



## Strategy for developing workers' rights in the Baltic States by strengthening social dialogue and compliance with the ILO Core Conventions

### Introduction

Cooperation between Baltic and Nordic trade unions has been active since the Baltic States gained their independence in the 1990s. Over the years, it taken many different forms and included cooperation in various areas with the common goal of strengthening workers' rights in the region. The cooperation is based on mutual engagement, respect and a commitment to common goals. Furthering an understanding of our different contexts and realities, learning from one other and sharing experiences in the region are vital for our common development. The cooperation is interesting and rewarding and makes all of us better prepared to meet our common challenges in the digitalised era, with free mobility of both labour and entrepreneurial opportunities. Together, we are better equipped to further collective bargaining and social dialogue in the region and to meet challenges such as declining union density and combatting the grey economy and social dumping. Together, we also have more possibilities for further development in a globalised world and developing a constructive dialogue with both employers and governments in the region.

In the autumn of 2016, the Council of Nordic Trade Unions (NFS) initiated the project *An analysis of the Baltic Countries: Determining whether any given legislation or practice complies with the ILO Core Conventions and Convention 144 on Tripartite Consultation*. The aim of the project is to assess the implementation and practice of the ILO Core Conventions and Convention 144 on Tripartite Consultation in Estonia, Latvia and Lithuania and to develop a strategy for strengthening workers' rights in the region. The project is based on three independent studies which (a) examine the historical context of industrial relations in the Baltic States; (b) make a legal analysis; and (c) report on interviews with social partners and governments. These studies have subsequently been complemented with joint Nordic–Baltic expert discussions at two themed conferences, as well as by an independent analysis made by individual experts, a steering-group analysis of the project and discussions in a specially appointed strategy group.

This document is based on the main conclusions of the project, and all ideas and suggestions are outcomes of the process. The content of the different parts of the project has been summarised in a Steering Group note, which identifies the main areas of development regarding the implementation of and compliance with the ILO Conventions. It is based on the discussions and findings and was developed in close cooperation with the Baltic Trade Unions. Primary focus has been on compliance and practice regarding Conventions Nos. 87 and 98 on Freedom of Association and the Right to Organise and Collective Bargaining and No. 144 on Tripartite Consultation. The national priorities made in this document were chosen by trade union representatives in the respective countries. The purpose of this document is to underpin a common trade-union strategy for the further development of fundamental workers' rights in the Baltic region. The analysis and suggestions in this strategy document have been developed by experts and will be subjected to political discussion and commitment. This is why the project proposes that a working group be formed with the specific purpose of developing a time-bound action plan that can be discussed by the NFS board and the Baltic Unions to strengthen and further trade-union cooperation and development in the Nordic–Baltic region.

Many people have made important contributions to the project. We are grateful to all trade unionists and experts who participated in discussions and activities, as well as to all governmental and employers' representatives in the Baltic countries who participated in interviews and contributed their views and expertise. Special mention also goes to the expert authors who not only contributed written reports, but also actively participated in the discussions. Markku Sippola, Niklas Bruun and Kari Tapiola all contributed in this capacity and brought invaluable expertise to the project. Bernt Fallenkamp and Siri Relling from LO in Denmark and Norway also deserve special mention for their valuable contribution in conducting the interviews with governments and social partners. A warm thank you also goes to the Nordic ILO group and our contacts in the Baltics. A special thank you also goes to Aija Maasikas and Kaja Toomsalu (EAKL), Natalja Mickevica (LBAS), Evelina Silinyte and Vaiva Sapetkaite (LPSK) and Daiva Kvedaraite (Solidarumas), who worked hard to meet the ambitious deadlines. Finally the cooperation and support of the ILO Bureau for Workers' Activities (ACTRAV), Maria Helena André and Sergejus Glovackas, was also vital to the project and deserves special mention.

## Latvia

### Priorities

#### 1. Sectoral collective bargaining.

Currently, wages in Latvia are set by law, not collective agreements. Some existing collective agreements include indications and guidance on how to set wages and organise wage systems. But minimum wages are set by the Regulations of the Cabinet of Ministers.

With the support of the government, the social partners in Latvia started the implementation of the ESF project aiming at promoting collective bargaining at sectoral level. The objective of the project is to sign five sectoral collective agreements in five business sectors: telecommunications, wood processing and forestry, road transport, chemistry and construction. This pilot project is the main platform on which to develop sectoral collective bargaining in Latvia. Therefore, successful outcomes serve the interests of all social partners: employers, workers and the government. While social partners implement the project, they need support to put the system of sectoral collective bargaining into practice. In order to implement sectoral collective bargaining, several supporting activities are needed in the following sub-priorities.

Sub-priorities

##### A. Improving knowledge and skills and strengthening capacity

Skills enhancement and training are needed to improve skills and knowledge of collective bargaining negotiators, particularly as this involves:

- The training of leaders and negotiators in collective bargaining issues;
- sharing experiences with experienced trade unions on the design and provision of training courses on collective bargaining.
- Bilateral cross-border international mentoring arrangements.

##### B. Content of collective agreements

Latvian labour law is very detailed. According to the developed practice, the social partners regulate labour-related issues in legislative acts. The main negotiations on labour related issues therefore take place within the tripartite cooperation system and result in amendments to the labour law and other

related legislative acts. Best-case practice and argumentation on the issue of de-regulation is needed to help change the mindset of the social partners in Latvia to move from bargaining through a tripartite structure to bipartite social dialogue and collective bargaining. The tripartite system should be retained to deal with general working conditions and for to implement and develop labour law.

It is important to develop arguments for building a model of sectoral bargaining with private employers and clearly show the benefits of collective bargaining, not only for workers, but also for business and the sustainability of the sector. This line of reasoning argumentation could include linking the discussion to skills, productivity, fair competition and finding solutions to labour shortages. This would avoid a race to the bottom and social dumping, and it would enable the articulation of long term visions and plans.

To assist the social partners in building the content of sectoral agreements, information and examples on issues regulated by sectoral collective agreements from other countries are needed. Particular attention should be paid to smart negotiations, innovative approaches to collective bargaining with a special focus on wage setting and wage-setting systems. This could lead to a discussion of and negotiations on how to tackle issues of robotics and digitisation, new forms of employment specific to particular sector, work-life balance, training, work-based learning, lifelong learning, professional qualifications, occupational health and safety and other issues which could arouse the interest of employers and illustrate the value of having an agreement.

### **C. Enforcement of sectoral collective agreements**

The system of enforcing universally-binding collective agreements in Latvia is unclear. Under the current system, a general agreement entered into between the employers' organisation or association of employers' organisations and a trade union or an association (union) of trade unions shall be binding on all employers of the relevant sector and shall apply to all employees employed by such employers, provided that the employers, group of employers, employers' organisation or association of employers' organisations employ more than 50% of the employees in a sector, or provided that the turnover of their goods or the amount of services is more than 50% of the turnover of goods or amount of services of a sector.

The Labour Law was amended in July 2017 to make it easier to extend collective agreements to apply to entire sectors. The amendments to the Labour Law lowered the threshold for employers to sign an extended collective agreement. Previously, employers' organisations had to represent more than 60% of the turnover of goods or amount of services of a sector. According to the current wording, the 60% of turnover requirement is lowered to 50%. It is now possible for individual employers or a group of employers to join an employers' organisation to become parties to an agreement and help comply with the representativeness criteria. In addition, the amendments require that proof of compliance with the representativeness criteria be provided. The data provided by the Central Statistical Bureau must be used to calculate the representativeness criteria.

However, even when employers representing 50% of a sector sign a collective agreement for the entire sector, enforcement of such an agreement is not guaranteed in the event the other 50% do not recognise the social partners. Trade unions initiated the establishment of an impartial institution which would declare collective agreements to be universally binding on the sector and could also resolve disputes arising from enterprises belonging or not belonging to a particular sector. This proposal found no support, however. There is a lack of clarity regarding enforcement mechanisms as there have been no precedents. Therefore, the general method of enforcement is through the courts. Sharing best practice on mechanisms of enforcement of collective agreements will help social partners to endure their initial experiences of enforcing universally-binding collective agreements.

There is a need to strengthen the labour inspectorate by giving it the resources and capacity to inspect workplaces to combat wage dumping and problems involving subcontracting chains. Considering the

prevailing number of small companies, the capacity to inspect workplaces and cooperate with trade unions is crucial for the enforcement of sectoral collective agreements.

The capacity of trade unions to monitor whether collective agreements are effectively implemented and to monitor trade-union cooperation with labour inspectorates is vital. Sharing best practice on strategies and activities aimed at monitoring and controlling the implementation of collective agreements in enterprises will help improve the surveillance capacity of trade unions.

## **2. Organising**

There is a need to rethink organising priorities and strategies in Latvia. Unionisation rates are declining, with LBAS currently representing about 90,000 workers. Most of them are in the public sector with health and education sectors having the highest unionisation rates.

The main obstacle to unionisation is the fact that 97% of enterprises in Latvia are small and medium-sized, where it is difficult to establish a outright trade union or a trade-union unit. Not all sectoral trade unions have changed over to a practice of accepting individual members from small and medium-sized enterprises. Other challenges are emigration and an aging population. Latvia has experienced massive emigration since it joined the EU. According to the OECD, Latvia lost approximately 9% of its population due to net emigration during the 2000s. This affected the size of the workforce, as most emigrants were of working age.

The financial capacity for organising and running organisations is also challenging. Union management focuses on implementing ESF projects to strengthen capacity as membership fees only account for about 30% of union income. The current circumstances make it difficult to build financially strong trade-union organisations. A key challenge is to strengthen sectoral trade unions, which is directly related to the unionisation issue. There are a high number of unorganised workers, who are potential trade union members, at small and micro-sized companies. The issues are of both a practical nature and are driven by the need to explain the role and functions of a trade union in society.

The following sub-priorities should be addressed to improve membership rates and the system of organising:

### **A. Strong sectoral trade-union organisations and social dialogue**

Considering the structure of an economy dominated by small and micro-sized enterprises, it is important to strengthen the role and capacity of sectoral trade unions, particularly their capacity to organise, represent and serve members at sectoral and workplace levels.

Charting members' organising methods and sharing best practices with more experienced countries will help build the organising capacity of Latvian trade unions. Special attention should be paid to innovative approaches to organising to reach workers employed in new forms of employment resulting from digitisation, SMEs and micro-enterprises.

A strategy of organising members and regular recruitment should be incorporated into the daily work of LBAS and its member organisations. Developing an organising strategy requires an in-depth analysis of the Latvian labour market. Such an organising strategy could have two main aims. In the public sector, it should strengthen the unions and the procedures that already are in place and which work. In the private sector, it would have to rely much more on exploring approaches to reach out to workers employed in new forms of employment, SMEs and micro-enterprises and focus on issues that could be attractive to employers at enterprise and sectoral level.

### **B. Reaching Nordic multinationals**

Nordic companies represent a high share of entrepreneurship in Latvia, particularly in the banking, media, telecommunications, food and wood-processing industries. It is important to improve cooperation with Nordic trade unions to establish trade unions in these companies and involve the Nordic companies in social dialogue and collective bargaining.

Trade unions in Nordic companies located in Latvia, even if this is only an address, often choose not to join the national level trade-union confederation and operate independently without connection to sectoral trade-union organisations or national tripartite social dialogue. This is contrary to the developed practice of Nordic trade unions characterised by solidarity and unity in national trade union organisations to ensure effective, strong protection of their interests. Cooperation with Scandinavian trade unions is an important part of facilitating the affiliation of independent trade unions established in Scandinavian companies in Latvia to LBAS.

### **C. Stronger role of trade unions in collective bargaining**

Linking recent developments of legal regulation relating to the implementation of collective agreements in Lithuania, Latvian trade unions need argumentation and analysis within the on-going discussion on the implementation of collective agreements that only apply to members of trade unions. Strengthening the position and exclusive rights of trade unions in collective bargaining, as well as the visibility of trade unions at enterprise level should be explored.

## **Actions**

### **Short term**

- Sharing examples of the content of collective agreements by translating Nordic and European agreements into Baltic languages and sharing with LBAS experts;
- Sharing best practice relating to unionisation techniques;
- Arranging study visits to and finding Scandinavian national and sectoral trade union organisations with whom to share best practices;
- Engaging in cross-border bilateral mentoring events between Latvian project coordinators promoting collective bargaining and experienced representatives from Scandinavian trade unions;
- Organising the joint training of course instructors in collective bargaining techniques;
- Inviting Latvian representatives of sectoral organisations to participate in sectoral collective bargaining.

### **Long term**

- Continuing the practice of bilateral cross-border mentoring events on issues of collective bargaining and the enforcement of collective agreements and extending this to the issue of training structures, training methodologies and unionisation;
- Continuing periodical study visits to share best practices relating to collective bargaining and organising, including Latvian representatives of sectoral organisations to participate in Nordic sectoral collective bargaining;
- Developing the practice of jointly training course instructors in training methodologies, collective-bargaining techniques and organising strategies;
- Introducing regular cooperation and sharing of information with Scandinavian trade unions, particularly in the sectors of banking, media, telecommunications, food and wood-processing sectors to improve cooperation, resolve sector-related challenges and

facilitate the affiliation of independent trade unions established in Scandinavian companies in Latvia to LBAS.

Generally speaking, short and long-term actions are closely related, while long term actions continue to pursue the aims of the short-term actions.

## Lithuania

### Priorities

#### 1. The employee representation system

The representation of employees in the country is not transparent, as there are multiple and somewhat partly overlapping bodies which negotiate with employers.

In Lithuania, workers are represented by trade unions, work councils or trustees. A work council and a trustee mostly have the same rights and obligations. The right to conduct collective bargaining belongs exclusively to trade unions. Information and counselling are the main functions of work councils. If more than a third of workers are members of a trade union, a work council will not be established and all its functions will be carried out by a trade union. This kind of system complicates the worker representation process and makes it more difficult to implement agreements effectively. It is not easy to bargain when relevant information is not readily available.

The dual system weakens the safeguarding of worker interests and undermines trade unions' influence and bargaining power. It is important to emphasise that system of work councils and trustee institutions in Lithuania is an artificial, formal creation. Lithuania was criticised by the European Union institutions for failing to satisfactorily meet the requirements for information and consultation procedures. This problem was "resolved" by creating these low-value institutions of worker representation. In many cases, the bodies are not motivated to represent workers, they lack necessary skills and their impartiality is doubtful.

### Actions

#### Short term

- The situation after the Labour Code came into force is not clear and the Lithuanian trade unions believe that some of the new provisions violate ILO Conventions. But stronger arguments are needed. Solid expertise and an evaluation of the new Labour Code by international organisations would be a good platform on which to engage in dialogue, possibly tripartite, with ILO experts. A mission from the ILO to Lithuania should also be considered before engaging the ILO supervisory mechanism.
- Proper translation of the new Labour Code into English should be done as soon as possible, as it would make it easier to evaluate its compliance with ILO Conventions and European law. The trade unions need to proactively influence court interpretations of the new code.

#### Long term

- Better unionisation (recruitment) practices are needed, particularly as this concerns small workplaces and new, unconventional forms of employment. If a trade union or several trade unions jointly are big enough in an enterprise, this eliminates the need to establish a work council.
- Capacity-building for better representation of workers is crucial: training sessions, workshops with experts from the ILO/NFS/BASTUN; arranging visits to these organisations.

## 2. Restrictions of the right to strike

The initiation of strikes is a right of trade unions. After the new Labour Code came into force, it is easier to initiate strikes but many questionable restrictions remain. The procedures required in the lead-up to a strike are complicated and time-consuming. The few situations when a strike is permitted are when the employer a) refuses to negotiate, or b) refuses to sign a collective agreement. But, if the employer violates the provisions of a collective agreement, employees are not permitted to strike.

Before a strike begins, a conciliation commission must be established by representatives of the workers and the employer. If the problem is not resolved, it can be addressed by (a) a mediation commission or (b) through arbitration by the Territorial Labour Inspectorate.

The main problem is the following: courts have the right to delay the beginning of a strike and apply so-called temporary protection measures. If workers are permitted to strike, the employer has the right to file a complaint and ask a court to apply temporary protection measures until a particular strike's legality has been clarified. This means that, during this period, workers cannot strike, and the delay may be very long. Lithuanian trade unions have experienced this situation being abused by employers.

The law is unclear on how negotiations should be conducted during a strike and how the issues in the dispute should be settled. A better system for resolving labour disputes needs to be developed.

### Actions

#### Short term

- The scope of legal strikes must be broadened (i.e. to cases where employers violate collective agreements).
- Training in the ILO Conventions and their implementation is needed.
- There is a need for a more effective system to conduct negotiations and resolve problems. One option is to include the same mediation institutions from the phase in which a strike is declared to include subsequent stages as well. Both sides would have better chances of reaching a consensus.
- There could be an ILO expert mission to discuss the amended Labour Code with the government and the social partners, including dispute settlement.

#### Long term

- It is crucial to limit the courts' possibilities to delay strikes.

## 3. Social Dialogue

---

There is a problem with how social dialogue is practised in Lithuania. Social partners and their suggestions and recommendations are often ignored. Mostly, there is no real consultation.

Lately, there have been numerous different reforms and legal changes in Lithuania. Institutions abide by formal procedures quite well, but in terms of content, the social dialogue is not sufficiently implemented in most cases. Trade unions are informed late, i.e. after important issues have been decided without being allowed to properly participate in processes or without any compulsory consultations, etc.

Lithuanian trade unions note that even during the negotiations of the Tripartite Council, social partners are not on an equal footing. For example, before negotiations begin, the Lithuanian government stated that any aspects on which the Tripartite Council does not agree will remain in force as stated in the previous version of the Labour Code (which entered into force on 1 January 2017).

The previous version was very liberal and much more favourable to employers. The good intentions of the new government backfired. Employers were simply not motivated to seek a consensus. The previous situation was more convenient and useful to them.

## **Actions**

### **Short term**

- The new Labour Code should be professionally translated into English as soon as possible, to facilitate an evaluation of the Code's compliance with ILO Conventions and European law.
- The ILO should be requested to analyse the Lithuanian Labour Code and evaluate its compliance with ILO Conventions. An expert evaluation of the new Labour Code by international organisations would be a good platform from which to consider official observations, possibly file complaints with the ILO and serve as an effective instrument for negotiating with social partners.
- NFS or BASTUN should be requested to analyse the Lithuanian Labour Code to evaluate its compliance with European law.
- An assessment should be made, together with the ETUC, to determine whether the social dialogue set-up is effective and in conformity with EU practice. Consultations with competent EU bodies should be considered.

### **Long term**

- The European Social Charter has been ratified by Lithuania but ILO Convention 102 (the Social Security (Minimum Standards) Convention), has not. The latter is stricter and more specific, which is why Lithuanian trade unions should promote its ratification.
- Request ILO and BASTUN or/and NFS to evaluate the new Labour Code's compliance with ILO Conventions and European law.
- Promote positive changes based on these evaluations.
- Request consultations/assistance in shaping relevant drafts and ensuring compliance with ILO Conventions and European law.

## **4. Collective Bargaining in the public sector**



There is a problem with collective bargaining in the public sector, where wages are financed by the state budget. It is possible to reach an agreement with relevant ministries such as the Ministry of Education. But the implementation of these agreements has subsequently been impeded by failing to allocate the resources needed.

In Lithuania's budget sector, trade unions are not allowed to bargain for anything requiring additional appropriations from a budget allocated to an enterprise or institution. This means that unfinanced pay raises or bonuses are off the table. Trade unions may negotiate at sectoral level only within the limits of their funding as adopted by the Lithuanian Parliament or, for example, if the trade unions manage to save any resources. This severely limits the scope of bargaining issues.

## Actions

### Short term

- Sharing good practices of other countries.
- The new Law on Labour Remuneration requires the creation of a system of labour remuneration and evaluation of workers in every enterprise or institution. This has to be negotiated with workers' representatives, and trade unions consider this a good opportunity.

### Long term

- There is a need to establish an additional social fund (funded by the state) in every institution, including a budget for aims such as pay raises, bonuses, social guarantees and benefits, etc.
- Additionally, there is a need for training in collective bargaining skills.

In general, short-term and long-term actions are closely related, and long-term actions continue to pursue the aims of short-term actions.

## Estonia

### Priorities

- 1. A new labour-market package including renewed legislation and the practice of collective bargaining**

Issues that need to be addressed:

- The practice of extending collective agreements should be confirmed. It means that a best practices/goodwill agreement of extending collective agreements should be negotiated, agreed on and signed by EAKL and the employers' organisation ETTK. The draft agreement to be negotiated has already been prepared.
- The right to strike in the public sector should be granted, with provisions for agreement on minimum work in essential services. Subsection 1 of Article 7 of the Civil Service Act says: "An official is a person who is employed in a public-law service and position of trust by the state or by a local government". According to subsection 1 of Article 59 of the CSA, an official is not allowed to strike. Also an official is not allowed to participate in other collective actions which interfere with the performance of functions of the authority that has recruited the

official, or of another authority arising from the law. The pressuring action is collective if at least half of the officials of the authority participate therein.

Subsection 4 of Article 7 of the CSA says: "An employee is recruited for the job in an authority specified in Article 6 of this Act, which does not involve the exercise of official authority but only work in support of the exercise of official authority. The employee shall work under the employment contract". Employees working under the employment contract are allowed to strike (i.e. teachers, healthcare employees, etc.).

- Secondary solidarity strike actions as well as strikes for the fundamental rights of the workers should not be prohibited.
- EAKL is considering an initiative to discuss the law with private-sector employers to try and find a common understanding with them on the legislation and practice of collective bargaining. EAKL has already started negotiations with employers' confederations to conclude a good-practice agreement with them on extending collective agreements (criteria of representativeness, introduction to third parties).

## **2. Equal pay and discrimination**

The discussion to change the law to start collecting data on gender-based wage discrimination, which employers oppose, should be pursued.

There is a possibility for initiatives in this area, and collecting examples of what the trade unions have done could be useful.

## **3. The position of shop stewards**

- There are problems in the enforcement of the existing law.
- There is no institution with which a complaint can be filed.
- The labour inspectorate or ombudsmen are in practice unable to intervene.
- There are examples of trade union discrimination.

In June of last year, EAKL proposed changing the individual employment contracts act so as to give shop stewards and other trade-union board members additional guarantees in case of cancellation of the employment contract by the employer. This could only be done in court or by a labour dispute committee. The proposal was not taken into account at that stage.

## **4. Social dialogue**

- A roadmap for discussions with employers should be developed.
- European-level agreements should be implemented.

EAKL and the employers' confederation have met bilaterally on a regular basis to discuss the labour market and social issues and sometimes also to prepare our shared views and present them to the government. The first autonomous European social-partner agreement on teleworking was also signed at national level in spring 2017. EAKL and the employers' organisation ETTK have agreed to continue the process of implementing the European social-partner agreements going forward.

EAKL will once again initiate the tripartite meetings.

## **5. Public servants**

There are many public-administration employees and employees in public service working under the employment contract who do not have the right to bargain collectively in Estonia.

The government has refused to conclude a collective agreement for other groups of public service employees who are employed under an employment contract in a public-service institution or organisation; therefore they are not deemed civil servants, claiming that there should be equal treatment throughout the public administration. The public administration employees who are not civil servants are allowed to organise but not to go on strike. There are no criteria for extending collective agreements.

EAKL will continue to demand the right for collective bargaining for public administration employees and civil servants. For civil servants who will not have the right to strike, EAKL demands that arbitration be possible.

## **Actions**

### **Short term**

- EAKL insists on its demands to be involved in drawing up the new collective labour law.
- EAKL asks to change the law to start collecting data on gender-based wage discrimination.
- EAKL is continuing to negotiate with ETTK on the implementation of the European social-partner framework agreements.
- EAKL is continuing to demand the right to enter into collective bargaining by public administration employees and civil servants. For civil servants who will be not guaranteed the right to strike, EAKL demands that arbitration be possible.

### **Long term**

- Strengthening the social dialogue at national level, renew tripartite consultations.
- Strengthening collective bargaining, especially sectoral collective bargaining. Improving knowledge, skills and capacity-building via the training of leaders and negotiators; sharing experiences with proficient Nordic trade unions on the design and provision of training courses on collective-bargaining techniques.
- Concentrating on organising new members. Developing and building a unionisation strategy (member organising and ongoing recruitment), taking into account new forms of employment and SMEs. Capacity-building for organisers, joint training/mentoring programmes, in cooperation with Baltic trade unions and experienced Nordic trade unions, study visits.
- Raising awareness of the ILO Core Conventions. Training courses, sharing experiences.

In general, short-term and long-term actions are closely related, and long-term actions pursue the aims of short term actions.

## **Common Baltic priorities**

---

## **Conventions C87 and C98**

Several questions relating to freedom of association and the right to collectively bargain have arisen during the project, and these need to be investigated and discussed further. The problems encountered during the project are of a different nature but warrant further investigation and expert analysis.

In the legal analysis, Niklas Bruun calls attention to some common areas where further analysis is warranted. All three countries have restrictions on what can be negotiated through collective bargaining. This is problematic both in relation to restrictions on what can be agreed in collective agreements but also how to enforce them. There is also a special problem involving the public sector, as the government's authority as an employer and collective-bargaining partner is limited to non-budgetary issues. The number of collective agreements in the Baltic States is low. Active dialogue at sectoral and company level is virtually non-existent in the countries, as exemplified by the few collective agreements at sectoral and enterprise level. Education and training in this area is needed. Improving the negotiation and bargaining skills of trade-union leadership at different levels is important to strengthen trade-union recognition. In this context, it is important to ensure that central and branch levels are able to assist members in resolving crises. It is also important that any beneficial outcomes provided to workers receive positive public recognition. Joint training courses with employers should also be considered.

The broad definitions of essential services and of the group which exercises public authority are the subject of discussion in all countries and it is worth taking a closer look at this issue. This discussion is also relevant to the discussion of the right to strike, notably for the groups of public servants defined here.

Another point of concern raised during the project is that there seems to be no mechanism in any of the three countries for resolving labour-market conflicts in case of strikes. Labour legislation in the Baltic States appears to have no effective or applicable rules governing mediation or arbitration once a strike has been declared. This lack of dispute-settlement mechanisms deserves further investigation by experts as it effectively eliminates the use of a strike as an ultimate resort. The matter is further complicated by the lack of legal precedents.

There also seems to be a general common problem involving access to justice for workers in cases where workers' rights have been violated. Estonia, for example, has no relevant institutions to turn to in cases of infringement, as the labour inspectorate or ombudsman is unable to intervene in labour conflicts. Lithuania, on the other hand, has complicated the procedures to the extent that they have been rendered ineffective, i.e. by allowing strikes to be postponed. In any case, the problem of access to justice requires further investigation. In-depth reviews of each country should be made to identify the mechanisms that undermine effective enforcement of fundamental labour rights.

In addition to further research in the above-mentioned areas, legal communities, trade union lawyers, labour lawyers and legal specialists in general should also be better informed and educated to ensure that they are sufficiently familiar with ILO standards and jurisprudence.

## **Unionisation**

There is a common need in all Baltic States to strengthen organising to ensure the representativeness of trade unions. To strengthen unionisation efforts, the project suggests that in-depth country analyses of labour-market structures in the Baltic States be made and that individual strategies be drafted at both sectoral and enterprise level to determine how to strengthen the unionisation process. Unionisation and negotiation practices are mainly rooted in the public sector. One feature of action would be not only to preserve, but build on the experiences of the public sector. The main challenge

with private employers would then be to convince them about the specifics of processes that already work.

In a unionisation context, it is also worth mentioning that at present no structure for regular education and training of trade-union members exists in any of the Baltic States, but training is mainly carried out through the ETUI platform. Training programmes – as well as the training of course instructors – need to be developed in the different national contexts, and many forms of cooperation are applicable here, both in terms finding forms of cooperation and synergies between the Baltic States but also in a wider context. Multiple ways of financing such programmes could be considered – from EU and state funds to redirecting percentages of membership fees to training.

Further information and sharing best practices should be considered as Nordic trade unions are also looking for new strategies to counter declining membership, and there are widespread challenges to unionisation arising from digitised working life, atypical working forms and the proliferation of micro-sized, small and medium-sized enterprises. Defining common interests would be a way for trade unions to approach micro-enterprises and their employees.

Common training courses and sharing ideas in this area should be considered.

### **Multiple institutions for worker representation**

All three Baltic States have multiple and potentially overlapping institutions providing worker representation. Beside trade unions, a “trustee” institution exists in all three countries. Lithuania has an additional problem arising from its newly formed works councils. The situation varies from one country to the next and it is perceived differently by the trade unions. In all cases, however, there is a need to clarify the roles of the different forms of representation and to find strategies to strengthen trade unions in relation to these institutions. Assessing how trade unions should relate to the other institutions or possibly use them to further workers’ interests is important to maintain and increase representativeness. The “trustee” institution can, on one hand, be considered a positive form of worker representation in the absence of a trade union, but it can also be counterproductive if the institutions are controlled by employers and used to discriminate against trade unions.

Appendix A to the strategy paper clarifies the roles and identifies the problems relating to these institutions by country.

### **C144 Tripartite Consultation**

In all countries, the project has raised a discussion about the practice of social dialogue and tripartite consultation. The relations between governments, employers and workers have been affected by financial crises in all countries. Latvia appears to have the most well-functioning social dialogue at national level, including information and consultation with social partners.

In Estonia, the social dialogue shows signs of improving at national level but still appears to depend on which political party is in power. Tripartite consultation in relation to ILO is conceived as generally being one-way information from the government, lacking a permanent structure and rarely being of a consultative nature.

In Lithuania, the social dialogue is also mainly informative without a real possibility for workers to participate. There is an active tripartite council at national level but the workers’ voice is usually ignored. Both workers and employers have also pointed out how the state imposes changes to the tripartite council without consulting the other partners beforehand and that the government needs to approve the partners on the council and require that they meet certain criteria.

Regarding the social dialogue and the functioning of tripartite consultation in the countries, the project suggests that additional country-specific studies be carried out to assess the individual situations and revise individual strategies for improving the functioning of the social dialogue and tripartite consultations and ensuring that workers' voices are heard.

While Convention No. 144 is mainly about tripartite consultation on ILO labour standards, it can well be extended to joint tripartite drafting of reports for the ILO supervisory system. Such reports do not need to be consensual, if the partners do not agree on a certain issue. The process itself would help promote a discussion on the application of ILO decisions and recommendations in each of the three countries.

## **NFS**

The Nordic commitment to collaboration and strengthening trade unions in the Baltic States has varied greatly over the years since Baltic independence and many lessons have been learned from joint projects. The discussions in the project have raised the following ideas for deepened cooperation that should be subjected to political discussion in the Baltic trade unions and the NFS to find a suitable future plan of action.

An annual meeting between the Nordic and Baltic political leadership should be considered, i.e. through a permanent agenda item on one of the NFS board meetings and extending invitations to Baltic leaders to attend the meeting in question.

An annual Nordic–Baltic conference on Decent Work, with the aim of discussing common challenges and developing relations between unions should be considered.

The NFS should discuss the possibility of inviting Baltic trade unions to the NFS Congress.

The NFS should discuss inviting Baltic colleagues to relevant Nordic expert groups and meetings whenever possible, such as the Nordic ILO group.

Nordic unions should discuss inviting Baltic representatives to the Nordic Geneva school.

Nordic unions should discuss inviting Baltic representatives to Nordic events during the labour conference.

The NFS should contemplate and assess the possibility and benefits of organising a “Baltic–Nordic Trade Union Summer School”.

Nordic and Baltic Unions should jointly discuss setting up opportunities to deepen relations between them through common mentorship programmes at different levels between political leadership, lawyers and other trade-union employees.

Nordic and Baltic Unions should jointly discuss making Nordic study trips to the Baltic States and vice versa, including visits to workplaces.

Nordic and Baltic Unions should jointly initiate common forms of training courses on relevant trade union functions and activities, including the training of course instructors and shop stewards.

Nordic and Baltic Unions should initiate exchange programmes and consider the short-term exchange of personnel and various types of mentorship programmes and peer learning that could be beneficial for improving cooperation, sharing experiences and deepening an understanding of the differences in the Baltic Sea region.

As regards Nordic enterprises with investment and activity in the Baltic States, the Nordic countries should pressure the parent companies to comply with fundamental rights at work and relevant international agreements. At sector level, Nordic and Baltic unions should discuss and develop cooperation at enterprise level for joint cross-border consultations, but also assess the possibility of forming procedural agreements at enterprise level when labour-rights issues arise.

## **BASTUN**

The project suggests that a discussion of the project and its findings be held in the BASTUN network to identify if similar analysis is needed in other countries in the region or if other BASTUN-countries could contribute to achieving the goals set in the Baltic States. BASTUN can also be a forum in which to strengthen bilateral relations to further developments in the region.

## **ILO**

The ILO and the bureau for workers' activities AKTRAV have regular activities where Baltic trade unions could also be involved in training courses and activities. It is possible for AKTRAV to organise specific workshops in one or more countries separately or jointly.

In this context, workshops could be organised around a number of topics identified during the project as both individual and common priorities. Good common topics worth considering are social dialogue and fundamental labour rights.

Specific training courses on the application of international labour standards held for legal experts and trade-union lawyers could also be considered.

AKTRAV could also look at the possibility of facilitating the participation of Baltic trade unions at the International Labour Conference and other ILO events, as well as at forming a Baltic group at the International Labour Conference.

The possibility of arranging a joint Nordic–Baltic trade-union seminar supported by AKTRAV should also be considered, dealing with, for example, the failure to implement ratified ILO conventions and others.

Specific training courses on the supervisory mechanisms of the ILO and how potential violations of workers' rights can be addressed or, if necessary, brought to the ILO, as well as discussions on assistance from Nordic Unions in this process should also be considered.

## **Way forward**

As a way forward, the project strategy group proposes the formation of a special Nordic–Baltic task force, specifically charged with developing a time-bound action plan for the development of cooperation in the region. The aim of this group would be to further develop the recommendations in this paper based on the political priorities set by the NFS board and the Baltic trade unions.

We recommend that national discussions be held and commitments be made as soon as possible after the common political discussion at the BASTUN High Level meeting and final project conference in Riga on 22 November 2017 and that the task force could complete its work during 2018.

*Copenhagen, 12 October 2017*

*Project Strategy Group: An analysis of the Baltic States: Determining whether any given legislation or practice complies with the ILO Core Conventions and Convention 144 on Tripartite Consultation*

Anna Gustavsson, TCO

Maria Häggman, NFS

Jens Erik Ohrt, LO

Natalja Mickevica, LBAS

Vaiva Sapetkaite, LPSK

Kaja Toomsalu/Aija Maasikas, EAKL