European Foundation for the Improvement of Living and Working Conditions

Social dialogue and conflict resolution in Lithuania

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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 Lithuania 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

Social partnership is a very important element in a democratic society, ensuring self-regulation of the social partners' relations and the possibility of reaching certain agreements.

In Lithuania, as well as in the other post-communist countries, all reforms (ownership regulations, industrial relations, legislation, pensions, etc.) took place at the same time, which is why the social partnership as a mechanism of conflict resolution is not sufficiently developed and the practice is just in the evolution stage.

The national laws play a very important role in regulating the parties' conduct as they attempt to resolve collective disputes. The law may restrict the actions that the parties are allowed to take in response to such disputes. Restrictions of this kind may weaken the possibilities for the parties to execute their rights. But the law may also provide parties with ways to resolve the arising collective disputes, such as conciliation, mediation, arbitration, etc. On the other hand, it should be mentioned that although the laws play a very important role in the formation of the mechanism for the resolution of collective disputes, in practice they usually remain just a theoretical possibility for the employees. In addition to the legal restrictions there are still problems, because trade unions do not have enough economic capacity for reimbursement of the temporary income loss during strike periods.

Another problem in practice is the lack of unity among trade unions organisations. Sometimes there are several trade unions in the same enterprise and they do not agree upon the common demands. The small number of strikes can also be partly explained by the Nordic temperament of the Lithuanian population, by the 50 years of Soviet occupation and the smothered initiative.

This report surveys the legal framework that regulates the methods used in conflict resolution and the societal and industrial relations for making this mechanism work effectively.

It is worth noting that all social partners in Lithuania understand that the best way to solve disputes are negotiations, seeking to find a compromise and to avoid strikes as a radical measure.

Industrial relations framework for conflict resolution

In Lithuania, social partnership as an instrument of regulation for industrial relations does not have a tradition like in the EU Member States. The development of a social dialogue was started only in the 1990s.

Tripartite council

The tripartite council of the Republic of Lithuania (hereinafter - tripartite council) was established on 5 May 1995 by agreement between the social partners from equal numbers of members enjoying equal rights: representatives of central (national) trade unions, employers' organisations and the government.

Permanent members of the tripartite council are the following trade union organisations: the Lithuanian Trade Unions' Confederation, the Lithuanian Labour Federation and the Lithuanian trade-union Solidarity.

The tripartite council member organisations on the employers' side are: the Lithuanian Confederation of Industrialists and the Confederation of Businessmen. The Government representatives are the deputies from the Ministry of Finance, the Ministry of Economy, the Ministry of Justice, the Ministry of Social Security and Labour and also the Ministry of Agriculture.

The tripartite council may consist of no more than 15 members, i.e. not more than five representatives from each party (the government, employers' organisations and the trade-unions).

The functions, rights, procedure of formation and organisation of work of the tripartite council are established in the regulations of the tripartite council, which are approved by the parties. The regulations of the tripartite council can be amended and supplemented according to the same procedure. The regulations of the tripartite council, amendments and supplements to the regulations shall come into force in the manner specified therein. The representatives of trade unions, employers' organisations and the government shall furnish the tripartite council with the necessary information on the issues under consideration.

The tripartite council, according to the Lithuanian Labour Code, may conclude trilateral agreements on industrial relations and social and economic conditions, also on the regulation of mutual relations between the parties to the agreement.

Tripartite cooperation agreement

On 11 February 1999 the representatives of the parties signed an agreement on the tripartite cooperation and defined the main obligations of the parties. The government of the Republic of Lithuania obligated itself:

- to provide information to the parties on preparation of draft legislation on labour, social and economic issues, and upon request of at least one of the parties to submit them for discussions at the tripartite council of the Republic of Lithuania;
- all decisions on urgent issues in the sphere of labour, social and economic questions shall be taken only after they are discussed at the tripartite council of the Republic of Lithuania;
- conclusions of the discussions on draft legal acts at the tripartite council shall be referred to in the explanatory notes to the draft legal acts and submitted alongside to the parliament;

All unions and amalgamations of trade unions and national employers' organisations who signed that agreement pledged themselves not to initiate collective disputes or undertake any other actions with regard to the issues that the Government of the Republic of Lithuania is obliged to carry out in relation to its tripartite responsibilities.

The main functions of the tripartite council are:

- to analyse the problems of social, economic and labour market, to give the suggestions for problem resolutions on the approach of the parties;
- to discuss for choice laws, the projects of legal acts in the social, economic and labour fields, to give conclusions and proposals to the parliament and the government;
- to analyse the possibilities of bipartite and tripartite partnership solving social, economic and labour questions, to offer suggestions to the parties on the expansion of social partnership;
- to discuss and approve an annual tripartite agreement's project on resolution of social, economic and labour problems that is signed by authorized parties' members;
- to coordinate under the necessity the activities of other bipartite and tripartite institutions (labour safety, population employment, etc.) in social, economic and labour sphere, to analyse the vexed questions on the summit;
- to discuss the questions, due to the convention of the International Trade Organization No.144 'Tripartite parties consultations to realize international labour standards', to make decisions;
- to inform the parties and society about its work performing the functions.

In exercising the above-mentioned functions the tripartite council has the following rights:

- to make decisions and to give conclusions and recommendations due to its competence;
- to obtain information needed for its functions;
- to hear the meaning of parties' members and experts due to its competence;
- to coordinate under the necessity the work of other bipartite and tripartite institutions in the social, economic and labour field.

The action of the tripartite council is entrusted to the chairman by rotation, who is elected for four months on the agreement of the parties. If he/she is not able to participate in a sitting, the chairman has to delegate another of his/her party's members who is also a member of the tripartite council as well as inform in a written form the tripartite council about it.

The parties bring the projects of documents, decisions to discuss in a sitting also other additional materials to the secretariat of the tripartite council not later than before ten days. The secretariat not later than before seven days provides members of the tripartite council with the whole material. To change and add any issues is only possible while starting a sitting. At least one member of the parties has to approve a question, then the question is placed on the agenda of a sitting.

The sitting of the tripartite council is only valid if not less than half of each party of the tripartite council members or their delegates take part in it. Due to important reasons a member of the tripartite council delegates another person and also informs the tripartite council about it. The tripartite council reaches for making its decisions on agreement. Different

opinions are reflected in a sitting's protocol. The tripartite council may foresee a repeated discussion and settle its term and proceeding. The sittings of the tripartite council are held on the Council's fixed time on the chairman's own initiative. There is also a possibility for at least one member of each party to demand a sitting, however no fewer than once every two months.

A sitting's protocol of the tripartite council is signed by the chairman and a secretary of the tripartite council and has to be sent to the members of the tripartite council not later than during seven artificial days. The copies of its decisions are sent to organisations and officials relating the question.

To discuss current and ongoing questions the tripartite council may set up constant and temporary tripartite commissions (e.g. Commission for Industrial relations, Commission for Tripartite Consultations on implementation of international labour law). The members of the tripartite council may also take part in the work of these commissions.

On 23 February 1998 the Government of Lithuania passed a ruling on the establishment of the secretariat of the tripartite council of the Republic of Lithuania. With reference to it, the Social Security and Labour Ministry was entitled to have established a secretariat of the tripartite council as a budget institution since 1 March 1998. The task of the secretariat is to perform the tripartite council's preparatory and organisational proceeding. The head of the secretariat on the offer of the tripartite council is appointed and discharged by the Minister of Social security and labour, while officials of the secretariat are being approved and discharged by the head of the secretariat himself.

Other tripartite councils

Other trilateral or bilateral councils (commissions, committees) may be established according to the procedure prescribed by special laws or collective bargaining agreements for addressing and resolving the issues of labour, employment, worker safety and health and social policy implementation on the basis of trilateral and bilateral co-operation on an equal rights basis. The procedure of formation of the trilateral or bilateral councils (commissions, committees) and their functions shall be established in the regulations of the relevant councils (commissions, committees). In the cases stipulated by law the regulations shall be approved by the government or subject to collective bargaining agreements.

In Lithuania the following trilateral councils are already established: The national council for social insurance, Lithuanian council for vocational training, the employment council by the Ministry of Social Security and Labour, the council of the cover fund, the council of the obligatory health insurance, etc. There are also the tripartite commissions established by The Lithuanian Labour Exchange and the local labour exchanges. And there are local tripartite commissions in districts for employee safety and health by the National Labour Inspection.

Institutional basis for conflict resolution

Legal basis for strikes and lockouts

A strike, according to the Lithuanian Labour Code, means a temporary cessation of work by the employees or a group of employees of one or several enterprises if a collective dispute is not settled or a decision adopted by the conciliation commission, Labour Arbitration or third party court, which is acceptable to the employees, is not being executed. This definition explains the circumstances which make a strike possible. Other conditions are mentioned and described in articles 76-85 of the Lithuanian Labour Code. This specifies and creates a legal opportunity to implement the provision granting people the right to strike delineated in Article 51 of the Constitution of the Republic of Lithuania. This article says that employees have a right to strike defending their social and economic interests. The order and conditions of the limitation, implementation of this right are set in the separate law. Thereof the provisions of the Labour Code, which regulate legal aspects of the strikes, are concurrent with the right to strike.

A strike is a drastic way of solving collective disputes, protecting social and economic rights and interests of employees. Lithuanian law and other legal regulations declare the system of solving these problems using conciliation, mediation and arbitration. These remedies are applied first, and only if they fail, strike is used as a remedy ultima ratio. Moreover a strike is a temporal, freewill rejection to work; this means nobody can be forced to take a part in it.

According to the Lithuanian Labour Code (Article 77) strikes can be warning and apparent strikes. The main subject of the collective disputes between employer and employee are working conditions, social and economic interests. It should be said that article 51 of the Constitution of the Republic of Lithuania and article 76 of the Labour Code both state the right to strike only in matters concerning the social and economic interests of the employee.

A strike as the ultima ratio remedy has the following characteristic points:

- a strike is a collective act, which requires concerted employees actions;
- work is suspended in the course of the strike;
- a strike is the provision to effect pressure upon the employer and satisfy social and economic interests, which have not been achieved by other types of collective conflict resolution.

A strike can be proclaimed, when these circumstances arise:

- a collective dispute is not settled by conciliation commission;
- a decision adopted by the Conciliation Commission, Labour Arbitration or third party court, which is acceptable to the employees, is not being executed.

In agreement with these statements it can be said, that the Labour Code of Lithuania states only one compulsory stage in the procedure of solving collective disputes. This stage is the examination of disputes in the conciliation commission. Solving these disputes, if acceptable decision was not adopted, parties are not obliged to apply for other two alternative examination institutions - labour arbitration, third party court. At this point the trade union can declare the strike. It can also declare the strike if a collective dispute was examined in a labour arbitration or third party court, but the employer does not execute the decisions of these institutions.

As mentioned earlier, the trade union has a right to decree resolutions to declare both warning and apparent strikes. The Labour Code does not specify the method of decreeing resolutions, it only mentions that the right to adopt a decision to declare a strike (including a warning strike) shall be vested in the trade union according to the procedure laid down in its regulations(Article 77).

It should be noted, that an authority to carry out the resolution in the name of the represented employees is not absolute. The Labour Code states imperatively that trade unions may declare a strike only when the particular number of employees approves this decision. Article 77 says that a strike can be declared if a corresponding decision is approved by secret ballot by:

- two thirds of the enterprise’s employees voting in favour of a strike in the enterprise;
- two thirds of the employees of a structural subdivision of the enterprise and at least half of the employees of the enterprise who vote in favour of a strike in the structural subdivision of the enterprise.

As mentioned above, according to the Lithuanian Labour Code, a strike means a temporary cessation of work by the employees or a group of employees of one or several enterprises. It indicates that collective dispute can arise in certain branches of industry, a certain territory or on state level. Everything depends on the sort of the collective agreement which became the subject of the dispute. It is obvious that, if the possibility of territorial and national disputes is recognised, the one party of the agreement, the trade unions as the delegate organisations, possesses the right to declare a strike.

The Labour Code unfortunately does not give special regulations related to this subject. Still there are possibilities to apply the analogy principle and follow the rules of the declaration of the strike, given in the Labour Code. These remedies would contradict the freedom of associations and restrict the trade unions' right to strike, because it is impossible to get all the votes of the employees in the enterprises, where collective agreement is applied. In this case, the special provisions for the strike declaration can be used, when the strike has to be declared in more than one enterprise. These special regulations should be placed in the law of trade unions.

There is also a lack of legal regulations for supporting strike actions. According to the Lithuanian Labour Code, in industrial relations the rights and interests of employees may be represented and protected by the trade unions. Where an enterprise, agency or organisation has no functioning trade union and if the staff meeting has not transferred the function of employee representation and protection to the trade union of the appropriate sector of economic activity, the employees shall be represented by the labour council elected by secret ballot at the general meeting of the staff. Although the labour council possesses all the rights of the entities of collective representation if there is no functioning trade union in the enterprise, agency or organisation, the labour council does not acquire the right to declare the strike. The labour council also cannot perform functions recognised under laws as the prerogative to trade unions. On the other hand it may organise and supervise other lawful measures such as pickets, demonstrations which the employees have the right to undertake. Thereby the labour council will attract the attention of the employer and of society.

Strike is a measure to satisfy work, social and economic demands, but strike at the same time directly affects employers, employees and also the interests of a part or even the whole society. So the employer must be given at least seven days' written notice of the strike. The decision to call a strike shall specify:

- trade union resolution to start the strike;
- demands with respect to which the strike is called;
- the nature of the strike;
- the date of the strike initiation;
- the name of the body leading the strike;
- employees' majority consent to declare the strike and to strive towards the demands.

This notice gives the employer the opportunity and time to consider his behaviour and actions. The employer or the entity to which the demands have been submitted may apply to the court with a petition to announce the strike unlawful, he also can inform the society about the noxious consequences of the strike, warn business partners about the strike as a force majeure and etc.

Warning strikes

A warning strike lasting not longer than two hours may be held before the strike is declared. The employer must be given at least seven days' written notice of the warning strike. When a decision is taken to hold a strike (including a warning strike) in railway and public transport, civil aviation, communications and energy enterprises, health care and

pharmaceutical institutions, food, water, sewage and waste disposal enterprises, oil refineries, enterprises with continuous production cycle and other enterprises cessation of work in which would result in grave and hazardous consequences for the community or human life and health, the employer must be given a written notice of the strike at least fourteen days in advance. Because the Labour Code of Lithuania does not give a finite list of the enterprises, which are of particular importance, there can be some obscurities and misapprehensions. In this case the practice of ILO committees' of association freedom should be used. This committee presents a list of enterprises whose suspension of work would result in grave and hazardous consequences for human life and health or the community.

Strikes in essential services

Strikes are prohibited in the internal affairs, national defence and state security systems, as well as in electricity, district heating and gas supply enterprises, first medical aid services. The demands put forward by the employees of the specified enterprises shall be settled by the government, taking into account the opinion of the tripartite council. According to Labour Code Article 1 this Code regulates industrial relations connected with the exercise and protection of labour rights and performance of obligations established in this Code and other regulatory acts. Meanwhile the legal nexuses of internal affairs, national defence institutions regulate state service law and other special laws. That is why Labour Code provisions are applied only to the persons, who have made work contracts with these institutions in the case of strike restrictions. Special laws and regulatory rules are applied to other officers.

Strikes shall be prohibited in natural disaster areas as well as in the area where a state of martial law or state of emergency has been declared in accordance with the procedure established by law until the liquidation of the consequences of natural disaster or lifting of the state of martial law or state of emergency.

It shall be prohibited to declare a strike during the term of validity of the collective agreement if the agreement is complied with.

A strike is led by the trade union or the strike committee formed by it. The Labour Code does not regulate the formation of the strike committee. It has to be stated in the trade union statute. The members of the strike committee can be both members of the trade union and employees of the enterprise in which the strike is being organised. If the strike is organised by several companies, then each of them will delegate one or several representatives. Strike coordination is the main function of the body leading the strike. It has to report regularly on the course of the strike, bargaining between employers and employees. Throughout the strike, the trade union or strike committee should collaborate with the employer, supply him with the important information, lead the negotiations and try to end the strike as soon as possible.

A strike-leading institution loses its authority when the strike is over:

- when all demands have been met;
- when the parties have reached an agreement during the ongoing strike to break off the strike under certain conditions;
- after the trade union which organised the strike has recognised that it is inexpedient to continue the strike, or the strike has been recognised unlawful.

This means that every time a strike is declared, a new strike leading institution has to be elected.

The Supreme Court of Lithuania has indicated that strike is a special measure of bargaining. It is intended to force the employer to reach the compromise, but not to do harm to the employer either in an already started collective dispute. What measures are used in negotiation will depend only on the course of the strike, because tools of the strike are not regulated in the law and other special documents. That means when the collective negotiation is started and there is

intention to achieve a dovish decision, the date of earlier declared strike will be postpone. Notwithstanding the postponement of the strike the authority of the strike-leading organisation continues.

The body leading a strike is bound to ensure together with the employer the safety of property and people. For this purpose the body leading the strike has to enact proper judgement. But first of all it ought to set the course of the strike and make sure that it will not become an ungovernable action.

During a strike in the enterprises, agencies, organisations specified in the Labour Code, minimum conditions (services) necessary for meeting the immediate (vital) needs of the society must be ensured. Such minimum conditions (services) shall be determined by the government in accordance with its competence, having regard to the opinion of the tripartite council or by the executive institution of a municipality upon consultation with the parties to the collective dispute.

The fulfilment of the above conditions should be ensured by the body leading the strike, the employer and the employees appointed by them. These differences of regulation are determined by the present system of the social partners' institutions in Lithuania. At national level the tripartite council works effectively for a few years. At district (or municipality) level the system of these institutions is not explicated; to be precise there is no system at all, because only a few districts and municipalities have tripartite councils. In this case there is one possible solution left - to consult with the parties of the collective dispute. The Labour Code is indeterminate on what period of time the resolution of minimum conditions (services) necessary for meeting the immediate (vital) needs of society must be initiated. In this instance we should refer to Article 77(4) of the Labour Code, which states the term of fourteen days.

When a strike is called, the employer or the entity to which demands have been submitted may apply to the court with a petition to declare the strike unlawful. The court shall hear the case within ten days. These cases are heard in circuit courts. The claim to declare the strike unlawful can be issued in the territory where the defendant's, i.e. the trade union's residence is. The cases are judged according to the rules of the Civil Process Code, taking into consideration the Labour Code and other laws.

If there is a direct threat that the proposed strike will affect the provision of minimum conditions (services) required for meeting the essential (vital) needs of society and this may endanger human life, health and safety, the court should be entitled to cancel the proposed strike for a thirty-day period or to suspend the strike for the above-mentioned period. In the course of this period the employer must undertake all possible measures to settle the collective dispute or reduce possible harm done by the strike.

A strike is unlawful in Lithuania if:

- the intentions of the strike contradict the Constitution of the Republic of Lithuania or other laws;
- the strike was declared departing the determined order and demands applied in the Labour Code.

  The strike is declared departing the determined order and demands if:

  - the proper number of the enterprise employees voting in favour of a strike in the enterprise were not obtained, the results of the vote were fake;
  - the terms intended to warn the employer about the strike were not adhered to.

- a collective dispute has not been examined in the conciliation commission;
- new demands were stated declaring the strike, which were considered as conflicting the order, regulated in Labour Code; the trade union did not ensure the minimum conditions for meeting the immediate (vital) needs of the society.

Upon the coming into effect of the court decision to recognise the strike as unlawful, the strike may not be commenced and a strike already in progress must be broken off immediately. When the court decision is initiated and came into effect, the strike will end.

Other reasons for expiration are stated in the Labour Code:

- after all demands have been met;
- after the parties reach an agreement during the ongoing strike to break off the strike under certain conditions;
- after the trade union which organised the strike recognises that it is inexpedient to continue the strike.

Disputes between individual employees and the employer (administration) concerning failure to implement or improper implementation of the collective agreement of the enterprise shall be settled according to individual industrial disputes resolution procedure.

According to the Lithuanian Labour Code, lockouts are not allowed in Lithuania. Yet, the organisations of employers has asked for this possibility to be introduced, and now it is agreed that the employers' organisations, after examining the practice in other European countries, will prepare a draft for lockout procedure regulations.

When talking about a division of collective industrial disputes into legal conflicts and interest conflicts, one should not that the Lithuanian Labour Code does not ascertain such a division. The definition of a collective labour dispute is 'a collective labour dispute means disagreements between the trade union of an enterprise and the employer or the subjects entitled to conclude collective agreements, arising about the establishment or changing of work, social and economic conditions when conducting negotiations or when concluding and implementing the collective agreement (conflict of interests), in case of failure to meet the demands made and submitted by the parties according to the procedure established by this Code'. This definition raises a lot of discussions and probably it will be made more clear.

Statistics on industrial conflicts

The number of strikes during the past few years was quite small (mainly educational and public transport workers). Employees are not brave enough to fight for their rights in this way because of the big unemployment rate and unfavourable social and economic situation.

Collecting statistical data about the strikes in Lithuania only started in the year 2000. According to the statistics, strikes in Lithuania took place only during the period of 2000-2001; in the period between 2002 and 2003 (first half) there were no strikes at all. In the year 2000 there were 56 strikes (including 21 warning strikes), during 2001 there were 34 strikes (including 29 warning strikes).

Most strikes were organised in educational institutions of the state sector; there were also some in transport and manufacturing sectors. The main reasons for striking were conflicts, concerning payment of wages.

Table 1: *Number of strikes and warning strikes in 2000-2001*

Economic activity	Year	Total	Of which		Compared to the total number of strikes and warning strikes, %	
			strikes	warning strikes	strikes	warning strikes
Total	2000	**56**	**35**	**21**	**62,5**	**37,5**
	2001	**34**	**5**	**29**	**14,7**	**85,3**
Manufacturing	2000	–	–	–	–	–
	2001	2	2	–	100,0	–
Transport, storage and communication	2000	4	2	2	50,0	50,0
	2001	–	–	–	–	–
Education	2000	52	33	19	63,5	36,5
	2001	32	3	29	9,4	90,6
Primary education	2000	10	6	4	60,0	40,0
	2001	4	–	4	–	100,0
Secondary education	2000	42	27	15	64,3	35,7
	2001	28	3	25	10,7	89,3

Source: *The first report of Lithuania on the implementation of the European Social Charter (revised)[www.socmin.lt].*

Table 2: *Average number of employees involved in strikes and warning strikes in 2000-2001*

Economic activity	Year	Total	Of which		*Total, %*	Of which	
			in strikes	in warning strikes		in strikes	in warning strikes
Total	2000	3303	2095	1208	100,0	100,0	100,0
	2001	1703	589	1114	100,0	100,0	100,0
Manufacturing	2000	–	–	–	–	–	–
	2001	•	•	–	•	•	–
Transport, storage and communication	2000	985	639	346	29,8	30,5	28,6
	2001	–	–	–	–	–	–
Education	2000	2318	1456	862	70,2	69,5	71,4
	2001	1465	351	1114	86,0	59,6	100,0
Primary education	2000	246	174	72	7,5	8,3	6,0
	2001	120	–	120	7,0	–	10,8
Secondary education	2000	2072	1282	790	62,7	61,2	65,4
	2001	1345	351	994	79,0	59,6	89,2

Source: *The first report of Lithuania on the implementation of the European Social Charter (revised)[www.socmin.lt].*

Table 3: *Work hours lost by employees involved in strikes in 2000-2001*

Economic activity	*Year*	Time not worked, in working days	Of which		Time not worked, in man-hours	Of which	
			in strikes	in warning strikes		in strikes	in warning strikes
Total	2000	**10394**	**10025**	**369**	**61925**	**59577**	**2348**
	2001	**2167**	**1775**	**392**	**15081**	**12942**	**2139**
Manufacturing	2000	–	–	–	–	–	–
	2001	•	•	–	•	•	–
Transport, storage and communication	2000	725	639	86	5804	5112	692
	2001	–	–	–	–	–	–
Education	2000	9669	9386	283	56121	54465	1656
	2001	971	579	392	5506	3367	2139
Primary education	2000	420	401	19	2611	2490	121
	2001	35	–	35	240	–	240
Secondary education	2000	9249	8985	264	53510	51975	1535
	2001	936	579	357	5266	3367	1899

Source: *The first report of Lithuania on the implementation of the European Social Charter (revised)[www.socmin.lt].*

Table 4: *Time not worked by employees directly involved in strikes, by kind of strike in 2000 - 2001**

Economic activity	*Year*	Time not worked, in working days	Of which		Time not worked, in man-hours	Of which	
			in strikes	in warning strikes		in strikes	in warning strikes
Total	2000	**10315**	**9950**	**365**	**61483**	**59167**	**2316**
	2001	**2019**	**1627**	**392**	**14125**	**11986**	**2139**
Manufacturing	2000	–	–	–	–	–	–
	2001	•	•	–	•	•	–
Transport, storage and communication	2000	695	613	82	5564	4904	660
	2001	–	–	–	–	–	–
Education	2000	9620	9337	283	55919	54263	1656
	2001	903	511	392	5194	3055	2139
Primary education	2000	420	401	19	2611	2490	121
	2001	35	–	35	240	–	240
Secondary education	2000	9200	8936	264	53308	51773	1535
	2001	868	511	357	4954	3055	1899

Source: *The first report of Lithuania on the implementation of the European Social Charter (revised)[www.socmin.lt].*

Table 5: *Average duration of strikes, by kind of strike in 2000-2001, in working days*

Economic activity	Year	Average duration of strike and warning strike	Of which	
			strike	warning strike
Total	2000	**3,15**	**4,79**	**0,31**
	2001	**1,27**	**3,01**	**0,35**
Manufacturing	2000	–	–	–
	2001	•	•	–
Transport, storage and communication	2000	0,74	1,00	0,25
	2001	–	–	–
Education	2000	4,17	6,45	0,33
	2001	0,66	1,65	0,35
Primary education	2000	1,71	2,30	0,26
	2001	0,29	–	0,29
Secondary education	2000	4,45	7,01	0,33
	2001	0,70	1,65	0,36

Source: *The first report of Lithuania on the implementation of the European Social Charter (revised)[www.socmin.lt].*

Explanation of symbols:

• Confidential data or data which do not meet publication criteria to preserve their anonymity and reidentification possibility

– Absence of the following phenomenon this period or no data of its existence are available.

Conflict resolution mechanisms

As mentioned above, a collective labour dispute means disagreements between the trade union of an enterprise and the employer or the subjects entitled to conclude collective agreements, arising about the establishment or change of work, social and economic conditions. These disputes can arise either while conducting the negotiations or when concluding and implementing the collective agreement (conflict of interests), n case of failure to meet the demands made and submitted by the parties according to the procedure established by this code.

Demands to an employer or the subjects of collective agreements may be submitted by:

- the trade union of the enterprise or the joint representation of trade unions or organisations of trade unions;
- the labour council, if there is no trade union in the enterprise and if the staff meeting has not delegated the function of employee representation and protection to the trade union of a relevant sector of economic activity.

The demands must be exactly defined, motivated, set out in writing and handed in to the employer or subject of the collective agreement.

The entity to whom the demands are submitted shall consider the demands and within seven days from the receipt thereof communicate his decision in writing to the entity who made and submitted the demands.

When an employer or the subject of a collective agreement agrees with the requirements, the question is regarded as solved, a compromise is reached and there are no other reasons for a new industrial dispute.

If they do not agree, a background for a collective labour dispute arises. This is also the case if a period of seven days is overdue and an employer or the subject of a collective agreement does not inform employee representatives about the decision.

If the entity who made and submitted the demands finds the decision unsatisfactory, the parties may enlist the services of the mediation officer or refer the dispute for hearing according to the procedure established in the Labour Code.

Mediation

Mediation is a new regulation in the Labour Code. The implementation of a mediation procedure in the Labour Code is connected with the convention No. 154 of the International Labour Organisation, which describes the principle of stimulation of collective bargaining. By nature, mediation is the last step of the collective bargaining process when the parties look for a compromise and clarify the disputes with the help of the third, impartial person.

It is left to the parties themselves to choose a candidate for being an expert , who will be able to perform the function of mediator, clarifying the collective dispute as well as to set the procedure of mediation and the importance of decisions made by a mediator. The parties to a collective labour dispute in this case should sign an agreement, choosing a candidate to be mediator, setting a period of mediation, costs, etc.

As a stage of mediation is not compulsory, the entity that has raised a claim may address the employer or the body of employers about setting up a conciliation commission. The collective labour dispute, which arises in this case, shall be heard by:

1. the conciliation commission;
2. the labour arbitration or third party court.

Conciliation

The conciliation commission shall be formed from an equal number of authorised representatives of bodies who made the demands and those to whom the demands were submitted. The number of commission members shall be set by agreement between the parties. The commission shall be formed within seven days from the day of refusal to meet the demands by the entity who received the demand, or if no response was received during the said period.

If parties fail to reach an agreement on the number of commission members, they shall at their discretion delegate their representatives to the commission. Each party may have not more than five representatives on the commission.

The conciliation commission shall elect its chairman and its secretary from its members. By agreement between the parties an independent mediation officer may be appointed chairman of the conciliation commission.

Hearing of a dispute in the conciliation commission is a mandatory stage of collective dispute resolution. The conciliation commission shall hear the collective dispute within seven days from the day of formation of the conciliation commission. The time limit may be extended by agreement between the parties. Representatives of the parties shall have the right to invite specialists (consultants, experts, etc.) to the commission meeting in which the labour dispute is heard. The employer must provide the conciliation commission conditions for work: assign premises and furnish the necessary information.

Decisions of the conciliation commission shall be adopted by agreement between the parties, executed by drawing up a record and must be implemented by the parties within the time limit and according to the procedure specified in the

decision. If the conciliation commission fails to reach an agreement on all or part of the demands, the commission may refer them for hearing to the labour arbitration, third party court or wind up the conciliation proceeding by drawing up a protocol of disagreement. The decision of the conciliation commission shall be announced to the employees.

Arbitration

This body shall be formed under a district court within the jurisdiction where the registered office of the enterprise or the entity which has received the demands made in the collective dispute is located. The composition of the labour arbitration, the dispute resolution procedure and the procedure of execution of the adopted decision shall be specified by the regulations of labour arbitration approved by the government. The dispute must be resolved within 14 days and the decision is binding upon the parties of the dispute.

Third party court

Parties to the collective dispute shall each appoint one or several arbitrators of the third party court and execute the appointment by a written contract. The procedure of dispute resolution and execution of the adopted decision shall be established by the statute of third party court approved by the government. The dispute must be resolved within 14 days and the decision is binding upon the parties of the dispute.

Conclusion

According to Lithuanian legislation, a collective labour dispute means a disagreement between the trade union of an enterprise and the employer or the subjects entitled to conclude collective agreements. Such a dispute may arise about the establishment or change of work, social and economic conditions when conducting negotiations or concluding and implementing collective agreements (conflict of interests) in the event of failure to meet the demands made and submitted by the parties according to the procedure established by this Code.

Demands to an employer or the subjects of collective agreements may be submitted by:

1) the trade union of the enterprise or the joint representation of trade unions or organisations of trade unions;

2) the labour council, if there is no trade union in the enterprise and if the staff meeting has not delegated the function of employee representation and protection to the trade union of a relevant sector of economic activity.

According to the Lithuanian Labour Code there are several methods for solving collective industrial disputes. The parties may enlist the services of the mediation officer or refer the dispute for hearing by a conciliation commission. If the conciliation commission fails to reach an agreement on all or part of the demands, the commission may refer them for hearing to the labour arbitration or third party court or wind up the conciliation proceedings by drawing up a protocol of disagreement.

Strike, according to the Lithuanian legislation, means a temporary cessation of work by the employees or a group of employees of one or several enterprises. It can be used only if a collective dispute is not settled or a decision adopted by the conciliation commission, labour arbitration or third party court, which is acceptable to the employees, is not being executed.

The right to adopt a decision to declare a strike (including a warning strike) is vested in the trade union according to the procedure laid down in its regulations. A strike shall be declared if a corresponding decision is approved by secret ballot by:

- two-thirds of the enterprise's employees voting in favour of a strike in the enterprise;
- two-thirds of the employees of a structural subdivision of the enterprise and at least half of the employees of the enterprise who vote in favour of a strike in the structural subdivision of the enterprise.

The employer must be given at least seven days written notice of the beginning of the intended strike by communicating to him the decision adopted according to the procedure laid down in the article. When a strike is declared, only the demands which were not met during the conciliation procedure may be put forward.

A warning strike lasting not longer than two hours may be held before the strike is declared. The employer must be given at least seven days written notice of the warning strike.

When a decision is taken to call a strike (including a warning strike) in railway and public transport, civil aviation, communications and energy enterprises, health care and pharmaceutical institutions, food, water, sewage and waste disposal enterprises, oil refineries, enterprises with continuous production cycles and other enterprises where a cessation of work would result in grave and hazardous consequences for the community or human life and health, the employer must be given a written notice of the strike at least fourteen days in advance.

Talking about strikes in Lithuania, it must be said that the procedure of organising strikes is too restricted (i.e. too long terms for warning employer about the strike, too many votes of employees must be gathered for declaring a strike, etc.).

Statistical data on strikes in Lithuania have been collected only since the year 2000. According to the statistics, strikes in Lithuania took place only during the period 2000-2001, while there were no strikes at all in 2002-2003 (first half). In the year 2000 there were 56 strikes (including 21 warning strikes), and in 2001 there were 34 strikes (including 29 warning strikes).

Most strikes were organised in educational institutions of the state sector, there were also some in transport and manufacturing sectors. The main reasons for striking were conflicts, concerning payment of wages.

Lockouts are not allowed according to the Lithuanian Labour Code. The employers' organisations are currently preparing a draft for a lockout procedure regulation.

Bibliography

Lithuanian Labour Code, Vilnius, 2002.

The first report of Lithuania on the implementation of the European Social Charter (revised)[www.socmin.lt].

B. J. Fick. *Review and Assessment of Collective Labour Law in eight central European Countries*, Washington,1997.

The Commentary of the Lithuanian Labour Code (parts I and II), Vilnius, 2003.

G. Gruzdiene, Lithuanian Trade Union Confederation

Annex 1: National development project

'Development of a national mediation system'

Recognizing the fact that after becoming a member of the EU, there would be a necessity of increasing the strength and importance of the social dialog and the use of it as an instrument for the efficient resolution of national industrial disputes, and seeking to create social peace and welfare in the whole country, the tripartite working group of the Lithuanian representatives tried to evaluate the strengths and weaknesses of today's conflict resolution mechanism and it's future challenges. Using this evaluation the working group agreed to prepare the development project for the conflict resolution mechanism in Lithuania and to present it to the institutions, capable of adopting the necessary political decisions.

Current situation

The conflict resolution mechanism in Lithuania was analyzed in consideration of economic, political and industrial relations and reviewed in the national report. Participants accepted the national report and discussed in order to find the common approach to the weaknesses and strengths of the present situation.

The Lithuanian Labour code (which came into force on 1 January 2003) allows social partners to solve collective industrial disputes with enlisting the services of the mediation officer or referring the dispute for the hearing of the conciliation commission, and then later, if the conciliation commission fails to reach an agreement on all or part of the demands, the hearing of the dispute might be referred for the hearing of the Labour Arbitration or third party court .

Weaknesses

- low level of organization of the society compared to the 'old' members of the European Union;
- free trade union movement was started and the first employers' organizations established only 13 years ago;
- lack of unity among trade unions creates problems in finding common demands;
- different historical background (50 year-long habit of waiting for everything from the 'good government', 'good new parliament elections');
- people have no confidence in the new system;
- the representatives of social partners are insufficiently qualified in bargaining and reaching compromises in the case of conflicts;
- the procedure of solving conflicts is too complicated, bureaucratic and long;
- weak mechanism for consultation and information with employees' representatives;
- financial difficulties prevent people from initiating collective disputes - trade unions do not have enough financial means in their strike funds to compensate workers for the loss of wages during strikes or other losses.

The above mentioned problems stipulate the fact that the number of conflicts is very small in Lithuania. People do not decide to start collective disputes in order to protect their interests.

Although the state strives for a decrease in social separation, the current tendency shows that the difference in wages is very big. That is why the number of collective disputes should increase.

Strengths

- the new labour code has created a permanent system for resolving collective industrial disputes;
- social partners intend to improve this system to make it more effective.

Future vision

A future vision of social dialogue was tested as an instrument in EU Member States and can play a very important role for the social welfare of Lithuania. Effectiveness of conflict resolution is one of the most important elements in this process. Working groups discussed a joint vision of the future challenges.

Challenges

- to find the optimum mechanism for quick and effective conflict resolution in the context of global market competitiveness, using withstanding the test of time practice from other countries;
- the necessity of taking the political decision about what is more acceptable for Lithuania - conciliation or mediation system;
- creation of a mediation system as a more effective measure compared to conciliation (because it can propose the possible solutions), to define the status of mediators (independent, state or appointed by social partners), to train such mediators, announce a list of mediators, find sponsorship;
- to organize a public campaign about the possibilities of effective conflict resolution.

Development project

When comparing the present and future situations based on the previous workshops, it was agreed that the main topic for the national development project was the development of a mediation system in Lithuania.

Guidelines were created, taking in consideration a comparison of weaknesses, strengths and future challenges, as discussed before. Though it is clear for the members of the group that it would be difficult to improve the system which has been tested so little in practice. After learning about the practice of a quick and effective resolution of collective industrial disputes in the old Member States of the EU, the national group decided that the most expedient way of preparing a national development project would be improvement of the mediation system in Lithuania.

The guidelines for the national action plan for the development project as it was recommended were summarized into the following six ‘rules of thumb’:

What? Development of the mediation system in Lithuania.

Why? Development of the mediation system is the most effective way to reach social peace in the shortest period of time and one of the best measures for social dialogue and the cheapest way for the state.

When? To start after the political decision is taken on the national tripartite council.

Who? Working group consisting of:

- labour code preparatory group;
- or labour relations commission of the national tripartite body;
- or specially created working group.

Where? Labour code amendment or separate law.

Which resources?

Financial resources can be used

- from the national budget according to the government's decision;
- EU funds and ILO projects;
- other special projects.

Human resources:

- social partners experts;
- civil servants of the Ministry of Social Security and Labour and its institutions.

Annex 2: Road map for conflict resolution