



# Capacity building for social dialogue at sectoral and company level

Estonia

**Introduction**

**Social partner organisations**

**Social dialogue at sectoral level**

**Social dialogue at company level**

**Future development**

**Annex**

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## Introduction

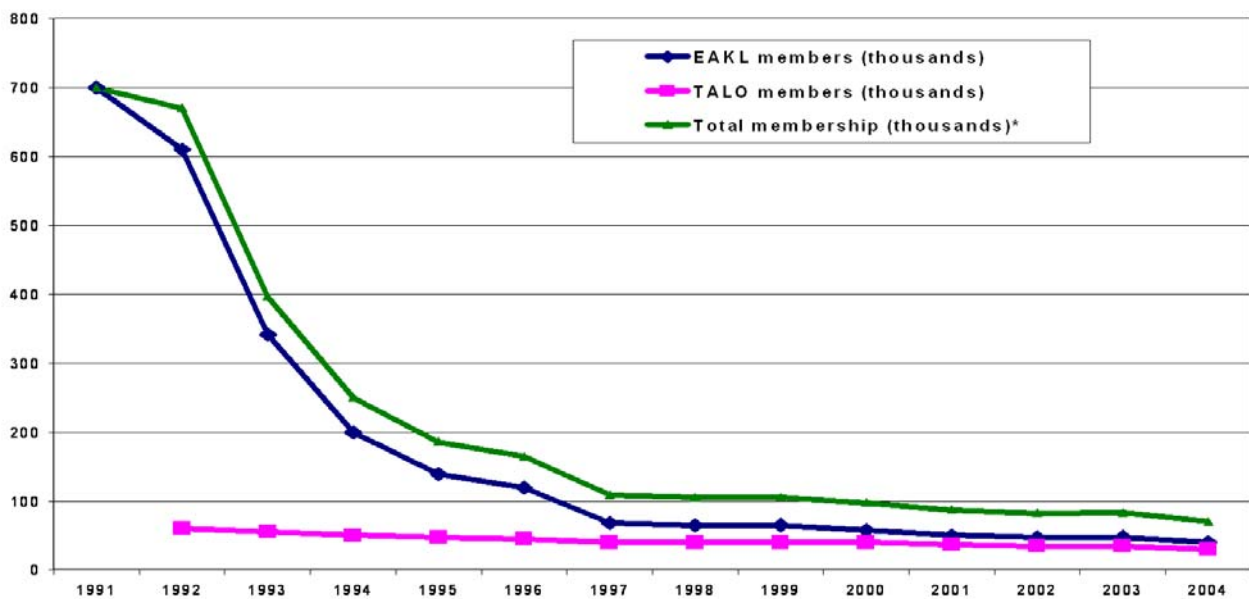
This paper analyses the capacity of Estonia's social partners to effectively engage in social dialogue at the sectoral and company level. The paper forms part of a wider comparative project managed by the European Foundation for the Improvement of Living and Working Conditions (Ireland) and is aimed at helping the social partners in the new EU Member States in building their social dialogue capacities for anticipating and managing change. The report concentrates on studying the organisational, financial and personnel capacities of the sectoral organisations of employers and trade unions for anticipating and managing change, anticipating future developments and implementing outputs. The research is done through interviews with representatives of the national central organisations, as well as analysis of other available information on social dialogue issues.

## Social partners' organisations

### Trade unions

In Estonia, the trade union membership is small – the union density was around 12% in 2005 and the union membership has decreased over the transition period (the density was almost 100% at the end of 1980s and more than 20% in 1996) (see Figure 1).<sup>1</sup> The low level of membership is also accompanied by a low level of collective bargaining – according to different estimates, in 2005 the collective bargaining coverage was around 20–25%.

Figure 1: Trends in trade union membership, 1991–2004



Sources: EAKL, TALO, Statistical Office of Estonia

Note: The actual number of trade union members is in fact somewhat bigger compared to what is presented in the figure for the last several years (2000–2004). In particular, the number in the table is the number of members of central unions, like EAKL (The Confederation of Estonian Trade Unions) and TALO (The Confederation of Estonian Employees Unions). There are trade unions that do not belong to those two organisations. However, there is no exact information on the number of such union members in Estonia. EAKL estimates 8,000–10,000, while Mr T. Kaadu from the Ministry of Social Affairs estimates the membership to be around 5,000–6,000 people.

<sup>1</sup> According to the estimates of Mr T. Kaadu from the Ministry of Social Affairs, trade union membership in 2006 was around 9%.

## Capacity building for social dialogue at sectoral and company level

At national level in Estonia, the different sector-based trade union organisations are united into two national trade union confederations,<sup>2</sup> which are nationally and internationally recognised as social partners:

- The Confederation of Estonian Trade Unions (*Eesti Ametiühingute Keskliit*, EAKL) is the largest organisation. It embraces 19 trade union organisations with more than 43,700 members.
- The Estonian Employees' Unions' Confederation (*Teenistujate Ametiliitude Keskorganisatsioon*, TALO) is the organisation of trade unions of white-collar employees. TALO embraces 12 branch unions with approximately 28,500 members.

In Estonia, trade unions are mainly organised around the sector principle, i.e. they are organised on the basis of the sector to which the employees belong. The majority of trade union organisations represent an entire sector or sub-sector, although there are exceptions. Some sectors, like construction and banking, are union-free in Estonia. There are also some trade unions in Estonia that do not belong to any association or central body and act autonomously. Their role outside their own organisation is practically invisible and their political influence non-existent. The membership of these unions is unknown, but the chair of EAKL, Harri Taliga, estimates the number at 8,000–10,000.

### *Confederation of Estonian Trade Unions*

EAKL is a voluntary grouping of national trade unions and is the largest trade union organisation in Estonia. EAKL was established on 12 April 1990 and is the successor of former Soviet-era Estonian trade unions. It has 19 affiliates/member organisations and a total membership of 43,776 employees (in 2006), employed mainly in the private sector, government and local authorities and health care, usually in blue-collar jobs (see Table 1).

In 2005, the number of affiliates increased by one organisation – the Estonian Trade Union of Commercial and Servicing Employees joined EAKL. However, compared to the year 2000, the number of affiliates of the EAKL has decreased, the reason being that EAKL has a strong strategy to support the mergers of its affiliates. The strategy is based on the idea that the merger helps to increase the capacity of union actions and the effective use of human resources, as well as to increase the economic capacity at branch level. Total membership of EAKL also increased over last year (from 39,796 at the beginning of 2005 up to 43,776 at the beginning of 2006).

Table 1: *Number of sectoral trade union organisations belonging to EAKL and their representativeness*

| Sector  | Number of sectoral trade unions belonging to EAKL | Number of workers of the sectoral member organisations | Developments in membership since 2000 |
|---|---|--|---------------------------------------|
| Agricultural sector   | 0   | 0  | -                                     |
| Industrial sector   | 5   | 18,304   | Decreasing                            |
| Service sector  | 8   | 11,831   | Decreasing                            |
| Public sector (government and local authorities) (incl. health care, education) | 6   | 13,641   | Decreasing                            |
| Other sectoral organisations  | 0   | 0  | -                                     |
| <b>Total</b>  | <b>19</b>   | <b>43,776</b>  | Decreasing                            |

<sup>2</sup> According to the Trade Unions Act, a federation of trade unions may be founded by at least five trade unions. The central federation of trade unions may be founded by at least five national trade unions or federations of trade unions of an area of activity or profession (subsection 7 (1) of the Trade Unions Act).

EAKL is acknowledged by politicians, employers and TALO as the most representative worker organisation in Estonia and is the most active partner in social dialogue, mainly in tripartite consultations and negotiations. The subjects dealt with in tripartite negotiations to which EAKL has been a party include the minimum wage, tax exemptions, employee participation, unemployment allowances and employment councils. EAKL has made contributions to drawing up legislation in areas such as national old-age pension insurance, health insurance and social taxes.

### *Estonian Employees' Unions' Confederation*

TALO is the second voluntary grouping of national trade unions and was established on 28 September 1992 as a split from EAKL. TALO is a non-profit organisation, which is established in order to represent and defend the employees' work, profession and income interests as well as economic, social, educational and society interests and relevant rights through cooperation. TALO has 12 affiliated organisations and its members work in the fields of education, culture, media, agriculture, sports, science, technology and health care, i.e. they are mainly working in the government and municipal sector (see Table 2). At the beginning of 2006, the membership of TALO was approximately 28,500 employees. Over the years, the membership of TALO has been around 30,000 members, mainly white-collar workers. In 2005, the number of member unions/affiliates decreased, as two member organisations of TALO merged.

Table 2: *Number of sectoral trade union organisations belonging to TALO and their representativeness*

| Sector  | Number of sectoral trade unions belonging to TALO | Number of workers of the sectoral member organisations | Developments in membership since 2000 |
|---|---|--|---------------------------------------|
| Agricultural sector   | 0   | 0  | -                                     |
| Industrial sector   | 0   | 0  | -                                     |
| Service sector  | 0   | 0  | -                                     |
| Public sector (government and local authorities) (incl. health care, education) | 12  | 28,500   | Slight decrease                       |
| Other sectoral organisations  | 0   | 0  | -                                     |
| <b>Total</b>  | <b>12</b>   | <b>28,500</b>  | <b>Slight decrease</b>                |

Its main activities are aimed at addressing its members' problems in the areas of work, pay, holidays and social guarantees, and at ensuring social justice. In financial matters, TALO follows the principle of motivating quality labour with better skills and more knowledge. TALO has taken an active part in consultations on medical insurance and pension reform.

### **Employer organisations**

On 29 November 1991, associations representing business in various branches of industry established the Estonian Confederation of Industry (Eesti Tööstuse Keskliit, ETKEL), which in 1992 began to represent employers in the social partnership processes. After several reorganisations and mergers, there is only one central employer organisation in Estonia at the moment – the Estonian Employers' Confederation (Eesti Tööandjate Keskliit, ETTK) – acting as a social partner. Besides ETTK, there are some other bigger employer and entrepreneur organisations recognised by the government, but as having specific tasks. These organisations have not defined themselves in their constitutions as social partners and they are not accepted by trade unions as such:

- The Estonian Chamber of Commerce and Industry (Eesti Kaubandus-Tööstuskoda), which was established in 1925 as a public law chamber and has been a member of the International Chamber of Commerce (ICC) since 1927. After being closed down by the Soviet occupation in 1940, the organisation was re-established in 1989 in order to promote

a favourable business climate for switching to the market economy. Today the Chamber is the largest business association in Estonia. Its membership in 2005 comprised around 3,300 companies, including the majority of large enterprises (mainly from the textiles, metalworking, timber, construction and food industries). The majority of the Chamber's membership nevertheless represents small and medium-sized enterprises (SMEs).

- The Estonian Association of Small and Medium Enterprises (Eesti Väike- ja Keskmiste Ettevõtjate Assotsiatsioon, EVEA), which was established in 1988 as a non-profit organisation, based on voluntary membership by entrepreneurs and SMEs. The main task of EVEA is to promote entrepreneurship in its broader context. It provides consultancy services in many fields of entrepreneurship, such as accounting, legal issues and state support programmes, and information about potential financial resources abroad and foreign trade conditions. In 1997, EVEA became a member of ETTK for all matters related to social dialogue. However, at the end of 2001, EVEA split from ETTK. Its membership is around 400 SMEs.

### *Estonian Employers' Confederation*

In terms of social dialogue, ETTK is now the only central organisation of employers in Estonia. ETTK is acknowledged by the government and trade unions as a social partner and participates in tripartite and bipartite negotiations and structures. There are no legally defined representativeness criteria for either trade unions or employer organisations, with mutual recognition between organisations being the precondition for social dialogue and for signing collective agreements. Historically, ETTK on the employers' side and the EAKL and TALO on the trade unions' side have accepted each other as social partners at national level.

According to Kadri Seeder, ETTK's manager of communication, there are around 3,000 to 4,000 enterprises in Estonia which belong either to employer organisations or to professional organisations. In general, the purpose of professional organisations is to promote the field in which they are operating; designing and consulting business and support activities of its members in the domestic as well as foreign market; represent and promote common interests of the members; exchange information; represent the membership in cooperation with similar international organisations and association of special field, etc. These professional organisations are not participating in the social dialogue.

ETTK is a non-profit independent umbrella organisation of employers' organisations, based on voluntary membership by employers. The membership of ETTK includes both branch associations in different sectors of industry, such as construction, trade and services, and major individual companies. In 2006, ETTK represents 21 branch organisations and 60 individual large enterprises (in June 2005, ETTK had 23 branch organisations and 44 individual large enterprises). During 2004-2005, the number of enterprises joining the ETTK has increased rapidly. According to K. Seeder, the confederation sees potential members among both large and small firms, the target for expansion of membership are also public sector companies and agencies. All organisations are recognised as nationally representative employer organisations.

In total, around 1,500 enterprises/establishments were represented by ETTK in 2006. Around 150,000 workers (including farm workers) are employed by all firms which are direct or indirect members of ETTK. In total, ETTK's members employ around 35% of all private sector employees. Members of ETTK retain full independence in their activities, and none of ETTK's bodies have the right to interfere with the activity of its members.

Table 3: *Number of employer organisations belonging to ETTK and their representativeness*

| Sector   | Number of sectoral employer organisations belonging to ETTK | Number of enterprises of the sectoral member organisations |
|--|---|--|
| Agricultural sector                              | 2   | ~50  |
| Industrial sector                                | 6   | ~385   |
| Service sector                                   | 13  | ~1,065   |
| Public sector (government and local authorities) | 0   | 0  |
| Other sectoral organisations                     | 0   | 0  |
| <b>Total</b>                                     | <b>21 affiliates + 60 large enterprises</b>                 | <b>1,500</b>   |

Today, ETTK's main activities are in the social, labour and economic spheres. It is involved through various channels in shaping national employment and labour market policies; social security and pension reform; occupational health and safety policy; pay policy; working conditions and the working environment; vocational and higher education and training and its reform; economic and entrepreneurship policy; and tax policy. ETTK participates in tripartite and bipartite negotiations at national level.

## Social dialogue at sectoral level

### Organisational and financial capacities

#### *Trade unions*

#### **Capacities of the affiliates of EAKL**

The total number of employees employed by the all sectoral member organisations is 63, from which 19 employees are in industrial sector trade unions, 35 in service sector unions and nine in public sector trade unions. The gender distribution is as follows: 35 men and 28 women. According to Harri Taliga, in general, sectoral trade unions have a great lack of personnel resources – only three member organisations have enough personnel resources. Sectoral organisations also face a moderate or great lack of financial resources for running collective bargaining and for giving legal or any other assistance to their members (see Tables 4 and 5). According to Peep Peterson, chair of the Estonian Transport and Road Workers' Trade Union (Eesti Transpordi- ja Teetöötajate Ametiühing, [ETTA](#)), three trade union organisations (Estonian Transport and Road Workers' Trade Union, Estonian Sailors' Trade Union and Trade Union of Estonian Railway Workers) have enough resources, while only four trade unions have a moderate lack of resources. Besides the membership fee, additional financial resources are gained from cooperation projects (training, recruitment, etc.) where member organisations are participating.

Table 4: *Personnel and financial resources of member unions/affiliates of EAKL*

|                            | Personnel resources | Financial resources | Resources for giving legal or any other assistance to their members |
|----------------------------|---------------------|---------------------|---|
| Enough resources           | 3                   | 3                   | 0   |
| Moderate lack of resources | 6                   | 8                   | 7   |
| Great lack of resources    | 10                  | 8                   | 12  |

Table 5: *Organisational capacities of the sectoral trade unions belonging to the EAKL to conclude sectoral collective agreements*

| Sectoral trade unions in | Good          | Moderate        | Poor |
|--------------------------|---------------|-----------------|------|
| Industrial sector        | 0             | 0               | 4    |
| Private service sector   | 1 (transport) | 0               | 2    |
| Service sector           | 0             | 3 (health care) | 0    |
| Agricultural sector      | 0             | 0               | 0    |
| Other sectors            | 0             | 0               | 0    |

### Capacities of the affiliates of TALO

According to Ago Tuuling, in general, sectoral trade unions have a moderate lack of personnel resources as well as a moderate lack of skilled personnel for running collective bargaining. Trade unions have had enough possibilities to train their members in the issues of social dialogue and collective bargaining and industrial relations. As far as collective bargaining is a voluntary process, in many cases, employer organisations take the tactic of dawdling – they do not refuse agreement, but reaching an agreement takes time and this prolonged negotiation process might exceed the resources of trade union organisations.

Sectoral organisations also face a moderate lack of financial resources for running collective bargaining. According to A. Tuuling, there is sometimes a need to use experts, who know the theory, terminology, how to compile an agreement, etc. Sectoral organisations also face a moderate lack of resources for giving legal or any other assistance to their members. Bigger organisations have better opportunities – for example, the Estonian Education Personnel Union, Estonian Cultural Personalities Professional Union, Estonian Theatre Union, Federation of the Estonian Universities, Institutions of Science, Research and Development (UNIVERSITAS) have remarkably better situations than other small trade union organisations.

TALO's affiliates' organisational capacities of the sectoral trade unions to conclude sectoral collective agreements are moderate and depend on the structure of the trade union organisation. Those unions which have paid staff and regionally developed structures (trade union in education, culture, etc.) are in better positions.

TALO's affiliates do not have any other permanent financial resources besides the membership fee. Some financial help is received from the similar trade union organisations, mainly from Finland and to a lesser extent from Sweden and Germany. At the same time, it should be taken into account that these amounts are small and that these additional financial resources are not permanent. Getting financial resources from employers or from the government is excluded, as this would constitute direct dependence from the contributor and trade unions would lose their independence.

Mr A. Tuuling states that despite the scarcity of resources, there is a need to effectively organise the work and to hire people with good training/background to fulfil only the tasks related to the trade union activities. The time when one could do trade union work alongside other obligations is over. There have been changes in the labour market which have affected the trade union movement as well.

### *Employer organisations*

On average, employer organisations have one to three employees working at the offices of the sectoral member organisations. One exception is the Association of Estonian International Road Carriers (Eesti Rahvusvaheliste Autovedajate Assotsiatsioon, **ERAA**), where around 20 to 30 employees are working at the office. There is more staff working at the offices when affiliates provide certain services (for example, issuing qualification certificates or licences, administering registers, etc.). Gender distribution on average is even at 50% men and 50% women.

In general, member organisations have a great lack of personal resources for running collective bargaining. Usually there are two employees at the offices: one is the managing director and the second person assists and does technical work. The bargaining commissions are usually formed from a managing board. According to K. Seeder, the main argument for the very low interest of sectoral social dialogue is current labour legislation: the majority of issues are strongly regulated and there is no space for bargaining. Another argument is that in many cases, employer organisations do not know who the people/enterprises are that the trade union is representing in negotiations (the member organisations of sectoral trade union organisations are not public). Employer organisations are more interested in regulating the market and market conditions in the sector through lobbying activities. At the same time, there are differences between sectors. For example, employers in transport are fighting against undeclared work and undeclared wages and therefore are interested in collective agreements. At the same time, employers in the construction sector are cooperating with the Tax Board and compare wage statistics to discover the payment of undeclared wages in the sector.

In general, affiliates of ETTK have a great lack of financial resources. The situation is quite similar in different sectors. Potential members are already joined to the sectoral organisations and those who are not joined are usually members by default –; it is quite difficult to increase the membership and change the financial situation of organisations in the present situation. The situation is difficult in the industrial and service sectors and a little bit less complicated in the banking and insurance sectors. Also, the financial situation of affiliates is influenced by whether the government has transferred the right to provide some services. Additional resources are coming from different actions affiliates are organising, such as training and from providing services that the government has transferred to the affiliates, but also from different projects (funding from the EU). However, the financial resources of affiliates mainly come from membership fees.

### Roles and competencies

All sectoral trade unions and employer organisations have a mandate to negotiate collective agreements.

In Estonia, there are only two valid sectoral collective agreements, where the agreement is extended to more than half the enterprises in the sector:

- In September 2004, after a long-lasting and complicated negotiating process in which the public conciliator was involved, a new two-year agreement was signed for workers in the health care sector. The deal was signed for employers by the Estonian Hospitals Association (Eesti Haiglate Liit, **EHL**) and for employees by four trade union organisations – the Estonian Medical Association (Eesti Arstide Liit, **EAL**), the Trade Union Association of Health Officers of Estonia (Eesti Keskastme Tervishoiutöötajate Kutseliit, **EKTK**), the Federation of Estonian Health Care Professionals Unions (Tervishoiutöötajate Ametiühingute Liit, **ETTAL**) and the Estonian Nurses Union (Eesti Õdede Liit, **EÕL**).
- In road transport, bipartite collective bargaining at sectoral level has taken place since 1992. There is one trade union organisation – the Estonian Transport and Road Workers' Trade Union (Eesti Transpordi ja Teetöötajate Ametiühing, **ETTA**) – and two employer organisations – the Union of Estonian Automobile Enterprises (Autoettevõtete Liit, **AL**) and the Association of Estonian International Road Carriers (Eesti Rahvusvaheliste Autovedajate Assotsiatsioon, **ERAA**). ERAA participated in social dialogue in 2002 but does not actively do so at present, though there is still a high possibility that it will participate again in the future. In April 2005, ETTA and AL signed a two-year collective agreement.

In addition, there are collective agreements where there is only one monopolistic enterprise active in the sector (Estonian Energy, Estonian Post and Estonian Railway) and these collective agreements also cover many employees in the sector.

TALO's affiliates have signed nine branch-level collective agreements. However, the coverage of these agreements is relatively low – only less than 20% of enterprises are covered by these agreements. Mr A. Tuuling is quite sceptical in



discussing the sectoral collective agreements. He points out that when moving to the lower levels of negotiations (national – sectoral – enterprise), it is more difficult to get employers to participate in the negotiations. In practice, the situation should be the other way around. To address the everyday activities/communication between employers and employees, more concrete agreements should be signed and the agreements should more straightforwardly reflect the interests of both parties. Unfortunately, the majority of public sector enterprises are dependent on a local or government budget and therefore the employers or their representatives do not want to take responsibilities. As the acceptance of the government budget is usually at the end of the year, there are only few days left to conclude an agreement for the next calendar year. The process is further pressurised because local authorities (who, according to collective agreements, act as employers' representatives and have the rights to conclude national agreements) do not participate in the negotiations and therefore there are no possibilities to conclude sectoral-level agreements in some sectors (e.g. museums, libraries, etc.).

There have been only some sectoral-level collective agreements signed during the last decade in Estonia. The collective negotiation process has been very disappointing and the main obstacle is the unwillingness of employer organisations to enter into collective agreements with unions and they are not willing to agree on sectoral wages. At the same time, H. Taliga admits that this is evidence of the unions' weakness. Mr Taliga states that in the next three years, the situation will remain the same and that the increase in the importance of sectoral collective agreements is an important goal for the affiliates of the EAKL, as the bargaining at sectoral level provides more opportunities to agree on higher wages than the national minimum wage.

ETTK states that, in general, the organisational capacities to conclude sectoral collective agreements are poor. The main obstacle is a lack of motivation – members organisations are more interested in activities that are directed towards developing the sector and not about social partnership. Also common in Estonia is the fact that in the sectors, one party (either the trade union organisation or employer organisation) is often missing, or if both parties are in the sector, then the parties represent different sub-sectors. According to estimates of K. Seeder, less than 20% of enterprises are covered by collective agreements in Estonia. Future perspectives of sectoral dialogue depend on developments in the legislation. At the moment, the legislative situation favours rigid labour relations and there is no space for bargaining.

In general, social partnership and social dialogue at the sectoral level are not very common in Estonia. This is evident from the low representation as well as the institutional and financial shortcomings of social partners' institutions. Collective agreements on wages and working conditions are being negotiated only in a limited number of sectors and companies. The 'classical' sector-based collective agreement, as they exist in the old EU Member States, is limited to a few in Estonia (there are two valid sectoral collective agreements in Estonia – one in health care and one in the transport sector).

In general, there are many interrelated reasons for the institutional weakness of employee and employer organisations in Estonia. Low density rates and moderate wage levels result in scarce human and financial resources of trade union organisations. This in turn means that the negotiators are poorly provided with knowledge and skills. In addition, there are no resources to set up permanent organisations at all levels, and bargaining at all levels at the same time is not possible. Unions are very poorly represented in the private sector and missing in SMEs. Decreasing union density furthermore undermines their role in society. In many sectors, either employer or trade union organisations are missing and thus the development of social partnership is impossible. Sectors where average wages are higher than the national average are also not very keen to develop social dialogue. Many employer organisations are not very interested in social issues – they find that promoting their field is more important for the development of the sector.

Employer organisations have low representation at sectoral level because of the extreme diversity of enterprises. Regarding enterprises, the difference in economic, social and industrial relations within certain sectors are too large for establishing a common framework for all. Even if there is an organisation that might represent employers' interests, it

does not have the authority to conclude the agreements that extend to other companies. This results in a situation where unions do not have a counterpart with whom to negotiate at sectoral level or vice versa. In addition, employer organisations often see themselves more as government lobbyists than social partners in collective negotiations. Given the economic circumstances and the decentralised bargaining structure, neither trade unions nor employer organisations have, with a few exceptions, a strong political will to conclude collective agreements at sectoral level.

Social partners have had to organise themselves first at national level in order to take part in central consultation and negotiations for acting as a partner for the government. The minor importance of sectoral collective agreements and social dialogue can be considered as a side effect of tripartism, and as long as sectoral cooperation is not sufficiently developed, tripartite forums will continue taking on the consultative and regulatory role that bipartite structures often play in the CEE countries.

An unstable economic and structural environment has also hindered collective bargaining development for many reasons. These include a large share of SMEs in which there is little unionisation, restructuring enterprises' property and organisational reforms. Also, rapid economic changes with which social partners were not able to adapt fast enough have contributed to the low importance of collective bargaining. In addition, for many years the economic recession has considerably limited the room for bargaining. With the limited scope for manoeuvring and working out concessions, it is usually difficult to conduct meaningful bargaining at more than one level and thus the sectoral level has been left out.

## **Social dialogue at company level**

### **Working Condition Survey – unionisations and collective bargaining**

In October 2005, a third working conditions survey was carried out in Estonia. It is a continuation of the Working Life Barometer (WLB) surveys conducted in 1998 and 2002. Results of the survey indicate that trade union membership is low – union density was around 11% in 2005 and membership has shown a declining trend. According to the survey, only a quarter of companies have a trade union present; two-thirds of respondents state that there is no trade union organisation in their company; and a tenth of respondents do not know whether there is a trade union in their company or not.

Respondents of the survey were asked to assess several statements about the trade union movement. The majority of employees agreed with the statement that belonging to the trade union does not give any advantage at the workplace. However, a majority of respondents stated that trade unions understand the problems of ordinary workers and that workers can trust trade unions. A below-average number of respondents agreed with the statements that they know how trade unions operate and that trade union activity is backward-looking.

The respondents were also asked whether any collective agreements exist at their workplace. Compared with the previous surveys, bargaining coverage appears higher: in 2005, 25% of respondents stated that there is a collective agreement in their company, while the figure in 1998 was only 10%. At the same time, more than half of 2005 respondents declared that they are not covered by a collective agreement and 23% did not know whether they are covered or not. The results indicate that the majority of workers are not aware of what opportunities, rights and obligations collective agreements offer. At the same time, employers have seldom been forced by means of industrial action (strikes, etc.) to conclude collective agreements. This, it is argued, is partly because of the weak organisation of workers, and partly due to the fact that refusal to conclude a collective agreement is not seen as constituting a labour dispute.

The table below outlines the issues covered by individual and collective agreements. Wages, annual leave and the duration of the employment contract are negotiated mainly between each employee and the employer. Occupational safety and working time are mainly the subject of collective agreements. While, as noted above, collective agreements

are not widespread in Estonia, 70% of respondents state that collective agreements are implemented correctly or almost correctly. Only 5% said that in their enterprises there are problems in fulfilling such agreements.

Table 8: *Issues of individual and collective negotiations (per cent of respondents)*

| Issues                          | Individual negotiations |      |      | Collective negotiations |      |      |
|---------------------------------|-------------------------|------|------|-------------------------|------|------|
|                                 | 1998                    | 2002 | 2005 | 1998                    | 2002 | 2005 |
| Wages                           | 68                      | 70   | 62   | 29                      | 23   | 20   |
| Annual leave                    | 62                      | 52   | 52   | 37                      | 43   | 37   |
| Duration of employment contract | 75                      | 72   | 67   | 23                      | 19   | 13   |
| Occupational safety             | 45                      | 36   | 21   | 53                      | 54   | 55   |

Source: *Tööelu barometer 2005, Saar Poll.*

Respondents' opinions about how negotiations should take place were also sought. Two-thirds of respondents stated that they prefer individual wage negotiations. Only 16% of respondents think that wage negotiations should be conducted together with colleagues, while 5% favour trade union involvement and almost 10% think that wages should be determined by the social partners at the national level. In the case of duration of employment contracts, respondents prefer individual negotiations (67%) and 48% of respondents prefer individual negotiations over annual leave. On occupational safety and health and working time issues, the preference is to negotiate collectively. The survey indicates that workers' involvement in the decision-making process is highest in the case of leave, but also when working time, changes in work organisation and occupational safety issues are discussed.

### **Legislative background**

In general, there are three basic channels of employee representation at the enterprise level in EU countries – trade unions, work council-type bodies and employee participation on company boards. In Estonia, employees may be represented by a trade union representative, a 'workers' trustee' elected by non-unionised workers, or both of them together. According to the **Employees' Representatives Act** (which came into force on 16 July 1993), the workers' trustee is an employee of an enterprise who is elected by a general meeting of employees who do not belong to a trade union in order to represent the employees in labour relations with the employer. The Estonian system is very unusual among EU Member States, as it provides for the parallel existence of both trade union and non-unionised representatives in a company, with both of them having the right to conclude collective agreements.

In January 2005, the Estonian parliament ratified the **Involvement of Employees in the Activities of Community-scale Undertakings, Community-scale Groups of Undertakings and European Company Act**. The Act transposes the EU Directives on European Work councils (94/45/EC) and on employee involvement linked to the European Company Statute (2001/86/EC). The Act establishes the legal framework for information and consultation about multinational employers' activities, economic and employment situation, work organisation and other matters that could interest employees. Up to now, Estonia has not transposed the 2002 Directive on national information and consultation rules (2002/14/EC). In November 2005, the Ministry of Social Affairs sent a draft of a new Employees' Trustee Act, seeking to transpose the Directive, to the social partners for consultation, but immediately met with severe opposition from trade unions.

The new draft aims at changing the procedure of electing employees' representatives and specifying their authorisation in representing employees. According to the draft, a representative does not necessarily have to be a member of a trade union. A representative has to be an employee, authorised by a general meeting of employees. According to the draft, there would be two channels of employees' representation in Estonia – all the employees are represented by the

employees' representative in questions connected with their jobs and the members of the trade unions are represented by the elected trade union members, whose rights and duties are established by the Trade Unions Act.

EAKL reacted to the draft very actively, claiming that the purpose of the draft seems to be to close down unions' activities in Estonia. It argued that according to the draft, the employees' representatives would lose their present rights in communicating with an employer and the employer would essentially appoint the representatives. EAKL has repeatedly stated that the current Employees' Representatives Act is sufficient for the obligation of information and consultation. The Ministry of Social Affairs rejects the accusations of EAKL. It declares that the purpose of the new Act is to provide equal opportunities to be informed and protect their interests for all the employees, not only for union members. ETTK sees a fear of competition in EAKL's reaction. It assumes that the draft would create a democratic situation, as according to this new Act all employees in an enterprise would have a possibility to elect a representative.

## **Employee representation and collective bargaining in companies**

### *Employee representation*

According to Mr Taliga, shop stewards and trade unions are often active at company level. There are seldom several trade unions in one workplace. However, Mr Tuuling states that all forms of workers' representation are seldom found in public sector enterprises. The Trade Unions Act regulates the setting up of a trade union in a company and the main precondition is a minimum number of trade union members. According to ETTK, around 10% to 19% of enterprises have trade unions or shop stewards.

There is only one firm belonging to the ETTK which has a work council. According to K. Seeder, there might be around 10 companies where a work council is operating. There is no legislation in Estonia regulating the activities of work councils and therefore there is also no obligation to establish a work council in the enterprises. Both EAKL and ETTK state that the situation will remain the same until there will be changes in legislation. However, in some enterprises, a work environment council is fulfilling similar tasks as work councils, but again, these are very rare cases.

### *Collective bargaining*

The member organisations of EAKL and TALO participate in enterprise-level collective bargaining. According to estimates of H. Taliga and A. Tuuling, in the near future the importance of enterprise-level collective bargaining will increase and play a very important role in the future.

Sectoral employer organisations do not participate at company-level collective bargaining. However, ETTK itself has helped employers in preparing the collective bargaining and contracts. The future developments depend on the changes in the legislative sphere regarding the Acts regulating employees' representation and employees' information and consultation.

### *Individual labour/employment disputes*

In Estonia, the most common conflicts at the workplace are conflicts on wages and working hours. The main legislation on the resolution of individual labour/employment disputes is the Individual Labour Disputes Resolution Act, which came into force in September 1996. This Act lays down the procedure and conditions for the resolution of individual labour/employment disputes between employees and employers. There are other items of legislation concerned with certain aspects of the resolution of such disputes, such as the Employment Contracts Act and Public Service Act.

If possible, a disagreement arising from the employment relationship should be resolved by agreement between the employee and employer (if necessary, the mediation of the employees' representative organisation or an authorised person may be used. The employer may establish a reconciliation commission in order to solve the issue), through the

mediation of an employee representative or the directing body of a trade union. Parties have the right of recourse to a labour dispute resolution body without mediation if they find that a labour dispute cannot be resolved by agreement.

Individual labour disputes may be settled by either a labour dispute commission (Töövaidluskomisjon, LDC) or the courts:

- LDCs are independent, extra-judicial individual labour dispute resolution bodies, set up within local labour inspectorates. In total, there are 15 county LDCs. The LDC consists of a chair (an employee of the local labour inspectorate) and an equal number of representatives of employees and employers. LDCs are not labour courts, but rather a unique arrangement for resolving labour disputes. Their introduction was motivated by the slow handling of cases in courts.
- Estonia has a three-tier court system, comprising rural and city courts (Maakohus, linnakohus), district courts (Ringkonnakohus) and the Supreme Court (Riigikohus).

A case relating to an individual labour/employment dispute may not be taken simultaneously both to an LDC and a court. However, if one of the parties is not satisfied with the decision of an LDC, it can appeal against the decision to a rural or city court. In the courts, the usual appeal procedures applies, i.e. appeals against decisions of rural or city courts are handled by district courts and after that by the Supreme Court.

### Future development

At the moment it is very difficult to predict the future developments of social dialogue in Estonia, as the Ministry of Social Affairs is preparing new legislative Acts influencing social partnership in general and more specifically the sphere of employee representation (changing the procedure of electing employees' representatives and specifying their authorisation in representing employees).

Mr A. Tuuling states that social dialogue issues at national, sectoral/branch and company level are interrelated. If the government continues with a destructive attitude towards trade unions, then communication channels at the lower level are also suppressed. Certainly, there are companies which are acting independently from the general environment and attitudes. In the majority of cases, the process and results of social dialogue depend on the initiative and courage to fight for their rights. National and sectoral/branch trade union organisations can help lower-level trade unions as to whether and how to carry out the rights of employees. At the same time, the help can you give to those organisations, which are joined to the higher-level organisations, which are able to form/clarify the problems and which have the courage to find solutions.

**Kaia Philips**, University of Tartu

## Annex

### Outcome of the workshop

|                           | Strengths  | Weaknesses  |
|---------------------------|--|---|
| Organisational capacities | <ul style="list-style-type: none"> <li>■ All peak organisations want sectoral agreements</li> <li>■ Simple organisational structure (2 trade unions, 1 employer confederation)</li> <li>■ Trend to combine features of trade unions and occupational/professional unions</li> <li>■ High IT competence</li> <li>■ Nordic dimension in international cooperation</li> </ul> | <ul style="list-style-type: none"> <li>■ Membership decline of trade unions</li> <li>■ Low representation</li> <li>■ Lack of organisations at sectoral level (unions as well as employers). Associations are based on enterprises</li> <li>■ Several sectors, like banking, insurance, construction, etc., are union-free (no trade union organisation = no capacities for collective bargaining)</li> <li>■ Splitting of resources (between many affiliates in the same sector)</li> <li>■ Poor communication between organisations</li> <li>■ Few issues of social dialogue apart from wages</li> </ul> |
| Financial capacities      | <ul style="list-style-type: none"> <li>■ Simple payment system</li> <li>■ Independence of financing</li> <li>■ Stable budget</li> </ul>  | <ul style="list-style-type: none"> <li>■ Insufficient transparency</li> <li>■ Low degree of centralisation</li> </ul>   |
| Personnel capacities      | <ul style="list-style-type: none"> <li>■ Highly motivated staff</li> <li>■ Highly educated staff</li> <li>■ Non-hierarchical structure</li> </ul>  | <ul style="list-style-type: none"> <li>■ Limited number of personnel</li> <li>■ Lack of competencies, negotiation skills, international comparative knowledge, communication</li> </ul>   |
| Other                     | <ul style="list-style-type: none"> <li>■ Mobility</li> <li>■ Capacity to anticipate and initiate changes</li> </ul>  | <ul style="list-style-type: none"> <li>■ Control of implementation</li> <li>■ Incoherence of legal Acts</li> </ul>  |

### Development project

In this section, the outline of a foresight project for the further development of sectoral social dialogue capacities in Estonia is presented.

#### WHAT? (sectoral level)

- Extending negotiable area/issues
  - Decrease of statutory norms (semi-imperative)
  - Promotion of best practices of CB
  - Mainstreaming of sectoral CB
- Concentration of resources –
  - centralisation of funds
  - mergers of actors
- Massive development of CB skills
  - Negotiation and communication

### *WHY? (sectoral level)*

- Create mutual interest of CB
- Create motivation for CB
- Optimal use of available funds
- Best balance of funds and interests
- Create a culture of CB
- Increase the adaptability of actors/SPs
- Proactive approach

### *WHAT? (enterprise level)*

- 'Takeover' of new sectors and enterprises (TU)
- Massive development of CB skills (SPs)
  - Negotiation and communication

### *WHY? (enterprise level)*

- Cover black holes, grey areas and white spots
- Create culture of CB
- Assist SPs to identify, express and negotiate their various interests

## List of central trade union and employer organisations

### *Central trade union organisations:*

Name: Confederation of Estonian Trade Unions (*Eesti Ametiühingute Keskliit*, EAKL)  
Address: Pärnu mnt 41A, 10119 Tallinn, Estonia  
Telephone: + 372 6412800  
E-mail: [eakl@eakl.ee](mailto:eakl@eakl.ee)  
Web page: <http://www.eakl.ee>  
Chairperson: Harri Taliga

Name: Estonian Employees' Unions' Confederation (*Teenistujate Ametiliitude Keskorganisatsioon*, TALO)  
Address: Gonsiori 21, 10147 Tallinn, Estonia  
Telephone: + 372 6419800  
E-mail: [talo@talo.ee](mailto:talo@talo.ee)  
Web page: <http://www.talo.ee>  
Chairperson: Ago Tuuling

### *Central employer organisation:*

Name: Estonian Employers' Confederation (*Eesti Tööandjate Keskliit*, ETTK)  
Address: Kiriku 6, 10130 Tallinn, Estonia  
Telephone: + 372 6999301  
E-mail: [ettk@ettk.ee](mailto:ettk@ettk.ee)  
Web page: <http://www.ettk.ee>  
Chairperson: Tarmo Kriis

*National tripartite team*

Trade union representative: Mr Peep Peterson (EAKL)

Employers' representative: Mr Thor-Sten Vertmann (ETTK)

Government representative: Ms Egle Käärats (Ministry of Social Affairs)

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Hungary