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Social Dialogue, Tripartism and  
Social Partnership Development  
in the South East European  
Countries, Including  
Recommendations for Serbia and  
Montenegro

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### 1. Introduction

Literature about social dialogue in Southeast European (SEE) countries is not particularly rich. As for the transition countries, up until now researchers focused more on the area of industrial relations and social dialogue in the countries – candidates for the accession to the European Union, among other things because social dialogue in them is more developed. However, although most of the Southeast European countries remain outside the circle of transition countries which have relatively certain perspectives for accession to the EU soon, the area of social dialogue in them is becoming increasingly interesting. In all these countries, the main social partners participating in social dialogue became clearly defined, while tripartite bodies have been institutionalised with the main (formal) role to contribute through active dialogue and co-operation between the social partners and the government to reducing the cost of transition changes and to the creation of social consensus in the implementation of the necessary economic and social reforms.

### 2. The problem of definition

Social partners in these countries speak about social dialogue and define it in different ways. Social dialogue, which is regarded in the broadest sense as a dialogue between the world of labour and the world of capital, gradually developed and expanded so that today both its actors and analysts are faced with the problem of more precise definition of various areas and types of that dialogue and, generally, of everything implied under industrial relations. For example, ILO literature dominantly defines social dialogue as a generic term which encompasses bipartite negotiations and consultations of social partners, as well as tripartite consultations, which also include the government bodies. (Thus, the term “tripartite dialogue” became quite common, although it is grammatically and lexically absurd.) The term “social dialogue” is often interpreted to imply different forms of bipartite and tripartite consultations and negotiations about social issues, which involve the employers (i.e. their organisations), trade unions and government, irrespective of the level at which they are organised – national, branch (industry) or enterprise. Besides, social dialogue is sometimes taken to imply this process at higher levels – national or sector, without the inclusion of negotiations at the enterprise or workplace levels, which are mainly defined as collective bargaining. Somewhere, social dialogue is considered to be the dialogue involving not only social partners, but also non-governmental organisations and the so-called civil sector.

It is important to point out to the distinction between the social dialogue and tripartism. Franciszek Draus, coordinator of one study on social dialogue in candidate countries, says: The notion of social dialogue is wider, it encompasses bipartite consultation and multipartite consultation (public authority, social partners, non-governmental organisations). There is also a distinction in the legal basis for social dialogue and tripartism: social dialogue is almost always defined by legislative obligations; tripartism not necessarily so.

Having in view often imprecise formulations of the notion of social dialogue in the positions of social partners in SEE countries, as well as the confusion that can arise in this context, it is particularly useful to stress the definition provided by social partners at the European level in the Laeken Declaration. This Declaration particularly emphasises the need to make a clear distinction between three different types of active involvement of social partners in the discussions on the perspective of social development and clarify the different forms of “dialogue”: consultation, tripartism, bipartism, to improve coherence in the different areas of tripartite concertation (linking employment, macroeconomic, social issues) and establish a multiannual work programme for the social dialogue, taking into account Social Agenda and Lisbon strategy. The need of holding regular social dialogue summits to agree and evaluate such programmes is also stressed. Based on Laeken Declaration three different types of activities involving the social partners are:

“ - tripartite concertation, to designate exchanges between the social partners and European public authorities,

- consultation of the social partners, to designate the activities of advisory committees and official consultations in the spirit of article 137 of the Treaty,
- - social dialogue, to designate bipartite work by the social partners, whether or not prompted by the Commission's official consultations based on article 137 and 138 of the Treaty."

It is important to point out that the Laeken Declaration particularly stresses the need to distinguish between these notions in the transition countries – candidates for the EU accession, because confusion that arises from equating tripartite concertation and bipartite social dialogue may influence the further course of the development of autonomy of social dialogue in these countries.

The term “industrial relations” is likewise used in a broad meaning, implying not only regulation of wages and working conditions in the relations between the workers and the management or between organisations that represent them, but also the relevant legal and institutional framework as well as public policy implemented in this area.

The term most widely used in SEE countries is tripartism, and in the EU – social concertation. What is the main assumption for social concertation? It implies that government representatives are willing to share political authority with the functionally organised interest groups in society and that these interest groups are willing and possess capacity to mobilise the support of their membership in the exchange of such political influence. Hence, as Jelle Visser defines it, social concertation is a non-parliamentary political practice of the course of negotiations between the representatives of the organised interest of capital and labour on social and economic policy issues, organised by the government. We will later see how far that is from the real situation in SEE countries.

In Southeast Europe, as in other countries undergoing transition, social dialogue has been developing under a variety of influences. On the one hand, autonomous development of social partners in the context of the overall reform process in these countries contributed to its development, while, on the other, very important influence came from the transfer of the past experience in the development of social dialogue in the EU countries, as well as from the International Labour Organisation. The influence of international financial institutions should be mentioned as well, since they provided to the governments of these countries financial and logistic support in macroeconomic stabilisation and reforms.

Because of the obvious importance of the influence of experiences in social dialogue in the EU on the course and development of the social dialogue in SEE countries, it is necessary to briefly outline the development of social dialogue in Western Europe.

### 3. Development of social dialogue in the EU

Social dialogue in the EU emerged as a result of the development of social dialogue in the countries that jointly built the future of the EU. Although clearly each country has its specific features, it can be said that the development of social dialogue at the level of the joint state proceeded parallel with the European integrating processes.

First, the Treaty of Rome established a form of social dialogue in which the Commission is obliged to consult social partners on specific issues referring to the common policy and implementation of fundamental freedoms. Thus, social partners gradually acquired and assumed an increasingly important role, participating in the decision-making on economic and social policies in the EU. The European Social Charter, enacted in 1961 and later revised, had an important place in this.

In mid-1980s the Treaty on the EU was amended and the Commission was entrusted with a task to develop and promote social dialogue between the management and labour. The Social Protocol incorporated into the Maastricht Treaty in December 1991 has additionally strengthened the importance, role and responsibility of social partners. They were granted the right to prior consultations, as well as to the so-called framework negotiations. Up until now social partners at the European level have concluded framework agreements on maternity leave (1995), on part-time work (1996) and on fixed-term contracts (1997).

An important area of social dialogue at the European level is sectoral social dialogue, which implies consultations, joint actions and negotiations in different economic sectors. Up until now 26 sectoral social dialogues have been opened at the European level. Based on the Study on the Representativeness of Public Service Unions in Europe – EPSU-ETUI, March 2001, “sectoral social dialogue” refers to formal and informal bilateral negotiations, at the Community level, between representative socio-economic interests from the two sides of industry, with the aim of participating actively in the improvement of living and working conditions in their sector, which ultimately produce legally and contractually binding collective agreements at the EU level, which must be implemented at the national sectoral level.

A special form of social dialogue at the European level developed during the 1990s at the level of European enterprises. It refers to the establishment of the European Works Councils (EWC). The relevant Directive was enacted in 1994, although the founding of EWCs started earlier. About 60 new EWCs are founded per year on the average, so that there is already over 700 of them. The Statute of the European Company grants its employees the right to information and consultation. (A European company is the one employing more than 1,000 workers in the EU, with at least two branches with over 150 workers each in the EU member countries.) The first company to establish an EWC was the Swedish multinational SKF. Up until now it turned as a rule that newly-founded EWCs have about 30 members and that they meet at least once a year. EWCs helped in consolidating the trade union work, because many mutually confronted trade unions found themselves on a common job and in the same body, although in their countries of origin they belong to different trade union centres. It is estimated that about 36,000 European workers will participate in about 1200 EWCs (the number planned to be established according to the criteria laid down in the Statute of the European Company). Bulgaria and Romania are the only SEE countries which have their representatives in EWCs.

Today, social dialogue in the EU is developed in many areas: the Commission is obliged to consult the social partners on the development of EU social policy; the social partners may negotiate EU-wide standards; such standards may be implemented by a Council decision and/or through collective agreements at national level; the social partners can also negotiate “voluntary” agreements, independent of any consultative proposal from the Commission.

A special form of social dialogue in the EU, very developed in recent decades, are national social pacts. These pacts have been created jointly by social partners – trade unions and employers, although the government was involved in them in various ways. They have been signed with the aim of protecting against unemployment, modernisation of fiscal policy, reform of social security and, generally, to redefine and modernise the Welfare State.

The Economic and Social Committee (ECOSOC), consisting of 222 representatives of different economic and social groups of Europe, operates within the EU since 1957. Members are appointed by national governments for a period of four years. The Committee is composed of three parties: employers, workers and representatives of other interest groups. Opinions, recommendations and positions of the Committee in the form of recommendations are forwarded to the Ministerial Council of the European Union. The Committee has nine sections: for economic, financial and monetary issues; foreign relations, trade and development; social, family, educational and cultural issues; for environmental protection, public health and protection of consumers’ interests; for agriculture and fisheries; regional development; industry, crafts, services, traffic and communications; energy, nuclear issues and research. ECOSOC holds its meetings at least ten times a year.

Therefore, social dialogue in the EU is conducted at different levels: at the level of European companies, at the sectoral level, then at the territorial i.e. interregional level (an important role in this is played by Interregional Trade Union Committees – ITUCs) and, finally, at the level of the EU as a whole, where the main actors of that dialogue, besides the European Commission, are the ETUC (including 11 industry federations representing different sectors), UNICE (private sector employers with many independent sectoral employers’ federations), CEEP (public sector / services of general interest employers) and UEAPME (small companies).

In view of the officially proclaimed fundamental values of the EU – Economic and social cohesion, Solidarity and Quality industrial relations – one can easily conclude that social dialogue is an important pillar of the European social model.

Deputy General Secretary of the ETUC Jean Lapeyre, in an article for the ILO (Labour Education 2000/3 no. 120: 27), describes how trade unions understand social dialogue at the European level: “The three main objectives of the European social dialogues are:

(I) Co-ordination of national and sectoral collective bargaining, bearing in mind their interdependence within the euro zone and the need to establish negotiating guidelines, in particular on wage policies using, as a basis, common indicators on inflation, productivity, employment goals and working conditions;

(ii) Negotiation on transnational and supranational rights to establish a common basis through bottom-up harmonisation of national contexts;

(iii) Sectoral and territorial negotiation of the consequences of economic and monetary integration and the exploitation of its potential for job creation and for improving labour rationalisation.

These three objectives recur in the social dialogue between professions, at the sectoral level and in the context of transnational enterprises and border regions.”

### 3.1. Tripartism in the EU

Unlike the dominantly bipartite model of co-operation between the world of labour and the world of capital in the USA, for example, the role of the third factor – the state – in that process is very developed in European countries. Such form of regulation of relations between the world of labour and the world of capital is often referred to as neocorporatism. David Ost points out that in Western Europe the development of neocorporatism has always been closely related to social-democratic policy. Neocorporatism in Western Europe, according to Ost, contributed to political stabilisation and economically driven class compromises and hence neocorporatism, i.e. tripartism represents more than mere existence of a body in which the government works together with the representatives of employees and employers. It is a modern West European approach, it points to social and political arrangements in which labour is integrated into politics.

But, the prerequisite for the development of tripartism is strongly developed bipartism, says Lajos Hethy. So, when tripartism is lacking its basic assumption – developed forms of bipartite dialogue, as happens in the transition countries, such form of industrial relations is much more dependent on the current political processes in the country. Franciszek Draus points to the same problem: “Unlike western countries where bipartite social partnership is much better anchored institutionally and politically than tripartite concertation, the EU candidate countries, notably the countries of central and eastern Europe, are characterised by a fairly well institutionalised tripartism, but which goes hand in hand with weak and problematic bipartism. This curious configuration clearly puts the political significance of tripartism itself in perspective. Acting without solid bipartite underpinning, national trade union and employer confederations are open to the reproach that they are insufficiently representative or that they are unable to translate the undertakings they give in the framework of tripartism into concrete action at the level of individual economic sectors.

Since SEE countries in the development of social dialogue dominantly focus on the institutionalisation of tripartism, as we will see later in this text, these factors had significantly affected the quality of social dialogue in them.

### 3.2. Review of the development of tripartite bodies in the EU countries

National bipartite and/or tripartite consultative bodies in West European countries have sometimes been established on voluntary basis, such as Austria’s Joint Commission, and sometimes have constitutional ground. The most typical example for the latter is Economic and Social Council in France. With the exception of France, where the Economic and Social Council was founded back in 1925, in other countries these bodies have largely been founded after World War II. Thus, the Central Council for the Economy was established in Belgium in 1948 (it was transformed in 1952 into the National Labour Council), Economic and Social Council in Netherlands in 1950, National Council for the

Economy and Labour in Italy in 1957, The National Economic Development Council in Great Britain in 1962, the Economic Council in Denmark in 1962, the Economic and Social Council in Luxembourg in 1966, the National Economic and Social Council in Ireland in 1973, the Permanent Council for Social Consultation in Portugal in 1984. Some other countries, such as Germany or Spain, for example, have not founded such bodies, because they have the tradition of negotiations between social partners together with governments. Nevertheless, trade unions in these countries advocated the establishment of such bodies. As the idea of united Europe thrived, other European countries followed the basic European trends referring to tripartism. Thus, Malta introduced tripartite institutions in 1988, and Turkey in 1995.

These bodies in Western Europe had different composition and number of seats. In some of them seats are strictly divided between equal number of workers' and employers' representatives (e.g. in Belgium), while in Portugal the composition is tripartite, also strictly divided in equal numbers. In Luxembourg the Government has token representation (by the number of seats, of course) in the national tripartite team, while the tripartite council in the Netherlands includes independent experts as well. The Italian National Council for the Economy and Labour encompasses a wide circle of representatives of different interest groups, while the French Economic and Social Council has the broadest composition, involving numerous representatives of different interest and social groups in the field of economy, social life and culture.

Regarding the number of members, these bodies generally have between 18 (Portugal) and 50 seats (Belgium). Of course, the Economic and Social Council in France is radically different, numbering 230 members and operating as the third house of the Parliament. In Italy, due to the participation of members of more interest groups, the number of the members of tripartite body is higher – 111. Somewhere the members of these bodies are appointed by the Government, elsewhere by the organisations represented in them. The term of office of tripartite bodies varies from two to six years. The chairmanship of economic and social councils also differs from country to country. Sometimes it is a person independent of tripartite body, without the voting right (e.g. in Belgium), somewhere it is a member of the body appointed by the Government (such as in Netherlands), and sometimes these are representatives of the Government, even prime ministers.

In all countries the role of these tripartite bodies is more or less similar. Their tasks and rights include preparation of different reports, studies, analyses, research on different topics, they have consultative role, give certain recommendations to social partners and governments, and sometimes they also discharge the bargaining function. It is important to stress that in all countries (with the exception of Netherlands, where employers finance everything) the work of the national tripartite bodies is financed by the government.

### 3.3. Conclusion

The general conclusion on the development of social dialogue in West European countries, important for the interpretation of the course of development of the dialogue between social partners in SEE, could be that autonomous action of social partners in them has been gradually translated into the legal framework, implying that social partners themselves won the present level of social dialogue. Owing to active participation of social partners, social dialogue has been incorporated in the economic, social and political life of these countries, and then became institutionalised and legalised. SEE countries obviously tend to implement quite the opposite sequence – to create institutional assumptions for social dialogue in order to ensure its effective operation. As we will later see, this concept produced numerous problems.

## 4. EU influence on the development of social dialogue in transition countries

All countries undergoing transition, including in SEE, approached the concept of economic transition implementing, primarily, privatisation, macroeconomic stabilisation, structural reforms, reducing fiscal deficit and liberalising economic flows. Due to this, the social dimension of that process has been neglected. At the same time, social partners also faced the necessity of their own reform (when the existing ones are concerned) and the need of the development and strengthening of their own organisation and position in society (in case of the newly founded organisations – either trade unions or employers' organisations). Social partners lacked strength, and often

knowledge and readiness, to strive for a more adequate own place in the processes of social reforms and hence for their greater influence on these processes. This means that during the first decade of the transition processes the social price paid for the reforms was perhaps higher than it must have been.

Position of the “old” trade unions was particularly weak due to their traditional connection with communist ideologies and because they faced dramatic membership erosion. The trade union membership transferred into the newly founded “free and democratic” trade unions, thus creating the cleavage between the old and new trade unions, which also had very strong political and ideological tones. Conflicts broke out over the trade union property, so that trade unions often devoted more attention to themselves than to the problems of labour in transition. Cleavages and arguments in the trade union movement led to its fragmentation which is still obvious in certain transition countries, and particularly in SEE. In one way or another, trade union pluralism operates in all SEE countries except Montenegro, where there is only one trade union confederation active (more about this to follow).

At the same time, the governments of these countries had to radically reduce social benefits simple because of shortage of funds. In addition, the guiding role of international financial institutions resulted in dominant choice of the neoliberal concept in conducting macroeconomic policy in these states. Transition countries were practically racing against each other in drastically reducing social benefits in order to attract foreign investments. Subsequent analyses of the trend of direct foreign investments in transition countries will show that these isolated measures alone could not represent a particularly strong incentive for foreign investments.

Countries became gradually aware of the need to devote more attention to the social price of reforms as a whole. Since the EU in the meantime devoted more attention to the social dimension of the promised accession of (at least some) Central and East European countries, all actors started to focus more of their efforts on the issues of social development, social sustainability and social dialogue and industrial relations in transition countries. The issue of the EU enlargement was gaining in importance. In this context, the term *acquis communautaire* was introduced. It refers to the whole body of Community legislation, resolutions, recommendations, declarations, EU policies in relation to third countries or trade blocs, and judgements of the European Court of Justice. Stabilisation and Association Agreements (SAA) between the EU and SEE countries encompass certain issues in the social sphere. (The process of enlargement itself will cause a series of social consequences on the EU, which was particularly highlighted in the Report of the High Level Group on Industrial Relations and Change in the European Union. It also stresses that the process of EU enlargement may play an important role in encouraging candidate countries to accept the systems and practice of industrial relations developed in the EU. )

Researchers justly point out that during the first years the EU itself did not devote particular attention to the social dimension of the transition process in former socialist countries. In June 1993 the Council of Europe in Copenhagen set the basic accession criteria to be met by the countries aspiring to join the EU. That was an important message for the governments of the countries in transition. These criteria referred to the functioning of market economy, to stable democratic institutions, rule of law, to respect of human rights and freedoms and protection of the minorities and, of course, to the ability to assume obligations arising from the EU membership. As one can see, they did not directly define the obligations referring to social rights, nor make direct reference to the “European social model”, as they do more recently. Somewhat later, in May 1995, the European Commission adopted the so-called White Book on the Preparation of Associated Central and East European Countries for Integration into the Internal European Market, where one chapter is devoted to social policy and activities. This section defines five areas where these countries have to make adjustments to the requirements of the community legislation. The first refers to equal opportunities for men and women, the second to co-ordination of the social security system, the third area refers to occupational safety and health, the fourth to labour legislation and working conditions and, finally, the fifth to tobacco products. In this way, the EU has devoted more attention to social policy, thus partly strengthening the role of social partners in the development of social dialogue in transition countries.

Two conferences devoted to the development of social dialogue in the candidate countries for accession to the EU have particularly contributed to more significant role of social partners in transition countries. The first one was held in Warsaw in March 1999 (The Role of the Social Partners in EU Enlargement, Conference of Social Partners on Enlargement), and the second one in Bratislava in March 2001 (Social dialogue in the European Union Candidate Countries, organised by UNICE/UEAPME/ETUC. Of course, these conferences did not encompass all SEE countries (with the exception of Romania and Bulgaria), but their results nevertheless influenced the positions of social partners in SEE. Yet, the main shift in EU influence on the development of social dialogue in SEE has yet to

be made. The projects of co-operation between the ILO and European social partners with social partners in SEE aimed at strengthening their capacities for the development of social dialogue as a whole begin on the basis of the Stability Pact for Southeast Europe and subsequent introduction of the Initiative for Social Cohesion into the Working Table Two of the Pact.

Parallel with this, transition countries have been experiencing gradual ideological and political changes. In these countries the idea of social rights and social justice has been very closely connected with state paternalism, so that after the beginning of transitional processes, due to the former absence of civil society and respect of human and political rights, the bulk of efforts focused on the development of civil society. The terms: worker, trade union, social justice and similar became unpopular, they seemed retrograde, while the right to work, as the right incorporated in the foundations of human rights and constitutions of all these countries became almost a virtual right in the conditions of massive unemployment. Significant social groups, primarily part of the employees, have paid an enormously high price of the first years of transition in these countries. A Serbian aphorist explained it picturesquely: “Yes, we wanted capitalism, but not completely. We only wanted their wages.”

The course and models of development of social dialogue in these countries have also been under considerable influence of the International Labour Organisation. As Franciszek Draus put it: The emergence and development of tripartite social dialogue in the candidate countries has been broadly inspired by the International Labour Organisation. In the countries of central and eastern Europe, tripartism was also stimulated – in the early years of transformation policy at least – by governments which saw them as a political means of helping to guarantee relative social peace. By involving the social partners in the political/institutional system for defining economic and social policy, governments wanted to ensure the support of society, in order to be better able to carry through socially difficult economic reforms.

The degree of political and economic influence of the EU on the course of development of industrial relations in the transition countries – potential candidates for the accession to the EU is obvious. It is also clear that this influence is also felt in the countries which are still far from materialising their desire to join Europe, which are the majority of SEE countries, for a number of reasons.

First, direct foreign investments in these countries come primarily from European companies which brought with them certain labour and industrial standards developed in the EU. In addition, donations and loans extended by the EU also influenced the policy of recipient states. Besides, social partners, either at the level of the EU or certain EU countries with their co-operation and bilateral and multilateral activities influenced the change of positions and policy of social partners in the countries of the SEE region. One should not neglect that the governments in the region, due to the need of co-operation with the EU, more precisely because of the expected EU support, wanted to present themselves as democratic and co-operative. Thus, often contrary to their will, they introduced certain standards and institutions in the area of industrial relations and social dialogue as a constituent part of the overall façade democracy environment. For, regardless of the institutionalisation and formalisation of the system of social dialogue, collective bargaining, tripartite and bipartite consultations and negotiations, all this produced certain impact on the course of real relations between the world of labour and the world of capital in SEE countries. As Ost says, founded with the aim to contribute to social-democratisation of new relations between the world of labour and the world of capital, tripartite institutions in transition countries actually contributed to neoliberal solutions. That problem – absence of effects in the work of newly founded social dialogue instruments and institutions of tripartism – is perhaps the most interesting part of the whole story on the development of social dialogue in SEE.

Of course, it was not only the EU that affected the course of development of social dialogue in SEE. Very important is the influence of the International Labour Organisation (ILO). It influenced the development of tripartite structures in the transition countries through its conventions and recommendations, pointing to the direction for development of social partnership and dialogue (ILO Recommendation 113 on consultations at the industry level of 1960; Convention 144 on tripartite consultations – international labour standards of 1976 and Recommendation 152 on tripartite consultations of 1976, etc.). On the basis of these documents social partners of the government in the region concluded that tripartite co-operation is the best method for the development of democracy and assumption for the creation and carrying out of a successful economic policy, acceptable from the social point as well. The International Labour Organisation particularly pointed out that economic systems which want to survive and develop should rely on the dialogue and participation, so that social partners could exchange opinions about the

issues of social and economic development, to decide, to be useful for all parties and to guarantee more equitable distribution of everything that was produced on the basis of jointly agreed and implemented economic policy.

In addition, international financial institutions (IFI) had very important influence on the course of transitional processes in SEE countries. In the agreements with the governments of these countries they defined the elements of macroeconomic policy, contributed to the introduction of tight budget restrictions, in certain cases to freezing of wages and thus restricted the scope for active social dialogue or else imposed solutions which the governments had to accept, while social partners have not been informed of that. Due to this, tripartite bodies have often in fact been quadripartite, with the fourth partner remaining in the shadow. It is obvious that trade unions have been the least content with the role of international financial institutions in promoting the model of development for transition countries. The most drastic example of discontent is the litigation against the IMF instituted by the Romanian National Trade Union Bloc (BNS). BNS demands that Stand-by agreement signed in November 2001 between Romania and the IMF be made null and void, because its contents violates the Constitution of Romania and produces numerous harmful effects for the trade union members represented by the BNS. The first hearing at the Romanian Court of Appeal was held on 11 April 2002 and the process shall be continued.

## 5. Conditions for the development of social dialogue in SEE

The problems faced by all transition countries in the development of social dialogue were even more pronounced in SEE.

### 5.1. Economic conditions

After the first half of the last decade of the 20th century, characterised by economic decline caused by transitional recession in Romania and Bulgaria and war and collapse of state structures in the countries emerged in the territory of former Yugoslavia and Albania, recent years brought about gradual stabilisation and economic development.

The growth in real domestic product in Serbia in 2001 was 4.5 percent, the same as in Montenegro. Although this growth was somewhat lower than in 2000, experts anticipate positive developmental trend in both constituent parts of the FRY.

Croatia achieved economic growth in 2001 owing to recovery of industrial production and good tourist season. Positive expectations for 2001 were confirmed by annual growth of about 3.8 percent.

Bosnia and Herzegovina, besides Macedonia, is among the poorest republics of the former SFRY. The economy of BiH was in very difficult situation at the end of 1995, but slow recovery started after the Dayton Agreement. The national currency – mark, introduced in 1998, has been widely accepted and the Central Bank of Bosnia and Herzegovina has increased its reserves considerably. Implementation of privatisation nevertheless progress slower than it was anticipated. According to the IMF data, GDP growth rate in Bosnia and Herzegovina in 2001 was 5 percent.

Macedonia was faced with prolonged process of recognition and with war and terrorist conflicts during 2001, but despite that economic indicators show increase in gross domestic product, low inflation rate, slight decrease in unemployment rate. These economic changes may be assessed as positive economic movements, although social indicators show that social stability has not been achieved yet.

Albania, as the poorest and least developed country in Southeast Europe, made considerable progress since 1997 in macroeconomic stabilisation, implementing fundamental reforms and establishing public order. The growth in social product during the recent years exceeded 7 percent per year.

The economy of Bulgaria is developing as well. Output growth continued, inflation and foreign debt are declining, while foreign currency reserves and direct foreign investments are increasing. Domestic product growth slowed

down from 5.8 percent in 2000 to 5 percent in 2001. Forecasts for the next five years indicate stabilisation of GDP growth at 5 percent annually.

However, despite the indicators of gradual economic recovery, one should have in view that none of the SEE countries has reached its GDP level recorded in 1989, which is taken as the first year of the transition process.

Average wages of employees in SEE countries in mid-2002 are under EUR 500. They are the highest in Croatia – nearly fourfold than in the FRY or Romania. Generally, the amount of wages is far behind the wages in the EU and they are insufficient (in all SEE countries) to meet the cost of the standard statistical market basket. Low wages are, clearly, a realistic source of employees' discontent and frequent cause of industrial conflicts.

In spite of relatively successful trends in macroeconomic stabilisation, these countries continue to be faced with high inflation. It is the highest in Romania (24.4 percent on the annual level), followed by the FRY (19.7 percent) and Bulgaria (8.1 percent).

Among other economic indicators important for the character and development of social dialogue, one should particularly highlight the data on unemployment. The unemployment rate is the highest in BiH (as much as 40 percent in the Federation), but it is also very high in Bulgaria, FRY and Croatia. Such high unemployment rate is almost inevitably accompanied by massive informal economy and unprotected labour.

## 5.2. Burgeoning of the informal economy

Thriving informal sector represents an important aggravating circumstance for the development not only of the system and institutions of social dialogue, but also for its actual operation in transition countries. The usual term for informal economy in SEE is "grey economy" and for unprotected labour "black labour". There are many reasons and causes of rapid burgeoning of the informal economy in the transition countries, particularly in SEE, ranging from political and economic to social and cultural. After 50 years of enforced collectivism, societies indulged in almost unrestrained individualism. Years of tight restrictions and prohibitions were over and the time of freedom came, coinciding with the collapse of the old system and government control. It is in such circumstances that the first entrepreneurial initiatives emerged and it is almost natural that they had difficulty fitting into the framework of new government control, which was also emerging slowly. Absence of adequate social security programs for those who paid the highest price of the initial transitional recession caused the "spontaneous movement for survival" through informal economic activity.

Sanctions and blockade of the FRY borders were particularly conducive to the development of the informal sector, not only in the FRY, but also in its neighbourhood, since the government bodies of the FRY, Serbia and Montenegro had to transform import and export transactions into internally legalised smuggling. Many researches testify of the development of smuggling, criminal and informal economic activities in neighbouring countries in the areas bordering on the FRY. This is what contributed to the burgeoning of the shadow economy throughout the territory of SEE, more than in other countries undergoing transition. This was inevitably accompanied by widespread corruption.

Particularly strong development of shadow economy is characteristic of economic life in the FRY. Plummeting living standard of the widest population strata and collapse of the regular economy shifted a large share of economically active population into the informal sector and informal work. Since the entire authoritarian system of Milosevic's rule in the FRY was very tightly interwoven in the web of corruption and crime, the everyday life of ordinary population was accordingly criminalised. (The political backdrop of such a process was creation of collaboration in the criminalisation of the system.) Yet, there are huge differences between small-time and big-time smugglers. While the former engaged in this to earn their subsistence, the latter wanted to increase their wealth. The former were the hostages, the latter the owners of the entire system. Some got into shadow economy to survive, the others modelled it as organised crime.

The first years of transition in almost all SEE countries and Milosevic's years in the FRY are characterised by trade union positions which equate privatisation with robbery and claim that the new businessmen are the same as

criminals. “These are the untaxed suppliers of scarce imported goods, phantom bankers, racketeers, suppliers of war, arms traders... who got rich overnight owing to various suspicious and criminal connections, money issuing, bribery and corruption. They are the core of the future establishment. War was their ambience, their need and an opportunity for social promotion. War gave them power, and they provided it with material and political support and political legitimacy in return.” This was written in one earlier paper of the Confederation of Autonomous Trade Unions of Montenegro prepared for the Montenegrin Parliament.

Shortcomings of the regular part of the economy and the official system have been offset by informal economy and that contributed to the creation of a specific antisocial coalition in which all social strata took part. The gap between the standards and reality was too wide. Social partners attempted to develop standards through formalised social dialogue, not realising that “life is somewhere else”, to paraphrase the famous Czech author Kundera.

All this, incorporated into the overall social insecurity and uncertainty, affected political processes in SEE countries. Shadow economy with tax evasion and evasion of the payment of social security contributions, compounded with disregard of labour standards, resulted in distortions of the competition in the market and in addition exhausted government budget and social funds, leaving the government practically without potential for efficient social policy. The destruction of the old middle class is the structural explanation for the rise of political volatility. The social condition in the Balkans is a key factor for volatility in individual and collective behaviour. The discrepancy between the level of expectations from transition and actual results achieved during the past decade were enormous. Thus, we have today a situation that every sixth Albanian works abroad. Readiness to emigrate has increased rather than declined in Bulgaria over the last years. Around 52 percent of people state that if they had the opportunity, they would emigrate from Bulgaria. Yes, real life is somewhere else, conclude also the workers and citizens of the Balkans, whose vast majority perceive their life in the past ten-odd years as suffering. According to the data of Eurobarometer 2001 among all candidate countries for EU membership, by far the greatest number of citizens had positive opinion about the accession of their country to the EU in Romania and in Bulgaria.

### 5.3. Political instability

The SEE countries are not a uniform political or economic space. There are numerous and very significant differences between them. Kosovo is an international protectorate; Montenegro is an unwilling member of a non-functioning federation; Serbia is in the early stage of political and economic reforms; Macedonia is in the process of self-reinvention, Albania is a version of a contested democracy, and Bulgaria is in the midst of its negotiations for joining the EU. The political process in Montenegro and Kosovo is primarily centred on the problems of independent statehood while social and economic issues dominate the political process in Bulgaria and Albania. Indeed, the diversity does not stop here. For the last 12 years there has been no real transfer of power in Montenegro, while Bulgaria has completed two cycles of transfer of power from left to right and vice versa. The communist legacies of the analysed countries also differ substantially. For instance, the closed type of Stalinist society in Albania between 1945 and 1989 was radically different from the form of liberal communism enjoyed in Yugoslavia in the same period. Diversity is evident, but some common patterns and tendencies can also be clearly identified. Due to fundamentally different conditions in which transition processes unfolded in the territory of former Yugoslavia and Albania compared with those in Romania and Bulgaria, political influences on the development of social partners and the course of social dialogue in SEE countries cannot be discussed quite uniformly. While Romania and Bulgaria have more or less traditional transitional experience, Albania and all countries emerged in the territory of ex-Yugoslavia still suffer the consequences of war destruction.

#### 5.3.1. *The price of nationalist madness*

The importance of political instability for the development of social dialogue in SEE is most clearly reflected in the case of countries emerged in the territory of the former SFRY. All these countries suffered adverse consequences of the long maintenance in power of Milosevic’s authoritarian and nationalistic regime in Belgrade. Starting with the wars in Croatia and in Bosnia and Herzegovina, to the most recent conflicts in Macedonia, war sufferings were the integral part of life in the Balkans over the past decade. Long-standing policy of international isolation of the Federal Republic of Yugoslavia has left its mark on economic performances of the neighbouring countries. Likewise, NATO bombing of the FRY in 1999 caused collateral economic damage in the entire region. Due to

political instability and investment risk, the influx of foreign capital in the SEE countries is far lower than in other countries undergoing transition. In the conditions of growing nationalism in the early 1990s in the entire territory of former Yugoslavia, there was not much space for serious addressing of social issues. After the famous rally of discontent workers from the industrial part of Belgrade in front of the Assembly of the SFRY in October 1990, from which the new charismatic leader Milosevic saw them off with the words: "And now everyone back to their work", it was quite clear that the worker's movement in Serbia lost the logic of its own economic and social interests and became a part of the unifying nationalist front. As a trade union activist later commented: "We came to the rally as workers, and left as Serbs".

Labour in Serbia and likewise in Croatia, Bosnia and Herzegovina, Montenegro, Kosovo and Macedonia was not only embroiled in nationalist conflicts, but zealously participated in them. Thus the workers themselves contributed to war destruction and disastrous plummeting of their own living standard and standard of human and social rights in general.

The Albanian story is in many respects extraordinary. (A trade unionist commented: "That is the only country in the world where you could buy a tank on the street market".) The most drastic example of hard-line Cambodia-type communism in Europe organised in a completely isolated country collapsed without leaving behind the basic infrastructure assumptions for new development. Crumbling of state organisation and former economic structures caused multiannual disindustrialisation, emergence of pyramid banking structures, very pronounced role of organised crime in economic and political life and mass population exodus. Albania is gradually finding its way out of such a chaotic economic, social and political situation and in recent years is recording notable growth of economic indicators.

### *5.3.2. Romania and Bulgaria: between communists and neoliberals*

Unlike the countries emerged in the territory of the former SFRY and Albania, which is a case of its own, Romania and Bulgaria had more or less a traditional transition course. In the ongoing period of transition, starting in 1989, Romania and Bulgaria have been subjects to continuous states of political and economic instability and frequent changes of governments and parliaments. This "stable instability" has had a negative impact on the transformation of these countries. Of course, the Yugoslav political and economic chaos has left its mark on these two countries too (the impact of Yugoslavia's embargo and blockade of the Danube), primarily because they are in the closest neighbourhood. Political instability and high inflation in Bulgaria lasted until 1997, when the Currency Board was introduced, enabling macroeconomic stabilisation and curbing of inflation. In fact, the United Democratic Forces (UDF) government established at the time is the first government in post-communist Bulgaria which survived its whole term of office. Opposite to two largest trade union organisations (CITUB and Podkrepa), which acquired the status of representativeness, there are a number of organisations on the employers' side.

After the fall of communism in Romania and collapse of the monopoly of the former General Union of the Trade Unions (UGSR), there was an explosion of the creation of new trade unions. However, that period of trade union atomisation ended soon (already in 1991) so that at present, five trade union confederations meet the representativity criteria at the national level.

## 5.4. Awakening of the trade unions: From conflict to co-operation

The voices of opposition to nationalistic euphoria were inconspicuous and rare, particularly among old trade unions whose policy has been connected with the policy of the government in newly-emerged states. (Any serious trade union confrontation with the regime created resentment among the trade union membership, already thoroughly prepared by the media for nationalism. Perhaps the best example for this was dismissal of the president of the Union of Autonomous Trade Unions of Croatia, Dragutin Lesar, because he dared talk to the president of the Serbian alternative trade union TUC Nezavisnost, Branislav Canak in September 1993. ) Trade unions in all countries emerged in the territory of ex-Yugoslavia were an integral part of national and nationalistic fronts established in these countries more or less openly.

Nevertheless, trade unions in the territory of former Yugoslavia started to gradually reject the dominant pattern which equated trade union interests with national interests and where trade unions were subjugated to the ruling political oligarchies. In all SEE countries the first years of the last decade were characterised by conflicts between numerous old and new trade unions. Only after that trade union co-operation started to develop. Trade unions in Serbia were among the last to join this process of co-operation.

#### *5.4.1. Kosovo*

Workers in Kosovo were divided according to the ethnic criterion into two trade union centres – one Serbian, which acted within the organisational structure of the Confederation of Trade Unions of Serbia, the official pro-government and pro-Milosevic trade union, and the other, the Union of Independent Trade Unions of Kosovo (BSPK), which functioned as a social service for the protection of Albanian workers within the scope of a broad national front of ethnic Albanians in Kosovo. The founding of Albanian trade unions was triggered by the famous strike in the Stari trg mine early in 1990. During the NATO bombing BSPK broke up, but after the establishment of the new United Nations Interim Administration for Kosovo (UNMIK), it was re-established, with the support of international trade union organisations. In March 2002, after long preparations, BSPK held its congress and elected the new president, Bahri Shabani. The first trade union campaign in Kosovo after the establishment of new government referred to the request for participation of trade unions in the privatisation process.

#### *5.4.2. Croatia*

The most conspicuous departure from the nationalist course which dominated trade unions in the region was made by the Union of Autonomous Trade Unions of Croatia (SSSH), which sided with the opposition coalition during the preparation of parliamentary elections in 1999. SSSH has played an important role in the mobilisation of trade union membership to come to the polls and vote for then opposition, later winning coalition, led by the Social Democratic Party and its president, prime-minister-to-be Ivica Racan. During these activities, trade unions made a Contract for Socially Just Croatia, a special kind of social pact in which they defined the obligations of the future authorities in the area of economic and social development. Thus the foundations have been laid in Croatia for subsequent significant activities in the field of social dialogue.

Otherwise, there are a number of much smaller trade union centres operating in Croatia: Association of Croatian Trade Unions of Public Services – Matica, Independent Croatian Trade Unions, Croatian Union of Trade Unions (HUS) and Association of Workers' Unions of Croatia (URSH). The degree of unionisation in Croatia dropped down to about 55 percent. Since 1996 SSSH is a member of ICFTU and enjoys the observer status in ETUC since 1998. In Croatia, as in other SEE countries, there exist significant branch trade unions that are not affiliated with any national confederation. Like in Serbia, these are mainly trade unions in well-to-do branches which consider themselves self-sufficient.

#### *5.4.3. Serbia*

Something similar did the Trade Union Confederation Nezavisnost ("Independence" in English) in the preparation of parliamentary elections in Serbia in 2000, which ousted Milosevic from power. They signed a Contract for Socially Just and Democratic Serbia with the Democratic Opposition Coalition of Serbia (DOS). However, the effect of that agreement was later much more modest than in Croatia. There are several trade union centres active in Serbia. Still the most numerous, encompassing about 29 percent of workers, is the Confederation of Trade Unions of Serbia (SSS), the successor of the former socialist trade union, which transformed very slowly and unwillingly, played the part of the transmitter of the ruling party, as in good old times, and was the consistent supporter of the policy advocated by Milosevic. After the change in power, new program documents have been adopted, but many researchers still assess this as cosmetic changes of the old positions. During 2002 this trade union held two Congresses and changed its name into Confederation of Autonomous Trade Unions of Serbia. In one way or another it started a more meaningful co-operation with other trade union centres, thus putting an end to the long-standing fierce trade union confrontations in Serbia. The other centre, the least significant, is the Association of Free and

Independent Trade Unions (ASNS/AFITU), which originated from the renegade wing of TUC Nezavisnost and in recent years established very close ties with the Democratic Party led by the present prime minister Zoran Djindjic. (Some researchers in Serbia call this organisation “Djindjic’s in-house trade union”.) A peculiar fact is that after the establishment of the new government in Serbia, the former president of this trade union, Dragan Milovanovic, became the minister of labour and social welfare. This trade union encompasses about two percent of employees in Serbia. The Trade Union Confederation Nezavisnost plays the most important democratic role in the trade union movement in Serbia. It was created as an alternative trade union centre in the early 1990s and currently encompasses 16 branch trade unions. TUC Nezavisnost is an ICFTU affiliate. On the other hand, in mid-2002 SSS applied for affiliation in the World Confederation of Labour (WCL) and at the time of writing of this text has not yet received an official reply.

#### *5.4.4. FRY*

Trade union scene in the FRY is not composed solely of the trade unions in Serbia and Montenegro. It is additionally complicated by the existence of the Confederation of Autonomous Trade Unions of Yugoslavia (CATUY), the successor of the federal structures of the former trade union of ex-SFRY. This organisation has no membership, although its formal members are trade union centres from Serbia (SSS) and Montenegro (SSSCG). It is financed from the rent of office space it inherited after the break-up of former Yugoslavia. It is excommunicated from international contacts and shares the fate of federal authorities in the new FRY, which also have almost no actual relevance. The most significant part of that organisation in trade-union terms is the Union of Employees in Federal Organs and Organisations (SROOF) which assembles all employees in the bodies and agencies of the federal state and which is the member of Public Service International (PSI). However, after the president of that branch trade union left his job in CATUY and started working for TUC Nezavisnost (as a secretary), the activity of this trade union is gradually withering away.

#### *5.4.5. Montenegro*

The Confederation of Autonomous Trade Unions of Montenegro (SSSCG) has managed to preserve the unity of trade union movement in that smallest Yugoslav republic, primarily by defending the interests of minorities at the time of nationalistic euphoria. Specific polarisation of political life in Montenegro between those who advocate independence and those who favour a joint state with Serbia, in face of the risk of the establishment of parapolitical trade unions on that basis, contributed that unified trade union movement was preserved with more or less neutral political position. Yet, in April 1997, this organisation held a mass rally at which it demanded faster reforms and early elections. That event has considerably contributed to the break-up of the then ruling Democratic Party of Socialists (DPS) and soon afterwards to the victory of this party’s democratic stream led by then prime minister, future president Milo Djukanovic. In 1995 the SSSCG signed with the Government and the Chamber of Commerce and Industry the General Collective Agreement in Montenegro, which regulates the basic issues referring to labour and labour relations. SSSCG has about 90 thousand members organised in 19 branch trade unions. In view of the fact that the total number of employees in Montenegro is about 112 thousand, SSSCG has the highest percentage of unionisation not only in SEE region, but beyond. SSSCG is an ICFTU affiliate.

#### *5.4.6. Bosnia and Herzegovina*

In Bosnia and Herzegovina formerly unified trade union split during the war along ethnic lines into two organisations: the Confederation of Trade Unions of Bosnia and Herzegovina in Sarajevo, which organised Muslims and Croats in the Muslim-Croat Federation, and the Confederation of Trade Unions of the Republika Srpska which gathered Serbs in the Republika Srpska entity. During the war, very few trade union organisations in BiH were actually active, so that these two centres existed only on paper. These two organisations had no mutual contacts until 1994, when their presidents met for the first time in Sofia, Bulgaria, at the initiative and under the auspices of ETUC. After the signing of the Dayton Agreement in 1995, relations between these two organisations started to mellow, while trade union work in the two entities of Bosnia and Herzegovina started to normalise. (Interestingly, presidents of these two trade unions were actually long-term associates in the former socialist trade union, where

one of them was the president, the other the secretary of the former unified trade union of Bosnia and Herzegovina.) The Confederation of Trade Unions of Bosnia and Herzegovina has about 200,000 members organised in 16 industrial unions, while the Confederation of Trade Unions of the Republika Srpska has about 100,000 members.

#### *5.4.7. Macedonia*

In the same period, Macedonia was faced with specific economic problems. On the north side it was blocked due to international isolation of the FRY, and on the south faced sanctions imposed by Greece due to the dispute over the name and flag of this country. In such circumstances, this newly-founded state feared of (almost certain) escalation of internal inter-ethnic conflicts. The Confederation of Trade Unions of Macedonia (SSM) was spontaneously transformed into almost ethnically pure trade union of Macedonians and was incapable of quality action. Throughout this period this country suffered severe effects of the events in Kosovo, NATO bombing and, finally, terrorist and nationalist conflicts. Gradually, SSM embarked more energetically on campaigns, aimed primarily against the government policy. These activities culminated in 2000 with the organisation of large-scale strikes and street protests. SSM has observer status in the ETUC and organises about 250,000 members in 18 branch trade unions, mainly Macedonians, with very few ethnic Albanians (Albanians account for about 30 percent of the population of Macedonia). An alternative organisation founded there is the Union of Free Trade Unions of Macedonia, which later nearly broke up, despite the considerable support from the U.S. labour movement and admission into the World Confederation of Labour (WCL). The current status of the Union in WCL is suspended.

#### *5.4.8. Albania*

Although Albania has not been directly involved in the tumult in the territory of former Yugoslavia, it experienced its own very chaotic autonomous development. Connection with the events in Kosovo and later in Macedonia also caused a certain degree of national unification in the trade unions. Two trade union organisations under the clear influence of political parties emerged from the chaotic collapse of the former system in Albania. One is the Union of the Independent Trade Unions of Albania (BSPSH), which supports the Democratic Party of former president Sali Berisha (1992-97). The other one, the Confederation of Albanian Trade Unions (KSSH), was close to the Socialist Party. Until 1997 – the year of Albanian collapse, little could be said of the true trade union activity in Albania. After the establishment of the new government, significant changes in the labour legislation have been initiated, activities referring to collective bargaining started, and the National Labour Council was founded. That is a tripartite body incorporating the representatives of the employers, trade unions and the government. Now, in Albania, workers have the right to form independent trade unions and to organise. Military and police can not join unions. The 1995 Labour Code formally established procedures for collective bargaining. Public sector workers are entitled under the Code to sign collective agreements and unions representing public sector employees have the right to strike, providing the strikes are non-political. An ICFTU mission visited Albania in July 2002 in the aim of defining the status of Albanian trade unions in this organisation. The conclusion was that both trade union centres should be admitted into ICFTU membership. However, this conclusion has not been verified yet.

#### *5.4.9. Romania*

There are many trade unions operating in Romania, but four among them are most important. The National Confederation of the Free Trade Unions in Romania “Fratia” (CNSLR-Fratia) evolved from the former state trade union. It has 27 branch trade unions and since 1991 is the affiliate of the World Confederation of Labour (WCL) and from 1996 it became a member of the European Trade Union Confederation (ETUC). The second trade union centre, with Christian leaning, is Cartel Alfa (CNS), founded in 1990. The National Block of Trade Unions (BNS), founded a year later, features social-democratic positions. The fourth organisation, The Confederation of the Democratic Trade Unions in Romania (CSDR), was founded in 1994 by Victor Ciorbea, later prime-minister and mayor of Bucharest. All four organisations are ETUC members, while two among them (Cartel Alfa and CSDR) are affiliated to WCL, the other two to ICFTU. Researchers assess that closeness of trade unions with political parties has dominantly caused the erosion of membership. In Romania, a less significant organisation, Meridian, also enjoys the

status of a representative trade union. Besides these, there are also strong trade union federations active in certain sectors (for instance in mining, metallurgy, education, commerce, agriculture, health), as well as a series of independent trade unions that are not affiliated.

#### *5.4.10. Bulgaria*

Trade union movement in Bulgaria is organised in two large confederations. The Confederation of Independent Trade Unions of Bulgaria is the successor of the former state trade union and numbers about 415,000 members. The orientation of this centre is social-democratic, although it does not have direct ties with political parties. The second trade union centre, Podkrepa, with strong anticommunist positions, was founded in 1989. It currently gathers about 100,000 members. Both organisations are ICFTU and ETUC affiliates. In addition to these two large organisations, in Bulgaria also operate “Promena” (“Change” in English), which openly advocates the return of king Simeon, and “Edinstvo” (meaning “Unity”) which closely co-operates with the Bulgarian Socialist Party. The membership of these two organisations is insignificant, although all trade unions in Bulgaria are experiencing dramatic membership decline. As in Romania, the newly-founded trade unions in Bulgaria established very close connections with the newly-founded political parties. Due to this, according to the opinion of many researchers, trade unions in both these countries paid the price of political fallacies and of tying their fate with the fate of the program of certain political parties.

The first tripartite body in Bulgaria – The National Commission for Co-ordination of Interests, was founded at the beginning of 1990. Its main function, defined by the Statute, is formulation, through jointly co-ordinated work, of solutions acceptable for all three parties for the major problems of economic reform, labour relations, social security and living standard, as well as determination of the main parameters for collective bargaining at the branch and enterprise levels.

A year after its founding, the functions and competencies of the Commission have been expanded. According to the tripartite agreement, it should review all drafts of legislation governing labour relations, social security and living standard. The work of the Commission is supplemented by seven Sub-Committees in charge of specific areas, and 28 branch Sub-Committees for tripartite co-operation and dialogue at the municipal level.

In March 1993 the Commission was transformed by the government decision, into the National Council for Tripartite Partnership, with three main goals: solution of collective labour disputes, strengthening of social security and protection and improvement of employees’ living standard.

In practice, this body addresses many other issues, such as minimum wages and pensions, unemployment benefits, employment, working conditions, social aspects of privatisation and restructuring of the economy, labour and social legislation. The Council does not have legislative initiative, but can forward draft laws to the Parliament through the Government.

Despite many difficulties encountered by tripartite dialogue in Bulgaria and fluctuations in its efficacy, social partners are unanimous that it has played an important role in the first phase of economic and social transition in this country.

### 6. Employers as mannequins of tripartism

Building capitalism without capital and without capitalists could be a witty definition of the first years of transition. Social dialogue in SEE emerged as the dialogue between trade unions and governments. The third partner – representative of capital – was missing. Unlike the trade union side, which existed in the former system and which had its autonomous development, the employers’ side is quite new in SEE countries, so that organisation, goals and method of work of the employers’ organisation have been imported from the West.

The most significant assistance in employers' organising was provided by the ILO. The most recent result of "self-organisation" of employers' organisations in SEE and their joint work in the SEE Employers' Forum, founded in Zagreb in 1999, is also unfolding under ILO auspices.

For instance, the first failed attempt at organising an employers' organisation in Albania – The Union of Democratic Businessmen – was recorded in 1993. Afterwards, at the initiative of the Ministry of Labour and with the ILO assistance, two organisations were founded in 1995: CONBIZ and the Confederation of Small and Medium-sized Enterprises – CONFINCOM. Gradual strengthening of business in Albania, the rise of the new class of entrepreneurs and establishment of new small employers' organisations resulted in 2000 in the creation of the Council of Employers' Organisations – KOP, and in the attempt to harmonise relations between these organisations and set up a true employers' association. KOP is involved in the work of the SEEEF.

The first employers' associations in Romania were founded as early as 1989, but only in the private sector. The privatisation of the state-owned enterprises went together with the development of the private sector and new employers' associations, representing the interests of the private business community, have been set up. Until 2001, employers' organisations could be established under a general Law on the Association, which was unfavourable to this social partner as against the trade union organisations. After that, the new law adopted in June 2001 defined the employers' organisation as employers' body set up as a legal person without patrimonial purpose. In accordance with this Law, employers' organisations can be organised at section, division and branch level and are established for each type of economic activity. The main requirements for the setting up of an employers' organisation are connected to the members' number generally accepted as a minimum of 15 or a minimum of 5 provided that they hold 70% of the production volume of a branch.

Nowadays in Romania eight employers' organisations are representative and over 100 employers' federations representing the economic agents in the respective fields of activity can be identified at branch and sub-branch level. These are: The Employers' Confederation of the Romanian Industry – CONPIROM (the biggest employers' organisation in Romania with 14 branch associations), The National Council of the Private Small and Medium-sized Enterprises of Romania – CNIPMMR (which includes over 73 territorial branches and 8 unions), The National Council of the Romanian Employers – CoNPR (includes 12 associations and professional federations), The National Confederation of the Romanian Employers – CNPR (made up of 21 organisations including 14 federations), The General Union of Industrialists of Romania 1903 – UGIR 1903 (it was created in Bucharest on 27 January 1903, and is made up of 42 employers' organisations at territorial level and 63 sectoral employers' organisations), The General Union of Industrialists of Romania – UGIR (established in 1992 to continue the activity of the employers' organisation with the same name existing in Romania until 1948; it includes 9 branch federations, 23 associations, unions and other organisations, 38 territorial federations), The Romanian National Employers – PNR (set up on 1 June 1990), The National Union of Romanian Employers – UNPR (includes 52 territorial federations and 8 professional associations).

In Bulgaria, for instance, in order to be recognised as representative at national level, a given employer organisation must bring together at least 500 enterprises and comprise at least two sectoral organisations which in turn represent at least 50 employers each. They must also have territorial structures which cover at least half the regions of the country, with at least 10 employers in each.

There is a number of organisations in Bulgaria which have been recognised as representative. The Bulgarian Chamber of Commerce and Industry (BCCI) was first established about 120 years ago (in 1884), and after 1992 it defines itself as a voluntary public organisation for assisting, promoting, representing and protecting the economic interests of its clients of the public and the private sector. The Bulgarian Chamber of Economy (BCE) is the successor of the Bulgarian Industrial Chamber established in 1880. BCE is a federative association based on branch and territory principles. Association for Grassroots Enterprises (renamed in 2001 into Civil Association for Enterprises) was set up in 1989 as the first organisation of private entrepreneurs for protecting the freedoms of enterprises and private employers. The Vazrajidane, Bulgarian Association of Private Entrepreneurs, established in 1989.

By contrast, there is no law in Croatia that would verify the representativeness of employers' organisations and that fact causes numerous problems for the ongoing social dialogue in Croatia.

In the same period in Serbia, the growth and development of the main alternative trade union – TUC Nezavisnost – and the new employers’ organisation – The Employers’ Union of Serbia – proceeded almost simultaneously. While the pro-government trade union SSS co-operated with The Chamber of Commerce and Industry of Serbia, with which it had signed the (valid) collective agreements, TUC Nezavisnost co-operated with the Employers’ Union. Co-operation between these two organisations is maintained in continuity, although without any significant practical results.

On the other hand, in certain other SEE countries, such as Montenegro and Macedonia, the role of social partner is still discharged by the respective Chambers of Commerce and Industry. They are signatories of general collective agreements, and their general associations (branches) are parties to the collective agreements for certain industries. In addition, their representatives have their place in the national economic and social councils. All this in fact testifies how the employers’ party is poorly developed in the organisational sense and without adequate capacity to act as a social partner. Trade unions in these countries claim that they realise that Chambers of Commerce and Industry cannot be social partners by ILO standards, primarily because they are not voluntary organisations (membership in them is mandatory according to the law). At the same time, they point out that they do not have another adequate social partner. Employers’ organisations in these countries have yet to join social dialogue and existing tripartite institutions.

Encouraged by the launching of the Stability Pact, in September 1999 the employers’ organisations from SEE countries, under the ILO auspices, set up The South Eastern Europe Employers’ Forum (SEEEF) aimed at mutual exchange of information and development of co-operation. SEEEF includes the following members: BIA (Bulgarian Industrial Association), CPR (Council of Romanian Employers), HUP (Croatian Employers’ Association), KOP (Council of Employers’ Organisations, Albania), SP (Employers’ Confederation, Bosnia and Herzegovina) and UPJ (Yugoslav Union of Employers).

In order to give the final conclusion about employers as a social partner in SEE, one should proceed from the fact that the new employers’ organisations in SEE have been founded in completely different conditions than those in which the institutional development of employer organisations in Western countries took place in the 20th century. In the West the employers clearly understood the interest in centralising their actions in order to be better able to defend themselves and to exert more effective pressure on the state and trade unions. Yet, employer organisations in the SEE countries have been formed in a completely different political and historical context.

Due to this, most employers’ organisations were actually set up as interest groups whose priority concerns are economic policy, privatisation of businesses and integration of post-communist economies in European or global economic structures. For example, in Montenegro, where the process of the establishment of employers’ organisations is lagging behind other SEE countries, there are a dozen organisations founded at the local level for a variety of interests: in one case the café and restaurant owners joined forces to exert stronger influence on the local authorities concerning their working hours, in the other entrepreneurs from one street in Montenegro’s capital joined to achieve greater pressure on the local authorities to solve municipal problems. Formally speaking, employers’ organisations have indeed been founded, but such organisations can hardly be considered social partners.

Even the organisations which met the representativeness criteria in SEE countries lack clout, and often the interest to get actively involved in social dialogue.

Employers’ organisations in SEE have not been founded for the needs caused by trade union activities. Trade unions were so weak that they in no way interfered with their work. Their organisation rather resulted from the need – in anticipation of future events and possible conflicts – to ensure the factor that would have influence on privatisation and liberalisation of the economy. Therefore, they are only formally present in the social dialogue which in these countries dominantly unfolds between trade unions and government.

## 7. Economic and social councils in SEE countries

Institutions of tripartism in SEE countries have been founded in different ways and at different times – in Romania and Bulgaria immediately after the launching of the transition process, and in countries emerged in the territory of

former Yugoslavia and in Albania much later. (The differences in the course of transition between the first two and other countries of the so-called Western Balkans are so big that division of SEE into seven i.e. five countries became quite usual.)

The most succinct review of the structure and organising of national tripartite bodies in SEE countries is presented in the following table.

### Structure of the national tripartite bodies in SEE countries

| Country                           | Number of trade unions in ECOSOC | Number of employers' organisation in ECOSOC | Number of members in ECOSOC |
|-----------------------------------|----------------------------------|---|-----------------------------|
| Albania                           | 4                                | 2   | 0                           |
| Bosnia and Herzegovina Federation | 1                                | 1   | 6                           |
| Republika Srpska                  | 1                                | 1   | 6                           |
| Croatia                           | 5                                | 4   | 15                          |
| Bulgaria                          | 2                                | 4   | -                           |
| Romania                           | 5                                | 8   | 27                          |
| Macedonia                         | 2                                | 1   | 11                          |
| Kosovo                            | 1                                | 1   | 15                          |
| Montenegro                        | 1                                | 1   | 38                          |
| Serbia                            | 3                                | 1   | 9                           |
| FRY                               | -                                | -   | -                           |

As the data in the table show, only in the Federal Republic of Yugoslavia the economic and social council has not been founded yet. In fact, in 1995, at the insistence of the CATUY, the Social Council of the Federal Government was founded within its scope, as the consultative body of the Federal Government. However, the initial CATUY proposal was inverted from the outset, because the Council was tripartite only formally, while in practice it operated as yet another consultative body of the Federal Government. The interpretation of then Federal Government was that the presence and the role of the trade union in the Council should primarily be in the function of the "implementation of the policy of the Federal Government, because the Council is a body of the Federal Government". This body operated very shortly and resembled more a panel or a round table than a place where social partners and the government should agree upon the main social and economic issues. Thus, it disappeared from the scene after the election and constitution of the new government. At present, there is no tripartite body at the level of the FRY, although such bodies exist in Serbia and Montenegro. (This fact also indicates the complexity of the overall political situation in the FRY, where federal bodies operate without any real significance for the political, economic and social processes in member republics.)

In the review of the structure of economic and social councils operating in SEE countries it is important to stress that in some countries (Macedonia, Montenegro, Kosovo, both entities in Bosnia and Herzegovina) Chambers of Commerce and Industry play the role of the employers' organisations. All these countries have laws on chambers of commerce and industry and all enterprises are obliged by law to pay special contributions for the financing of their operation. Although voluntary employers' organisations (whose founding was primarily initiated by the ILO) already exist in these countries, the representatives of the Chambers still sit in national economic and social councils as representatives of the employers' organisations. Trade unions in these countries (these are monolithic organisations without alternative, with the exception of Macedonia, where the newly-founded trade union – the Union of Free Trade Unions of Macedonia – is almost insignificant) are mainly aware that chambers of Commerce and Industry cannot be a legitimate social partner by international standards, but silently support their participation in social dialogue, because they can reach agreement with them more easily. All this indicates a very low level of organising of the employers' side in the ongoing social dialogue in SEE countries and the attempts to establish economic and social councils only to formally copy the democratic instruments of the European social model without earnest intention to develop and implement social dialogue as a means to deal with numerous social contradictions and problems.

The progress in the work of economic and social councils in SEE is quite clearly related to the achieved general level of transition. In this regard distinction can be made between the economic and social councils in Romania and Bulgaria, as the oldest and with the longest tradition, and those established in former Yugoslavia and Albania. However, considerable differences also exist within the second group. On the one hand, in Croatia and Albania these councils operate on the basis of amended labour laws and gather representative trade union and employers' organisations. This is also the case in Serbia as of recently, while other countries still have an open issue of the legitimacy and representativeness of social partners and hence of the social dialogue and its institutionalised forms of existence.

It is interesting that in some social and economic councils non-governmental organisations have a special place, in addition to social partners. (Such trends are the result of spontaneous bilateral relations developed between SEE countries and some West European countries and of the attempt to directly transfer experiences from developed countries into SEE countries.) In Montenegro, for example, the Economic and Social Council has not yet been completed with the representatives of the non-governmental sector and the representative of migrant workers from Montenegro. There are about 1,600 NGOs in this republic, some of them are very active in the area of economic and social development, but only one seat in the Economic and Social Council was awarded to an organisation dealing with specific issues of equality of women in society. In view of the existence of over 9,000 NGOs in Serbia, it was very difficult to choose the proper one that should be represented on the Economic and Social Council. Therefore, the place for the work in the Council is still open for all interested NGOs. Thus, the work of economic and social councils is departing from the initial trade union ambitions (and trade unions have been everywhere the initiators of their establishment) to set up bodies for tripartite harmonising of positions between legitimate social partners and is approaching the model of round tables, discussion groups or panels without concrete conclusions or agreements or else with agreements that are binding on no one.

## 8. Case study: Social dialogue in Croatia

### 8.1. The beginnings of transition: Tripartism as the regime's mimicry

The first tripartite body in Croatia, The Economic and Social Council, was founded in 1993, although at the time there was no legal basis for institutionalisation of tripartism. Representatives of the biggest and most significant trade union in Croatia – SSSH, discontent with the work of the Council, abandoned it already in 1994. The new Labour Law, enacted in Croatia in 1996, defined the existence of tripartism, so that the new Economic and Social Council was founded in the May of the same year. Its first chairman was Davor Juric, president of the most relevant trade union, SSSH. The Economic and Social Council of Croatia is composed of representatives of the Government, Croatian Employers' Union and of five representative trade union centres. (Trade union scene in Croatia will be elaborated later in this text.)

However, primarily due to the unsettled issue of representativeness of trade unions, the work of the Economic and Social Council was almost blocked until 1999 when, after long negotiations, the Croatian Parliament adopted the Act on Determining Representativeness of Higher-Rank Associations of Trade Unions in Tripartite Bodies on the National Level. On the basis of this Act, the number of members by trade unions was determined and officially published early in 2000. The problem of representativeness of trade unions was important not only in the case of the Economic and Social Council, but also for the establishment of employees' councils in enterprises. (In the reform of its labour legislation Croatia very much relied on the German experiences.) The results of trade union membership census taken at the time in the entire Croatia provided the basis for the distribution of trade union seats not only in the Economic and Social Council, but also in the governing boards of the pension, health and employment funds, which also have the character of tripartite bodies. Trade unions also have their representative in the Program Board of the State Broadcasting Corporation. Trade unions are not satisfied with the level of equality of their representatives in these bodies and that issue is still very topical.

At the time of Tudjman's Croatian Democratic Union (HDZ), tripartite institutions were nothing but dead letter. They were a part of the regime's mimicry which tried to conceal its authoritarianism by copying democratic institutions from the West. Actually, their establishment contributed to the creation of additional confusion and misunderstanding between numerous trade union organisations. Therefore, at the time of the decline of HDZ regime,

in 1999, SSSH embarked with great hope in the development of authentic social dialogue upon the conclusion of a special social agreement with six then opposition parties. The agreement, entitled The Contract for Socially Just Croatia, defines the strategy of Croatia's social and economic development.

The new strategy was necessary, because Croatia had to cope with the consequences of war in its territory, as well as of its involvement in the war in Bosnia and Herzegovina (similarly to Serbia). The result of ten-year-long HDZ rule was virtually devastated economy. Tourism, as one of the main economic branches, was recovering slowly, and in many important industry sectors (the metals complex, tobacco industry, wood processing) the number of jobs has more than halved since the beginning of transition, while the number of the poor rose to 8.4 percent of the population. According to the data of the National Statistical Office, the unemployment rate in Croatia is 23 percent. The average wage in Croatia is about EUR 500 and is the highest in the entire region, but it covers about 63 percent of the value of the standard statistical market basket, while the minimum wage meets only 29 percent of that cost. More than one third of the employed earn their salaries under the level of the minimum wage or minimum wage. During the HDZ rule, some highly contradictory (due to non-transparency and corruption) privatisation deals have been concluded, causing very adverse economic and political effects. Society faced the consequences of Tudjman's rule reflected in moral crisis, nepotism, corruption, mass "brain drain" caused by lack of perspective (SSSH estimates that about 120,000 young, educated people left Croatia). The new authorities made significant changes very soon. During 2000 Croatia was admitted to the World Trade Organisation (WTO) and signed the Association and Stabilisation Agreement with the EU. In March 2000, the Government, employers and trade unions concluded an agreement on the founding of a new Economic and Social Council, which during the first year of its work met twice a month on the average and discussed more than 110 topics on the agenda. Finally, at the beginning of 2001, the Government Office for Social Partnership was founded, headed by Vitomir Begovic, hitherto secretary of the SSSH.

## 8.2. Trade unions: mutual competitors

This short review of economic and social situation describes the conditions in which trade unions in Croatia operate. And they are indeed numerous: 27 trade union centres and 225 Associations – branch industrial federations. There is a legislative basis for such a number of trade unions. According to the Labour Law, a trade union can be founded by 10 members only, and a confederation by two trade unions – in other words by 20 members!

Pursuant to the Law on Representativeness of Trade Unions, five trade union centres are considered representative: Union of Autonomous Trade Unions of Croatia, Association of Croatian Public Sector Unions, Independent Croatian Unions, Croatian Association of Trade Unions and Association of Workers' Trade Unions of Croatia.

The Union of Autonomous Trade Unions of Croatia (UATUC, in Croatian: SSSH) is the oldest and the largest trade union confederation. It emerged in 1990 from a part of reformed trade unions and some newly founded. The SSSH is a legal successor of the old union.

Today the SSSH has 22 branch federations, 21 regional offices and 74 local offices, encompassing about 65 percent of unionised workers in Croatia. SSSH has 289,651 paying members, while together with the pensioners the total membership equals about 350,000. The SSSH has a developed infrastructure – offices in all 21 counties in Croatia; sections: women, youth, disabled workers and unemployed; co-ordination for multinationals; council for European integration etc. SSSH is the only internationally recognised TU confederation from Croatia since it is a member of the International Confederation of Free Trade Unions (ICFTU) and the European Trade Union Confederation (ETUC) where it has the observer status.

The Association of Croatian Public Sector Unions (Matica), founded in 1993, affiliates branch trade unions such as Independent Trade Union of Science, Trade Union of Croatian Teachers, Trade Union of Nurses etc. According to official sources the number of paying members of this TU confederation (6 branch federations, no regional offices) is 46,282.

The Independent Croatian Unions (NHS) has 40,000 members in 9 branches. Founded in 1999 by the Confederation of Independent Trade Unions of Croatia (KNSSH) and Co-ordination of Croatian Trade Unions of Public Servants

and Employees, it is today the smallest and almost insignificant centre. It covers employees working in state and public companies, public services and private companies (oil industry, electric power industry, post and telecommunications, financial services and others).

The Croatian Association of Trade Unions (HUS), founded in 1990, covers several branch trade unions and company-level unions. The number of paying members of this confederation, according to official sources, is 32,493. This organisation was actually a trade union outpost of Tudjman's Croatian Democratic Union (HDZ). Its membership and influence have considerably dwindled since the establishment of the new government in 2000.

The Association of Workers' Trade Unions of Croatia (URSH), established in 1994, assembles 23 affiliated branch and company unions with the total paying membership of 31,458. URSH is a member of the WCL.

Apart from trade union confederations, there are also "free floating" trade union associations on the trade union scene (associations that are not affiliated to any trade union confederation).

Based on the available data, it is estimated that the above-mentioned trade union confederations gather more than 80% of organised workers, most of whom (about 65 percent) are in the SSSH membership.

The Law on Representativeness of Trade Unions lays down the criteria a trade union must meet to become eligible for the participation in national tripartite bodies. These criteria, among other things, include: at least 15,000 members who are paying membership dues to affiliated unions; at least five trade unions at the national level (of branch or profession or company); at least 11 (out of 21) counties in the Republic of Croatia; at least three national-level collective agreements of different branches of industry.

Such legislative provisions, along with numerous internal disputes within the existing organisations, caused literal mushrooming of the new trade unions. In addition, they spent a lot of energy on mutual competition and on reaching inter-union agreements. All this hampers and complicates social dialogue. Moreover so, since trade unions are unanimous on one point – a very low opinion of the employers' associations.

### 8.3. Employers: apparent support to social dialogue

On the employers' side, there are two voluntary confederations at the national level: Croatian Employers' Association CEA (in Croatian: Hrvatska unija poslodavaca – HUP) and Union of Independent Employers' Associations (SNUP). Contrary to the trade union side, the criteria for determining representativeness of employers' confederations for participation in tripartite bodies at the national level have not been established by law. Before the new Labour Law, the negotiator on the employers' side was the Croatian Chamber of Commerce.

To sum up, the representative employers' organisation is the Croatian Employers' Association –HUP.

According to the Labour Law, employers' association can be founded by at least three legal entities or adult and solvent physical persons. CEA was founded in 1993 and registered in 1994. CEA has about 5,000 members with more than 300,000 workers. Its members are small, medium-sized and large companies.

The CEA is a confederation of employers' organisations. It encompasses 23 branch associations and four associated collective members. Beside the General Directorate, the CEA has three regional offices. The total number of full-time staff at the Zagreb headquarters is 27 and additionally two persons per each regional office. The CEA is the member of International Employers' Organisation (IOE) and observer member of Union of Industrial and Employers' Confederations of Europe (UNICE).

The purpose of the CEA is protection and promotion of its members' interests at the regional, national and international levels. The absence of proof on representativeness of the CEA is a cause of numerous misunderstandings and conflicts among the social partners. This is why the trade union side put forward a demand for adoption of a corresponding law that would regulate this issue.

Trade unions think that despite public support of collective dialogue by the CEA, the actual behaviour of its members in fact runs contrary to the spirit of social partnership in Croatia. SSSH claims that the CEA, “although for the time being the ‘legitimate’ employers’ representative, without evidence of its representativeness and unconfirmed partner role with the trade unions, is not at present an important factor for the promotion of social dialogue, enterprise restructuring, collective bargaining and establishment of the rule of law”.

Quite contrary, maintains SSSH, “the CEA is a major destabilising factor on the social scene. Such a situation, as well as the emergence of new employers’ associations, along with high disorganisation of employers, suggest an urgent need for maximum quality employers’ organisation and respect of fair relations with the trade unions, as equal partners, sharing the common interest: development, employment, profit, as well as negotiation and implementation of adequate level of employees’ rights in Croatia.”

## 8.4. Tripartism: a stable institutional basis

On the basis of the Labour Law (Article 219), the Economic and Social Council of Croatia is a body whose work is based on the idea of tri-sided co-operation between the Croatian Government, trade unions and employers’ associations in resolving economic and social issues and problems, carrying out harmonised economic and social policy, stimulating conclusion and application of collective agreements and their harmonisation with the measures of economic, social and development policy and promotion of peaceful resolution of collective disputes.

The Council consists of 15 members, five per each social partner. It is mandatory to have one substitute for each member. For decision-making on the issues within the competence of the Council to be valid, the presence of at least three representatives per each social partner is required. Decisions are made by majority vote of the social partners.

The Council has one president and two vice-presidents who are elected for a one-year term, from among all social partners in rotation. The Council has nine commissions – for certain areas within the scope of work of the ESC, which are composed on a tripartite basis.

According to the Labour Law (Article 219) the ESC:

- Monitors, studies and evaluates the influence of the economic and social policy on the social stability and development;
- Studies and evaluates the changes in prices and salaries with respect to economic stability and development;
- Gives well-argued opinion to the minister of labour on all the problems related to the conclusion and application of collective agreements;
- Proposes to the Government, employers and trade unions the implementation of harmonised price and wage policy;
- Determines the list of the members of the conciliating council and the procedure before the conciliation council;
  
- Determines the members of the arbitration council;
- Gives opinion on draft laws in the field of labour and social security;
- Promotes the idea of three-sided co-operation between the Government, trade unions and employers’ associations in resolving economic and social issues and problems;
- Encourages peaceful resolution of collective labour disputes;

In addition, the amended Rules of Procedure of the Parliament make it possible for the representatives of social partners to attend and participate in the work of the parliamentary committees for labour, health and social policy; for economy, development and reconstruction; for state budget and finances; for legislation.

Tripartism in Croatia is also institutionalised in the following:

The Governing Council of the Croatian Employment Office. The Council is composed of 9 members who are appointed by the Croatian Government: three members are appointed upon the proposal of the minister of labour and social welfare, three representatives of trade unions and three representatives of employers, upon the proposal of the ESC or representative employer and trade union associations.

The Governing Council of the Croatian Health Insurance Institute. This body also has 9 members, including four representatives of insured persons, two representatives of employers and three representatives of medical workers.

The Governing Council of the Croatian Pension Insurance Institute. The Council is composed of 13 members that are appointed by the Croatian Government: seven members upon the proposal of the minister in charge of labour, two members upon the proposal of insured persons' associations (represented by trade unions), two members upon the proposal of retired persons' associations and two upon the proposal of employers' associations.

In addition, the National Council for Occupational Safety and Health also has tripartite composition. It has a president and eight members and is composed of: government representative (one), employers (two), workers (two) and distinguished experts in the field of occupational safety and health (four).

According to the stated Agreement, in order to establish and develop social dialogue at other levels of state organisation, there is a possibility to found economic and social councils in the units of local government and self government. At present, economic and social councils at the local level have been founded in 11 counties (out of the total of 21).

## 8.5. Trade union action: hope in co-operation with the new authorities

The strongest trade union centre, SSSH, provided impetus to such development of tripartite institutions and to trade union participation in them. In November 1999, SSSH concluded an Agreement for a More Just Croatia with six, at that time leading opposition political parties. Some of the key elements of that agreement referred to: creation of a program of development and restructuring of the Croatian economy; revision of ownership transformation and privatisation; reform of employment system; reform of the pension insurance system; amendments to the Labour Law. The conclusion of this Agreement resulted in the SSSH support to these political parties in the elections in January 2000.

At the end of 2001 the SSSH was quite content with the results of that agreement. Most of the elements were in the process of realisation. A favourable climate of social partnership in the second half of 2001 made it possible to develop and conclude the Agreement called Partnership for Development that defined 17 common goals. The Agreement was signed on 22 December 2001 by representatives of the Government, employers (CEA) and four trade union confederations (SSSH, Matica, HUS and URSH). The NHS did not join the Agreement at any time.

The Preamble of this document emphasises that the principle of tripartism and reaching consensus on the national level are the most important economic and social issues. The Annex to the Agreement entitled Development Priorities of Croatia defines common obligations toward the fulfilment of the Agreement, with end-March 2002 set as the deadline: the basis for social policy and social priorities; the agreement on wage policy; the method of implementation of restructuring and privatisation in the economy; the program of making an analysis of the European Social Charter.

However, then the Government put forward a new proposal for the amendments to the Labour Law and towards the end of March 2002 the SSSH decided to withdraw from the Agreement because "until March 31, none of the four annexes were adopted and, in the meantime, the amendments to the Labour Law were proposed". After that, URSH also adopted a decision to withdraw from the Agreement, and two other trade union confederations (HUS and Matica) announced the possibility of withdrawal from the Agreement.

This puts an end to the good climate of co-operation between social partners, particularly trade unions and the Government in Croatia. After a period of dialogue, a period of social conflicts seems imminent. On 1 May 2002 SSSH organised protest demonstrations, giving a symbolic yellow card to the Government with a message: "Change yourself, not the law".

## 8.6. Conclusions: How to bring life into institutions

The Labour Law defined the Economic and Social Council (ESC) as a consultative body that “gives opinions”, “suggests”, “evaluates”. Of course, trade unions have not been content with this, because their ambitions were much higher. The fact that the vice-president of the Government attends Council sessions created false hope that the conclusions of the Council would be automatically binding on the Government. The composition of the ESC as a “quasi-political” body also causes misunderstanding and problems. At the same time, attempts are being made to organise within it professional debates on expert level and tripartite reconciliation by the authorised representatives of the three parties. For many reasons, believe in the SSSH, the ESC has been transformed into a debate club in which some topics are discussed without reaching clear conclusions. The next trade union objection is that social dialogue related to key issues of economic and social development is often done in a formalistic way, without the readiness to achieve common understanding of the problem and to create solutions that would be acceptable to all sides.

Of course, problems in the normal functioning and further development of social dialogue in Croatia are exacerbated by extensive fragmentation of trade union scene. Unfair competition among trade unions results in weakening of their bargaining power. In this way, certain trade unions with their trade-union, even nationalistic-populist demagogu actually themselves contributed to the flaws in social dialogue.

Trade unions in Croatia have been building the institutions of tripartism guided by the experiences of Western countries and their own tradition of self-management, and in this field achieved the best results of all SEE countries emerged in the territory of ex-Yugoslavia. However, tripartite institutions at the national level cannot offset the lack of social dialogue at the branch and enterprise levels.

## 9. Case study No 2: Social doalogue in Montenegro

### 9.1. Introduction

In order to understand and follow the progress of social doalogue in Montenegro it is previously necessary to present the social and political circumstances in which the process has been developed in.

A decisive influence on the economic and political development of Montenegro, when it comes to the last two decades of the last century, happened to be in the end of '80s, during the period of beginning of former Socialist Federal Republic of Yugoslavia disintegrating.

The government of Montenegro of that time tried, by police repression and by trite communists phrases , to suppress with no success, the populist and nationalist movements led from Belgrade, in the late 1980's named anti-bureaucratic revolution . The anti-bureaucratic revolution is actually the process of violent overturning Vojvodina and Montenegro governments organized by Slobodan Milosevic in late 1980's. The overall party and the state leadership of the former Socialist Republic of Montenegro was overturned after a couple of organized people rallies in late1989 and in the beginning of 1990. The change included the dismissal of complete management teams of the biggest and the most successful enterprises. The anti-bureaucratic revolution was popular movement but accordingly labor movement also. Thus, the leadership of Montenegrin Trade Union of that time submitted resignation , too. Upon the request of the members of Republican Council of Confederation of Trade Unions of Montenegro of that time, the Presidency of the Council submitted resignation and instead there was an acting-working group established. The group's task was to do preparations for the Union Emergency Congress session.

Thus, The Great Serbian nationalism, “refined” by Chetnik ideology, gained control in Montenegro . The period was manifest by coming dissolution of the state, war, the growth of fascism in the political sphere and inconceivable industrial and social collapse. The citizens and workers of Montenegro, as manipulated when overthrowing the

former government, were in the same manner misled when they demolished the walls of Dubrovnik during the Yugoslav People Army actions in Croatia . They were misled but they did participated. Impoverish and semi-educated labor, lacking civil experience and tradition, was an ideal caseload for manipulations and recruitment for devastating fascistic hordes. The regime sent them in the pointless war as if they were cannon fodder.

Very few of the participants of anti-bureaucratic protests had a clear vision of what their role would mean in terms of the new Montenegrin history. However, the price of “anti-bureaucratic revolution” had to be paid. It has been paid, among the rest, by isolation from the international community. It was European community that firstly imposed the sanctions upon Serbia and Montenegro in late 1992 and by United Nation’s Security Council, immediately after Federal Republic of Yugoslavia (FRY) was established in April ’92. UN Security Council’s sanctions lasted exactly 1.253 days .

In the scope, one of the major causes of difficult economic, social and political developments in Montenegro during the last ten years of the 20th century was the mass labor participation in the nationalistic and populist movement - the anti-bureaucratic revolution. It postponed and stopped the needed economic and political reforms on long term, it strengthened controlled economy and it provided sustainability of the regime personified in Slobodan Milosevic, with disastrous consequences for the population of Serbia and Montenegro.

## 9. 2. Economy breakdown

The politics led from Belgrade that had been for years and obediently followed by the leadership structures of Montenegro logically caused economic regression of Montenegro. The economy devastation, the population impoverishing were caused by the loss of the previously united Yugoslav market in which Montenegrin economy was significantly integrated into; but also, by the war environment in the former Yugoslavia territory and in the end by international isolation. The stated originated from continuously misled politics of the governments of Serbia and Montenegro i.e. of FRY.

The dimension of the economy collapse is confirmed by statistics on Gross Domestic product (GDP). Montenegrin GDP of 2001 is have returned to only 70 percent of 1990 GDP level. The highest inflation rate of 1993 in FRY was 123.751.836.168.522 percents

Industrial production it is only 59.9 of 1990 levels, a reduction of even 0.8% since 2000, and now accounts for only 42% of the total national product.

The table bellow shows a clear breakdown of the GDP and of industrial production decrease in Montenegro.

### **GDP and industrial production trend**

| 1900=100 | Nominal Gross Domestic Product (Millions YUD) | Real GDP | Industrial Product |
|----------|---|----------|--------------------|
| 1990     | 1778  | 100.0    | 100.0              |
| 1991     | 3490  | 89.2     | 86.8               |
| 1992     | 270819  | 68.2     | 69.5               |
| 1993     | NA  | 43.3     | 45.9               |
| 1994     | 1021  | 44.0     | 42.1               |
| 1995     | 1916  | 50.2     | 41.1               |
| 1996     | 3992  | 64.1     | 60.4               |
| 1997     | 5209  | 68.3     | 62.6               |
| 1998     | 7604  | 67.3     | 62.9               |
| 1999     | 16164   | 58.0     | 58.1               |

Data source: Monet, December 2001

The economic instability of Montenegro, even presently is additionally confirmed by the prices growth. Inflation rate in Montenegro in 2001 was 26% while in the year 2000 it was 23%. (Throughout both 2000 and 2001, the currency was not Yugoslav Dinar but Deutch Mark operated as national currency). Montenegro, with its undefined status within undefined state community with Serbia, presently faces numerous limitations in its reform processes continuation and it results in its economic repercussions.

The key Montenegrin economy problems, impeding reforms, are the old technology that cannot be upgraded without significant investment. However, the foreign investors do not show enough interest to invest into these facilities offered through the privatization process. The industrial production stagnates; there is a large state budget deficit, shortage of electrical power, extremely low level of industrial operating capacity; high shadow economy participation in the economy activities, high unemployment rate and average salary that is the lowest in the Balkans.

### 9.2.1. Unemployment growth

In 1989, there were over 163.000 employees and about 48.000 of unemployed. In 2002, the respective figures are 113.000 employed while and over 80.000 unemployed. The unemployment rate has increased from 17 percent in 1989 to present 28 percent. Simultaneously, the number of pensioners in Montenegro increased from 59.000 in 1989 to over 84.000 presently.

The table below indicates official data on employed/unemployed breakdown in Montenegro covering the last ten years period of the last century. The data is provided by the Republican Statistics Office.

#### Employment in Montenegro

| Year | Population (total) | No. employed | No. unemployed | Unemployment rate(%) |
|------|--------------------|--------------|----------------|----------------------|
| 1991 | 616.632            | 144.045      | 58.144         | 21.6                 |
| 1992 | 624.043            | 134.205      | 64.632         | 23.6                 |
| 1993 | 631.933            | 130.901      | 62.818         | 22.4                 |
| 1994 | 635.287            | 128.835      | 58.210         | 21.8                 |
| 1995 | 638.649            | 125.090      | 59.045         | 22.2                 |
| 1996 | 642.890            | 124.264      | 60.225         | 21.9                 |
| 1997 | 646.740            | 120.604      | 63.995         | 23.5                 |
| 1998 | 650.575            | 117.745      | 68.373         | 25.7                 |
| 1999 | 654.540            | 115.349      | 75.303         | 27.3                 |
| 2000 | 658.530            | 113.818      | 83.583         | 29.3                 |
| 2001 | 659.531            | 114.076      | 81.561         | 28.7                 |

Data source: Republican Statistics Office

It is important to point out that the number of jobs in Montenegrin economy decreased during past 13 years by more than 30 percents.

The table bellow presents a breakdown indicating comparison of total figures of those employed in the industry and non-industry sectors in the certain representative years.

#### Ratio: employed in the industry and non-industry sectors

| Employed               | 1989    | 1992    | 1995    | 1999    | 2000    |
|------------------------|---------|---------|---------|---------|---------|
| Total:                 | 163 351 | 133 587 | 125 399 | 115 328 | 114 768 |
| Productive Sector      | 131 543 | 104 295 | 93 126  | 80 423  | 78 752  |
| Non productive Sectors | 32 808  | 29 292  | 32 273  | 34 905  | 30 016  |

Data source: Employment Agency of Montenegro

The lost of posts in the productive sectors was caused by the sanctions and the enterprises operating in the given situation. Before economic reforms started employment figures were significantly greater under the self-management maxim of full employment, but since the early 1990's a "workers surplus" program was introduced as a way to allow companies to reduce workers surplus to the requirements and help companies transform themselves in preparation for privatization.

### 9.2.2. Poverty

This period is featured by, living standards and salaries abrupt declination. The present lowest labor cost (with which all the allowances in the Republic are adjusted) is 50 EURO presently, while average salary in Montenegro is 116 EURO. According to data of the Confederation of Independent Trade Unions of Montenegro (CITUM), salaries are half the 1990 level. Again, one should have in mind that, according to CITUM's data in May 2002, punctually 30.296 employees have not got their salaries for over three month period.

The following table shows the average salary trend (amounts are presented in Deutch Marks) in the last couple of years.

#### Average salary trend in Montenegro

| Year | Average salary in DM |
|------|----------------------|
| 1994 | 108                  |
| 1995 | 126                  |
| 1996 | 188                  |
| 1997 | 226                  |
| 1998 | 194                  |
| 1999 | 152                  |
| 2000 | 188                  |
| 2001 | 211                  |
| 2002 | 261                  |

Data source: Confederation of Independent Trade Unions of Montenegro

These average salaries are grossly inadequate to provide normal existence. The researches studies in 1996 indicated even 28,9% of the population in Yugoslavia, including Montenegro were poor. Poverty rates' coefficient (meaning the poor representation in the total population figure) has doubled since 1990 when the figure was 14,1% – additionally confirming the social collapse the population of Serbia and Montenegro were in. Even in the last couple of years the situation has not improved significantly. According to the United Nations Development Program (UNDP) Podgorica office researches, that had been done couple of times in late 2000 and early 2001, the poverty coefficient trend was between 25% and 30 %.

The economic collapse and abrupt poverty were the consequence of a destructive war policy, of an inefficient and expensive economy with out of date technology and inappropriate structures especially in terms of ownership, and all of it together was additionally worsen by the sanctions. An industrial policy based on the inefficient system of controlled economic management has caused a profound, long-term crisis. The transition recession, that follows radical changes of economic system, has yet to come in Montenegro, which means a higher price for economic reform are to follow.

## 9. 3. Political development

At the time of ex Socialist Federal Republic of Yugoslavia falling apart, the both Serbia and Montenegro fought against introducing of multiparty system and the reforms. While the other ex Yugoslavia republics had already had the first multiparty elections, in Montenegro there was only a discussion on possibility to allow legal establishment

of the new parties. This was a result of Association of Communists' superior winner feeling being refreshed by the anti-bureaucracy revolution outcomes.

Still, in late 1989 the establishment of the new parties in Montenegro had taken place, while the first multiparty elections were held in December 1990. However, it was a time of Association of Communists of Montenegro absolute domination. It, joining the old and new manipulation models, easily won the first multiparty elections. It was until 1997 that the Association of Communists of Montenegro, that in the course of '92 changed its name into Democratic Party of Socialists, had had absolute power in the Parliament . Accordingly, the whole political system of Montenegro just had a democratic form, while when it comes to the context it was actually an autocratic one. The temper of these semi-authoritative, authoritative-democratic regimes motivated some researches to name it a funny name: demo-creature . In such a system the leading DPS party controlled and used all the social power tools, while the opposition had a role of powerless democratic makeup. Srdjan Darmanovic defines this way of rule as "semi-authoritative regime", "a regime in which one party rules actually in a monopoly way and when needed it uses authoritative methods, but within legalized multiparty framework and the opposition existence, having in mind that the democratic side of the social order has more the appearance of a makeup than of the essence of the system ."

DPS was more party of governs than of the ideological sympathizers. Within it there were hidden different ideological, interest and political streams. It had managed to preserve a central position in the political life of Montenegro, to be in between: pro independence and pro unitary ones (in the terms of the state) between: "zelenasa i bjelasa" (Division on national issue, traditional name for political split in Montenegro between the promoters of independence on those for union with Serbia. The name comes from is the color of ballots that were used for voting in Montenegro after the First World War.), between the complete subjugation to Milosevic and anti Milosevic's democracy (according to the relation towards the regime in Serbia). Such a policy of govern preservation at any price actually caused Montenegrin binding to Milosevic's regime, its involvement in the war in ex Yugoslavia territories and postponing of the necessary transition and in some segments even a negative transition. This reflected the privatization policy we would focus on further in the document.

Gradually, within DPS inner disputes grow that were to culminate in the beginning of '97 and based on which the party tore into the two new parties. This inner DPS conflict influenced significantly Slobodan Milosevic himself. He needed safe support from Montenegro, for his move to the position of president of FRY, and therefore he wanted to, in advance eliminate resistance from DPS. However, the key dispute causes were hidden in the DPS governance manner and in developments of political and economic life of Montenegro. The conflict of interest of the inner clans in the top party structures was growing. The accumulated power in the hands of a number of people and in the established clans, the privatization of the state and of the machinery of the government and concrete material interests in the conditions of the beginning of politics' concepts differences led to an DPS inner conflict and its split. The inner DPS conflict was, due to its character of a state party, at the same time a dispute of the inner state institutions (first of all a dispute of jurisdictions among the president of the state and Prime Minister) and it has had a number of consequences for the state entities' personnel composition.

It was only in 1997 that the transition in political life of Montenegro started. For the first time in the post communist Montenegro, the elections results were uncertain and there was a possibility of real change of government and policy implemented. Milo Djukanovic won '97 presidential elections. '98 parliamentary elections won coalition "To live better – Milo Djukanovic" with 42 seats in the parliament, out of the total 78 seats at that time. Gradually, the conflict among the Montenegrin government and Milosevic's regime were becoming more and more profound. The conflict in the end was so severe that there was civil war threat among the supporters of the political options in Montenegro. This situation culminated during NATO attacks on FRY. (Milosevic and his supporters in Montenegro ruled Yugoslav Army and Montenegrin government the police forces of Montenegro.)

The coalition "The victory is of Montenegro" made of DPS and Social democrat party of Montenegro, in the last elections in Montenegro, held in May 2001, won 36 out of total 77 seats of the Montenegrin parliament . Opposing it, coalition "Together for Yugoslavia" that got a significant voters' support and won 33 seats in the parliament.

### *9.3.1. Serb-Montenegrin knot*

In Montenegro, the key political issue since '97 has been the state independency. The economists' general point of view was that the state sovereignty would greatly contribute the economic development of Montenegro. However, due to political problems in relation with Serbia but also in relation with numerous opponents of the independency within Montenegro itself, the government has chosen the concept of so-called functional sovereignty. The aim of this concept was first of to provide economic independence, to build all the necessary state institutions that were supposed to, later on, ensure political effects and provide state independency, so to say by itself. Such a concept, obviously have not achieved the expected results but it does result in Montenegrin independence in monetary sphere, custom system and international trade affairs. Apart of that, in Milosevic's regime time, the Federal government had been trying to punish Montenegrin disobeying by imposing economic sanctions towards it, that additionally worsen Montenegro – Serbia relation.

Presently both Montenegro and Serbia have economic sovereignty. Also, that there is no communication between the federal and republican government of Montenegro and economic relations between Serbia and Montenegro are kept at a very low level.

European Union also, took part in troubleshooting of Serb-Montenegrin Gordian knot. This is how it came to signing of so-called Belgrade agreement in March 2002, on new relations adjustment between Serbia and Montenegro. This agreement caused a new crisis in Montenegrin political scene. The government is replaced, the parliament passed a decision on the mandates reduction, so the new, extraordinary parliamentary elections were appointed initially for October 6, and then reappointed for October 20. Although the affects of this political crises are not visible enough it is obvious that the new political instability, caused in the first place by Belgrade agreement signing and then by a long preparations process for passing of the new constitutional chapter, is to cause further delay of the necessary reform laws passing that again this negatively influence the privatization process itself. The whole set of new reform laws, prepared by the government, is not to be passed until the new parliament and new government election and logically this is to have its consequences for the quality of reform phases of Montenegro. Regardless, Montenegro lacking the domestic capital has to base its privatization process on direct foreign investments but on the other hand due to political instability and risks the foreign capital obviously is not to come in the expected and needed amount.

### 9.4. Brief history of post-communism Trade Union movement in Montenegro

The new trade union organization in Montenegro has been developed non in accordance with a plan but it has been more taken by the passage of time and it has been dominantly conditioned by overall economic and political progresses. One can say that Trade Union Movement had adjusted to overall social processes until it acquired enough strength to become pro-active actor of the same processes.

The anti-bureaucratic revolution was the end of the historical mission of the old, socialist trade union in Montenegro. The new leadership of the organization was elected in the ninth, extraordinary Congress of the Confederation of Trade Union. The Congress was held in June 1989 in Podgorica. The old organization had been financially, structurally, ideologically and politically broken down. The first important steps, in the old organization reform, were taken throughout the years '90, '91 and '92 - in the environment of the war, nationalism, and fascist kind of political relations in Montenegro and in FRY. The new union Statute was passed and the so-called Trade Union Offer adopted. The Offer was actually the first independent trade union program. The membership re-recruitment on voluntary basis started accompanied by new membership cards issuing. The small, independent trade union organizations, that in the meanwhile were autonomously established, gradually merged into the old but reformed trade union. The Union changed its name to the Confederation of Independent Trade Unions of Montenegro (CITUM). The sartorial trade unions, by the Statute, were granted more significant role than before. The Statute alternations were to be continued in the tenth Congress held in March in 1994, in Bar. On this occasion the municipal organizations of CITUM were terminated and the municipal trade union offices (trustees) established. This Congress completed the first phase of Union reform in Montenegro. The organization earned its new legitimacy by having workers' voluntary re-recruitment and its legality by the process of registration of trade union organizations that was done in accordance with the new law on the Citizens Associating. Establishment and

registration of trade union organizations is still, in continuity, current. Since 1994 approximately 60 trade union organizations annually join the Confederation so presently there are one thousand and two hundred affiliates.

Simultaneously, the work in collective bargaining was initiated and the outcome was two general collective agreements – one covering the production sectors and the other for the non-proactive sectors. The agreements were signed in late 1990 and early 1991. These agreements were effective till 1995, when the social partners signed, on the tripartite bases, the unique collective agreement that is still in effect.

Internally, in the organization there were two dominant political orientations acting simultaneously, in the beginning of 1990s. The populist one that believed to be a winner based on the anti-bureaucratic revolution victory. The same had the stronghold character in terms of social base the Association of Communist govern (at the time renamed into Democratic Party of Socialist) and the reformist one closer related with the Montenegrin opposition political block. Such a division, relevant for the society as a whole and that gradually obtains pro-Montenegrin and pro-Yugoslav terms of reference, reflects, less or more visible even presently. CITUM's general position, since its establishment, has been that a higher level of politic involved into trade union activities would led into direct splitting of the organization into the two unions that, in the case, would have different national omens. This way split powers within the union, literally, has been preventing politically minded union actions in Montenegro. So, the union activism, in that period, was merely reduced to focusing at the classical request for the workers' protection and ongoing social requests conditioned by abrupt decrease of living standard.

The greater poverty increase of its members resulted in CITUM's gradual but stronger and stronger move away from the regime in power. Thus, Confederation of Independent Trade Unions of Montenegro, throughout 1993 and 1994, legitimated itself as a democratic organization, leaving behind populism ideology and social demagogy, turning the critical blade against the regime. This is confirmed by CITUM's membership acceptance into the European Confederation of Trade Unions Forum in December 1994.

The political nature of the organization was significantly influenced by the fact that CITUM has maintained to keep the mass membership comprising of the all the ethnic structures of the employed - Montenegrins, Serbs, Muslims, Albanians, Croats etc. CITUM's multiethnic composition was a mean for keeping together the trade union movement but at the same time it was its objective, too – a proof for the nationalistic environment that we could and we must live and work together. At time of the dominant political zelenaško-bjelaška split in Montenegro, the trade union having the supporters of all the political parties remains unbiased. Precisely, it promotes an apolitical approach, conditioned by the balance of powers within the organization itself that, by nature of the matters, matched the composition of political parties' powers in Montenegro.

Nowadays CITUM is a full member of International Confederation of Free Trade Unions (ICFTU). Nineteen independent Sector unions are associated into the Confederation; out of these some ten are affiliated to related international trade union associations. CITUM gathers a total of over 1200 trade union organizations (enterprise level). CITUM has 90,000 members. In terms of such a high unionism level but also by the monolith maintenance of the trade union movement within a unified confederation, CITUM represents a specific example for the region.

## 9. 5. Legal regulations

Reforms in Montenegro have been implemented in an uneven and unsynchronized manner. The lack of new, reformed, system laws was compensated for many years with the constant changes and amendments to the Republican laws and Government Decrees. In this way, the unregulated legal ambiance and the rule of the decrees have created the atmosphere of uncertainty and insecurity, privileged position of certain parts of the economic structure, corruption and nepotism. All of this affected negatively the business climate and the interest of the foreign investors in investing into Montenegrin economy, and, naturally, affected the problem of poverty, as well.

The unregulated legal ambiance, the rule of decrees, the uncertainty and the inequality of the employees in relation to the exercise of their rights on the basis of employment, have serious consequences on the activities of the social partners – the trade unions and the organizations of employers.

Montenegro is faced with the necessity to implement further radical changes of the labor and social legislation (labor relations, pension system, health protection system), which is exactly the segment of the transition process which bears the biggest social price, which is reflected in mass dismissals, reduction of salaries and pensions, reduction of numerous inherited social rights, etc.

The experience of other countries in transition shows that those countries that implemented their reforms faster and in a more comprehensive way, overcame faster the period of the so-called transition recession. Montenegro postponed these necessary changes for too long, thus, making the conditions for their implementation even more difficult. Now, the question is how to implement the necessary transition changes in the field of labor and social legislation fast and with minimum negative consequences, as this is a significant limiting factor for the further transition processes. It is enough to mention that they guarantee to the workers all those rights that the existing economy cannot support, that is, finance.

How difficult and complex this process is can be best seen by looking into just one part of the list of laws which are currently implemented in Montenegro, but which need to be changed in order to implement the Agenda of economic reforms in Montenegro, according to the plan:

1. Law on fundamentals of labor relations (federal), Official Gazette (O.G.) no.29/96;
2. Law on labor relations, O.G. 29/90, 42/90, 28/91, 16/95;
3. Law on labor inspection, O.G. 56/92, 20/95;
4. Law on employment, O.G. 5/2002
5. Law on records in the field of labor (federal), O.G. 146/96;
6. Law on protection at work (health and safety), O.G. 35/98;
7. Law on strike (federal), O.G. 29/96;
8. Law on fundamentals of the pension and disability insurance (federal), O.G. 30/96, 70/2001, 3/2002;
9. Law on pension and disability insurance, O.G. 14/83, 12/85, 14/89, 28/91, 18/92, 20/93;
10. Law on the protection of FRY citizens working abroad (federal), O.G. 24/98;
11. Law on the conditions for establishment of employment with foreign citizens (federal), O.G. 11/78, 64/89;
12. Law on state holidays of the FRY (federal), O.G. 29/97, 63/2002;
13. Law on holidays of the Socialist Republic of Montenegro, O.G. 22/76;
14. Law on religious holidays, O.G. 56/93;
15. Law on health protection and health insurance, O.G. 39/90, 21/91, 30/92, 58/92, 6/94, 27/94, 30/94, 16/95, 20/95, 22/95, 23/96;
16. Law on contributions for social insurance, O.G. 32/93, 3/94, 17/94, 42/94, 1/95, 13/96, 45/98;
17. Law on personal income tax, O.G. 65/2001, 12/2002;
18. Law on sanitary inspection, O.G. 56/92;
19. Law on inspection control, O.G. 50/92;
20. Law on salaries in the public sector, O.G. 28/91, 45/91;
21. Law on civil servants, O.G. 45/91, 50/91;
22. Law on calculation of time (federal), O.G. 41/94, 29/97;
23. Uniform nomenclature of professions (O.G. of FRY no: 31/90);
24. Decree on the conditions that the expert personnel need to fulfill in order to engage in entrepreneurial activities, O.G. 34/95, 35/95;
25. Decree on the salaries of civil servants (O.G. of Rep. of Montenegro no: 41/97, 8/98);
26. Decree on the compensations and other incomes of the civil servants, O.G. of the Rep. of Montenegro no: 41/97;
27. Decree on salaries, compensations and other incomes of the workers in the Republic of Montenegro, O.G. 3/94, 8/94, 20/94, 32/94, 16/95, 36/95, 14/96, 4/97, 9/97, 2/98;
28. Rulebook on the work booklet, O.G. 1/83, 54/2001.

Apart from these documents, it is necessary to bear in mind the need to harmonize, change or withdraw some 50 additional decrees of the Government, that were adopted in the past in relation to this field. Having in mind that the field of labor relations is more precisely defined through the collective agreements, in the analysis of influence of the labor legislation and social dialogue on the possible poverty reduction in Montenegro, we should consider the following documents, as well:

1. General Collective Agreement (“Official Gazette of the Rep. of Montenegro” no: 35/95)
2. Methodology for the definition of the minimum wage for the simplest work (“Official Gazette of the Rep. of Montenegro” no: 35/95)
3. Special Collective Agreement for the road and city transportation (“Official Gazette of the Rep. of Montenegro” no: 10/96)
4. Special Collective Agreement for the railway of Montenegro (“Official Gazette of the Rep. of Montenegro” no: 18/96)
5. Special Collective Agreement for the workers in the PTT system of Montenegro (“Official Gazette of the Rep. of Montenegro” no: 18/96, 41/98)
6. Special Collective Agreement for tourism and catering of Montenegro (“Official Gazette of the Rep. of Montenegro” no: 24/96)
7. Special Collective Agreement for the energy supply of Montenegro (“Official Gazette of the Rep. of Montenegro” no: 28/96)
8. Special Collective Agreement for the wood processing (“Official Gazette of the Rep. of Montenegro” no: 29/96)
9. Special Collective Agreement for trade of Montenegro (“Official Gazette of the Rep. of Montenegro” no: 30/96)
10. Special Collective Agreement for the public pre-school institutions (“Official Gazette of the Rep. of Montenegro” no: 32/96)
11. Special Collective Agreement for the primary schools of Montenegro (“Official Gazette of the Rep. of Montenegro” no: 32/96)
12. Special Collective Agreement for the high schools of Montenegro (“Official Gazette of the Rep. of Montenegro” no: 32/96)
13. Special Collective Agreement for the field of culture in Montenegro (“Official Gazette of the Rep. of Montenegro” no: 32/96)
14. Special Collective Agreement for the health and social protection in Montenegro (“Official Gazette of the Rep. of Montenegro” no: 32/96, 35/96)
15. Special Collective Agreement for the forestry sector in Montenegro (“Official Gazette of the Rep. of Montenegro” no: 35/96)
16. Special Collective Agreement for the University of Montenegro (“Official Gazette of the Rep. of Montenegro” no: 38/96)
17. Special Collective Agreement for the Secretariat of CANU – Montenegrin Academy of Science and Arts (“Official Gazette of the Rep. of Montenegro” no: 38/96)
18. Special Collective Agreement for the public institutions of the student standard (“Official Gazette of the Rep. of Montenegro” no: 38/96)
19. Special Collective Agreement for the special schools and institutes (“Official Gazette of the Rep. of Montenegro” no: 38/96)
20. Branch Collective Agreement for the metalworkers of Montenegro (“Official Gazette of the Rep. of Montenegro” no: 38/96)
21. Branch Collective Agreement for the agriculture, food and tobacco industry of Montenegro (“Official Gazette of the Rep. of Montenegro” no: 3/97)
22. Branch Collective Agreement for the textile, leather, footwear, chemistry and rubber industry of Montenegro (“Official Gazette of the Rep. of Montenegro” no: 8/97)
23. Branch Collective Agreement for the civil works of Montenegro (“Official Gazette of the Rep. of Montenegro” no: 26/97)
24. Branch Collective Agreement for the maritime activities of Montenegro (“Official Gazette of the Rep. of Montenegro” no: 30/97)
25. Branch Collective Agreement for the housing and communal activities of Montenegro (“Official Gazette of the Rep. of Montenegro” no: 40/97)
26. Branch Collective Agreement for the information activities of Montenegro (“Official Gazette of the Rep. of Montenegro” no: 43/97)
27. Branch Collective Agreement for the public institution Center for the eco-toxicological research of Montenegro (“Official Gazette of the Rep. of Montenegro” no: 13/98)
28. Branch Collective Agreement for the graphical and publishing sector of Montenegro (“Official Gazette of the Rep. of Montenegro” no: 14/98).

The existing regulations cover the rights of the workers in many ways. The right to work at the adequate post is determined (according to the education and the work experience), the right to rest (break, daily rest, weekly rest, annual vacation), the right to a leave (paid and unpaid), the right to protection at work, special rights of the persons below 18 years of age and pregnant women, as well as women with children up to 3 years of age, special protection of women and youth (in relation to the night work, overtime work, difficult physical activities and similar), the right to salaries and other compensations, the right to pension, health and insurance in case of unemployment, the right to protection in the procedure before the arbitration or the court protection, etc.

However, the problems occur in the concrete implementation of these regulations and rights in practice. For example, even though the Law guarantees to the workers monthly payment of salaries, in accordance with the collective agreement, this salary, due to the shortage of funds, is not paid regularly, that is, there are delays of several months, up to several years in the payment of salaries. According to the data obtained by CITUM, over 30.000 workers in Montenegro, primarily in the industry sector, are not receiving their salaries regularly. Due to that, in Montenegro we have a unique problem of the “employed poor”.

A separate problem is the amount of the so-called “compensation for departure” for the employees who have been proclaimed technological surplus. Although the Law guarantees, as one of their rights, the payment of the compensation equal to 24 monthly salaries per worker who has been proclaimed technological surplus, this compensation is paid with big delays, and taking into consideration the small average which is used as a base to calculate the 24 monthly salaries, this compensation becomes so small that the worker who was dismissed cannot solve the issue of the new employment in a quality way. The announced new Labor Law prescribes the reduction of this compensation, which could cause additional problems for some categories of workers.

## 9. 6. Collective bargaining

### *9.6.1. General Collective Agreement*

General Collective Agreement in Montenegro is a general and national one. National, because it is signed at the level of the Republic, that is, the state. General, because it covers all the employees and all the employers. The existing General Collective Agreement came into effect on November 15, 1995. In the past there were two General Collective Agreements in Montenegro: General Collective Agreement for the organizations of social activities, public enterprises and state authorities and the General Collective Agreement for the remaining part of the economy, and they were signed at the end of 1990, beginning of 1991.

The parties that have signed the General Collective Agreement in Montenegro are: the Confederation of Independent Trade Unions of Montenegro, the Government of the Republic of Montenegro and the Chamber of Commerce of Montenegro. The subject matter of the General Collective Agreement relates to the labor relations of the workers in the Republic, and the obligations of the contracting parties, that is, the Government, the Chamber and the Confederation.

General Collective Agreement contains the following provisions: basic provisions, labor relations, protection of workers at the workplace, salaries, compensations and other personal incomes, cessation of the need for the work of the employees, conditions for the work of the union, signing and implementation of the collective agreements, manner to resolve collective labor disputes, and final provisions.

This Agreement defines the minimum wage for the simplest work and for the full working time and normal productivity at work, and the employer cannot pay the worker lower minimum wage than the minimum wage defined in the negotiations between the contracting parties. The elements for the definition of the minimum wage have been copied from the ILO Convention (no: 131) on the determination of minimum wages and the ILO Recommendation (no: 136) on the determination of the minimum wages.

On the basis of this Agreement the contracting parties form their negotiation teams, which, according to the Methodology, define the minimum wage. The minimum wage is determined on the basis of the Methodology for the determination of the minimum wage, which contains the following elements: needs of the employees and their

families, general salary level, living expenses, relative level of the living standard of the other social groups, and the economic factors. On the basis of the minimum wage the basic wage is calculated, which is calculated when the minimum wage is multiplied by the following coefficients, according to the groups of jobs by their difficulty:

| Group of jobs<br>Coefficient  | Qualification requirements           |
|---|--------------------------------------|
| I No expertise required<br>1.00   | (non-qualified worker)               |
| II Expert training of up to six months is required<br>1.20  | (I degree)                           |
| III Expert training of from six months to 2 yrs is required<br>1.50                                     | (II degree)                          |
| IV Expert training through high school education from 2 to 3 yrs is required<br>1.65                    | (III degree) (qualified worker)      |
| V Expert training through high school education of 4 yrs and more is required<br>1.85                   | (IV degree)                          |
| VI Expert training through the specialization on the basis of high school education is required<br>1.90 | (highly qualified worker) (V degree) |
| VII Expert training through higher education is required<br>2.20  | (VI degree)                          |
| VIII Expert training through University education is required<br>2.70                                   | (VII degree)                         |
| IX Expert training through post-graduate education is required<br>2.95                                  | (VII-1 degree)                       |
| X Expert training through Ph.D. education is required<br>3.20   | (VIII degree)                        |

It is necessary to mention that the General Collective Agreement provides for the institute of the so-called “forced vacation”, that is, temporary leave in case of natural disasters, higher force, shortage of business activity, repairs, production stoppage, reduced scope of activity, cessation of work, or the inability to assign the person to the adequate post. In case of use of the forced vacation, the employee should receive minimum 50% of his/her basic wage. The category of forced vacation is not recognized in theory, nor in practice, and has significantly influenced the quality of the labor market in Montenegro, thus, among other reasons, this is another proof that we need urgent changes of this collective agreement.

The Confederation of Independent Trade Unions of Montenegro offered to the Government of Montenegro and to the Chamber of Commerce the text of the new Proposal of the General Collective Agreement, thus, we expect that, after the adoption of the new Labor Law, the social partners will start working, together with the Government, on the development of the new General Collective Agreement in Montenegro.

### *9.6.2. Branch Collective Agreements*

Apart from the General Collective Agreement, in Montenegro we also have the so-called Branch Collective Agreements. This name is given because they are signed at the branch level (sector level), and the Law defines it as such, unlike the previous Law, which defined these agreements as Special Collective Agreements. In practice, the special and branch collective agreements are essentially the same, except for this definition of the term.

According to the needs of the General Collective Agreement in Montenegro, since mid 1996 until the beginning of 1998, 26 branch collective agreements have been signed, as follows: Special Collective Agreement for the road and

city transportation, Special Collective Agreement for the railway of Montenegro, Special Collective Agreement for the workers in the PTT system of Montenegro, Special Collective Agreement for tourism and catering of Montenegro, Special Collective Agreement for the energy supply of Montenegro, Special Collective Agreement for the wood processing, Special Collective Agreement for trade of Montenegro, Special Collective Agreement for the public pre-school institutions, Special Collective Agreement for the primary schools of Montenegro, Special Collective Agreement for the high schools of Montenegro, Special Collective Agreement for the field of culture in Montenegro, Special Collective Agreement for the health and social protection in Montenegro, Special Collective Agreement for the forestry sector in Montenegro, Special Collective Agreement for the University of Montenegro, Special Collective Agreement for the Secretariat of CANU – Montenegrin Academy of Science and Arts, Special Collective Agreement for the public institutions of the student standard, Special Collective Agreement for the special schools and institutes.

Although in the world branch collective agreements are the most important type of collective agreements, here they still do not have that level of importance, but surely, with the development of the market economy and social partnership they will gradually become more and more important.

### *9.6.3. Collective agreements with the employers*

Individual collective agreement is an agreement signed with the employer (in the company or in the institution), between the trade union organization and the employer, and it covers the rights and responsibilities of the workers and the employer. Individual collective agreement is defined as such in the General Collective Agreement, although it would be better to call it the collective agreement with the employer, as it is the “heir” of the general acts that, especially during the socialist times, regulated more closely the labor relations.

Individual collective agreements in our country are not typical in relation to the parties that sign them, as the interests of the employer are not represented by the Association of employers, but the employer himself, as a legal entity, that is, this collective agreement is signed on behalf and to the account of the employer by the director of the company with the trade union organization in the company.

In the public sector, that is, in the public institutions financed from the budget, no individual collective agreements have been signed, which is explained by the fact that there is only one employer for all the public institutions.

In the Confederation of Independent Trade Unions of Montenegro there are no precise data on how many individual collective agreements have been signed, and how many employers and employees they cover.

### *9.6.4. Labor contract*

The Law defines the obligation of the employer to sign the Labor contract with the person being hired, before that persons starts working, and to report that employment to the organizations in charge of employment affairs, pension and disability insurance and health insurance. After the signing of the Labor contract, the worker has the right to start working and takes over the rights, obligations and responsibilities on the basis of employment.

In relation to the relationship between the labor contract and the collective agreement, it is necessary to mention that the Law says that the labor contract cannot grant less rights and more unfavorable working conditions than the rights and the conditions defined in the Law and the collective agreement. In the system of labor relations, there is a principle that the more concrete legal norm cannot be less favorable for the employees than the general one, that is, the norm of a lower hierarchical level cannot define lower level of rights and more unfavorable working conditions than the norm of a higher hierarchical level. This principle is the basis for the relationship between the General, Branch and Individual Collective Agreements, and the Labor Contract.

### *9.6.5. Minimum wage*

The Law defines the obligation to negotiate the minimum wage with the employer. The General and Branch Collective Agreements say that the minimum wage, in accordance with the individual collective agreement, is defined with the employer. The wage for the individual job is not precisely defined in the General Collective Agreement, but consists of the minimum wage, that is, the basic wage and the part on the basis of the working conditions that are more difficult than normal, and sometimes also on the basis of the responsibility. So, the wage for a specific job consists of the minimum wage multiplied by the coefficient of difficulty of the job, that is, the basic wage and the part on the basis of the working conditions that are more difficult than normal, that is, on the basis of the responsibility.

The starting point for the calculation of the needs of an average family of four is the value of the necessary products for the family, that is, the value of the “consumer basket” determined by the official statistics. The value of that consumer basket is determined on the basis of the quantities and prices of 65 food and beverage products in the specific month.

The other necessities of the family of four (housing, clothes and footwear, transportation, health and hygiene, education and culture, sports and recreation, etc) increase the value of this consumer basket by 40%, as at the time when the General Collective Agreement was signed it was determined that the average families spend some 60% of their income for food, and 40% for other expenses. This ration has not been changed since 1995, and the average employment coefficient at the level of 1.7, neither.

The methodology does not prescribe the automatic definition of the minimum wage, but its amount is determined by the negotiations body, consisting of the authorized representatives of the signatories of the General Collective Agreement, on the basis of the elements and conditions defined in the Methodology.

An important characteristic of the minimum wage is that it serves as a basis for various types of social assistance, budgetary expenditures, and even some fines in Montenegro. The minimum wage in Montenegro is currently EUR 50.

### **9.7. Strikes**

In the past few years strikes have been organized quite often, as a form of fight for the improvement of the professional and economic position of the workers. In that, it is necessary to mention large problems that occur in the organization of strikes, the non-existence of the quality negotiations process related to strikes, and naturally, the lack of funds to respond to the needs of the workers, whether it involves their demands during the strike, or their legal rights, which they are unable to exercise in the companies where they work. For that reason, common and lengthy strikes do not result in the improvement of the professional and economic position of the workers, but on the contrary, they have negative consequences (even more difficult economic position of the companies and similar). It is especially important to mention the non-existence of the social dialogue and social partnership, as well as the non-existence of the culture of negotiations among the management and the trade union structures, which is a significant cause of numerous strikes, but, at the same time, makes their organization and management more difficult. There are many strikes in the companies where the workers are majority shareholders (which happened through the so-called workers’ participation in the ownership over the shares, and then also through the mass voucher privatization), thus, it is obviously necessary to undertake serious educational activities to inform the social partners about the modern forms of corporate management and the separation, but at the same time, integration of the interests of labor and capital.

The new Law on strike resolves one part of the problems related to the organization of strikes, but does not resolve the problem of the non-existence of social dialogue, which is, actually, the key political cause of strikes. In the conditions when the strikes are dominantly caused by the non-payment of salaries for several months, the most common reason for the organization of strikes in Montenegro is the inability to establish quality social dialogue, that is, the fact that the workers are not able to get the information and to be consulted on the current situation in the companies.

## 9.8. Social dialogue and tripartism

### 9.8.1. *Economic and Social Council of Montenegro*

Montenegro was the last one in the region of South East Europe to establish the Social and Economic Council. The first tripartite institution in Montenegro was established through the Government Decree, adopted in 2001. As the General Collective Agreement in Montenegro is agreed and signed by the Government, CITUM and the Chamber of Commerce, according to that the composition of the Social and Economic Council of Montenegro includes the representatives of these organizations. Although the Government adopted the Decree on the establishment of the Social and Economic Council on February 1, 2001, the first inaugural session of the Council was held in the beginning of 2002, and during that year the Council held three sessions.

The Government Decree defines the following tasks of the Council:

- to follow, stimulate and analyze economic and social activities;
- to give proposals for the definition and implementation of the economic and social policy;
- to analyze and give proposals for the reforms that it finds necessary for the transition of the society, and for the technological development;
- to analyze the plans for economic and social activities and to give proposals for their harmonization, and to give initiatives to find the ways for the realization of the adopted plans of economic and social activities (for example, this is a quotation);
- to analyze the draft laws and other regulations in the economic and social sphere, and to assess their harmonization and compatibility with the modern trends and EU standards;
- to analyze Budget Proposals and the final Budget of the Republic;
- to prepare studies in the economic and social sphere;
- to analyze other issues and proposals that contribute to the improvement of the economic and social activities.

The Council has established seven sections, consisting of the Council members, as follows:

1. Section for production, research and development,
2. Section for labor and social issues;
3. Section for transition of the society,
4. Section for agriculture, food industry and forestry,
5. Section for economy and finance,
6. Section for environmental protection,
7. Section for foreign relations.

The presidents of these sections are members of the Presidency of the Council. The Council, according to the Government Decree, has the total of 38 members, out of which 35 are elected at the Inaugural Session (in 2001), while the remaining three have still not been elected. The members of the Council are as follows:

- Seven representatives of the workers, appointed by the Confederation of Independent Trade Unions of Montenegro,
- Seven representatives of the economy, appointed by the Chamber of Commerce of Montenegro,
- Seven renowned experts and public figures, appointed by the Government of Montenegro,
- Three representatives of the agriculture and tourism sectors, appointed by their associations,
- Four representatives of the funds, appointed by the Pension Fund, Development Fund, Health Fund and the Employment Agency of Montenegro,
- One representative of the banks, appointed by the Bank Association,
- Five representatives of labor, education and health, appointed by the Ministry of Labor, Ministry of Health, Ministry of Education and the University of Montenegro,
- Three representatives of the NGO's, appointed by the NGO's, and
- One representative of the Diaspora, appointed by the Ministry of foreign affairs.

The manner of establishment and the composition of the Social and Economic Council show the basic construction mistakes that disable any more significant influence of this authority on the processes of social and economic

development, as well as on the quality of the social dialogue in Montenegro. All these problems can be brought down to the core problems of legitimacy and representation of the social partners that it encompasses.

### *9.8.2. Problems of institutionalization and true implementation of tripartism*

Namely, the Chamber of Commerce is an organization that is based on the legal obligation of all the enterprises to pay the contributions for the financing of the work of the Chamber. As there were no true employers' organizations in the beginning of the nineties, the Chamber took over the role of the social partner, although it lacks the necessary capacity for that. After the Union of Employers of Montenegro has been established, some, more or less open, conflicts between the Chamber and the Union have occurred. As the existing composition of the Social and Economic Council does not fulfill the international standards, this issue is becoming more and more important. Anyhow, the international standards in this field are prescribed by the ILO (Recommendation no. 113 on the consultations at the level of industries and at the national level, from 1960; Convention no. 144 on tripartite consultations – international labor standards, from 1976; and Recommendation no. 152 on tripartite consultations from 1976, etc). In these documents, among other things, it is defined that the social partners can be only the voluntary organizations of workers and employers, and not the chambers of commerce, which exist on the basis of the legal obligation of the companies to pay the contributions to them.

The establishment of the Social and Economic Council in Montenegro is a result of the attempt of Montenegro to adjust to the so-called European Social Model. Unlike the dominantly bipartite model of cooperation between the world of labor and the world of capital in the USA, for example, in the European countries the role of the third factor – the state in this process is significantly developed. Sometimes, this kind of a relationship between the world of labor and the world of capital is called neocorporativism, but more commonly tripartism. In Western Europe the development of neocorporativism was always closely related to the social democratic policy. It contributed to the political stabilization and the economically based political, and one could even say class compromises. Neocorporativism, that is, tripartism is, clearly, more than the mere existence of the bodies in which the state works together with the representatives of the workers and the employers. It is a modern, European approach, a social and political model of integration of labor and politics.

But, the precondition for the development of tripartism is well-developed bipartism. (This involves the direct social dialogue between the representatives of the workers and the employers). So, when tripartism does not have it's basic precondition – the developed mechanisms of bipartite dialogue, as is the case in Montenegro, then this type of industrial relations is much more dependant on the current political processes in the state. Unlike the western countries, where the bipartite social partnership is established much better, both institutionally and politically, thus, it resulted in the creation of the tripartite negotiation structures, the countries in transition have institutionalized tripartism relatively fast, but based on the weak and problematic bipartism. (The first institutions of tripartism in the countries in transition have been established as early as the beginning of the 90's). As they function without the strong bipartite basis, the national trade unions and employers' associations are rightfully subject to criticism that they are not representative enough, that is, they are unable to transform their activities at the tripartite level into concrete activities at the level of individual sectors or individual companies. However, the introduction of the system is not easy, at all. In the countries of Western Europe, autonomous activities of the social partners have been gradually transferred into the legal regulations, that is, the social partners themselves have fought for the existing level of social dialogue, which was, thus, incorporated into the economic, social and political life of these countries, and then became institutionalized and legalized. On the other hand, in the countries in transition there is an obvious attempt to implement the contrary process – to create the institutional preconditions for social dialogue and, thus, to secure it's real life. In the countries in transition the institutions of tripartism have been developed similar to those in the European Union, but it was, most often, just a part of the overall environment of façade democracy. Almost a typical example of this is Montenegro with its Social and Economic Council.

The Social and Economic Council has a very modest budget, has insufficient funds for its activities, but the members receive a monthly compensation for their "work" in the Council. These are just some of the reasons why the Social and Economic Council of Montenegro almost does not look like a body for tripartite harmonization of the different views of the legitimate social partners, but is much closer to the model of the round table, discussion group or Q&A meeting with no concrete conclusions or agreements, or with the conclusions that are not binding for

anyone. It is clear that when the Council was established a mistake has been made, which creates problems of its legitimacy and the financing of its work, which results in the current existence of the Council solely as the democratic façade, with no real influence on the economic and social development in Montenegro, nor on the prevention of industrial and social conflicts and collective labor disputes.

As in Montenegro we are just preparing a whole set of reforms in the field of labor and social legislation, which has serious social consequences, the role of the Social and Economic Council will have to increase. As it is, the Social and Economic Council of Montenegro cannot respond to those challenges. For that reason, it will be necessary to initiate the adoption of the special Law on Social and Economic Council that would establish this body in accordance with the international standards and the needs of the new labor legislation in Montenegro. This Law should contain the criteria for representativeness of the social partners, in order to timely prevent the future conflicts within the trade union movement and the increasing number of the employers' organizations in Montenegro. Additionally, this new Law should prescribe the conditions, manners and models of participation of the overall civil society (NGO's) in the discussions about the economic and social development of Montenegro.

## 10. Final considerations

The transition process has its social cost. Due to this, socially acceptable price of the transition process was hitherto the subject of social conflicts in SEE countries, in the same way as future social conflicts, that will more or less shake all societies in SEE, will be primarily determined by social consequences of necessary reforms in them. The subject of social conflict are not changes as such nor their necessity, but above all their method, their social cost and effects.

SEE countries are at the historical crossroads between conflict and peace. The period of stabilisation of political relations in almost all SEE countries is starting after years of ethnic and ideological wars and conflicts. This turning point in the area of industrial relations can be described as a transition from industrial and/or social conflicts to social peace which is being built and exercised through social dialogue mechanisms. This means that the countries of this region have to build and make functional the mechanisms of social dialogue and social peace, as one of the vital issues of their future.

Problems in the development of ideas, institutions and practice of social dialogue faced by SEE countries are numerous. The prerequisite for the establishment of social dialogue is the existence of authentic social partners, which have not existed here before, or else were very weak and very similar to government structures.

The basic tripartite institutions have been founded in all SEE countries (with the exception of the Federal Republic of Yugoslavia. The reasons for the founding of social and economic councils were partly in the pressure of trade union organisations which saw bipartite or tripartite dialogue as an opportunity for their greater participation in the creation of the policy on the economic and social plan, and partly in the attempt of new authorities to harmonise labour legislation with the EU laws and practices.

Since trade unions were the main initiators of the institutionalisation of tripartism and social dialogue, their role is particularly important. For, the establishment and full development of the democratic order within trade unions is a necessary precondition for their further notable contribution to democratisation of society as a whole. The manner in which various forms of negotiation and reconciliation of opinion are carried out in tripartite bodies, as well as efficiency in the implementation of concluded agreements largely depend on the clout each partner as a representative has at the negotiating table. If trade unions face membership erosion, if they spend more energy on solving disagreements with other trade unions, the less capacity they will have for full exercising of the role of social partner. Trade unions in SEE are generally much stronger in the public sector of economy, and less-well organised in newly founded (usually small and medium-sized) enterprises. By contrast, new employers' organisations are based in newly founded private enterprises. Such imbalance of power and interest represent additional problem for quality development of social dialogue in SEE.

In almost all SEE countries tripartite bodies have been founded with similar goals based on Recommendation No. 113 of the International Labour Organisation. Tripartite councils in all SEE countries have predominantly a

consultative role, but sometimes governments are obliged to consult them when a law in the area of economic relations or social policy is contemplated or prepared for enactment. Economic and social councils usually deal with the wage policy, pensions, active employment policy, working conditions, competitiveness of the national economy, consequences of introduction of new technologies, occupational health and safety, problems of national development, social issues, workforce retraining, etc.

Practice in Southeast Europe so far leads to the conclusion that social dialogue, despite many obstacles and weaknesses, started to function and that it produced the best results in the creation of institutional and legal assumptions for new labour relations in the conditions of transition to market economy, resolution of major conflicts in the world of labour and participation of trade unions and employers in the formulation and implementation of government's economic and social policy measures. Tripartism has played the key role in the reduction of social tensions and in providing social peace.

Three main functions of tripartite institutions in SEE countries could be identified: participation in the creation of institutional assumptions for new industrial relations, as well as in eliminating obstacles in the way to the development of labour relations in the conditions of market economy; participation in the broader elaboration and implementation of government measures (primarily in the area of wage policy, social welfare, employment) and settlement of collective labour disputes.

However, institutionalisation of social dialogue and new legislation alone are insufficient to offset the legacy of negative, often anti-unionist practice in the countries of this region. There are examples that tripartite institutions, although formally established, are actually hollow, ineffective, faced with the problems such as lack of willingness for dialogue, lack of knowledge for resolution of complex social, economic and general developmental problems. In such situations, the institutionalisation of social dialogue and tripartism serves only as a façade, as a cover to governments for their alleged democratic legitimacy. "Façade democracy" thus obtains only another ornament, without actual meaning for the total social life in the countries of the region. Often social partners also lack sufficient bargaining capacity with which they can bring life and responsibility into social dialogue institutions which thus remain only formal and without actual influence on social development. The gap between new democratic laws and undemocratic reality is still too wide and only the development and strengthening of social partners can contribute to real democratisation of social life in the countries of the region.

Comparison of the forms through which social dialogue is conducted in the EU and in SEE countries indicates that similar forms conceal different substance. Both in the East and in the West one can see very similar forms through which social dialogue is carried out (composition of tripartite bodies, manner of election, internal organisation), but it cannot automatically serve as an indicator of similar situation in the area of social dialogue. Even the best conceived social dialogue mechanism represents a hollow, lifeless form if not supported by voluntariness, autonomy of will, power and mutual confidence between the actors of social dialogue. In SEE countries participants in social dialogue are still not strong enough to be really able to participate in consultation and harmonisation about the character of measures of economic and social development and consequences that these measures could produce. Hence, they are not able to assume responsibility for pursuing adequate policy harmonised on tripartite basis. Therefore, the course of social dialogue in national tripartite institutions is only an imitation of democracy, a political theatre play with participation of social partners, whose aim is to provide marketing promotion and thus strengthen their insufficient legitimacy or power.

For faster overcoming of the inherited and newly-emerged obstacles to stable social development of SEE countries it is necessary to develop the culture of social dialogue and social partnership. The philosophy of negotiation, compromise and responsibility should be developed and implemented both among new private employers and in their associations and also in trade unions as the key actors of democratic pluralist system of industrial relations. New employers accept trade unions and tripartism with resistance, and governments refuse to assume the leading role in promoting this process.

In SEE countries the government has a specific role in the development of social dialogue. On the other hand, it sets the basic rules of the game, the legislative ambience and social environment for the establishment and development of social dialogue, but on the other hand, governments, together with trade unions and employers, participate in social dialogue as partners in discussion taking place in economic and social councils. Objectively, governments have the most powerful role in social dialogue, because they control the entire government apparatus and have

political power. This is where democratic potential of social dialogue can best be seen, because through its development a part of social power is transferred from the government to institutionalised civil society. Of course, in the present political relations in SEE countries, such role of the government is actually contradictory. On the one hand, they formally advocate the need to develop civil society and social dialogue, and, on the other, due to a range of factors, they realistically tend to preserve the instruments of social dialogue only at the level of support for ongoing reform projects they promote as governments.

The role of government in social dialogue in SEE countries is particularly important, among other things, because other social partners are still too weak to be able to participate as equal partners not only in decision-making but also in the implementation of the adopted decisions. The experience in the development of social dialogue during the past ten-odd years shows that democratic character of the ruling parties very significantly influences the character of social dialogue in certain countries. In all SEE countries social dialogue in fact was non-existent under totalitarian regimes. This can clearly be seen on the example of Serbia under Milosevic or Croatia during Tudjman. Political dictatorships created instruments of social dialogue (if and when) with the aim of creating another mechanism for unification of all segments of society under the same national flag. In addition, greater political power of governments, as a rule, resulted in their lesser interest in social dialogue, while governments with weaker parliamentary support have shown more interest in the participation in social dialogue and in the development of its capacities and actual effects. This can be seen from the example of Bulgaria, where weaker governments developed social dialogue, and those with stronger parliamentary support ignored it.

The development and implementation of social dialogue in SEE countries, despite numerous weaknesses, gradually contributes to legitimacy, strengthening of independence and influence of social partners and helps them to assume responsibility for the vital issues of social and economic development, which can no longer be, as they once were, in the sole decision-making competence of the government. In this regard, tripartism is both the “product” and mobiliser of political and economic transition. It ensures consolidation of actors and institutions of industrial relations and contributes to greater sensitivity of the ruling parties and hence to mitigation of social tensions.

Economic and social councils gradually contribute to the stabilisation of conflicting relations between the government, employees and employers, creating preconditions for social peace and, as the bodies for tripartite dialogue, function as a mechanism for avoiding labour disputes and larger social conflicts and as a central place where differences between the representatives of labour, capital and government are reconciled.

Development and institutionalisation of tripartism also contribute to acceleration of the harmonisation of labour and social legislation of SEE countries with international norms and standards and European social and economic models. For SEE countries burdened with the legacy of undemocratic past, social dialogue represents a very important assumption for successful establishment of social consensus and stable and long-lasting social peace and economic development.