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## Social dialogue in the Slovak Republic

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## ***Introduction***

Social dialogue belongs to key elements of democratic societies and states. It enables representatives of different groups in the society to consult and discuss relevant issues with parties concerned, e.g. with the government, representatives of employers and employees, municipalities, civic associations.

Social dialogue is used as a key tool in the administration of the European Union (EU). Representatives of employers and trade unions in the EU actively participate in social dialogue with the European Commission through peak employer organisations, at present e.g. the Confederation of European Business (BUSINESS EUROPE) and peak trade union organisations, e.g. the European Trade Union Confederation (ETUC). Standpoints and views of representatives of employers and employees in individual EU Member States are also communicated and presented, e.g. via European Economic and Social Committee, which deals with actual economic and social issues in the EU. Positions of national governments and social partners are essential for the preparation of EU documents, which regulate individual areas of economic and social life in the EU, e.g. regulations, directives and decisions.

National representatives of employers and trade unions in individual sectors of the economy used to be affiliated to EU sectoral organisations of social partners. For instance, the European Federation of Public Service Employees (Eurofedop), the European Metal Workers Federation (EMF), the European Centre of Enterprises with Public Participation and of Enterprises of General Economic Interest (CEEP), EuroCommerce. Establishment of supra-national sectoral organisations of social partners enables performance of sectoral social dialogue between trade unions and employers in the EU. Representatives of individual sectors and branches of the economy can actively participate in forming business environment and working conditions in sectors and branches in the EU.

Also management of some international organisations is based on principle of tripartism. For instance, the International Labour Organisation (ILO) is based on tripartite administration and representatives of government, trade union and employer organisations regularly participate in the ILO activities. Preparation of ILO Conventions and Recommendations are consulted with representatives of governments and social partners from ILO member states. Social dialogue assists in forming worldwide framework for working life, in this way. Also the European Foundation for the Improvement of Living and Working Conditions in Dublin is managed by the administrative board where representatives of governments, employers and trade unions from individual EU Member States are involved.

Also social dialogue has been playing important role during the accession of the Slovak Republic to the EU. Together with the government, representatives of trade unions and employers had the possibility to participate actively in pre-accession talks and in adoption of EU legislation what was an inevitable precondition for Slovakia's membership in the EU.

## **1. Development of social dialogue in the Slovak Republic**

Social dialogue in the Slovak Republic played important role in political and economical transformation in Czechoslovakia after velvet revolution in late 1989. Independent Slovak Republic was established on the 1 January 1993 but capacity building for social dialogue started earlier. After the dissolution of the Communist party-related Revolutionary Trade Union Movement (ROH) in March 1990, a new Trade Union Confederation was established in Czechoslovakia. The establishment of the TU Confederation was based on full acceptance of the International Labour Organisation (ILO) principles. Two relatively independent confederations, the Trade Union Confederations of Bohemia and Moravia and the Confederation of Trade Unions of the Slovak Republic (Konfederácia odborových zväzov Slovenskej republiky, KOZ SR), were established. The confederation model enabled the structures of the national Confederations to remain principally unchanged after the splitting of Czechoslovakia. So far, KOZ SR is the main peak trade union organisation in Slovakia. Besides the KOZ SR, other central trade union body, the Independent Christian Trade Union of Slovakia (Nezávislé kresťanské odbory Slovenska, NKOS), is worth to be mentioned. It has, however, much smaller number of members.

At the time when the trade union structures were already built-up, the process of formation of the employers' representation had just started. This time-shift was caused by the fact that the main employer was only the state at that time. The process of the formation of structures representing the employers was slower than that of the trade unions formation because the privatisation was carried out step-by-step in several stages and took a longer period of time. Employer organisations were established along with the process of the major privatisation (concerned companies in industry), which started mostly in 1991. Most of those employer organisations were associated in Federation of Employers Associations (Asociácia zamestnávateľských zväzov a združení Slovenskej republiky, AZZZ SR) and in the Federation of Industry. The Federation of Industry was abolished in 1995, and since that the AZZZ SR became the sole peak representative body of employers. In 2004, AZZZ SR split and a new peak employer organisation was established – the National Employers Union (Republiková únia zamestnávateľov Slovenskej republiky, RÚZ SR).

Social partners at the national level are represented by KOZ SR and NKOS on the trade unions' side. AZZZ SR and RÚZ SR represent employers at the national level. Organisations of social partners are independent of the state and can establish own independent legal entities. Their boards are elected according to their internal rules. In order to start soon with social dialogue, social partners mentioned above built their capacities as early as possible. For instance, KOZ SR and AZZZ SR participate in national-level tripartite social dialogue in Slovakia since 1991.

## 1.1 Establishment of social partners' organisations

National-level social dialogue was established with the aim to carry out complex transformation process in close co-operation with the newly formed social partners' representatives. To avoid social tensions and to create conditions for preserving social peace during the transition period, it was also aimed at achieving consent upon intentions and goals of economic and social transformation in Czechoslovakia. The national-level social dialogue in Slovakia was realised within the tripartite concertation held with the representatives of employers – (AZZZ SR) and of employees (KOZ SR) since 1991.

### *Trade union organisations*

The KOZ SR is the largest trade union centre in Slovakia, which associates almost all sectoral and branch trade unions in the country. According to its statute, the KOZ SR represents a voluntary association of independent trade union associations, which have been established with the purpose of defending the rights and justified interests of their member organisations. The right of citizens to unionise is one of the fundamental rights and freedoms guaranteed by the Constitution of the Slovak Republic, as well as by the Charter of Fundamental Rights and Freedoms, which became an essential part of the Constitutional Act No. 23/1991 of the Coll. of Laws. Further significant documents concerning the assertion of the trade union rights, which the Slovak Republic has adopted, are, e.g. the ILO Conventions on freedom of association and the right to unionisation and collective bargaining.

The KOZ SR organisation is based on confederation principle, which ensures freedom in activities of its individual members. The individual member trade union associations are not obliged to accept the KOZ SR decisions, and if they wish, they may leave the Confederation. Relations between the KOZ SR and the respective member associations are carried out predominantly through their formal structures such as the congress, session, presidency and council of the KOZ SR president or through the KOZ SR programme, decrees and conferences' resolutions. The most important role of the KOZ SR is coordination of the activities of sectoral and branch trade union associations in consultations with peak representatives of employers and the government at the national tripartite social dialogue.

The KOZ SR associates more than 90% of all trade unionists in the country. The trade unions associated in the KOZ SR are usually organised on the basis of economic sectors and industrial branches, rather than by professions and occupations. Nevertheless, there are some exceptions. For instance the trade union association of engine-drivers, of doctors and of teachers are organised by profession. The Metal Workers Union (Odborový zväz Kovo, OZ Kovo) is the biggest trade union association in KOZ SR, which represented almost 70,000 employees in 2008. Next big KOZ SR member organisations were the Trade Union of Employees in Education and Science with approximately 58,000 members and the Slovak Trade Union of Health and Welfare Workers with around 28,000 members in 2008. The 10 biggest sectoral trade union associations have more than 70% of the total membership of the KOZ SR.

During the past decade, the trade union membership substantially declined, particularly in the private sector. For instance, while the trade union membership in Slovakia was almost 1.6 million in 1993, it decreased to about 580,000 in 2003. According to the available information, KOZ SR and NKOS represented about 380,000 employees in 2008. At present, their membership is more or less stabilised.

During the last two-three years, several trade union associations, which are member of KOZ SR, merged. For instance, Metallurgy Trade Union Association affiliated to the OZ Kovo. The Textile, Leather and Footwear Industry Workers Trade Union Association and the Trade Union Association of Transport, Road Management and Car Repair merged with the Trade Union Association of Construction. They established the Integrated Trade

Union Association (Integrovaný Odborový zväz, IOZ) in January 2009. Slovak Trade Union Association of Energy merged with Trade Union Association of Chemical Industry and established a joint Energy-Chemical Trade Union Association (Energeticko-chemický odborový zväz, ECHOZ) in November 2009.

The KOZ SR created also its regional organisations - regional councils of KOZ. Their mission was to allow the regional trade union organisations to participate in the regional social dialogue dealing with actual issues in regions. The aim of the regional trade union structures was, however, not achieved because they had often no regional partners on the employers' side. Recently, KOZ SR abolished its regional structures. However, some trade union associations do establish their own regional structures.

In 2010, 28 trade union associations are members of the KOZ SR. They represent the private industry as well as private service sector and the public sector as a whole. Trade union membership is higher in public sector organisations than in organisations of the private business sector.

### ***Employer organisations***

AZZZ SR was established in 1991 with a purpose to create suitable pre-conditions for dynamic development of entrepreneurship in Czechoslovakia and Slovakia, and to protect and promote common business interests of its members. When the Federation of the Industry was abolished in 1995, the AZZZ SR became the only peak representative body of employers. The AZZZ SR combined employer associations in manufacturing, construction, transport, telecommunications, co-operative farms, banks and insurance companies, education and health care sectors. Initially, AZZZ SR associated almost 40 various employer associations from private as well as public sector. Membership in AZZZ SR is voluntary and conditional for associated employer entities, which are representative in the branch and have competencies, as a rule, to conclude collective agreements. It is independent of the state and make up independent legal entities.

The AZZZ SR co-ordinates the activities of its members to deal jointly with issues of common interest. On behalf of its members, it provides comments on draft proposals to legislation and protects employers' interests in consultations with representatives of the government and trade unions. It submits standpoints to policy-matters related to its domain and is lobbying in the process of decision making regarding national and international economic and business issues. The AZZZ SR also provides training, consultations and organizes professional events, seminars and conferences for its members.

AZZZ SR plays key role in the coordination of activities of sectoral employer associations at consultations with KOZ SR and the Government at national-level tripartite social dialogue. It also has the possibility to express its positions and view via links to political parties and while lobbying at the Parliament. The AZZZ SR established also three Regional Offices. However, they were not enough active in regional social dialogue.

Membership of the AZZZ SR fluctuated during the last 10 years. According to the available information, it associated employers employing about 550,000 employees in 2000 (close to 25% of all employees employed in the economy). Up to 50% of more than 60,000 companies active in Slovakia, and approximately 70% of big companies employing more than 500 employees, were members of AZZZ SR at that time.

AZZZ SR represented employers in private industry e.g. chemical and pharmaceutical industry, paper and pulp industry, glass industry and in public and co-operative sectors, too. The Association of Self-employers was also its member. AZZZ SR also has informal co-operation involving consultations on various proposals concerning the economic policy with the Slovak Chamber of Commerce and Industry (SOPK) where employer organisations are associated, too.

AZZZ SR was the only peak employer organisation in Slovakia, for more than 10 years. However, organisations of employers changed several times over the last years.

In April 2004, the AZZZ SR split and its representativeness decreased around by half – it associated 17 federations of employer organisations, which employed approximately 230,000 employees. After the split, leaving employers established a new national level employer organisation the National Union of Employers (RÚZ SR). After the split, AZZZ SR associated mainly companies and organisations from the public sector. Big and influential employer associations like the Association of Slovak Industry (Zväz priemyslu Slovenskej republiky, ZP SR), Association of Transport, Post and Telecommunications (ZZDPT SR) left the AZZZ SR and moved over to RÚZ SR. In 2004, 15 employer unions and associations and seven individual members from the private sector were members of RÚZ SR. Employers associated in RÚZ SR employed around 260,000 employees in their member companies. There were big and influential employer organisations including, e.g. ZZDPT with almost 78,000 employees, ZP SR with almost 58,000 employees and Association of Metallurgy, Mining Industry and Geology with approximately 30,000 employees. The RÚZ SR represented employers covering about 25% of employees in the private sector. It was the most representative employers' organisation in manufacturing industry and commerce. The split of the peak employer organisation caused some problems in employers' representation in the tripartite social dialogue because these two peak representative bodies had to agree on division of the seven seats available for the employers.

Next changes in the RÚZ SR were, however, special. In 2006, ZZDPT SR left the RÚZ SR and was renamed to the Association of Transport, Post Offices and Telecommunications (ÚDPT SR), which joined the AZZZ SR again in 2008. This change increased the membership in the AZZZ SR in terms of employees working in member companies. Joining of ÚDPT SR increased the number of employees covered by the AZZZ SR to about 220,000 employees. This figure has brought the AZZZ SR membership closer to the RÚZ SR, which associated companies with more than 300,000 employees, at that time.

In 2007, one of the biggest employer associations in Slovakia, the Association of Automotive Industry (ZAP SR) decided to leave the RÚZ SR. More than 75,700 employees were working in the industry of which about 21,000 worked in ZAP SR member companies. Later on, the Association of Mechanical Engineering (ZSP SR) left the RÚZ SR. Finally, also the influential ZP SR (it associates the ZAP SR, ZSP SR and enterprises in electrical, gas and wood processing industries) decided to leave the RÚZ SR, too. These changes significantly decreased the RÚZ SR membership in terms of employees working in associated member companies (by at least 50,000 employees). These examples indicate that significant fragmentation of peak employer organisations took place in Slovakia.

## 1.2 Cooperation with international organisations

Above-mentioned peak employer and trade union organisations represent their members abroad in international organisations, too. Since 1993, the KOZ SR represents its member trade union associations, e.g. in the European Trade Union Confederation (ETUC) and International Confederation of Free Trade Unions (ICFTU). KOZ SR considers its membership in the ETUC very useful, because it allows it to share experiences with other trade unionists and provides good opportunity for mutual learning. Membership in ICFTU provides good opportunity especially for experiencing the international solidarity. KOZ SR also participates in social dialogue in European Economic and Social Committee (ECOSOC) since 2004. Since 1993, it also participates in activities of the International Labour Organisation (ILO). These activities allow the KOZ SR to communicate its views with other national trade unions and participate in discussion on actual issues in EU as well as in worldwide framework. Since 2001, KOZ SR represents the unionists in Trade Union Advisory Committee (TUAC) of OECD where it provides comments to relevant issues and documents.



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The AZZZ SR represented its members in European employer organisation UNICE<sup>1</sup> as an associated member from 1993 till 2004. According to the AZZZ SR representatives, they used the membership for lobbying in different matters, including the accession of Slovakia to the EU. AZZZ SR representatives assessed the membership in UNICE as a useful source of information, good opportunity to influence the EU legislation regarding the business environment. Membership in UNICE also allowed to have access to different EU funds. Since 1993, AZZZ SR has been participating in activities of ILO and International Organisation of Employers (IOE). Since 1995, AZZZ SR is a member of International Congress of Industrialists and Entrepreneurs (ICIE). Since 2000, AZZZ SR participates in activities of Business and Industry Advisory Committee (BIAC) of OECD and since 2004 in ECOSOC.

In 2005, RÚZ SR became an associated member of UNICE (it replaced the AZZZ SR there). Membership in UNICE is the highest priority of this peak employer organisation. RÚZ SR participates also in ECOSOC and ILO activities. It is interested in co-operation with International Organisation of Employers (IOE) as well as in membership in the BIAC of OECD.

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<sup>1</sup> In January 2007, UNICE has changed its name to BUSINESS EUROPE - The Confederation of European Business.

## **2. Levels and forms of social dialogue**

Social dialogue in Slovakia usually takes place on following levels:

- national level – tripartite concertation,
- sectoral level – multi-employer collective bargaining,
- company level – single- employer collective bargaining.

### **2.1 National level - Tripartite concertation**

Since 1991, national-level social dialogue between social partners and the government has been playing important role in the process of economic and social transformation in Czechoslovakia. It took place in the framework of the Economic and Social Concertation Council (Rada hospodárskej a sociálnej dohody, RHSD) from 1991. After the split of common state, the government of independent Slovak Republic adopted the idea of tripartism and the tripartite RHSD continued its operation practically in unchanged form since 1993.

KOZ SR and AZZZ SR represented the social partners in consultations with the government. The membership of employer and trade union organisations in RHSD was based on their representativeness. Each organisation had to be influential in the economy, to represent at least 10% of active population and be active in at least five of eight counties of the country. According to the rules each party had seven representatives in the RHSD.

Social partners at the RHSD were entitled to prepare their standpoints and proposals to all-important measures proposed by the government in the area of economic and social policy. Although this process included several inflicting issues during the past decade, the strife between the social partners did not result in any radical social actions, e.g. strikes. The results of the tripartite concertation itself did not have legal validity. Initially, conclusions of the RHSD concertation served also for national-level bargaining, e.g. agreements on the national minimum wage. Nevertheless, one of the major outcomes of the tripartism was the national-level social pact, called General Agreement.

The Slovak Government signed seven General Agreements with social partners - for years 1991, 1992, 1993, 1994, 1995, 1996, 2000. The adopted measures were mainly about duties of the government related to the implementation of the necessary economic and social reforms. The fulfilment of these measures was sometimes problematic that also contributed to increasing tension between the parties concerned. Disagreements culminated in 1996-7 when social partners, trade unions in particular, refused to sign a new General Agreement for 1997. They also broke the tripartite social dialogue, which did not work during 1997-8. However, the social peace was not broken and the transformation process continued.

In 1999, when new Slovak Government took over the power (after government led by Vladimir Mečiar's coalition), tripartite negotiations started again. In order to reinforce the tripartism, the Parliament approved the Act No. 106/1999 on Economic and Social Partnership (Act on Tripartism). The new act mostly incorporated the previous operational guidelines for tripartism into the law. After three-years break, the parties signed the tripartite General Agreement for 2000. The General Agreement for 2000 consisted of four main policy areas: economics, employment, income and social affairs. In spring 2001, the parties evaluated the agreed tasks and the trade unions had several critical comments. Some tasks were fulfilled, e.g. some reduction in the taxation burden. However, some others, e.g. increasing real wages or reducing unemployment, were not achieved. The KOZ SR representatives were not satisfied with the fulfilment of the tasks and refused to negotiate for new General agreement for 2001. Though the goals of the General Agreement for 2000 were finally achieved, not any new tripartite social pact has been signed in Slovakia, so far.

National peak employer and trade union representatives also participated in social dialogue in public bodies managed by tripartite boards. According to the Act No. 387/1996 on employment as amended, the National Labour Office (Národný úrad práce) was managed by tripartite self-governing bodies like the Supervisory Board and Governing Committees of Regional and District Labour Offices. Tripartite self-governing bodies were dealing with approval of projects for implementation of active labour market policy measures in respective regions, including decisions on allocation of related financial resources. Changes in legislation on employment services annulled the operation of the National Labour Office as a tripartite institution in 2004.

Regional tripartism started to operate in newly constituted regional state administration bodies in 1998 when County Councils of tripartite RHSD were established in four of the eight existing Counties. Activities of the County RHSDs in regions were mostly formal ones and actually did not gain the real involvement of regional employers' and trade unions' representatives in dealing with actual economic and social problems in regions.

The employers and government representatives had considered the activity of RHSD according to the Act on tripartism as ineffective for longer time. At the RHSD a large amount of documents was consulted. Regarding their content, many of them were not suitable for the tripartite social dialogue. Moreover, some activities of the KOZ SR, e.g. taking the initiative of the referendum for an early national election, and open support to the political party SMER (at that time in opposition), had worsened the relationships between the government and trade unions. The government considered the suggestion to change the rules for the tripartism in Slovakia. It submitted to the Parliament a proposal to abolish the above act. The Parliament revoked the Act on tripartism, which became definitely invalid by 31 December 2004. A new challenge for the further operation of the tripartism in Slovakia emerged. Consequently, representatives of the government, AZZZ SR, RÚZ SR and KOZ SR agreed that tripartism would operate as Economic and Social Partnership Council (Rada hospodárskeho a sociálneho partnerstva, RHSP) since 2005.

One of the most significant changes was that the previously used level for representativeness of social partners was considerably increased in the RHSP Statute. The main goal of tripartite consultations was to achieve agreement in particular issues or clarify and bring nearer the views of social partners, at least. The main fields of activities of RHSP were consultations on:

- important issues of economic and social development
- proposals of labour legislation
- the state budget.

In terms of the Statute, the outcomes of RHSP consultations were considered as recommendations for the government. RHSP can establish its working groups, if necessary. Tripartite social dialogue is administered by the RHSP Secretariat, which is integrated into the organisational structure of the Government Office of the Slovak Republic (Úrad vlády Slovenskej republiky). Expenses connected with activities of RHSP Secretariat are covered from the government budget. The expenses connected with the presence of employers' and employees' representatives are covered by particular social partner's organisation. This organisational model has been working also formerly.

According to the Statute, RHSP consists of state representatives and the equal number of employer and employee representatives. The government has nominated 17 representatives of the state into RHSP. Besides the government representatives the state was represented also by the deputy of Association of Cities and Villages of Slovakia (Združenie miest a obcí Slovenska, ZMOS), which was a significant employer with more than 140,000 employees in public administration. According to the Statute, employer organisations needed to represent firms employing a total of at least 100,000 employees

to take part in the tripartism. The same figure was set for representativeness of the trade unions. Employers and trade unions are entitled to one seat in the Council for every 100,000 employees represented by them. The structure of RHSP is different from the previous model where each party had seven representatives in RHSD. The chairman of RHSP manages its activities and informs the government about the conclusions of consultations.

Since 2006, the tripartite body was changed again to the Economic and Social Council (Hospodárska a sociálna rada Slovenskej republiky, HSR SR). It consists of 21 members (seven representatives of each – the state, employers and employees). New tripartite model applies more precisely ILO Conventions No. 87/1948 on Freedom of Association and the Protection of the Right to Organise, and ILO Convention No. 98/1949 on the Right to Organise and Collective Bargaining, which are binding for the Slovak Republic. The model also applies consultations on other issues in compliance with the ILO Convention No. 144/1976 on Tripartite Consultations to Promote the Implementation of International Labour Standards, which is also binding for Slovakia.

## 2.2 Collective bargaining at sectoral and company levels

Collective bargaining has a long tradition and is well developed in Slovakia. Act No. 2/1991 on collective bargaining, as amended, regulates collective bargaining. This Act appoints the partners for collective bargaining and also defines the respective procedures for collective bargaining. The exclusive right for collective bargaining is assigned to trade unions and employer representatives (management). If there is dispute related to collective bargaining, the mediation and arbitration procedures may be applied. The Act also defines the principles and procedures for declaring a strike by trade unions and the lockout by employers (for more details see Part 3).

Collective bargaining in Slovakia is carried out on two levels:

- Sectoral level, where multi-employer collective agreements (so-called kolektívne zmluvy vyššieho stupňa - KZVS) are concluded between representatives of the appropriate employer and trade union associations and
- Company level, where single-employer collective agreements are concluded between local trade union organisations and the company management.

Act No. 2/1991 on collective bargaining, as amended, provides for collective agreements, which regulate collective labour relations between the employer and the employees, and the rights and duties of the parties concerned. Until 1 April 2002, collective bargaining was uniformly regulated by the above-mentioned Act and by the Labour Code. This situation was changed by the implementation of the new labour legislation, including the adoption of acts specialised on civil and public services (Act No.312/2001 on civil service and Act No.313/2001 on public service). Multi-employer as well as single-employer collective agreements can be concluded separately in the public and civil services.

Collective bargaining is usually initiated by one of the parties (often by trade unions) through submitting a written proposal to the other contractual party in order to conclude a collective agreement. The contractual parties have a duty to bargain, unless this goes counter to their legitimate rights and interests. The parties have the duty to initiate negotiations in order to conclude a new collective agreement or to replace the existing one at least 60 days before the expiration of the existing collective agreement. At least 60 days from the date of submission of the proposal are at disposal of partners for negotiation before either party is allowed to call for a mediator.

Collective agreements may increase the rights stipulated by the Labour Code and other laws or government decrees and cannot reduce employees' claims below the level set by labour legislation. The minimum or maximum standards stipulated by multi-employer

collective agreements (KZVS) on employment conditions and wages, must be respected in collective agreements at enterprise level. Single-employer collective agreement cannot reduce rights of employees agreed in multi-employer agreements. That means, only employment conditions and wages, which are equal or more favourable than those agreed upon in the multi-employer collective agreement, may be agreed in the company collective agreement. Collective agreements, which do not specify their duration, are presumed to last for one year. The collective agreement is legally binding if its provisions do not contradict the respective minimum or maximum standards stipulated by law. Collective agreements are equally binding for employees which are not trade union members. The validity of multi-employer collective agreements is subject to their registration at the Ministry of Labour, Social Affairs and Family of the SR (hereinafter the MPSVR SR). The respective employers association should deliver the agreement to be registered at the MPSVR SR in given time limit. These collective agreements have to be deposited with the MPSVR SR office but their legal effect is not dependent upon such registration, apart from non-signatory employers who might be bound by the extension following the deposit with the MPSVR SR. Multi-employer collective agreements may cover also companies where no local level collective agreement was signed.

Multi-employer collective bargaining in Slovakia is widely spread in sectors and branches. According to estimations, about 30-35% of the employees in the economy are covered by some collective agreement. Figures in table 1 show the number of multi-employer collective agreements concluded in during the last seven years.

Table 1. Number of concluded multi-employer collective agreements

Year	2003	2004	2005	2006	2007	2008	2009
Number of agreements	53	46	42	56	37	37	35

Source: The Ministry of Labour, Social Affairs and Family of the Slovak Republic

The scope of multi-employer collective agreements is usually focused on the following main bargaining issues:

- Co-operation and communication between the trade union and the management:  
*Employer's duties to consult, to inform and to decide in co-operation with the trade union, the confidentiality clause, employers support to trade union activities by providing them with technical facilities, etc.*
- Employment and working conditions:  
*Employment contracts and termination of employment, principles of redundancy policy at mass layoffs, working time and working time schedules, holiday and paid leave, etc.*
- Wages and remuneration  
*Wage system and minimum wage tariffs, payment for working overtime and on bank holidays, extra payments for difficult and risky working conditions, night work, severance payments in case of mass redundancy, etc.*
- Occupational safety and health  
*Employer's duties and co-operation with trade unions in safety and health issues, including preventive and corrective measures to improve working conditions and to reduce risk at work. There are trade union safety and health delegates established in companies.*
- Human resource development and related social issues  
*Training and human resource development activities, forming and utilisation of the Social Fund at enterprises. Social fund is created according to Act No. 152/1994, as amended,*

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*in amount 0.6% of total wages paid off, as a minimum. The Social Fund is usually used is subsidising the cost of meals provided for the employees.*

- Resolution of the conflicts between management and trade unions  
*Procedures are agreed in order to settle serious disagreements between the social partners internally.*

Company collective agreements deal practically with the same issues.

Employee representatives (in Slovakia, trade unions and works councils) have the right to information and consultation on several issues. These rights are stipulated by the Labour Code (Act No. 311/2001, as amended) and are applied, e.g. prior to dismissals of workers and significant organisational changes. According to the Labour Code, the employer should:

- Decide jointly with the trade union/s on utilisation of the Social Fund and on introduction of non-standard working time patterns.
- Consult with trade union/s the terms of employment, especially those of women taking care of children and of young and disabled people, improvements in working conditions and safety and health issues, and any other measures concerning considerable number of employees.
- Inform the trade union/s about the economic results and enterprise development programmes and perspectives.

Similar rights have works councils.

Important issue of collective bargaining is employee participation. The employee/trade union participation rights in collective agreements used to be extended over the above-mentioned Labour Code standards. For instance, trade union representatives do participate in decision-making on issues like: application of women night work, setting the company holiday date and dismissal of a trade union official. Trade unions are also provided with information on labour costs and wage development, organisational changes and new and terminated employment contracts.

The employee participation is generally ensured for all employees of the organisation but previously only the trade union organisation was entitled to represent employees. This unfavourable situation in employee participation and in social dialogue in enterprises was changed in 2002. From 1 April 2002, the new labour legislation provides for election of Works Councils in all enterprises and organisations with more than 50 employees. Works councils are legitimate representatives of the staff in the social dialogue with the management. Works councils have rights to information, consultations and control, but have no rights for collective bargaining and joint decision-making.

As far as employer and trade union organisations concerns they do not participate in any national-level collective bargaining. Representatives of the government take part in multi-employer collective bargaining held in the public sector.

No collective bargaining takes place on regional level because employers as well as trade unions do not have bargaining structures there. Employers and trade unions, however, suppose the importance of regional tripartite social dialogue will increase in the future.

Peak employer and trade union organisations members usually do not participate in company collective bargaining because their member organisations are independent subjects having enough competency and capacity for independent collective bargaining at the local level. The management of companies participates in company collective bargaining. Employees are represented by local trade union organisations in company collective bargaining. Act No. 83/1990 on the right of citizens to associate, as amended, regulates the establishment of trade union organisations. As a rule, necessary

precondition for setting up a local trade union organisation in company is the minimum number of workers (at least three employees) and an election (of the chair respectively the committee) has to be organised in the company. Several trade union organisations occur in the same company very seldom. Employee representation only by a shop steward is exceptional. Shop stewards do exist in bigger enterprises with more organisational units where local trade union organisation operates. Currently approximately 30-35% of employees are covered by collective agreements.

Company collective agreements are common in Slovakia, however, their occurrence may differ according to the size of the company as well as across the sectors.

According to the existing legislation, company collective bargaining should take into account the provisions of respective multi-employer collective agreement (if there is any) signed usually for 2-3 years. Wage agreements used to be attached to those agreements usually annually. If the company collective agreement breaches provisions of the multi-employer collective agreement it is considered invalid.

### **2.3 Extension of collective agreements**

Multi-employer collective agreements may be extended to non-signatories in the same sector or branch by the extension procedure managed by the MPSVR SR. The extension of multi-employer collective agreement is usually done upon request of the relevant trade union or employer organisation. Proposal on the extension may be submitted to the MPSVR SR not later than 6 months before the agreement expires. The "Committee for the extension of multi-employer collective agreements" (hereinafter Committee) makes recommendation and the MPSVR SR takes the decision on the extension. The Committee is established at the MPSVR SR and its members are nominated by the MPSVR SR on a basis of a proposal of social partners (AZZZ SR, RÚZ SR and KOZ SR). There were several changes in the extension procedure, during last ten years.

Initially, the collective agreement could be extended to employers pursuing similar subject of business activities under similar economic and social conditions as employers, which have already concluded these collective agreements. The aim of the extension was to abolish the disadvantage position of employees at those employers, which are not associated in related association of employers and the existing collective agreement is not applied to them.

Recent rules applied for the extension of multi-employer collective agreements have been strongly criticised by employers and changes were adopted. According to changes adopted in 2005, an extension of collective agreement required the consent of the employer concerned. In most cases, employers did not agree with the extension and, the number of extended collective agreements was very small, e.g. only four collective agreements were extended during 2005-6.

According to the next amendments to Act No. 328/2007 on collective bargaining, the rules for the extension of multi-employer collective agreements were changed again. Each multi-employer collective agreement is marked with a NACE code and, it will be possible to extend it to those employers whose prevailing activity falls within respective classification of the sector. However, there are some exemptions whereby the extension cannot be applied, e.g. on an employer which is already covered by another sectoral collective agreement and on small enterprises with less than 20 employees. The employer concerned can express its standpoint to proposed extension but it can not block the extension. The MPSVR SR decides upon the extension but the proposal on extension is reviewed by a tripartite working group established by the MPSVR SR for this purpose. Also representatives of employers and trade unions are members of the working group.

According to some employer representatives, multi-employer collective agreements reduce the flexibility of company level collective bargaining on employment conditions



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and wages. Employers have criticised the extension of multi-employer collective agreements without consent of employers concerned. A multi-employer collective agreement can be imposed on employer, which does not agree with its provisions. In 2009, a refined extension mechanism was implemented by amendments to the above-mentioned law. The extension can be applied, upon the recommendation of the assessment Committee, to all employers operating in the same branch according to the NACE.

### 3. Settlement of collective labour disputes

An important area related to collective bargaining in Slovakia is the settlement of collective labour conflicts between the trade unions and management in companies. The Collective Bargaining Act, No. 2/1991, as amended, defines how collective disputes can arise and provides for procedures to be followed in case of *mediation and arbitration*. Collective labour dispute may concern the conclusion of collective agreement or fulfilment of commitments originated from concluded collective agreements.

#### 3.1 Mediation and arbitration procedure

A proposal for a mediator to be appointed for dispute concerning the conclusion of collective agreement may not be submitted before elapse of at least 60 days from submission of the written proposal to conclude a new collective agreement and opening the negotiations. Mediation takes place only if the parties desire it, and is aimed at bringing the two parties in a collective dispute to an agreement. Any adult citizen, or a legal entity, may act as mediator if is willing to do so, and is in the list of mediators maintained by the MPSVR SR (similar list is available for arbitrators). If the parties fail to agree on a mediator, either party may apply to the MPSVR SR to appoint the mediator from the list. Parties in dispute are equally responsible for covering the cost of the mediator. The mediator will propose, in writing, a solution of the dispute within 15 days from the date of familiarisation with the subject and its details. Mediation is deemed to have failed unless the dispute is settled within 30 days of hearing the details. The parties may agree on a longer period at each stage.

If the mediation has failed, the parties may agree on referring the dispute to arbitration. The MPSVR SR, at the request of any of the contractual parties, may appoint an arbitrator, if the dispute concerns the interpretation of existing collective agreement, or in cases of concluding the collective agreement in companies where strike action is forbidden due to the nature of the profession or work, e.g. in some specialised civil and public services.

Arbitrator may only be appointed by the MPSVR SR from the list, and cannot be the same person as the mediator. The arbitrator's ruling shall be delivered within 15 days since the appointment, and the costs of arbitration are borne by the MPSVR SR.

Specialised labour courts do not exist in Slovakia and therefore, either party may appeal to the civil court against the arbitrator's ruling within 15 days since the decision has been delivered, otherwise, the ruling is legally binding.

In case the arbitrator's ruling is endorsed as invalid, the same arbitrator shall deal with the case again. In case this is not possible, the MPSVR SR shall appoint another arbitrator. Table 2 provides some information about the settlement of collective disputes through mediation in Slovakia.

Table 2 Mediation and settlement of collective labour disputes

Years	1995	1996	1997	1998	1999	2000	2001
Number of cases	22	25	29	46	31	29	27
Settled	10	14	22	29	21	23	16

Source: Report on the social situation of the population of the Slovak Republic in 2001. The Ministry of Labour, Social Affairs and Family of the SR, Bratislava.

The figures indicate that the effectiveness of the conciliation and mediation processes has increased. Apart from 16 successfully settled disputes, there were three additional registered disputes successfully concluded without intervention of a mediator in 2001.

The majority of disputes concerned the conclusion of collective agreements and only few of them had dealt with a breach of duties agreed in concluded collective agreements.

### 3.2 Strikes and lock-outs

A dispute regarding rights arisen from existing agreements and a dispute of interests, or a claim to a new collective agreement must, as mentioned above, pass through mediation and when necessary also through arbitration proceedings. A strike is expressly referred to in the law as an extreme measure and it is to be held when in the process of a dispute on conclusion of a collective agreement all other options and measures have been exhausted.

The Collective Bargaining Act regulates the strike action. Strike is defined as a partial or complete interruption of work by employees. The law implies a peace clause into collective agreements, i.e. both parties concerned are obliged to keep the social peace after concluding the collective agreement. Strikes can also be organised in solidarity with employees of other enterprise or organisation - such strike shall provide support for employees on strike in a dispute on conclusion of their collective agreement. Strike notice has to be sent in writing at least three working days prior to its commencement. The notice must specify the start date, the goals of the strike, and the names of the trade union representatives leading the strikers.

According to the Act No.209/2001 (amended the Act No. 2/1991) valid from 1 January 2002, the trade union organisation declaring the strike is not anymore obliged to submit a name list of employees participating in the strike. At the same time, the respective trade union organisation should take the decision on the strike at enterprise, sector or branch level upon the results of secret voting where majority of votes is needed. The voting is valid only on condition that the majority of all employees concerned by the strike are participating in the decision-making meeting.

A strike may be considered as illegal if it:

- *is not preceded by a formal claim for a collective agreement and an attempt at mediation (apart from solidarity strikes),*
- *takes place during the validity period of the collective agreement on the issue, or once the arbitration process has started,*
- *is organised in breach of the notification requirements.*

Strikes are banned at times of emergency or disaster and in certain occupations - e.g. employees in nuclear facilities or those with crude oil or pipelines, and in health care facilities where action might endanger life or health (e.g. fire-fighters, soldiers, etc.). Details concerning public employees' right to strike are specified by acts on civil and public services. Trade union representatives must allow access to and departure from the workplace, for those employees which wish to work. They may not threaten them with any detriment, but may discuss with them the aim of interruption of work. Employees may not be forced to participate in the strike, nor prevented from doing so. The trade union must collaborate with the employer to prevent harm to the equipments and technology. The absence at work due to participation in legal strike is considered as an authorised absence. Individual employees are not liable for any loss caused simply by the interruption of work due to strike action. However, the trade union may be liable for damages sustained as a result of a strike which was declared by the court as illegal.

The employers may go to the relevant regional court in case to seek a ruling that the strike is illegal. Participation in a strike, which has been adjudicated as illegal and the court's decision has taken legal effect, is treated as unauthorised absence. The employer is not allowed to replace employees on strike by recruiting other employees. There is no right to pay or to unemployment benefit and sickness pay for strikers in case the

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entitlement for sickness pay was obtained just during the strike period. Employees wishing to work, but unable to do so due to the strike, are entitled to their normal pay.

The law on collective bargaining allows the employer to lockout the business unit as an extreme measure during the process of the collective bargaining - procedural conditions to do so are similar to those, which apply to the trade union when deciding on launching the strike. Thus the employer is bound to give three days notice, and it may be illegal for the same reasons as noted at the strike. Employees affected by a legal lockout are entitled to 50% of their wage rate.

The majority of collective disputes in Slovakia were related to the conclusion of a collective agreement. Almost all cases of collective disputes were successfully settled.

In some cases, the contracting party, which had requested for a mediator, after a consultation with the MPSVR SR, decided to resolve the dispute and concluded an agreement with its counter partner without the use of a mediator. In other cases the mediators resolved the disputes on the grounds of an agreement, which the contracting parties had preliminarily reached among themselves informally.

The small number of collective disputes, which had not been resolved by a mediator, was resolved by an arbitrator. There were only few cases, when neither mediator nor arbitrator resolved the collective dispute and the trade unions proclaimed a strike alert. Even they were settled on the grounds of a mutual agreement involved parties. Collective disputes did not lead to any radical social actions, e.g. strikes or lockouts due to lack of agreement of employers with trade unions, so far.

Nonetheless, it has to be mentioned that there were only few genuine strikes in Slovakia organised by trade unions during the last seven years. They were, however, neither strike in a dispute over conclusion of a collective agreement nor strike in a dispute regarding the fulfilment of duties agreed in concluded collective agreement. Therefore, those strikes did not have legal ground according to the act on collective bargaining. More than three days strike of railway workers in 2003 and six days strike of air traffic controllers and 2007 can be mentioned as the most significant genuine strikes in Slovakia, so far.

#### ***4. Recommendations based on experiences with social dialogue in Slovakia***

In order to assist employers in development of social dialogue in Macedonia, following recommendations are proposed:

##### **1. Build appropriate capacities for the social dialogue**

Basic precondition for an effective social dialogue is the existence of appropriate capacities of social partners - organisational, personal and financial ones. Employer and trade union organisations in Slovakia were step-by step developed from 1990. They are well organised at the national as well as sectoral and company levels. Employers (AZZZ SR) and trade unions (KOZ SR) had only one central organisation from 1995 to 2004 when AZZZ SR split and the RÚZ SR was established as the second peak organisation of employers. Social partners' peak organisations are rather centralised that allow them to concentrate their available capacities on key issues and also provides them higher action power. Current capacities of peak organisations of employers and trade unions in Slovakia shows that the "bottom-up" model of organisational structures, on what these organisations are based, represents implementation of principles of democracy and secures their independency of the state. The "top-down" model, which is used for co-ordination of member organisations and information dissemination, belongs to the strengths of the current organisational capacities of peak trade union and employer organisations. The lack of regional structures is a weakness of their organisational capacities at present.

Coessential precondition for an effective social dialogue are also appropriate personal capacities and financial resources. The "bottom-up" model, which is applied to the allocation of financial resources for social partners' peak organisations, is considered as rather rigid one. It does not allow flexible funding of these organisations in order to react effectively to the new demands and challenges. Personnel capacities, which are related to financial resources of social partners' organisations, are important, too. Several organisations of social partners have well-established offices. However, their personnel capacity (total number of staff) compared with their membership differ quite a lot. The lack of financial resources seems to be a common problem, which limits personnel capacities of all social partners' offices. Insufficient number of professional experts is, to some extent, a factor, which limits their activities for a more effective participation, e.g. in EU-level social dialogue.

##### **2. Implement the tripartite social dialogue**

AZZZ SR, RÚZ SR and KOZ SR have been participating in national-level tripartite social dialogue (RHSD, RHSP and HSR) since their establishment. Tripartite concertation played particularly important role in implementation of radical changes in the economy as well as in the social sphere during radical transformation process in 90s. The government consulted crucial laws and political decisions concerning sensitive economic and social issues with the social partners. In general they concerned implementation of changes in economic and social policy.

In order to assist this process, General Agreements (a kind of social pacts) were concluded for 1990- 1996 and for 2000. For instance following issues were included in these General Agreements:

- employment policy and implementation of active labour market policy,
- combating unemployment and provision of unemployment benefits,
- keeping real wages and increase of minimum wage,
- implementation of the Social Fund in enterprises.

It allowed representatives of employers to participate effectively in development of suitable business environment in Slovakia. At the same time, it allowed trade unions to protect effectively employees' rights, e.g. via labour legislation.

In 2009, tripartite consultations played important role in adoption of measures proposed by the government in order to alleviate the impacts of the economic crisis on the economy and social situation of Slovak population. For instance, there were consulted special measures proposed in order to maintain employment in companies during the economic downturn, as far as possible. Tripartite social dialogue played important role also in implementation of Euro in Slovakia since 1 January 2009. For instance, *Declaration on Consensus Regarding the Implementation of Euro in the Slovak Republic* was signed by the Prime Minister of the Slovak Government, presidents of RUZ SR and AZZZ SR, KOZ SR and the chairman of Association of Municipalities (Združenie miest a obcí Slovenska, ZMOS) in January 2008.

In some sectors and branches, effective sectoral tripartite social dialogue exists. For instance, transport, post offices and telecommunication sectors can be mentioned as good examples.

### **3. Establish multilevel collective bargaining system**

Trade union and employer associations in Slovakia participate in well-developed and relatively wide-spread sectoral collective bargaining on conclusion of multi-employer collective agreements. Multi-employer collective agreements set a framework for implementation of comparable wages and working conditions and supports competitiveness in the sectors and branches.

Local trade unions bargain successfully for the conclusion of company collective agreements. Company collective agreements usually improve the provisions of multi-employer agreements (where they exist) in favour of the employees.

At both negotiations levels, collective bargaining plays important role in wage increase in the country as well as in the improvement of employment and working conditions in Slovakia. Company collective bargaining often plays important role in regulation of dismissals in enterprises. It assisted the company management (together with existing labour legislation) to realise series of dismissals, including mass dismissals, in enterprises where significant restructurings took place. These redundancies were realised without any serious collective labour disputes and radical social actions organised by trade unions, e.g. strikes. It can be stated that, tripartite as well as bipartite social dialogue assisted effectively in keeping the social peace in Slovakia during last twenty years.

### **4. Develop tools for resolving collective labour disputes**

In relation to the collective bargaining it is important to have effective conciliation system for settlement of collective labour disputes between the trade unions and management in companies, if necessary. In Slovakia, the Collective Bargaining Act, No. 2/1991, as amended, defines also how collective disputes can arise and provides for procedures to be settled as soon as possible. These procedures concern the conclusion of collective agreement or fulfilment of commitments originated from concluded collective agreements. In case of collective labour dispute mediation and arbitration can be used for its settlement. Slovak experiences show, that these procedures can be used very effectively and almost all collective disputes were resolved through mediation and arbitration procedures. Also mediation and arbitration contributed to zero strikes and lock-outs, which were related to collective bargaining. Low strike activities improve the business conditions in the country and increase its competitiveness. Remember that effective

collective labour dispute settlement requires sufficient personal capacities, i.e. mediators and arbitrators, too.

## **5. Participate in the social dialogue at the EU level**

Social partners' organisations in Slovakia also represent employees and employers in social dialogue at the EU level. For instance, social dialogue played significant role in the accession of the Slovak Republic to the European Union, in 2004. Social dialogue at the EU level, takes place at central level as well as at sectoral levels. Peak trade union and employer organisations (KOZ SR, AZZZ SR and RÚZ SR) are affiliated to EU level peak employer and trade union organisations. For instance, RÚZ SR to the BUSINESS EUROPE, which represents and associates peak employer organisations and KOZ SR to ETUC, which represents peak trade union organisations in the EU Member States. Similar trade union and employer organisations exist in the EU for social dialogue at sectoral and branch levels. More detail information about social partners is available, e.g. at the web <http://ec.europa.eu/social/main.jsp?catId=480&langId=sk>

Participation of Slovak peak and sectoral trade union and employer organisations in social dialogue in the EU allows them to have an active voice in forming business environment for employers and working conditions of employees in the EU as well as in the Slovak Republic. Slovak experiences show that it would not be possible without an effective social dialogue at different levels.

Annex

**Social dialogue framework in Slovakia**

