

COMMUNICATION AND FUNCTIONING OF THE TRIPARTIES SOCIAL DIALOGUE THROUGH THE ECONOMIC SOCIAL COUNCIL IN THE REPUBLIC OF MACEDONIA IN THE PERIOD OF 1997- 2012 YEAR

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Abstract

In this Paper we will try to analyze the communication and functioning of tripartities social dialogue, or Economic Social Council in Republic of Macedonia in the period of 1997 – 2012 from practical aspect. Also, we would like to research the effects, functions and meaning of the tripartities social dialogue between Government, Trade Union and Association of Employer as a very important assumption for building of a social harmony and industrial peace in every democratic society.

In this context, we will try to analyze the impact of internal and external factors of the effective functioning of the tripartities social dialogue, or Economic Social Council.

The basic assumption from which we started in our researching was that the Economic Social Council can contribute for social dialogue in Republic of Macedonia only if he produced according attitudes of the social partners in the process of the making decision of Laws from economic-social spheres.

As relevant assumptions which will be analyzed are: national legal framework, representation of the social partners, capacity of bargaining, organization and technical condition.

As external assumption we will analyze only ideology of the government (left or right ideology of the Government).

Key words: *Tripartism, Economic social council, Collective Bargaining, communication, social dialogue, social peace,*

Methodological approach to research

It is about empirical research that used the following technical methodological tools and data sources: content analysis of selected documents (the protocols of Council), interview with members of the Economic and Social Council, scholars (experts) and representatives of other interested parties affected by the work of the Council.

Designing the sample: sample survey is structured by representatives of the Council (current and former), independent experts and representatives of other interested parties. 20 people were interviewed including 12 members of the Council (6 current and 6 former), and the

remaining 8 people were representatives of interested parties (3 of unrepresentative unions, two of unrepresentative employers' organizations and three independent experts).

Tripartism: concept and nature

The Concept of tripartite. The term tripartite is a relatively new term and is used in industrial relations and represents one of the fundamental principles that underpin these relationships. Also tripartism has a communicative dimension, because it expressed the communication of the three social partners, which by rule should be balanced and on an equal basis. Tripartism is one of the most important international labor standards. This term can be interpreted as a three-sided structure that seeks to articulate the interests of three different social spheres with different socio-economic and social interests. The term denotes a general idea of tripartite institutional form that is structured by representatives of three separate entities: government, trade unions and associations of employers which through effective consulting, exchange of information and arguments and reaching a compromise implement-achieve social harmony in society.

A new kind of tripartism appeared recently and has been developing recently in the European Union, known as tripartite plus social dialogue,¹ which means involvement of other organizations and institutions. This kind of social dialogue can be met under the name "comprehensive social dialogue".² This means that besides the three traditional

social partners (government, unions and employers) for specific issues specific interest organizations are involved (eg, youth, disability, retirement organizations, women's, environmental, occupational safety, professional associations).

Tripartism concept has its roots in the compound consisting of three words, and the Latin word *pars*, *partis* which means part. Both words synthesized and translated denote structure composed of parts. In the famous Lexicon of foreign words and expressions M. Vujaklija, the word tripartism has Latin roots (*tripartitus*) and is defined as "three sided" or "division into three parts".³ This term in Macedonian has completely identical significance as in other languages.

From the above, the notion of tripartism represents a model of three-sided communication, social partnership and tripartite social dialogue to achieve social harmony, social peace and preemptively resolve social conflicts. Tripartism is the principle which develops and utilizes a philosophy of mutual communication, trust, tolerance and compromise.

Nature of tripartism. Defining the term tripartism makes it easier to get to the essence of this institutional form. Tripartism is one of international labor standards and fundamental institutional framework of industrial relations. Also tripartism as an institutional framework plays a very important role in establishing effective tripartite communication og the social partners in economic and social spheres and in that respect this institution has great importance in building mutual trust. The essence of tripartism is to

¹<http://www.ilo.org/public/english/dialogue/ifpdial/sd/index.htm>

² D-r. Dragan Bagic, *Industrijski odnosi u Hrvatskoj/Društvena integracija ili tržišni sukob*, TIM pres, Zagreb, 2010, str. 204.

³ M. Vujaklija, *Recnik stranih izraza*, Prosveta, Beograd, 1980, str. 932.

establish institutional tripartite social dialogue and communication of social partners by exchanging information, consulting, articulating, aligning interests, views and relations between the state, trade unions and employers in the economic and social sphere, for better identifying the problems and to eliminate social conflicts. So, the essence of tripartism is the establishment of a tripartite institutional communication, social dialogue, building mutual trust, negotiation and reaching a compromise to reduce social conflicts and achieving social consensus and industrial (social) peace in society. Social harmony, or the social peace is the foundation on which rest industrial relations, because without social (industrial peace) there is no social economic progress. Without social (industrial) peace there are no political stability and prospects of the country. The compromise, reconciling the relationship of social partners and achieving compromise is the essence of industrial relations.

Institutional development of tripartism

Tripartism as a model for the establishment of a three-sided communication, partnership, cooperative, articulating and harmonization of various social interests has its own historical background and development. The historical development of tripartism is actually connected to the institutional development. This process we can see through the development of tripartite bodies and institutions, which first appeared in 1919 at international level (ILO), then in France in 1925, and after the Second World War tripartism entered in the UN, EEC or EU represented by European Social Committee

(ESC), and then at the level of a number of countries in the world.

The International Labour Organization (*ILO-International Labour Organization*) is considered the first institutional form and start of the birth of tripartism globally. It was created in 1919 in Paris, immediately after the First World War. The structure is characterized by the ILO tripartism, i.e. in the composition of the Conference of the ILO enter the following bodies: representatives of governments (Member States), representatives of workers (national union centers) and representatives of employers (national associations of employers).⁴

In 1925 a similar tripartite body was established in France under the name of the Economic and Social Council, functioning as an advisory-consultative body on issues of economic and social sphere.

In 1945, with the establishment of the United Nations, the International Labour Organization (ILO) became the specialized organization of the United Nations. Within the UN, the Economic and Social Council operates as a subsidiary body of the General Assembly in the creation and implementation of global and regional policies of the UN and ILO.

Within the European Economic Community in 1958 the Economic and Social Committee with was formed with the purpose to articulate common interests of the economic and social civil society.⁵ This body has a supranational character and is

⁴ Xuzepe Kasale, *Tripartism and social dialogue*, MOT, Budapest, 1997, p. 3.

⁵ Ingo Linzenman, *Europe From A to Z Handbook of European integration*, Foundation Konrad Adenauer and Sector for European Integration, Skopje, 2003, str. 189, Text of Ingo Lindzeman.

composed of three different interest groups from various EU member states such as: employers, workers and other interests including consumer associations, trade unions, and farmers' associations, which usually provide thirds of parity. By 2000 it had 222 representatives from the social economy and civil society, and now is extended to 350 representatives⁶.

This kind of tripartite consultative bodies, or the Economic and Social Councils in the countries of Central and Eastern Europe have formed relatively late, especially in the late 80's and early 90's of the last century when these countries began to implement deep political and economic reforms. For example in 1988 in Hungary, Prime Minister Nemeth established tripartite National Council for Reconciliation. In 1990 Czechoslovakia the Council for Economic and Social perception was formed. That same year (1990) the Economic and Social Councils in the Czech Republic and Slovakia were form. In Bulgaria in 1990, a National Commission for coordination of interests was formed. In 1992 in Poland was formed the state pact of enterprises, while in Romania the Economic and Social Council was set up, initially only by the union and employers, and in 1993 the government became involved. In Croatia and Montenegro such a body was established at the end of 1996 and in Serbia **ESS** was established only in 2004.

Developmental stages of the Economic and Social Council in Macedonia

The development and functioning of the Economic and Social Council of the Republic of Macedonia can be split into two periods. The first period (1997-2005) is

associated with a majority system of representation, while the second (2006 to date-2013) is connected to a representative model of representation of trade union and employers' associations. Each of these periods is known for certain characteristics and features that will be given below.

The first period (1997-2005) can be divided in two phases. The first phase runs from 1997 to 2002 and the second from 2003 to 2005. The first phase is the period of formation, development, learning and creating basic prerequisites for the establishment of tripartite social dialogue in the country.

It is time of the majority system of industrial relations, in which only the majority union (PIC) had the right to participate in the structure of the ESS. On the side of employers in ESS the Economic Chamber of Macedonia (ECM) participated, which was then against the modern practice of industrial relations in Europe and the world.

The first part of the ESS included 11 members: 3 representatives of CCM, 3 representatives from the Chamber of Commerce of Macedonia 3 representative of the Government and two independent experts (university professors).

In this period, there are very few written documents (traces), notes for the operation of the institution. The data that came up in our research were generally received by memories of the then-players and officials of the social partners. However, we found that the ESS in the first phase of this period held only two sessions: the first was constitutive, and the second to discuss the method and content of the work of ESS.

⁶ Article 2 (40) and (42) of the Nica Agreement.

The second phase (January 2003 - June 2005) was a period of revival and consolidation of the work of the ESC. The second composition included 9 members i.e. 3 members of the union (SSM), 3 members of the Association of Employers (ORM) and 3 members of the Government.

In the second stage the activities of ESC were more dynamic, meetings were held more frequently, where SSM was the main initiator.

Driving force of the ESC was the union itself, which at that time had more enthusiastic approach to work. In both phases of the period ESS held a total of 27 sessions.

The period from 2005 to 2007 was a passive period for ESS.

The second period (2008-2013) of the functioning of the Council may be divided in two stark opposite phases. The first phase runs from February 2008 to August 2010 and the second from September 2010 until today (December 2013). Since March 2008 to August 2010 ESS did not work due to two reasons: first because of the early parliamentary elections in June 2008 and second one because of the initiated action on amendments to the Labour Law. In 2009, the Parliament adopted the amendments to the Labor Code (Official Gazette 130/09), which introduced the Commission to establish the representativeness (regulatory body) and new criteria for representative status of trade unions and employers' associations.

During the first phase basic legal assumptions was made for normal functioning of the Council, followed by the procedure for determining the representativeness of trade unions and

employers' associations. After completing the procedure for representation a new composition of the ESC was constituted.

During the period from September 2010 to October 2013, the Council for a relatively short time held 18 meetings that reviewed over 20 laws.

What can we conclude? From the analysis of the transcripts of meetings held at the Council (2010-2013) we can conclude that all issues nominated by the trade unions, were placed on the agenda of meetings of the Council. This shows that the union had effective communication with the other social partners, sufficient authority, knowledge, skills, political power and negotiating capacity appropriate to impose such a relevant subject in terms of initiatives for convening meetings and propose agenda items. The trade unions (SSM and KSS) jointly proposed 12 agenda items that were accepted.

Also, the Organization of Employers of Macedonia (ORM) initiated two initiatives to convene meetings at the Council with proposed agenda items which were accepted. From our research we can conclude that the union was more active in initiating meetings and agenda items in respect to Employers.

Following the procedure for determining the representation of a union representative status at the territory of the Republic of Macedonia was only gained by the Federation of Trade Unions of Macedonia (SSM) and the Confederation of Free Trade Unions (KSS), while from the employers' associations representative status gained only the Organisation of Employers of Macedonia (ORM). The new Council was formed in September 2010 and under the

new revised Agreement on Establishing the ESS it was agreed that it can have 12 members.

Legal framework of tripartism in RM

Tripartism in Macedonia is implemented in several national labor laws in line with the basic principles of international law. So far, the legal framework comes down to the following legal acts: the Constitution of the Republic of Macedonia (1991) Agreement on the establishment of the Economic and Social Council (1996) Labour Law (2005), the Law on Peaceful Resolution of Labour Disputes (2007) and the Law on safety and Health at Work (2007). Analysing the provisions of aforementioned acts we can conclude that: the legal framework for tripartism is relatively favorable because it creates basic legal conditions for the development of tripartism, ie operation of the ESC. Our conclusion is confirmed by the responses of respondents. The majority of responses received positive responses (15) that the legal framework is good.

Negotiating capacity of actors

Very important prerequisites for successful communication and functioning of the ESS is negotiating capacity of the social partners. For the needs of our research, under negotiation capacity we mean knowledge, competence, ability of the actors to communicate, to express their interests and align them with other social partners, ie constructive arguments and attitudes to participate in the debate and ultimately achieve mutually acceptable solution to the three parties (compromise). Representatives of the Government in all compositions of

ESS were competent, had professional potential, ready for debate with arguments. The union compensated its negotiating inferiority by bringing a number of initiatives and proposals to the laws of economic and social sphere. Employers were less initiative than union, but the reforms pursued by the governments were favorable to them. These assumptions of ours were confirmed by the largest number of respondents. In fact, all respondents (20) said that the greatest bargaining power lied with the government, 10 employers, while 5 respondents replied positively about the union, and 15 respondents provided negative answers, i.e. the union had no negotiating adequate capacity. Negotiating capacity in terms of the ability of social partners to harmonize conflicting views on certain controversial issues all 20 respondents answered that they can be solved by **consensus**.

Analysis of the adopted laws in the period 2003-2013

To determine the extent of the practical operation of the ESS the Republic of Macedonia the first basic assumption is to see if all laws of economic and social spheres were placed in the sessions of the Council, otherwise our analysis of successful operation and impact factors of the Council would not make sense. Also, in our study we analyzed the laws adopted of Parliament relevant to the union and ESS between 2003-2008 and 2010-2013 year.

In the period from 2003 to 2008 ESS Macedonia reviewed the 32 laws of economic and social areas that are important

for union employees with Parliament having discussed and enacted Law 31.

In the period from 2010 to 2013 Council reviewed a total of 22 laws of economic and social sphere, of which the Assembly adopted the 20 laws.

From this we can conclude that from formal legal and procedural aspects, the government as an actor with the greatest power did not ignore the Council in the formulation and adoption of policies and laws of socio-economic sphere.

All laws that were important for the union and the workers were placed on the agenda in the meetings of the Council. In this way, the social partners were given a chance to express their views on certain legal projects. RM Parliament discussed the proposed legislation that previously were discussed by the council, however further research is needed on how many of the harmonized positions on certain laws are embedded in the legislation.

Independent experts

The participation of independent experts in the work of the Council, is also one of the assumptions of balanced communication and successful functioning of the Council, because we believe that their presence at the meetings of the Council and their neutrality will make it a lot easier to run internal communication and much easier to harmonize conflicting views and interests of social partners. In the first composition of the Council which paved the way for formal communication of social partners, independent experts attended (university

professors) almost no meeting. This shows that the first part of the Council functioned without the participation of experts.

Their participation in the Council could provide high qualified institutional authority and legitimacy of the views and decisions of the Council, insofar as their interpretations and views by their expert power can be a determining factor for harmonization and convergence of the conflicting positions of the social partners. Independent experts are actually a key factor in building trust and communication intensification of various social interest groups in society. The question" Does the involvement of independent experts in the Council can influence the level of communication and social distribution of power of actors and provide easier coordination of social partners"? All 20 respondents answered positively, and in as many answers pervaded the attitudes that the competence of experts will provide professional legitimacy of an opinion, and they can also improve communication between the parties in the Council building trust and communication culture.

Harmonization and implementation of adopted attitudes

To conclude how the ESS in practical terms is effective the very important issue that needs an answer is what happens to the previously agreed positions, i.e. to what extent they are accepted and incorporated in the legislation of the state. We previously mentioned that ESS makes decisions by consensus, which decisions shall be forwarded for further review to the competent authorities and institutions (government and parliament). Although this

issue was not the subject of our interest, however from the views expressed by interviewees we can conclude two things: first, harmonized positions were to a lesser extent accepted by the Government and the Parliament, and second members of the Council did not receive feedback about the fate of views, although the Agreement and the Rules stated that the Government and Parliament must consider the proposals of the Council and appropriately provide them with feedback. At the same time from the reports we conclude that none of the members of the ESC has requested feedback on the fate of proposals to the Council. Also, interviews had unanimous conclusions that it was necessary. In general, the Union has done it in an informal way, but never formally asked for feedback from the Government and Parliament.

About the question, do you know what is the attitude of the Government and the Parliament in relation to the agreed views? How they are accepted or incorporated in the legislation of the Republic of Macedonia? Did Council received feedback from the government and Parliament on the conclusions? respondents said that the Government and the Parliament accepted very few of the harmonized positions of the social partners. From this it can be concluded that the effects of the operation of the ESC would partial. To this representative government responded,, When I was Minister all agreed position of the Council were accepted by the Government, and then easily passed the Assembly. In my time 100% of the views of the Council were accepted, and Parliament did not have problems but the opposition, which is normal,, Regardless of the views in an interview with the representative of the

Government most of the interviewees pointed out that the effect of the functioning of the ESS was modest. Also, 12 respondents answered that Council did not received any feedback from government and Parliament for the accepted views. Also, the statement should be pointed out of a representative of the government, who said,, Council was not informed feedback, but none of the partners were prevented to read the laws in the official newspaper on their own accord and to inform themselves”.

External factors: Functioning of the Council in terms of ideological affiliation of Government

The only outside prerequisite for effective communication and functioning of the Council was the ideological affiliation of the government.

To determine what the practice of communicating and functioning of the Council is in the country in terms of ideological affiliation of government besides interview we also made use of analysis of important economic laws in the social sphere, while using voting record of actual government, covering a period of analysis when the left and the right were in power (1997-2012).

The period prior to 1996 was not analyzed, as then it was not established ESC. Specific written documents (transcripts) of professional services for the functioning of the Council can be found of January 2003 when official records are kept and other written notes on the activity of the Council, hindering in a certain way the research of the phenomenon in terms of ideological affiliation of government. This research gap is bridged by the analysis of laws in the

economic and social sphere (the actual voting record of government).

Left wing governments as a rule represent the widest social strata from independence until today, we had three coalition governments led by the Left: 1992-1994, 1994-1998 and 2002-2006. Since the Council was formed in late 1996, we will analyze the period from 1997 to 2012 year. In this context, we will use the so-called voting record of government of the left in the period when it was in power. All the Left coalition governments proposed and the Assembly accepted several amendments to the laws that were of interest to the union. Amendments to the laws generally went in the direction of reducing the rights of employees such as: giving greater freedom of employers to lay off employees, reducing severance payment based on declaring redundancy, reducing the amount of compensation for transportation, food and vacation, declaring redundancy without criteria, reducing the base for redundancy reduction of benefits for retirement, increasing the retirement age, etc..

Right wing governments are essentially conservative and represent the interests of medium and big capital and strive for minimal state intervention in the economic sphere. In Macedonia several coalition governments formed by the right in the periods: 1998-2002, 2006-2008, 2008-2010, 2010-2013. Also, the right-wing coalition government made several amendments to the laws of social economic sphere. A significant part of the amendments to the law have reduced workers' rights, such as: abolition of the right to compensation of persons who lost their jobs due to bankruptcy, liquidation and redundancy to retirement, the abolition of the ability to exercise the right of retirement based solely

on realized service (Pension Act), the abolition of a day of celebration Labour Day (Law on holidays), reducing the guaranteed legal holiday (labor Law, 2008), reducing the base for calculation of severance package(Labour Law, 2008), enabling by defining of working hours, employees perform any tasks, not just those of relevance to his job.

This analysis suggests that the restrictive policy in terms of social rights is typical of governments of the left and the right. This was confirmed by the opinions of most of our interlocutors. *The question "If the ideological affiliation of the government (left-right) affects communication and effective functioning of the Council, i.e. the process of harmonization of the positions of the social partners"? left when the left were in power was the communication easier, aligned and accepted the proposals and initiatives of trade unions and employers or is it just when the right is in power?...* 6 respondents answered positively, while 14 respondents answered negatively. *Moreover, it is worth mentioning that all 14 respondents gave a negative answer and an additional comment that "the right had a greater understanding of the needs and demands of unions and workers than the left".* The results of the interview indicate that regardless of ideology of government the adopted laws were quite restrictive regarding the rights of workers employed. Both the left and right did not fully understand the views and demands of the union in terms of the laws of economic and social sphere, ie behaved almost identically. However, the union had easier communication with the left in the period to 2006.

Conclusions

1. The existing legal framework in Macedonia meets the general criteria for the operation of tripartite bodies, hence the ESS
2. The greatest bargaining power of the social partners in the period from 2003 to 2013 had continuously the Government, while the union had little bargaining power.
3. Despite the difference in bargaining power, decisions were reached in the ESS consensus
4. The biggest initiative in the work of the ESS showed the union
5. Ideology of the government did not influence much on the process of aligning the views of social partners in the ESS, i.e. there were situations when the left did not embrace the views of the trade union in respect of certain laws, but there was a reverse situation where the right had a greater understanding of the demands of the union in the legislative process

References

- Agreement for establishing of Economic Social Council in RM, Skopje, 25.08.2010;
- Andon Majhosev, The Role of Social Partners in the process of

the Collective Bargaining Republic of Macedonia in the period (1990-2012)

- Andon Majhosev, Trade Union in Political Process, NUB "Goce Delchev" Stip, 2007;
- Casale Guiseppe, Social Dialogue in Central and Eastern Europe, ILO, Budapaest, 1999
- Casale Guiseppe, Tripartism and Social Dialogue, ILO, Budapest, 1997;
- European Social Charter, Council of Europe (1961);
- European Charter of Fundamental Social Rights of Workers, the Council of Europe, 1989;
- International Covenant on Economic, Social and Cultural Rights, UN (1966);
- International Covenant No. 144 for triparties consultation and promoting of international labour standards, ILO, 1976;
- Lidija Hristova, Tripartism in the Central and Eastern Europe, UPOZ, Skopje, 2000;
- Labor Law, Official Gazzete No. 62/05;
- Law on peaceful settlement of labor disputes, Official Gazette, 87/07;
- Lidija Hristova, The Trade Union as political actor which limited of him role in the process of making policies, FES&University "St. Cyril and Methodius"
- Pece Gruevski, Our Tripartism, Gazeta "Utrinski vesnik", 14.09.2007;
- Recommendation no. 113, ILO,

Web sites

www.mtsp.gov.mk
www.ssm.org.mk