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Peer Country Comments Paper – Lithuania

Moving from the opposite side of the axis

Peer Review on “The organisation, outcomes and effectiveness of social dialogue”
Belgium, 23-24 October 2018

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1 Introduction

This paper has been prepared for the Peer Review on “The organisation, outcomes and effectiveness of social dialogue” within the framework of the Mutual Learning Programme. It provides a comparative assessment of the policy example of the host country, Belgium, and the situation in Lithuania. For information on the host country policy example, please refer to the Host Country Discussion Paper.

The paper consists of three main sections covering background information to collective bargaining in Lithuania, including key actors, levels of bargaining and the role of the tripartite concertation, as well as outcomes and trends of collective bargaining.

In general, the impact of collective bargaining on labour market performance in the country is minor – Lithuania stands on the opposite side of the axis: contrary to Belgium, Lithuania has the lowest degree of centralisation of wage bargaining and coordination of wage setting. As a result, the Lithuanian economy and the labour market, in particular, are more vulnerable and less sustainable compared to other European countries.

The impact of key trends in the socio-economic environment on the system of collective bargaining is/was best visible in trade unions’ practices used to survive during the crisis, in the national level social dialogue as well as in the activities of trade unions in tackling challenges raised by recent socio-economic developments.

2 Background to collective bargaining in Lithuania

2.1 Key actors

Comparing to other EU Member States Lithuania can be regarded as a country having one of the least developed systems of industrial relations. Trade union membership in Lithuania in general is quite low and during the last decade it has been steadily decreasing. According to Lithuanian Statistics, between 2007 and 2017 the number of trade union members in Lithuania fell from 115,000 to 92,1 thousand, with trade union density thus falling from 9.3 % to 7.7 % (the exception was only year 2009 when both – the number of trade union members and trade unions density – slightly increased).

In general, public sector in Lithuania is more unionised comparing to the private one, however there is no statistical information allowing to ground this statement.

Low trade union density, as well as a number of other related factors, determines the low collective bargaining coverage in the country. Lithuania is positioned towards the bottom of the EU ranking with regard to collective bargaining with coverage at 10% in 2012 (ICTWSS, 2016) (collective bargaining coverage in Belgium is nearly 100%). According to other sources (Eurofound, 2013; Eurofound, 2017), this indicator might be somewhat higher, reaching 15%, however, all estimations are based on experts’ opinions only. According to European Company Survey (Eurofound, 2013), collective wage bargaining coverage of employees in private sector companies with establishments >10 employees (NACE B-S) is 19%. In such circumstances, it can reasonably be argued that collective agreements generally have no great influence on employment relations in Lithuania (Waddington, Müller & Vandaele, 2018).

The main national trade union organisations in Lithuania are: the Lithuanian Trade Union Confederation, which represents around 50,000 members (4.1% of Lithuanian employees), and unites 26 sectorial trade unions; the Lithuanian Trade Union ‘Solidarumas’, which represents around 14,000 members (1% of Lithuanian employees) and unites 19 sectorial and 20 regional trade unions; and the Lithuanian Trade Union ‘Sandrauga’, which represents around 10,000 members (0.7 per cent of Lithuanian employees).
The main national employers’ organisations are: the Lithuanian Confederation of Industrialists, which unites and represents 51 sectorial and 7 regional associations and 25 non-associated members, mainly large companies that employ 15% of Lithuanian employees; the Lithuanian Employers Confederation, which represents and unites 1800 companies, regional and sectorial business associations, mainly SMEs that employ more than 7% of Lithuanian employees; the Lithuanian Business Confederation, which unites and represents 118 members including sectorial and regional associations that employ 15% of Lithuanian employees.

Works councils in Lithuania have also been functioning since 2004, however they have not become important players in the Lithuanian industrial relations system. Though till mid-2017 they had the right to conclude company level collective agreements, they were not very widespread in Lithuania1. From 1 July 2017 onwards, employers are obliged to initiate elections of works councils, however works councils represent employees only in terms of information, consultation and other participatory procedures. The right to conduct collective bargaining and to sign collective agreements is granted exclusively to trade unions.

2.2 Levels of bargaining

According to the Labour Code of the Republic of Lithuania (LC), collective agreements in Lithuania could be concluded at five different levels: national or cross-sectoral; territorial; sectoral, including production, services and professions; employer or company; and workplace or plant. According to the LC the latter is possible only in cases stipulated in collective agreements concluded at the national, sectoral or company levels.

Even though the Labour Code provides for, and defines options for concluding, collective agreements at different levels, company-level agreements are not very common, but nevertheless dominant in practice. There are three recently (in 2017-2018) signed sectoral collective agreements in the public sector, covering some remuneration issues, but their implementation is still in progress. Despite several general agreements signed between trade unions, employers’ organizations, government and NGOs at the national level, there are no national-level collective agreements in Lithuania. Likewise, there is no articulation between the different levels.

The current situation is strongly influenced by the absence of industrial relations tradition at company level evidenced by the low trade union density and is closely related to the poor financial and human capacities, including legal, analytical and organisational skills, of trade union organizations, which impedes collective bargaining development at company level.

The almost absent2 collective (wage) bargaining at the sectoral level is determined by several factors, which differ between the public and private sectors. In the public sector all main employment and working conditions, including remuneration issues, are rather strictly regulated by national legislation; thus, there is little room for manoeuvre for sectoral collective bargaining. In the private sector, there is an incongruity between the respective structures of sectoral trade unions and sectoral employers’ organizations that has prevented the parties from engaging in collective bargaining. Moreover, employers’ organizations have been reluctant to take up the role of sectoral social partners and/or sign collective agreements, claiming the absence of a mandate from their members to do so (Bernaciak & Kahancová, 2017).

Here we should mention however, that it is expected (Interviews, 2018), that situation (at least – in the public sector) might change significantly already in the nearest future.

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1 According to the State Labour Inspectorate, around 5 per cent of entities that submitted information to the State Labour Inspectorate in 2016 had functioning work councils; according to Eurofound 2013, 15 per cent of private sector entities with more than 10 employees had works councils.

2 Only few recently signed sectoral collective agreements in the public (e.g. health care, education, social services) sector include some remuneration related clauses.
Several recently signed sectoral level collective agreements (e.g. in social services, health care sectors) have rather significant remuneration related clauses. Some emerging company level agreements already include some provisions agreed at the sectoral level. Moreover, it is expected that national level collective agreement on the basic salary level in civil service will be signed in Lithuania already in the coming months.

The structure of the Lithuanian economy, which is unfavourable for collective bargaining, also contributes to low trade union density. There is a high prevalence of companies with 50 employees or fewer; such companies account for more than 95% of the total number of enterprises operating in Lithuania and employ about 50% of all salaried employees. As a rule, the smallest companies have the least developed industrial relations.

According to the Labour Code the scope of individual provisions of national (cross-sectoral), territorial and sectoral (production, services, profession) collective agreements may be compulsorily extended by an order of the Minister for Social Security and Labour to bind all the employers of the appropriate territory or sector if such a request has been submitted in writing by both parties to the collective agreement. The Minister shall take a decision regarding the extension of the scope of the collective agreement within 60 calendar days of receiving the request. Although the provision above has been in force for more than a decade, it has never been applied in practice.

### 2.3 Tripartite social dialogue

Though there are actually no real (i.e. having significant impact on social and labour conditions in the country) national level collective agreements, the main national tripartite social dialogue institution – the Tripartite Council of the Republic of Lithuania – plays an important role in the decision-making process in the area of social and working life in Lithuania. The Council, together with specialised tripartite councils and commissions as well as tripartite councils under local municipalities is the main scene of interaction between public authorities and social partners.

The Lithuanian Tripartite Council was established in 1995 by the tripartite agreement concluded between trade unions, employers’ organisations and the Government. Currently the legal framework of the Council (e.g. the term, composition, representativeness criteria, term of office) is set forth in the article 185 of the Labour Code of the Republic of Lithuania.

According to the legislation social partners at the Council discuss issues and presents conclusions and proposals in the areas of labour, social and economic policy, as well as on matters that must be considered in accordance with Convention No 144 of the International Labour Organisation. Concerning these policy areas, the Lithuanian Tripartite Council has the right to receive the information necessary for the work of the Council, to adopt decisions and submit conclusions and recommendations to the parties, and to conclude tripartite agreements.

The Council has seven committees and commissions: the Labour Disputes Commission; the Bipartite Commission of Civil Servants; the Committee for Education; the Committee for the Supervision of Consumer Rights; the Committee for Energy; the Committee for Promoting Youth Entrepreneurship; the Committee for Culture.

There are also specialised tripartite institutions, for example, the council of the state social security fund, which is established by the Law on State Social Insurance. Tripartite councils are established under national and territorial labour exchange offices by the order of the Minister of Social Security and Labour.

Tripartite discussions are well-functioning, and their meetings are held regularly. For example, the Lithuanian Tripartite Council meets at least once a month to discuss projects of legal acts and other matters in relation to labour, social and economic issues. It should be stressed that sometimes discussions at the Tripartite Council are very heated, but once consensus is reached it is usually successfully implemented in practice.
3 Outcomes of collective bargaining

3.1 Scope of collective agreements

Parties to a collective agreement have the right to define the issues to be placed on the bargaining agenda, as well as the content of the agreement. When negotiating the content of a collective agreement, however, the parties are required to take due account of the labour law. The Labour Code valid in Lithuania from 1 July 2017 allows for the departure from statutory regulation by a collective agreement concluded at national, sectoral or territorial level if certain conditions are fulfilled: (i) a balance between the interests of employers and employees in such collective agreements is achieved; (ii) restrictions are followed. In any case, the in favorem principle may be applied in these higher-level collective agreements regarding the regulation stipulated in the Labour Code or other labour law provisions. This principle shall be applied also in employer-level collective agreements. However, the Labour Code allows to regulate employees’ working conditions in peius in the cases established in the Code (e.g. in an employment contract which establishes a monthly salary of at least two average national monthly gross wages).

Currently, the legislation provides a model list of provisions to be covered by a collective agreement. The list is neither exhaustive nor compulsory, but the provisions might be grouped as follows: provisions regarding remuneration for work; employment-related provisions; provisions regarding working time and rest periods; occupational health and safety-related provisions and other work, social and economic conditions. In practice, collective agreements also contain provisions regarding issues that are not regulated by law. Such provisions are frequently related to social welfare, financial support, medical services, healthcare services for employees, financial support for employees in difficult family situations, transport services and some other. These provisions do not directly regulate employment relations or define working conditions; they might be described as factors influencing the motivation to work and compensating for low pay (Waddington, Müller & Vandaele, 2018).

Virtually no research has been conducted in Lithuania that could serve as a basis for objective evaluation of the content of collective agreements. Fragmentary research (e.g. Waddington, Müller & Vandaele, 2018; ESTEP, 2016; Research Council, 2015), analysis of available collective agreements and interviews with trade union representatives suggest that the contents of collective agreements, differently from the Belgium, mainly reiterate the provisions of the Labour Code and other secondary legislation relevant to the parties. Some collective agreements contain contractual provisions whereby employers commit to perform one-off actions, such as providing a rest room or hold a celebratory event. It should be noted that freedoms allowed by the Labour Code to regulate certain issues in a collective agreement (e.g. work rationing, information and consultation procedures) are underused. Even though information provisions are found in agreements in both the public and private sectors, there is a higher prevalence of organizational arrangements, provisions related to cooperation with trade unions, more favourable work organization procedures and other similar provisions in public-sector collective agreements due to the stricter regulation of this sector (Research Council, 2015).

3.2 Impact of collective bargaining

Even though there is actually no research in Lithuania on the impact of collective bargaining on the labour market performance, including wage setting, productivity, competitiveness and other issues, we may state that, as a result of low trade union density and collective bargaining coverage, almost absent sectoral wage bargaining and

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3 The restrictions include the following: maximum working time and the minimum rest period; the conclusion and expiration of an employment contract; the minimum wage; health and safety at work: equal treatment; and non-discrimination.

4 https://socmin.lrv.lt/lt/paslaugos/administracines-paslaugos/kolektyviniu-sutarciu-registras
generally underused possibilities of industrial relations, the impact of collective bargaining on labour market performance is minor. This is obvious from Figure 1 presented in the host country report – contrary to Belgium, Lithuania has the lowest degree of centralisation of wage bargaining and coordination of wage setting.

As a result of such a situation, the Lithuanian economy is more vulnerable and less sustainable compared to other European countries: Lithuania's gross domestic product is among the lowest in the EU, the labour share in GDP is also at the lower end of the European scale and the volatility of economic cycles is extremely high – over the last decades, Lithuania has experienced both the biggest downturns and the most rapid rise in GDP in the EU (EESC, 2013).

Developments in the economy strongly affect situation in the labour market: wages and salaries of Lithuanian employees are very low whereas income inequality is one of the highest.

According to data provided by Eurostat, median gross hourly earnings (PPP) in Lithuania in 2014 were 5.1 comparing to 15.4 in Belgium (in euros, it was 3.1 in Lithuania, 13.2 in the EU and 17.3 in Belgium). A similar trend was observed in the proportion of low wage earners: in 2014, this proportion in Lithuania was 24%, in the EU – 17.2% and in Belgium – 3.8% (!).

(Un)safety of employees in the labour market is best seen from the developments in employment and unemployment rates. As a result of the crisis, unemployment rate in Lithuania dropped dramatically in one year – it exceeded 18% already in 2010 and the recovery process was very long.

The main area in the labour market where collective bargaining has rather significant impact is the establishment of the level of minimum wage and the impact on decision making processes in the area of social and labour market policy, including labour legislation at national level. Both trade unions and employers’ organisations discuss and adopt decisions on the level of the minimum wage and are able to influence the majority of reforms implemented/planned in the country through the participation in the activities of the Tripartite Council of the Republic of Lithuania.

Another area where collective bargaining makes an impact on employment and working conditions in Lithuania is companies with unionized workers – collective bargaining and collective agreements are usually in place in such companies. Company level collective bargaining usually takes place in the public or public-related sectors, such as education, health, railways, culture, forestry, postal services and energy, and in large and medium-sized, more often multinational, private sector companies in food, alcohol, tobacco and other manufacturing industries.

4 Trends in collective bargaining

The impact of key trends in the socio-economic environment on the structure, processes and results of the system of collective bargaining is/was the best visible in trade unions’ practices used to survive during the crisis, in the national level social dialogue as well as in the initiatives of trade unions in tackling challenges raised by recent socio-economic developments.

4.1 Trade unions’ practices during the crisis

Research (Bernaciak & Kahancová, 2017) shows that despite rather limited human and financial resources, Lithuanian trade unions have not only survived the economic downturn but have even strengthened their positions in some areas compared to the pre-crisis period.

5 Eurostat (earn_ses_pub1s) and (earn_ses_pub2s).
6 Statistics Lithuania.
Aware of their rather weak positions at company and sectoral levels, during the crisis Lithuanian trade unions focused mainly on national-level actions and cooperated with their counterparts from other confederations, foreign trade unions, employers, civil society and international organisations.

In this capacity, they:

- succeeded in organising a national wide protest campaign on a previously unseen scale;
- had trade union representatives appointed to the Parliament and the Government;
- concluded a tripartite National Agreement;
- extended the competences of the main national social dialogue institution – the Tripartite Council of the Republic of Lithuania (a number of new committees were set up under the Council, including such areas as youth or regional development as well as regional tripartite councils were established);
- fostered the establishment of regional tripartite councils.

They also managed to raise the awareness of trade union activities through increased media presence and extended their outreach to previously non-unionised sectors and population groups. Because of these activities, as well as due to some other conditions, Lithuania witnessed the unusual phenomenon of a rather significant increase in trade union membership (the total number of salaried employees in 2009 dropped by 8% year-on-year, whereas the number of trade union members increased by 3%); unfortunately, this phenomenon was observed only during that year.

### 4.2 National level

In recent years, main discussions and debates of social partners at the national level were related to the need to adapt national legislation to changing economic and business environment (due to changing structures of the economy, globalisation, emerging new types of employment, etc.).

During the past decade neither employers nor employees’ representatives have been satisfied with a situation in which, according to the employers, very tough regulation of the labour market discourages the creation of new jobs and hampers the country’s ability to attract foreign direct investment. In turn, employees’ representatives were dissatisfied with undeveloped industrial relations and the minor roles afforded to social dialogue and collective bargaining in determining employment and employees’ social conditions. In response to this, a national reform of employment and social security laws, commonly known as the New Social Model, was initiated in Lithuania in 2014. The main labour laws in force hitherto, in particular, the Labour Code of the Republic of Lithuania, were fundamentally amended within the framework of the new social model, introducing more flexible regulation of employment relations. The new Labour Code came into effect in Lithuania on 1 July 2017 introducing, among other things, fairly radical amendments to the provisions regulating industrial relations, including collective bargaining (Waddington, Müller & Vandaele, 2018).

From 1 July onwards, the right to conduct collective bargaining is granted exclusively to trade unions, instead of trade unions and works councils, as in the old version of the Labour Code; collective agreements apply only to members of signatory trade unions, instead of all employees of the company, as in the old Labour Code; and employers are obliged to initiate the election of a works council. The new Labour Code is expected to facilitate social dialogue and collective bargaining, to create more favourable conditions for the parties to reach an agreement on the most acceptable conditions, to enhance the competitiveness of Lithuanian companies, to create more new jobs and to contribute to wage growth.
4.3 Recent challenges for and initiatives of trade unions

New trends in socio-economic developments affect Lithuanian trade unions, however, according to trade unions themselves (Interviews, 2018), not as strongly as in other European countries, including Belgium. The main areas where the impact is felt most include restructuring of undertakings and challenges related thereto (e.g. in case of company mergers, it is problematic to join the trade unions functioning in the merging companies and their collective agreements), and putting provisions of the new Labour Code into practice (having come into effect on 1 July 2017, the new Labour Code liberalized employment relationships to a great extent and now trade unions have difficulties in ensuring adequate protection for employees). One of the recent initiatives in this area – establishment of labour inspection of trade unions: in September 2018 peak national trade union Solidarumas, in cooperation with the State Labour Inspectorate, established a labour inspection of TU Solidarumas and approved its Regulations. It is expected that the labour inspection will start its work already in 2018.

Trade unions also note that some sectors (transport, construction) tend to massively employ workers from third countries (Ukraine, Belarus). Such workers are frequently offered substandard working conditions and their interests are neither represented nor protected. Unfortunately, trade unions actually have no members in those sectors and can hardly influence the existing situation or protect the interests of third-country employees.

As regards new types of work, such as platform work, crowd employment or ICT-based mobile work, the impact of these types of work on the structure/processes/results of the system of collective bargaining has not yet been felt by trade unions. The main reason mentioned by trade unions is that most of TU members come from such rather “traditional” manufacturing sectors as food, textile, furniture, metals or electricity, water supply, passenger (bus) transport. New types of work in Lithuania are not popular in those sectors, whereas trade unions do not yet have strategies specifically designed to attract workers using new forms of employment.

One of clear directions Lithuanian trade unions are currently heading towards is an increased focus on youth: trade unions are endeavouring to improve their attractiveness for youth, organize youth events, appoint young people to administrative positions, and use social networks for raising awareness of their activities.
5 Questions

- Why do organisations apply for membership in the joint committees? What are the main benefits of being a member?
- How are “seats” in the joint committees divided among different social partners? Does the number of mandates depend on the size of the organisation?
- What role do company level trade unions and company level collective bargaining play in this complex system of industrial relations?
- Has a sort of cost-benefit analysis of the Belgian system of collective bargaining been ever conducted? Has this issue been ever discussed by social partners?
6 List of references


Interviews with representatives of Lithuanian Trade Union Confederation and Lithuanian Trade Union ‘Solidarumas’, conducted on 1-5 October 2018.


Annex 1 Summary table

The main points covered by the paper are summarised below.

**Background to collective bargaining in Lithuania**

- Comparing to other EU Member States Lithuania can be regarded as country having one of the least developed systems of industrial relations – levels of trade union density and collective bargaining coverage in Lithuania are the lowest among EU countries.

- Though in companies with unionized workers collective bargaining and collective agreements are usually in place, due to low coverage rate collective agreements generally have no great influence on employment and working conditions in Lithuania.

- Though there actually are no real (having significant impact on social and labour conditions in the country) national level collective agreements, the main national tripartite social dialogue institution – the Tripartite Council of the Republic of Lithuania – plays an important role in the decision-making process in the area of social and working life in Lithuania.

**Outcomes of collective bargaining**

- The valid legislation provides wide possibilities for social partners to agree on employment and labour issues relevant for them, however in practice freedoms to regulate certain issues in collective agreements are underused – the contents of collective agreements mainly reiterate the provisions of the Labour Code and other secondary legislation relevant to the parties.

- Due to current situation the impact of collective bargaining on labour market performance in Lithuania is minor. This is obvious from Figure 1 presented in the host country report – contrary to Belgium, Lithuania has the lowest degree of centralisation of wage bargaining and coordination of wage setting.

- As a result, the Lithuanian economy is more vulnerable and less sustainable comparing to other European countries. This strongly affects situation in the labour market: wages and salaries of Lithuanian employees as well as safety of employees in the labour market are very low whereas income inequality – one of the highest.

- The main area in the labour market where collective bargaining has rather significant impact is the establishment of the level of minimum wage and the impact on decision-making processes in the area of social and labour market policy, including labour legislation at national level.

- Another area where collective bargaining makes an impact on employment and working conditions in Lithuania is companies with unionized workers – collective bargaining and collective agreements are usually in place in such companies.

**Trends in collective bargaining**

- The impact of key trends in the socio-economic environment on the system of collective bargaining is/was the best visible in trade unions’ practices used to survive during the crisis, in the national level social dialogue as well as in the initiatives of trade unions in tackling challenges raised by recent socio-economic developments.

- Aware of their rather weak positions at company and sectoral levels, during the crisis Lithuanian trade unions focused mainly on national-level actions and
cooperated with their counterparts from other confederations, foreign trade unions, employers, civil society and international organisations. This allowed them even to strengthen their positions in some areas compared to the pre-crisis period.

- Responding to changing economic and business environment national social partners during recent years widely discussed and adopted a national reform of employment and social security laws, commonly known as the New Social Model. Within the framework of the reform more flexible regulation of employment relations as well as fairly radical amendments to the provisions regulating industrial relations, including collective bargaining, were introduced.

- The main areas where the impact of recent socio-economic developments is felt by trade unions the most include restructuring of undertakings and challenges related thereto and putting provisions of the new Labour Code into the practice. Among the recent initiatives of trade unions is heading towards an increased focus on youth.

### Questions

- Why do organisations apply for membership in the joint committees? What are the main benefits of being a member?
- How are “seats” in the joint committees divided among different social partners? Does the number of mandates depend on the size of the organisation?
- What role do company level trade unions and company level collective bargaining play in this complex system of industrial relations?
- Has a sort of cost-benefit analysis of the Belgian system of collective bargaining been ever conducted? Has this issue been ever discussed by social partners?