



DEZVOLTAREA RELAȚIILOR INDUSTRIALE ÎN SECTORUL TRANSPORTURI

DEVELOPING INDUSTRIAL RELATIONS IN TRANSPORT SECTOR

РАЗВИТИЕТО НА ИНДУСТРАЛНИТЕ ВЗАИМООТНОШЕНИЯ ТРАНСПОРТНИЯТ СЕКТОР

РАЗВОЈ НА ИНДУСТРИСКИТЕ ОДНОСИ ВО ТРАНСПОРТНИОТ СЕКТОР

RAZVOJ INDUSTRIJSKIH ODNOSA U SEKTORU TRANSPORTA

Aprilie 2011

București, România



With the financial support of the European Commission

Cuvânt înainte la manualul despre dialogul social	2
Dezvoltarea relațiilor industriale în sectorul transporturi.....	3
Dialogul social european	4
Dialogul social sectorial european în sectorul transporturi	6
Dialogul social în sectorul transporturi - România	9
Dialogul social în sectorul transporturi - Bulgaria.....	14
Dialogul social în sectorul transporturi - Macedonia	18
Dialogul social în sectorul transporturi - Croația.....	22
Foreword for handbook on social dialogue	30
Developing industrial relations in transport sector.....	31
European social dialogue.....	32
European sectoral social dialogue in transport sector.....	35
Social dialogue in transport sector – Romania	37
Social dialogue in transport sector - Bulgaria	43
Social dialogue in transport sector - Macedonia	47
Social dialogue in transport sector – Croatia	52
Въведение в нарѣчника за социален диалог	60
Развитието на индустралните взаимоотношения транспортният сектор	61
Европейският социален диалог	62
Европейският секторен социален диалог в транспорта	66
Социалният диалог в транспортният сектор в Румъния	68
Социалният диалог в транспортният сектор в България	74
Социалният диалог в транспортният сектор в Македония	77
Социалният диалог в транспортният сектор в Хърватска.....	82
Предговор на упатството за социјалниот дијалог	93
Развој на индустриските односи во транспортниот сектор	94
Европскиот социјален дијалог	95
Европскиот социјален дијалог во транспортниот сектор	100
Социјалниот дијалог во транспортниот сектор - Романија	101
Социјалниот дијалог во транспортниот сектор - Бугарија	107
Социјалниот дијалог во транспортниот сектор - Македонија	110
Социјалниот дијалог во транспортниот сектор - Хрватска	115
Predgovor priručniku o socijalnom dijalogu	124
Razvoj industrijskih odnosa/veza u sektoru transporta	125
Europski socijalni dijalog	126
Europski sektorijalni socijalni dijalog u području prijevoza.....	129
Socijalni dijalog u sektoru transporta – Rumunjska	132
Socijalni dijalog u sektoru transporta - Bugarska.....	138
Socijalni dijalog u sektoru transporta - Makedonija	141
Socijalni dijalog u sektoru transporta - Hrvatska.....	145

FOREWORD TO HANDBOOK ON SOCIAL DIALOGUE

I am pleased to make the introduction to this handbook.

The aim of this publication is to bring together and expose the information on European Social Dialogue and social dialogue in the transport sector from different perspectives in Romania, Bulgaria, FYR Macedonia and Croatia.

The recent financial and economic crisis highlighted the importance of this relevant exposure and comparable between EU member states and candidate countries.

In the last recent years, the transport sector in Europe has passed through a challenging period of globalization, the aging population and climate change. However, the privatisation and restructuring processes have significantly affected transport industry, have worsened the climate of social stability necessary for a proper functioning of the society. Massive restriction or bankruptcy of some activities, development of certain sectors over others, the penetration of foreign capital and multinationals in areas where they were not present, have bombed the transport sector, recognized as the blood system of each country, through which the civil society is developed. European Union policy has been one of the main motor forces in the context of privatization and restructuring processes because the directives aimed directly the transportation sector, have led to the liberalization of the transport industry in Europe, and we can see the consequences. The Eurostat statistics confirm a registered unemployment rate of 9.9% for the month of January 2011 compared with 9.5% in January 2010. It is clearly understood that the transport sector has lost a significant number of jobs after the 90's .

Having in mind the characteristics of the current transport systems and the importance of European legislation in this area, emphasizes the need for an effective social dialogue in the transport sector at European level, but also at national level.

Trade unions must be ready to talk seriously with the employers about the future of the transport industry and what the implications are in terms of social conditions and employment policies. They must respond to the legislative proposals coming from the European Commission and adapted to national legislation of each country. As such, social dialogue at European level is truly effective only if it operates efficiently at national level based on its fundamental principles, namely consultation, information and negotiation.

In the transport area of social dialogue, social partners have concluded several agreements on issues such as health and safety, skills, gender equality, privatization and restructuring. So, the question is: do the employers and trade unions have the capacity to implement these agreements at national level? At national level among the trade unions there is a good communication with union members who are informed about the involvement of their unions to the European level, commitment which brings benefits to the employees.

We do hope that this handbook will be a useful tool to provide the needed information for transport workers to improve the capacity for understanding social dialogue at the level of union membership as well as a mutual understanding between unions in different countries. The goal for trade unions is that their members benefit from this information and they are trained in their work on European social dialogue.

The European Transport Workers' Federation - ETF welcomes the initiative to publish this handbook and consider that it will be valuable not only for trade union members from the involved countries in the project, but to other unions in Europe as well. I would like to thank all who have contributed to producing this handbook.

Eduardo Chagas
ETF General Secretary



DEVELOPING INDUSTRIAL RELATIONS IN TRANSPORT SECTOR

A brief history and justification

Implementation of the Project on Social Dialogue in transport sector has been achieved by a partnership between two New EU Member States (Romania and Bulgaria) and two candidate countries (Croatia and Macedonia). Access to information on EU policies has a low level, particularly within trade unions, which should play an important role in the EU integration process. EU experience shows us that Social Dialogue as a relevant tool in the process of accession to the EU can ensure efficiency and a proper social dimension. Applying the principles of European social dialogue in the New Member States and Candidate Countries, is leading to improvement of social dialogue at national level.

Romania and Bulgaria became EU Member States in 2007 and therefore are still concerned adapting to European standards. Croatia and the Former Yugoslav Republic of Macedonia as candidate countries have made important social policy commitments. Promoting of Social Dialogue to the EU standards and application of European principles and values are essential for fulfilling these commitments. In the Western Balkans should use all the necessary ways of improving social dialogue for the benefit of developing coherent and effective social policies.

Thus, the role of the project is to improve the level of information of the experience in social dialogue area at European level and a better functioning of social dialogue at the level of the involved partners, by using necessary instruments for its implementation in each country

Beside the USLM as applicant, partners in the project are:

- National Convention of Romanian Transport Workers CSNTR;
- Federation of Transport Workers PODKREPA – Bulgaria,
- Trade Union of Transport and Communication - Macedonia
- Railwaymen's Trade Union of Croatia SZH – Croatia
- European Transport Workers' Federation – ETF.

Project aims

As a main aim of the project is to increase the social partners' knowledge in the field of Social Dialogue. Also in this respect, it has been considered:

- improving the exchange of information and experience between partners;
- mobilizing trade union action in social dialogue area in the transport sector in Romania, Bulgaria, Croatia and FYR Macedonia;
- increasing knowledge about EU legal framework in the field of social dialogue and European social model for employees.

Target group

The target group for this project is represented by trade union representatives, employees and employers from Romania, Bulgaria, Macedonia and Croatia.

Expected results

European Information Department will:

- provide relevant European information for trade union representatives;
- expand the informational area by adding topics about the process of social dialogue;
- distribute information to partner organisations in the project, which in turn will send it to the employees.
- a publication summarizing information and debates that were noted during the project including information about the structure of social dialogue in partner countries;
- a list with important European documents on social dialogue - a list that will be a social dialogue guide for trade unions - with useful tools and guidelines. This will be a reference document with the tools and methods in order to promote social dialogue.

THE EUROPEAN SOCIAL DIALOGUE

European social dialogue is a unique and indispensable component of the European social model, with a clearly defined basis in the Treaty of the European Commission. It covers all types of negotiations, consultations or simply exchange of information between the representatives of governments, employers and employees on issues of common interest relating to social and economic policy. On the other side, social dialogue – broadly defined as consultation between the social partners – has existed since the beginning of the European Union, its earliest manifestation being the committees of employers and trade unions set up to discuss about central policies of the European Economic Community at that moment – mining (from 1952, agriculture from 1963 and road transport from 1965).

There are basically three types of activities that involve social partners in the context of social dialogue:

- • bipartite activities of social partners, whether they are triggered or not by the Commission's formal consultations under Articles 138 and 139 of the Treaty (see below for details about these items);
- • consultation with social partners on the activities of various advisory committees and official advice under Articles 138 and 139 of the Treaty, and
- • tripartite consultation represented by the exchanges between social partners and European public authorities.

Although formal and informal social dialogue at sectoral level has been developed in the 1960s and 1970s, in the 1980s a more formal cross-sectoral level system was developed. This occurred mainly under the leadership of Jacques Delors as Commission President, with the basic principles laid down in the "Val Duchesse" (1985), so named after the location where it was signed in Brussels. The principles underlying this system were part of the Social Protocol annexed to the Treaty of Maastricht in 1991 and then retained in the Amsterdam Treaty in 1997 as Articles 138 and 139 (154 and 155 in the Treaty of Lisbon). These articles established a procedure for consultation and negotiation which would provide framework agreements at the European level.

Article 138 of the EC Treaty provides consulting to social partner organizations at European level on several issues relating to employment and social affairs, as laid down in Article 137 (Article 153 of the

Treaty of Lisbon). There is a mandatory consultation procedure which consists of two stages, as set out in Article 138, the first stage of the consultation between the Commission and social partners on the possible direction of the initiative. The second phase focuses on the content itself of an initiative.

Thus, European social partners can influence the drafting of social proposals and they have the right to suspend the Commission's initiative, deciding to enter into direct negotiations among themselves to reach an agreement.

In the second half of the 1990s there were three framework agreements negotiated by the social partners that have been implemented as the Council Directives. They were just referring to maternity leave (Council Directive. 96/34/EC of 3 June 1996), part-time work (Council Directive. 97/81/EC of 15 December 1997) and fixed-term work (Council Directive no. 1999/70/EC of 28 June 1999).

In 2002, the social partners signed a Framework Agreement on telework, which is the first time they had agreed to implement an agreement according to the procedures and specific parts of the social partners in Member States. Similar framework agreements were subsequently adopted on work-related stress (2004) and harassment and violence (2007).

Another form of agreement relates to the actions of social partners by taking two such agreements. One concerns to the lifelong development of competencies and qualifications (2002) and Gender Equality (2005).

Social partners at inter-sector level have been involved in several autonomous activities since 2002, participating in a series of projects and consultations that have been set up in work-programmes of two or three years. Over the years, the social partners have developed over 50 common reports, recommendations, statements, opinions, compendia of best practices etc. The social partners have agreed on a two-year program for 2009-2010 corresponding to the last two years of the Lisbon agenda, the issue of employment is the center of discussions in addition to climate change. Other key elements of their present work relates to monitoring the implementation of previous framework agreements and particularly capacity building, specifically in countries where there is not a strong tradition of social dialogue and social partners themselves where they need assistance in developing an appropriate process of social dialogue.

The social partners also participate in the tripartite consultations on three levels. There are tripartite social summits with heads of state and government and ministerial-level discussions with various Council formations. At a technical level, the social partners meet with various committees such as the Committee on Employment and Social Welfare Committee. There are several advisory committees which provide tripartite consultation. These cover issues such as: social security for migrant workers, safety, hygiene and health protection at work, additional pension, training, free movement of workers, equal opportunities for men and women and the European Social Fund.

Other forms of consultation include the representation for social partners in the boards of European agencies such as the European Foundation for the Improvement of living and working conditions, the European Agency for Safety and Health at Work, Cedefop (training), European Training Foundation, European Monitoring Centre on Change and the Steering Committee for Community funds (ESF, lifelong learning programs , etc.).

The European social partners

The recognized social partners by the European Commission are: European Trade Union Confederation (ETUC), EUROCADRES, the Council of European Professional and Managerial staff on the one hand, and the European Centre of Enterprises with Public Participation (CEEP), European Union of Craft and SMEs (UEAPME) and the Union of Industrial and Employers' Confederations of Europe (UNICE), on the other side.

European Trade Union Confederation – CES/ETUC was set up in 1973 as the main inter-sectoral body representing working people, ETUC brings together both national trade unions of the European Union and Eastern countries and European trade union federations. It has 83 organizations in 36 countries and 12 European trade union federations. Eurocadres operates under the auspices of the ETUC and represents professional and managerial staff and FERPA, representing European Federation of Retired and Elderly Persons. ETUC represents a total of 60 million members.

ETUC defends the interests of workers at European level: trade union rights, the elimination of all forms of discrimination (in relation to age, race, nationality ...), equality between men and women, education and training ...

There are three employers' organizations.

The main employers' organization is BUSINESS EUROPE (formerly UNICE) set up in 1958 and now brings together 40 federations in 34 countries covering over 20 million companies. UEAPME is the European Association of Craft, Small and Medium-sized Enterprises with 80 member organizations that bring together over 12 million enterprises. CEEP is the European Centre of Enterprises with Public Participation and of Enterprises of General Economic Interest. It was created in 1961 and covers public and private organizations providing public services at national, regional or local level. At sectoral level, the European Commission assesses representativity of the social partners at European level in terms of size and depth of member organizations within the 27 Member States.

In short terms, the *forms of EU social dialogue* are:

BIPARTITE

At the cross industry level – ETUC + BusinessEurope + CEEP + UAPME

At sectoral level – European Trade Union Federations + Employers Sectoral Federations

TRIPARTITE

Where the main players are:

Governments/Commission

Workers (ETUC, Eurocadres)

Employers (BusinessEurope + CEEP + UAPME)

Key articles of the Treaty on social dialogue

These articles respect the numbering of the Treaty of Lisbon.

Article 151 (ex Article 136 of ECT)

The Union and the Member States, having in mind fundamental social rights such as those set out in the European Social Charter signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers, shall have as their objectives the promotion of employment, improved living and working conditions, so as to make possible their harmonisation while the improvement is being maintained, proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion.

To this end the Union and the Member States shall implement measures which take account of the diverse forms of national practices, in particular in the field of contractual relations, and the need to maintain the competitiveness of the Union economy.

They believe that such a development will ensue not only from the functioning of the internal market, which will favour the harmonisation of social systems, but also from the procedures provided for in the Treaties and from the approximation of provisions laid down by law, regulation or administrative action.

Article 152

The Union recognises and promotes the role of the social partners at its level, taking into account the diversity of national systems. It shall facilitate dialogue between the social partners, respecting their autonomy.

The Tripartite Social Summit for Growth and Employment shall contribute to social dialogue.

Article 154 (ex Article 138 ECT)

1. The Commission shall have the task of promoting the consultation of management and labour at Community level and shall take any relevant measure to facilitate their dialogue by ensuring balanced support for the parties.

2. To this end, before submitting proposals in the social policy field, the Commission shall consult management and labour on the possible direction of Union action.

3. If, after such consultation, the Commission considers Union action advisable, it shall consult management and labour on the content of the envisaged proposal. Management and labour shall forward to the Commission an opinion or, where appropriate, a recommendation.

4. On the occasion of such consultation referred to in paragraphs 2 and 3, management and labour may inform the Commission of their wish to initiate the process provided for in Article 155. The duration of this process shall not exceed nine months, unless the management and labour concerned and the Commission decide jointly to extend it.

Article 155 (ex Article 139 ECT)

1. Should management and labour so desire, the dialogue between them at Union level may lead to contractual relations, including agreements.

2. Agreements concluded at Union level shall be implemented either in accordance with the procedures and practices specific to management and labour and the Member States or, in matters covered by Article 153, at the joint request of the signatory parties, by a Council decision on a proposal from the Commission. The European Parliament shall be informed.

The Council shall act unanimously where the agreement in question contains one or more provisions relating to one of the areas for which unanimity is required pursuant to Article 153(2).

EUROPEAN SECTORAL SOCIAL DIALOGUE IN TRANSPORT SECTOR

The European Union recognizes social dialogue as one of the pillars of the European social model and as an instrument of social cohesion and solidarity. This has been confirmed by amending the Lisbon Treaty. The new article 152 of the Treaty regarding the functioning of the European Union (TFUE) underlines the Union's commitment to promoting the role of European social partners and to sustaining social dialogue. The same article recognizes the autonomy of the European Social Partners. Sectoral social dialogue, added to inter-professional dialogue, represents an important part of this instrument of European governance.

The evolution of social dialogue in the transport sector is essential for the future of this industry. This handbook presents an overview of the transport sector in the EU and of social dialogue. Furthermore, the handbook focuses on road and railway transport.

The transport sector is composed of five branches: civil aviation since 1990, inland waterways since 1999, railway transport since 1972, road transport since 1965, sea fisheries sector since 1974, maritime transport since 1973 and ports in 2011.

In this context, we have some examples of agreements reached in the framework of Sectoral Social Dialogue Committees:

RAILWAYS

- ETF/CER Agreement on certain aspects of the working conditions of railway mobile workers assigned to interoperable cross-border services;
- ETF/CER Agreement on the European license for drivers carrying out a cross border interoperability services;
- Representation and better integration of women in the different professions of the railway sector.

ROAD TRANSPORT

- Joint ETF/IRU recommendations on employment and training in logistics;
- ETF and IRU common criteria for rest facilities.

SEA FISHERIES

- ETF/EUROPÊCHE/COGECA Agreement on a social clause to be included in fisheries agreements with third countries;
- REFOPE.

MARITIME TRANSPORT

- ETF/ECSA agreement to work on the transposition of the ILO Maritime Labour Convention 2006 into EU law;
- ETF/ECSA European agreement on the organisation of working time of seafarers.

INLAND WATERWAYS

- ETF/UINF Joint project on training;
- ETF/EBU current negotiations on working time for Inland Navigation.

CIVIL AVIATION

- ETF/ACI Europe Joint Statement on Quality, Safety and Training in the ground-handling sector;
- ETF/ ERA/IACA/AEA/ECA European agreement on the organisation of working time of mobile staff in civil aviation;
- ETF/CANSO Statement on the Community Air Traffic Controller Licence draft Directive.

The Social Partners in the Railway Sector

In the railway sector we have the following social partners:

- Community of European Railways and Infrastructure managers (CER);
- European Infrastructure Managers (EIM) since 2005;
- European Transport Workers' Federation (ETF).

ETF approach to EU sectoral social dialogue

ETF appreciate the values of EU sectoral social dialogue. Thus, the Sectoral Social Dialogue Committees where ETF is involved are amongst the most productive ones, also in terms of binding instruments. Also, European Sectoral Social Dialogue (ESSD) is seen as a policy instrument complementary to legislation and negotiation. In the same time, this social dialogue must contribute to and promote growth, quality jobs, social Europe and sustainable transport policy. It is important to build long-lasting trust between employers and trade unions, find balanced solutions to social questions, develop social cohesion at EU and national levels.

Improving the framework in which EU SSD takes place

This framework is marked by the following actions:

- ETF response to the ESSD revision carried out by the European Commission;
- ETF internal debate and workshop held during the ETF 2009 Congress;
- Debate within the various SSDCs where ETF is represented.

ETF priorities for change

The ETF has identified some areas which require particular attention for improvement: the low participation from new Member States; difficulties in the application of texts resulting from Social Partners' autonomous negotiation; Sectoral Social Dialogue Committees are not always properly involved in impact assessment studies and in dossiers having social implications; among the Employers' organisations is often seen the lack of will to tackle substantial issues and/or do not have full mandate to negotiate.

Recommendations:

- The involved partners in the negotiation process at the SSDCs level must focus on binding agreements;
- Regarding social aspects related to transport: *social dialogue must come first!*
- Promotion of sustainable transport through sectoral social dialogue;
- Ensuring capacity building to social partners in countries with young industrial relations systems;
- Better interconnection between dialogue and negotiations at national level (need for mature industrial relations in ALL EU countries);
- Better definition of the involved actors.

In conclusion, the global functioning of the sectoral social dialogue committees can not be evaluated/assessed only on the basis of the texts they produce. The concrete measures taken at national level are not always materialized in documents, and many results are qualitative in nature, designed to raise awareness and to support social dialogue at national / regional level or to influence the policy. However, common documents, presentations, best practices and engaging in joint projects (seminars, conferences, studies, workshops) provides opportunities for social partners to exchange experiences and strengthen mutual trust for a beneficial future for all transport workers.

THE SOCIAL DIALOGUE AND THE INDUSTRIAL RELATIONS IN THE ROMANIAN TRANSPORT SECTOR

A. FOREWORD

The rule of law is not only defined in relation to the democratisation of the official institutions, but also to the separation of powers (legislative, executive and judicial), to the freedoms enshrined in the Constitution etc., but also according to the extent to which it accepts and encourages a continuous and sustained development of the civil society.

The trade unions, as professional associative structures, have a well defined role in the fabric of the civil society, to which progress they actually bring a substantial contribution.

A natural question arises: why is the existence and evolution of the civil society so important for the democratic development of a country? Many answers can be found and the arguments can be countless and diverse. We will mention the most important ones:

- The civil society is the natural environment in which people can act the way they are, with their own personality and conscience and, especially, they can do this in a free way;
- The civil society, by its specific structures, enables people to communicate, to come closer, to socialise, to have a continuous exchange of ideas, opinions, impressions, to participate actively to the life of the community;
- The civil society is also, by excellence, an educational environment, a school of democracy, a melting pot in which the social conscience is crystallising, in which various mentalities and attitudes are shaped and affirmed.
- Finally, the civil society is the useful and necessary reverse of the officially institutionalised society. It is its natural partner, which offers the latter permanent and useful signals regarding the errors and unwanted side slipping of the POWER (in the widest sense).

From our point of view, we will mainly emphasise the communication and the dialogue function which is made possible and necessary by the civil society, namely the trade unions, as a legitimate and determinative part of the civil society.

It is enough to remember how was the stage of the civil society, and what a social dialogue could exist during the totalitarian regime. The structures of the civil society, including the trade unions (actually the single trade union UGSR, with a single political colour of the power) were purely a facade, they did not make possible any real, sincere communication among people and they were actually instruments of the monologue of the power. The moment December 1989, with all its major meanings, led also, among others, to an extraordinary explosion - we may say - of the civil society structures: many organisations, associations, foundations, unions, leagues etc. have been created very quickly. Their common denominator (or their psychological substrate) was the immense desire of people to express freely, to communicate without censorship, to get involved. Thus, the newly created democratic trade unions, established bottom up, have been immediately committed, with responsibility, in the construction of a democratic society. It is important to note an aspect which, only seemingly is not close to our topic, but which actually has a direct and evident significance: trade unions have been created top down which, under an absence or imprecision of the relevant legislation, have taken over, by themselves, important parts of the patrimony of UGSR. Besides the fact that many employees have been excluded from the right to benefit from such assets (achieved by the efforts and contributions of everyone) these trade unions received a special status, having from the very beginning more consistent assets (and implicitly a better financial position).

This aspect is quite important, due to the fact that even from the beginning there is a disruption of the possibility of a true and fair social dialogue in the Romanian society, there are dysfunctional cases, there is an image of “stronger” voices or more “authentic” or more “representative” voices. In reality each party has its legal right of expression in the social dialogue.

CHAPTER I

B. THE LEGAL FRAMEWORK

Coming back to the issue of the social dialogue, we should mention the main legislative tools that ensure the legal basis of this phenomenon.

- Law 96/1992 – on the ratification of the ILO Convention regarding the consultations for promoting the application of the international labour norms;
- Law 112/1992- on the ratification of the ILO Convention regarding the promotion of the collective bargaining;
- Law 139/2006 of health and safety at the workplace;
- Law 130/1996 (republished) on the Collective Bargaining Contract;
- Law 109/1997- on the organisation and operation of the Economic and Social Council;
- Law 138/1997 (with the subsequent amendments) regarding the health insurance;
- Law 145/1998 regarding the organisation and operation of the National Employment Agency;
- Law 74/1999 on the ratification of the European Social Charter;
- Law 132/1999 – on the organisation and operation of the National Council for Professional Training for adults;
- Law 19/2000 (with the subsequent amendments) regarding the public pension system and other social insurance schemes;
- Law 138/2000 – on the amendment and supplementation of the Civil Procedure Code;
- Law 356/2001- Law of employers' organisations;
- GO 314/2001 (amended by GO 569/2002) – on the organisation and operation of the Social Dialog Commissions of the Ministries and Prefectures;
- GO 1086/2001 – on the organisation and operation of the Paritary Commissions of the public administration;
- Law 76/2002 – regarding the system of unemployment benefits and the stimulation of the labour force;
- Law 54/2003- Trade Union Law.

CHAPTER II

C. ABOUT THE CONCEPT, PURPOSE AND CHARACTERISTICS OF THE SOCIAL DIALOGUE

Regarding the definition of the concept of social dialogue, there are several opinions. However, it is clear that it is defined as a social process, with a bipartite or tripartite manifestation, according to the number of actors involved in the process.

The goal of this process would be the more or less evident desire of the parties (players) to participate in the **decision-making process**, which would enable them one way or another to fulfil their needs, such as:

- a. For the trade union - defending and promoting the material and professional interests of its members;
- b. Employer's organisations – profit maximisation;
- c. Government (administration) – budget cutting, elimination of social tension or conflict situations.

In the social practice, it has been proven that in most cases, the interests are not convergent (they are divergent) which inevitably leads to conflicts, social tensions, etc. Therefore, the main purpose of the social dialogue would be the **permanent attempt** to avoid social conflicts and to reach a **compromise**.

The social dialogue has been established as a relatively new type of manifestation of democracy in a modern society governed by democratic principles. One might say that it represents a characteristic of an economic system based more on the social needs of the citizens and less on their need to obtain profit.

This process may also have a political nature, being often used by politicians, especially in achieving the political programmes and platforms of the own parties. At the same time, we should mention that this is a basic activity of the trade unions, by a responsible, active and conscientious involvement for promoting the interests of their members.

This is also a permanent, institutionalised process, with a social character, which is usually finalised, in most situations, with favourable results for all involved parties.

CHAPTER III

D. FORMS OF MANIFESTATION, ACTION MODALITIES AND MAIN INSTRUMENTS FOR THE FINALISATION OF THE SOCIAL DIALOGUE

In general, the social dialogue is materialised directly through the official (formal) or unofficial (informal) meetings for the following activities:

- Negotiation of the Collective Bargaining Contract at the national level, at the level of the branch, unit groups and sub-units;
- The works of the social dialogue Commissions of the Ministries, Prefectures (local authorities) etc.;
- Meetings within the ESC – Economic and Social Council;
- The meetings of the Commissions for Health, Employment at the company level;
- The meetings of the Boards of Administration of the companies which have trade unions;
- The meetings of the Paritary Commissions which apply the provisions stipulated by the concluded Labour Contracts;
- The meetings of the National Commission for Professional Training for adults;
- Joint actions regarding trade union training (employer's organisations-trade unions) and professional training (conferences, symposia, communications, workshops, congresses, etc.);
- Participation in important events of the life and activity of the company (celebrations, bringing homage, inaugurations), as well as in the important events of the trade union life (worker's day, congresses, conferences, campaigns for promoting women, young people) etc.
- Participation in joint actions (employers' organisations - trade unions) with a special character (fishing, hunting, sports, walking) etc.

The above mentioned activities are materialised by a direct individual/individual dialogue, by high level meetings (*tête-à-tête*) of the representatives of the parties, speeches (separately or jointly), positions in the main media channels, etc. At the same time, another specific means, which has been very often used lately, is the lobby activity, which often has high success chances. In general, after these meetings, the parties establish agreements which are verbal at the beginning, and which later become

written agreements, obtaining thus the desired implementation power. The specific forms of achieving the social dialogue are the following:

- COLLECTIVE BARGAINING CONTRACTS – concluded and registered negotiations;
- Specific documents of the involved bodies: Decisions, internal orders etc.;
- Understandings, agreements (verbal or written), protocols, minutes, joint notes, declarations, letters of intention, etc.;

Indeed, after concluding and signing these documents, it is strictly necessary to monitor and apply them, because if not, the social dialogue has no effect and remains “a word flying in the wind”.

CHAPTER IV

E. FACTORS INVOLVED IN THE SOCIAL DIALOGUE PROCESS – THE EMPLOYERS’ ORGANISATIONS, THE TRADE UNIONS, THE GOVERNMENT AND THE MAIN INSTITUTIONS INVOLVED IN THE SOCIAL DIALOG MANIFESTATION IN ROMANIA

In Romania, the Employers’ Organisations have been established according to Law 21/1924 as legal persons of private law. Since the ‘90s, several Employers’ organisations have been established.

The most important and representative organisations have been established on 16th of December 1995, by free association - THE ROMANIAN EMPLOYER'S ORGANISATION - composed at the beginning of five founding organisations: the National Confederation of the Romanian Employers’ Organisation (CNPR), the National Council of Private Small and Medium Enterprises (CNIPMMR), the National Union of the Romanian Employers’ Organisations (UNPR), the National Council of the Romanian Entrepreneurs (CONPR), the National Romanian Employers’ Organisation (PNR). In 1997, a new organisation was created, UGIR - 1903 (the General Union of Romanian Industrialists).

The Romanian trade union movement created after December 1989 had, even from the beginning, an **industrial** structure, while the company (unit, enterprise) trade union was the most important constitutive unit.

Even from the beginning, the purpose of the creation of the democratic trade unions was to defend and promote the material and professional interests of their members, using the following methods and means of trade union struggle: petitions, written and verbal protests, press conferences, press campaigns, demonstrations, marches, organised meetings with or without a declared goal, picketing, spontaneous protests, actual strikes, warning strikes and solidarity strikes. In general, at the national level, the trade union movement was structured on the following levels: basic level (company), branch level (sectoral) and national level.

At present, 5 representative confederations are recognised: CNSRL-FRAȚIA, BNS, CNS-CARTEL-ALFA, CSDR and MERIDIAN. The legal framework that regulates the trade union movement is the Law no. 54/1991/2003 supplemented by the own statutes of the legally established trade union organisations. The role of the Government in the development of the social dialogue is **specific and variable** according to the practiced social dialogue.

Therefore, the Government can be situated in the forefront of the social dialogue or it can be limited to an **indirect or discrete** action in the general social dialogue. Regardless the type of involvement in the

process, the Government follows especially the following aspects: to ensure an organisational framework for the social dialogue, to promote the laws and regulations necessary to conduct the social dialogue and to control their implementation through the state institutions and powers. At the same time, the Government takes measures regarding the mediation between the two social partners (employers' organisations and trade unions) during the occurred conflict situations, as a defender of the **general interest** of the society, as well as for guaranteeing the execution of the specific rights of the social partners, ensuring thus the observance of the democratic rules.

One might say that the Government should be mostly interested to share the power with the two social partners and, subsequently, to win their trust, interest and involvement for promoting the necessary reforms for shifting from the socialist, centralised system, to the democratic system and the market economy. In order for the social dialogue to operate well at the national, sectoral and local level, a legal and institutional framework was created, that enables the trade unions and employers' organisations (acting as social partners) to become actively involved in solving their specific issues.

The **bipartite** system was created for this purpose, which includes specific institutions in which the partners participate with a consultative or decisional role to the drafting and/or implementation of the social policies.

The participation of the Government, employers' organisations and trade unions in the discussions and negotiations regarding issues and common interest solutions is ensured within the tripartite institutions, as follows: the Economic and Social Council, the Mixed Consultative Committee – EESC – European Union and ESC – Romania, the Social Dialogue Commission of the Ministries, Prefectures etc., the National Employment Agency, the County Employment Agencies, the National House of Pensions and other Benefits and Social Security, the National Health Insurance House and the County Health Insurance Houses, the National Council for Professional Training for adults etc.

CHAPTER V

F. THE SOCIAL DIALOGUE IN THE TRANSPORT BRANCH

In general, one can say that there is a social dialogue in the transport sector in Romania, but it does not have the desired efficiency, especially from the point of view of the trade unions.

As in any social process, there is a positive part that must be amplified, but also parts that must be improved. As regards the strengths, we could mention the following achievements: negotiation, conclusion, registration and administration of the Company Collective Bargaining Contracts (Metro, CFR and the related companies, SC ALSTOM TRANSPORT SA, SC ROMPREST SERVICII INTEGRATE SRL), the Branch Collective Bargaining Contract, the conclusion of the Social Agreements, as integral parts of the privatisation, concession and lease contracts (SC ALSTOM TRANSPORT SA). Other aspects that must be taken into consideration are the operation of the Paritary Commissions and the operation of the Committees for Health and Safety at the Workplace at the company level, the existence of the Social Dialogue Commission of the Ministry of Transportation, the participation of the trade union representatives in the Board of Administration meetings of the

companies, at the level of the Boards of Administration of certain tripartite institutions at the Ministerial level (The Health Insurance House of Transporters). At the same time, we can mention, as a form of manifestation of the social dialogue, sometimes with unexpected effects, the following activities: the joint participation (trade unions/employers' organisations/company) in various projects, courses, trade union professional training programmes, the participation in important events of the relevant institutions (trade unions/company), in various conferences, congresses, worker's days of the metro workers and railway workers, joint visits and delegations in Romania and abroad (congresses, conferences, symposia, communication sessions), etc. We should not neglect the **informal contacts and consultations** on the occasion of various events (birthdays, other occasions like walks, fishing parties, sports contests), as well as the concrete technical meetings (trade union-administration) each time there are problems to be solved.

However, like in every field of activity of this important sector of the national economy, we find here problems regarding the performance and materialisation of the social dialogue. Therefore, in many cases, we encounter a **dialogue of the deaf**, where the administration does not take into account the trade union position. Many things are promised, but very little is achieved, especially in the Railway sector, but not only there. They do not notify the convening of the Meetings of the Boards of Administration and they avoid inviting the trade union representatives in such meetings, motivating in a non-realistic way that the agenda does not include issues of interest for the trade union.

In many cases, the social dialogue partner is not respected and his positions are often trivialised, so that we might say that **the social dialogue is just mimicked**. It is even worse that we often find a lot of formalism and a weak desire of doing something concretely. These are indeed only some aspects related to how the social dialogue should not take place.

Despite such actions for disturbing this process within the Romanian transport network, we can finally mention a few positive aspects resulted from this cumbersome activity, especially due to the insistence and firm action of the relevant trade unions: maintaining the network, the jobs and the negotiation of decent salaries throughout the years. With important efforts, social advantages have been obtained (meal tickets), better working conditions (working and protection equipment, hygienic-sanitary materials, air conditioning equipment, water dispensers, etc., granting of money support in special cases of disease, decease), etc. In certain sectors it was possible to manage jointly (trade union-administration) the legal funds (1,5% of the salary fund) from the budget law. In many situations, due to the joint efforts, it was possible to mitigate or avoid certain conflicts, especially during the annual negotiations.

By joint actions, it was often possible to draft normative acts (budgets of the ministries, units, etc.) in order to secure jobs and a viable existence of the economic agents.

Therefore, we can conclude, without mistaking, that in most of the times the solutions have emerged after trade union campaigns and not naturally, peacefully and normally, as it should happen within an authentic social dialogue.

THE SITUATION OF THE INDUSTRIAL RELATIONS AND SOCIAL DIALOGUE IN THE BULGARIAN TRANSPORT SECTOR

In Bulgaria, there is a trade union organisation of the workers in all transport sectors – railway transport, vehicle transport, air transport, urban and maritime transport. The transport workers have a long tradition in the trade union organisation. They are grouped in several federations, trade unions and unions, which are members of the two confederations with a national representativeness - Labour Confederation “PODKREPA” and the Confederation of the Bulgarian Independent Trade Unions (CSIB). There are enterprise-level trade union organisations, as well as branch trade union organisations and trade union organisations in various companies, which are grouped in trade union sections of several enterprises.

The trade union membership in the Bulgarian transport sector is high compared to the other branches of the industry. We can claim that over 80% of the transport workers are trade union members. The two confederations, representative at national level, the Labour Confederation “PODKREPA” and the Confederation of the Bulgarian Independent Trade Unions have representatives in all transport branches: the Transport Workers Federation “Podkrepa”, the Bulgarian Railway Trade Union – CSIB, the Bulgarian Transport Trade Union – CSIB. These trade union organisations participate in the social dialogue of the transport industry, at all levels.

The trade union collaboration in the transport sector is very developed. The trade union organisations of the two representative confederations participate together in the social dialogue, as well as in the negotiation of the collective bargaining contracts and in solving the collective labour conflicts, making all the decisions jointly.

The trade union organisation of the Bulgarian citizens is guaranteed by the Constitution of the Republic of Bulgaria. The trade union organisation is described in more details in the Labour Code. The Labour Code guarantees the free association of the workers and employees, as well as the independence of the trade union organisations, their representativeness and their basic rights. The trade unions are confronted with several challenges in the private transport companies, where some employers do not want to participate in the social dialogue or try to hinder the free trade union membership and the negotiation of the Collective Bargaining Contracts.

The representativeness of the workers and employees in Bulgaria is regulated by art. 34 of the Labour Code, which mentions the criteria for representativeness and recognition of the trade union organisations.

At the same time, the voluntary cooperation between trade unions is a requirement of the Bulgarian legislation, and all representative national organisations participate together in the social dialogue.

A long experience of trade union cooperation in Bulgaria led to an accumulation of knowledge regarding the close cooperation among trade unions and the resolution of their differences.

The right to perform a collective Contract negotiation is guaranteed by the Labour Code. The employers are obliged to negotiate with the trade union organisations in order to conclude Collective Bargaining Contracts within the deadlines stipulated by Law. In Bulgaria, the collective negotiation of the labour contracts is performed at the following levels: at a company level, branch level, industry level and municipality level. In our country, the Collective Bargaining Contracts establish the labour and insurance relations for workers and employees, which are not regulated by the legal provisions. The Collective Bargaining Contracts cannot contain articles with less favourable conditions for workers and employees, compared to the legal provisions or other Collective Bargaining Contracts, for which there is already a commitment from the part of the employer. As mentioned before, the employers are obliged to negotiate for the conclusion of the collective bargaining contracts and during the negotiations, they are obliged to give information regarding the economic and financial status of the company. In Bulgaria, the Collective Bargaining Contracts are valid until a new Collective Bargaining Contract is signed, but for a maximum period of up to 2 years.

There are many challenges in connection to the negotiation of the Collective Bargaining Contracts. Very often, the negotiation of the Collective Bargaining Contracts takes a lot of time and many employers try to reduce the social benefits stipulated by the drafts of the Collective Bargaining Contracts presented by the trade unions. There are often discussions regarding the level of the supplemental payments and the protection of the trade union members. Sometimes it is necessary for the workers to use various protest forms in order to accelerate the conclusion of the Collective Bargaining Contract. In case of the public companies, there was a need for a state intervention in order to successfully finalise the negotiations and the conclusion of the relevant contracts.

In Bulgaria, the support for the workers' and social rights is often accompanied by industrial conflicts and strikes. Especially in the transport sector, the trade unions have performed such strikes and some of them led to the change of the Government. Despite the challenges posed by the Bulgarian legislation, the trade unions succeed in organising strikes, mostly with a positive outcome for the workers and employees. We must take into consideration the fact that such strikes have a very important social effect, due to the fact that without transport it is impossible to have a normal socio-economic life, in any country.

The right to strike in Bulgaria is guaranteed by the Constitution and is regulated by the Law of Organisation of Collective Bargaining Contracts (LOCBC).

According to this law, the workers and employees can initiate strikes after undergoing a certain procedure, such as an invitation to negotiation addressed to the employer, the mandatory negotiation with the employer and a notification one month in advance regarding the initiation of the strike. The trade unions of our country believe that LOCBC is obsolete from the moral point of view that it does not comply with the actual industrial conditions in Bulgaria and does not comply with the applicable Constitution, because it was adopted about one year before the Constitution entered into force. This law rather hinders the organisation of an actual strike, instead of facilitating this endeavour.

It is also important to discuss in detail the development of the social dialogue, and the industrial relations in the transport sector, at the level of the Ministry of Transportation, Information Technology and Communication. In general, the Ministry is open to the social dialogue. It works in partnership with the trade union and employers' organisations. The basis is good, but there are still many things to be done. There is a partnership with the International Labour Organisation in the field of transportation. The tripartite cooperation takes place between the Government, trade unions and the employer's organisations, having discussions with various associations and the Branch Council. The Branch Council is composed, in equal parts, of the social partners who have a national representativeness. Their representatives are elected on democratic principles. There is a mutually approved regulation, which includes the rights and obligations of the relevant party. We must find the best solutions to the problems, such as the re-qualification of the personnel, salaries, health insurance, labour conflicts, arbitration, collective contract negotiation, the Branch Collective Bargaining Contracts and possible restructuring actions. Within the social dialogue, there are discussions regarding the law drafts concerning the industrial relations, changing of the legal framework and the operation of the branch. A protocol is drafted after each meeting. These decisions are mandatory. The positive part is that all law drafts and legislative texts concerning the transport sector are discussed in the Branch Council.

Within the social dialogue, the parties learn to become tolerant. The state can improve things, by searching a wide support from the public opinion. There are important topics, such as the safety standards and competitiveness improvement. Various national and branch projects help the workers to participate more and more in the decision-making process and discussions on conflict issues. At the same time, along with the positive trends, we must also stress some extremely negative trends. The tripartite branch councils have often just a consultative role and cannot make decisions. The social dialogue at the level of the enterprise is at a medium level. We should mention that many times the employers use to put the other parties in front of an accomplished fact, in order to impose their point of view. The results of the restructuring are just communicated, after the employer already took the relevant decisions. For instance, in the railway transport, there are companies which do not have a tripartite cooperation. The sense of the social dialogue is not understood, despite their common interests. We have to improve the labour remuneration, which is poorer and poorer, and even under such circumstances, the discussions fail to lead to results due to financial problems. However, not only the employers are to blame, but also the politicians have a responsibility. The new laws often do not correspond to the real problems and requirements of the transport sector. Some pieces of legislation are adopted mechanically, without being confirmed by the Bulgarian socio-economic conditions.

The trade unions are an important factor for the development of the civil society. The failure to take into account the positions and opinions regarding the important issues, leads often to the deepening of the social tension and the occurrence of industrial conflicts. A typical example would be the collective labour contracts emerged in the companies belonging to the Bulgarian Railway Company and National Infrastructure. Despite the inclination to dialogue of the trade unions from the Bulgarian railway transport, and the desire to discuss all issues which are decisive for the future of the branch, the employers have avoided the resolution of the real problem for years. Their proposals to perform massive lay-offs and to contract loans from the World Bank, under unfavourable conditions for the branch, led to

an increase of tensions, which led to the use of the means stipulated by the law on the resolution of collective labour contracts. The trade unions did not get an understanding from the employers of this sector, being also confronted with attempts to hide information regarding their real intentions concerning the restructuring of the companies and a drastic personnel reduction. Following this attitude, the railway workers, the members of the trade unions represented at the national level are firmly decided to defend their rights by organising strikes, as the only remaining legal solution. The Federation of Railway Workers “Podkrepa” already asked for support from the sister trade unions from the transport sector from Romania, Croatia and Macedonia, to participate together with them during the protests and strikes. We believe that in such moments it is very important to achieve trade union solidarity.

One year ago, the Federation of the Railway Workers “Podkrepa” became a member of the International Transport Workers’ Federation. Before that, the Federation of the Railway Workers “Podkrepa” was a member of FIOST since 1991, where it actively participated in the organisation and application of the decisions at the national level. For many years now, at the European level, the Federation is a member of the European Transport Workers’ Federation, and the president of the federation is also a member of the Executive Committee. The Federation of the Railway Workers “Podkrepa” actively participate in all ETF activities and apply the ETF decisions at the national level.

The regional trade union cooperation of the Federation is stronger with the countries from the Balkan area, with an active interaction with the trade unions of Romania, Macedonia, Turkey and Croatia. We participate jointly in a series of European and regional projects, we coordinate our actions in the field of collective negotiations and the information and consultation of the transport workers.

The Federation of Railway Workers “Podkrepa” would like to recommend ETF to deepen its cooperation with the trade unions of the transport workers from the Balkan area, in the field of joint projects, in order to achieve a quicker integration of the trade unions from Macedonia and Croatia in the European trade union family, and at a later stage we will also make proposals regarding concrete initiatives.

THE SOCIAL DIALOGUE AND THE INDUSTRIAL RELATIONS IN THE TRANSPORT SECTOR OF MACEDONIA

1. The legal basis

The social dialogue in Macedonia is established and operates on several levels, especially at a tripartite and bipartite level.

The legal basis for the creation and operation of the social dialogue is the following: The Law on the labour relations (Official Journal of RM 62/2005), the Treaty on the establishment of the Economic and Social Council (Official Journal no. 113/2010), the ILO Convention on the freedom of association and the protection of the association right no. 87, the ILO Convention on the right of organisation and collective negotiation no. 98, the ILO Convention on the tripartite consultation no. 144, the ILO recommendation no. 152 on the international labour standards.

2. The institutional forms

The Labour Law of 2005 defines the legal framework for the development and operation of the trade unions and employers' organisations, as well as the regulation of the labour relations and offers a legal basis for the operation of the Economic and Social Council (ESC). The ESC did not meet in 2009 because it was not considered to be representative as regards the existing situations in the industrial relations and its role and position were weak. In order to promote the social dialogue, an important effort was done and there were organised consultations with all social partners for defining new objective representativeness objectives. Although the process was criticised by certain organisations of the social partners, the Parliament has adopted amendments/changes of the Law on the labour relations. In such a way it was possible to create new ESCs, although their role and position remained the same. The commission for validating the representativeness of the social partners was founded in February 2010 and the procedure for determining the representativeness has started with the registration of the trade unions and the employers' organisations.

The main players in the industrial relations in our country are the Employers' Organisation of Macedonia, the Business Confederation of Macedonia, the Trade Union Federation of Macedonia, the Confederation of the Free Trade Unions of Macedonia and the Independent and Autonomous Trade Union Federation. After the finalisation of the process of validation of the representativeness of the social partners, the first meeting of the new ESC was organised.

The ESC has a counselling and consultative role for the creation and implementation of the economic and social strategies and the policies of the Government of the Republic of Macedonia.

By means of the ESC, the social partners harmonise their interests, they promote and develop the social dialogue.

The ESC issues opinions and recommendations to the Government of the Republic of Macedonia regarding the following:

- the economic development;
- the labour market policies;
- the salary and price policies;
- the labour force and social security policies;
- the social protection policies;

- the health policies;
- the environment policies;
- the tax policy;
- the labour conditions and the workplace protection policy;
- the policy on education, culture and professional training, and
- policies on other fields that influence the economic and social interests of the workers and employers.

Within its competencies, the ESC does the following:

- it offers opinions, suggestions, recommendations and conclusions, from its own initiative, or upon the request of any of the social partners, to the Government of the Republic of Macedonia, within the limits of the competencies established by the Law on the labour relations and the current agreement;
- it discusses, prepares and makes proposals for the ratification of the international labour standards, according to the ILO Convention no. 144 for tripartite consultations.
- it applies and monitors the obligations which result from the ratification of the ILO Convention no. 144 on the tripartite consultation and other international labour standards;
- it establishes the composition of the tripartite delegation participating in the annual international labour force conference and of other tripartite bodies, and
- it establishes the working bodies (councils and commissions).

Unfortunately, excepting the ESC, there is no collective negotiation at the national level and the legislation does not stipulate any other form of institutional social dialogue, so that the same social dialogue at the national and company level takes place in an informal manner. This situation is negatively reflected especially in the transport sector, at the branch level as regards the drafting of the transport legislation and at the level of the companies concerning the implementation of the labour legislation, especially as regards the legally stipulated rights and the collective bargaining contracts.

3. Collective negotiations

The negotiations in the Republic of Macedonia take place in the relevant sectors as follows:

- Collective negotiations at the level of the public sector of the Republic of Macedonia;
- Collective negotiations at the level of the private sector of the economy.

According to the application criteria of the collective bargaining contracts and the representativeness of the social partners established by the Labour Law, the Partners get engaged in the collective negotiation in order to conclude an collective bargaining contract at the national, branch and company level.

At the national level, the criteria of trade union representativeness provide that the trade union should organise at least 10% of the workers of the Republic of Macedonia and they should include in their composition at least three trade unions from different fields and to act in a proportion of at least one fifth from the territory of the Republic of Macedonia. The general collective bargaining contracts, both for the public and the private sector are directly applicable and mandatory for the employers and employees. The enumerated criteria are fulfilled only as regards the conclusion of the general collective bargaining contract for the public sector and only by two major trade unions: The Trade Union Federation of Macedonia and the Free Trade Union Confederation of Macedonia.

The situation in the transport sector

The representativeness criteria of the trade union in the transport sector stipulate that the trade union should organise at least 20% of the employees of the branch or sector (public or private) and, as opposed

to the general field, the collective social agreements are applicable and mandatory only for the trade union members who signed the trade union agreement and is positively accepted.

According to the Statistics Office for the branch of transport, storage and communications, there is a total of 35.670 workers, out of which 14.000 or 39% are organised in a trade union, according to the STV analysis, and have an average net salary for the transport sector, for November 2010 of 24.770,00 Dinars or 404,00 Euro, which amounts to 4.000,00 Dinars more than the average net salary in the Republic of Macedonia.

Although most of the other branches have signed the collective agreements, there is no valid collective bargaining agreement in the transport branch, in the public or private sector. The latest collective agreement was signed in 1995 and minor changes have been performed in 1998. After the adoption of the amendments to the Law on Industrial Relations, in 2005, the validity of the contract ended, since it could not be adapted to the fundamental legislation changes. The current situation is such that the Transport and Communications Trade Union organises 86% of the workers in the transport public sector, having also a decision from the Commission of the Ministry of Labour and Social Policy. The Transport and Communication Trade Union is the only trade union which is entitled to sign a collective agreement for the transport workers of the public sector. In case of the transport public sector, as a party that concludes a collective agreement, the employer is the Government of the Republic of Macedonia and the Ministry of Transport and Communication. However, despite the fulfilment of the necessary criteria and the submitting of relevant requests by STV, our requests are repeatedly ignored. One can say that the Ministry of Transport and Communication does not have a political will to engage in a process of collective negotiations, which is why the leadership of STV aims to continue the activities, which are to become more radical in the future and will include protest actions in order to sign the branch collective agreement. Such an attitude of the Ministry also has a negative impact on some of the companies where the Government is the majority shareholder, so that the managers have an ignorant attitude regarding the requests of the trade unions.

As regards the branch social dialogue in the private sector, the situation is not clearly established and it does not have any perspective concerning the conclusion of the branch collective agreement, since there is no representative of the social partners in this field.

The situation at the company level

The situation in the individual companies varies according to their ownership structure and the type and structure of the transport in which they are active.

This situation will be presented as follows:

At first, in the company TAV Macedonia, which since 2009 is the concessionaire of the two international airports from Skopje and Ohrid, there was a deterioration of the relation between the new team of managers and the Transport and Communications Trade Union which organises two thirds of the total number of employees of this company. The initial anti-trade union action of the employer led to a series of conflicts that resulted in an industrial action of the trade union and a protest letter against TAV from the part of the partner trade unions participating in the social dialogue joint Project. Following the protest letter from 26.10.2010, there was a meeting with the management team of TAV MACEDONIA. The disagreements between the partners were solved by mutual agreement, and the

situation and the environment of the trade union of this company improved significantly. Nevertheless, we should mention that although more than a year has passed since the new employer took over the company, the latter did not agree to sign a collective agreement with the trade union yet.

As regards the reduction of the personnel, by the concession contract it is stipulated that no non-voluntary lay-off of personnel shall be done in the next seven years, and the reduction of the number of employees in some parts of the company where there will be voluntary lay-offs initiated by the employer, there will be severance pay schemes offered to the employees of up to 45% of the salary, but not more than 70 salaries. The severance pay amounts are not the result of an agreement with the trade unions and the response of the employees is not high, meaning that ca. 50 employees, out of 700 employees from both airports have accepted these conditions and left the company voluntarily.

Within the Macedonian Post joint-stock company, STV operates through its own trade union, the Macedonian Post Trade Union and here the industrial relations are much better compared to other companies where the trade union is active.

The trade union of this company has signed a collective agreement with the employer, which regulates the rights and relations between the partners. At the same time, the participation of the trade union in the activity of the Board of Administration of the company is ensured.

In the Public Transport Company – Skopje, the trade unions are representative, and STV is representative since 01.03.2011 and started the process of concluding a collective agreement that includes both trade unions. The social dialogue takes place within ad-hoc informal meetings, without a previous arrangement, in principle upon the request of the trade unions. The personnel reduction is not provided, moreover once the new busses will be acquired, there will be a need for a supplemental workforce and the employment of new bus drivers.

In the trade union sector, the Transport and Communication Trade Union is present in the two companies which represent the Macedonian railways: The Macedonian Railways SA with a state-owned capital and the Public Company for Railway Infrastructure.

In the company MZ TRANSPORT SA Skopje, the affiliated trade union for railway transport, there is a trade union representative, but the company manager refuses to establish even an informal social dialogue with the trade union. This situation has been maintained for the last six months, and this is why our trade union had to take measures to impose its influence in the relation with the employer, so that on the 21st of January there was a meeting of the workers at the Skopje warehouse. Since no social dialogue took place, the trade union scheduled a strike for the 24th of March 2010 with the request to start the negotiations for signing a collective agreement. It can be said that the situation of the social dialogue in this company is identical to the situation with which the trade union is confronted at the Ministry.

In case of the public company for RAILWAY INFRASTRUCTURE, a collective agreement was signed between the representatives of the trade unions and the employers' organisations. The personnel reduction is regulated by collective agreements, which provide for the possibility of leaving the company voluntarily, receiving a severance pay of 30 salaries. At the same time there are criteria for

establishing which employees could be laid off in the future. The trade unions and the activists of STV of this company, even from its incorporation, are confronted with the breaching of the fundamental rights of the trade unions, such as the freedom of association and the respect for the integrity and dignity of the trade union activists of the two newly created trade unions. The situation escalated up to the point that, due to the constant pressure against the Secretary General of STV, who is an employee of this company, he was forced to start a lawsuit against the employer.

Under the pressure of the protest letter from the trade unions participating in the project and that of the Secretary General of ETF, in December 2010, a meeting was convened with the representatives of STV who announced their presence, but the manager and the company and his advisers could not participate. In this meeting the management team of JP MZ INFRASTRUCTURA presented their position regarding the failure to observe the legislation, especially the right to trade union education of the trade union activists and members. The employer, namely the company, reserves its right to observe the rights of the workers in a selective way, according to their evaluation. Such a vision was supported by the deputy director of JP MZ INFRASTRUCTURA during the workshop of the project that took place in Skopje, according to which some individual rights of the workers stipulated in the legislation or even in the collective agreements should not be practiced if they hinder the activities of the company.

From the above mentioned issues, it is clear that the social dialogue in the transport sector in the Republic of Macedonia at the company level takes place accidentally and without an institutional framework that would stipulate the same consistency for the future that would lead to a strengthening of the social partners. Therefore, the social dialogue at the company level has a reduced impact or it has no impact as regards the improvement of the labour conditions and the planning of the working hours of the transport workers. As a proof we can mention the provisions of the collective agreements of the companies that signed them, which bring almost no improvement to the observance of the rights stipulated by the Law on labour relations and the collective agreements.

The expectations of the Transport and Communications Trade Union for the next period, which result from the above-mentioned situation of the sector, are focused on creating an efficient social dialogue with the Ministry of Transport and Communications, which would lead to signing of a collective agreement capable of improving the labour conditions standard of the transport workers. At the same time, on long term, STV will act in order to establish the institutional shape of the branch social dialogue, in order to set up the conditions and influence of the workers in creating the legislation of the transport sector.

THE INDUSTRIAL RELATIONS AND THE SOCIAL DIALOGUE IN THE CROATIAN TRANSPORT SECTOR

About the collective negotiation in Croatia

In Croatia, about 45% of the employees are trade union members. The collective bargaining contracts are applicable to all employees from the field for which they are concluded (company, branch and county).

The institutional framework is established in Croatia and besides the tripartite relations, the bipartite relations are also developing.

There are some levels of the social dialogue, such as the company level and branch level. The bipartite relations within the companies represent the basis of the collective negotiation in Croatia, while the branch bipartite relations, judging according to the concluded collective bargaining contracts, has a lower influence on the industrial relations in Croatia.

How is the legal framework regulated in Croatia?

- The ILO conventions (the Convention on the freedom of association and the protection of the association right - no. 87 and the Convention on the application of the right to organisation and collective negotiation - no. 98);
- The Constitution of Croatia (Official Journal of Croatia 41/01 – revised text);
- The Labour Code (Official Journal of Croatia no. 137/04) stipulates a minimal framework for the labour relations, while the collective relations and the other autonomous legal provisions regulate all other types of labour relations;
- The Law on the modality of establishment of the representation of the trade union associations of a higher level in the national tripartite bodies (Official Journal of Croatia no. 19/99);
- The Agreement on the Economic and Social Council - ESC and other forms of social partnership in the Republic of Croatia (Official Journal of Croatia no. 88/01);
- The Regulation for the creation of the Office for social partnership in Croatia (Official Journal of Croatia no. 79/01);
- The representation criteria of the employer's organisations – the Decision of the Economic and Social Council – ESC.

The social partners of the Economic and Social Council, and advisory body to the Croatia Government

- I. The Government of Croatia – the representative of the state;
- II. The trade union confederations – representatives of the workers at the highest level - 5 trade union confederations:
 - The Confederation of the Independent Trade Unions of Croatia (SSSH);
 - The Independent Croatian Trade Unions (NHS);
 - The Croatian Federation of Trade Unions (MHS);
 - The Croatian Trade Union Federation (HUS);
 - The Confederation of the Worker's Trade Unions of Croatia (URSH);
- III. The association of employers' organisations – only one:

- The association of employers' organisations of Croatia (Hrvatska udruga poslodavaca HUP).

TYPES OF COLLECTIVE BARGAINING CONTRACTS

NATIONAL CONTRACTS - at the state level

For instance, the basic collective bargaining contract for the employees of the public sector (Official Journal of Croatia no. 84/07).

BRANCH CONTRACTS – at the level of the sector or branch.

For instance, the collective bargaining contract for the employees of the cultural institutions, of which salaries are paid from the state budget (Official Journal of Croatia 2/04, 77/07) concluded between the Government of Croatia and the Croatian Trade Union of the cultural sector workers.

INDIVIDUAL CONTRACTS – which refer only to one employer, within one enterprise.

For instance, the collective bargaining contract of the Croatian Passenger Railway company.

The parties of the collective bargaining contract

According to the Labour Code, the parties of the collective bargaining contract can be one or more employers, the Association of employers' organisation or the Association of employers' organisations at a higher level, while on the part of the trade union, there are represented the trade unions and Federation of trade unions of the Confederation of trade unions, at higher level.

Conclusion and validity of the collective bargaining contract

The Croatian legislation does not regulate the representation conditions upon conclusion of the collective bargaining contract. In conclusion, a collective bargaining contract signed only by a trade union is valid, even if this trade union might have less members than another trade union which participated in the negotiations, but which did not accept the signature of the collective bargaining contract (e.g. if one of the trade unions concludes a collective bargaining contract, while the others who participated in the negotiations do not agree with the its contents and refuse to sign it).

The representativeness of the employers' organisation associations in the collective negotiation

The Labour Code does not regulate the representativeness of the associations, nor the modality of creating the negotiation committees in the case of certain employers' organisations. In other words, if there is a possibility of negotiating and concluding the collective bargaining contract with several employers at the level of a certain county, there is no need for the employers to have an association at the county level. Such a collective bargaining contract can be signed by the members of the Croatian Association of Employers' Organisations and those who are not members of this association.

The contents and obligations stipulated by the collective bargaining contract

The legal obligations contained in the collective bargaining contracts are directly applicable to all persons referred to in such a contract. According to the Labour Code, the collective bargaining contract

is binding to all persons who signed it and which during the conclusion of the contract were members of the signatories; to those who became later members of the association who signed the collective bargaining contract; to those who adhered later to the collective bargaining contract; to those who became later members of the associations who adhered to the collective bargaining contract and to the persons to which the relevant Ministry has extended the application of the collective bargaining contract.

The main social partners in Croatia

In Croatia, in 2006, there were about 600 registered trade unions, out of which 260 were registered at the national level. The employee negotiates with some companies independently, while at the branch level the negotiations are held with the following associations:

1. The Croatian employers' organisations association – 23 branch associations and 5 associated members
2. The Confederation of the Croatian industry and businesspeople - 7 sectoral associations
3. The Union of the independent employers' organisations - 5 branch associations

In the role of the workers' representatives, namely on the part of the trade unions, certain trade unions or higher level trade unions associations can negotiate the collective bargaining contracts if they are prepared to promote the interests of the members during the negotiations for the conclusion of the collective bargaining contracts. The branch associations are mostly members of the higher level associations or the trade union confederation. At present, in Croatia there are five trade union confederations:

1. The Croatian Union of Independent Trade Unions - 17 associated trade unions
2. The Croatian Federation of Trade Unions – 15 associated trade unions
3. The Independent Croatian Trade Unions – 59 associated trade unions
4. The Croatian Trade Union Association - 68 associated trade unions
5. The Association of Worker's Trade Union of Croatia – 45 associated trade unions

The usual duration of the collective bargaining contract in Croatia

The collective bargaining contracts are concluded for a determined and undetermined period of time. Most collective bargaining contracts are signed for a longer period than one year.

The frequency of the reconciliation process in Croatia

The reconciliation process became a part of the legal framework for 2003 and it usually takes place at the premises of the employer. The number of reconciliation processes is growing. The Economic and Social Council is responsible with the reconciliation process, with its list of conciliators.

The trends regarding the Croatian social dialogue

The employees are entitled to make certain decisions together with the employers by means of information, consultation and co-decision, by means of the representatives elected in the works councils, by the representatives elected by the workers in the Supervisory Board of the company.

According to the provisions of the Labour Code, the employer is obliged to inform the works councils or trade unions regarding the results of the business activity, the development plans and their influence on the economic and social situation, about the reasons of introducing longer working hours and the other important measures for the economic and social situation of the workers.

According to the Labour Code, in companies without works councils, the function of these works councils is taken over by the trade union/by the representative of the trade union which has all rights and obligations of the works councils which are regulated by the Labour Code.

In the companies with more than 200 employees, in the enterprises of Croatia in which the state or the local administrations hold more than 20% of the shares, a representative of the employees must be member of the Supervisory Body.

The frequency of concluding branch collective bargaining contracts

In Croatia, in 2006, there were 17 registered branch collective bargaining contracts, out of which 7 collective bargaining contracts refer to the economic branch and 10 collective bargaining contracts are signed for the public sector. Out of 7 collective bargaining contracts of the economy, 6 contracts have been extended for the entire activity. The coverage through the branch collective bargaining contracts is unevenly distributed, so that a whole economic sector, such as the agriculture, fishery, the production of food and beverages, chemical products, plastic, rubber and metals are not covered. There is however a relatively high amount of collective bargaining contracts in the public sector.

	ECONOMIC BRANCH (according to NKD – National Classification Activity)	COLLECTIVE BARGAINING CONTRACT	STATUS
1.	a) AGRICULTURE AND FORESTRY	None	-
2.	b) FISHERY	None	-
3.	c) MINING AND EXTRACTION	None	-
4.	d) PROCESSING INDUSTRY	None	
	Processing of wood, production of cellulose and paper	COLLECTIVE BARGAINING CONTRACT in the wood and paper industry	Wider
	Publishing and printing activity	COLLECTIVE BARGAINING CONTRACT for the printing activity	
5.	e) POWER, GAS AND WATER SUPPLY	COLLECTIVE BARGAINING CONTRACT FOR THE HEP GROUP (The electric power industry)	
6.	f) CONSTRUCTIONS	COLLECTIVE BARGAINING CONTRACT FOR CONSTRUCTIONS	Wider
7.	g) RETAIL AND WHOLESALE TRADE	COLLECTIVE BARGAINING CONTRACT FOR THE COMMERCIAL ACTIVITY	Wider
8.	h) HOTELS AND RESTAURANTS		
	55 hotels and restaurants	COLLECTIVE BARGAINING CONTRACT FOR HOTEL SERVICES	Wider
	Tourism offices	COLLECTIVE BARGAINING CONTRACT FOR THE TOURISM OFFICES	Wider
9.	i) TRANSPORT, STORAGE AND	None	-

	CONNECTIONS		
10.	j) FINANCIAL INTERMEDIATION	None	-
11.	k) REAL ESTATE BUSINESS, LEASES AND BUSINESS SERVICES	None	-
12.	1) PUBLIC ADMINISTRATION AND DEFENCE		
		COLLECTIVE BARGAINING CONTRACT FOR THE EMPLOYEES FROM THE STATE ADMINISTRATION FOR THE CIVIL SERVANTS AND OTHER EMPLOYEES	
		COLLECTIVE BARGAINING CONTRACT FOR THE EMPLOYEES OF THE PUBLIC SERVICES	
		COLLECTIVE BARGAINING CONTRACT FOR THE SOCIAL ASSISTANCE ACTIVITIES	
13.	m) EDUCATION		
		COLLECTIVE BARGAINING CONTRACT FOR THE EMPLOYEES OF THE PRIMARY SCHOOLS (1 ST -8 TH GRADE)	
		COLLECTIVE BARGAINING CONTRACT FOR THE EMPLOYEES OF THE SECONDARY SCHOOLS	
		COLLECTIVE BARGAINING CONTRACT IN THE FIELD OF SCIENCE AND HIGHER EDUCATION	
14.	n) HEALTH CARE AND SOCIAL ASSISTANCE		
		COLLECTIVE BARGAINING CONTRACT IN THE FIELD OF HEALTH AND HEALTH INSURANCE	
		COLLECTIVE BARGAINING CONTRACT IN THE FIELD OF PRIVATE HEALTH FACILITIES IN CROATIA	
15.	o) SOCIAL ACTIVITIES AND PERSONAL SERVICES		
		BRANCH COLLECTIVE BARGAINING CONTRACT FOR THE EMPLOYEES PAID FROM THE STATE BUDGET	
	HADICRAFT	COLLECTIVE BARGAINING CONTRACT OF THE EMPLOYERS AND EMPLOYEES FROM THE HANDICRAFT BRANCH	

ISSUES RELATED TO THE ECONOMIC AND SOCIAL COUNCIL

- The ESC has a consultative role;
- The Government and the employers do not believe that this body is competent and they perceive it as a necessary evil, and they often avoid it totally (the laws are sometimes adopted in an emergency procedure, without the consultation of the ESC);
- The Economic and Social Committee is sometimes used as a tool for reducing the strength of the trade union struggle;
- Each of the 3 parties has 6 representatives;
- The trade unions are represented according to the number of members – the trade union confederations had to be represented, while the employers not.

ISSUES RELATED TO THE EMPLOYERS

- There is no special law of the representativeness;

- The trade unions claim that HUP – the Croatian Trade Union Association has a low number of employees (14%-20%)
- HUP – the Croatian Association of Employers' Organisations is not interested in collective negotiations, but rather to tripartite relations and lobby activities in front of the Government;
- HUP - the Croatian Association of Employers' Organisations is the only organisation represented in the Economic and Social Council.

THE ISSUES RELATED TO THE TRADE UNION CONFEDERATIONS

- The absence of the Law on representativeness;
- The criteria for the establishment of the trade union confederations are not developed, and there are trade union confederations that did not sign any COLLECTIVE BARGAINING CONTRACT;
- The new trade union confederations have, in total, just a few employees, without a developed democratic infrastructure, without a territorial coverage, but this is why they afford to charge a lower membership fee and to attract new members;
- The insufficient trade union and professional activity of most of the trade union confederations. Neither of them follows the specific topics of the transport sector; This is one of the key-reasons why the railway trade union is not member of either of the two trade union confederations.

The restructuring process of the railway sector started in Croatia since 1996. The Government and the World Bank have signed a program that initiated the restructuring process. The Law on the railway transport was passed in 2006.

The Law on the spin-off of the Croatian Railway Company was passed in December 2005. A holding with four different operational daughter-companies has been created: HŽ (Croatian Railway Company) Infrastructure, HŽ Cargo (freight transport), HŽ passenger transport and HŽ railway haulage. This law entered into force on 01.01.2007.

** HŽ – Hrvatske željeznice – the Croatian Railway Company*

The Holding is 100% state-owned. The Holding owns also 17 separate daughter—companies.

The state took over all previous loan obligations held by the former company up to the moment of restructuring.

There were adopted regulations for the application of the security certificate, the licensing of railway companies and the railway infrastructure. There were adopted laws for the creation of a regulatory body and the Law on the railway transport safety was adopted in March 2007.

The law on the Agency for the regulation of the railway services market was passed in 2007 and the Law on the Agency for the railway transport safety was passed in 2008.

Croatia signed in 2007 and annex of the Memorandum of Understanding for the development of the basic regional networks in South-East Europe, for the railway sector in South-East Europe. The declaration on the railway network was also published.

In order to achieve a complete harmonisation of the *acquis communautaire*, which refers to the safety and interoperability, it is necessary to draft a statutory regulation.

After the adoption of the Law on railway transport safety in 2007, the Ministry has created working groups for issuing the drafts of the necessary implementation regulations.

In March, the Parliament accepted the national Program of the railway infrastructure for 2008-2010.

It is still necessary to finalise some reform aspects of the Railways as regards the railway institutions and the total independence of the key-positions. Meanwhile there have been adopted the amendments of the Law on Railways and the amendments of the Law on the Agency for the regulation of the railway services market, which are important for the further harmonisation of this field.

Acts – Documents supporting the Law on the railway transport safety:

➤ 6 documents have been adopted:

	The HŽ Holding companies				National level					International level	
	Infrastructure	Passenger transport	Cargo	Haulage	SSSH	NHS	MHS	HUS	URSH	ETF	ITF
SŽH	X	X	x							X	X
SHŽ	X	X	x			x					
SIHŽ	X										
SPVH	X						x				
SSH				X							
SSCHZ			x								
TPVVHŽ			x								

- The Regulation on the safety of the railway transport (Official Journal of Croatia no. 155/08)

- The Regulation on the technical safety conditions for the railway transport which have to be observed by the railway companies (Official Journal of Croatia no. 128/08).
- The Regulation on the transport conditions of express deliveries (Official Journal of Croatia no. 156/08)
- The Regulation on the technical safety conditions for the railway transport which have to be observed by the railway vehicles (Official Journal of Croatia no. 147/08, 3/09).
- The Regulation of the technical verification of railway vehicles (Official Journal of Croatia no. 155/08);
- **Regulation on the working time of the workers from the executive sector in the railway transport (105/08)**

➤ 13 documents are now under development

➤ 15 documents are now under preparation

Despite the involvement of the social partners in the drafting of such documents, the Ministry has fulfilled this obligation only after trade union protests.

Why do the trade unions desire to participate in the European integration?

- The building of the social dialogue ⇒ participation in the drafting/modelling of the policies and undertaking responsibilities for the entire country;
- A full information regarding the accession phases and participation in the process;
- The possibility of intervention during the negotiations;
- A dialogue with the Government and the support of the activity for accession to the EU, during the accession phase and after the accession to the EU ⇒ Croatia must be fully prepared, regardless the deadline;
- Increasing the professionalism of the trade unions and creating the role that the trade unions have in the EU member states;

- Acquiring the knowledge and information regarding the training courses and types of procedures existing in the EU;
- Building a joint platform together with the social partners;
- Informing the workers in due time regarding the process and the result of the negotiations;

The trade union was represented in the transport working group. The preparation of the negotiation process ensured the acceptability of the process. In the process of the accession of Croatia to the EU, the trade union representatives are included only after the intervention of the European Commission.

The trade union environment in the Croatian railway sector

Despite the fragmented character of the trade union environment, the trade unions have signed a social agreement with the employers regarding the protection job and legal protection and regarding the layoffs according to the business results. In all 5 railway companies 1/3 of the trade union members are represented in the Supervisory Board.

A Railway Fund was established, aiming to take some measures for the workers who remained unemployed. The Croatian Railway Fund works like an internal stock exchange of the companies of the Croatian Railway Holding. The workers can be re-qualified and during the 3 years of the duration of this fund, they receive the salary of their previous job. The representatives of the workers are elected in the Supervisory Board in all 5 railway companies. 5 collective bargaining contracts have been signed (for each company of the Holding). The negotiations of the new collective bargaining contracts are now in progress. There are discussions regarding the joint collective bargaining contract for all companies of the HŽ Holding (the Croatian Railway Holding), excepting the HZ Railway company, because there is only one trade union active in this company, and excepting the Trade Union of the Train Drivers, due to the fact that they would like to sign a separate collective bargaining contract in their company.

Conclusion

In Croatia there has been created the legal and institutional framework for the social dialogue. However, the amendment of the institutional framework did not guarantee, by itself, the changes of the practical approaches. Many analyses have shown that at the level of the industry and companies, there is almost no partnership between the employers and the trade unions. During the workshop held in Stubičke Toplice, the statement of the executive manager of the company HŽ Infrastructure - Transport Business, according to which the social partners cannot be equal, actually confirmed the attitude of most of the managers of the companies of the HŽ Holding.

The culture of the social dialogue is now at a low level and the current environment in which the partners activate is almost chaotic. The laws are adopted in a very fast pace. Actually, the situation in Croatia is similar to that in other post-communist countries. Although in Croatia the door of the relevant Ministry is almost always open, there was no real progress as regards the quality of the social dialogue. The representatives of the railway workers are confronted with a vicious circle composed of those who create the laws and the national strategies for the development of the sector, the Ministry and the management of the railway companies which are appointed according to political criteria, who should actually apply this strategy, but which are not held accountable when the strategy is not applied. On the market, which operates according to tough criteria, only those who are well organised can survive.

The exchange of experience of the social partners in the field of labour relations and the social dialogue, the improvement of the communication and cooperation between the social partners and at the regional level represents one of the important tools which the trade unions have to use, especially in the current

context. In this respect, during the workshop held in Croatia, a joint document was signed regarding the mutual support for the trade union struggle for defending the rights of the trade union members.

During the implementation of the Project, it was noticed that the mechanisms of the social dialogue must be improved at the national, regional, branch and company level.

It is necessary to promote a climate that would ensure the development of the social dialogue. If the social partners cannot assume their role within an efficient process of consultations, the path towards a new process of good governance (in which they are the legislators and also those who decide the implementation of certain directives) will not be possible.

USEFUL LINKS:

European Commission: <http://ec.europa.eu/socialdialogue>

European Trade Union Confederation: <http://www.etuc.org/r/59>

European Trade Union Institute: www.etui.org ; <http://www.worker-participation.eu/EU-Social-Dialogue>

International Labour Organisation: <http://www.ilo.org/public/english/dialogue/index.htm>

European Foundation for the Improvement of Living and Working Conditions (EUROFOUND):
www.eurofound.europa.eu

Social Development Agency: www.sda-asbl.org

www.socialdialogue.net

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This publication is made within the Project “*Social Dialogue in transport sector – Romania, Bulgaria, FYR Macedonia and Croatia*” funded by the European Commission, budget line 04030301
Issued by Unitatea – Free Trade union of Metro Workers
Published on 4 April 2011



With the financial support of the European Commission