

Module 1

Introduction to social dialogue



ASOCIACE POSKYTOVATELŮ
SOCIÁLNÍCH SLUŽEB ČR



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Instituto Politécnico
de Castelo Branco



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Content

1. What is social dialogue ?
2. Forms of social dialogue
3. History of social dialogue
4. European Commission's intentions concerning social dialogue
5. EU rules concerning working conditions



1. What is Social Dialogue?



What is Social Dialogue?



Social dialogue is.....

.... any kind of exchange between representatives of employers and employees

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Definitions of social dialogue

International Labour Organisation defines social dialogue as

“all types of **negotiations, consultations or exchange of information** between or among governments/employers/unions (...) to develop consensus on policy approaches and practical measures to ensure equitable social and economic development”

European Union´s definition of social dialogue

“**discussions, consultations, negotiations and joint actions** involving organisations representing the two sides of industry (employers and workers)”

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2. Forms of social dialogue



Forms of social dialogue (1/4)

Bipartite Social Dialogue

between employer organisations and trade unions without involvement of public authorities

Collective bargaining for binding agreements on professionalisation, wages and working conditions within the sector of social services

→ highly interesting for public authorities as funding source

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Forms of social dialogue (2/4)

Tripartite Social Dialogue

Between employers and trade unions (=social partners) and government

- In 6 out of 11 countries: public authorities directly play a role in the social services social dialogue
- In most EU Member States social partners have at least advisory or consultative role in decision making process of social and employment legislation and policies
- 9 of 11 respondents declare they have an influence on national policies
- Social partners are involved in European Semester (cycle of economic, fiscal, labours and social policy coordination within the EU) - different from country to country

Forms of social dialogue (3/4)

Cross sectoral social dialogue

- In all countries social dialogue is present at cross sector level, i.e. covering all or at least most types of economic activities
- Foresee partners confirmed, that cross sectoral social dialogue exists in all countries
- Key stakeholders to dialogue with the national/local authorities in tripartite social dialogue

Sectoral social dialogue

- At a sector's level, i.e. metallurgy, house building, hairdressers, healthcare etc
- According to Foresee partners: in 9 of 11 countries there are sectoral social partners in social services, sometimes with healthcare sector (subsectors: person with disabilities, elderly, children or other vulnerable groups)

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Forms of social dialogue (4/4)

Potential role of public authorities in the social dialogue

- 8 of 11 countries: public authorities play a role in social dialogue
- In 6 countries: public authorities are direct part in negotiation process
- In 3 countries: no role (sometimes indirect)
- 5 of 6: authorities have a role in validation of texts/agreements
- 7 of 10: no joint sectoral social dialogue with healthcare sector

→ sectoral social dialogue is more centred on industrial relations that can deal with concrete issues as wages, working time, specific working conditions etc

→ national collective agreements allow fair competition in the same sector (comparable staff costs)

→ extension process in many countries (make agreement compulsory even for those who are not part of employers/employees organisations)

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3. History of social dialogue



History (1 / 4)

- national professional relations in EU member countries have grown over centuries in individual, country-specific ways
- 1957 Treaty of Rome: European social dialogue with as one of the Commission's tasks to "promote cooperation of member states with the right of association and collective bargaining between employers and workers"
- 1986 Single European Act created legal basis for development of "Community-wide social dialogue" and emergence of
 - European social dialogue
 - Community Charter of the Fundamental Social Rights of Workers
- 1991-2000: development from lobbying role to producer of social standards (on the basis of the agreement institutionalised by the Maastricht Social Protocol (1991) → interprofessional agreements (partially turned into Community law or implemented by national social partners)

History (2/4)

- Treaty of Amsterdam (1997) incorporated Agreement on Social Policy, i.e. single framework for social dialogue in EU and cross-industry framework agreements on
 - parental leave (1995)
 - part-time work (1997)
 - fixed-time work (1999)→ which were implemented by Council Directives
- Lisbon Treaty (2009): underlined the role of the social partners (Article 152 TFEU) after 2008 economic crises, i.e. need to facilitate dialogue while respecting autonomy and diversity
- 2016: quadripartite agreement (social partners, Commission, Presidency of the Council of the EU) reaffirms the fundamental role of European Social dialogue in EU's policy making process, including the European Semester (cycle of economic, fiscal and social policy coordination within the EU, part of the EU's economic governance framework, focus is on 6-month period from the beginning of each year, hence its name)

History (3/4)

- 2017 European Pillar of Social Rights (EPSR) recognises the social partners' right to be involved in designing and implementing employment and social policies (including by collective agreements)
- 2021: Porto Social Commitment and European Council Porto Declaration both underlined the key role of social dialogue
- Action plan (2021) implementing EPSR with commitment of EU Commission to
 - present initiatives on collective bargaining for the self employed in 2021 and
 - support social dialogue at EU and national level in 2022
 - proposal for directive on adequate minimum wages in EU (strengthens use of collective bargaining in wage setting and requires Member States with less than 70% collective bargaining coverage to establish an action plan to promote collective bargaining)

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History (4/4)

COVID-19 crisis shows need for social dialogue at all levels in order to implement EU Recovery Plan

Parliament's resolutions

- underlined that social dialogue and collective bargaining are key instruments to establish fair wages and working conditions as well as increased resilience in the crisis
- proposed fairness conditions for companies accessing public funds

→ Social dialogue has grown constantly in importance and was strongly reinforced over the last years, especially since COVID-19 crisis.

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Discussion →

In your country, would you say....

1. ... there is a tripartite social dialogue?
if yes: about what?
2. ... there is a sectoral social dialogue?
if yes: in which sectors?
3. What is the role of the authorities?
4. Do you see a link between EU and national level?

→discussion in groups (15 minutes, maximum 5 participants) and presentation

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4. European Commission's intentions concerning social dialogue



A few words about the influence of the different presidents of the European Commission on social dialogue

- Mr Delors
- Mr Barroso
- Mr Junker
- Ms van der Leyen

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The current preparation of an EU initiative on social dialogue

- European Pillar of social rights
- A. Nahles report
- European cross sectoral social partners
- What about social services ?
- What we know today

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European pillar of social rights

Principle 8. Social dialogue and involvement of workers

“The social partners shall be consulted on the design and implementation of economic, employment and social policies according to national practices.

They shall be encouraged to negotiate and conclude collective agreements in matters relevant to them, while respecting their autonomy and the right to collective action. Where appropriate, agreements concluded between the social partners shall be implemented at the level of the Union and its Member States.

Workers or their representatives have the right to be informed and consulted in good time on matters relevant to them, in particular on the transfer, restructuring and merger of undertakings and on collective redundancies.

Support for increased capacity of social partners to promote social dialogue shall be encouraged”.

Andrea Nahles report proposes :

- Raising the profile of social dialogue within the EU and increasing awareness of its importance
 - launch of a new European award for social dialogue.
 - A new programme for young future leaders of social partner organisations
- Improving the structures and processes of European social dialogue
- Greater involvement of social partners in the European Semester
- Improved consultations of social partners on new Commission initiatives
- More European social partner agreements
- Promotion of national registries for collective agreements: collective and company agreements should be centrally registered at national level.
- Funding: the capacities of national social partners vary substantially across Europe ;an appropriate amount of ESF+ resources should be earmarked
- Improved exchange of experience and best practice
- More dialogue on future-oriented subjects: social partners should hold debates on the future of work more often.

European cross sectoral social partners opinion

5 main areas where further progress is needed:

1. Strengthening the identification of broadly shared and consistent social affairs priorities at EU level
2. Towards more meaningful social partners' consultations by the Commission
3. Improving the functioning and coordination of EU Social Dialogue Committees
4. Improving social partner involvement in the recovery
5. Time to act to strengthen capacity-building of social partners in the countries and sectors where this is needed

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What about social services ?

The Social employers, together with Epsu, agreed on a [joint statement on the importance of developing social dialogue in the social economy](#), requesting to:

“further develop social dialogue and collective bargaining in the Social Economy, and especially at sectoral level in social services, where it is crucial to tackle current workforce challenges and best prepare for the future”.

On March 23 2022, the social partners organized a pilot Social Dialogue meeting, concluded with the adoption of a social partners [joint declaration on Social Dialogue](#) linking the European care strategy project with a strong Social Dialogue in Social Services.

Reminder : the Social Employers applied jointly with Epsu for the creation of a new sectoral social dialogue committee which will aim to develop social dialogue at EU and .. at national level in all EU countries.

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What we know today about the content

A chapeau Communication on strengthening social dialogue in EU with 4 objectives:

1. Improve the contribution of sectoral social dialogue to EU policy-making;
2. Strengthen the outcomes and impact of sectoral social dialogue;
3. Modernise and align the organisation of sectoral social dialogue to structural trends and new economic developments and contribute to a future-proof sectoral social dialogue;
4. Improve, also by better focusing, the Commission support for sectoral social dialogue to achieve the above objectives.

A proposal for a Council Recommendation on the role of social dialogue at national level

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4. Existing EU rules concerning working conditions (directives) and the role of social dialogue in the drafting of these texts



EU rules concerning working conditions

Content:

- TFUE
- Directive on part time work
- Working time directive
- Safety and health at work
- Sharp injuries

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TFUE and social dialogue: Proposition of Summary

- ▶ **151:** EU as well as MS shall have as objectives the social rights
- ▶ **152:** The EU recognises and promotes the role of the social partners at its level, taking into account the diversity of national systems. It shall facilitate dialogue between the social partners, respecting their autonomy.
- ▶ **153 :** lists social fields in which the MS action are supported by the EU. It can be done threow directives.
- ▶ **154:** the EU consults social partners “before submitting proposals in the social policy field”, Then Second stage consultation if intends to go further - Social partners provide an opinion.
- ▶ **155:** If social partners wish, the EC can decide to launch a process leading to an agreement. Under request, the Commission can propose a Council decision.
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Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work -UNICE, CEEP / ETUC

- ▶ Purpose : provide for the removal of discrimination against part-time workers and to improve the quality of part-time work - facilitate the development of part-time work on a voluntary basis and to contribute to the flexible organization of working time in a manner which takes into account the needs of employers and workers
- ▶ Definition : “the term 'part-time worker` = employee whose normal hours of work, calculated on a weekly basis or on average over a period of employment of up to one year, are less than the normal hours of work of a comparable full-time worker”.

➡ The Directive directly refers to the agreement



Directive 2003/88/EC of 4 November 2003 concerning certain aspects of the organisation of working time

- ▶ Minimum safety and health requirements for the organisation of working time, in respect of periods of daily rest, breaks, weekly rest, maximum weekly working time, annual leave and aspects of night work, shift work and patterns of work.
- ▶ An important topic in social services ; the definition of working time and on call time

➡ No pre-existing agreement

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Directive to encourage improvements in the safety and health of workers

General principles of prevention

- ▶ avoiding risks;
- ▶ evaluating the risks which cannot be avoided:
- ▶ combating the risks at source;
- ▶ adapting the work to the individual,
- ▶ ...
- ▶ Workers obligation : It shall be the responsibility of each worker to take care as far as possible of his own safety and health and that of other persons affected by his acts or Commissions at work in accordance with his training and the instructions given by his employer.



No preexisting agreement - basis of all EU OSH legislations



Directive based on the Framework agreement on prevention from sharp injuries in the hospital and healthcare sector - Hospeem - EPSU

The Directive aims to:

- ▶ Achieve the safest possible working environment;
- ▶ Prevent workers' injuries caused by all medical sharps • (including needle-sticks);
- ▶ Protect workers at risk;
- ▶ Set up an integrated approach establishing policies in risk assessment, risk prevention, training, information, awareness-raising and monitoring;
- ▶ Put in place response and follow-up procedures.

➡ Became Directive 2010/32/EU = unique example of sectoral agreement that has been transformed into a EU directive



Final remarks 1 / 2

- ▶ The directives generally refer to adaptation via cross sectoral or sectoral social dialogue at national level (at least for certain aspects)

The social dialogue deliverables can also be an agreement that doesn't require an implementation via a directive at national level.

le : Agreement on telework, 2002 - or the recent one on digitalization

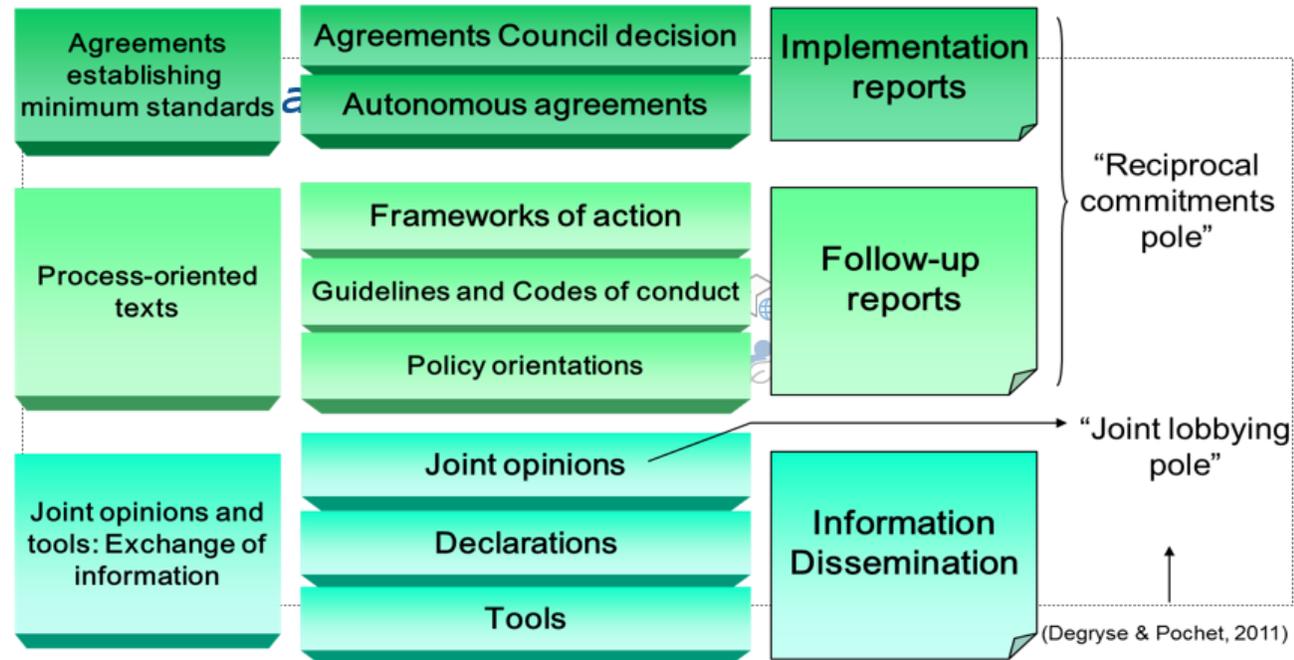
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Final remarks 2/2

EU Social dialogue
can also deliver
other kinds of
outcomes :

European social dialogue outcomes: typology



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Module 3

Social dialogue practices



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Content

1. Topics of negotiation
2. Example of collective agreements
3. How to negotiate

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1. Topics of negotiation



Social dialogue - theory

"all types of negotiation, consultation or simply exchange of information between, or among, representatives of governments, employers and workers, on issues of common interest relating to economic and social policy" (International Labour Organization)

3 main common activities of social dialogue

- Negotiation
- Consultation
- Information-sharing

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Topics of negotiation - examples

- wages, salaries, remuneration
- working time, working conditions
- telework, home office
- training, qualification
- healthy employees
- occupational safety and health, workload
- recruitment and retention
- lifelong learning (incl. digitalisation)

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2. Examples of collective agreements and the way they have been negotiated



Content

Nine good practices

Difficulties met

Benefits of social partnership

Recommendations

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Nine good practices

The good practices have been collected within the project partnership and of Social Employers membership

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Training additional LTC staff in an emergency situation during the pandemic (ACTIZ)

- This initiative gathering 3 employers and 2 employees organisations developed 2 short free online training programmes on skills necessary to support health care workers during the crisis
- 4000 persons trained

Improving working conditions and wages in the context of the pandemic (Unipso)



- ▶ Cross sectoral social partners in social economy have negotiated an agreement to provide a bonus (with a grant from the authorities) to residential care workers (focusing on the lowest grid levels) and also to improve their working conditions



Drafting a back to work guide after lock down (FEACEM)

- ▶ The guide provides a set of recommendations for the reincorporation of workers in the workplace in line with ones from health authorities. Topics : risk assessment, preventive measures, organization, hygiene, what to do if someone has symptoms at the work place



Cash to cover health risks (Nexem)

- Created a social partners managed cash to cover 330 000 workers death long term incapacity and long sick leave risks and face certain situations (i.e covid with psychological support) and to manage prevention measures (Nexem FR)
 - This ancient initiative led by 1 employer + 5 employees organisations allowed pooling of contributions to create an insurance scheme for all workers in the framework of the collective agreement (330 employees concerned). Covers death, long term incapacity, sick leave + medical costs – this for a reasonable price paid 50 % by employer
 - During the pandemic, the scheme created a free psychological assistance and some allowance for workers not able to work because of lock down

Agreement creating a tool kit to improve gender equality in the social economy sector (UDES)



- A sector (broader than social services but including them, composed of 67 % of women, with an above the average partime work. Progress still to be made
- Actions :
 - Neutrality and diversity in recruitment;
 - Career development with training and equal access to training and professional promotion
 - Career management tools adapted to service equality policy
 - Equal pay : periodic assessment + non discrimination in case of pregnancy
 - Parenthood : absence of impact / to be ensured by both parents / worklife balance
 - Governance and social dialogue oriented towards a balance between men and women

Agreement aiming to increase wages progressively between 2017 and 2021 (APSSCR)



- ▶ This joint action between 1 employer organisation and the representative employee one allowed to request from the authorities extra funding for services and a wage rise planned between 2017 and 2021 – wages increased in 5 years for care givers



Involvement of the work council in the company's work programme (SWÖ)

- ▶ SWO concluded an agreement in order to involve work council in the organisation's annual work programme



Creation of an employers organisation aiming at engaging social dialogue

- ▶ One sided but aiming at feeding social dialogue ; employers' organization gathering within a network. Assessing the need for a framework allowing to elaborate common conditions in the social services and better political influence.



Concerted Action in Care plan aiming at negotiating the improvement of remuneration

- ▶ A Concerted Action in Care plan in Germany aiming at negotiating the improvement of remuneration for those, who care for the elderly in order to reinforce attractiveness. The necessary legal requirements were created by the Care Wage Improvement Act in November 2019.
- ▶ What was still missing, was a nationwide employers' organisation covering the entire sector to bargain a qualified collective agreement with the unions but the process has led to legislative measures that will improve the situation.

Difficulties met

- Pressing timelines esp in times of covid
- Difficulty to make a choice between topics to cover and necessity not always go into the details
- Organisations report sometimes that according to the time and energy spent they fear not to achieve the goals
- Difficulty to agree when many organisations involved – even between employer's organisations - Also maintain motivation and involvement of all

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Benefits of social partnership

- Social partnership allows a large scope (a whole sector)
- Joint action between social partners can raise the media attention, put the authorities under pressure (more than one sided ones) and can lead to legislative measures.
- Social partners, especially those from the social services sector are the best placed to implement public policies concerning social affairs and must be associated if the authority wants its policy correctly implemented
- Social partners are the best placed to propose the most relevant solutions even in case of uncertain situations
- The fact employers and employees agree on the necessity to act is a clear sign of the relevance of the topic
- Different partners have different communication channels that can broaden communication

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Recommendations from colleagues

- Define concrete goals and actions and share them with the other side
- Have a clear view of the needs on both sides – have accurate data - before starting negotiations and be accompanied by an expert in case of technical issue
- Having particular stories, gathered before the negotiation, to share can help to convince
- Activate grass root level partners
- When public funds involved a constant dialogue with the authorities can help
- Always maintain dialogue
- Collaboration between actors having the same values
- In some cases, Social dialogue leads to a reflection on ne necessity to have a cross frontier investigation of the topic (ie : staff shortages)

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Which topics of social dialogue would be relevant in your country ?



3. How to negotiate an agreement



How to negotiate a collective agreement

- Negotiation team: employer + trade unions + expert
- What to watch out for:
 - Timing
 - Rules and procedures for negotiation
 - Good preparation
 - Understanding the differences in functions of members in the negotiating team
- 4 stages in the negotiation process
 1. preparation for negotiation
 2. negotiation stage
 3. signing the agreement
 4. follow up action

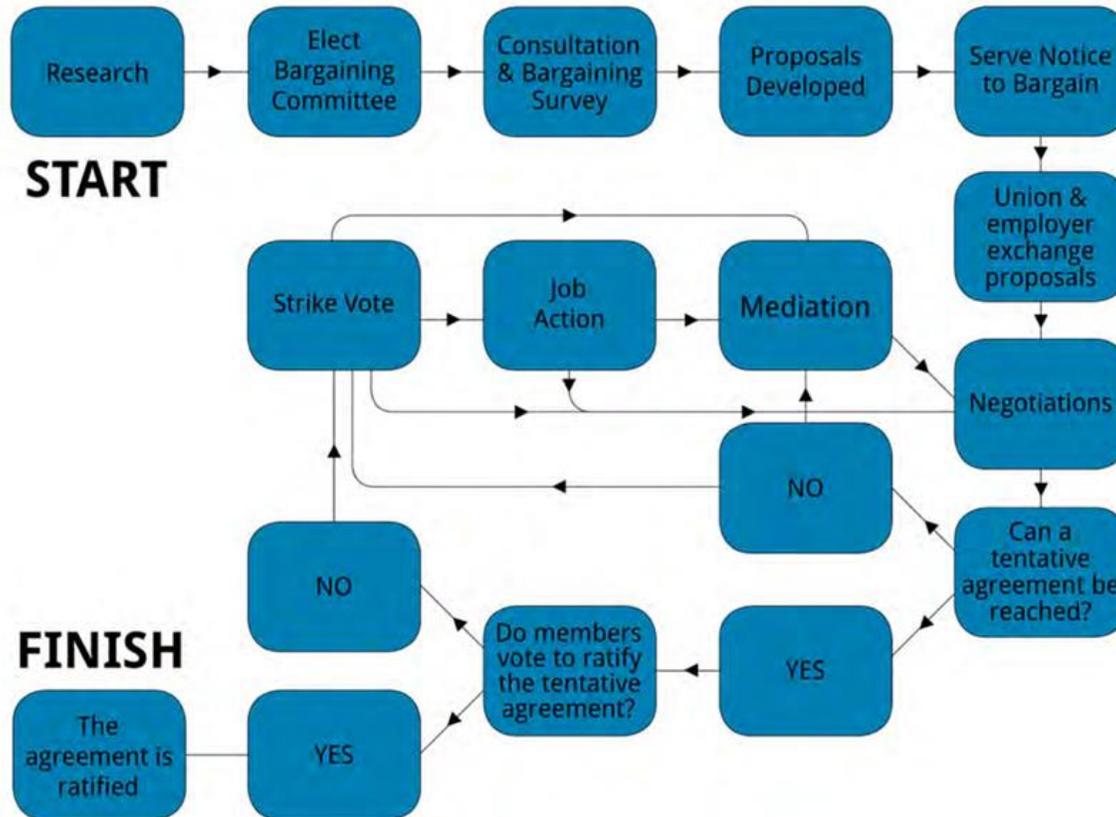
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The process of bargaining

Collective Bargaining Overview



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The stages of negotiation

- **Preparation:** You need to do careful preparation and research, especially in canvassing the views of your members
- **The opening:** One side tables a proposal and the other side responds. This stage can involve adjournments to collect further information and test out arguments. It also includes identifying the relative importance of issues, fall-back positions and ‘bottom lines’.
- **Trading:** Both sides trade things in order to move from fixed opening positions to an agreement: “We’ll offer x if you’ll agree to y.”
- **Agreement:** This should include a phase where the final proposal is put to the members and ends with the agreement being documented for future reference.

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Strategy for bargaining - to think about:

- Who are the players involved in the bargaining?
- What are the needs of the business, or businesses?
- What are the needs and desires of the workforce?
- What are the issues that are likely to come up and the effects of possible proposals?
- Who do you have to convince?
- Who are the opinion-makers?
- What is the fall-back strategy if you cannot get a resolution?

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Module 4

Creation of employers' organisation and their activities



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Content

1. Employer's organisation - what do we want and need?
2. Ten steps from zero to functional organisations
3. Starting social dialogue
4. Examples of activities during covid-19 pandemic
5. What about an employers' organisation for Social Services in your country ?

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1. Employers' organisation - what do we want and need?

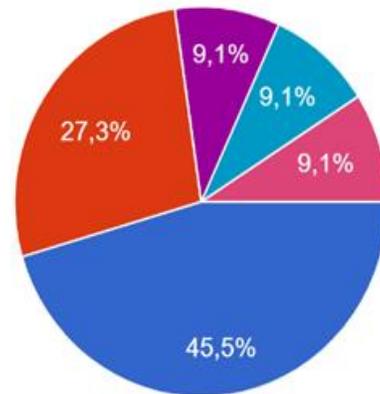
Employers' organisation - what do we want and need?

- **Basic question:** “Do we need an employers’ organisation and why?” => we should come to defining what we exactly need and want
- **Vision/mission:** to have clear and concise written statement of the purpose and long-term goals
- **Useful tip:**
 - It is necessary to set the strategic and annual plan for the long-term goals and objectives of the organisation

Legal status

Mostly NGO or special legal entity (depends on the country)

What is the status of your organisation?
11 réponses



- Association
- Union (specific status for employees/employers organisation)
- For profit organisation
- Informal structure
- NPO
- Lares Social Group is made up of 3 entities: Federation, Foundation and Association
- membership corporation, association

- Tips: it is helpful to seek a lawyer who help with legal matters that an NGO must deal with in first starting up

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2. Ten steps from zero to functional organisations (SMART principles)

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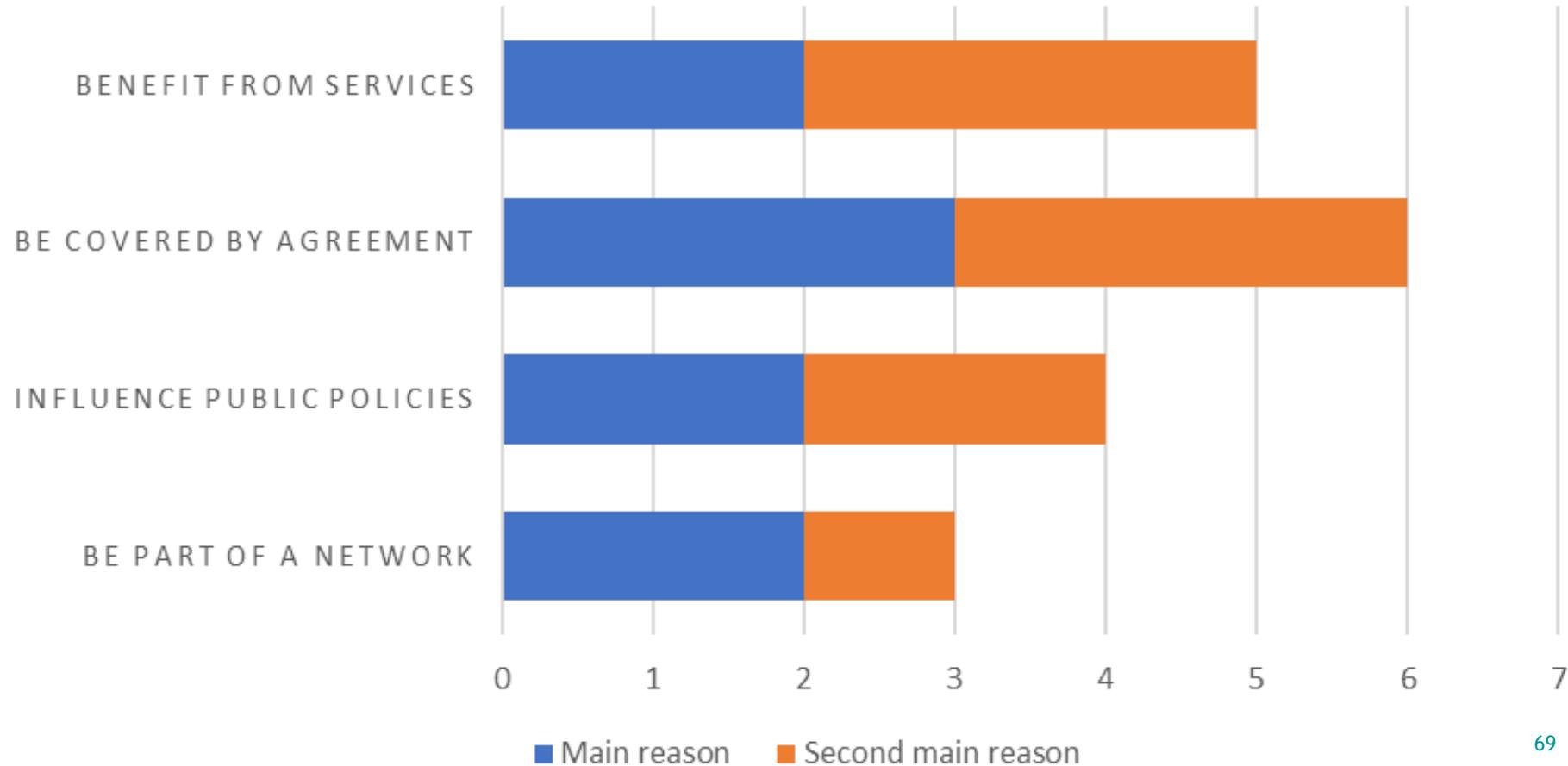
Ten steps from zero to functional organisations (SMART principles)



- 1. Identify the needs (of the sector and from the employers' perspective)**
=> we have to be clear about the future, about the needs of members and the sector

Members needs

2 MAIN REASONS TO BE PART OF AN EO



Ten steps from zero to functional organisations (SMART principles)



2. **Define a vision** => we have to be clear about where we want to be in 3/5/10 years period
3. **Set goals** => setting goals includes not only where you plan to end up but also the quantifiable steps and means that will get you there
4. **Start the legal entity** (e.g. actual start of the existence; bylaws, board; other bodies)

Ten steps from zero to functional organisations (SMART principles)

5. **Take action** => define membership benefits; start the website; create your booklet/leaflet; announce the first meeting/conference; organize some meeting with a politician; plan every single activity and sell it twice!

6. **Get new members** => plan a campaign; use the networks, contacts; think about the right order of your steps

7. **Get acknowledged** => reach the representativity defined by the state/law to be acknowledged

8. **Start the partnerships/cooperation and start social dialogue** => the nature and extent of Employers' organisations involvement in the governance arrangements depends on effective engagement and participation levels

Building partnerships

| | |
|--------------------|---|
| Belgium | Agreement with the other employers' federations (profit and non-profit) to ensure that we take positions that always represent the interests of employers in general. |
| France | Members of UDES, employer organisation (confederation) in social economy Partnership with healthcare organisations to have a common framework - Partnership with cross sectoral organisations in social economy and for SMEs |
| Germany | Within EU-Projects |
| Spain | Partner of the entity that represents the social economy of Spain. The employers' body is the main space where Lares establishes relations with other employers' organizations, in order to unite common aspects that are then incorporated into the social dialogue. A good example : Confederation of Non-Profit Social Employers' Confederation (CESSLE), a cross-sectoral employers' association for social action, |
| The Czech Republic | Through membership in the Union of Employers' associations. |

Ten steps from zero to functional organisations (SMART principles)



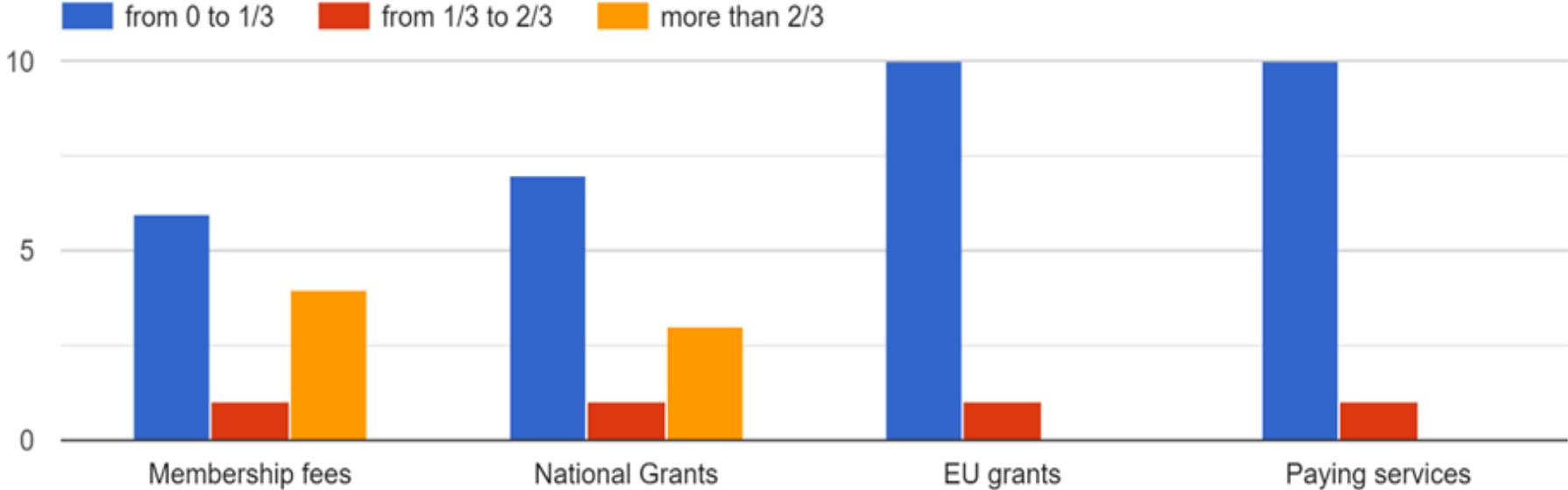
9. Be financially sustainable, grow, plan developments => define your economical potentials; strive for reasonable growth

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When you think about your organization's revenue over the past year (2020), please indicate the share of



Ten steps from zero to functional organisations (SMART principles)



9. Be financially sustainable, grow, plan developments => define your economical potentials; strive for reasonable growth

10. Redefine your goals, vision + activate your members + secure the membership base

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3. Starting social dialogue

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Starting social dialogue



- Once you have an organisation that is „alive“, active, growing and most of all recognized - start the social dialogue (which does not mean that till the point you are not going to have communication with Trade Unions and the State).
- To foster effective cooperation through social dialogue, trust-building measures and face-to-face contacts are helpful in overcoming barriers and building a strong connection between the various stakeholders.
- To establish trust among partners, it is essential that the communication processes are transparent.

4. Examples of activities during covid-19 pandemic

(Based on survey among FORESEE partners making in summer 2021)

- Specific newsletters to provide information and recommendations to members
- Surveys among members to collect their needs and difficulties
- Negotiations with public authorities to find appropriate help and solutions for members
- Networking and sharing new information and solutions on daily basis using social media and dedicated groups (WhatsApp)
- Legal advice in new regulations; joint actions regarding financial support and assistance
- Collection of donations, advocacy actions and representation members in society
- Help and support centre for members

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Discussion

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5. What about an employers' organisation for Social Services in your country ?

- Current situation assessment: strengths / weaknesses / opportunities / threats
- Is there a willingness ?
- How to proceed ?
- Next steps

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