

Information support and the processes of social dialogue in the Republic of Serbia

Abstract

This article contains proposals for improving the process of the social dialogue in the Republic of Serbia, especially in the areas of collective bargaining and determining the level of representativeness of the social partners (trade unions and employer organisations). Improving the process of the social dialogue is discussed in terms of establishing the appropriate information support to the process, which does not currently exist.

Keywords: information system, databases, representativeness, trade union, collective bargaining

Introduction

At the moment, an information system is essential for the development of the economy and our society, but also for establishing the representativeness of trade unions and associations of employers, facilitating the development of the social partners, supporting the social dialogue process, harmonising the regulatory framework for collective negotiating, etc. The common future goal of all social partners and the government should be investment in new knowledge and technology, as well as active participation in dialogue oriented towards establishing and improving information systems and databases.

Social and Economic Council

The Serbian Social and Economic Council (hereinafter: the Council) was established in 2001 but the Law on the Social and Economic Council (*Official Gazette of the Republic of Serbia* No. 125/2004) was adopted in 2004. According to the Law, a Council is an independent body comprising:

1. for the Republic of Serbia as a whole: representatives of the Government of Serbia; representatives of representative employer associations; and representatives of representative trade unions, established across the territory of the Republic of Serbia
2. in autonomous provinces and units of local government: representatives of the competent executive bodies of the autonomous province or the local government unit, and representatives of employers and trade unions established in that particular territorial unit.

The Council is formed for the purposes of establishing and developing social dialogue on the issues of importance for the exercise of economic and social freedoms and human rights; discussing the material, social and economic position of employ-

ees and employers and their living and working conditions; developing a culture of negotiation; encouraging the peaceful resolution of collective industrial disputes; facilitating the development of democracy; and issuing information on matters within its competence.

The Social and Economic Council of the Republic of Serbia

The Council of the Republic of Serbia has eighteen members: six government representatives; six representatives of trade unions; and six representatives of employers established in Serbia.

The Council discusses the development and improvement of collective bargaining; the impact of economic policy and implementation measures on social development and stability, employment, wages and prices, competition and productivity; privatisation policies and other issues of structural adjustment; the protection of the working and the general environment; education and professional training; health care and social welfare; demographic trends; and other issues in accordance with Council by-laws. The Council discusses draft laws and proposals for other regulations of importance for the economic and social position of employees and employers, and issues opinions on them.

The Social and Economic Council for the territory of an autonomous province or local government unit

Local councils within an autonomous province or unit of local government may be established by the agreement of the competent executive body of the province or unit, together with the trade unions and employers established in that same province or unit.

Actual challenges in the social dialogue

There is no true social dialogue in Serbia. Draft laws are sent to the parliament under emergency procedure without being previously considered at sessions of the Social and Economic Council of the Republic of Serbia. Trade unions must be involved in all the phases of the enforcement of laws and regulations in the scope of labour, starting from the drafting of the law to the control and implementation of the adopted measures in practice. The practice of passing system laws in emergency procedure and without consultation must not be repeated. The aim of social dialogue is to reach compromise on the content, dynamics and social price of economic and social changes as the most important issue from the trade union perspective.

From the establishment of the Council to date, there have been numerous problems related to its organisation and functioning. The following are particularly acute:

- a) there are no adequate technical, organisational and staff-related preconditions for its regular work
- b) fundamental and essential debates, i.e. ones concerning reforms and legal drafts, have been avoided

- c) committees established within the Council to deal with transitional issues have been inactive
- d) a local network of social and economic councils has not been established.

The activity of the Council has been concentrated mostly on determining the minimum wage, debating privatisation and the restructuring of the economy, discussing the possible extension of the General Collective Agreement, etc. After several years of its existence, this all makes its achievements seem quite modest.

In the practice of social dialogue at both national and local level, the following problems have been appearing:

1. it has been treated in a quite formal manner, with little more than lip service paid to it
2. it has been accepted only when no other solutions were at hand
3. there has been a trend towards its de-institutionalisation
4. it has been used for political purposes (in order to reach the so-called ‘social peace’)
5. none of the logistics necessary for its functioning has been provided
6. the social partners have not been representative – most often in the case of the employer associations but also in the case of some trade unions
7. no adequate relationship has been established with the media
8. at sessions of the Council, there have been no discussions on legal drafts nor on the drafts of other by-laws which affect the economic and social status of employees and employers; nor on issues such as privatisation, employment policy, health and social security, education and training, demographic trends or others where a formal consideration has been stipulated by law.

Actual economic and social challenges

The biggest structural economic problems of the Republic of Serbia are:

- a) low economic growth
- b) high fiscal deficit
- c) high public debt
- d) high unemployment rate.

Gross Domestic Product (GDP) in the period 2011-2015 was:

2011: 1.4%
2012: -1.0%
2013: 2.6%
2014: -1.8%
2015: 0.8%

Low economic growth is the consequence of an insufficient level of investment. The participation of investment in GDP was approximately 18.5% in the period 2010-2014; and 18.1% in 2015.

The fiscal deficit was reduced from 6.6% of GDP in 2014 to 3.7% of GDP in 2015. Despite the reduction of the fiscal deficit, which is the consequence of fiscal consolidation measures, it is still very high.

At the end of 2015, public debt amounted to 25.2bn RSD, i.e. 77% of GDP.

The main characteristics of the labour market in the Republic of Serbia are: high unemployment; a low employment rate; a high informal employment rate; high youth unemployment; long-term unemployment; etc.

The rate of unemployment in 2015 was 17.9% of the population aged 15 and over; and 18.5% of the population aged between 15 and 64 (Table 1).

Table 1 – Participation, employment and unemployment rate, 2014 and 2015

	2014	2015
Unemployment rate	19.4	17.9
Employment rate	41.7	42.2
Activity rate	51.8	51.4
Inactivity rate	48.2	48.6
Informal employment rate	21.2	19.5

Source: Bilten (2015) *599 (Labour Force Survey, 2014); and Bilten (2016) *608 (Labour Force Survey, 2015); Statistical Office of the Republic of Serbia.

Table 2 – Comparison of formal employment and registered employment, 2015 (000)

	I quarter	II quarter	III quarter	IV quarter
Formal employment (Labour Force Survey)	2,011	2,090	2,081	2,061
Registered employment (Central Registry of Compulsory Social Insurance)	1,982	1,991	2,003	2,008

Source: Press Release 9 March 2016, Labour Force Survey, Statistical Office of the Republic of Serbia.

It is estimated that the value of economic activities performed in the informal economy amounts to around 30% of GDP, which leads there being a large number of unregistered enterprises and labour contracts which are not signed by registered enterprises (especially in the field of commerce, construction, traffic, etc.).

One of the ways of avoiding the payment of taxes and contributions is by paying one part of the salary to an account; and the other in cash without a written statement and the payment of the appropriate taxes and contributions. This practice negatively influences employees' rights in the area of pensions insurance and the provision of resources for the needs of budgetary and mandatory social insurance institutions.

The provisions of Article 112 of the Labour Law are not respected with reference to the minimum cost of labour per hour (without taxes and contributions) in the Republic of Serbia for 2016: elements used for determining the minimum wage (the basic survival and social needs of employees and their families in terms of minimum consumer requirements; the employment rate on the labour market; the growth rate

of gross domestic product; and consumer price trends; as well as trends in productivity and average wages in the Republic of Serbia).

Despite the existence of appropriate regulations, bullying is still widespread in Serbia in all its forms. There are currently around 600 disputes involving bullying being processed at the High Court. Those who press charges of bullying are, very often, laid off during the proceedings. This proves the attitude that those who carry out harassment are still protected.

All these issues point towards the necessity of having a genuine social dialogue in Serbia so that the problems could be solved efficiently and in a democratic way.

The representativeness of the social partners

Representativeness of trade unions

According to Article 218 of the Labour Law (*Official Gazette of RS* No. 24/05, 61/05, 54/09, 32/13 and 75/14), a trade union is considered to be representative if:

1. it has been set up and is active on the basis of the principles of freedom of trade union organisation and activity
2. it is independent from public bodies and employers
3. it is funded mostly from membership fees and own its own resources
4. it has a required number of members on the basis of membership registration forms
5. it is entered in the register pursuant to the law and other regulations.

When representativeness on the basis of the number of members is being established, priority is given to the most recently-signed union membership forms.

A representative trade union at an employer is one that meets the requirements set out in Article 218 of the Labour Law, i.e. one whose membership comprises no less than 15% of the total number of employees at that employer. A representative trade union at an employer shall also be the trade union in the branch, group, sub-group or line of business which comprises no less than 15% of the total number of employees at the employer.

A representative trade union across the Republic of Serbia as a whole, or within a sub-national unit or local self-government, or branch, group, sub-group of line of business, shall also be one that meets the criteria referred to in Article 218 of the Labour Law, i.e. that it comprises membership amounting to no less than 10% of employees in that branch, group, sub-group of line of business on the territory covered by that unit.

Representativeness of employer associations

An association of employers is considered to be representative if:

1. it is entered into the register pursuant to the law
2. it has a sufficient number of employees within employers who are members of the association of employers, pursuant to Article 222 of the Labour Law.

A representative association of employers, in terms of Article 222 of the Labour Law, is an association of employers which holds as members no less than 10% of

employers from among their total number in a certain branch, group, sub-group or line of business (or across the territory of a particular unit); under the condition that such employers employ no less than 15% of the total number of employees in that branch, group, sub-group or line of business, or across the territory of that territorial unit.

Establishing the representativeness of trade unions and associations of employers

The Panel for Establishing the Representativeness of Trade Unions and Associations of Employers is composed of three representatives of the government, trade unions and associations of employers, who are appointed for a four-year term. Representatives of the government are appointed on the advice of the minister, while representatives of trade unions and of associations of employers are appointed by the respective trade unions and associations of employers who are members of the Council.

The minister passes a decision on establishing the representativeness of a trade union or association of employers upon the advice of the Panel, as long as all the requirements stipulated in the Labour Law have been met.

Suggestions for improving the functioning of representativeness

Changes relating to the functioning of the procedure for establishing the representativeness of representative organisations in Serbia should be made to those parts of the Labour Law concerning:

1. the body which holds the competency to establish representativeness
2. the procedure for proving representativeness.

We would suggest that, in order to increase the transparency and objectivity of the procedure which exists to prove representativeness, trade union-appointed representatives to the Panel should come not from their ranks, as is the case today, but from among prominent experts in the field of labour and social law, judges and other professionals. According to the existing legal solution, members of the Panel are not interested in increasing the number of representative trade unions which would, *inter alia*, mean a redistribution of the privileges that allow representativeness.

Article 229 of the Labour Law provides that applicants for representativeness shall, among other things, supply membership registration forms to the Panel. We believe that membership forms are an internal trade union document and do not amount to reliable evidence for establishing representativeness, bearing in mind that there have been cases of the manipulation of membership forms. We would suggest that, in addition to joining the union, proof of representativeness should also consist of a list of employees who are union members, certified by the employer, for which the employer is obliged, in accordance with Article 207 of the Labour Law, to deduct membership fees from earnings and pay such an amount to the account of the appropriate trade union.

We think that these proposed changes to the Labour Law would resolve many of the problems relating to the representativeness of trade unions which continue to be present.

Collective agreements

A collective agreement is an autonomous source of rights regulating industrial relations, i.e. the rights, duties and responsibilities which apply in the workplace; the procedures of amending and adding to the text; the relations between its signatories; and other issues related to work which are relevant to employees and employers.

According to Articles 240-267 of the Labour Law (*Official Gazette of RS* No. 24/05, 61/05, 54/09, 32/13 and 75/14), a collective agreement in Serbia may be concluded as:

1. a general collective agreement (which applies across the territory of the Republic of Serbia)
2. a special collective agreement
 - for a certain branch, group, sub-group or line of business (applying across the territory of the Republic of Serbia)
 - for the territory of an autonomous unit or local self-government organisation
3. a collective agreement with an employer.

General and special collective agreements are implemented directly and they are binding on all employers who, at the time the collective agreement was concluded, were members of the association of employers which was a party to the collective agreement. An employer which is not a member of the association of employers which signed the collective agreement, and/or an association of employers that was not a signatory of the collective agreement, may sign the collective agreement afterwards.

The government may decide that a collective agreement or some of its provisions may be applied to employers who are not members of the employer association participating in the collective agreement. The government may take such a decision, with a view to exercising economic and social policy in the Republic of Serbia, and in order to ensure equal working conditions representing a minimum of employee rights, or to reduce salary differences in a certain branch, group, sub-group or line of business that substantially affect the social and economic position of employees and which result in unfair competition. It may do this so that the collective agreement the effect of which is being extended becomes binding on employers that employ more than 50% of employees in that branch, group, sub-group or line of business.

At the request of an employer or an association of employers, the government may decide that the part of the collective agreement relating to salary and salary compensation may not be applied to some employers or associations of employers.

That there is a crisis of collective bargaining is evident in Serbia. Collective agreements are concluded mostly in the public sector where the state is the employer, but they have been called into question due to the enforcement of new laws referring to the method of determining a maximum number of employees in the public sector and to the level of salaries.

Following Article 117 of the Labour Law, all collective agreements valid at the time of its adoption were abolished and unions obliged to negotiate new ones. Various collective agreements in the public sector have subsequently been signed, i.e. for: institutions of culture, health service and social security; for employees in prima-

ry and secondary schools and student dormitories which are within the competence of the Republic of Serbia, the autonomous province of Vojvodina and units of local self-government; and in state administration. However, no such instances are to be found in industrial sectors (such as textiles, the metal industry, energy supply, etc.).

Establishing and developing an information system for the social partners

Information technologies anywhere in the world, as well as in our country, offer infrastructure and solutions for further growth, a higher quality of life and social development. A new information system would unite a wealth of information on national labour and social security laws and international labour standards.

Monitoring and oversight of the operation of such information systems could be implemented by the trade union, employer association and the ministry in charge of labour affairs. However, the biggest problem would lie in the technical equipment of the trade unions as well as the shortage of sufficiently connected and available data and the lack of a unique and accessible database between employer and worker organisations and the ministry responsible for labour and social affairs.

Inside such a social partner information system, the individual database should be open, safe and available to the social partners, for example a database on collective agreements, union membership, labour contracts, labour legislation, strikes, etc.

Database of collective agreements

This database should contain all valid signed and published collective agreements in Serbia – general, special and individual company – so that people could find complete original texts and navigate through single chapters and articles in accordance with the topics in which they were interested. Trade unions, employers and the ministry in charge of labour affairs in Serbia would contribute to identifying the collective agreements and populating the database. The database would facilitate the comparison of collective agreements by issue and by sectors.

Database of union membership

This database should be the principal data source from which can be reviewed statistics (trends), reports and other information on union membership as well as coverage for states, municipal areas, industries (branches) and occupations. Each union headquarters should have:

1. union membership – at the employer
2. union membership – by branches
3. union membership – across the territory.

Database of labour contracts

This database should serve as a one-stop public online catalogue of the digitised complete texts of union contracts:

1. labour contracts, by state
2. labour contracts, by union
3. labour contracts, by represented occupation.

This database could actively seek further entries: the name and branch of the union; the name of the agency which was the bargaining partner; the years for which the contract was valid; the occupational titles of employees covered by it; and, as available, the name and address of a contact person.

There are several advantages to a database of labour contracts:

- these documents will be archived, making it easy to search through similar contracts over time
- these documents will be accessible to interested scholars and the general public.

Database of labour legislation

A labour legislation database would focus on an up-to-date catalogue of national labour and social security rights, namely:

1. legal and sub-legal acts of the Republic of Serbia
2. international legislation (International Labour Organization, European Trade Union Confederation, European Union, etc.).

Records should encompass the full texts of related documents/legislation/texts and abstracts, and should be indexed by subject classifications.

By tracking legislative developments over time, the database would illustrate the diversity of approaches and provide a basis for further investigation.

Conclusion

A key objective behind the introduction of an information system would be to provide a reliable database and a helpful comparative tool for a wide range of different people/users. This would promote transparency and make important documentation accessible to the public – employer and worker organisations; the government; labour professionals; collective bargaining negotiators; researchers; consultants; and other specialists.

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