



Social dialogue and conflict resolution in Latvia

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Context

This report is part of a series of projects from the Foundation which focuses on aspects of industrial relations in the run-up to enlargement. The national report for Latvia is part of the second phase of a project on 'Social dialogue and EMU' carried out by the European Foundation for the Improvement of Living and Working Conditions in 2002-3, in cooperation with the Swedish 'Work Life and EU Enlargement' programme. This phase of the project looked at the current mechanisms for resolving industrial conflicts prevailing in each of the ten acceding countries involved in the project: Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia.

The main report provides an overview of the whole project and is available online at <http://www.eurofound.eu.int/publications/EF0421.htm>. It looks specifically at the role of social dialogue in resolving industrial relations conflicts. In most of these countries, both the systems of industrial relations as well as conflict resolution mechanisms are relatively new and have been subject to intense upheaval during the transition phase to market economy. Collective and individual industrial disputes are a new phenomenon for these countries as well. The report gives an overview of the existing institutional and regulatory frameworks for industrial action prevailing in each country, then goes on to describe the various systems in place to deal with conflict resolution. The overall aim of the research is to show how social dialogue can be harnessed to devise a road map for industrial peace.

Introduction

The aim of this paper is to give an overview of the current situation of industrial conflict resolution mechanisms in Latvia. It is structured as follows: first the societal and industrial relations framework is described briefly, paying special attention to industrial relations tripartite bodies. The second section provides an overview on the legal basis for strikes, lockouts and collective bargaining. The next section gives some information about the number of collective disputes, while the last section is devoted to the conflict resolution methods in Latvia.

Industrial relations framework for conflict resolution

To assess the progress made in Latvia towards a democratic system of industrial relations it is important to appreciate the basic characteristics of the system prior to the introduction of political reforms. Under the Soviet system the state, enterprise managers and trade unions were supposed to act in full harmony. Within the framework of a centrally planned system the Communist Party and government worked out the one best way for social action and then supervised the achievement of the established targets. Accordingly, neither trade unions nor employers could be identified as autonomous actors in the industrial relations system.

In Latvia after regaining independence in the 1990s, the state has played a very important role in setting the framework for industrial relations and social dialogue. From the one side, the state acts as legislator by setting up the legal and institutional framework on social issues, including the functioning of industrial relations systems and the activities of social partners, from the other side it acts as an employer.

On the trade unions' side the first years of transition were characterised by a significant decrease in the membership size and democratisation process from a socialist to a free-market model. In 1990 the new Law on Trade Unions was adopted. In 1990, 24 branch trade union organisations constituted the Latvian Free Trade Union Confederation, which currently unites 25 member organisations. The trade union movement is divided into entities that continue to operate as individual unions and those that have united in the Free Trade Union Confederation. The level of trade union membership in Latvia

is relatively low. In 2002 it was estimated to be 20%¹, with 38% in the public sector and as low as 8% in the private sector.²

On the employers' side there was no tradition of employers' organisations in the Soviet system. The first employers' organisations were established in the beginning of the 1990s. In 1993 the largest employers' organisation - the Latvian Employers' Confederation, was founded. Currently, it unites 50 large enterprises and 20 professional associations covering 30%³ of the total number of persons employed. The important step for ensuring uniformity of treatment in relation to social partners in the legal sense was the adoption of the Law on Employers' Organisations in 1998. The law determines the legal status and the system of employers' organisations as well as their rights and duties in relations with trade unions, public and local government institutions.

The first attempt to create a tripartite dialogue in Latvia was accomplished in 1993 when several tripartite councils were established (the Tripartite National Council of Employers, State and Trade Unions, the Tripartite Consultative Council on Labour Protection and the Trilateral Council on Social Insurance). These councils acted purely as consultative bodies. Signing of the new Tripartite agreement of the National Trilateral Co-operation Council on 30 October 1998 marked a new qualitative phase in the development of tripartite social dialogue. The main objective of the Council is to promote co-operation between the government, employers' organisations and trade unions on the national level in order to reach a consensus in solving the socio-economic issues in the country. The Council consists of the representatives of the government (including Minister of Welfare, Minister of Economics and Minister of Finance), the Latvian Free Trade Union Confederation and Latvian Employers Confederation. The main functions of the council are the promotion of co-operation on sectoral and regional level, discussion and making proposals regarding the Government' concept papers, programs, draft legal acts, draft regulations on social security, state budget guidelines, economic development and regional strategy, health promotion, development of general and professional education, employment and professional qualification, enforcement of ILO conventions and government reports on implementation of those conventions, the government's reports relating to the international instruments of the Council of Europe and the implementation of the recommendations of the international institutions.

The important task of the council is to ensure conciliation in the case of collective disputes. Once every two years the council approves the list of public mediators. Currently, 37 persons have been approved as the public mediators. Within framework of the EU Phare project 'Promotion of Bipartite Social Dialogue' they now are receiving extensive training. It is planned that from 2004 the public mediators will start fulfilment of their tasks. Also in 2003, the Council actively engaged in pre-strike negotiations with Health and Social Care Workers Trade Union.

Four sub-councils operate within the institutional system of the National Trilateral Co-operation Council: the Social Insurance Council (from December 1st, 2003 - Sub-council of Social Security), Sub-council on Vocational Education and Employment, Sub-council on Labour Affairs, Sub-council on Health Care. All sub-councils are designed for consultations and exchange of information at preparatory stage of policy making.

¹ Antila J., Ylostato P. Working Life Barometer in the Baltic Countries 2002. Ministry of Labour, Finland, Helsinki 2003, p.54.

² Ibid., p.57

³ Data taken from LDDK home page, www.lddk.lv

Other tripartite institutions are, for example, the Council of Economics at the Ministry of Economics, the Consultative Committee for Agriculture at the Ministry of Agriculture, the Council of Pharmacy at the Ministry of Health, the National Board of Disabled Persons Matters at the Ministry of Welfare etc.

Institutional basis for conflict resolution

Legal basis for strikes and lockouts

Industrial relations are regulated by norms of international law that are binding for Latvia, Labour Law and other legal acts, as well as internal bylaws, including collective agreements. The Constitution of Latvia (Satversme) confers the right to strike. The Strike Law (1998) is the main legal act governing the procedures for the execution of strikes. The right to lockout was first introduced by the Law on Industrial disputes in 2003.

According to the current legislation, employees have the right to strike in order to protect their economic or professional interests. The right to a strike can be exercised only as a last resort if no agreement and reconciliation has been reached in the collective 'interest dispute'. Employers have the right to a lockout in case the employees use a strike as a means for the settlement of a collective dispute. The lockout can only be used as a response action to the strike for the protection of economic interests of the employer. The number of employees against whom the lockout has been directed may not exceed the number of employees on strike.

Trade unions or employees have the right to initiate a strike. A decision regarding the declaration of a strike is taken by a trade union or employees at a general meeting in which at least three quarters of the members of the relevant trade union or at least three quarters of the number of the employees of the enterprise participate. At least three quarters of the participants of the general meeting have to vote in favour of a strike. If it is impossible to convene a general meeting of the relevant trade union or general meeting of employees due to the large number of the employees or due to the specific nature of the work organisation, the decision regarding the declaration of a strike takes a meeting of authorised representatives of members of the trade union or of the employees. The meeting is valid if at least three quarters of the authorised representatives participate. At least three quarters of the participants of the general meeting have to vote in favour of a strike.

The employer, a group of employers, an organisation of employers or an association of such organisations have the right to initiate a lockout. If a group of employers or an organisation of employers or an association of such organisations initiates the lockout the decision has to be taken in a general meeting in which at least three quarters of the members of the relevant organisation participate. At least three quarters of the participants of the meeting shall vote for a lockout.

If the general meeting of trade union members or employees has decided to start a strike the relevant trade union or employees have to establish a strike committee to lead a strike and represent the interests of employees during the strike negotiations with the employer. At least 10 days prior to the commencement of a strike the strike committee has to submit to the relevant employer, the State Labour Inspection and the Secretary of the National Trilateral Co-operation Council a declaration of a strike, a decision of the general meeting and minutes of this meeting. The declaration of the strike has to contain information about the date, time of commencement of the strike and place of the strike, the reasons for the strike, the demands of the strikers, the number of strikers, and the composition and the leader of the strike committee. During the strike organisers are not allowed to state to the employer demands which have not been indicated in the declaration of a strike.

At least ten days prior to the commencement of a lockout the employer has to submit to employees against whom the lockout has been directed, to the State Labour Inspection and to a secretary of the National Trilateral Co-operation Council an application for a lockout and, in the case the lockout has been initiated by a group of employers, an

organisation of employers or an association of such organisations, also the decision of the general meeting and a report in which number of votes has been recorded. An application for a lockout has to contain information about the date, time of commencement of the lockout and the place of the lockout, reasons for the lockout and the number of employees against whom the lockout is directed.

The current legislation provides several restrictions for commencement of a strike or a lockout. Judges, prosecutors, members of the police, fire fighters, border guards, members of the state security service, warders and persons who serve in the National Armed Forces are prohibited from striking. A lockout is prohibited in the public administration and local government institutions, as well as in companies that are regarded as services necessary to public under the Law on Strikes.

During a strike in the services, companies, organisations and institutions that are necessary to the public and whose stoppage could cause a threat to national security or the safety, health or life of the entire population, certain groups of inhabitants or particular individuals, such as medical treatment and first aid services, public transport services, drinking water supplies services, electricity and gas production and supplies services, the minimum amount of the work has to be continued. The employer and the strike committee are responsible for continuation of the work. If necessary, at least three days before the commencement of a strike, the employer and the strike committee have to agree on a certain number of employees who will perform the work and has to specify the amount of work to be done. The refusal of an employee to perform such a work is regarded as a violation of the work procedures. If the employer and the strike committee are not able to ensure that the minimum amount of work is continued, the State Labour Inspection has a right to give a binding order for continuation of the work and to determine the number of employees who have to perform the work.

The State Labour Inspection is responsible for supervision of the strike and the lockout procedures. The State Labour Inspection has the right to suspend or terminate a strike or lockout for a time period not exceeding three months if it is necessary to take measures for the prevention or elimination of consequences of a natural disaster, major accident or epidemic.

Only the court may acknowledge a strike or a lockout to be unlawful if the provisions of law have been violated. A strike is also regarded as unlawful if it is initiated in order to express political requirements, political support or political protest, but a lockout is regarded as unlawful if it has been directed against rights to freely unite in organisations. A strike or a lockout that has been acknowledged to be unlawful must be discontinued immediately, but if the strike or lockout has not yet been commenced and the court has acknowledged the declaration of the strike or lockout to be unlawful, it is prohibited to commence it. The employer has an obligation to compensate losses caused during the lockout if it has been acknowledged as unlawful.

Participation in a lawful strike is not considered to be a violation of the contract of employment or labour rights and, therefore, cannot be a reason for the dismissal of employees or for any disciplinary sanctions. The employees who participate in the strike are not entitled to receive a salary. Employees who do not participate in a strike and continue to work may not be forced to assume the work of the striking employees. An employer may not hire new employees to replace the striking employees during a strike in order to prevent or suspend the strike or to avoid the fulfilment of the demands of the striking employees.

Blocking of a company where the strike is taking place, as well as blocking the entrances and driveways thereof are prohibited. During a strike employees have the right to organise meetings, street processions and pickets in accordance with the procedures prescribed by the law.

The Latvian legislation on strikes can be characterised as complicated. The one of the most difficult provisions to be implemented is the requirement to have three-quarters of union members or employees to vote for calling the strike. ILO Committee of Experts on the Application of Conventions and Recommendations has noted that the Law on Strikes requires both a quorum and a majority of three-quarters of the union members in order to call a strike that can infringe the fundamental right of employees to strike. Some experts consider that this provision is a violation of the ILO Convention on Freedom of Associations and Protection of the Right to Organise Convention (1948).

Already in 2000, the Latvian Free Trade Union Confederation elaborated the amendments to the law on strike and submitted them to the National Trilateral Co-operation Council. The amendments proposed simplification of the law. However no agreement was reached in that time. Recently the Labour Department of the Ministry of Welfare initiated the creation of the working group consisting of social partners that will start the discussions on the development of necessary amendments to the strike law.

Collective bargaining and strikes and lockouts

The Constitution of Latvia (Satversme) declares the right for employees to a collective agreement. The Labour Law sets up the procedures to enter into the collective agreements and to settle disputes regarding rights and interests which arise from the collective agreement relations. There are two types of the collective agreements: the collective agreements at company level and sectoral collective agreements. Sectoral collective agreements are extended where the employers subject to the agreement employ more than 60 % of the employees in a sector. Such agreement is binding on all employers of the relevant sector and shall apply to all employees employed by the employers. In order to inform employers and employees about the concluded collective agreement it has to be published in the official newspaper 'Latvijas Vestnesis'. In practice, there is no a sectoral agreement in force yet that could be legally extended. The main problem related with legal extension of the sectoral agreements is a lack of the definition of the 'sector' in Latvian legislation.

The development of bipartite dialogue at the regional and sectoral level in Latvia has not so far been successful due to a limited number of employers organisations and trade unions in the regions or lack of common interests in the sectors of economics. At the beginning of the year 2003 there were 32 collective agreements concluded at a sectoral or branch level⁴. Concluded sectoral agreements are very general and in majority of cases they just reproduce the possibilities offered by the law.

The dialogue at enterprise level is more common and better developed, especially in medium and large enterprises. At the beginning of the year 2003, the total number of collective agreements amounted to 2368.⁵

The company collective agreement applies to all workers who are employed by the relevant employer, unless the parties have agreed otherwise in the collective agreement. Employee and employer may derogate from the provisions of a collective agreement only if the relevant provisions of the employment contract are more favourable to the employee.

⁴ These data have been provided by the Ministry of Welfare based on the information received from Latvian Free Trade Union Confederation.

⁵ Ibid.

The entering into a collective agreement can be proposed either by the employee representatives or the employer. An employer is not entitled to refuse to start negotiations regarding the entering into a collective agreement. Within a 10-day period from the date of receipt of the proposal from employee representatives the employer must reply in writing. An employer, at the request of employee representatives, has a duty to provide to them the necessary information required for the entering into of a collective agreement.

If during the course of negotiations agreement on the procedures for formulation and discussion of a collective agreement or the content of the collective agreement has not been reached due to the objections of one party, such party has a duty, not later than within a 10-day period, to give a reply in writing to the proposals expressed by the other party. If a draft of the whole collective agreement has been submitted, a reply in writing has to be provided not later than within a one-month period. The objections to the draft or proposals for amendments have to be specified.

Even though the law stipulates an obligation on the part of employers to enter into negotiations about the collective agreement there is no obligation for employers to conclude a collective agreement. As the collective agreements are negotiated in the bipartite dialogue there is no legal responsibilities to enforce both sides to conclude an agreement.

The validity of a collective agreement is one year, unless otherwise stated. Upon expiry of the term of a collective agreement, its provisions are valid until the time of coming into effect of a new collective agreement, unless agreed otherwise by the parties. During the validity period of a collective agreement, parties are obligated to refrain from any measures, which are directed at unilateral amendments into the collective agreement. The strike that has been commenced during the term of validity of a collective agreement in order to change the content of the agreement is regarded as unlawful. However the employees are allowed to call a strike for other reasons.

Disputes which arise from the collective agreement relations or which are related to such agreement are settled by a conciliation commission. The parties to a collective agreement, both authorising an equal number of their representatives, establish a conciliation commission. In case of a dispute, the parties to the collective agreement have to draw up a report regarding the differences of opinion and not later than within a three-day period submit it to the conciliation commission. The conciliation commission takes a decision by agreement. The decision is binding on both parties to the collective agreement and it has the validity of a collective agreement.

If a conciliation commission does not reach agreement on an 'interest' dispute, such dispute has to be settled in accordance with the procedures prescribed by the collective agreement or the procedures provided by the law (see further section 4). If a conciliation commission does not reach agreement on a dispute regarding rights, such dispute can be settled through an arbitration court or a civil court. The civil court has jurisdiction to rule on any dispute regarding rights between parties to a collective agreement in respect of claims arising from the collective agreement; application of provisions of the collective agreement and validity or invalidity of provisions of the collective agreement.

In practice, employers in Latvia have very seldom been forced by means of employee action (strikes etc.) to conclude collective agreements. There have been several cases when employers refused to enter into negotiations about collective agreements or delayed the negotiation process. The weakness of trade unions is one of the reasons for such behavior of the employers.

Statistics relating to industrial conflicts 1992-2002

There are no reliable, comprehensive and up-to-date statistics for collective industrial conflicts in Latvia. The most reliable data on trends in industrial relations refer to industrial disputes in general. The State Labour Inspection keeps statistics on submitted written claims without distinguishing between individual and collective industrial disputes.

Table 1: *Number of industrial conflicts*

Year	1997	1998	1999	2000	2001	2002	2003 I – II quarter
Written claims on industrial conflicts	1378	1563	1965	2076	2234	2598	1232

Source: *State Labour Inspectorate, Semi-annual Report of 2003*

In 2000, before new the Labour Law entered into force, a comparative study "The information level of employees and employers about the regulation of industrial relations and the rights and responsibilities of employees and employers' was conducted by the Research Centre on the Market and Public Opinion. Only 8 % of employers stated that they use the practice of 'dispute-free work' but almost 90% of employers stated that there have been industrial disputes, which have been addressed with the help of individual discussions or negotiations with working team.

Strike is the method of resolution of collective disputes that has been used in Latvia only in rare cases and mostly in public sector, especially among teachers, doctors and nurses. The biggest strikes occurred in education sector in 1999 and health care sector in 2002. The main reason for these strikes was poor evaluation of wage scales.

Table 2: *Strikes*

Date	16/11/1999	01/12/1999	20/06/2002	18/07/2002	18/09/2002
Strikes (number of participants)	52811	53253	5424	4183	4071

Source: *Latvian Free Trade Union Confederation*

There were no lockouts in Latvia during the observed period.

Conflict resolution mechanisms

Conciliation

Industrial disputes are an inseparable component of any system of industrial relations. In order to improve the mechanism for industrial dispute resolution in Latvia, the law on industrial disputes was adopted in 2002 and it became effective as of 1 January 2003. The main purpose of the law was the provision of a speedy, fair and efficient resolution of industrial disputes. It emphasises the role of mutual consultations of parties as the main instrument for resolution of collective disputes.

The law provides for three procedures of peaceful conflict resolution: conciliation, mediation and voluntary arbitration. The different procedures are used depending on the nature of the collective dispute. Latvian legislation differentiates between 'rights dispute' and 'interest dispute'. A collective 'rights dispute' is a difference of opinions between employees and employers that arise in concluding, altering, terminating or fulfilling an employment contract, as well as in applying or interpreting provisions of regulatory enactment, provisions of a collective labour contract or working procedure regulations. A collective 'interest dispute' is differences of opinions between employees and employers that arise in relation to collective negotiation procedures determining new working conditions or employment provisions. Employees have the right to call a strike only in the case of a collective 'interest dispute'.

In the case of a collective dispute the interested party gives a submission in writing to the other party in which its requirements are specified. The other party has to examine it immediately and within a time period of three days following receipt of the submission has to provide its reply in writing. If the reply to the submission is negative or is not provided the first party can use one of the methods for collective dispute settlement prescribed by the law.

Both collective 'rights disputes' and collective 'interest disputes' can be settled in a conciliation commission. A conciliation commission is established by the parties, which authorise an equal number of their representatives. The parties of collective dispute have to write a report regarding the differences of opinions and submit it to the conciliation commission. The conciliation commission examines the report and takes a decision within a time period of seven days following receipt of the report or any other time period that has been agreed by the parties. The conciliation commission takes a decision by mutual agreement. The decision of the commission is binding on both parties and it has the validity of a collective agreement.

If parties so agree in writing, a collective 'rights dispute' may be transferred to an arbitration court for settlement. If the parties reach a written agreement regarding execution of such adjudication, it has the validity of a collective labour contract.

If a conciliation commission has not been established or the collective dispute has not been settled in the conciliation commission any party to a collective 'rights dispute' may apply to the civil court.

Mediation

Collective 'interest disputes' that are not settled in a conciliation commission can be resolved either in accordance with the procedures prescribed by the collective agreement or, if such procedures have not been prescribed, through mediation or arbitration.

Mediation is a settlement of a collective 'interest dispute' by inviting a third person as an independent and impartial mediator who helps the parties to the collective 'interest dispute' to settle differences of opinion and to reach agreement. The mediation method for settlement of collective disputes can be used only upon mutual agreement of the parties. A mediator has a duty to perform the necessary activities (including the proposal of recommendations for dispute settlement) to conciliate the parties to the collective dispute and to reach agreement. Such an agreement has to be expressed in writing and it has the validity of a collective agreement.

A mediator may be any person with the capacity to act. The person has to express the agreement to be a mediator in writing. A mediator may be private or public. A mediation procedure can be commenced by one person or a collegium of mediators consisting at least of three persons. In any case the number of persons in a collegium of mediators has to be an odd number. If the parties to a collective 'interest dispute' cannot agree on a mutually acceptable mediator, each of them can nominate their preferred private or public mediator and notify the welfare minister thereof. The welfare minister selects a public mediator for settlement of the relevant dispute who concurrently acts as the chairperson of the relevant collegium of mediators. During the time period when a collective 'interest dispute' is settled using mediation method the parties to the collective 'interest dispute' must refrain from exercising the right to a collective action (including a strike and lockout).

Arbitration

Upon mutual agreement of the parties a collective 'interest dispute' may be transferred to an arbitration court for settlement. The execution of an adjudication of the arbitration court is voluntary. If the parties reach a written agreement regarding execution of such adjudication, it has the validity of a collective labour contract. During the time period when a collective 'interest dispute' is settled in the arbitration court the parties to the collective dispute must refrain from exercising the right to a collective action (including a strike and a lockout).

If a collective 'interest dispute' is not settled in a conciliation commission and parties do not agree on settlement of the collective dispute through mediation or arbitration the parties of the collective dispute have the rights to a collective action. Such rights also arises if a conciliation commission has not been established or if settlement of the collective

dispute has not been commenced neither in an arbitration court, in a conciliation commission or through a mediation method or if the adjudication of the arbitration court has not been executed.

Conclusion

After regaining independence in 1990, industrial relations in Latvia have undergone tremendous changes. The legal basis for social dialogue has been created. The bilateral and tripartite dialogue on the national level could be characterised as successful so far, while there is still hardly any dialogue on the sectoral and none on the regional level. Also, the number of collective agreements concluded at the company level still remains low.

A new system for resolving collective industrial disputes has been created. There have been rare cases of strikes and other employees' protest actions in Latvia. Several experts argue that the Latvian employees are not organized enough and that trade unions are still very weak. Other reasons for relatively 'peaceful' industrial relations in Latvia could be the legislation that provides strict provisions for calling a strike.

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Annex 1: National development project

'Development of established labour dispute resolution mechanisms'

What?

With adoption of the Law on Industrial dispute Settlement in 2002, Latvia completed the reform of labour legislation that corresponds to the demands of the market economy. The Labour Law that came into force on 1 June 2002 establishes the main principles and terms of the industrial relations system, including the right of association for employees and employers and the right to collective agreement. The Law on Industrial dispute Settlement provides a speedy, fair and efficient resolution of industrial disputes and first introduces such an essential mechanism for industrial dispute settlement as mediation.

Taking into account that labour legislation reform has been recently completed, the social partners at Prague workshop agreed that further development of the established industrial dispute resolution mechanisms is needed in Latvia:

1. the awareness of the society about the new mechanisms for industrial dispute settlement shall be increased;
2. the promotion of the change of attitudes of social partners toward their industrial relations shall be encouraged;
3. the training of persons who can provide independent mediation and arbitration services shall be ensured.

Why?

Up to now Latvia can be characterised as a country with a low level of collective industrial disputes. However, it is likely that in the near future, with rapid development of the market economy system the number of industrial disputes will increase. Therefore social partners agreed that development of the effective industrial dispute resolution mechanisms is important precondition for keeping a social peace in the country.

When?

The time frame for implementation of the National Plan is 2004-2007. After three years the strengths and weaknesses of the established industrial relations system and effectiveness of the industrial dispute resolution mechanisms will be appraised and necessary amendments will be elaborated and introduced.

Who?

The Ministry of Welfare has overall responsibility for securing the effective functioning of industrial relations systems in the country. However, the social partners at all levels will play the key role in ensuring that the new collective industrial relations are implemented in practice.

Where?

This should take place at every level of the economy - from individual employers and workers to the respective bodies for the representation of their interests, and on to the state itself.

Which?

The implementation of the national development project will require:

- the development of human resources, i.e., training will be required for social partners and for the persons involved in the mediation and arbitration services;
- financial resources. National sources and EU funds will be the main financial resources.

Annex 2: Road map for conflict resolution

