

EVALUATION OF THE QUALITY AND DEVELOPMENT OF SOCIAL DIALOGUE IN LITHUANIA

Executive Summary



Lietuvos Respublikos
FINANSŲ MINISTERIJA



Kuriame
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**VISIONARY
ANALYTICS**

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What is this evaluation about?

EU institutions¹ consider social dialogue to be one of the fundamental components of the European social model. Social dialogue encompasses various forms of cooperation between employers, employees and their representatives (also the public authorities in case of tripartite dialogue). Such cooperation enables to address work-related issues or workplace disagreements as well as the search of compromise, which helps to ensure social cohesion and mutual well-being. EU investments were made to improve the quality and scope of social dialogue in Lithuania both during the 2007-2013 and the 2014-2020 financing periods. However, the current state of social dialogue and the impact of the 2014-2020 investments had not been thoroughly investigated. Hence, the **goal of this evaluation** was to evaluate the impact of the 2014-2020 EU investment funds and to identify further direction for social dialogue development during the upcoming 2021-2027 programming period. Accordingly, **the objects of this evaluation** were the following: 1) the current extent and quality of social dialogue in Lithuania, 2) the impact of EU investment funds with respect to the extent and quality of social dialogue in 2014-2020.

Evaluation methods

During the introductory phase, the quality criteria and good practice for social dialogue standards were formulated and the theory of change for the EU-funded intervention was reconstructed. These standards served as criteria for evaluating the current state of social dialogue as well as the impact of the EU-funded intervention.

The majority of conclusions within this evaluation are based on the analysis of survey results, which were gathered during June and July of 2020. Survey participants included social partner organisation representatives, company or public entity employees, employers and/or their representatives, and participants of EU project activities. Out of 1606 survey respondents, 1336 fully completed the survey, while 270 respondents completed it partially. The number of respondents is sufficient to consider the survey responses as representative. The observed trends were evaluated against and complemented by other primary and secondary data sources (including statistical data and other surveys) as well as data from the EU structural reform support computerised information management and monitoring system. Various institutional and social partner organisation representatives as well as participants of the EU investment project were interviewed during the evaluation, and the key evaluation results were discussed during a focus-group discussion with stakeholder representatives.

Main insights on the extent and quality of social dialogue in Lithuania

The National Tripartite Council

The members of the Tripartite Council said the Council activities were sufficiently regular, while questions addressed at the Council were relevant and important to the social partner organisations they represent. The members of the Tripartite Council actively discuss questions related to industrial relations (e.g. Labour Code amendments, draft laws on the promotion of social dialogue or similar) or minimum wages. However, the Tripartite Council is **not perceived as a strong actor that would be regularly involved in economic or social policy decision making**. For example, consultations with social partners on active labour market policy measures or company tax regulations seldom take place.

Although members of the Tripartite Council describe cooperation as mostly based on mutual goodwill and respect, they also notice that their positions are not always taken into account. Furthermore, sometimes members report a lack of willingness between social partner

¹ European Parliament (2019). 'Social Dialogue', Fact Sheets on the European Union. Accessible at: https://www.europarl.europa.eu/ftu/pdf/en/FTU_2.3.7.pdf

organisations to look for consensus. Other important limitations with respect to the Tripartite Council include the following:

- **The Tripartite Council lacks sufficient autonomy:** it operates under the Ministry of Social Security and Labour, hence it is not seen as a separate institution on its own right. As a result, other ministries do not feel the responsibility to actively participate and adopt an observer position instead, whilst the discussions that take place within the Tripartite Council remain insufficiently visible to the public. Finally, more independence and autonomy would enable social partners' and the Tripartite Council to extend its areas of activity.
- Members of the Tripartite Council **lack the capacity to make evidence-based decisions** because there is no established Council secretariat or a similar body to regularly provide Council members with the necessary information, data, analytical insights or recommendations.

Social dialogue and its results

Collective bargaining

The number of collective agreements and the collective bargaining coverage rate, which stands at approx. 15-20%, are one of the lowest in the EU. Lithuanian industrial relations remain characterized by a decentralized and uncoordinated system of collective bargaining. The majority of respondents who participated in the survey undertaken during this evaluation, and who indicated that a collective agreement is present at their workplace (36%), said that the agreement had been established at the company level (15%). Only 3% indicated that their workplace had entered a territorial collective agreement.

The significance of collective agreements in the workplace is rather paradoxical - employees tend to value collective agreements more favourably than employers but the latter are more likely to agree that their needs have been taken into account when signing the agreement. Some respondents said that the relevance of a collective agreement in their workplace remains limited because the agreement contains little substance, there are multiple exceptions to agreement provisions, the provisions are very abstract and/or so minor that they have no real impact on the workplace. A majority (88%) of employers said that they tend to respect collective agreements, yet the share of employees who said that employers do so was significantly smaller (65%). This difference may be due to a gap between employee and employer perceptions as to what constitutes acceptable behaviour and a still widely prevalent assumption that collective agreements are more beneficial to employees. Although positive examples, where collective agreements contributed to improving working conditions and the relationship between employees and employers, had been identified during this evaluation, such examples remain an exception rather than the rule.

Other reasons behind limited numbers of collective agreements at workplaces include the lack of employee knowledge and initiative with respect to social dialogue and/or their tendency to avoid conflict with employers. Employers are unwilling to sign collective agreements because they tend to avoid the administrative burden of having two types of employment systems as well as fragmentation between employees². Furthermore, they often doubt whether such an agreement will benefit the company's competitiveness. Finally, collective agreements are considered to be of no consequence if employees and employers are relatively content with workplace relations, or the company has very few employees.

Information and consultation of employees

² Collective agreement provisions are only applicable to trade union members, unless both parties who sign the agreement agree to extend it.

Most employees are regularly informed on various work-related issues, but consultations and involvement in decision-making at the workplace is less common. More than a quarter of the employees surveyed (27%) claimed they are not regularly invited to express their views at formal meetings and do not feel that their views or needs are taken into account. There is also significant difference between employee and employer assessments of the quality and scope of information and consultation activities - employees are much more likely to disagree that these activities are conducted on a regular basis and in are of high-quality. Information and consultation of employees were often said to be conducted superficially without any real substance to these activities.

Other aspects of information and consultation of employees are the following:

- Employees are usually informed and consulted on issues that directly relate to employee work performance, namely work organisation (83%) and working time (78%). The least addressed are the themes of equal opportunities (39%), social security (53%) and employment and dismissal issues (51%).
- Employers sometimes provide very limited information to employees on the grounds that it does not directly concern their work duties. This is especially noticeable with respect to financial and economic information regarding a company or institution - more than a third (35%) of the employees surveyed said they had not received such information within the last 3 months.
- The members of trade unions and direct employee representatives are the most satisfied with the regularity and quality of information and consultation activities. Meanwhile, information and consultation are less frequent at companies or entities where no employee representatives are present.
- Informal discussions or work-related meetings were said to regularly take place by just over half of all respondents (57%), while as many as a quarter of all respondents (25%) claimed that such meetings rarely take place, if at all.
- The regularity and quality of information and consulting activities largely depend on the company or institution directors (management boards) and the internal culture within. Managers who exhibit general goodwill towards social dialogue are more likely to regularly consult with employees and openly inform them about various aspects (including financial) of the company or institution.

The impact of social dialogue

The assessment of information and consultation activities often coincides with the assessment of particular working condition elements. Those particular working condition aspects that had been most often discussed with employees also received the most positive assessments. Such correspondence is also observed in instances where employees were dissatisfied with particular aspects of their working conditions. These results suggest that a better quality social dialogue could directly contribute to improving working conditions (e.g. transparency and clarity on company financial issues can reduce employee frustration with unsatisfactory remuneration).

Other trends with respect to working conditions that were observed during the evaluation and that could be addressed through social dialogue include the following:

- Most employees were satisfied with their working time arrangements and occupational health and safety (74% and 67%, respectively).
- A significant proportion of all employees (as many as 36%) said their remuneration is not appropriate when considering the work being performed, while another 15% said they were uncertain. A quarter (25%) of employees said they were not satisfied with their career prospects.
- Just over half (54%) of employees tended to agree with the statement that they were not worried about losing their job.
- The evaluation survey showed that gender discrimination is prevalent in some workplaces.

- Too little attention is paid to employee training in Lithuanian companies - according to Eurostat (2019), only 7% of employees in Lithuania had participated in training during the last four weeks.

The conditions of social dialogue

Social partner organisation representativeness remains rather limited. In 2019, trade union membership across Lithuania was only 7.1%³. Membership in employers' associations is slightly higher, but still remains relatively low – in 2019, only 12.7% of all business entities belonged to an employers' organization. Furthermore, the influence of these organizations remains limited due to fragmentation as well as lack of financial and human resources. The latter results in lack of capacity to provide ongoing assistance to organisations' members, and for this particular reason, social partner organisations fail to undertake a more active role in promoting quality social dialogue across Lithuanian public or private entities. The situation is further complicated by the fact that, except in the case of the National Tripartite Council, trade union and employers' organizations are not subject to representativeness criteria. An additional common reason behind sluggish social dialogue is the lack of knowledge and skills to participate in social dialogue that is prevalent amongst employers, employees and their representatives.

The development of social dialogue is also hindered by **social partner organisation negative views of each other**. In 2017, in a survey conducted by the State Labour Inspectorate, more than half (55%) of trade union representatives had a negative view on the activities of employers' organisations, while as many as 71% of employers' organisation representatives said the same about the activities of trade unions. Among the main problems identified were trade unions' unsatisfactory representation of workers' interests and the employers' tendency to avoid compliance with any agreement provisions. It was observed that employers trust employees more than the latter trust employers (according to the European Company Survey (2019), 17% of employees had little or no trust in their employers, while the share of employers who did not trust employees was only 7%).

At company level, employees may be represented by **works councils** or **direct employee representatives** (if the company has less than 20 employees), however these types of employee representatives operate in a small proportion of companies. According to data provided by the National Labour Inspectorate in 2018, an employee representative was elected in approximately a quarter (25%) of all economic entities that had been checked by the Inspectorate⁴. Meanwhile, data provided by the National Labour Inspectorate in 2020, showed that 4 654 entities had established works councils. This is equivalent to only 44% of all entities in which a works council should have been established (total of approx. 10 000 companies). Also, some of the established works councils do not conduct any activities at all, or do so superficially, i.e. without any real substance to these activities.

The extent and quality of social dialogue by sector, industry, region, company size / capital ownership

By sector. In the public sector, where the coverage of collective agreements is significantly higher than in the private sector, working conditions were said to be poorer than in the private sector. The implementation of other social dialogue activities in the public and private sectors were not perceived as having much difference, except that the views and needs of employees are more taken into account within the private sector. Perhaps the most important difference between the public and private sectors is that skill development opportunities were said to be better in the public sector, while remuneration (wages) was said to be more satisfactory in the private sector. In the survey the share of employees satisfied with their wages was 46% in the public sector and 56% in the private sector, but the opportunities for skill development were said to be more favourable in the public rather than the private sector (79% and 62%, respectively). Due to better working conditions, private

³ Official data provided by the Lithuanian department of statistics.

⁴ For more information see: <https://osp.stat.gov.lt/informaciniai-pranesimai?articleId=6071086>

sector employees have slightly more trust towards their employers (67% in the private sector and 61% in the public sector) but they have less knowledge and skills necessary to engage in social dialogue than public sector employees (57% private and 61% public sector employees said they had sufficient knowledge and skills).

By industry. When it comes to the extent and quality of social dialogue, there are sharp contrasts not only between different industries, but also between industry segments. Accordingly, the activities of the sectoral councils depend on the tradition of social dialogue and the culture of industrial relations within them - some of these councils' activities have very little substance, but there are also good case examples. The quality of social dialogue and its impact were best perceived in companies performing financial and insurance activities, while in the area of public administration and defence such perceptions were the most negative.

By regions. Social dialogue at the territorial level remains underdeveloped – territorial collective agreements are rare and the territorial labour and social affairs councils operate in only every fifth municipality. The extent and quality of social dialogue in major cities do not significantly differ from the rest of Lithuania. It is difficult to accurately assess the state of social dialogue in different regions, because survey respondents' answers are more indicative of the state of social dialogue in a specific economic activity area within a specific region.

By company size. The state of social dialogue was said to be most satisfactory in very small and extremely large companies, and least satisfactory in medium-sized companies (50-249 employees). Although employee representation is lower in small companies, employees feel more involved in company decision-making process because they are more likely to directly communicate with their employers (in the survey, as many as 40% of employees from small enterprises agreed that their views and needs were always taken into account). However, because of this, employee representation in small companies is often considered unnecessary. This further complicates the development of social dialogue in Lithuania, where about 90% of companies have less than 20 employees. Employees in large companies are less satisfied with their working conditions and the quality of social dialogue than employees in small companies (20% of employees in large companies reported being completely satisfied with their working conditions, while 36% in very small companies said so).

According to capital ownership. When looking at Lithuanian and foreign-owned companies, the latter are characterized by more trust between employees and employers and slightly better working conditions. However, there was no difference with respect to skill development between both groups of companies, and no significant differences had been observed with respect to the quality of social dialogue.

Lithuanian Labour Code amendments

Lithuanian Labour Code amendments entered into force in 2017, but so far they have not had significant impact on the quality or scale of social dialogue. However, some positive trends have been observed.

- **Applying the provisions of collective agreements only to trade union members** should have helped to address the issue of limited trade union membership and was expected to encourage workers to join trade unions. However, this **provision has not had significant impact**, and trade union membership continues to remain small. A key issue is that **better conditions for union members are seen as discriminatory** to other employees, hence employers are reluctant to apply two different sets of rules at the workplace. At the same time, the application of this provision creates additional administrative procedures for employers so they tend to extend the application of the collective agreement to all employees.
- Mandatory establishment of works councils in companies or institutions with more than 20 employees has led to **more works councils at the workplaces but it has not significantly improved the quality of social dialogue**. Over 50% of economic entities

that should have a works council have not established one. Furthermore, in some cases the councils are inactive or their activities are performed on a purely formal basis. A significant proportion of works council members said they lacked the knowledge and skills to perform their role as employee representatives. At the same time, employers lack good practice examples of how implementing the principles of industrial democracy can lead to improving economic performance.

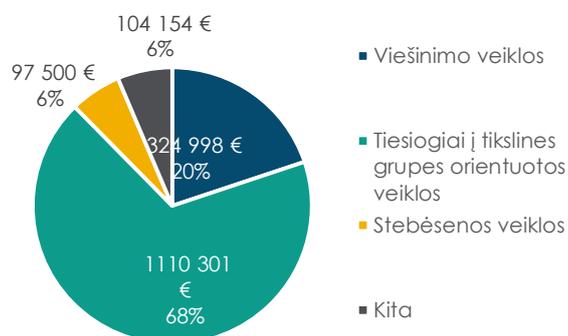
- Although the **inclusion of employee representatives in the management or supervisory boards of state-owned enterprises** was made legal and some good examples in this area may be observed, **this has not yet become a widespread practice** - employers have insufficient trust in their employees and are unwilling to disclose confidential information.
- In 2017, the **legal competencies of labour dispute commissions were extended**. As a result, the **number of requests submitted to commissions increased significantly**, and in 2019, additional three labour dispute commissions were set up (there are currently 22). This trend reflects the tendency of employees to be more active in defending their rights and growing confidence in labour dispute commissions.

Key insights on the impact of the EU 2014-2020 Operational Programme investment funds

The activities and results of a project entitled “The model of cooperation between trade unions and employers’ organisations in the development of social dialogue” (No. 08.5.1-ESFA-V-423-01-0001) were assessed during this evaluation. The project had a designated budget of EUR 1.7 million for the implementation of the following three types of activities:

- **Publicity activities**, which aimed at raising awareness and providing information on social dialogue.
- **Activities aimed directly at target groups**, which were intended for employee, employer and their representatives to gain negotiation skills and deepen their knowledge on social dialogue and labour law.
- **Monitoring activities**, which were intended for monitoring changes within public attitudes and assessing achievements in the area of social dialogue.

Distribution of planned project costs according to the type of activity:



Note: 'other' includes indirect costs and information on the project. Source: Visionary Analytics, based on the data of SLI (2020-08-06)

The activities funded under the EU 2014-2020 Operational Programme **did not have significant impact on working conditions or the attractiveness of the labour market**. However, some improvement in participants’ self-assessment of knowledge and skills, required for participating in social dialogue was observed, when comparing to the knowledge and skills of non-participants. This means that some of the activities were useful and beneficial.

The main reasons behind limited impact of project activities are the following:

- **The scope of project activities was limited** – at the time of this evaluation, a total of 6 269 people had participated in project activities. If taken in relation to the whole Lithuanian labour market, this number of participants is very small. Only 13% of survey respondents said to have participated in project activities, even though they had been relevant to all respondents.
- **There was a lack of a clear focus on a specific target group** (e.g. members of works councils, private sector employers, etc.). The content of activities was often quite

abstract in nature and could not provide enough knowledge or skills to address the specific problems faced by certain sectors or groups of companies / employees.

- **Some publicity/ awareness raising activities**, although a significant part of the funding was invested in such activities, **had little purpose, while their implementation was poor**. Activities such as the development of the social dialogue website (www.socdialogas.lt), video ads, creative competitions on social dialogue, and various souvenirs (e.g. mugs, stationary supplies or shoulder bags) are unlikely to have any impact.
- **Some of the target group-oriented activities**, such as conferences on labour law and round table training-discussions, **were relatively successful, but some activities**, such as some training-discussions on social dialogue, **were poorly implemented**. The main issue here was that the training topics were not directly linked to social dialogue, and the trainings themselves were not about strengthening the skills needed for participating in social dialogue.
- **There was a lack of activities** where employees or employers could receive **specific consultations on real workplace situations** that frequently occur (or have previously occurred) and negatively impact the working environment. This type of activity received particularly positive reviews and was said to be more needed.

Another notable challenge was said to be the involvement of social partners in the planning of project activities, - social partners reported that the quality of their involvement was poor. Also, the role of the National Labour Inspectorate as key project coordinator was questioned by social partners. This particular institution has little to do with the promotion of social dialogue, as it normally takes the role of an auditing institution. The *de minimis* requirement for private companies increased the administrative burden for project partners and participants, and, as a result, also limited the opportunities and motivation for potential participants from the private sector to attend project activities.

Strategic proposals and recommendations for 2021-2027 funding period

To expand the scope and improve the quality of social dialogue in Lithuania, the following strategic adjustments could be implemented throughout 2021-2027:

- **Introduce representativeness criteria** for social partner organizations not only in the Tripartite Council but also at industry or territorial levels. Representativeness criteria would result in more clarity with respect to organizations that may be considered as legitimately representing members of certain industry branches or territories. This decision would also serve to encourage consolidation among the social partner organisations, which in turn would help mobilize their lacking financial and human resources.
- **Collect data on the representativeness of social partner organisations** (i.e. the number of members in the organisation or the members' market share) would be beneficial to ensure better transparency of social partner organisations. At present, such data is limited and unreliable.
- **Strengthen the negotiating skills and knowledge** with respect to social dialogue **of both the social partner organisations and their respective members**. Future actions could be aimed at strengthening the economic and legal knowledge of these organizations (especially sectoral social partner organisations). However, it is important to note that social partner organizations remain responsible for their activities and the scale and quality of social dialogue thereof, so direct assistance to these organisations is not a viable option.
- Strengthen the National tripartite council by enabling it to make evidence-based decisions **through analytical services provided by expert institutions or an independent secretariat**. This function could be performed by the Government's Centre for Strategic Analysis (STRATA), as its main task is to provide reliable data and analytics for evidence-based public policy making.
- **Introduce criteria for distinguishing between social partner organisations and other employee or employer organisations that cannot be regarded as legitimate social partners** because their purposes might differ (e.g. they undertake lobbying functions).

Without becoming legitimate social partners that may impose obligatory rules to their members, business associations in Lithuania cannot oblige their members to comply with collective agreement provisions, hence their functions are not equivalent to other employer organisations across the EU.

- **Relax the regulations for declaring a strike**, for example by extending the right to strike beyond trade union workers or by shortening the duration of pre-strike warning period. This would provide employees with more bargaining power, thus giving employers an additional incentive to participate in collective bargaining.
- **Allow companies or entities with a collective agreement to replace some Labour Code provisions** thereby introducing more flexibility. For example, upon employee agreement, some Labour Code provisions could be removed in exchange for other more favourable aspects.

Other recommendations for the 2021-2027 financing period are as follows:

- **Activities should be more tailored** towards selected target groups to achieve more tangible impact in a particular area. For example, activities could focus on either company employees, employers, trade union or works councils members in a few selected industry branches or specified territories. **We would suggest selecting 2-3 industry areas in the private sector.**
- **More focus on activities** (e.g. trainings or discussions) **that are targeted at specific industry areas**, including relevant tool development (e.g. collective agreement templates) is relevant. If and once such activities prove successful, they may be adapted to other industry areas.
- **Offering more consulting-type training**, where small groups could discuss particular questions pertinent to their target group would be valuable, because activities that address highly specific workplace issues proved most beneficial. Suggesting practical solutions on **how to improve the quality of social dialogue activities** (e.g. how to conduct information and consultation activities, or what to expect from signing a collective agreement) would be especially relevant. Placing emphasis on the benefit of social dialogue as a *tool* to solve workplace issues remains central.
- **Paying more attention towards promoting different forms of social dialogue for private companies. Raising awareness between employers** on the **economic benefits** of social dialogue, including collective agreements (e.g. through good practice examples from other companies or social dialogue “ambassadors”) is particularly relevant. It may be worthwhile to suggest including these issues at HR conferences, where presentations may not only involve questions on Labour Code provisions but also include discussions on specific workplace problems that may be addressed via social dialogue.
- **Encouraging the dissemination of good practice** by showcasing examples when a specific workplace issue had been successfully addressed via social dialogue is important. It would especially be valuable to share good practices from Lithuanian companies - sharing examples from the local context (taking into account the Lithuanian legal and economic environment) could demonstrate which social dialogue measures *really work* and, as a result, may bring positive impact.
- **Dedicating part of the publicity and target group activities to the members of the works councils and the management of the institutions or companies where the works councils operate** would be beneficial. For example, in the future, open training sessions for works council members could be organized to present good information and consultation practices, or to provide examples of how works councils deal with various issues in other companies or institutions.
- Due to the fact that the State Labour Inspectorate (SLI) must be notified about the establishment of works councils in a specific institution or company, it **may conduct regular works councils monitoring activities** and, accordingly, either increase the application of penalties or help find solutions whenever violations are detected.

During the implementation of EU-funded projects (or measures) that focus on improving the quality of social dialogue, in the future we propose paying attention to the following aspects:

- **Involving the social partners in the project (and measure) planning activities as early as possible**, and discussing once again whether the SLI is the most suitable entity for managing project activities. In this case, it is important to provide social partners with an opportunity to propose alternative ways of administering the measure and project activities.
- **Proposing to social partner organisations to jointly carry out some of the activities**, for example by organizing a few joint training sessions, where part of the training content is developed by the trade unions and another part by employer organizations.
- **Replacing some of the workplace training-discussions with open-access trainings** that are not subject to the *de minimis* requirement. Open-access trainings/discussions may also be organised for a specific target group (e.g. employers in a chosen industry) so as not to lose their relevance, but their attendance is more inclusive and not subject to administrative constraints.
- **Looking for ways to motivate employers** to participate in project activities despite the *de minimis* requirement or **helping them cope with administrative constraints**. One of the options could be motivating employers by ensuring that activities are relevant to both parties (e.g. by analysing employer needs in advance and taking them into account).
- **Discontinue publicity activities** such as **souvenir distribution** (e.g. mugs, stationary supplies or shoulder bags), **creative competitions** on a social dialogue or **press conferences**, as their benefits are very limited. **The content of future video clips** should not be purely oriented towards trade union advertising, but rather **to explaining the process and benefits of social dialogue**. Also, more emphasis should be placed on how social dialogue is beneficial to employers. If there is no possibility of doing so, in the future we suggest discontinuing video, and instead investing in TV or radio shows that may include content with more substance.
- **Reconsider** the current **conception behind the informational self-help website** to better tailor it to target group needs, or, if there is no possibility of doing so, discontinue this activity.
- **Continue publicity activities** such as the release of **articles in the regional press and online media**, or **publications and leaflets**, but in the future we suggest paying more attention to their quality. One option could entail arranging a short article series that focuses on addressing specific employer or employee issues either directly related to social dialogue or problems that may be resolved via social dialogue.