. On the first resolution of trade unions on February 4, 1993 it was stated:

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<sup>3</sup> Ibid.

<sup>4</sup> I.Blažienė, B.Gruževskis, Institute of Labour and Social Research. Available at: <http://www.eiro.eurofound.eu.int/2005/01/feature/lt0501103f.html>

<sup>5</sup> “Lenkijos-Lietuvos visuomeninio dialogo regioninė mokykla. Žinynas”. 2003. Towarzystwo naukowe organizacji i kierownictwa.

<sup>6</sup> Žingsnis po žingsnio socialinio dialogo link. 2002. Lietuvos Respublikos Trišalė taryba.

“<...> All the governments worked <...> without listening to the demands or proposals put forward by the workers or their representatives and in fact, failed to implement the obligations as the member of the International Labour Organization - to recognize the principle of the tripartite partnership in the labour market. We demand that the General Agreement between the government and trade unions in which regulations relating to our members should be presented would be signed till March 10. In case the government fails to give a positive answer, we shall take measures of exerting pressure on the government.”<sup>7</sup>

In 1993 during the meeting of the president of the Republic of Lithuania with the representatives of the associations of the trade unions there was a proposal put forward to start the tripartite cooperation among the government, the trade unions and the employers' organizations and through this mechanism attempt to solve the most important social and economic problems. As a consequence, there was the agreement signed between the government and the trade unions. The Agreement contended the stipulation that “the contracting parties approve the principle of tripartite cooperation which is followed by the International Labour Organization, and urges to create the employers' organizations”. It should be noted that at that moment the employers who could be represented by their newly formed organizations - the Lithuanian Confederation of Industrialists and the Lithuanian Alliance of Businessmen - had not been participating in the process of dialogue.

In November 1993 the representatives of the Lithuanian Confederation of Industrialists met with the Lithuanian Trade Union Center. During this meeting the joint statement was signed where parties declared the necessity to start bilateral cooperation between the trade unions and the employers' organizations. It was also pointed out that in order to avoid strikes and social conflicts tripartite cooperation was necessary.

However, the establishment of the Tripartite Council was started only after the Seimas of the Republic of Lithuania (the Parliament) ratified the Convention of the International Labour Organization No. 144 “On Tripartite Consultations to Implement International Labour Standards” on June 23, 1994. Hence, the Ministry of Social Security and Labour was obliged to establish the Tripartite Council, to prepare the regulations for this institution and to convene the first meeting. In May 1995 the Agreement on Tripartite Partnership was signed by the government, the trade unions and the employers' organizations. It was agreed to:

- To solve social, economic and labour problems on the basis of the tripartite principle, to cooperate in the implementation of the social, economic and labour policy;
- To establish the Tripartite Council of the Republic of Lithuania and approve the regulations of its activity;
- To sign an annual tripartite agreement on the solution of the social, economic and labour problems for each year.<sup>8</sup>

The Tripartite Council of the Republic of Lithuania was established on May 5, 1995. The Regulations of this institution of the highest level of the social dialogue in Lithuania stipulate that “the Council is the body established on the basis of the equal trilateral partnership which by mutual agreement solves social, economic and labour problems whereby seeking to main-

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<sup>7</sup> Social Dialogue in Lithuania. 2003. The Tripartite Council of Lithuania.

<sup>8</sup> Ibid.



tain social peace in the society”.<sup>9</sup> From the very beginning of the Council’s activities, there was an orientation towards the Scandinavian model of the social dialogue, which was favourably perceived both by the social partners as well as the government.

During the first period of the Tripartite Council’s activities in 1995-1998, the organizational basis for the functioning of the Tripartite Council was created and the structures of the social partners crystallized. In 1999 the first Agreement on Tripartite Cooperation was signed by the Government of the Republic of Lithuania, the trade unions and the employers’ organizations, whereby it was planned to prepare and to coordinate drafts of the legal acts on the basis of the tripartite principle, to address the most urgent problems at the Tripartite Council, and act according to the provisions of the tripartite agreements. In the same year, the Tripartite Council expanded its activity and established four regular commissions dealing with the social and economic issues.

In years 1999-2000 because of the frequent changes of the ministers in the government and controversial attitude of the government towards the tripartite cooperation, there were doubts cast upon the activities of the Tripartite Council. During that period the government had intentions to limit the role of the Tripartite Council and to diminish the significance of this institution. Fortunately, these plans were not implemented because of the changes in the government.

In 2001 with the formation of the new government, the Tripartite Council became active again. In 2002 the first annual agreement on tripartite cooperation was signed by the government, the trade unions and the employer organizations. Since 2003 the principles of the social dialogue and the status of the Tripartite Council are regulated by the Labour Code (articles 39-47), whereby Art. 45 presents a definition of the Tripartite Council.

In 2004 the social partners acknowledged the necessity to renew the tripartite agreement signed in 1999. In June 2005 the representatives of the government, trade unions and employers’ organizations signed the new amended agreement of cooperation. Among other provisions it contends the presentation of the social partnership plans for two years: they include the provisions on the strengthening the legal basis of the social partners, widening the scope of the collective labour relations, implementation of training activities for the social partners, launching the radio program. However, there are no provisions on the development of the contraction of the collective agreements on the industry branch level.

In sum, in years 1995-2005 (till September) there were 84 sessions in the Tripartite Council held, where 548 issues were debated: 400 social economic problems and 148 general problems were discussed in the forum of the Council.

### **III.2 The Tripartite Council: Structure and Functions**

The Tripartite Council is based on the principle of the equal tripartite partnership and seeks to tackle social, economic and labour problems by mutual agreement. The Council acts in compliance with the Constitution of the Republic of Lithuania, the Labour Code, other legislation and its own rules. The basic principles of the Tripartite Council activities involve equality of rights of the parties, regular activities, joint consensus in decision-making and the advisory nature of the decisions of the parties.

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<sup>9</sup> Ibid.

In accordance with the Regulations, the Council consists of fifteen members: not more than five representatives of the government of the Republic of Lithuania, the trade unions and the organizations of employers.

The permanent members of the Tripartite Council are:

- Permanent representatives of the government of the Republic of Lithuania:
  - Ministry of Finance (*Lietuvos Respublikos Finansų ministerija*),
  - Ministry of Economy (*Lietuvos Respublikos Ūkio ministerija*),
  - Ministry of Justice (*Lietuvos Respublikos Teisingumo ministerija*),
  - Ministry of Social Security and Labour (*Lietuvos Respublikos Socialinės apsaugos ir darbo ministerija*),
  - Ministry of Agriculture (*Lietuvos Respublikos Žemės ūkio ministerija*).
- Permanent representatives of the trade unions:
  - Lithuanian Trade Union Confederation (*Lietuvos profesinių sąjungų konfederacija*),
  - Lithuanian Trade Union “Solidarumas” (*Lietuvos profesinė sąjunga “Solidarumas”*),
  - Lithuanian Labour Federation (*Lietuvos darbo federacija*).
- Permanent representatives of the employers’ organizations:
  - Lithuanian Confederation of Industrialists (*Lietuvos pramonininkų konfederacija*),
  - Lithuanian Business Employers’ Confederation (*Lietuvos verslo darbdavių konfederacija*).

Members of the Tripartite Council receive no remuneration for their work in the Council. The head office of the Tripartite Council is at the Ministry of the Social Security and Labour. The organizational work related to Tripartite Council is carried out by its secretariat, an institution financed from the state budget, established in 1998 within Ministry of Social Security and Labour. The secretariat is led by secretary of the Tripartite Council’s, who is appointed and discharged by the Minister of Social Security and Labour on the proposal of the Tripartite Council.

The main functions of the Tripartite Council are:

- Analysis of the social, economic and labour problems and submitting recommendations on the resolution of such problems;
- Discussion of the existing laws and drafts of legislation in the social, economic and labour sphere, and drawing conclusions and making proposals to the Seimas (the Parliament) and the government;
- Analysis of the possibilities of using bipartite and tripartite partnership in resolving various social, economic and labour issues, and making recommendations to the parties on the expansion of social partnership;
- Drafting an annual tripartite agreement concerning social, economic and labour issues (signed by the authorized representatives of the government, trade unions and employers’ organizations);
- When necessary, coordination of the activities of other bipartite and tripartite institutions in the social, economic, and labour sphere;
- Discussion of the questions falling under ILO Convention No. 144 and making related decisions;

- Informing social partners and society more widely about its activities.<sup>10</sup>

In exercising these functions, the Council has the following rights:

- To make decisions, conclusions and recommendations within the limits of its competence;
- To receive all information necessary for its functioning;
- To convene sittings and hearings of the representatives of the parties and experts on issues falling under its competence;
- When necessary, to coordinate the work of other bipartite and tripartite institutions in the social, economic and labour field.<sup>11</sup>

The Tripartite Council's chair is elected for a four-month term on the agreement of all parties. If unable to participate in a session, the chair delegates the role to another member of the same grouping (i.e. trade unions, employers or government) who is also a member of the Tripartite Council.

### III.3 Procedures

The activities of the Tripartite Council are regulated by the Council regulations.<sup>12</sup> Accordingly, meetings are held at least once a month. The agenda might comprise (1) debates on legal acts the representatives of the government are going to present in the session of the Tripartite Council, and (2) issues suggested for discussion by social partners. The agenda is composed by secretariat of the Council and presented for the social partners in advance.

The parties must present draft documents and issues to be discussed at the session and other relevant information to the Tripartite Council secretariat at least 8 days before the session. Not later than 7 days before the sitting, the secretariat provides Tripartite Council members with access to the materials presented. The session of the Tripartite Council session can take place only if attended by at least a half of the representatives of each party. If required to be absent for important reasons, a member of the Tripartite Council may delegate another person to attend the session.

As mentioned, the Council reaches decisions by agreement of all three parties. Differing opinions are reflected in the minutes of the session. The Tripartite Council may agree to hold additional discussions on an issue, if no agreement is reached.

To discuss particular questions in depth, the Tripartite Council may establish permanent or temporary tripartite commissions. There are currently 4 permanent tripartite commissions under the auspices the Tripartite Council, covering: labour relations; remuneration; employment and social guarantees; and tripartite consultations on the implementation of the international labour standards. There are two temporary commissions dealing with Labour Code addition and amendment issues and working out a draft project for social partnership measures in 2005. The members of the Tripartite Council may participate in the work of any of these commissions.

The Government is bound to send all the law drafts or other legal projects concerning social issues for the analysis to the Tripartite Council as stipulated in the Agreements on the Tripart-

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<sup>10</sup> Social Dialogue in Lithuania. 2003. Tripartite Council of Lithuania. Vilnius.

<sup>11</sup> Ibid.

<sup>12</sup> Lietuvos Respublikos Trišalės tarybos nuostatai. Žin., 2005, Nr. 15-488.

tite Partnership signed.<sup>13</sup> The idea is to ensure that no decision of the government concerning social and economic issues would be passed without the consultation with the social partners. However, the opinion issued by the Tripartite Council is of advisory nature and in legal sense is not binding for the government.

In fact, however, it depends entirely on the “benevolence” of the government. Most often the ministries, especially the Ministry of Social Security and Labour sent the drafts of the legal acts for consultation in the Tripartite Council. However, if the representatives of the ministries in the Tripartite Council decide that some legal act draft should not be presented for some reason for the debate in the Council, the draft is not sent for consultation. The interviewed representatives of the ministries provided several reasons for decision to omit the consultations in the Tripartite Council: (1) the lack of time (if it is expected that the discussions will prolong the adoption of a legal act), (2) the lack of necessity to consult social partners, since the issue is of minor importance, (3) political reasons: the necessity to pass a legal act even predicting the negative reaction of the social partners.

Quite often the factor that influences the government decision not to consult the Tripartite Council is the pressure of time. The consultation process in the Tripartite Council is rather lengthy; some issues are discussed for almost half a year. There are situations, when the government cannot wait long for the decision of the Tripartite Council. On the other hand, because of lack of experts, the social partners are not able to generate common position under the time pressure. In particular, in case of the government’s position towards the EU directives, the time is very short. In such a situation, the opinions of the social partners have to be collected usually via telephone in a few hours.

Decision whether to present or not some project in the Tripartite Council is made in each ministry involved in the Council’s activity. The Ministry of Social Security and Labour could serve as an example. Usually, the ministry informs the social partners about the legal act in preparation and asks for the opinions of the social partners. If opinion is positive and there no contradictions among the opinions of the social partners, the ministry does not sent this draft for an official consultation to the Tripartite Council. The draft is not sent for consultation, if the social partners do not express their opinion at all, which means lack of interest in the issue.

In particular, while making so called political decisions (necessity to pass a legal act according to the political majority in the Parliament and the government) the social partners are quite often not consulted. This is due to the logic of the some politicians that the social partners aim to protect their interests and do not perceive the problems on the national level. In other words, political decisions are made predicting the negative reaction of social partners and do not consult them. Following the opinion of a respondent, here the logic “politicians know better” acts.

If the draft of the legal act is believed to be of prime importance for the social partners, it is sent directly for consultation to the Tripartite Council. However, very often the social partners want to analyze the act in the very first stage of preparation. This means that the draft as it arrives to the Council might later be changed in ministry after consultations with experts, etc. The minister decides on the final form of the legal act draft. The draft is followed by the explanatory sheet, where the remarks of the consulted institutions are presented and the reasons for the acceptance or rejections of their proposals.

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<sup>13</sup> Social Dialogue in Lithuania. (2003) Secretariat of the Tripartite Council

If the Tripartite Council decides in favour for the legal act, the act is passed further according to the legislative rules, to Seimas (the Parliament). The draft is followed by the affirmative opinion of the Tripartite Council, showing that the social partners approved the draft.

If the Tripartite Council does not reach an agreement on the draft, then there are two ways: (1) to continue negotiations with the social partners, provided there is no time pressure; (2) to discuss the issue in a special commission; (3) to leave the decision on the government, if social partners were unable to reach compromise.

If social partners are unable to reach an agreement on one side, the recommendations or decisions of the Council are presented to the government with a remark that social partners had different opinions. In that case the Council proposes the ministries, the government, the parliament or other state institutions to take into consideration different opinions of the social partners while making a decision on debated issues.

The social partners can initiate every question for discussion that concerns the economic and social issues. In reality, the questions initiated by the social partners are not always directly addressing the economy or social policy of the state. There are a number of questions that are rather of general nature (e.g. the issue of compensated medicine for the retired persons, the issues of the national language status in the foreign owned enterprises). Some of the social partners consider this situation to be a sign of the Council's openness to the needs of the population. Others consider the broad agenda overloading the Council, and would prefer the Council to concentrate on the labour relations, which still need a lot of regulations.

It must be noted that the secretariat of the Tripartite Council plays a very important role for the efficient functioning of this institution. It not only prepares the agenda, carries on all the organizational duties but also has the power to request the information necessary for the social partners. The social partners are not empowered to send a request to a ministry demanding the information or explanation to be delivered on set time. In contrast, the secretariat can ask the governmental institutions for information or clarification to be delivered on a set deadline.

Although the Council meets once a month (there are 10-11 sessions per year), because of expanded agenda the social partners do not always have enough time to discuss all the issues thoroughly. According to the secretary of the Council, the work of the Council would be more effective if the Council met more often.

### **III.4 Other Tripartite Institutions**

Other tripartite/bipartite councils, commissions and committees may be established according to the procedure prescribed by special laws or collective agreements, in order to address and resolve issues relating to labour, employment, health and safety and social policy implementation, on the basis of tripartite/bipartite cooperation. The procedures and composition of the tripartite/bipartite bodies and their functions are established in their own regulations. In the cases stipulated by law, the government or signatories of collective agreements must approve the regulations. The current tripartite institutions are as follows:

- The Council of the State Social Insurance Fund (*Valstybinio socialinio draudimo fondo taryba*).
- The Tripartite Commission of the Lithuanian Labour Exchange (*Trišalė komisija prie Lietuvos Respublikos darbo biržos*).
- The Commission on Employees' Safety and Health (*Darbuotojų saugos ir sveikatos komisija*).

- The Employment Council at the Ministry of Social Security and Labour (*Užimtumo taryba prie Socialinės apsaugos ir darbo ministerijos*).
- The Expert Council of the Lithuanian Labour Market Training Authority (*Ekspertų taryba prie Lietuvos Darbo rinkos mokymo tarnybos*).
- The Lithuanian Council of Vocational Training (*Lietuvos profesinio mokymo taryba*).
- The Council of the Guarantee Fund (*Garantinio fondo taryba*).<sup>14</sup>

There are tripartite councils established in largest cities and functioning on regional level in Kaunas, Klaipėda, Šiauliai, Panevėžys.<sup>15</sup> The problem is that these institutions are functioning rather pro forma: they were established following to necessity to implement the social partnership idea. The difficulty with the successful functioning of these institutions rests on the fact that social partners lack theoretical knowledge and practical skills to negotiate and generally implement the idea of the tripartite partnership. Therefore, one of the members of the Tripartite Council suggested that the Tripartite Council should be more flexible, which means, it should arrange its meetings for regional tripartite councils, so that the practical functioning of the tripartite partnership could be displayed.

Though the network of tripartite institutions is quite well developed and covers a number of basic fields of the labour market in Lithuania, only the Tripartite Council appears to have more or less tangible effect on the national social and economic policy. In spite of positive attitude towards the tripartite consultative system, in practice a number of the institutions described are only formal bodies without any direct impact on final decision-making. Their rights and obligations are often vague and mutual cooperation is underdeveloped. The situation in regional bodies is particularly problematic, as here it is often difficult even to find suitable partners for the representation of employers or employees' interests.<sup>16</sup>

### III.5 Future Perspectives

Over the Tripartite Council 10 years of activity there have been no periods that could be called critical for this institution. Despite the problems mentioned above, the Tripartite Council is a stable functioning public institution. Its activities have important weight in seeking well-balanced decisions on the social and economic issues.

New challenges occurred in 2004 when Lithuania joined the European Union and the social partners delegated their representatives to the European Economic and Social Committee and other EU institutions. At present there are no measures to try to achieve consensus among Lithuanian social partners with regard to the draft EU legislation. The Ministry of Social Security and Labour is looking for ways to resolve this problem.

It is believed that some of the problems will be solved in the nearest future. In January 2005, the Tripartite Council approved its two-year joint action plan for years 2005-2006. Among issues discussed, the plan provides the initiation of negotiations at branch as well as regional level, the creation of a system of calculation of the members of trade unions and employers' organizations, the improvement of laws governing the activities of employers and trade unions, and consultations over resolution of emerging problems. Some actions have been undertaken in this regard: employers' confederations have signed an agreement to make decisions

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<sup>14</sup> For details see Appendix 4.

<sup>15</sup> A. Kvedaravičius "Problemas aiškiosios dialogo". *Lietuvos profs'jungos*, 2004 sausio 30d. Nr. 1-2.

<sup>16</sup> Ibid.

on relevant issues only after interim consultations, while trade unions are continuously referring to the need of coordination of positions instead of acting separately.

An opinion is emerging that the model of the European Economic and Social Committee should be implemented in Lithuania, whereby representatives of the government would not directly participate in the dialogue. This proposal has been so far opposed by representative of the employers and trade unions, who consider this proposal premature, since employers and trade unions organizations are not mature enough for the independent bilateral discussions and the participation of the representatives of the government is still necessary. However, in any case the present model of national level social dialogue can hardly be maintained for long, as quite a lot of issues relevant to the public (for example, environmental protection, healthcare and emigration) have not been seriously tackled by the institutions of social dialogue.

In 2004 two main trends can be observed in terms of the organization and role of social partners: (1) there was an increase in number of their activities; and (2) there was more coordination of their activities.

Both employers' associations and trade unions increased their educational measures, in the form of seminars, conferences and training sessions.<sup>17</sup> In addition, there was more public information in the mass media (television, radio and the press) on social partnership and the activities of the social partners. The government also paid more attention to the social partners. Over the year, the cooperation of ministries with the social partners was encouraged in particular by the development of the National Action Plan for Employment.

With regard to the greater coordination of the activities of the social partners, on June 29, 2004 the regulations of the Tripartite Council were amended in order to include a paragraph on the coordination of the positions of the social partners. This paragraph recommends that only those issues that social partners have agreed upon should be raised during the Tripartite Council sitting. In addition, the opportunities for the greater consolidation (from company level to the branch level) were discussed within trade unions. However, no specific steps were taken in this direction.

On September 21, 2004 two main employers' organizations - the Lithuanian Confederation of Industrialists, which represents larger businesses, and the Lithuanian Business Employers' Confederation which covers small and medium enterprises, signed a memorandum and agreement to foster greater cooperation. This agreement commits both parties to deliberate and coordinate their actions in: submitting proposals and offering opinions on the issues that are of interest to both parties; and representing and protecting the interests of both parties in the EU institutions and in public and in international organizations.

The role and influence of the social dialogue on social and economic development in Lithuania is expected to grow.<sup>18</sup> The competence of the Lithuania social partners is increasing and the institutional framework and contacts with foreign partners are strengthening. Lithuania's accession to the EU accelerated the involvement of the social partners in the formation and implementation of employment and social policy. Further, the rapid economic development

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<sup>17</sup> Sirvydienė, L. "Pramonininkai stiprina socialinių partnerių vaidmenį". Lietuvos žinios, 2003m. spalio 23 d. Nr. 232.

<sup>18</sup> Ibid.

and legal environment of the EU will facilitate further cooperation of the social partners in order to ensure balanced economic growth and the development of human resources.<sup>19</sup>

In the nearest future, efforts will be made to tackle a number of social and economic issues by means of social dialogue at national level. In 2005 partners made decisions on increasing the minimum monthly wage, the legislative regulation of temporary employment agencies and the practical application of the methodology for the evaluation of jobs and functions were drawn in 2004. In addition, issues surrounding corporate social responsibility are being addressed to an even greater extent in Lithuania - the development of such responsibility depends to a large extent on the efficiency of social dialogue at all levels.

Following the adoption of the Law on Work Councils at the end of 2004, the process of setting up work councils and strengthening of their role was planned in 2005. It is at present difficult to forecast the development of this process, its influence on the improvement of social dialogue and the development of the cooperation between work councils and trade unions. However, it is clear that this will be a new experience for social partnership in Lithuania. It is probable that setting up work councils will contribute to increasing the number of collective agreements. It is also probable that sectoral and/or national collective agreements will be concluded in the near future.<sup>20</sup>

#### **IV. Social Partners**

The organizations representing the interests of the employees and employers are the same since the very beginning of the existence of the Tripartite Council. The regulations of the Council do not contain any provisions regarding the formal requirements for the social partners' organizations. The organizations which are members of the Tripartite Council were selected to the Council according to the relative representativeness, activity and interest in the tripartite partnership. These are national organizations, representing employees and employers of various branches which are actively involved in the development of the social dialogue in Lithuania.

At present there are three national trade unions organizations, representing employees' interests of the various branches. There are also non-associated trade unions; however, there is no reliable statistics on the number of such trade unions and their membership. The non-associated trade unions are rather amorphous structures formed in particular enterprises, on regional level and in some branches. They do not have formal representatives in the Tripartite Council.

##### **IV.1 National Trade Union Organizations**

###### **Lithuanian Labour Federation (Lietuvos darbo federacija, LDF)**

Lithuanian Labour Federation (LDF) was re-established in 1991. At present, LDF counts circa 20 000 members.<sup>21</sup> In 1995 it merged with Lithuanian Trade Unions' Association. In 1997 LDF was joined by Union of Regional Trade Unions of Lithuania. From 1999 LDF has 12 branches organized on an industrial or professional basis, and regional organizations in all

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<sup>19</sup> 2004 Annual review for Lithuania. Available at: <http://www.eiro.eurofound.eu.int/2005/01/feature/lt0501102f.html>

<sup>20</sup> Ibid.

<sup>21</sup> Lietuvos darbo federacija. Available: <http://www.ldf.lt/index-en.htm>



regions of Lithuania. Since 1996 LDF is a member of World Labour Confederation (WCL) and European Trade Union Confederation (ETUC).

### **Lithuanian Trade Union Confederation (Lietuvos profesinių sąjungų konfederacija, LPSK)**

Established in 2002 after the merge of two largest trade unions centers - Lithuanian Trade Union Association and Lithuanian Trade Union Center. At present, LPSK is comprised of 26 branch trade unions with membership of 120 000.<sup>22</sup> LPSK publishes a newspaper “*Lietuvos profsąjungos*” (Lithuanian Trade Unions). LPSK is a member of International Confederation of Free Trade Unions (ICFTU) and since 2003 member of European Trade Union Confederation (ETUC).

### **Lithuanian Trade Union “Solidarumas” (Lietuvos profesinė sąjunga “Solidarumas”)**

Established in 1989 as Lithuanian Workers Union, changed the name in 2002. “Solidarumas” unites 33 regional workers unions, 12 industrial-occupational federations, Women Federation and Youth Committee. At present “Solidarumas” counts 58 000 members.<sup>23</sup> Structure of governing: congress, coordination council, presidium and revision commission. “Solidarumas” publishes monthly “*Lietuvos darbininkas*” (Lithuanian Worker). Since 1994 “Solidarumas” a member of the International Confederation of Free Trade Unions (ICFTU) and since 1997 an affiliate in the European Trade Unions Confederation (ETUC).

## **IV.2 National Employers Organizations**

At present, there are two national associations of the employers in Lithuania. The Lithuanian Confederation of Industrialists represents the interests of the industrial enterprises; the majority of them are big companies with numerous employees. Small and medium scale enterprises are represented by the Lithuanian Business Employers’ Confederation.

### **Lithuanian Confederation of Industrialists (Lietuvos pramonininkų konfederacija, LPK)**

Reestablished in 1989 as Association of Lithuanian Industrialists, in 1993 reorganized into Lithuanian Confederation of Industrialists. At present, the Confederation unites 42 branch associations and 8 regional associations, altogether 2700 enterprises.<sup>24</sup> There are also LPK members that do not belong to associations and joined the Confederation on individual basis. Among LKP members are the majority of Lithuanian producers, banks, trading companies, representatives of foreign companies, research institutes and educational institutions. The activities of LPK members represent the main branches of industry: nearly all the producers are its members.

### **Lithuanian Business Employers’ Confederation (Lietuvos verslo darbdavių konfederacija, LVDK)**

Established in 1999, with the merge of two entrepreneurs’ confederations: the National Entrepreneurs’ Confederation and Lithuanian Entrepreneurs Employers’ Confederation. At the moment the membership counts 2000 enterprises and 49 associated structures (regional and

<sup>22</sup> Lietuvos profesinių sąjungų konfederacija: mūsų nariai. Available at: <http://www.lpsk.lt/en/static.php4?id=1742&strid=1741&>

<sup>23</sup> Social Dialogue in Lithuania. (2003) Tripartite Council of Lithuania. Vilnius, p. 20.

<sup>24</sup> Lietuvos pramonininkų konfederacija. Available at: <http://www.lpk.lt/Default.asp?DL=L&TopicID=63>

sectional business associations). It is the largest organization in Lithuania representing small and medium enterprises. The majority of members (c. 80%) are small enterprises with up to 50 employees.<sup>25</sup>

### **IV.3 Problems of Representation of Social Partners**

It should be noted that in Lithuania there is no exact information on the representation of two main employers' organizations and three main trade union centres. These organizations provide either inconsistent or unspecified information on their membership. As Lithuanian legislation does not provide for the obligatory registration of trade union membership, the exact number of employees represented by the three centers is not known. According to the data provided by the unions themselves, their combined membership is around 200,000 making up 14% of all those in employment.<sup>26</sup> This is due to the fact, that because of the Soviet period and the obligatory membership in the trade unions, the trade unions are still associated with the relict of the Soviet past. Trade unions are most numerous in some big enterprises, in most cases there were strong trade unions in the Soviet period, too. In addition, many big enterprises with numerous trade unions bankrupted and ceased to exist after 1990.

Then, there are many enterprises owned fully or partially by the foreign companies which do not support the creation of the trade unions. This can be about big companies owned by the Lithuanian nationals, too. For example, the biggest Lithuanian retail chain VP Market does not support the creation of a trade union within their enterprises, although this company is known for a very unfavourable employment policy and working conditions as well as low wages.

In case of the absence of the representative body of the employees in the enterprise Lithuanian Labour Code contains provisions allowing establishing of so called work councils in the companies. This body would be in some respect as alternative to the trade unions. However, so far this provision is rather formal and very opposed by main trade unions - they consider work councils to be dependent on the employer and not really representing the interests of the employees.

In addition, for a long time the trade unions were not able to cooperate. Since 1989 there were four main trade union centres that competed with each other to a great extent. In the beginning of the Tripartite Council activity, there happened situations, when the trade unions got into conflict because of different standpoints on the issue discussed, thus making themselves to discredit their position in the Council as acknowledged by the interviewed members of trade unions. However, later, the trade unions have signed a mutual agreement by which they develop their position before the meeting of the Council, so that during the public discussions they do not contradict each other. Fortunately, at present three main trade union centers now existing in Lithuania share a common position towards the social policy of the state and generally supporting each other, at least on the official level.

Noteworthy, the three major trade union centres sitting in the Tripartite Council are all branches embracing organizations, in some cases even competing ones (e.g. there are several trade unions representing teachers' interest, employees working in healthcare system, etc.) in one branch. At the same time the problem is that so far there are no sectoral or branch agree-

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<sup>25</sup> Lietuvos verslo darbdavių konfederacija. Available at: <http://www.ldkonfederacija.lt/index.php?-1772434317>

<sup>26</sup> Trade unions in focus. Available: <http://www.eurofound.eu.int/2004/12/feature/lt0412102f.html>

ments signed. This precludes the representation of the interests of the employees of one branch.<sup>27</sup>

Similarly with the trade unions two main organizations of employers in Lithuania, they are not really representative. According to the information provided by the secretariat of the Tripartite Council, the two national employers' confederations group only about 7% of total number of enterprises.<sup>28</sup> Recently, the Association of Trade Enterprises, probably one of the largest employers' organizations, with around 100 000 employees employed by member enterprises left the Lithuanian Confederation of Industrialists. The owners or the retail chains believe that the trade unions will never be formed in their enterprises, as there any need for them. It was proposed to transfer the powers of representation of employers' interests to the Chamber of Commerce, Industry and Crafts (*Lietuvos prekybos, pramonės ir amatų rūmai*), however, these proposals were opposed by the employers' confederations.

In sum, because of transformation processes the strength and the position of the social partners changed. The trade unions have relatively strong position, and this strength is due to their active involvement in the activities of the Tripartite Council. Considering employers' organizations, in case of the Industrialists Confederation, one can talk about the relatively strong organization (in terms of membership, financial resources, activities and engagement in the activities of the Tripartite Council as lobbying), one cannot say the same about Lithuanian Business Employers Confederation, since the biggest employers in this sector are not the members of this association. However, currently, all the social partners are seeking to evolve their institutional potential – especially through the activities in the Tripartite Council.

#### **IV.4 Forms of Dialogue within the Tripartite Council**

Social partners are inclined to dialogue in Lithuania. First of all, they are aware that this is the method of resolving the majority of the most important economic and social problems. Since there are no sector/branch organizations in Lithuania, it would be difficult to reach the consensus without Tripartite Council forum.

Secondly, social partners are willing to eliminate the social tension. Dialogue, even though conducted by relatively weak institutions, seems to be effective in case of the dealing with the pressing economic and social problems. So far there were no major strikes in Lithuania, which shows that the tripartite partnership is quite effective in eliminating social tension. Noteworthy, the main activities of the Tripartite Council are the regulation of labour relations as well as the consultation of the government on social and economic issues. The elimination of critical situations (strikes, social tensions) is not the main function of the Council, rather it is secondary function – the goal of the Council is to help to create social policy that would not induce social tensions.

The dialogue most often chosen is the bipartite one, however, within a framework of the Tripartite Council. This is because the Tripartite Council presents a forum for all the most significant employees and employers organizations to meet, to present their interests and to seek for consensus. The role of the government in fact is reduced to the role of the mediator, presenting also the government's vision over the solution of the problems under discussion. Dialogue beyond the Tripartite Council would not be that effective, since as social partners stress, there is no mechanism so far enabling the similar process of discussing issues on a high level

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<sup>27</sup> Žingnis po žingsnio socialinio dialogo link. 2002. Lietuvos Respublikos Trišalė taryba

<sup>28</sup> Social dialogue in Lithuania. 2003. Tripartite Council of Lithuania.

as it is possible within the Tripartite council with meeting the important associations representing the employees' and employers' interests.

As it mentioned already, there is no dialogue going on in branches. This is the main problem precluding successful tripartite partnership. The absence of dialogue within branches is due to the absence of strong trade unions representing the interests of the employees in one branch on the national level and absence of the strong institution representing the interests the of the employers on the other side.

However, the dialogue between social partners is evolving. The partners invite each other the sessions and conferences organized by their associations. The representatives of the government are also invited to these events. In addition, the social partners also contact the representatives of the government on behalf of their association. Therefore, it might be said that the bipartite dialogue beyond the Tripartite Council is increasingly growing.

#### **IV.5 Competition of the Social Partners in the Tripartite Council**

The conflicts in the Tripartite Council are mainly stemming from diverging interests of the employees and employers. Each organization represents its members that differ in their interests.

One can talk about the competition among the trade unions; however, this competition is rather specific. The largest organization Lithuanian Trade Union Confederation often takes the leader role in many initiatives. It is also strongly promoting the idea of trade unions joining one centre, where the main role will be taken by the Confederation. At the same time, other trade unions, even though smaller, are not willing to give up their influence and role. Although officially supporting idea of one trade union centre, they admit that this idea is premature. They are contesting the idea of one big trade union as being potentially harmful to the democratic functioning of the tripartite partnership. Hence, one can observe paradox in Lithuania: one the one hand, trade unions are aware of their weak negotiation power as separate organizations (mainly because of poor representativeness), on the other hand, they are not willing to give up their weak but still influential powers in some circles.

Smaller trade unions admit that one of their primary goals is recruitment of the new members and thus, gaining the "weight" for the organization. For example, recently, LPSK has expanded the scope of its activities and established new functioning bodies within its organization. In September 2003 in order to increase the membership in the trade unions, new LPSK Recruitment Department was established which employs coordinators for recruitment of trade unions members. In addition, Legal Labour Inspection was established with a set of lawyers consulting trade union members on labour law issues. Nevertheless, there is no open competition among the trade unions manifested. On the contrary, the trade unions that are present in the Tripartite Council are willing to cooperate to achieve common goals.

Contrary to the trade unions, the employers' organizations do not compete with each other. Lithuanian Confederation of Industrialists is bigger and more active organization (in terms of membership, potential, scope of lobbying and activities in the Tripartite Council) than Business Employers' Confederation. However, these organizations represent different types of enterprises: Confederation of Industrialists represent large enterprises, while Business Employers' Confederation stands for small and middle size businesses. Although both represent employers, it happens quite often that their positions differ: for example, the increasing of minimal monthly wage does not significantly affect big companies, while it has significant impact for the small enterprises.

It is difficult to prove the conflicts on political basis in the Tripartite Council. During the interviews, there were insinuations voiced that particular organizations are supporting or sympathize with particular political parties or groupings. These insinuations would always come from the “adversary” side. However, any of the organizations adhere to any official political connections and declare to be free from the influences of political parties. This might be questionable; however, the research did not discover apparent political influences in the work of the Tripartite Council.

## **V. Accountability and Transparency**

Accountability and transparency in the Tripartite Council are evaluated mainly through the analysis of the patterns of communication and openness to other associations in Lithuania.

### **V.1 Channels of Communication**

The interviewed members of the Tripartite Council evaluate the channels of communication very positively. This is due to several factors.

First of all, the communication is effective because of the work of the secretariat of the Tripartite Council. The secretariat because of their duties ensures regular and intense communication among all members of the Tripartite Council.

Second, both trade unions and employers’ organizations made agreements that they would consult their positions before the sitting, so that during the sitting they would not express conflicting positions. Therefore, trade unions or employers’ associations usually present a common opinion, although in some cases it happens that social partners disagree. This means, thus, that social partners are obliged to communicate on a regular basis before each sitting of the Council.

Third, all social partner organizations have developed an inner structure by which they can quite quickly collect opinions from all levels and associated members of the organization on the issues debated in the Tripartite Council. Collected opinions are presented during the meeting of the governing body of the association and then the position of their organization to be presented in session of the Council is developed.

Noteworthy, in case of the trade unions, the consultations are not limited only to the trade unions’ that are members of the social partners’ organizations. The non-associated trade unions are also invited to seminars and conferences where they can express their opinions.

Moreover, the social partners communicate beyond the Tripartite Council. The representatives of the trade unions and employers’ associations invite each other to their events and seminars, where they exchange their opinions.

In addition, the trade unions publish their newspapers where they regular discuss each session of the Council, the positions of the social partners and the most important issues. The newspaper of the Trade unions Confederation *Lietuvos profsajungos* has a regular column under the title “What’s new in the Tripartite Council?”<sup>29</sup> The employers’ organizations post their information for their members online.

To add, each session of the Council is open for journalists. Some debates, especially, on the amendments of the Labour Code and the increasing of the minimal monthly wage are regu-

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<sup>29</sup> See Lietuvos profsajungos Nr. 6, 2005 m gegužės 4 d., Nr. 5 2005 m. balandžio 11d.

larly covered in national dailies like *Lietuvos rytas*, *Kauno diena*, *Verslo žinios Respublika*, *Lietuvos žinios*.<sup>30</sup>

The members of the Tripartite Council were not willing to talk about the informal ways of communication; however, the informal communication has its impact on the social dialogue within the Tripartite Council. The members of the Council meet beyond the Tripartite Council; they participate in seminars, meetings and conferences organized by social partners. In addition, because of the fact that the member organizations in the Tripartite Council are the same for ten years already, many members of the Council know each other personally. Thus, informal communication influences the Tripartite Council, too.

Some interviewed members of the Council think that the informal communication should be more active, meaning that if the social partners would coordinate their positions in advance informally, and that would eliminate unnecessary and lengthy discussions during the Council sessions.

The weak rotation from the side of the trade unions is double-edged. On the one hand, weak rotation means that the leaders of the trade unions representing employees are more experienced. On the other hand, it might lead to the “oligarchization”, i.e. when the leaders of the trade unions make elitist circle, serving its own interests, thus, becoming the elite of the trade unions and consequently, closer to the other elites. However, the phenomenon of oligarchization is not present in Lithuania. It is due to the fact that by now the trade unions are not that strong elitist associations and leaders of the trade unions are still very remote from other elites. In addition, the strength of the trade unions is their articulation of the position of defence of employees’ interests and criticism of the government. This wins the support of the employees to the trade unions and gains the strength to the leaders.

Finally, the Tripartite Council has a radio program on the First Program of the National radio, broadcasted every two weeks, where the most important issues for the social partners are presented. This is the most important tool to get to the wider audience, since the Tripartite Council does not publish any regular bulletin about its activities. This is interactive program, giving a possibility for the audience directly poses questions to the members of the Tripartite Council.

## V.2 Openness to Other Associations

There are no barriers for new members to enter the Tripartite Council because there are no new potential members to enter the Tripartite Council in the nearest future. So far, it is unlikely that new strong trade union or employers’ association will emerge that would be possibly striving to get into the Tripartite Council in the nearest future. There is a slight possibility that there would be two trade unions represented instead of one, however, it will take a lot time for this fusion to happen. Thus, in the nearest future the members of the Tripartite Council will not change.

However, in spite of the lack of rotation of the member organizations in the Tripartite Council, the social partners do not limit their activities solely to the articulation of interests they are representing. In particular, the trade unions are open to the opinions of non-associated trade unions (which is due partly for the willingness to attract new member to their associations). As the interviewed members of the Tripartite Council admit, any association is dismissing any interested organization in expressing their opinions while discussing a particular issue. For example, since the agenda of the closest Tripartite Council meeting is presented in trade un-

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<sup>30</sup> See *Verslo žinios* 2005m. kovo 4 d., *Kauno diena* 2005 m. sausio 27 d., *Lietuvos rytas* 2005 m. sausio 26d.

ions' press, theoretically every trade union whether a member of the trade unions' confederation or not, can deliver its position to the representatives of the trade unions in the Tripartite Council. The problem, however, is that usually the trade unions which are not members of the confederations are not organized and their representation is doubtful. Theoretically, thus, employees or employers' associations not represented by the member organizations in the Council, can deliver their opinion. During the sittings of the Tripartite Council there are representatives of the organizations invited that are not regular members of the Council. It is done by one of the social partners to strengthen their position.

In addition, the Tripartite Council debates not solely labour relations. There are many questions discussed which are important for other social groups or for the population in general. For example, under the initiative of the LPK (Lithuanian Industrialists Confederation) there was an issue of the compensated medicine discussed - a problem very acute for the retired people. At present, responding to the initiative of the trade unions, the Tripartite Council will discuss the possible consequences of the introduction of Euro in Lithuania. There is a special commission created that is collecting information on this issue.

To conclude, intense communication among the social partners and openness to the other associations contribute to the implementation of accountability and transparency within the Tripartite Council.

## **VI. Legitimacy and Efficiency: The role of Tripartite Council in a strategy of government**

The main criterion for evaluation of legitimacy of the Tripartite Council is the significance of the Council for government, social partners and the system and the impact of its activities for the state. Efficiency can be measured through analysis of the activities of the Tripartite Council with regard to the expected goals.

As it was stated already, the Tripartite Council is an important forum for discussing the social issues on the high level. This institution enables effective representation of interests both for trade unions as well as the employers' organizations - there the most important organizations present their opinions and get to know opinions of other social partners. In addition, the presence of the representatives of the government ensures that the opinions of the social partners are delivered also to the executive level.

Furthermore, the effectiveness of the functioning of the Council is due also to the regularity of the Council meetings and clear procedures of its functioning. Thus, the Council ensures the continuity of the social dialogue. The Council, as said by one of the members, "became a norm in our country and there is nobody to contest the necessity of this institution".

In sum, the Tripartite Council is an important institution where the social partners can articulate their interests and seek compromise on significant social and economic issues. Although the majority of issues concern labour relations are primarily debated by trade unions and employers, the presence of the representatives of the ministries ensures the cooperation of the government with social partners.

In order to ensure the greater effectiveness and prestige of the Tripartite Council, some representatives of the trade unions express an idea that ministers and the Prime Minister should be present at the Council's sittings and the decisions of the Council should be binding for the government. However, this idea is not supported by the employers and the government itself, the Tripartite Council by its nature cannot have the power to make the decisions for the government.

In any case, the social partners can influence the decision making process through their representatives in the Council. In fact, as the interviewed members claim, the opinion of the Council is very important factor for the government. If the Council agrees with the government's proposal, the proposal acquires an additional positive value - legitimizing value. In case the Council disagrees or fails to reach consensus, usually the proposal is resent for the debates in the Council until it reaches consensus on the issue.

When asked about other methods of the influencing the decision making process (e.g. lobbying, informal meetings, pressure to the members of parliament), the social partners admit that they use these methods, too, however, one cannot directly compare their effectiveness. The employers' organizations engage into lobbying activities quite actively, trade unions use pressure methods (writing to the members of parliament, making petitions in front of their houses, etc.); in spite of that, they still need to communicate with other social partners and the most effective communication is possible in the Tripartite Council. The social partners assure that the Council is the best way to defend and promote their interests.

In some respect, representation of the position and interest of social partners during the sessions of the Tripartite Council might turn to be more effective than lobbying. As one interviewed leader of a trade union said, lobbying might mean waiting behind closed doors of the government officials without there is any guarantee one will get in and one will be heard. Trade unions and employers' organizations cannot make request to the government for explanation of its position. On the contrary, in the Tripartite Council the representatives of the government must be present during the sessions, they are obliged to respond to the questions and suggestions of the social partners as well as present the required information. Therefore, the formal contacts with the representatives of the government are very important for the social partners and they appreciate the Tripartite Council for giving this opportunity for the informal contacts.

For the government the Council plays an important role, too. The positive opinion of the social partners strengthens the proposal of the government, which is important while presenting the project in the Parliament. However, this is not to say that government treats the Council instrumentally. Generally speaking, if the government would like to propose something without the consultation with the Council, it can do that, which means disregarding the tripartite partnership agreement (such cases happened already).

For example, while discussing the issue of the law draft on the Guarantee fund for the bankrupted enterprises, the proposal of the government was to finance this institution by setting 0.2% fee for the employers. The employers' organizations were against this proposal, trade unions were supporting the government. In that case, the government implemented its proposal and since then the issue of the compensations for the employees of the bankrupted companies is solved.

Generally, if government or Parliament is intending to make so called "political decisions", they are not willing to consult with social partners. The reason for avoiding debates in the Tripartite Council is the attitude of some politicians or government officials to the policy making: namely, they think that some decisions need to be made in spite of the possible negative reaction of the social partners. In addition, government officials and some members of Parliament entertain an idea that social partners lack the global vision on the social and economic processes, fiercely protecting their interests. This "short sight" of social partners is used as an argument for government not to present some legal drafts in the forum of the Tripartite Council.



According to the social partners, the answer to the question if the government is open to the opinion and proposals of the Tripartite Council depends to the great respect on the ministry, whose proposal is analyzed or to which proposal is made. Here, the most responsive turns to be the Ministry of Social Security and Labour. This is quite a natural result, since this ministry “patronizes” the Tripartite Council and cooperates with it most often.

As for other ministries, they are not yet that willing to react to the Council’s recommendations. For example, the representative of the Ministry of Economy replied that the duty of Ministry while making a decision is to take into account the macroeconomic factors and the state of economy in general, on which the social partners are not always competent. Therefore, the Ministry while making a decision or proposal does not always accept the opinion of the social partners.

Accordingly, the Ministry of the Social Security and Labour is sending almost all proposals and draft for consultation in the Tripartite Council, while other ministries do not yet use fully this institution in their decision making process.

If the social partners are unable to reach an agreement, the government and the parliament are free to act. In this case, there is a danger that the issue that could be solved by social partners is solved by politicians according to their political preferences. However, there were no cases of “instrumental” treatment of the Council by the government. This is because the Tripartite Council is an institution which is firmly established in the structure of the state and functions efficiently. It would be difficult to manipulate it. On the contrary, for the government it would be more comfortable, if the social partners became more “independent”, that is, able to reach bipartite agreements and not leaving the decision on the government.

Members of the Council acknowledge, this is one of the few really well functioning democratic institutions in Lithuania and the activities of the Council result in important changes both for the employees and employers. In addition, the Tripartite Council has a significant impact on the employment and social policy of the state. Its importance first and foremost is based on the fact that the Tripartite Council is a forum where the trade unions and the employers’ organizations debate over important issues. In other words, the importance of the Tripartite Council rests on the effectiveness of the bipartite dialogue. As the interviewed persons stress, this dialogue would not be fruitful, be the issues discussed beyond the framework of the Tripartite Council.

Furthermore, the interviewed members of the Council were not able to distinguish one the most important social partner in the Tripartite Council, stressing that both trade unions and the employers’ organizations participate very actively in the works of the Tripartite Council. The most passive social partner (in discussions) turns to be the representatives of the government, which on the other hand in legal sense are the most powerful actors.

However, even though the representatives of the government are less active during the very sessions of the Tripartite Council, the role of the government is very important one. This is due to the fact that social partners are still weak. The presence of the representatives of the government adds “seriousness” to the discussions and enables the direct articulation of interests to the government officials. In this case, both for trade unions and employers it is important to express their position with the presence of the government representatives.

It is important to mention that in the beginning of the Tripartite Council functioning, the government was represented by ministers during the Tripartite Council sessions. Later, however, the ministries delegated vice-ministers or state secretaries to the sittings of the Tripartite Council. The reason for withdrawal of the ministers from the Tripartite Council was their ambiguous status in the Council. Although acting like representatives of the government, they

could not really represent and influence the position of government on the basis of the decision of the Tripartite Council. In other words, they could not assure that the government will implement all the proposals of the Tripartite Council as some social partners expected. The ministers could not make governmental decision relying solely on the opinion of the Tripartite Council without consulting the whole body of the government. Therefore, it was decided that the ministries will be represented by secretaries of state or vice-ministers who are acting as state officials and are not political figures.

Some social partners think that this step was the sign of the underestimation of the Tripartite Council by the government. Several representatives of the trade unions consider that the ministers themselves should represent the ministries, thus, giving the opportunity to deliver the opinion of the social partners “directly to the top”. However, it seems that this proposal is not widely supported among the social partners, since the rank of the government officials now participating in the sessions is high enough to ensure the delivery of the social partners’ opinion to the government.

Finally, since its foundation the Tripartite Council was more or less active, however, it never stopped its activities. The Council is meeting regularly (usually once in a month), discusses issues according an agenda prepared in advance by the secretariat of the Tripartite Council under the presence of the journalists.

To conclude, the national Tripartite Council is an institution that has a firm place in the democratic structure of the state. It plays an important role in developing the social dialogue and is evaluated as a very necessary institution for all social partners. The Tripartite Council has a significant impact of the formation of the social policy of the state, which means that the government takes into account the opinion of the Council. The efficiency of functioning of the Tripartite Council is due to the intense communication among the social partners and clear procedures regulating the work of the Council. At the same time, of great importance is the attitude of the ministry towards the Council and its willingness to consult the social and economic issues with the social partners.

## **VII. Roles of the Government and Social Partners: Two Case Studies**

For the purposes of this study, two issues were chosen as cases of analysis of the functioning of the Tripartite Council and roles of the government and social partners in particular: the debates on the Labour Code of the Republic of Lithuania and increasing of the minimal monthly wage. These issues demonstrate slightly different patterns of the Council work. If in case of the debates over the Labour Code the main actors were the trade unions and employers and the government played a rather minor role. In contrast, in case on the debates on the increasing minimal monthly wage, the government is the strong player in the Council. These two issues demonstrate slightly different patterns of the seeking of compromise by social partners.

These two issues were selected for several reasons. First of all, the works over the Labour Code draft is considered both by researchers as well as the members of the Tripartite Council and the government as the most important achievement of the Tripartite Council throughout since its establishment and had an immense importance for the labour relations in Lithuania. Almost ten years of work of the Labour Code was the most important task the Tripartite Council performed so far, which was important for the economy and social policy of the state.

Second, the issue of discussions over the minimal monthly wage periodically appeared in the agenda of settings of the Tripartite Council. In addition, this issue was mentioned as the important one by all the interviewed members of the Tripartite Council, since it is a vivid example of the process of negotiations among the government, the trade unions and the employers’

organizations. Finally, these both issues have a deep social meaning and receive a wide coverage in mass media.

Most importantly, however, these two issues illustrate the differences in the important aspect under study: the strength of the government, the strength of social partners, effectiveness and legitimacy. Two case studies are to stress the different aspects of the Tripartite Council: the case of the Labour Code draft was tackling the aspect of the efficiency, while the case of the debates over the minimal monthly wage demonstrates the legitimacy within the Tripartite Council.

### **VII.1 Debates on the Labour Code Draft**

The work on the Labour Code draft was the most serious undertaking by the Tripartite Council so far. The debates on the Labour Code draft lasted from 1995 till 2002. The Labour Code the Council was working on was the one to replace the Labour Code that was adopted during the Soviet period. There was a necessity to adopt new code that would regulate the labour relations in a democratic state with functioning market economy. In this respect, the social partners felt the responsibility to protect their interests and at the same time work towards the results which would be satisfactory both for the employees as well as for the employers.

With the privatization of formerly state owned enterprises and the establishment of new private enterprises, there was a need to regulate the labour relations according to the changing conditions. Many of the provisions of the Soviet Labour Code were inapplicable to the private enterprises. There was a need to ensure the possibility for employers to act freely in market conditions at the same time not neglecting the rights of the employees. The employees wanted their rights to be protected.

With the changing economic and social situation, the role of the trade unions was changing, too. Trade unions were to modify their role and modes of action in market economy. Because of transformation processes in the country, the trade unions lost their membership. In addition, the trade unions were separated: for a long time there was no strong trade unions association.

Moreover, with the emergence of the private enterprises, the role of the government in the regulation of the labour relations changed. The state regulates labour relations in the state owned enterprise, while in private enterprises the labour relations can be regulated by collective agreements, i.e. the agreements between the employer and the trade union or work council as stated in the Labour Code. However, in Lithuania the collective agreements are still not popular, primarily because of very weak bipartite partnership between the trade unions and the employers on other national level. Therefore, many of the labour relations issues, which can be regulated by the bipartite cooperation, are still regulated directly by the Labour Code.

The work on the Labour Code draft started in the commissions of the Tripartite Council, later the provisions were discussed in the sessions of the Council. The members of the Council admit that the trade unions were the most active agents working on the Labour Code draft. One of the representatives of the trade union said: “We understood that was a historical chance to do something for our benefit and we, the trade unions, were very united while working on the Labour Code.” The trade unions strove to protect their interests and, as all members of the Tripartite Council admit, they succeeded.

There can be several reasons presented for the trade unions success. First of all, the trade unions engaged in the work very seriously. They were supported by experts: lawyers working for the trade unions and experts from the Scandinavian countries, who provided with their know-how in the European labour law. Second, the trade unions were very united, according

to their testimonies; there were no major disagreements on the Labour Code provisions. Third, the trade unions employed informal methods, while promoting their interests. For example, in order to protest against liberalization of the Labour Code, the trade unions organized pickets in front of the houses of members of parliament, sent petitions and addressed many members of the parliament directly. Fourth, the trade unions were supported by the chairman of the Parliamentary Committee for the Social Affairs and Labour, who at that time was the chairman of the trade union and actively promoted the interests of the trade unions in Seimas (the Parliament). Finally, the success of the trade unions is due to the relative passivity of the employers' organizations, which were not that active in protecting their interests.

As the representatives of the employers' organizations admit they did not contribute enough attention to the protection of their interests in the Labour Code. Therefore, some provisions in the Labour Code contradict or limit the interests of the employers.

The role of the government was limited to preparation of the draft which was debated on by the social partners. It must be said that social partners admit that the government was open to the position of the social partners.

In spite of the weaknesses and shortcomings, the Labour Code was a success – it comprises almost 300 articles and, only on 16 of them the social partners were not able to reach a compromise. The Labour Code was adopted in 2002.

However, the work on the Labour Code is not yet finished. The employers associations would like to liberalize the Code, since the existing provisions limit to the great respect the conditions of the labour relations. For example, the Labour Code contains strict regulations on the work time, the payment, the length of vacations, etc. Employers consider these rigid regulations to be an obstacle in for raising the efficiency of the enterprise and would like to change these regulations with provisions that work time, the minimal payment, etc. are to be regulated by bipartite agreements. The government supports this idea, however, at present it is difficult to convince the trade unions. Trade unions are still afraid that the liberalization of the Labour Code will bear negative consequences for the employees.<sup>31</sup>

The debates about the liberalization of the Labour Code were not yet conducted in the Tripartite Council, although, both the employers and the representatives of the government agree that in the nearest future there will be an urgent need to amend the Labour Code in this respect.

## **VII.2 Debates on Increasing the Minimal Monthly Wage**

The second issue under scrutiny was the debates over the minimal monthly wage. This issue appears in the agenda of the Tripartite Council regularly. The government proposes to raise the minimal monthly wage and presents this project to the Tripartite Council. This is the issue, where the interests of the trade unions and employers usually are diverging. For the employers this means the obligation to pay higher minimal salary.

The issue of the minimal monthly wage is very important for the society, too. Noteworthy, the debates on this issue are covered in popular media, where the opinion and works of the Tripartite Council are discussed. This does not happen with other problems the Tripartite Councils deals with.

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<sup>31</sup> Socialinis kompromisas, o ne principas "ponas-vergas". Lietuvos profsajungos. 2000 gruodžio 21 d. Nr. 24(91).

There are several reasons for interest the government vests to the issue of increasing the minimal monthly wage. First of all, the government is interested in regulating the labour relations in private companies and forces them to pay a higher minimal wage, since the situation of the employees in such companies is still quite weak. The second goal is to fight the illegal employment which is often the case in small private companies and to force these companies paying taxes, i.e. to take measures against shadow economy. The third reason is the absence of the branch agreements, thus, government has to regulate the issue of minimal wage for all the branches itself. Finally, in this case the government is also interested in raising its popularity in front of electorate.

The attitudes of the social partners differ in respect to this issue. Naturally, the trade unions support every project targeted at the increasing the minimal wage. However, the representatives of the employers are divided in their attitudes towards this issue. The Lithuanian Industrialists Confederation usually approves the increasing of minimal wage. In fact, this association representing big industrial companies proposed several times to increase the minimal much more than it was provided in the government proposal. This is so because of the striving of the Industrialists Confederation to eliminate the unfair competition in business and fight shadow economy.

On the other hand, the Business Employers' Confederation is less enthusiastic about the increasing of minimal monthly wage. Since this association represents small and medium scale enterprises, the increasing of minimal wage has a significant impact. The argument the Confederation uses is the possible bankruptcy of many small enterprises because of higher wages to be paid to the employees. Therefore, several times the Confederation asked for expert analysis to be conducted in order to find out the possible outcomes of the increased minimal monthly wage for the economic situation of the small and medium enterprises.

The issue of the increasing the minimal monthly wage is periodically discussed in the Tripartite Council. Last time it took almost a year for the Tripartite Council to reach an agreement – the debates were going since summer 2004. The decision of the government was approved by the Tripartite Council in January 2005. Accordingly, the minimal monthly wage was increased in July 2005. Social partners approved the decision, except for the Lithuanian Industrialists Confederation, which argued that the economical situation is unfavourable for the increasing the minimal monthly wage.

### **VII.3 Two cases compared**

#### **Strength of the government**

In case of the debates over the Labour Code draft, the government left the majority of work for the social partners. In this case, the social partners (especially the trade unions) engaged in the preparation of the Labour Code very actively. The role of the government was that of the mediator and, if the social partners failed to agree on some issue – the final solution was left on the government. In fact, the weakness of the social partners was the greatest obstacle precluding the full implementation in the Labour Code of the interests of social partners. In other words, if the social partners succeeded in reaching the compromise, the government would leave most of the initiative for the social partners to make the Labour Code to reflect their interest. The important role of the government, thus, was inevitable rather than taken voluntary.

On the contrary, in case of the debates on the minimal monthly wage, the initiative and the final solution depend to a great respect on the government. The government basically “allows” starting and encourages the debates on this issue in the Tripartite Council, if the budget and the political situation are favourable for the increase of the minimal monthly wage. In this

case, the social partners can agree or disagree with the proposal of the government; however, the scope of their initiative is very limited: the social partners virtually have very limited chances “to force” the government to increase the minimal monthly wage, if it is not within the plans of the government. Therefore, in this case the government has a much stronger say in the Tripartite Council.

### **Strength of the social partners**

Furthermore, strength of the social partners is different in these two cases: while debating on the Labour Code, the social partners have many opportunities to make the decisions following the compromises they reached. The government leaves the bigger say in the formation of the labour relations on the social partners and they either succeed or fail to use this chance. Social partners had enough opportunities to design the provisions of the Labour Code following their interests but because of their weaknesses they were not always successful to use those opportunities.

In case of the debates on the increasing the minimal monthly wage, the weakness of the partners is due to their very limited role as opposed to the strong role of the government. To repeat, the government initiates the discussions on this issue in the Tripartite Council and makes the final decision. The role of the social partners is limited to the agreeing or disagreeing with the government.

### **Legitimacy and effectiveness**

Finally, the two cases differ regarding the goals the government vests to the Tripartite Council. In the case of the debates on the Labour Code draft, the government hoped to increase the effectiveness of its policies by shifting the preparation of the Labour Code to the expertise of the social partners and thus, reducing the compliance costs. However, in this case the government was not always successful - because of the weakness of the social partners discussed above.

In case of the debates on the minimal monthly wage, the government rather puts the stress on the legitimacy. In fact, since the government is the strongest actor and decision maker in this case, the idea is rather to make consultations with the social partners within the forum of the Tripartite Council to legitimate the decision of the government. Since these debates are followed in the mass media, the issue of legitimacy is very much stressed: whether the government consulted the social partners, what their positions were, etc.

Thus, these two cases under study show the different roles and goals of the government within the Tripartite Council and the roles of the social partners. Accordingly, dependent on the situation, the government addresses the Tripartite Council pursuing the goals of the effectiveness and/or legitimacy of its social policies.

## **VIII. Weakness / strength of social partners and its impact on the functioning of the Tripartite Council**

As it was already mentioned, in the Tripartite Council the representatives of the government play quite often a role of a mediator between the trade unions and the employers. As the interviewed secretary of state representing the ministry of Social Security and Labour stated, the government is looking forward for the greater and more effective cooperation between social partners, which would enable the regulation of certain issues, especially arising from the labour relations for the partners themselves. In other words, it would be less problematic for the government and easier for the social partners to reach a compromise, if certain issues would

be regulated by mutual agreements between the trade unions and employers rather than by government regulations and laws.

For example, if one considers the Labour Code there are still regulations to which trade unions and the employers have different attitudes, like pay for additional working time, the length of additional work time, the length of paid vacations. So far, these issues are regulated by the Labour Code. However, the problem is that employers think that these regulations should be liberalized. One of the main arguments used by employers is the Lisbon Convention, whereby the European Union is supposed to become a strong economical partner on the international market. In short, the EU and in this context Lithuania as well should become more competitive economies.

However, the problem is that it is very difficult for trade unions and employers to reach a compromise on the regulation of these issues in the Tripartite Council. Even if some trade unions agree with the liberalization of the Labour Code, it does not change much the situation, since there are no branch agreements. Hence the Trade Unions Confederation, which is unifying the trade unions of several branches, cannot decide for all of them.

Therefore, it would be more reasonable to have provisions in the Labour Code stipulating that some issues are regulated by mutual agreements between the trade unions and the employers. This can happen only if there are such agreements signed, especially, in branches. So far, because the trade unions and the employers' organizations are rather weak as organizations, such agreements are missing. In this situation, the government solves the situation by state regulating the problematic issues, or rather, because of inability of the social partners to reach a compromise in this respect; the government has still to control it.

According to the secretary of the Tripartite Council, throughout the whole existence of the Council there were c. 450 economic and social issues discussed. 20% of cases the consensus was reached, 20% the social partners reached the compromise but there were different opinions. In other cases the social partners were not able to formulate the common position and delegated the decision to the government.

The representatives of the government become very active when the social partners try to interfere into the sphere that belongs to the competencies of the government; for example, those connected to the integration to the EU processes. If proposals of the social partners contradict the EU directives, the representatives of the government stop the discussion immediately. Similarly, the government takes care that the proposals of the social partners at the Tripartite Council would not contradict the conventions of the ILO and the national budget.

One of the major weaknesses of the social partners is the lack of experts. In this respect, the government is a strong partner, since the ministries have their lawyers and experts representing their interests. The employer organizations and especially, the trade unions have problems with hiring as many strong experts as they need because of financial reasons.

Because of the weakness of social partners the model of the Tripartite Council cannot function without the representatives of the government. At present, the government cannot withdraw from the Council as all the social partners agree.

On the other hand, even though the percentage of the associated enterprises and trade unions is not high, the positive aspects are that all major industry branches are represented both in trade unions and the employers' organizations. In addition, the leaders of social partners, especially of the trade unions, are very experienced and competent. This all contributes to the efficiency of the social dialogue.

Currently, there are two possible future models for modification of the Tripartite Council discussed: (1) the expansion of the current model by membership of the associations representing various social groups (for example, the retired people, the disabled); and (2) the foundation of the national bipartite council (without representatives of the government) which would prepare recommendations for the government. In this case, the specialization of the Council would be narrower - mainly dealing with labour law issues. So far there were no major steps taken in implementing any of these models.

## **IX. Conclusions**

To summarize, in Lithuania, tripartite partnership involving the government, trade unions and employers' organizations (particularly at the national level) is much more developed than bipartite relations between employers and unions.

The Tripartite Council is considered to be a very necessary institution both for social partners and the government. Its contributions to the development of the social dialogue are very significant: the trade unions and the employers are able to communicate their needs and interests to the government and the government has a possibility to communicate directly with the social partners. The Tripartite Council enables the interaction, which turns to be quite effective in solving social problems and reaching compromise while debating social and economic issues.

The Council is the only non-political institution in Lithuania, where public organizations can express their opinion on the highest level. Furthermore, the social partners treat this institution as significant and prestigious, which means, that the partners take the membership and work in it very seriously.

The effectiveness of the Tripartite Council is due also to the regulations and the organization of its work. The statute of the Council stipulates the continuous work this institution, describes the organization of the decision making process. The secretariat of the Council completes organizational tasks and acts as the coordinating centre of the Council's activities. This all ensures the regular and clearly regulated work of the Council.

To sum up, the positive outcomes of the functioning of the Tripartite Council as the national institution of the social dialogue are:

1. The continuous and regular functioning since the establishment.
2. The development of the tripartite partnership.
3. The debates on the social and economic issues, which if successful are implemented in the decisions of the government.
4. The elimination of the social tension in the country.
5. The adoption of the Labour Code as the most important task of the Tripartite Council completed.

However, there are still some obstacles which preclude the efficient functioning of the Tripartite Council and development of the social dialogue:

1. Weak social partners. Small representation both of the trade unions as well as of the employers' associations impinges the bipartite dialogue and signing sectoral collective agreements. Social partners also need more experts for the deeper analysis of the projects to be discussed in the Tripartite Council.



2. Weak bipartite partnership. Social partners still need the mediation of the government in regulating the labour relations.
3. There are no sectoral/ branch agreements.
4. Because of the weak bipartite dialogue, the government makes decisions on the issues which can be solved by social partners.

To conclude, the research provided the following outcomes of the test of hypotheses:

*Hypothesis 1:* New modes of governance, because of their logic, may deepen some features of weak state, such as the lack of transparency, the lack of accountability, confusion of tasks and responsibilities, the lack of formal rules or, in other cases, excessive formalization.

Confirmed in part. The analysis of the Tripartite Council in Lithuania proves that NMGs might deepen some features of weak state, especially, the lack of accountability and lack of transparency for the sake of efficiency. On the contrary, in Lithuania the problem of excessive formalization or lack of formal rules is not apparent in the institution of social dialogue.

*Hypothesis 2:* Some new modes of governance introduced in order to increase legitimacy of policy making may lead to their lower efficiency [e.g. negotiations with social partners]. Other NMGs introduced in order to increase the efficiency of policy making may lead to lack of accountability [e.g. executive agencies].

Confirmed. The case of the Tripartite Council in Lithuania shows that there happens “trade off” of legitimacy for higher efficiency. Legitimacy presupposes lengthy discussions with social partners, which in some cases might be harmful for the adoption and implementation of a social policy. On the other hand, seeking efficiency might lead to lack of accountability: in order to adopt and implement policy the government omits consultation in the Tripartite Council, hence, leaving social partners uninformed of government’s intentions.

*Hypothesis 3:* Some new forms of governance are introduced in CEE countries only in order to formally fulfil EU requirements and/ or legitimize (justify) policy decisions ex post.

Rejected. There was no evidence found of introduction of NMGs in order to formally fulfil EU requirements and to legitimize policy decisions ex post in Lithuania. On the contrary, introduction of NMGs was targeted at future possibilities of social partnership.

*Hypothesis 4:* The similarities between some of the new modes of governance to socialists’ institutions (i.e. social dialogue) may facilitate their implementation but they may also have negative impact on their effectiveness and legitimacy.

Rejected. The Tripartite Council bears no resemblance to socialist institutions, since similar institution of the social dialogue was non existent during Soviet period in Lithuania.

*Hypothesis 5:* CEE countries not only have weak states but also weak social partners which may negatively impact the implementation of some NMGs.

Confirmed. One of the main problems of the development of social dialogue in Lithuania is weakness of social partners: in their representation, lack of experts, in some cases - poor skills of tripartite partnership. For this reason the government takes a role of decision maker even in those cases where the competencies could be delegated to the social partners.

*Hypothesis 6:* In the long run EU requirements can strengthen social partners if they are consistently implemented.

Confirmed. The EU requirements and experience of the EU old member states (in particular, Scandinavian countries) helps to strengthen social partners as example of Lithuania shows. Social partners, initiating the idea of social dialogue and tripartite partnership were supported by similar organizations in the EU old member states and try to adopt their know-how of social partnership.

*Hypothesis 7:* The pace of transformation process and the scope of reforms in CEE countries affect execution and evolution of NMG through changes in rules, strengthening and weakening positions of given political and social actors and common situations of political and economic turmoil [radical changes].

Confirmed. In case of Lithuania, the transformation process and, consequently, introduction of NMGs had an impact on changing rules of social dialogue and strengthening position of social actors as the analysis of the case of the Tripartite Council demonstrates.

## X. Annexes

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## **X.2 Social Partners, Short Bio Notes**

### **National Trade Union Organizations**

#### Lithuanian Labour Federation (Lietuvos darbo federacija, LDF)

Address: Vytauto g. 14, LT-03106 Vilnius, Lithuania

Home page: [www.ldf.lt](http://www.ldf.lt)

President: Vydas Puskepalis

#### Lithuanian Trade Union Confederation (Lietuvos profesiniu sajungu konfederacija, LPSK)

Address: J.Jasinskio g. 9-213, Vilnius, Lithuania.

Home page: [www.lpsk.lt](http://www.lpsk.lt)

President: Mykolas Černiauskas

#### Lithuanian Trade Union “Solidarumas” (Lietuvos profesine sajunga “Solidarumas”)

Address: V.Mykolaičio-Putino g. 5, Vilnius 2009, Lithuania

Home page: [www.darbininkas.lt](http://www.darbininkas.lt)

President: Aldona Jašinskienė

### **National Employers Organizations**

#### Lithuanian Confederation of Industrialists (Lietuvos pramonininku konfederacija, LPK)

Address: A.Vienuolio g. 8, Vilnius 2000, Lithuania

Home page: [www.lpk.lt](http://www.lpk.lt)

President: Bronislovas Lubys

#### Lithuanian Business Employers’ Confederation (Lietuvos verslo darbdaviu konfederacija, LVDK)

Address: A.Rotundo g. 5, Vilnius 2001, Lithuania

Home page: [www.ldkonfederacija.lt](http://www.ldkonfederacija.lt)

President: Danas Arlauskas

**X.3 List of Interviewed Persons**

1. Mindaugas Kuraitis, secretary of the Tripartite Council of Lithuania.
2. Rimantas Kairelis, state secretary of the Ministry of Social Security and Labour of the Republic of Lithuania.
3. Gediminas Miškinis, state secretary of the Ministry of Economy of the Republic of Lithuania.
4. Petras Grėbliauskas, first vice-president of the Lithuanian Trade Union “Solidarumas”.
5. Gražina Gruzdienė, the president of the Food Producers Trade Union associated to the Lithuanian Trade Unions Confederation.
6. Algirdas Kvedaravičius, deputy director of the Lithuanian Trade Unions Confederation.
7. Aleksas Bružas, president of the Lithuanian Education Workers Trade Union associated to the Lithuanian Trade Unions Confederation.
8. Vydas Puskepalis, president of the Lithuanian Labour Federation.
9. Mykolas Aleliūnas, vicepresident of the Lithuanian Industrialists Confederation.
10. Jonas Guzavičius, president of the Lithuanian Lift Operators Association associated to the Lithuanian Industrialists Confederation.
11. Rimantas Jagėla, chairman of the Social Issues and Labour Committee of the Lithuanian Industrialists Confederation.
12. Danas Arlauskas, managing director of the Lithuanian Business Employers Confederation.
13. Ingrida Savickienė, representative of the Lithuanian Business Employers Confederation.
14. Algirdas Sysas, chairman of the Seimas Committee on Social Affairs and Labour.
15. Rimvydas Jasinevičius, president of the Vilnius City and Region Business Employers Confederation.

#### X.4 Other Tripartite Institutions in Lithuania

- **The Council of the State Social Insurance Fund** (*Valstybinio socialinio draudimo fondo taryba*). Established in 1991 on the basis of the Law on the National Social Insurance. It is comprised of 15 members representing insured people, employers and state authorities. The tasks of the Council are monitoring the progress of the implementation of legislation governing social security, considering and issuing opinions on the draft budget of the State Social Insurance Fund and monitoring implementation thereof. In order to increase the role of social security 'stakeholders' in the system of state social insurance, in 1998 the Council approved the creation of lower-level territorial councils of the State Social Insurance Fund.
- **The Tripartite Commission of the Lithuanian Labour Exchange** (*Trišalė komisija prie Lietuvos Respublikos darbo biržos*). Established in 1991 on the basis of the Law on Employment of the Population. It is comprised of 15 members representing trade unions, employers' organizations and the government. The Commission analyses changes in the Lithuanian labour market and makes recommendations to the Labour Exchange and Employment Council with regard to the labour market policy implementation, use of the Employment Fund and funding of active labour market policy measures. Tripartite commissions have also been established at each of the 46 local labour exchanges, which analyse and resolve issues related to the implementation of labour market policy.
- **The Commission on Employees' Safety and Health** (*Darbuotojų saugos ir sveikatos komisija*). Established in 1994 on the basis of the provisions of the Law on Human Safety at Work. The Commission is involved in the formation and implementation of policy on safety at work, considering and making proposals related to laws and other regulations governing related to laws and other regulations governing safety-related issues, and analysing the situation in this area. In 2002, following the adoption of a new Law on Employees' Safety and Health, territorial tripartite commissions on employees' safety and health were established in all 10 counties.
- **The Employment Council at the Ministry of Social Security and Labour** (*Užimtumo taryba prie Socialinės apsaugos ir darbo ministerijos*). Established in 1996, based on provisions of the Law on Support for the Unemployed. The Council deals with employment and factors having an effect on it. It also makes proposals aimed at improving the implementation of employment and labour market policy and approves the annual report on the use of the Employment Fund. The Minister of Social Security and Labour, or a member of the Council authorized by the minister, chairs the Council.
- **The Expert Council of the Lithuanian Labour Market Training Authority** (*Ekspertų taryba prie Lietuvos Darbo rinkos mokymo tarnybos*). Established in 1996. The Council is deliberative and monitoring body, whose key task is to assist in the developing the system of labour market vocational training and counselling, and to improve its operation and interaction with the labour market. There are 6 territorial tripartite expert commissions established at the territorial labour market training and counselling offices.
- **The Lithuanian Council of Vocational Training** (*Lietuvos profesinio mokymo taryba*). Established in 1998, based on provisions of the Law on Vocational Training. It is a deliberative body with consultative, expertise and coordination functions over strategic vocational training issues. The Ministry of Education and Science is responsible for the operation of the Council.
- **The Council of the Guarantee Fund** (*Garantinio fondo taryba*). Established in 2001, on the basis of the Law on the Guarantee Fund. It manages the resources of the Guarantee

Fund (the funds assigned for the benefits paid to employees of bankrupt companies), taking decisions as to the allocation of such funds, making recommendations to the government concerning the Fund's activities. Its chair is appointed by the government from the representatives of the state authorities on the Guarantee Fund.