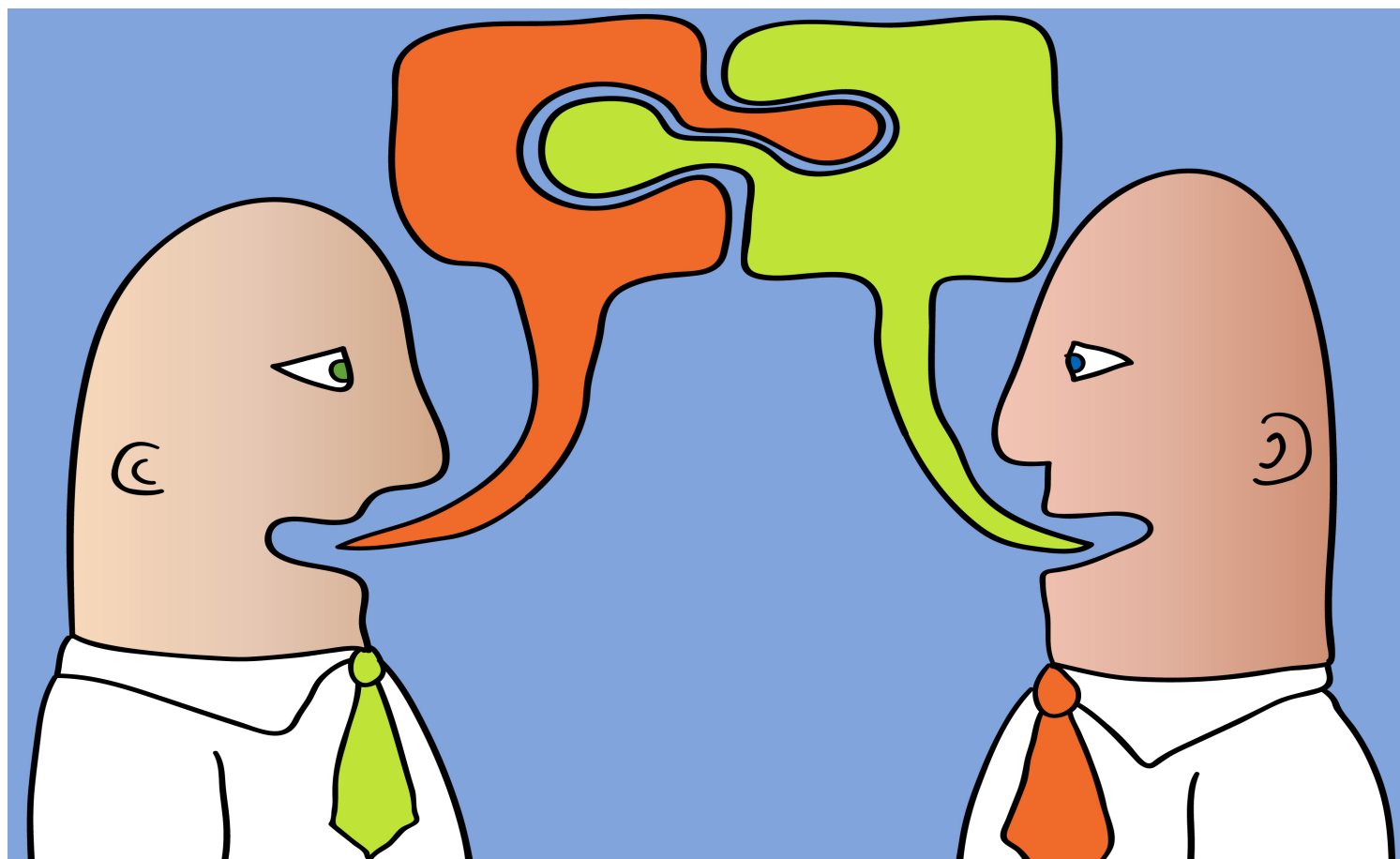
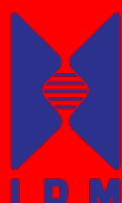




LONG ROAD TO SOCIAL DIALOGUE IN ALBANIA

Turning challenges into opportunities

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Institute for Democracy and Mediation
Instituti për Demokraci dhe Ndërmjetësim



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Preface

Unlike other European countries, there has never been a real union movement in Albania. Trade unions have come to existence and functioned based on a top-down approach with the governing principles of social dialogue compromised at the start.

During the dictatorship era, trade unions were simply propaganda mechanisms of the regime. Social dialogue in its genuine form was an alien practice at the workplace or sectoral level – in contrast to its development in Western Europe where a bottom-up approach was employed. In post-dictatorship Albania, trade unions “leaped at” reorganization. As the country moved towards a market economy, the state was no more the monopsony employer, and the trade unions’ power “moved away” from the Party. Inappropriately, this power did not “shift” to the workers, but to public figures with political support. The establishment and “revitalization” of trade unions and federations was promoted under the leadership of the two main confederations created within months after the collapse of the regime.

The partition of the confederations along political affiliations and not necessarily ideological ones had a significant impact on the credibility of trade unions. During the nineties, the workers and society as a whole became witnesses of an acrimonious clash among political parties, where trade unions played a supporting role to the agenda of the respective political parties.

While informality and the shadow economy grew at a very fast rate, and high unemployment rates and poverty weakened severely the position of Albanian workers, trade unions proved to be powerless in ameliorating their conditions. Soon enough, it became clear that unions did not have the capacities to unify workers for protecting their interests. Unionization did not represent an added value. Workers started to withdraw their participation and support. As a result, the bond between the workers and those representing them weakened.

Membership commitment, a democratic regulatory basis and an “institutionalized” internal opposition comprise the essential principles of a functional internal democracy in any union organization. In Albania, the weak membership commitment of trade unions represents the result, and not the cause of an internal democracy deficit that has, to some extent, demeaned unionism values and weakened the union movement.

Unions’ leaders have long been looking at confederations and employers for funding of their activity. Both parties have responded to a degree to this ‘emergency call’ by further threatening trade unions’ autonomy and credibility in the public eye.

Membership fees have never been the core-funding source of confederations. For over two decades, as their representatives publicly maintain, confederations' activities have been largely focused on the property issues – as regards the properties that once belonged to the Professional Unions (read: ish-Bashkimet Profesionale të Shqipërisë). This left little room for the empowerment of their constituencies.

Political parties have continuously asked for the support of confederations but little have they contributed towards their empowerment in view of promoting an efficient social dialogue. Trade unions bargaining power is weaker than ever and this has its say in the social dialogue in the country. For several years, the National Labour Council did not convene regularly. Even though the situation has recently changed, the Albanian Premier did not refrain himself from inviting foreign investors to Albania based on the recognition – according to his evaluation – that there are no trade unions. On the other hand, massive dismissals in the public sector are a phenomenon characterizing local and general elections.

The Albanian parliament has ratified the majority of ILO Conventions and the legal framework complies with the basic ILO and EU standards on worker's rights. However, law enforcement mechanisms are failing to refrain employers from paying workers below the minimum wage or not ensuring the basic health and safety conditions at the workplace, especially in the mining sector. The initiative of the Albanian government to abate informal employment by considering it a criminal offence has raised the concern of many in Albania, but not as much of the trade unions. This is an alarm bell for unionism that calls for an open and constructive debate on the role that unions could and should undertake.

On the other hand, international organizations and the donor community supporting social partners in Albania are aware of the democracy deficits within trade unions and the impact this has had in the further weakening of the unions. Notwithstanding their efforts to promote unionism, little they succeed towards strengthening unions to sit on equal terms with employers.

In this context, the commitment of trade unions in addressing the employment challenge is incidental, weak or non-existent in some cases. Social dialogue has failed to achieve ILO's objectives and the aspirations of the Albanian people for advancing opportunities for all women and men to obtain decent work in conditions of freedom, equality, security and human dignity. The labour market is characterized by a dichotomy of private enterprises, where a considerable number of companies suffers from a relatively high degree of industrial conflict with neither acceptance of the other party's legitimacy, nor mutual trust. However, some enterprises – a part of big enterprises in the private sector – enjoy good labour-management relations, where collective agreements are for the most part respected and there is periodical and/or *ad hoc* communication established.

As a result, Albania has to cross a long road to an effective social dialogue that contributes to achieving the decent work agenda. The search of new ways for empowering the workers and engaging other civil society actors to take a proactive role in promoting social dialogue and addressing the employment challenge in Albania turns out to be necessary. This is going to be a long road but certainly it is time for a new approach.

Table of Contents

Preface	4
Introduction.....	10
Background	10
Aim and objectives of the study	12
Methodological note	12
Social dialogue as a vital tool to promote Decent Work Agenda: An overview.....	13
Breaking down the definition of social dialogue	13
Social dialogue at the optimum level.....	17
An enabling environment for social dialogue: Are the preconditions met?.....	21
The Decent Work Agenda in action	22
Social dialogue in Albania.....	24
An overview	24
Social partners and the socio-economic context.....	24
Legal and institutional framework in practice.....	28
Social dialogue and its reflection in GoA's documents.....	33
Findings	35
State of trade unionism in Albania	35
Internal democracy.....	35
Capacities	35
Vested interests	38
Social Dialogue in Albania.....	39
National Level	39
Subnational Level	40
Governments' commitment... ..	41
Implications on the decent work.....	42
Discussion and future directions	43
Recommendations	45
References	47
Appendix	51

Acronyms and abbreviations

BSPSH	Bashkimi i Sindikatave të Pavarura të Shqipërisë
DWCP	Decent Work Country Programmes
EC	European Commission
EESC	European Economic and Social Committee
EO	Employer Organization
ESM	European Social Model
ETUC	European Trade Union Confederation
EWC	European Works Councils
GDP	Gross Domestic Product
GoA	Government of Albania
ILO	International Labour Organization
ITUC	International Trade Union Confederation
KSSH	Konfederata e Sindikatave Shqiptare
LED	Local Economic Development
MoSWY	Ministry of Social Welfare and Youth
NESS	National Employment and Skills Strategy 2014-2020
NPEI	National Plan for European Integration 2015-2020
NLC	National Labour Council
TU	Trade Union
VET	Vocational Education and Training

Tables and figures

Table 1 Workers' representatives in the Committee of Safety and Health

Figure 1 Degrees of Participation

Figure 2 Benefits of tripartite social dialogue

Figure 3 The Scope of social dialogue

Figure 4 Threshold for the establishment of Works Councils

Figure 5 Prerequisites for effective social dialogue

Figure 6 GDP growth and unemployment rate 2012-2015

Figure 7 Active enterprises by size (%)

Figure 8 Informality by sectors (%)

Figure 9 Public perception on TUs in Albania

Figure 10 Trapped in a vicious circle

Introduction

Background

For many years the Western Balkan (WB) countries have strived towards attaining more democratic societies and functioning market economies based on good governance; but there remains a lot to be done yet. Throughout the region, political and socio-economic human rights are repeatedly not respected, particularly with regards to labour rights. High unemployment rates, the increase of precarious work and dismissal threats from the employers tend to inhibit workers' possibilities to organize in the workplace. Moreover, the prevalence of corruption jeopardizes the quality of judicial institutions and the right to access to justice.³

In this context, the need to involve social partners and society as a whole turns out to be paramount. It becomes very important that workers' and employers' organizations are actively involved in the policy-making and monitoring processes, as they do not only represent "the real economy"; they build it and make it grow. Additionally, the participation of a broad spectrum of civil society and other non-state actors is required to endorse the necessary reforms and changes.

The practice of social dialogue brings the potential of promoting better living and working conditions and greater social justice, through advancing consensus-building and democratic involvement of the main stakeholders in the world of work. Effective social dialogue structures and processes have the capability of resolving important economic and social issues, promoting good governance and enhancing economic growth that provides more and better lasting jobs for community members. In particular, social dialogue represents a powerful instrument for promoting labour laws, ensuring constructive industrial relations, and guaranteeing decent working conditions for workers whilst providing sufficient predictability and flexibility for employers to plan and manage their operations.

The International Labour Organization (ILO) is based on the notion of social dialogue *ab ovo*.⁴ Social dialogue represents one of the four pillars of the decent work paradigm and is a strategic objective of ILO programming. Its objectives seek to strengthen institutions and processes of social dialogue, participation and negotiation, as well as its actors – to ensure that tripartite social dialogue occurs regularly in policy-making, labour law reform and

³ For a comparative assessment of the situation in the region, see EC Progress Reports, Freedom House Nations in Transition Reports. See also FES Annual Review of Labour Relations and Social Dialogue in South East Europe.

⁴ As per the Declaration concerning the aims and purposes of the International Labour Organisation, ILO has "[the] solemn obligation...to further among the nations of the world programmes which will achieve...the collaboration of workers and employers in the preparation and application of social and economic measures".

implementation.⁵ In the EU, social dialogue is enshrined in the Treaty on the Functioning of the European Union (Articles 151-155)⁶ and is acknowledged at length as one of the principles underlying the European Social Model's (ESM) agenda.⁷ The European Economic and Social Committee (EESC) – established in 1957 – includes in its composition along with the Employers' Group and Workers' Group the Various Interests' Group with the final aim of achieving inclusiveness at the European level through enabling representativeness from a broad spectrum of economic, social and civic organizations to play a role in decision-making.⁸

In the case of Albania, the legacy of the totalitarian regime with central planning of the communist era produced an inexistent practice of social dialogue along with a distorted public view of trade unions (read: the then Bashkimet Profesionale). As a result, the political and economic transition of the Nineties molded the industrial relations in a social dialogue vacuum, which, by and large, still lingers in the Albanian society to date; the level of social dialogue is largely weak and ineffective.

In the National Employment and Skills Strategy 2014 – 2020 (NESS),⁹ the question of strengthening social dialogue gets primarily addressed in view of revitalizing the National Labour Council (NLC) as a chief instrument in the drafting of policies related to employment, wages and social benefits. In the National Plan for European Integration 2015-2020 (NPEI), notwithstanding social dialogue development at the national level, the extension of tripartite social dialogue at the regional/subnational level (along the model of the NLC) is considered a priority in the development of social dialogue in the medium and long term.¹⁰

In a *prima facie* evidence, although the economic progress of the last decade has partly reduced poverty and has improved working conditions, unemployment and informality remain at very high levels, yet.¹¹ Industrial relations are characterized by a weak bipartite social dialogue due to the insufficient organization of trade unions at the company level or above, skepticism of the employers towards trade unions at all levels and a general lack of culture of dialogue. Trade unions lack public legitimacy and committed members. In this respect, the need to promote trust-building between social partners starting at the company

⁵ ILO Programme and Budget for the biennium 2014-15.

⁶ As per Article 151 "The Union recognizes and promotes the role of social partners at its level, taking into account the diversity of national systems. It shall facilitate dialogue between social partners, respecting their autonomy."

⁷ "Social dialogue is acknowledged to be an essential component of the European model of society and development, with high-quality social protection, investment in education and qualifications and reforms designed to improve dynamism in the economy." (European Commission. (2002). The European social dialogue: A force for innovation and change").

⁸ Social dialogue at the European level is elaborated more thoroughly in the following sections.

⁹ DCM No.818, dated 26.11.2014 "Për miratimin e Strategjisë Kombëtare për Punësim dhe Aftësi 2014 – 2020 dhe të planit të veprimit për zbatimin e saj."

¹⁰ DCM No.404, dated 13.05.2015 "Për miratimin e Planit Kombëtar për Integrimin Evropian 2015 – 2020".

¹¹ See World Bank (2015).

level¹² along with tripartism and inclusiveness at the subnational/territorial level becomes central to improving the labour market and ultimately promoting decent jobs in Albania.

Aim and objectives of the study

The aim of this study is to assess the current state of social dialogue and enabling conditions in Albania at the national and subnational level, in view of promoting the Decent Work Agenda.

More specifically, it aims to:

- review the history of social dialogue among social partners in Albania at the national level;
- evaluate the current challenges of a functional social dialogue (while taking into consideration the capacities of the social partners, their relationship, and the role of the state and ‘other’ actors);
- appraise the implications of the current level of national social dialogue at the regional/territorial/local level.¹³

The set of recommendations put forward focuses on how to improve the conditions for enabling a productive social dialogue, provide measures for a more constructive involvement of social partners and other non-state actors at promoting social dialogue in Albania, and identifying future actions in the area of social dialogue and labour market governance, with a special emphasis on the expansion of social dialogue at the subnational/territory level to achieve the objectives set by the Decent Work Agenda.

Methodological note

Given that existing research in the field of social dialogue in Albania remains rather limited and reliable empirical data and information is difficult to obtain, this study follows a qualitative explorative approach. It covers the period May – October 2015.

A description of the methods used follows:

Desk research. Desk research included the analysis of the existing and proposed legislative, policy and administrative frameworks for promoting and conducting social dialogue in Albania; analysis of key and resourceful ILO and EU publications on social dialogue practices; review of international and national reports and documents regarding the development of social dialogue in Albania (i.e. EC Progress Reports for Albania, EESC

¹²See Hantke (2008).

¹³ For the purpose of this study the local level social dialogue is often referred to as ‘territorial social dialogue’. The administrative boundaries in Albania have changed many times in the last 25 years redefining the concept of the local government unit administrative territory. Earlier this year the Albanian Parliament approved the new administrative organization of the country, which resulted in a major amalgamation process with 61 municipalities down from 373 municipalities and communes. The role of the Regions (Qarks) is yet to be defined.

Opinions, FES' Annual Review of Labour Relations and Social Dialogue in South East Europe: Albania, ITUC's Annual Survey of Violations of Trade Union Rights etc.); and, a review of media reports and media coverage of social partners' main topics of concerns in the last 3 years.

In-depth and semi-structured interviews. Individual in-depth interviews with key informants/persons representing employers and trade union organizations, the government through the Ministry of Social Welfare and Youth (MoSWY), and Employment and Skills experts were conducted to gain insights on the research questions posed (in total 5 interviews). Semi-structured interviews with employers and trade union organizations at the national and subnational level with the purpose of assessing the level, challenges and opportunities of social dialogue followed (in total 10 interviews).

Focus group discussions (FGDs). Three focus groups were held in the regions of Tirana, Shkodra, and the municipality of Mallakastra. The focus groups included the participation of employers and trade union organizations, labour relations experts, representatives of the respective Regional Councils (Keshilli i Qarkut) and the Institution of the Prefect. The aim of the focus groups was to better understand the relationship between social partners and among social partners and the government, and to identify the challenges refraining the promotion of the Decent Work Agenda. In addition, methodologically, focus groups were also used to assess and confirm the validity of the main findings from the interviews.

Social dialogue as a vital tool to promote Decent Work Agenda: An overview¹⁴

Breaking down the definition of social dialogue

Social dialogue describes the involvement of workers and employers (or among workers, employers and government) in the decision-making process on employment and other work-related issues (See Box 1). So far the burgeoning literature on social dialogue lacks a unique, universally agreed definition as its practice encompasses different cross-country

Box 1: Defining social dialogue

ILO: "All types of negotiations, consultations or information sharing among representatives of governments, employers and workers or between those of employers and workers on issues of common interest relating to economic and social policy."

European Commission: "European social dialogue refers to discussions, consultations, negotiations and joint actions involving organisations representing the two sides of the industry (employers and workers)."

¹⁴ This subsection draws considerably from ILO's guide on national tripartite social dialogue and from European Commission's Social Europe Guide. For more, see: International Labour Organization. (2013). National tripartite social dialogue: An ILO guide for improved governance. Geneva: ILO, and EC. (2012). Social Europe Guide (Vol.2). Social Dialogue, Directorate-General for Employment, Social Affairs and Inclusion. Luxembourg.

arrangements. For the purpose of this study, social dialogue will be defined according to ILO's broad working definition.

All types of negotiations, consultations or information sharing...

As the definition suggests, the practice of social dialogue entails various degrees of social partners' engagement,¹⁵ leading towards various assumptions, purposes and outcomes.

The lowest degree of engagement is restricted to information exchange among social partners (See Fig.1 for the pyramid outlining the degrees of participation). This degree of participation implies only a certain degree of trust between the involved parties. Although, the position of the actors involved in social dialogue is acknowledged, they are not committed to engage in a decision-making process. Consequently, cooperation remains limited.

In the next level, the process of consultation between parties entails a stronger degree of commitment and trust among partners, which “not only share information but also engage in more in-depth dialogue on the issues raised. While consultation itself does not carry decision-making power, it can take place as part of such a process”.¹⁶ Through consultations, social partners have the opportunity to voice their opinions and concerns and to respond to others' standpoints on

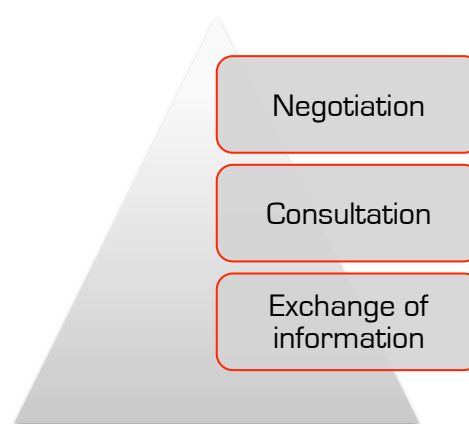


Figure 1 Degrees of Participation Source: ILO

issues of common interest; and, this process might often lead one of the parties towards reconsidering its original position.

On the other hand, negotiation represents the highest degree of participation. It assumes a high level of trust and commitment between social partners given the final aim of reaching a common agreement on specific issues. During negotiations, partners are not only required to listen and express their opinions and positions; they are also involved in a process that brings mediation and a potential compromise for consensus-based solutions.

Box 2: Who are the social partners?

Employers and their associations and trade unions or worker representatives.

¹⁵ European law also uses the English term ‘management and labour’ when referring to representatives of workers and employers. In the literature, employers organizations and trade unions are also referred as “both sides of industry”.

¹⁶ ILO. (2013). pg.26.

..among representatives of governments, employers and workers or between those of employers and workers...

Social dialogue takes various forms. It can be bipartite when only the social partners are involved or tripartite when the government (through its representatives) is the third partner in the process. Bipartite social dialogue usually takes the form of collective bargaining but it also embraces other forms of negotiation, cooperation and dispute prevention between social partners. Tripartite social dialogue brings together workers, employers and government representatives to discuss public policies, laws and other decision-making that affect the workplace or interests of workers and employers at large. Underlying both bipartism and tripartism is the assumption of an equal and independent participation of social partners (and the government) with the final aim of seeking solutions to issues of common concern.

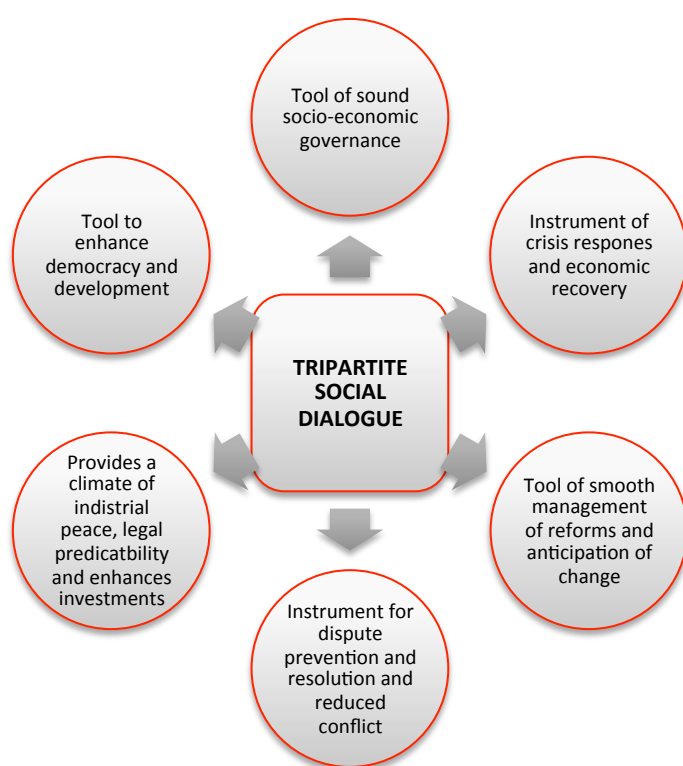


Figure 2 Benefits of Tripartite Social Dialogue Source: ILO

Through this involvement, social dialogue offers the potential to commit key stakeholders to consensus-based decisions on issues of their interest and to ensure their implementation, accordingly. Moreover, it functions as a tool to mitigate potential social conflicts or solve them as they emerge. As an illustration, Fig. 2 outlines various benefits of engaging in tripartite social dialogue (see Fig. 2).

Following the need for inclusion of multiple interest groups in policy-making,¹⁷ social dialogue has also evolved towards embracing new actors, and as a result a new form of tripartism has emerged. In

‘Tripartism PLUS’ social dialogue is opened up to civil society groups. ILO welcomes this practice as a means to strengthen dialogue and make it more inclusive, while still preserving the central role of the ‘traditional’ social partners.

¹⁷ This need has led to a proliferation of terms and definitions, such as “tripartism PLUS”, “civil dialogue”, “stakeholders’ consultations” “participatory governance”, which in literature still remain to be clearly defined.

Box 3: What is Tripartism PLUS?

Social dialogue opened up to civil society groups.

‘Tripartism PLUS’ should be viewed as amplifying the effectiveness of the ‘classical’ tripartism through gaining a wider perspective on common concerns and through achieving a broader consensus on areas beyond the traditional scope of labour-management. Workers and employers remain the actors of the “real economy” who draw their legitimacy from their membership status and as such are distinct from other CS groups.¹⁸ However, wherever union density and EO’s presence is low civil society actors possess the potential of valuable allies of employers’ and workers’ organizations through providing access to vulnerable groups of the employment spectrum not customarily targeted by the social partners (the self-employed, the unemployed, the informal workers etc.) or opening up the policy space.

...on issues of common interest relating to economic and social policy.

The classical domain of social dialogue has been labour-management issues concerning the regulation of terms of employment and conditions of work, but its scope has notably expanded since the end of the Nineties (See Fig.3 for a listing of possible topics ranging from specific labour and industrial relations matters to broader economic and social policy issues). Given this ample range of issues that social dialogue can tackle, its process has taken various forms and patterns.

Tripartite social dialogue at the national level is unique in addressing broader issues related to economic and social development policies, whilst, matters of purely regional or sectoral nature are usually tended by regional or sectoral tripartite bodies at the regional

Economic and social policy issues

- macroeconomic policy framework and economic growth;
- structural change and transformation of the economy;
- wage increases and inflation;
- monetary policy;
- gender equality;
- education and vocational training;
- productivity and economic competitiveness;
- taxation and fiscal policy;
- social welfare, security and protection;
- economic and social strategies to deal with externally originating pressures for reform such as: transition to a market economy, regional integration, structural adjustment programmes and poverty reduction strategy processes.

Labour and industrial relations issues

- wage setting including minimum wage determination;
- labour legislation;
- working conditions;
- labour market policy;
- labour dispute settlement;
- occupational safety and health.

Figure 3 The Scope of Social Dialogue Source: Ishikawa (2003)

¹⁸ ILO has recognized “the potential for the International Labour Office to collaborate with civil society following appropriate consultations with the tripartite constituents”- For more, check ILO, (2002).“Resolution concerning Tripartism and social dialogue”, International Labour Conference, 90th Session, Geneva.

level. On the other hand, bipartite consultations generally focus on labour-management issues regarding employment and work conditions.

On the other hand, since social dialogue is a dynamic process its policy focus is recurrently molded by national and regional needs and developments. For instance, the 2008 global economic crisis highlighted the importance of tripartite social dialogue as a key component of crisis recovery through which social partners shape responses to the challenges of retaining jobs and workers' income whilst promoting companies' sustainability. Along these lines, in many countries, tripartite consultations on means and measures of addressing the crisis have led to national tripartite agreements and other collective arrangements with the final aim of mitigating the consequences of the crisis and encouraging recovery. In 2008, social partners and the Dutch government reached a wide-ranging agreement on dealing with the crisis on issues regarding moderate wage demands, reduced unemployment insurance contributions, reform of dismissals law, assistance for low-paid and vulnerable groups, job creation and training. During April and July 2011, French social partner organizations signed four agreements targeting youth employment. The accords commenced joint actions and commitments in areas such as promoting access to jobs, combined work and training schemes, work placements and housing. An instance of a sectoral response was the agreement in March 2009 that covered the Swedish manufacturing sector. The deal allowed for the provisional introduction of short-time working, (which is not permitted in Sweden), to prevent redundancies during the recession. The use of short-time work required a local agreement; the employees affected received at least 80 % of normal pay, and the local agreements could provide for training during the un-worked hours.¹⁹

Social dialogue at the optimum level

The process of social dialogue can take place at various levels: namely, international, regional, national, subnational, sectoral, or enterprise level. A brief overview of its variety and characteristics is presented below:

EU's format of social dialogue (or dialogue at the supranational level)

Social dialogue at the European level complements and supports member states' national social dialogue and industrial relations²⁰ through jointly involving European level workers' and employers' organizations in EU decision- and policy-making processes.

Social dialogue occurs at two levels: cross-industry and sectoral. At the cross-industry level, the scope of dialogue embraces 'the whole EU economy and labour market', and its purpose

¹⁹ The measures undertaken as per these agreements and arrangements have helped the countries concerned to mitigate the consequences of the crisis and to accelerate recovery. Yet, in some countries, social dialogue faced challenges with regard to bridging the differences between the tripartite partners. For more, check: ILO. (2014). The governance of policy reforms in Southern Europe and Ireland: Social dialogue actors and institutions in times of crises.

²⁰ European Commission. (2015). A new start for social dialogue.

is to ‘promote dialogue between trade unions and employers’ organizations in key areas common to all fields of employment and social affairs’. The Social Dialogue Committee (SDC) is central to the functioning of this process, through bringing together European trade unions and employers’ organizations to discuss key employment-related issues.

At the sectoral level, dialogue covers workers’ and employers’ organizations in specific sectors of the economy across EU. The European Commission affirms that the sectoral level ‘is the proper level for discussion on many issues linked to employment, such as working conditions, vocational training and industrial change, the knowledge society, demographic patterns, enlargement and globalisation’.²¹ In this respect, sectoral social dialogue committees are the central bodies for consultation, joint initiatives and negotiation. To date, there are 43 sectoral social committees established, which produce a variety of joint texts and agreements.

European social dialogue encompasses both bipartite and tripartite processes occurring between the European social partners or between the two sides of the industry and the EU institutions (i.e. European Commission, European Council, Council of the European Union).²²

Moreover, the need for including various interest groups in European policy-making was addressed since the establishment of the European Economic and Social Committee (EESC) back in 1957. EESC is a consultative body that represents a forum for consultation, representation and information among Member States’ economic, social and civic organizations. As per its mission statement, EESC contributes to ‘strengthening the democratic legitimacy and effectiveness of EU by enabling civil society organizations from the Member States to express their views at European level’.²³

Its three key missions include:

- ensuring that European policies and legislation tie in better with economic, social and civic circumstances on the ground by assisting EU institutions;
- promoting a more participatory EU, more in touch with popular opinion by acting as an institutional forum representing, informing, expressing the views and securing social dialogue with organized civil society;
- and, promoting the values and advancing in Europe and across the world the cause of democracy and participatory democracy as well as the role of CSOs. To this regard, EESC is paying attention to broadening its contacts with CSOs and

²¹ Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions – A European strategy for key enabling technologies - A bridge to growth and jobs. The EU contribution to the implementation of the decent work agenda in the world {COM (2012) 341 final}.

²² For more see Degryse, C. (2011). European Social Dialogue: State of play and prospects – Final Report. Brussels: European Social Observatory (OSE).

²³ For more check: <http://www.eesc.europa.eu/?i=portal.en.about-the-committee>.

supporting the development of civil society in the Member States *and candidate countries*, as well.

The composition of EESC includes: Employers' Group (Group I) – employers and representatives of employers' organizations and associations working in the economic sectors of industry, commerce, services and agriculture; Workers' Group (Group II) – representatives from national trade unions, confederations and sectoral federations; and, Various Interests' Group (Group III) – that include “other representatives and stakeholders of civil society, particularly in the economic, civic, professional and cultural field”.²⁴ Group III contribution promotes the expression of concerns of various social, occupational economic and cultural organizations that make up the civil society in the Member States.

Dialogue at the national level

Dialogue at the national level occurs between national cross-industry trade unions (national confederations) and national level employers' organizations. In its tripartite form it includes the participation of central government representatives. At this level, the scope of consultations includes concerns of broad economic and social policies and generally involves national bargaining and cross-industry agreements on specific issues – such as training, employment policies, health and safety, and bargaining rules (See above). The process typically takes place in formally established national institutions in which the government and representative national level trade unions' and employers' organizations (and sometimes including other interest groups) discuss general economic and social matters. In a comparative perspective, the role and competences of these bodies vary widely but they usually have an advisory and consultative role on drafting legislation and policies, principally in employment-related areas – and can sometimes provide a forum for the negotiation of agreements. Besides the main institution, many countries also have other national tripartite bodies that deal with specific issues in the world of work, such as employment, training, social security, and health and safety.

Dialogue at the subnational level

In line with the respective national legislations as regards the way each country is constitutionally organized and given the allocation of powers between the central authority and the regions, social dialogue at the subnational level can take different forms depending on the respective administrative divisions. At this level, dialogue is most frequently about employment services, employment promotion initiatives, economic restructuring, VET as well as health and safety at the workplace. These are usually tended in formally established or ad-hoc regional tripartite bodies, whereas an autonomous (bipartite) dialogue is rare at this level. The participation in these bodies is often broader than in the national tripartite

²⁴ For more check: <http://www.eesc.europa.eu/?i=portal.en.group-3>.

bodies since the participants often include various non-state actors other than the public authorities and social partners.

Territorial social dialogue, on the other hand, might be considered a more recent form of social dialogue. It is based on the underlying assumption that the territory is the appropriate locus for taking up initiatives, mobilizing competent players and resources, fine-tuning public decisions, and achieving the effectiveness of public policies, especially in the employment domain.

The shift towards territorial social dialogue could be linked to several developments:²⁵ the gradual tendency of decentralization of public decision-making (especially, in matters related to labour market and VET); the increased weight on horizontal coordination between firms (through networking and subcontracting) as relates to the organization of production systems; the emphasis on territorial social dialogue (from the European institutions) as an effective tool for mitigating high unemployment, labour market segmentation and rigidity, as well as promoting greater mobility of workers between firms and sectors, and employment of vulnerable social groups; and, the goal for an increased participatory local democracy and the establishment of community links as counterbalance to economic globalization (Jobert, 2005).

The major characteristics of social dialogue at the territorial level are:

- a very diverse group of public and private actors (including not exhaustively: TUs, EOs, local authorities, decentralized government agencies, chambers of commerce, CSOs, voluntary bodies etc.);
- a very wide range of topics under consultation: ranging from Local Economic Development (LED), labour market integration, training and skills, labour flexibility, employability, business start-ups, innovation, public service access etc.;

The territorial area does not necessarily correspond to administrative units but could be defined by the nature and objectives of the projects, the stakeholders involved and the collective action in which they engage to accomplish the projects.

Dialogue at the sectoral level

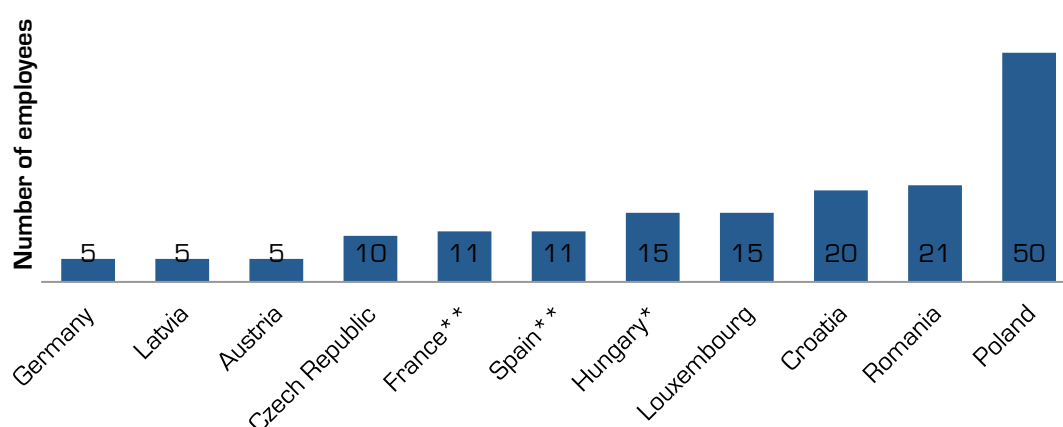
Social dialogue at the sectoral level includes regular collective bargaining between trade unions and employers' organizations over pay and work conditions in specific sectors of the economy. As a practice, sectoral agreements set out actual pay and conditions for the employees in the particular sector and more typically provide a framework and a minimum floor for successive bargaining actions at the company level.

Dialogue at the company level

²⁵ The analysis focuses on the European experience.

In the European practice there is employee representation at company or enterprise level in practically all EU countries. This representation is provided by either the workplace trade union representative or by elected employee representatives (including work councils). In perspective, trade unions engage in collective bargaining, which covers the remuneration and working conditions, whereas works councils usually have participation rights only over operational issues at company level. Yet, the relative importance and responsibilities of trade unions and work councils depends on the specific country. For a comparative description of the minimum number of employees required to establish a work council across Europe, see Fig.4.

Fig.4 Threshold for the establishment of Works Councils



Source: worker-participation.eu

The practice of social dialogue at the workplace level has also been transposed to the European level; European Works Councils (EWCs)²⁶ can be formed in companies with a transnational, European presence. The main purpose of EWCs is to provide employees with information and consultation on transnational matters. However, dialogue has further developed with the signing of agreements on topics of restructuring, corporate social responsibility, equality, and health and safety at work.

An enabling environment for social dialogue: Are the preconditions met?

The conducting of a high-quality and effective social dialogue requires the fulfillment of a set of preconditions. The list compiled by ILO includes: democratic foundations and freedom of association; strong, legitimate, independent and representative workers' and employers' organizations; political will, a sense of responsibility and commitment of all parties engaged in social dialogue; appropriate institutional support along with practice and experience.

²⁶ Council Directive 94/45/EC of 22 September 1994 introduced European Works Councils or alternative procedures/structures in order to ensure information and consultation for employees of multinational companies that meet certain criteria.

First, social dialogue cannot be conducted in a vacuum of democratic foundations and where the respect for fundamental rights and freedoms is lacking or is being violated. Second, the need for strong, independent, and representative social partners requires social partners to have appropriate financial independence and technical capacity to negotiate with

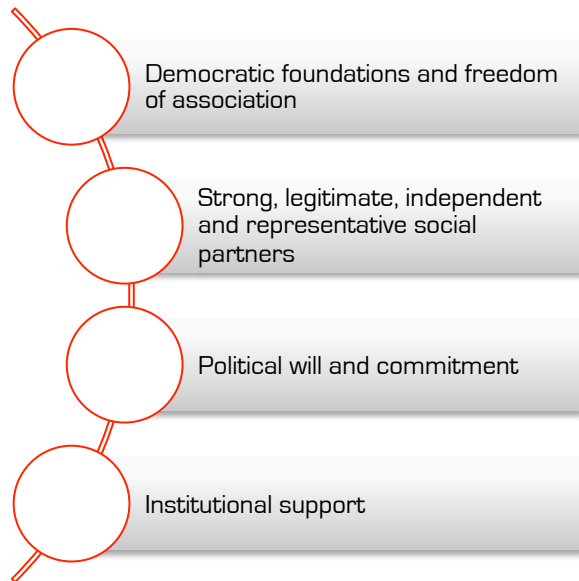


Figure 5 Prerequisites for effective social dialogue

the government (or between them) on an equal footing – with appropriate experts to feed in constructive discussions and participate competently in social dialogue. Moreover, social partners ought to be independent of the government influence and its policies, and representative of their constituents. Third, for a successful cooperation between social partners and the government it is required a certain level of trust in each other and political will to engage in the process. Despite divergent views and goals, social partners should be able to identify common objectives and

priorities and identify the practice of social dialogue as a positive-sum game. Lastly, for the countries with a deficient legacy in social dialogue, a sound legislative framework for tripartite social dialogue is almost certainly required to provide for a solid foundation of practical implementation – with principles, procedures and functions of tripartite bodies defined.

However, the practice of social dialogue differs significantly from country to country; and, there is no “one size fits all” model of social dialogue. In contrast, there are rich varieties of institutional arrangements, legal frameworks, and practices.

The Decent Work Agenda in action

The promotion of social dialogue is closely related to the Decent Work concept. Decent Work was formulated by ILO in response to the growing size of the informal sector, the ongoing decline in the living standards of large segments of the world's population, and the decline in union density internationally. In this global context, Decent Work assumes that work is not exclusively a source of income; but its vector includes, not exhaustively “personal dignity, family stability, peace in the community, democracies that deliver for people and economic growth that expands opportunities for productive jobs and enterprise development”.²⁷ Through Decent Work it is aimed to push positive change in people’s lives at the national and local level.

²⁷ Check <http://www.ilo.org/global/about-the-ilo/decent-work-agenda/lang--en/index.htm>.

ILO as the international body in charge for promoting the Decent Work Agenda supports the implementation of integrated Decent Work Country Programmes. These programmes aim to tackle major decent work deficits through establishing the priorities and the targets within respective national development frameworks. The Declaration on Social Justice for a Fair Globalization²⁸ (adopted in the 97th Session of International Labour Conference in 2008) expresses the universality of the Decent Work Agenda: all Members of the Organization ought to pursue policies based on the four strategic objectives considered necessary to implement the Decent Work Agenda in practice.²⁹ Moreover, in the declaration,

Box 4: ILO four strategic objectives to put Decent Work Agenda in practice

Promoting jobs for an economy that generates opportunities for investment, entrepreneurship, skills development, job creation and sustainable livelihoods.

Guaranteeing rights at work to obtain recognition and respect for the rights of workers. All workers, and in particular disadvantaged or poor workers, need representation, participation, and laws that work for their interests.

Extending social protection to promote both inclusion and productivity by ensuring that women and men enjoy working conditions that are safe, allow adequate free time and rest, take into account family and social values, provide for adequate compensation in case of lost or reduced income and permit access to adequate healthcare.

Promoting social dialogue involving strong and independent workers' and employers' organizations is central to increasing productivity, avoiding disputes at work, and building cohesive societies.

Source: <http://www.ilo.org/global/about-the-ilo/decent-work-agenda/lang-en/index.htm>

social dialogue and tripartism is acknowledged as the most appropriate method to bridge economic development and social progress, facilitating consensus and building effective labour laws. Social dialogue emerges not only as an outcome to be achieved *per se*, but as a tool to implement other fundamental objectives of ILO, considered as “inseparable, interrelated and mutually supportive”.³⁰

As a result, social dialogue is embedded in the Decent Work Agenda, besides being included in practically all ILO Conventions and Recommendations. It represents one of the four pillars of the Agenda (or strategic objectives); the three others include promoting jobs, guaranteeing rights at work, and extending social protection; gender equality is a cross-cutting objective (see Box 4). At the European level, decent work is formally endorsed by the European Commission, the European Council, the European Parliament and the EESC.

²⁸ ILO. (2008). Declaration on Social Justice for a Fair Globalization, International Labour Conference, 97th Session, Geneva.

²⁹ As of September 15, 2014, the total number of member States with finalized DWCP or in process of DWCP elaboration is 98. For an exhaustive list, check <http://www.ilo.org/public/english/bureau/program/dwcp/countries/index.htm>.

³⁰ ILO. (2008). Declaration on Social Justice for a Fair Globalization, International Labour Conference, 97th Session, Geneva.

It is acknowledged that freedom of association, the right to collective bargaining and social dialogue are decisive elements in implementing policies to support decent work.³¹

Social dialogue in Albania

An overview

During the communist era, the national trade union organization (read: Bashkimet Profesionale të Shqipërisë, BPSH) was a dependent structure of the ruling Communist party. Its primary task was not the representation of workers' interests against the state as the monopsony employer, but the mobilization of the workers for the “construction” of socialism, the class warfare and the fulfillment of the Plans; BPSH was an executing authority.³² As a result, social dialogue in its genuine form was an alien practice at the workplace or sectoral level in the country in contrast to its development in Western Europe as a bottom-up approach. Following the collapse of the communist order in the Nineties, several independent sectoral trade unions sprang up and some of them later associated with the confederations established. The challenge ahead was obvious: embryonic trade unions needed to act as independent interest advocacies competing for both members and political influence when they virtually lacked capacities and experience of decision-making through social dialogue. Twenty-five years later the state of unionism and social dialogue in Albania remains very fragile.

Social partners in the socio-economic context

Article 50 of the Constitution of the Republic of Albania³³ stipulates that: “Workers have the right to unite freely in labor organizations for the defense of their work-related interests.” This constitutional right is regulated through the provisions in the Law No. 7961, date 12.07.1995 “Labor Code of the Republic of Albania” (amended). The law establishes the requirement of a minimum 20 members to establish a trade union (Article 177). Two or more trade union organizations have the right to voluntarily unite to form federations, whereas confederations can be formed by the voluntary union of two or more federations (Article 176).

To date, there are 83 TUs established and operating in Albania. About 90% of trade union membership is embraced by the two main trade union confederations at the national level, the Confederation of Trade Unions of Albania (Konfederata e Sindikatave Shqiptare KSSH) with 110 000 reported members, and the Union of Independent Trade Unions of Albania

³¹ Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions - Promoting decent work for all - The EU contribution to the implementation of the decent work agenda in the world {SEC (2006) 643}.

³² The literature has described the Communist trade unions as intermediaries between the Communist party and the people or as the Communist parties ‘social and welfare departments’ (Clarke & Fairbrother 1994).

³³ http://www.parlament.al/web/pub/kushtetuta_perditesuar_15171_1.pdf.

(Bashkimi i Sindikatave të Pavarura të Shqiperise BSPSH) with 84 000 reported members³⁴. KSSH and BSPSH operate at the national and regional level and are mainly active in the sectors of education and science, the civil service, industry, agriculture, the food industry, public health, transportation, oil, construction, textiles, the craft industry, trade, metallurgy and the chemical industry, and telecommunications. Under the umbrellas' of KSSH and BSPSH there are 12 and 11 federations, respectively.³⁵ Both confederations are members of the ITUC (International Trade Union Confederation) and observers of the ETUC (European Trade Union Confederation). The other confederations with no official membership data available are: Union of Trade Unions of Albania (Bashkimi i Sindikatave të Shqipërisë), Union of Independent Trade Unions (Unioni i Sindikatave të Pavarura), Union of Autonomous Trade Unions (Bashkimi i Sindikatave Autonome), and the Confederation of Employees of Albania (Konfederata e Punonjësve të Shqipërisë).³⁶ Besides, a number of sector specific TUs exist.

While membership in the former state-controlled national trade union was essentially an obligation and the union density was above 90 per cent,³⁷ since then union density has decreased precipitously. The current estimates reportedly fluctuate between 10 and 30 percent³⁸ but they are unreliable. Workers' organizations do not regularly collect fees from their members, a factor which can easily create confusion over the claims of each organization on the number of workers adhering. Moreover, the socio-economic environment characterized by poor security in the labour market, high levels of unemployment and a large informal economy has been especially detrimental to the TUs recruiting efforts.

In a comparative overview, the economic growth recorded throughout the last decade in Albania has had a limited impact on employment. Furthermore, the nature of labour market adjustments during the economic downturn induced by the global economic crisis has mainly operated through job losses instead of downward wage adjustments. Fig.6 traces the development of GDP, total unemployment rate and youth unemployment rate over the past three years. Total unemployment rate has been rising quarterly since the first quarter of 2012. In the second quarter of 2015, total unemployment increased by almost four percentage points reaching 17.3% (corresponding to a total of 220,000 unemployed). The labour market is characterized by high youth unemployment (reaching 34% in Q2-15,

³⁴The data of membership are retrieved by ITUC. There are no publicly published membership data on the confederations' websites. Source: ITUC. List of affiliated organizations. As of December, 2014. Retrieved from: http://www.ituc-csi.org/IMG/pdf/15_01_22_list_affiliates_14th_gc-3.pdf

³⁵<http://kssh.org/rreth-nesh/organizimi/> and <http://www.bspsh.org.al/en/typography/strukturat-drejtuese/strukturat-aktuale-te-bspsh>.

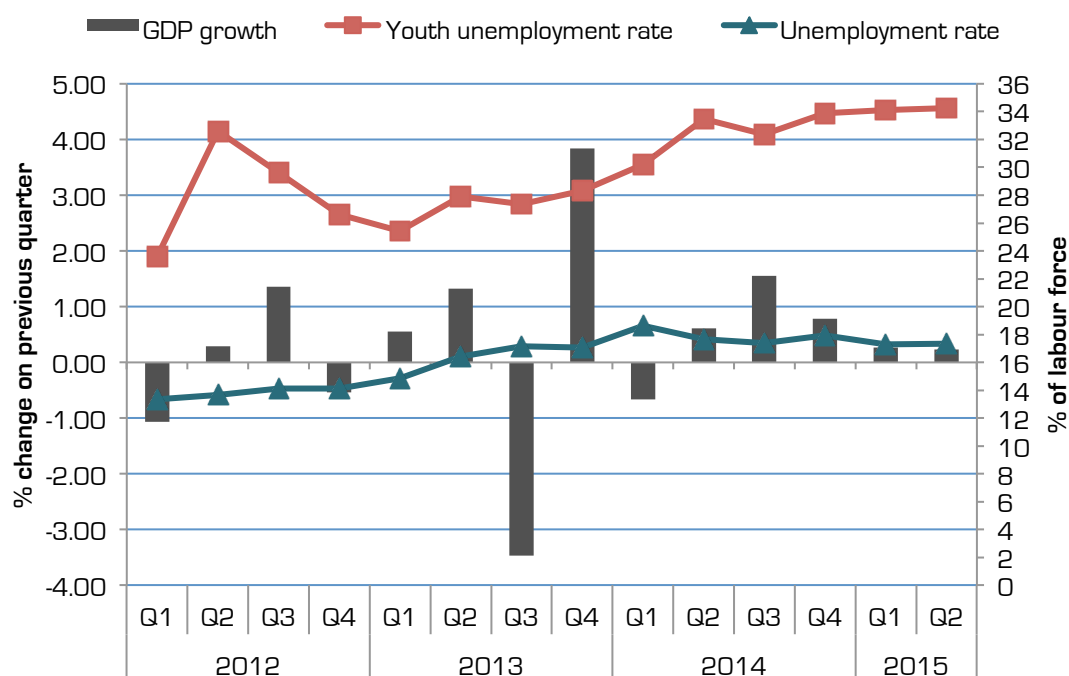
³⁶FES (2015).

³⁷0.8 million members (Eurostat, 1993).

³⁸21.6% in 2009 as reported by ILO http://www.ilo.org/ilostat/faces/help_home/data_by_country/country-details.

compared to 28% two years before) and persistent gender gap in employment rates over time – with higher employment rates for men than for women.³⁹

**Fig.6 GDP growth and unemployment rate (quarter-on-quarter)
2012-2015**



Source: INSTAT (2015) and authors' calculations. National Account and LFS.

Note: GDP data are calculated as chain-linked volumes. Data are seasonally adjusted.

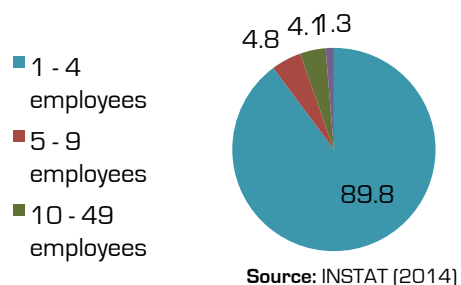
At the end of 2014, Albania counted a total of 112,537 active private enterprises, half of which based in the regions of Tirana and Fier (52.6%). In a comparative perspective, from 2010 the number of active enterprises has increased by 9.2 % (INSTAT, authors' calculations). The vast majority of enterprises operate in the service sector (84.9% in 2014) and this prevalence is observed across all the regions of the country varying from 80% in Fier to 88% in Tirana. The disaggregation according to the sectors of the economy reveals that enterprises with trade, accommodation and food service as main activity dominate with 56%. Regarding female ownership, only 28.5% of total enterprises are owned by women.

The typical enterprises in Albania are micro companies (<9 employees), which account for nearly 95% of all private enterprises. About 90% of enterprises employ 1-4 employees whilst the majority in this group (about 69%) has only one self-employer/employee. In contrast,

³⁹ The difference between male and female employment rates in 2014 was 14.6 percentage points. On the other side, a considerable share of working age women are either inactive (48.7 % in 2014) or working as contributing family workers mainly in agricultural farms. Source: INSTAT (2015).

enterprises with 50 or more employees represent only 1.3% of total active enterprises (or 1478 enterprises in absolute terms) (See Fig.7).

Fig.7 Active enterprises by size (%) 2014

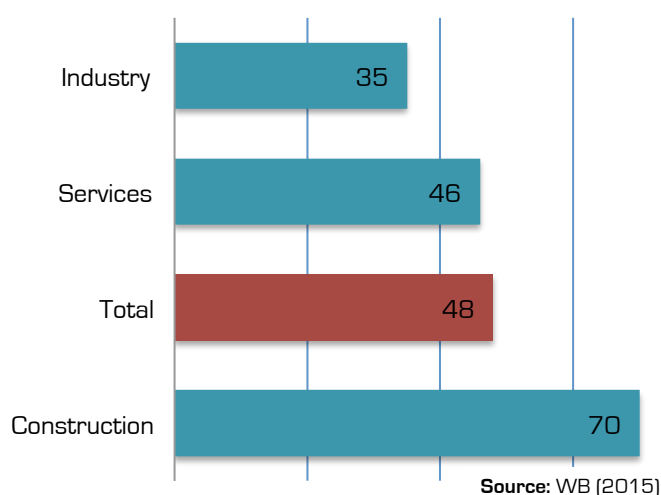


During the last years, the distribution of employment has slightly shifted away from the agricultural to the services sector, but agriculture is still the sector that employs the majority of the population (approximately 41% in 2014). The services sector, in turn, accounts for over one-third of employment for both men and women, while industry and construction employ relatively fewer workers. However, informality is widespread in the labour market and its size is estimated to account for nearly half of all output

in the non-agricultural private sector and for over a quarter of overall GDP (World Bank, 2015). It is estimated that around 46% of total employment in the services sector corresponds to informal employment, percentage that climbs to nearly 70% in construction (see Fig.8).

In this socio-economic context combined with interests of conflicts between the employers and the business associations and the low bargaining pressure from trade unions, employer organizations' have encountered organization difficulties; they have been weaker than the trade unions from the organizational and territorial coverage viewpoint; but presently they are getting consolidated. There are about 30 employers' organizations operating in Albania.

Fig. 8 Informality by sectors (%)



In 2010, Business Albania (Biznes Albania) was established as an umbrella organization of employers and business associations. It comprises of 24 business associations along a number of individual companies (with over 30 000 employers as part of association members).⁴⁰ Other key players in the social dialogue include: the Albanian Agribusiness Council (KASH) with 12 regional councils and 21 national associations as members, and the Council of

⁴⁰ <http://www.biznesalbania.org.al/en/about-us/>

Employers Organizations of Albania (KOPSH) with 14 member federations, the majority of them active at national level. Moreover, since 1995, the Union of Chambers of Commerce and Industry of Albania (Bashkimi i Dhomave të Tregtisë dhe Industrisë së Shqipërisë) (with 70 members) has operated as a non-profit organization to protect the interests of trade and industry nationally and to provide the government with proposals for promoting trade and industry.

From a union perspective, the better-organized companies are present in the public sector and among the remaining state-owned companies. Although the government appears as a more favorable partner, in some instances of collective relations, it still plays the role of a third party and does not become a full partner in bilateral negotiations by taking the role of the employer. On the other hand, the union organizations appear to be weaker in the privatized enterprises and very much weaker in the majority of new private companies (most of them microenterprises). In view of industrial relations, microenterprises are different from SMEs due to the blurred labour division of workplace activities and the strength of social ties outside of the workplace (family ties) that mold their internal industrial organization.

Legal and institutional framework in practice

The legal basis for the institutionalization of social dialogue in Albania was established in 1995, within Article 200 of the “Labour Code of the Republic of Albania” and the normative acts that followed (see Box 5 for the current legal basis in force).

Box 5: Legal basis

Article 200 of Law No.7961, date 12.07.1995 "Labor Code of the Republic of Albania" (amended).

DCM no. 1039, dated 04.12.2013 "On the functioning of the National Labour Council and the appointment of the representatives of the Council of Ministers in the Council".

DCM no. 1060, dated 14.12.2013 "On the appointment of the number of representatives of employers' and workers' organizations in the National Labour Council".

Regarding tripartite social dialogue, the highest national social dialogue institution is the National Labour Council (‘Këshilli Kombëtar i Punës’ or NLC). The role of NLC is to examine the issues of common interest of the employers’ and employees’ organizations with the aim of finding acceptable solutions for the parties involved. The Council is a consultative body; it holds consultations, makes consensus-based decisions and recommendations to the Council of Ministers through the ministry responsible for labour (currently, MoSWY).

The Labour Code emphasizes that consultations should relate in particular to the following topics:

- the drafting and implementation of work legislation;

- amendments to the Labour Code and the content of normative acts;
- the policies and national bodies in charge of employment, vocational education and training, workers' protection, hygiene and work safety, production, welfare, economic and social development programmes;
- and, the implementation of the standards and norms put forward by ILO.

NLC has 6 permanent tripartite specialized committees covering the following topics: judiciary; employment, education and vocational training; wages, pensions and social assistance; labour conditions, health and work safety; economy and finance; and, equal opportunities, disabilities and youth.

Regarding its composition, NLC is comprised of 27 members and 27 candidates.⁴¹ Social partners have each 10 members in the Council, respectively. Their members are appointed every three years with a DCM and the basic criteria for membership is representation⁴² (See Appendix for an exhaustive list of the current social partners in the NLC). The appointment is done by the Minister responsible for labour upon the proposals from the employers' and workers' organizations. The two biggest confederations: Confederation of Trade Unions of Albania (KSSH) and the Union of Independent Trade Unions in Albania (BSPSH) have 5 and 3 members respectively, in the NLC.

The government has 7 representatives in the Council, including presently the Minister of Social Welfare and Youth, the Minister of Finance, the Minister of Health, the Minister of Education and Sports, the Minister of Justice, the Minister of Economic Development, Trade and Entrepreneurship, and the Minister of Urban Development and Tourism. The chairperson of NLC is the Minister of SWY; candidates to the NLC are the respective deputy ministers. The social partner members appoint the respective chairpersons, who act

as the vice chairpersons of the NLC.

Box 6: Tripartite Steering Boards

The steering boards of the below institutions are tripartite comprising of also representatives from TUs and EOs.

- National Employment Service (Sherbimi Kombetar i Punesimit);
- Social Insurance Institute (Instituti i Sigurimeve Shoqerore);
- Healthcare Insurance Institute (Fondi i Sigurimit te Detyrueshem te Kujdesit Shendetesor);
- National VET Council (Keshilli Kombetar i Arsimit dhe Formimit Profesional);
- National Reconciliation Office and Mediation offices (Zyrat e pajtimit);

The Council usually holds meetings according to its approved program or following the written request of any of its constituent partners conform to its internal regulation of operation. NLC has its own independent budget, consisting of funds allocated from the state

⁴¹ Candidates are alternate members, who in the absence of the regular member replace the member and have the same rights and functions as the regular member.

⁴² Article 200 of Law No.7961, date 12.07.1995 "Labor Code of the Republic of Albania" (amended).

budget and other donations or projects. Funds from the state budget are primarily allocated to meet the expenses of the meetings of NCL, meetings of the specialized committees, the functioning of the state offices of reconciliation, and the participation in tripartite conferences and trainings.

EC Progress Reports and other international reports for Albania have repeatedly pointed towards “representativeness” as an important criticism compromising the effective functioning of NLC. It has been noted that “the system of representation [in the NLC] does not comply or it [only] complies partially with ILO’s standards” (EC, 2013, 2012). The two main confederations recurrently have accused the GoA of not respecting the principles of representativeness during the appointment procedures for the members of NLC through favoring their confederation ‘protégés’ along political lines. Moreover, tripartite meetings have been infrequent and allegedly fictitious – with previously unilaterally decided upon agendas and phony decision-making. (EC, 2011, 2012). These concerns of representativeness were also voiced in the current mandate of 2013 (For a coverage of the meetings as reported by the media see the Appendix). However, the question of representativeness at NLC represents merely the tip of the iceberg of the legitimacy of the social partners and it lingers down trade union organization structures at all levels.⁴³

Regarding tripartite social dialogue at the subnational level, trade unions are very weak at the local and regional level. On April 2015, the GoA approved the new draft law “For some changes in the Labour Code” by which the institutionalization of subnational/regional social dialogue is anticipated.⁴⁴ As per the draft law,⁴⁵ 12 Regional Tripartite Consultative Councils (Këshilli Konsultativ Tripalësh Rajonal) will be established along the model and experience of the NLC.

The foreseen role of the Regional Councils concurs with the role of the NLC but is restricted to the regional level “to examine the issues of common interest of the employers’ and employees’ organizations with the aim of finding acceptable solutions for the parties involved at the regional level”⁴⁶. The scope of consultations will pertain especially to issues related to: regional policies on employment, vocational education and training, workers’ protection, hygiene and work safety, production, welfare, education and also economic issues. Compositionally, these regional structures will include 15 members; 5 from the most representative regional workers’ and employers’ organizations, respectively, and 5 from the regional government (prefect of the region and 4 municipalities’ chairmen). The appointments to the councils will be made via a decree from the prefect upon the proposals

⁴³ In 2009, 8 Federations, which were also founding members of KSSH declared that they keep distance from the current leadership of the Confederation, accusing it of non-democratic practices and non-professional performance. (FES, 2010).

⁴⁴ The amendments are expected to be adopted by the Albanian Parliament in November 2015.

⁴⁵ [http://www.sociale.gov.al/files/userfiles/PROJEKTLIGJ_Kodi_Punes_20_03_2015\(1\).pdf](http://www.sociale.gov.al/files/userfiles/PROJEKTLIGJ_Kodi_Punes_20_03_2015(1).pdf).

⁴⁶ Ibid.

from the regional social partners. The running costs are foreseen to be covered from the budget of the prefect.

Regarding bipartite social dialogue, the basic framework for collective bargaining is provided in Chapter 15 of the Labour Code. The collective agreements reached out by collective bargaining include working conditions, provisions on the initiation, content and termination of individual employment contracts, professional training and the relationship between the contracting parties. Pursuant to Article 160 of the Law, collective agreements can be concluded between one or more employers or employers' organizations on the one side and one or more trade unions on the other. But Article 164 of the Labour Code allows employers' organizations to refrain from signing collective agreements if the conditions of representativeness of trade unions are not met. A notarized certificate declaring the size of the organization's membership is needed to challenge the decision of not recognizing a trade union's representativeness. When several trade unions claim representativeness, the one with the greatest membership base is considered the most representative.

The Labour Code only permits the conclusion of collective agreements at two levels – industry (branch) level or company level. There are no provisions for national level collective agreements. In 2014, the EC Progress Report for Albania noted that work is needed to make collective bargaining possible at all levels (pg. 36). But the government has shown little willingness to promote collective bargaining at the national level. In practice, effective collective bargaining, especially in the private sector, remains difficult to be implemented and the agreements are hard to enforce, consequently (EC, 2014, 2013, 2012, 2011). Bipartite social dialogue at the sectoral level is relatively more developed but still weak. At this level there are many signed collective agreements⁴⁷ but clashes of interests among sectoral TUs tend to also inhibit its further development. Social dialogue at the enterprise level is less developed, since the social partners are not well organized in general and the trade unions do not have the capacity to negotiate collective agreements. In some enterprises, the presence of 'yellow' trade unions was reported.⁴⁸

Poor working conditions and violation of workers' and trade union rights are present and acute in some specific sectors of the economy. The law prohibits anti-union discrimination and dismissals but does not provide adequate means of protection against it (Article 10). Employees are not awarded effective protection as the burden of proof lies with the victim. Occurrences of this phenomenon are present in the textile, garment, leather and footwear sector where trade unions are regarded as enemies⁴⁹ Pursuant to the Labour Code, employers who put pressure on workers not to join a union can face fines of up to 50 times the monthly minimum wage.

⁴⁷ There are collective bargaining agreement in education, in the energy sector. in the health sector etc.

⁴⁸ FES (2010).

⁴⁹ ITUC (2012).

Regarding social dialogue at the workplace level, in the Albanian law there are no provisions for the establishment of Works Councils. But there is health and safety representation stipulated as specified by Law No, 10 337 “On safety and health at work”. The law envisages that if there are at least 50 employees permanently employed at an enterprise, a health and safety committee should be set up (Keshilli i sigurise dhe shendetit ne pune). The role of the committee, envisaged as the main body protecting employees in the area of health and safety in larger workplaces, is to contribute to the protection of the physical and mental health and of safety of employees, and to the improvement of their working conditions. The committee is an advisory body. Pursuant to Article 15 of the law, its particular competences are to: a) participate in the assessment, drafting and implementation of programmes of risk prevention in the enterprise b) encourage initiatives concerning methods and procedures for the effective prevention of risks by proposing improvement of working conditions and avoidance of risks to the enterprise. The size of the committee according to the total number of employees is presented below:

Table 1. Number of workers’ representatives in the Committee of Health and Safety

Total no. of employees	Number of workers’ representatives in the Committee
51-250	3
251-500	4
501-1500	6
1500 and more	9

Reference: DCM Nr.107, date 9.2.2011⁵⁰

However, for the 1478 enterprises (in 2014) with 50 and more employees, the implementation of these requirements has not been satisfactorily in practice. To a great extent the establishment and appointment of representatives to the respective committees has been fictitious and formal and the obligations have been fulfilled to a certain degree only in the region of Tirana – with the availability of a close cooperation of the State Labour Inspectorate and Social Services (Inspektorati Shteteror i Punes dhe Sherbimeve Sociale).⁵¹ The Labour Inspectorate affirms that the number of committees set up has been gradually rising with 397 committees registered in 2013, 521 in 2014 and 202 as of April 2015.⁵² But the necessity to make these structures functional and not plain formal is stressed.

In smaller workplaces (<50 employees) the safety and health role of the committee is required to be taken up by an employee delegate to the health and safety committee established at the professional or intra-professional level (Article 16). However, there remain no clear interpretations regarding the legal requirements for the appointment of the delegate and his/her organization and involvement at the enterprise, and this category by far includes

⁵⁰ DCM Nr.107, datë 9.2.2011 “Per perberjen, rregullat e organizimit dhe te funksionimit te keshillit te sigurise dhe shendetit ne pune dhe perfaqesuesit te punemarresve”.

⁵¹ Action Plan on the Policies for Safety and Health at Work 2015 – 2020.

⁵² <http://inspektoriatipunes.gov.al/zhvillohet-konferenca-per-kushtet-e-sigurise-dhe-shendetit-ne-pune/>

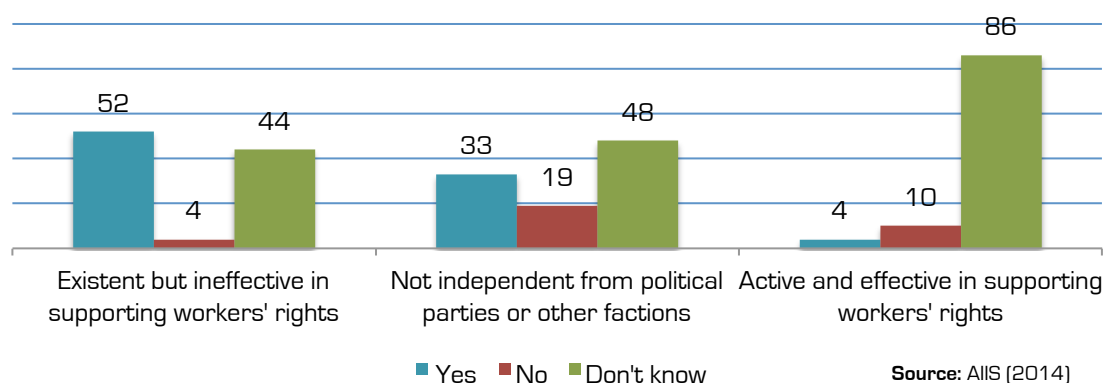
the vast majority of enterprises in Albania (98.7%).⁵³ Therefore, the problem of employees' interest representation in safety and health matters in small companies remains largely unsolved.

Public perception of trade unions...

The media often portrays trade unions as weak and sometimes hostile organizations with separate interests, leading to a general negative public perception as regards their activity. But a survey conducted in 2014⁵⁴ suggests that the vast majority of Albanians are not even knowledgeable or familiar with trade unions efforts and activities. When asked their opinion if TUs are active and effective in supporting workers' rights, 86% of the respondents were unaware and could not respond. On the other hand, 1 in 10 respondents maintained that they are not active and effective.

The finding suggests that this general unawareness needs to be exploited by TUs if they finally want to position themselves as active actors in the public sphere, but the perception of them as dependent structures of the political parties needs to be mitigated. One in three Albanians believes that trade unions are not independent from political parties or other factions (see Fig. 9).

Fig.9 Public perception on TUs in Albania (%)



Social dialogue and its reflection in GoA's documents

Social dialogue gets addressed in the following GoA strategies and documents: National Strategy for Employment and Skills 2014-2020⁵⁵, Action Plan on the Policies for Safety and Health at Work 2015-2020 and the National Plan for European Integration 2015-2020. Overall, the practice of a functioning social dialogue is acknowledged as an essential tool in

⁵³ It is also provisioned that in the working environments characterized by a high risk of safety and health at the workplace, the delegate to the professional or intra-professional committee is chosen regardless of the number of employees.

⁵⁴ <http://www.fes-tirana.org/media/publications/pdf-files/2015/t-150414-ripercaktimi-eng1.pdf>.

⁵⁵ DCM No.818, dated 26.11.2014 "Për miratimin e Strategjisë Kombëtare për Punësim dhe Aftësi 2014 – 2020 dhe të planit të veprimit për zbatimin e saj."

industrial relations and society as a whole. The strengthening of social dialogue at the national level in view of an effective NLC is considered a priority. However, the extrapolation of social dialogue at the regional and local level remains a long-term challenge.

In the NESS 2014-2020, the importance of social dialogue is avowed under the fourth strategic priority identified as “Strengthening the governance of the labour market and qualifications systems”. The improvement of the labour market governance is foreseen to be pursued using a multilevel approach and the “powerful mechanisms” of social dialogue.⁵⁶ In view of “Reformation of financing and labour market governance and VET systems”⁵⁷ the practice of social dialogue will permeate the “drafting, monitoring and assessment of national policies of education and vocational education and training; need assessment for skills; management of education and vocational education and training; on-job trainings and internships; and the assessment of individual competences.”⁵⁸ Following the strategy, the outputs, for the period 2014-2020, include: a functional NLC with tripartite representation; legal framework for the functioning of the NLC; and, compliance with the minimal quote of 30% of women in decision-making and direction positions.⁵⁹

In the Action Plan on the Policies for Safety and Health at Work 2015 – 2020⁶⁰, a strengthened and continuous social dialogue – encompassing a wide spectrum including public authorities, employers, workers, their representatives and civil society – is considered as a crucial tool in the implementation of high standards of health and safety at the workplace. At the national level, it is also aimed for NLC to strengthen its focus on safety and health issues. Strengthening social dialogue is the sixth strategic objective in the Action Plan on the Policies for Safety and Health.⁶¹

Also, social dialogue is highlighted in the Albanian National Plan for European Integration 2015-2020⁶², where the revitalization of the NLC as the chief instrument in the drafting of policies related to employment, wages and social benefits is considered a challenge for the future. In addition, the extension of tripartite social dialogue at the regional/subnational level along the model of the NLC is considered a priority in the development of social dialogue.⁶³

⁵⁶ Ibid., 10372.

⁵⁷ Reformimi i financimit dhe qeverisjes së tregut të punës dhe i sistemeve të AFP-së.

⁵⁸ Ibid.

⁵⁹ Ibid., 10374.

⁶⁰ <http://www.ipa-hrd.al/Komponenti1/1-OSH-Action-Plan/action-plan-al-17-12-2014.pdf>.

⁶¹ Ibid., 31.

⁶² DCM No.404, dated 13.05.2015 “Për miratimin e Planit Kombëtar për Integrimin Evropian 2015 – 2020”.

⁶³ Ibid., 4049.

As regards DWCP, the current Decent Work Country Programme for Albania⁶⁴ covers the period 2012-2015.⁶⁵ It focuses on three strategic priorities: strengthening capacity of government institutions and the social partners to improve the governance of the labour market; promoting decent work and enhancing employability of the Albanian labour force; and, strengthening social protection systems, along the objective of turning social dialogue into a critical component of labour market governance. ILO will start the preparation of the next DWCP 2016-2018, soon.

Findings

The analysis comprising of a review of the literature and of international reports on social dialogue in general, and social dialogue in Albania in particular, along with the content analysis of the in-depth and semi-structured interviews with key informants and focus-group discussions (FGDs) revealed the findings that follow. They are presented into three main blocks:

- i. State of unionism in Albania;
- ii. Social dialogue in Albania; and
- iii. Implications on the decent work.

State of unionism in Albania

Capacities

Findings from the interviews and focus groups discussions suggest that representatives of trade unions are especially concerned about their lack in capacities, which include both financial means and human resources needed to support their activity. Most of the interviewed union representatives continue to define lack of funds as a culprit of the weak state of unions. Though this might be considered as debatable, trade unions' constituencies have an anemic trust – as confirmed by the low level of union members paying membership fees.

Trade unions are “trapped” in a vicious circle of lost legitimacy. In the general public eye, they are perceived as torpid and to a certain extent unable to assist workers in the cause of obtaining acceptable wages and decent working conditions. On the other hand, workers see themselves as increasingly discriminated and exploited in their workplace due to the weak state of unions and to a general tendency of employers to abuse the existing legislation and ultimately benefiting from the unequal power structures. Moreover, the contextual socio-economic problems of high unemployment and growing informal employment appear to

⁶⁴ First DWCP 2006-2007; second 2008-2010. For the current programme, please check: Albania: Decent Work Country Programme Document 2012-2015.

⁶⁵ The subsequent DWCP is in its drafting process.

“benefit” many employers through hampering trade unions ability to assert their demands but also through ‘freeing’ them from their responsibilities.

This situation impedes trade unions in their activities by limiting their ability to assume a constructive role in enforcing labour rights and addressing workers’ needs. As a result, TUs are faced with declining membership demand and missing resources for recruitments. Trade unions representatives mention frequently that “Trust is dead... and people are not solidarized”. As TUs find it difficult cash in membership fees, union representatives follow an “alternative” approach in addressing the lack of funds; they seek funds from employers. Inappropriately, this has led to “apparent” good practices of bipartite social dialogue to derive mainly from the willingness of the employer – by undermining this way the ultimate legitimacy of trade unions. This, in turn, jeopardizes union’s independence and impedes the union in entering into fair and real negotiations with the employer, leading, this way, to a

greater decrease in their constituencies’ participation and interest and ultimately to a lost legitimacy (See Fig.10).

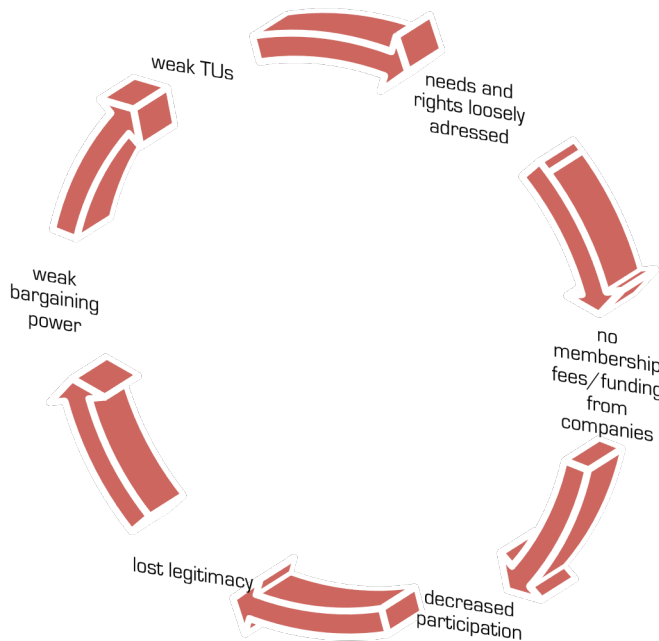


Figura 10 “Trapped” in a vicious circle

address workers’ interests throughout the process of social dialogue and the proper implementation of labour rights. Furthermore, international donors and partners have regularly provided capacity building opportunities to TUs but to their acknowledgment, nevertheless, their capacities remain very limited.

“It is not the TU responsible [for the working conditions] there are other institutions responsible; it is the economic conditions, the high unemployment.

Focus group participant

"The collective agreement is violated in an outrageous way from the employer"

Focus group participant

"I will stop the subscription fee fund is commonly used as a threat [by the company] and you [become obliged] to concede"

Interview with a TU representative

"My problem is that I have the opportunity and I want to hire but I don't have whom to hire"

Focus group participant

The Albanian labour market is characterized by a dichotomy of private enterprises, where a considerable number of companies suffer from a relatively high degree of industrial conflict with a lack of mutual trust and of the other party's legitimacy and of. However, some

enterprises (as is the case of big enterprises in the private sector) enjoy good labour-management relations, where for the most part collective agreements are respected and there is periodical and/or *ad hoc* communication established. In such cases TUs find themselves trapped in a *quid pro quo* spiral with their employers resulting in examples of a not genuine bipartite social dialogue. In both scenarios TUs are very weak.

the lack of capacities and the under-development of labour-management self-governance at all levels have led to trade unions turning to the Government whenever something goes wrong: "Let the Prime Minister come to work out the problem" reported a focus group participant.

Internal democracy

The absence of a sound internal democratic system has led to representativeness being one of the main challenges facing the union movement in Albania. Semi-structured interviews with trade unions representatives revealed the assertion and general discontent that unions, by and large, are not necessarily built and functioning on democratic principles. As a result, union organizations at all levels have issues to articulate the needs, options and policy alternatives of their constituency through internal democratic consultations. The findings disaggregated by the level of the trade unions suggest as below:

At the company level, union members claim that, in most cases, they do not regularly elect trade union representatives. Moreover, various instances where members are not asked to pay membership fees were reported. In some cases, they were not even aware if they are union members anymore. Interviewees claim that their representatives fail to regularly report to the members about their union activities and there are no widely accepted mechanisms in place to report union membership in a periodic way – based on reliable sources of information. During focus groups discussions, cases of trade unions representatives not reporting instances of labour rights violations to the authorities at a time when vast workers

in a given company were aware, were present. On the other hand, it was noted that in the cases when industrial conflict escalates, the majority of workers “seek for” the leadership of these representatives to voice them.

At the federation level, member’ organizations representatives raise their concerns about the credibility of elections within the federation. Many of the interviewees claim that in most cases federation representatives are ‘appointed’ by the respective confederation leadership and afterwards are ‘approved’ by voting. Some of the interviewees indicated that confederations’ leadership nurtured vested interests in having their best supporters elected as federation representatives to ensure continuity in the support they receive for confederation elections.⁶⁶

At the confederation level, some federation representatives report that support from the respective confederations on important issues of their constituencies has a propensity to depend on the political salience of the subject. On the other hand, union representatives generally express distrust towards the confederations’ leadership when they mention that “their leadership is not fully committed in addressing the problems of member federations and as a result consultations on vital topics remain sporadic.” Confederation representatives publicly recognize the dominant weight that union properties have played for confederations and unionism in Albania. This issue unsolved for decades now and widely used and misused by political parties – in search for influence over the unions – has brought up considerable effects for the internal democracy and the functioning of federations in Albania.⁶⁷

Patterns of this visible strong leadership were also identified during the pre-interview phase of this research. Federations’ representatives were reluctant to pronounce themselves or give interviews and would address the researchers to their seniors [read: the Head of the Confederation], even though they had the proper background to attend the interviewees and focus groups discussions.

Vested interests

“[Confederations] are rotten structures that are not transparent at all; [they have this] mentality that if this one Party comes to power, we are in power, too.”

Interview with a federation representative

⁶⁶ In 2014, KSSH and BSPSH organized their 5th and 6th Congresses, respectively. The main leaders of the two confederations were re-elected in these congresses obtaining new mandates to lead in the next 5 years.

⁶⁷ BSPSH and KSSH were evicted from their headquarters in 2006 following a court decision on property restoration. A law was subsequently adopted in 2009 which nationalised all the property of the Albanian trade unions and prohibited them from owning any real-estate. In 2010 the Constitutional Court of Albania declared the law illegal and in violation of property rights.

Findings from the in-depth and semi-structured interviews suggest that union representatives perceive the two main confederations as organizations following a largely political agenda, thus questioning their ability to fulfill the mission of liberating workers from poverty and social exclusion. Moreover, in the Albanian society, there is a cemented opinion regarding unions' lack of legitimacy; the general perception grasps unions as taking advantage instead of fighting for the cause. Back in 2005, Freedom House reported that: "The KSSH has links with the ruling Socialist Party while the BSPSH supports the opposition Democratic Party"⁶⁸. Consequently, in such a segmented structure, it is hard for the workers' side of the dialogue to be like-minded in the decisions undertaken with regards to employers and public authorities.

Social Dialogue in Albania

National Level

The majority of the interviews assess the workings of the reconstituted National Labour Council as a positive step forward towards a functioning social dialogue, though the chronic issue of social partners' representativeness in the Council is still considered as unsolved. Since its last reconstitution in 2013, the NLC has convened six times – in consideration of its previous infrequent meetings. But, as it has been commonly referred to by international reports, its recurring problem regards its representativeness.⁶⁹ ILO regularly recommends the approval of pre-established, precise and objective criteria for the determination of the representative of workers' organizations and EO's (with an emphasis on the issue of participation of women and other vulnerable groups should) to mitigate this problem.⁷⁰ In 2012, the EC Progress Report for Albania noted that the system of representation did not comply with the ILO's standards (European Commission, 2012). Again, in 2013, it noted that representation was partially aligned with the representativeness criteria (European Commission, 2013).

Nevertheless, it has been reported that this issue was moderated with the latest appointments of the NLC,⁷¹ even though the selection criteria for the social partners are not explicit or remain vague at best. Article 200/(paragraph 5) of the "Labour Code of the Republic of Albania" (amended) states that membership in the NLC will be reserved to the most representative TUs and EOs – appointed to the Council every three years with a DCM. The term 'most representative' social partners had some membership criteria put

⁶⁸ Check Nations in Transit (2005).

⁶⁹ EC Progress Reports

⁷⁰ ILO (2013)

⁷¹ EESC (2015)

forward, for example, in the DCM No.730 date 6.11.2003⁷² which do not exist in the current DCM regulating the *modus operandi* of the NLC.^{73,74} Representatives of MoSWY referred to the new appointments as “an attempt for a better representativeness...that we do not know if we have achieved it”. Yet, the first two meetings of the NLC were characterized by a wave of discontent from the TUs (especially, on the BSPSH side; representatives of which also abandoned the meetings)⁷⁵. “We fulfill all the criteria to have the greatest number of members in the NLC”. (Karriqi, BSPSH). The question is: What are the criteria? and *Cui bono* with this ambiguity? On the other hand, through these two years, the GoA has praised the NLC as a good example of a functional social dialogue.

“Progress [in social dialogue] can be traced in the last two years in view of the reconvened NLC... and it marks a very important step. It has convened more or less regularly as opposed to before, and it has discussed about wages, the pension reform, and so on. Representation is better, especially on the workers side, but yet it [remains] a sensitive issue the fact that MoSWY has not been able to define the criteria [for representation].”

Interview with Employment and Skills Expert

Subnational Level

There is an apparent need for the diffusion of social dialogue down at the subnational/territorial level in response to the perceived dysfunctional dialogue at the national level. Focus group discussions suggest that the quality of social dialogue at the territorial level differs substantially across regions, with some social partner representatives claiming that social dialogue at the local level is inexistent. The prevalent view is that there is an inappropriate level of enforcement and coordination, leading to decision-making at the national level are not properly implemented at lower levels (plant/workplace, regional/local or sectoral). Moreover, some government representatives claim that there is an asymmetry in articulation (read: whose voice is heard) among national and regional TUs. “Largely, the beneficiaries are those at the national level”, and, “the top level has rotten the down level”. Multi-level social dialogue is seen as an opportunity “to be heard and get things done”.

⁷² For workers' organizations: a) the number of members, verified by personal statements, contributions or notarial certificates; b) the number of collective agreements established and their coverage; c) the number of branches/occupations and/or territorial organizations; d) the possibility to engage in negotiations for the implementation of collective agreements and resolving conflicts through mediation; e) membership in international organizations.

For employers' organizations: a) the number of affiliated enterprises; b) the number of workers employed in affiliated enterprises; c) the number of branches/occupations and/or territorial organizations; d) the organization's budget for social affairs; e) the possibility of the organization to engage in negotiations for the implementation of collective agreements and resolving conflicts through mediation; f) membership in international organizations.

⁷³ DCM no. 1039, dated 04.12.2013 "On the functioning of the National Labour Council and the appointment of the representatives of the Council of Ministers in the Council".

⁷⁴ Appointment of members and candidates to the National Labour Council is done by the minister of SWY, with the proposal of the respective workers' and employers' organizations.

⁷⁵ As reported in the media.

On the other hand, social partners' representatives assess the initiative of institutionalizing Regional Tripartite Consultative Councils as a necessary step in a potential successful social dialogue at the regional level. Regional Employment Boards (Bordet Rajonale të Punësimit) supported by ILO were frequently mentioned as parallel good practices of successful tripartite partnerships at the territorial level. However, social partners are skeptic as regards the implementation of the Councils *de facto*, by perceiving them as bearing the challenges of the functioning of the NLC. Representatives of MoSWY envisage them as regional playing fields, but where players and coaches are outside of their competence. Labour experts consider the establishment of 12 regional councils not efficient; 3-4 regions with shared labour market characteristics are deemed more productive.

"[The diffusion of social dialogue down at the regional level] is a necessity because it strengthens the position of TUs, and makes them affirm themselves. Over and over again they get eclipsed within the companies; they do not know each other. Their [read: TUs] concerns will come about spontaneous as a result.

Focus group participant

Awareness and understanding

Findings indicate that exists a general acknowledgment of the potential benefits of engaging in the social dialogue process among social partners and government representatives. However, during focus group discussions, instances of lack of understanding or partial understanding of the concept of social dialogue, and what it entails could be traced down among relevant stakeholders.

There is a tendency among trade unions and other relevant stakeholders in the world of work to conform to (and approve of) a 'cosmetic' social dialogue in contrast to the genuine one. In focus group discussions, there were instances of trade union representatives asserting the existence of a constructive social dialogue in their region, even when public authorities' representatives present would count numerous cases of decent work violations. The analysis suggests that this phenomenon has the propensity to be mostly observed in workplaces where the impacts of violations on safety and health are less observed in the short-term, as contrasted to the stances of TUs operating in more hazardous and hostile industry environments.

Governments' commitment

Some interviewees state that the signals of renewed commitment from the GoA in promoting social dialogue tend to be hindered by several hasty cases. Findings suggest that the assertion of the Premier that "there are no TUs in Albania" was perceived negatively by national TUs representatives, which translated it as an example of bad faith and lack of

political will. An interviewee considered it as a “sign of disrespect and arrogance”, while another as “...a mere fact”. ILO’s Second Report of the Credentials Committee⁷⁶, regarding the 104th session of the International Labour Conference in Geneva (1-13 June 2015) noted that the accredited worker’ delegation from Albania received only partial payment to travel and per diems and as a result attended only partially the Conference; and there was an imbalance in representation between the Workers’ and Government delegations. This was also observed in 2012 and 2013. If the dialogue is to be improved the government should to a larger extent take the social partners seriously, even if the parties are not always fully representative or particularly powerful. Some social partner representatives state that the government only shows limited interest in the problems and wishes of the social partners.

Implications on the decent work

When social dialogue institutionalizations are evaluated along with respective statements of relevant stakeholders in Albania, it emerges that we are not facing a problematic institutional framework; both the government and the social partners make progressive comments about it. However, it is not possible to say the same for the implications on the decent work, especially at the local or territorial level. In interviews, TU’s representatives claim that institutionalization is necessary, but it does not represent a sufficient condition for tackling decent work deficits throughout the country; the main culprit remains the improper law enforcement.

ITUC Global Rights Index: Albania

2014 Repeated violation of rights {2}

▼ 2015 Regular violation of rights {3}

* In a scale from 1 to 5 where 1 is “irregular violation of rights” and 5 is “no guarantee of rights.”

The weak state of trade unions in Albania poses a major threat to the achievement of the Decent Work Agenda. Workers rights and aspirations are at risk as they find themselves helpless to protect their own rights. This, in turn, becomes discouraging to many young people who have given up hope that they can have a job where their labour rights are respected and they are given fair chances to grow professionally and secure a better life for themselves and their families. This approach deteriorates the possibility that the trade unions, in a near future, may undertake actions to reach out to informal economy workers and to a large group of vulnerable people, who need the help of unions as a means to increase their chances to have a better life.

The question of trade union’s legitimacy and their commitment to addressing the decent work deficits in the country comprises a major concern that impacts directly the quality of

⁷⁶ See paragraph 92.

life of all the citizens of all generations. Albania is committed to promoting inclusive growth in its endeavors to join the European Union. However, the under-estimation governments reserve to trade unions, the ease with which employers fail to respect workers rights, and the fact that there exists a general recognition that worker's organizations have failed to advocate for the worker's rights, comprise a solid proof that Albania is not embracing the European values. All society actors should make efforts to promote decent work and social dialogue as a better mean to unleash the potential of a society for progress.

Discussion and future directions

Subsequent to the qualitative assessment of the current level of national and subnational social dialogue along with the environment conducive of an effective process, this section sets the context for future potential steps aimed to cultivate social dialogue in Albania given the enduring bottlenecks pertinent to the country.

Selected avenues for future interventions include:

Institutionalization of Work Councils as a means to overcome the apathy of trade unions and to ultimately nurture social dialogue at the workplace level. Besides the Albanian industrial structure overwhelmingly dominated by microenterprises (95% of all private enterprises as of 2014), the hierarchical top-down approach characterizing unionism has had its say on creating an anemic workplace representation. In this context, the establishment of an effective practice at the company level that ensures that strategic decisions at the workplace are not taken by the employer alone but by the involvement of the whole workforce bears the potential of inciting trade unions out of their lethargy and eventually increasing their accountability. Work Councils *per se* are not trade union bodies and they require the participation of all the employees at the company level; even though union members may play a role within these structures. Functionally, they might have two main types of rights: participation rights where the Works Council ought to be informed and consulted about specific issues and make proposals to the employer; or co-determination rights, where decisions cannot be taken against the wishes of the Works Council. Although there are different practices, Works Councils might be set up once there are at least five employees in a workplace (with the size increasing with the number of employees).

At present, in the Albanian Labour Code there are no provisions for the creation of Work Councils. There is only health and safety representation through OSH committees as stipulated by Law No, 10 337 "On safety and health at work". But the problem of employees' interest representation in safety and health matters in small companies remains largely unsolved due to the high threshold of 50 employees required to establish a committee.

Use of ICTs as a means to empower workers and also to increase trade unions' legitimacy. In an industrial relations context exemplified by a prevalence of microenterprises, a large

number of workers engaged in unprotected, precarious work in the informal economy, and an increasing number of workers hesitant and timid to openly discuss about violations of their labour rights, their working conditions or trade union issues, the use of ICTs provides an alternative and innovative way towards empowering workers. Due to the anonymity that ICTs provide, the frequent dismissal threats that workers are exposed to if they denounce violations are diluted. Moreover, ICTs might be capitalized by trade union organizations as a way to democratize themselves and reach out to workers by increasing trade union legitimacy in due course.

The GoA has acknowledged the ever-increasing importance of the usage of ICTs in the Intersectoral Strategy “Digital Agenda of Albania 2015-2020”.⁷⁷ Moreover, the most recent Census (2011) has showed that some 86.8% of households in Albania had at least one member that has a mobile phone; and, this indicator is higher for households in rural areas, since they do not possess other channels of communications available to them.⁷⁸

Fostering the establishment of Tripartite PLUS forums as a means to address decent work deficits but also to endorse the strengthening of bipartite relationship between the two sides of the industry. Contrary to the experience of other European countries, in the case of Albania, the classical mode of bipartism has shown to be difficult to be implemented. In this context, aside from the fact that “employees” and “employers” remain the “real actors” of the economy, incorporating a variety of representative bodies in the social dialogue framework represents a fresh opportunity to address decent work deficits and the employment challenge at large whilst also endorsing the strengthening of bipartite social dialogue among social partners.

Civil society actors can be potential valuable allies of employers’ and workers’ organizations through providing access to vulnerable groups of the employment spectrum not customarily targeted by the social partners (including the self-employed, the unemployed, the informal workers etc.) and also by opening up the policy space. In addition, local media involvement can secure increased responsibility and awareness. Therefore, following the administrative-territorial reform, the engagement of NGOs, community organizations and local media in tripartite plus forums at the municipality level together with the respective social partners and the government might be pursued as an added value to the social dialogue at the national level.

BUT rule of law is a *conditio sine qua non*. An ultimate sound industrial relations environment conducive of social dialogue requires the rule of law, effective law enforcement institutions, and dispute resolution mechanisms as *conditio sine qua non* in place. But this has been the permanent Achilles heel for Albania.

⁷⁷ “Digital Agenda of Albania 2015-2020”

http://www.inovacioni.gov.al/files/pages_files/Strategjia_Axhenda_Dixhitale_e_Shqiperise_2015-2020.pdf.

⁷⁸ Population and Housing Census 2011.

http://www.instat.gov.al/media/177354/main_results__population_and_housing_census_2011.pdf.

Recommendations

In view of ensuring an enabling environment for high quality and successful social dialogue in Albania, the following are recommended:

- I. **Democratic Foundations and Fundamental Rights**
 - a. The existing legislative framework for ensuring labour rights in Albania needs to be enforced. Stakeholders of interest, especially TUs, should take immediate action, to halt the exploitation of workers and to secure optimal standard of safety and health at the workplace;
 - b. The Government should undertake intensive actions, in cooperation with TUs, to tackle the high level of informal employment;

- II. **Strong, legitimate, independent and representative social partners**
 - a. Re-establishment of the lost legitimacy of TUs among their constituents through reforming processes that aim to foster internal democracy in union organizations;
 - b. Increased awareness raising among union members:
 - i. about the role and benefits of strong and functional union organizations;
 - ii. about the strengthening of the position of the union constituencies in better addressing their concerns at the workplace;
 - iii. about labour rights;
 - c. Build capacities of trade unions at company/sector/territory level in view of:
 - i. Organizational management;
 - ii. Fundraising and accountability to the constituents;
 - iii. Public relations and campaigning;
 - iv. Use of ICT to empower union movement in Albania.
 - d. Expansion of social dialogue at the subnational level is a necessity in view of developing new capacity for action and engagement on the ground and for also enforcing the decisions of dialogue at the national level:
 - i. At the regional level, the initiative of establishments of Regional Tripartite Consultative Councils along the model of the National Labour Councils needs to be reviewed corresponding to EU NUTS level 2 (3 macro regions in contrast to 12 regions)
 - ii. At the municipality level, given the Administrative-territorial reform, the newly empowered municipalities need to promote and coordinate forums of social dialogue involving a broad participation of stakeholders including local CSOs and media along the practice of Tripartism plus.
 - e. Law revision to reduce the minimum numbers of employees required to form a Safety and Health Committee from 50 to 10 in order to increase employee representation in small companies.

- f. Institutionalization of Work Councils as a means to overcome the apathy of trade unions and to ultimately nurture social dialogue at the workplace level.
- g. Increased involvement and cooperation with media and other civil society actors in addressing the labour rights and the employment challenge at the local level;

III. Political will and mutual trust

- a. Despite divergent views and goals, social partners at the national level should work together to identify common objectives and priorities and identify the practice of social dialogue as positive-sum game.

IV. Institutional support

- a. The approval of pre-established, precise and objective criteria for the determination of the representative of workers' organizations and EO's (with an emphasis on the issue of participation of women and other vulnerable groups should) to mitigate the problem of representativeness in the NLC.
- b. Implementation of a communication strategy of the NLC along with an Action Plan for its implementation.
- c. The increase of INSTAT's profile as an authoritative and reliable source of information in the labour and social domain as a tool of trust-building among social partners.

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Appendix

Appendix 1

Social Partner members in the National Labour Council

Employers' organizations		Workers' organizations	
Biznes Albania	<i>Luan Bregasi</i>	Bashkimi i Sindikatave të Pavarura të Shqiperise (BSPSH)	<i>Gezim Kalaja</i>
Shoqata Shqiptare e Bankave	<i>Seyhan Pencabligil</i>	Sindikata e Pavarur e Arsimit të Shqiperise (SPASH)	<i>Nevruz Kaptelli</i>
Shoqata e 5Ndertuesve të Shqiperise	<i>Avenir Kika</i>	Sindikata e Pavarur e Minatoreve të Shqiperise (SPMSH)	<i>Sami Kariqi</i>
Shoqata Shqiptare e Turizmit	<i>Zak Topuzi</i>	Federata Sindikale e Arsimit dhe Shkences (FSASH)	<i>Xhafer Dobrusha</i>
Shoqata e Bizneseve të Ushqim-Pijeve	<i>Luan Leka</i>	Sindikata Autonome e Ushqim, Tregtise, Turizmit (SAUTT)	<i>Bilbil Kasmi</i>
Shoqata Shqiptare e Teknologjise se Informacionit	<i>Grigor Joti</i>	Konfederata e Sindikatave të Shqiperise (KSSH)	<i>Kol Nikollaj</i>
Bashkimi i Investitoreve dhe Industrialistëve Shqiptare	<i>Kujtim Shkreli</i>	Federata e Punonjesve të Industrise se Shqiperise	<i>Taf Koleci</i>
Dhoma Kombetare e Prodhuesve të Veshjeve	<i>Lindita Legisi</i>	Federata e Sindikatave të Punonjesve të Sherbimit Shendetesor	<i>Lulash Aroni</i>
Byroja Shqiptare e Sigurimeve	<i>Avni Ponari</i>	Federata e Sindikatave të Punonjesve të Artizanatit dhe Manifaktures	<i>Hajdar Kanani</i>
Keshilli i Agrobiznesit Shqiptar	<i>Enver Ferizaj</i>	Federata e Sindikatave të Sherbimeve Financiare, Tregtise, Bankes e Turizmit	<i>Anisa Subashi</i>

Note: Based on Order No. 287, dated 18.12.2013 of MoSWY.

Blendi Klosi (Minister of SWY) is the chairperson. Luan Bregasi (Biznes Albania) and Kol Nikollaj (KSSH) are the vice-chairperson nominated respectively from among the workers' members and the employers' members of the Board.

Appendix 2

NLC Meetings since its reconstitution in 2013 and their highlights as covered by the local media

December, 19 2013 In the first meeting of the newly mandated NLC, Mr. Veliaj (then Minister of SWY) argued on the vital role of social dialogue: “the absence of social dialogue seriously puts at jeopardy economic stability and social cohesion”. On the other hand, Mr. Kalaja (Head of BSPSH) intensely conveyed the lifelong concerns regarding the representativity of NLC: “Kol Nikolla has 5 members represented whereas I have only 3.”

April, 28 2014 NLC convened on the *World Day for Safety and Health at Work*. The meeting focused its attention on the role of the State Labour Inspectorate. Yet, BSPSH through its deputy head (Mr. Karriqi) vocalized again the representativity issue of NLC: “You have politically prejudiced BSPSH. We fulfill all of the criteria to have the greatest number of members in the NLC. You have established on purpose this Council in an arrogant way that fits your Party by appointing to BSPSH 3 members and to your structure KSSH 5 members using fictitious union organizations” Conversely, Mr. Veliaj replied that: “... we cannot have 5 or 10 members from the same organization, especially in the case when [this organization] has political interests.”

June, 16 2014 The meeting focused on the pension reform introduced by the GoA. Mr. Veliaj highlighted that “NLC approved our new pension scheme” and that: “We positively responded to the requests of the TUs, which have asked for more than 23 years to cut the miners retirement age”. The vice-chairpersons of the NLC both praised the collaboration among the government and the social partners. Mr. Nikollaj (Head of KSSH): “In the name of the union member I would like to congratulate the government for these important initiatives that show that GoA has an entirely social face and it is accomplishing what it has promised during the electoral campaign”. Mr. Bregasi (Biznes Albania): “EO’s have supported this reform since it regulates the finances, fights informality in the field of pensions and strengthens the pressure of the employees for their involvement in the scheme.”

October, 14 2014 The meeting focused on the VET reform and on the proposal of the Minister of SWY for the ministry to co-manage vocational schools with business representatives. “We already have started; we have some of the members of NLC directing the boards of schools”. When referring to TUs, he mentioned that “the TUs have an important role to play in the vocational education since apart from the profession they get, the youth ought to appreciate the importance of organizing and the responsibility for social contributions’ payment.”

February, 6 2015 Mr. Kalaja (Head of BSPSH): “It would have been better for media to be present and to broadcast this live since we do not criticize the government whenever media is present and praise it when the media is absent.”

April, 20 2015 Mr. Veliaj chaired the last NLC Meeting as the Minister of SWY. The pension reform, the VET reform, and the proposed amendments to the Labour Code were acclaimed as the successes of the two years – also, supported by the social partners members of NLC.

Sources: Media reporting the meetings. See References section.