



Capacity building for social dialogue in the Czech Republic

Introduction

Industrial relations context

Social dialogue in the Czech Republic

Collective bargaining

Tripartite participation

Annexes

This report is available in electronic format only.

Introduction

This paper analyses the capacity of the Czech Republic's social partners to effectively engage in social dialogue at various levels. The paper forms part of a wider, comparative project, managed by the European Foundation for the Improvement of Living and Working Conditions (Ireland) and the Work Life Development Programme (Sweden). It is aimed at helping social partners in the 10 new EU Member States and the three acceding and candidate countries (Bulgaria, Romania, and Turkey) to build their capacity for social dialogue with a view to anticipating and managing change. The report concentrates on studying the organisational, financial, and personnel capacities of the national, central organisations of employers and trade unions for anticipating and managing change, anticipating future developments and implementing outputs.

The research was done through interviews with representatives of the five central organisations of social partners in Czech Republic. Following a brief introduction, the report reviews the legal, social and political framework for social dialogue capacities, discusses existing organisational, financial and personnel capacities for social dialogue. This is followed by an analysis of tripartite and bipartite social dialogue as well as a look at the international participation of the trade union and employer organisations. The paper concludes with some general comments on the strengths and weaknesses of the existing social dialogue capabilities and the prospects for the future development of effective social dialogue in the Czech Republic.

Industrial relations context

Historical background

The trade unions played a significant role in the social changes in November 1989. In a number of cases the unions were directly involved in setting up strike committees in firms, which then took part in demonstrations that brought down the regime. As 'new' unions, strike committees also helped put in place democratic trade union structures. After the collapse of the Revolutionary Trade Union Movement (ROH) in 1990, several trade union federations were founded: the Czech and Slovak Confederation of Trade Unions, its Czech division the Czech-Moravian Chamber of Trade Unions, later became known as the Czech-Moravian Confederation of Trade Unions (ČMKOS), continued to operate in the territory of the new Czech Republic after the break-up of Czechoslovakia in 1992. Other trade union umbrella groups included the Confederation of Art and Culture (KUK), the Christian Trade Union Coalition (KOK) and, in 1991, the Trade Union Association of Bohemia, Moravia and Silesia (OS ČMS) and, in 1995, the Association of Autonomous Trade Unions (ASO).¹

After 1989, the new entrepreneurs set up a number of organisations representing their emerging specific interests. Employer organisations were formed on a sectoral or professional basis and according to the type of ownership; they possess the full legal subjectivity necessary for collective bargaining and negotiating higher-level collective agreements. As far as the range of activities they perform is concerned, they usually have a wider scope than unions (besides social dialogue they offer technical and business consultancy, broker business contacts, handle public relations etc. The two main employer organizations are the Confederation of Employers' and Entrepreneurs' Associations of the Czech Republic (KZPS ČR) and the Confederation of Industry of the Czech Republic (SP ČR).

Involvement in the political arena

Tripartite social dialogue between representatives of workers, employers and the government has functioned at national level since 1990. The institutional form of this dialogue has undergone various transformations since its inception more than a decade ago, and the attitudes of different governments have also changed. Social partnership played a role in the transformation process and also evolved in response to the changing political, economic and social conditions and the 'maturing' of the social partners. The relationship between the social partners and the state has changed, as have its function and organisational form.

During the successes of economic reform and continuing privatisation in the first half of the 1990s the right-wing government was reserved in its attitude towards the tripartite mechanism and sought to restrict it substantially. The burden of growing economic problems in 1996 and 1997 and the first signs of social discord made the government understand the need for social dialogue. The new social-democratic government, formed following the elections in June 1998 was generally more favourable towards social dialogue, as its election manifesto made clear.

¹ Trade union and employer federations are associations of trade unions or employer organisations and possibly also autonomous trade union organisations or enterprises, sometimes even natural persons in the case of small trade union federations. For the purposes of this paper we use the word 'federation' for top-level umbrella groups and the word 'union' or 'association' for the 'lower', as it were sectoral level.

The government also inherited a difficult economic situation, which doubled its motivation to communicate with the social partners. The social-democratic government has so far placed great importance on social dialogue and the social partners welcome this. Once in office, all across the country the government started to engage the social partners and the broadest possible public – in particular NGOs, citizens’ initiatives and independent experts – in preparation for policies and legislation affecting employment, social security, legal protection of labour etc.

Employer organisations and the trade unions declare themselves independent of political parties and intend to retain this autonomy. Yet, trade unions are often directly linked to a political party – current and past members, including leading representatives, are directly involved in the legislative process, either as members of one of the chambers of Czech parliament or in executive office in state administration.

Legal framework

The formation of trade union and employer associations and their federations is governed mainly by Act no. 83/1990 Coll. on citizens’ associations, as amended. Citizens’ associations formed under Act no. 83/1990 Coll. are subject to registration with the Ministry of the Interior of the Czech Republic; in line with the relevant International Labour Organisation conventions. Trade unions and employers’ organisations are required merely to register without the state interfering in either the formation or work. The act does not lay down any representation criteria for either trade union or employer organisations. Soldiers in active service are not permitted to form trade unions. The trade union organisations for the police force, fire brigade and customs services must by law represent at least 40%.

The trade union and employer federations mentioned above were formed under the aforementioned Act on citizens’ associations. In contrast, a number of employer federations (e.g. approx. two-thirds² of the organisations that are members of the SP ČR) were formed under different legislation (the Civil Code). The impact this has on collective bargaining is explained below.

Trade union rights are not governed by a single piece of legislation in the Czech Republic – they are regulated via several pieces of legislation, including generally binding regulations. Act no. 120/1990 Coll., regulating certain relations between trade union organisations and employers, covers the status of trade unions in business. This act lays out the rules for trade union pluralism in business and states that trade union bodies of trade union organisations operating in parallel as an employer (in a company) must negotiate a collective agreement jointly and in concord. The act is not entirely practical, as it is founded on the principle of absolute trade union plurality and its application often causes practical problems when collective agreements are negotiated. The rules the act lays down make it possible to set up trade union organisations with an abnormally small number of members (at least three members). That can be easily abused and can lead to constraints on collective bargaining, particularly where one of the trade union organisations operating as an employer hampers efforts to pursue a joint course of action in a particular matter, however minor, even though it may be by far the smallest union in the company. That is why the idea that a representative principle should be taken into account is gaining ground. From the opposite perspective, i.e. from the point of view of smaller trade union organisations and federations (often set up on an occupational basis), Act no. 120/1990 Coll. is highly appreciated and regarded as essential if minority unions are to assert their own opinions. In social dialogue, the blocked collective bargaining in Czech Railways has aroused widespread debate about the proportionate representation principle, resulting in a members’ bill defining the conditions for trade union plurality in enterprises.

² Internal figure of SP ČR.

Act no. 2/1991 Coll., on collective bargaining, paved the way for collective agreements to become an instrument governing working conditions and relations between employers and trade unions. The Act sets out basic rules and procedures for collective bargaining, both at enterprise level and higher, i.e. between employer and trade union associations. Under the Act, the purpose of collective bargaining in the Czech Republic is to conclude a collective agreement. Other forms and phases of collective bargaining that do not lead towards an enterprise-level or higher-level collective agreement are still part of social dialogue; the law does not rule them out, but they are not subject to legislative regulation and are in practice governed by the procedural customs of the partners.

Czech collective law only distinguishes between enterprise-level collective agreements (ELCAs), concluded between the appropriate trade union body and an employer, and higher-level collective agreements (HLCAs), concluded for a larger number of employers between the appropriate higher-level trade union association and employer organisations. The law does not recognise sectoral collective agreements covering an entire sector or field of business (there is no definition of the 'sector' in Czech law); if sectoral collective agreements are mentioned in the Czech Republic, these tend to be designated as HLCAs, regardless of their actual coverage. In view of this two-tier system, the law also deals with the mutual relationship between these two types of collective agreement. There is no direct superiority or direct connection between HLCAs and ELCAs, but the law states that any provisions of an ELCA that are less favourable for employees' rights than an applicable HLCA are invalid. In these matters the employer would have to honour the commitments contained in the HLCA. One consequence of this relationship between ELCAs and HLCAs is that employers (and their employees) affiliated in an employer organisation that negotiated an HLCA are directly covered by the commitments contained in this HLCA. That means that if there is no ELCA, for whatever reason, including the absence of a trade union partner, the employer and employees are bound by the HLCA. Roughly 20 HLCAs are signed a year in the Czech Republic, while the figure for ELCAs is around 4,000.³

The Ministry of Labour and Social Affairs of the Czech Republic (MLSA) was able to decree that HLCAs are binding for employers that are not members of the employer organisation that signed this agreement. Extending HLCAs was only possible to employers with a similar business (according to NACE classification) and similar economic and social conditions that were not covered by any other HLCA. These general principles constituted practically everything that the law prescribed for extending HLCAs. Objectives, procedure, the subject or scope of coverage of extension have only become specified by practice. Right from the beginning, HLCA extension was accompanied by debate between the social partners (the extension of HLCAs was agreed on in a commission made up equally of representatives of the social partners in the national tripartite forum), in the political sphere and also in professional legal circles. The debate resulted in a group of parliamentary deputies filing a complaint with the Constitutional Court; the Constitutional Court then ruled to annul Section 7 of Act number 2/1991 Coll., on collective bargaining, on the grounds of conflict with the Constitution of the Czech Republic, as of 31 March 2004. An amendment of the collective bargaining Act (Act no. 255/2005 Coll.) has been effective since 1 July 2005, bringing new rules for the extension of HLCAs to other employers. This means that if the conditions set out in the Act are satisfied (the trade union in question is the biggest union in terms of membership in the sector in which it proposes extending an HLCA or the employer organisation is the biggest in the sector in terms of the number of employees in affiliated firms) the HLCA is extended directly ex lege to all employers whose core business falls under the sector as defined by NACE. The aforementioned Act also covers exceptions to this rule.

³ Estimation of the Research Institute for Labour and Social Affairs

Social dialogue in the Czech Republic

The fundamental precondition for the working of social partnership at national level in the Czech Republic is the concentration of social partners in the Council of Economic and Social Agreement of the Czech Republic (RHSD ČR), which is the institutionalised form of the tripartite mechanism. Given that the working of the tripartite mechanism is not regulated by an act or any other legal regulation, there is also no legal procedure defining the obligations of the social partners at tripartite level. The tripartite mechanism in the Czech Republic was established in 1990 as one of the forms of social dialogue at the very beginning of the process of socio-economic transformation as a manifestation of the common will of the government and the social partners. Since its formation, this institution has been based on voluntary agreements made between the trade unions, employer organisations and the government. First and foremost, the basic tripartite document, the statute of the RHSD ČR, which sets out the rules for its activity, is formulated on the principle of consensus.

From 1991 to 1994, the government and the social partners concluded general agreements, which are ranked as some of the fundamental tripartite documents. These were framework agreements setting out the conceptual basis for collective bargaining at sectoral and enterprise level. They were signed every year, but the road to the signing was always long and often contentious. No general agreements or other pacts have been signed in subsequent years. After the social-democratic government came to power in 1998, the government and the social partners expressed a desire and demand to make agreements. The intended joint document (there was also talk of a 'social pacts' or 'social stability pact') was meant to be a framework agreement for a longer period of time that expressed the partners' willingness to negotiate and defined the main tasks of and rules for mutual information exchange. The negotiations ended at the level of expert teams, however, without any conclusion being reached by the social partners. In recent years just one attempt has been made: a members' bill on economic and social partnership, put forward in June 2001 by a deputy of the Communist Party of Bohemia and Moravia and OS ČMS, was rejected both by a major portion of the political spectrum and by trade unions and employer representatives (technical and legal shortcomings were cited as the reasons).

Chambers of commerce are not and have never been part of the employers' delegation. Neither the Economic Chamber nor the Agrarian Chamber in the Czech Republic are employer representations; they cannot be partners in social dialogue, because from the start there has been a distinct differentiation between chambers of commerce and entrepreneurial organisations and employers' organisations. Later efforts, by the Economic Chamber for example, to join the tripartite platform as part of the delegation of employers were unsuccessful.

Since 1995, the statute of the RHSD ČR has prescribed representation criteria as a condition of membership of the RHSD ČR. The criteria have been altered several times. Most recently, in 2004 a change was adopted, whereby the conditions for participation of employer representatives were made more stringent. Employer representations seeking to participate in plenary sessions of the RHSD ČR must now have at least 400,000 employees, compared to the originally demanded number of 200,000 employees. Furthermore, these employees must work in companies of members whose statutes authorise them to conduct collective bargaining and to sign HLCAs. This provision reflects the fact that not all employer organisations are authorised to conduct collective bargaining: some possess no such authorisation, some only in limited scope. The criteria for trade union representation remained unchanged: the minimum membership of trade union federations is fixed at 150,000 members.

Key actors

The largest trade union federation in the territory of the Czech Republic was founded under the name **Czech-Moravian Chamber of the Czech and Slovak Confederation of Trade Unions (ČMKOS)** in 1990 as part of the federal Czech and Slovak Confederation of Trade Unions. It adopted its current name in 1998. When it was founded, ČMKOS affiliated 40 independent trade unions. In subsequent years, some small trade unions merged and some trade unions split from ČMKOS; six trade unions joined ČMKOS. In 2004 there were 33 trade unions, with 611,000 members, affiliated in ČMKOS.

The **Association of Autonomous Trade Unions (ASO)** was established in 1995 by the Trade Union of Workers in Agriculture and Nutrition of Bohemia and Moravia, which split from ČMKOS that year, and by two other autonomous trade unions (the Czech Trade Union of Northwestern Power Companies and the United Union of Private Employees). Increased membership and a change to the statute of the RHSD ČR in 2000 (trade union representations had to have at least 150,000 members) made it possible for ASO to take part in tripartite negotiations, thus replacing the Confederation of Art and Culture in the RHSD ČR. The increased membership was mainly caused by the accession of the Trade Union of Railway Workers, which left ČMKOS in 1998. Despite this enlarged member base, ASO has also registered the universal tendency of declining trade union membership, according to its representatives. In 2004, ASO comprised 14 trade unions with 170,000 members.

After the break-up of the ROH in February 1990, trade unions representing workers in culture, cultural facilities and cultural professions set up their own umbrella organisation: the **Confederation of Art and Culture (Konfederace umění a kultury (KUK))**, it retained its federal form and up to the year 2000 included two Slovak trade unions. The Confederation of Art and Culture is based on a purely confederative principle of affiliation by entirely autonomous trade unions, which made use of KUK's membership of the Czech RHSD ČR up to the year 2000 and Slovak RHSD SR up to 1996 to present and assert their opinions at national level. KUK's membership is declining. In 2004 its 13 member unions and associations had 59,000 registered members.

The former chairperson of the ROH established the **Trade Union Association of Bohemia, Moravia and Silesia (Odborové sdružení Čech, Moravy a Slezska (OS ČMS))** in 1991. (After the break-up of Czechoslovakia, the Slovakia part of the name was replaced by Silesia.) OS ČMS is closely oriented towards left-wing parties (with personnel links to the Communist Party of Bohemia and Moravia) and is highly critical of government policy. OS ČMS had 25,000 members in the year 2000. OS ČMS contains around 100 trade union organisations, only a few dozen of which conduct collective bargaining. Its membership is in constant decline: in 2004 it declared that it had 15,000–17,000 members, over 50% of whom are retired.

The **Christian Trade Union Coalition (Křesťanská odborová koalice (KOK))** was founded in 1990 by former staff of the Christian and Democratic Union-Czechoslovak People's Party (KDU-ČSL). KOK affiliates members regardless of their political and religious beliefs, from all types of commercial and state organisations, individual members and pensioners. KOK is largely confined to Moravia. In the second half of the 1990s a cooperation agreement was signed with ČMKOS, under which ČMKOS will represent KOK in the tripartite forum; KOK has regarded this agreement as defunct in recent years. In 2001 KOK had almost 15,000 members. Its membership is in constant decline, with KOK declaring 9,000 members in 2004.

Besides the trade union federations listed above, there are several autonomous trade unions which have been autonomous ever since they were founded or which have over the years split from some trade union umbrella group, most notably ČMKOS. Additionally, there are a number of autonomous trade union organisations operating usually at an enterprise. Such organisations may conduct collective bargaining. Their number is not known.

According to available data⁴ and estimates by representatives of trade union federations and trade unions, around 860,000 employees were members of trade unions at the end of 2004. According to the Czech Statistical Office, there were 3,964,000 people in employment in 2004, so approximately 22% of all workers were trade union members in 2004.⁵ The membership of all trade union federations has for many years been in decline, accompanied by occasional movements of trade unions chiefly between the two largest trade union federations (ČMKOS and ASO).

⁴ Guideline figures for the membership of trade union federations were again gained chiefly from interviews with their senior representatives (except ČMKOS). Precise figures tend not to be publicly available.

⁵ When considering overall trade union membership one should not forget the considerable percentage of retired trade union members in some federations or unions.

The Confederation of Employers' and Entrepreneurs' Associations of the Czech Republic (Konfederace zaměstnavatelských a podnikatelských svazů ČR (KZPS ČR)) was originally established as the Coordination Council of Entrepreneurs' Unions and Associations of the Czech Republic (KORP) in August 1990 to represent business interests in the then Council of Social Agreement. It adopted its current name in 1993. At that time KORP affiliated and represented all business activities in the Czech Republic, both major sectoral business associations (such as the then Association of Industry) and smaller private entrepreneurs organised in the Association of Entrepreneurs of the Czech Republic, as well as various professional communities. As interests crystallised and diverged during social and economic transformation, organisational changes followed, with the biggest member, SP ČR, leaving KZPS ČR in 1995. Six current members of KZPS ČR affiliate 24,000⁶ firms (legal entities) with roughly 660,000 employees.

The **Confederation of Industry of the Czech Republic (Svaz průmyslu a dopravy ČR (SP ČR))** was founded in 1990. Up until 1995 SP ČR was part of KZPS ČR. Membership consists of individual members (a number of firms are directly members of SP ČR) and collective members affiliated on a sectoral or regional basis. SP ČR affiliated 1,573 organisations and firms with almost 600,000 employees⁷ in 2004. One specific feature is the collective membership of professional organisations – the Czech Management Association and the Association of Mechanical Engineers. The Confederation of Industry represents small and medium-sized enterprise as well as big business. SME interests are represented here by the Union of the Medium-sized Businesses of the Czech Republic, which is a collective member of SP ČR. There has been little change in membership levels of employer organisations in the past few years. The main change takes the form of regrouping among individual formations within umbrella organisations. Based on the data that individual organisations of employers make available, they affiliate an estimated total of around 26,000 business entities and self-employed persons. By comparison, at the end of 2004 the Czech Statistical Office registered 2,023,894 business entities including the self-employed, 31,000 of which had more than 20 employees. The firms affiliated in enterprise associations and organisations employ roughly 38% of all employees.

Table 1: *Trade Unions in the Czech Republic*

Organisation	Year established	Confederative structure	Number of members 2001	Number of members 2004	Number of employees 2000	Number of employees 2004	Foreign cooperation
Czech-Moravian Confederation of Trade Unions (ČMKOS)	1990	Yes	900,000 in 31 unions	611,000 in 33 unions	78 (in 2003)	52	ETUC ICFTU TUAC
Association of Autonomous Trade Unions (ASO)	1995	Yes	200,000 in 8 unions	170,000 in 14 unions	-	3 staff/ employees from member unions work for ASO part-time	-
Confederation of Art and Culture (KUK)	1990	Yes	90,000 in 14 unions	59,000 in 13 unions	-	9	UNI FIM EURO-UNI- MEI
Christian Trade Union Coalition (KOK)	1990	No	15,000	9,000 (website claims 15,000)	-	4 volunteers, not employed	WCL WCT FIOST INFEDOP EZA

⁶ An internal figure of KZPS ČR; the number of member companies does not include the Union of Employers' Associations of the Czech Republic, for whom no data on membership are available.

⁷ Confederation of Industry of the Czech Republic information brochure, <http://www.spcr.cz>

Table 1: Trade Unions in the Czech Republic (Cont'd)

Organisation	Year established	Confederative structure	Number of members 2001	Number of members 2004	Number of employees 2000	Number of employees 2004	Foreign cooperation
Trade Union Association of Bohemia, Moravia and Silesia (OS ČMS)	1991	No	25,000	15,000 – 17,000	6	6 part-time employees	WFTU
Employers							
Confederation of Employers' and Entrepreneurs' Associations of the Czech Republic (KZPS ČR)	1990	Yes	7 organizations 950,000 employees in member firms	6 organizations 660,000 employees in member firms	1	1	KZPS ČR was founded to coordinate its members' activities at national level. Union of Employers' Associations of the Czech Republic member of KZPS ČR.
Confederation of Industry of the Czech Republic (SP ČR)	1990	Yes	31 organizations and professional associations affiliating approx. 600,000 employees in 1,453 firms	30 organizations and professional associations affiliating approx. 600,000 employees in 1,573 firms	32 (in 2003)	32	UNICE EESC IOE BIAC

Trade union membership is generally expected to keep falling. Expected movements by trade unions between umbrella organisations and mergers of unions could slow down or stop the decline in membership in some cases in 2005. The most frequently cited reasons for the declining membership are employees' lack of interest in joining, economic restructuring and opposition from employers.

Membership shifts also take place in employer organisations. SP ČR's membership is expected to rise in 2005 with the accession of two new organisations that were previously in KZPS ČR.

Composition of social partner umbrella organisations

The basic organisational architecture of top-level associations of employers and trade unions is similar. Both employers and unions generally affiliate to form larger organisations based on a cooperation agreement or the supreme body's approval of membership.

Trade unions affiliated in ČMKOS, ASO and KUK have legal subjectivity and retain most of their powers. Their basic trade union organisations are set up at the level of an enterprise or larger organisational units of an enterprise. Some unions also have local organisations, but these are the minority. ASO and KUK members have a strong principle of

profession-based association, where professional interests stand alongside trade union interests. Many members of associations in KUK are not employees but entrepreneurs by legal status.

Unlike the other umbrella organisations mentioned, KOK consists of three sections without legal subjectivity and basic organisations that do have legal subjectivity. As many as two-thirds of its members are individuals who are members directly of KOK. OS ČMS has a similar structure to KOK, based on a territorial principle and consisting of basic organisations with legal subjectivity. Although KOK and OS ČMS define themselves as trade union federations, they are structured more like trade unions, i.e. the lower organisational level. Besides their low membership, this is another reason that neither organisation is a member of the RHSD ČR.

Employer umbrella organisations – federations (SP ČR, KZPS ČR) affiliate employer organisations possessing legal subjectivity. Moreover, KZPS ČR contains the Union of Employers' Associations of the Czech Republic, which is themselves federations affiliating individual employer groups. Enterprises are often directly members of employer federations.

Organisational structure of umbrella organisations

The organisational structure of the social partners at top level is usually four-tier or five-tier. The supreme body is the collective body – the congress (conference, general assembly), consisting of delegates of the unions or organisations affiliated in the federation. The collective body usually approves or is authorised to change the statutes, to approve the main goals or strategies and to dismiss members of the executive body etc. The supreme body generally meets annually or once every two or four years. The next level down is usually also collective – an assembly of delegates of individual members (sometimes a committee), consisting usually of the chairmen of the affiliated associations and unions. Assemblies of delegates are convened by congress; they coordinate the federation's work between sessions of congress and decide on matters not reserved for congress. The third level is the executive body or administrative committee, which is an executive and sometimes also a statutory body. Members of the executive body are elected by delegates of individual associations and confirmed by the supreme body. Where there is no second collective body, the executive body carries out the executive function. A president (chairman) heads the executive body. The fourth level is the supervisory body/commission.

The executive apparatus of trade union umbrella organisations is subordinated to the chairman or vice-chairmen and is divided into various specialist sections. In small federations there are no more than five executive staff. The executive apparatus of employer organisations usually consists of a director and his team (the secretariat). The director's secretariat usually consists of specialist sections and other administrative workers; in small employer federations there are usually no more than five administrative workers.

Both trade union and employer federations set up advisory bodies composed of in-house experts, external sympathisers or employees of affiliated firms. The members' expenses are usually covered by the organisation that provided the member, or membership is voluntary, particularly in the case of small organisations.

Trade union and employer federations, and often the associations affiliated in them, have regional offices designed to influence regional policy or provide various services. ČMKOS has 14 regional councils of trade unions and operates a regional network of 12 advice centres that employ lawyers providing advisory services to members of the trade union organisations in ČMKOS (including in court). The Trade Union of Workers in Agriculture and Nutrition/Association of Free Trade Unions in the Czech Republic also possess a large number of legal advice centres that provide consultancy services to ASO members. Other federations also have legal advice centres for their members, but do not have regional

offices for these purposes. Advice services are provided by employees of the umbrella organisation or in some cases volunteers and external sympathisers provide legal advice.

Individual employer organisations do not have enough money to create regional organisations. For that reason an agreement was reached by which employer federations (SP ČR and KZPS ČR) co-founded Regional Employer and Entrepreneur Councils together with the Economic Chamber of the Czech Republic. These Councils are designed to assert business interests in the regions. These institutions also possess an information network.

Both trade union and employer umbrella groups, and often the associations within them, issue their own periodicals prepared by specialist editorial staff and have their own educational facilities. These activities are more frequent among trade unions, both in terms of the number of periodicals brought out and in terms of the use of their own training facilities.

Finances

There are considerable differences in material and personnel capacity between the trade unions affiliated in ČMKOS, ASO or KUK and other unions in smaller federations, including autonomous ones. The differences were created largely by the fact that trade union assets of the former Revolutionary Trade Union Movement existing in 1990 were divided among new democratic trade unions whose members in November 1989 actively participated through strike committees in the major social changes and called for the Congress that in Spring 1990 dissolved the old union structure. These unions are now members of the ČMKOS, ASO and KUK. Because they were set up after the trade union assets were 'delimited', KOK and OS ČMS are at a disadvantage. Both suffer chiefly from a lack of finances for information and consultation services for basic organisations and to set up a functional administrative apparatus.

Employer organisations were set up as totally new organisations, without any direct link to previous structures and without any property. These different starting points are reflected in the work of employer organisations as a whole up to the present day. Employer organisations cannot match most trade union umbrella organisations for material means.

The finances that umbrella organisations have at their disposal every year⁸ are not usually considered sufficient. Federations state that joining the EU has enlarged their agenda while their funding has remained the same. There is thought to be insufficient specialist staffing, particularly in smaller federations. KOK states that the funds it acquires are only enough to cover the rent of an office and payments for essential telecommunications charges. The federation's staff work as volunteers and are either retired or have another job.

The questioned employer organisation KZPS ČR considers its financial means sufficient. Conversely, the organisations affiliated in KZPS ČR rate their economic situation as unsatisfactory.

⁸ The figures expressing the overall annual budgets of trade union federations do not make allowance for the fact that employees of some federations are partly or wholly paid out of the resources of affiliated trade unions (so the trade unions in fact increase the dues they pay to the federation). The state contribution for scrutiny of occupational health and safety forms a considerable portion of the budget of small federations and these funds cannot be used for any other purpose. Considering the above, in our opinion, the conversion of the total size of a federation's budget into a sum per member/natural person has minimal significance.

The existing financial situation in trade union umbrella organisations is dependent on the number of affiliated unions, their size and, in particular, their history – i.e. whether they were involved in the redistribution of ROH assets. Unions' dues to their federations are generally derived from the number of members of the union's basic organisations and form the organisation's main income. The union's or basic organisation's dues to its federation per member (natural person) are calculated according to the following rules: unions in ČMKOS pay in 0.333% of the national average nominal wage for the past calendar year per member; KUK charges CZK 1 per member per month; ASO members pay dues of CZK 2 per member per year; KOK does not collect any dues; OS ČMS charges its basic organisations 0.35% of net monthly wage per member.

Other sources of financing are sponsorship donations, shares of revenue from property letting or from PHARE projects. Most federations, or their trade unions, also collect a state allowance to cover the cost of monitoring occupational health and safety under Section 136 of the Labour Code, which includes this among the important rights of the trade unions. The size of the allowance is fixed according to the number of members a federation, or union, has. The allowance forms a considerable part of some federations' budget.

Employer organisations acquire funds from member dues, from letting property and from commercial activities; some obtain PHARE funding. For example, the 'Minutes of the Meeting of the General Assembly of the Confederation of Industry of the Czech Republic', dated 21 October 2004, state 'that the confederation is 25% financed by member dues and 75% by commercial activities. The prevailing commercial activities distract the organisation from its main mission and for that reason the minutes state that the ideal ratio between member dues and commercial activities is 50:50'. According to the minutes, membership dues for 2005 were fixed as a percentage (0.025% to 0.055%) of mandatory payments out of wages for insurance and social security for individual enterprises. Member dues were previously defined according to the number of an enterprise's employees. In KZPS ČR member dues are the same for each association affiliated.

Seeing that employer organisations carry out a wider range of activities for their members (advice, technical consultancy, business contacts, PR etc.) than the trade unions, payment for these activities is another source of income. Of the two employer umbrella organisations, only SP ČR declares carrying out these activities. The following table gives an overview of sources of financing in 2004.

Table 2: *Finance sources 2004*

Organisation name	Annual member dues (EUR)	State allowance for occupational health and safety (EUR)	Other sources (EUR)	Total (EUR)
Trade Unions				
ČMKOS	1,136,000	Yes	No	1,750,000
ASO	11,220	Yes	No	no data
KUK	23,370	Yes	Yes – property letting	66,000
KOK	0	Yes	Yes – sponsorship	19,800
OS ČMS	13,200	Yes	No	36,300
Employers				
KZPS ČR	25,000	No entitlement	No	25,000
SP ČR	26,500	No entitlement	79,500	106,000

NB: The table is compiled from several sources and does not exactly match the answers given in the questionnaire. A conversion exchange rate of CZK/EUR 30.3/1 was used. The average wage in the national economy in 2003 it was CZK 16,920.

2004 brought significant tax changes to the financing of the social partners' activities. An amendment of Act no. 586/1991 Coll., on income tax, took effect on 1 January 2004, enabling trade union members to deduct membership dues paid to their trade union organisation from their tax base. Employers may also deduct dues paid to employer organisations from their tax base.

Most trade union federations' budgets will remain the same in 2005, because the affiliated unions are not willing to increase member dues (ČMKOS, ASO, KOK). Affiliated unions are constantly pressuring their federations to cut overheads and reduce budgets. Two federations expect to increase their budgets for 2005, owing to either better returns on real property (KUK) or MLSA increasing the allowance for monitoring occupational health and safety (OS ČMS).

Employer organisations' budgets will grow in connection with the intended enlargement of the staffing of the secretariat (KZPS ČR).

Human resources

Of the trade union and employer organisations, ČMKOS and SP ČR respectively are the best provided-for in terms of employees and specialist staff in particular. Both federations have in recent years cut their staffing levels and will evidently continue to do so (ČMKOS), but there are still great differences between them in terms of the number of experts they possess. The trade unions have a much larger base of professional staff, both specialists in collective bargaining, labour law, work safety etc., and administrative staff. A number of trade unions also possess a high quality professional apparatus. Some federations and unions are able to staff regional offices that provide methodological assistance to enterprise-level organisations and legal advice to members.

There are also differences in staffing levels between individual trade union federations. While the statements in the previous paragraph apply mainly to ČMKOS and ASO, the remaining umbrella organisations are much more poorly staffed. They deal with this lack of staff by using employees of affiliated unions to handle some of the agenda, with volunteers doing the rest; or in some cases, part of the agenda simply does not get done, e.g. the frequently mentioned foreign contacts. Apart from ČMKOS and KUK, federations' officials and staff do not have the necessary language skills to maintain contacts with organisations in other countries.

The marked lack of specialists among employer organisations means that their specialists have to deal with a very wide range of issues, which has a negative impact on the quantity and quality of their work, especially during the legislation and policy review process. Unlike SP ČR, KZPS ČR does not have any specialist staff and uses experts from its affiliated associations. The professional apparatus of employer organisations at all levels draws attention to the chronic shortage of funds to cover running costs and the necessary staffing increases.

Employer organisations also possess nothing like the extensive, regularly updated information and databases that the trade unions have (especially ČMKOS).

Use of modern technologies is common, but in some cases a lack of finances prevents wider application.

Collective bargaining

As we said earlier on in our introduction to social dialogue, no agreements are concluded at national level in the Czech Republic. Only members of the aforementioned umbrella groups conduct collective bargaining at 'higher level' in order to conclude HLCAs; at enterprise level, basic trade union organisations bargain with the employers' representatives in order to conclude ELCAs. Trade union and employer umbrella organisations do not practise collective bargaining. Right from the beginning, however, HLCAs have been dogged by the problem of the employer bargaining partner's legitimacy or the unwillingness of some employer representations to enter into collective bargaining. Employer associations are either not registered as associations within the meaning of Act no. 83/1990 Coll., as we mentioned above, or are not authorised by their statutes to conduct collective bargaining or negotiate merely for a very limited set of their members. Trade unions operating in State administration may not conclude HLCAs because they have no partner with which to bargain, or the legislation does not allow employers in this sphere, i.e. State bodies, to form employers' organisations. One consequence of that is the low number of employees covered by HLCAs.

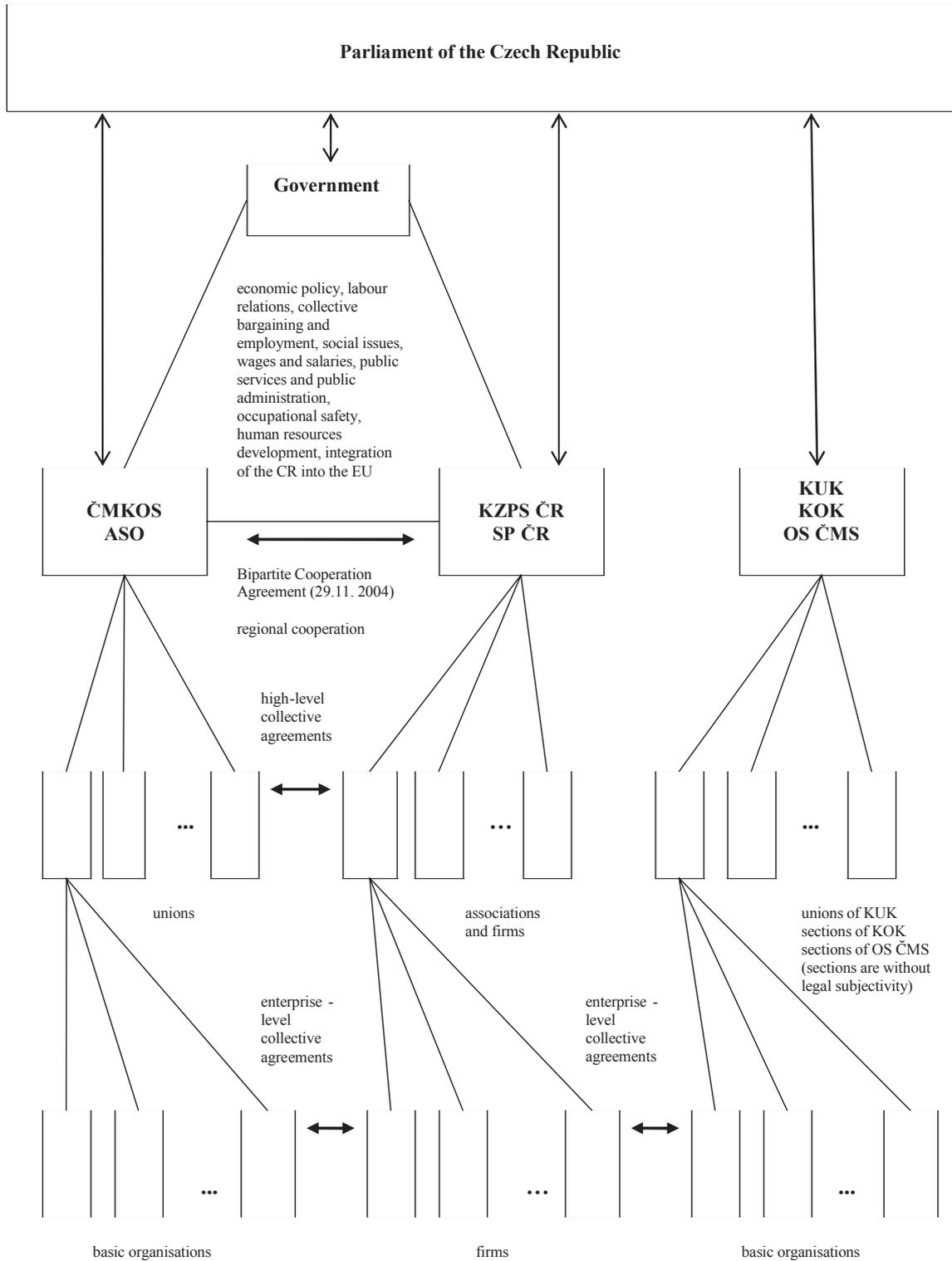
At the end of 2003 HLCAs signed by trade union associations in ČMKOS covered, after extension, just 24% of employees, compared to enterprise-level agreements (negotiated within ČMKOS) that covered approximately 29% of civilian sector employees in 2003. The number of employees covered by ELCAs is currently in decline and will probably continue to fall, while the number of employees covered by HLCAs has grown considerably in recent years, largely thanks to extensions. The future of HLCA extension will depend, among other things, on how the extension rules are applied and probably also on the political will to sign an extension of collective agreements. The following table shows the level at which umbrella organisations, or their members, conduct collective bargaining that leads towards enterprise level or higher-level collective agreements.

Table 3: *Collective bargaining leading to enterprise level or higher-level collective agreements*

Organisation name	National level	Higher/sectoral level	Regional level	Enterprise level
Trade Unions				
ČMKOS	No bargaining	Bargaining by affiliated unions	No bargaining	Bargaining by basic organisations affiliated in member unions
ASO		Bargaining by affiliated unions		
KUK		No bargaining		
KOK		No bargaining		Bargaining by basic organisations affiliated directly in KOK or OS ČMS
OS ČMS		No bargaining		
Employers				
KZPS ČR	No bargaining	Bargaining by affiliated associations	No bargaining	Bargaining by enterprises affiliated in member associations
SP ČR		Bargaining by affiliated associations		

Bipartite social dialogue has also taken place in recent years. To this end, a 'Bipartite Cooperation Agreement' was concluded between ČMKOS, ASO, SP ČR, KZPS ČR and the Czech Confederation of Commerce and Tourism. Under this agreement the social partners discussed how to transpose the Framework Agreement on Telework into the draft of the Labour Code. The upshot of the social partners' discussion was modification of some articles, which regulates the use of certain new forms of work organisation.

Figure 1: Social dialogue framework



Tripartite participation

Right from the beginning there have been three partners in the RHSD ČR: the State, represented by the government; employers, represented by SP ČR and KZPS ČR; and employees, represented by trade unions. The trade unions in the RHSD ČR are ČMKOS, and ASO, which replaced KUK when KUK no longer met the representativeness criterion. Neither OS ČMS nor KOK, which have neither the required membership nor confederative structure, i.e. affiliating at least three associations representing three different sectors of the economy, are members of the RHSD ČR.

Social dialogue between the social partners also takes place at regional level, where they are gradually building up the necessary structures for this purpose. Social dialogue at regional level is not legally regulated and no collective agreements covering a region are made.

Representatives of the social partners (in particular the two largest trade union and both employer federations, or in some cases the associations in them when a specific matter is at issue) participate in the work of the government's working groups and advisory bodies and in individual ministries' working teams and commissions. Trade unions and employers thus take part in negotiations with representatives of different government departments and with their specialised sections, both within the tripartite forum and without, regarding problems affecting all the concerned parties; such problems affect economic policy, industrial relations, collective bargaining and employment, social issues, wages and pay, public services and public administration, work safety, human resources development and the Czech Republic's integration into the EU.

Experiences of tripartite negotiations are described as good; the social partners' ideas and comments are accepted, according to their representatives. Tripartite consultations will continue to be important in the future.

Aleš Kroupa and Jaroslav Hála, Research Institute for Labour and Social Affairs

Annex 1 Strengths and weaknesses of capacities for social dialogue

Strengths of social dialogue capacity in the Czech Republic

1. The Council of Economic and Social Agreement of the Czech Republic (RHSD).

The dialogue taking place in the framework of the RHSD among the government and the social partners but also between the social partners – employers and unions – can be seen as a strength – even if the dialogue is not always easy and fruitful. However the existence of a platform for discussion – not only at the top, but also at expert level (in working teams and groups) – allows for the possibility of addressing and solving issues.

2. Social partner organisations with functioning organisational structures.

Regardless of all the problems and weaknesses the organisations of representative social partners are in most cases able to cope with their role in the tripartite system in the Czech Republic and also in the other areas of social dialogue such as collective bargaining. They are generally able to provide services, legal advice, information, and expertise to their members. This situation would improve if the weaknesses, for example financing, staffing and also recruitment of new members, were removed.

3. Ability of representative social partners to meet their obligations following from the EU membership of the CR.

Czech social partners are represented in their respective European social partners organisations (UNICE, UEAPME, CEEP and ETUC) and do their best to play their role in the European social dialogue. They strive to play an active part in influencing the policy of the Czech Republic in the EU through the tripartite body and by active work in various steering and monitoring committees concerning EU issues. They also concluded a bilateral agreement among themselves on mutual consultations concerning various EU issues, especially implementation of European social partners agreements.

Weaknesses of social dialogue capacity in the Czech Republic

1. Unclear or non-existent bargaining partners:

Employers' organisations may be established under one of two pieces of legislation (the Act on citizens' associations and the Civil Code). There is still no definitive answer to the question whether organisations founded under the Civil Code may become partners of trade union organisations and negotiate high level collective agreements (HLCAs). The Ministry of Labour and Social Affairs and the trade unions have differing opinions on the matter of concluding HLCAs with employer organisations established under the Civil Code. The statutes of some employer organisations do not empower them to conduct collective bargaining for their members; some employer organisations bargain on behalf of a very restricted set of members that empowered the organisation to do so. Trade unions operating in state administrations may not conclude HLCAs because they have no partner with which to bargain, or the legislation does not allow employers in this sphere, state bodies, to form employers' organisations.

2. Mandatory nature of the Labour Code

The limited space for negotiating labour entitlements (excluding wage claims) is regarded as a serious barrier to the contractual freedom of the social partners. Employees' entitlements may be increased and expanded only within the framework set out by the labour regulations. Higher and extra claims over and above the legal framework can be set down in collective agreements only where the Labour Code explicitly permits. The draft new Labour Code now being submitted to the Czech Parliament aims to remedy this situation.

3. Tripartite agreements and collective agreements

National tripartite agreements that could promote collective bargaining are not concluded. Higher-level collective agreements are relatively general in substance; they lack the necessary authority in practice and employees are relatively unaware of them. In enterprise the influence of enterprise-level collective agreements is considered more important rather than high-level collective agreements.

4a. Insufficient institutional capacity of the social partners: membership

From 1990 to 2004, trade union membership fell by 60% from approx. 82% to approx. 22%, also due to the fact that before 1989 practically every employee was a member regardless of status or position.

Trade union member bases and officials are aging. Young people are not joining trade unions. Employees are often not interested in actively participating in trade unions. In many cases the view of trade unions – a persisting legacy from the past – is that they are simply organisations that provide various benefits and activities for employees' leisure time.

The trade union movement is relatively fragmented and disunited. In addition to five trade union confederations (Czech-Moravian Confederation of Trade Unions, Association of Autonomous Trade Unions, Confederation of Art and Culture, Christian Trade Union Coalition, Trade Union Association of Bohemia, Moravia and Silesia) there are several autonomous trade unions and a number of autonomous trade union organisations in companies that do not have ties to these confederations or any other trade union.

The member base of employer organisations has not changed much in past years; the main shifts involve organisations moving from one umbrella federation (Entrepreneurs' Associations of the Czech Republic) to another (Confederation of Industry of the Czech Republic). The percentage of firms that are members of an organisation is very small – approximately 1%. In terms of workforce, however, firms that are members of organisations and federations employ approximately 38% of all employees.

4b. Insufficient institutional capacity of the social partners – material assets

There are major differences between trade union confederations in terms of their financial and material capabilities – these are mainly determined by the quantity of member dues collected, i.e. the number of their members, and by the economic activities of the associated unions themselves. The differences were created largely by the fact that trade union assets existing in 1990 were divided among new democratic trade unions whose members in November 1989 actively participated through strike committees in the major social changes and called for the Congress that in Spring 1990 dissolved the old union structure. These unions are now members of the Czech-Moravian Confederation of Trade Unions, Association of Autonomous Trade Unions and Confederation of Art and Culture. The annual volume of finances is not considered sufficient and often, in the case of small confederations, covers just the basic running of the organisation.

Employer organisations had a substantially worse starting position than the unions. They had to be created 'from scratch' with no link to previous structures. They finance their work to a lesser extent from member dues and to a greater extent from commercial activities.

4c. Insufficient institutional capacity of the social partners – staff

In terms of staffing, there are two types of trade union and employer organisation – confederations with their own professional apparatus Czech-Moravian Confederation of Trade Unions and the Confederation of Industry of the Czech Republic and confederations with just senior representatives and a rudimentary secretariat Association of Autonomous Trade Unions and Confederation of Employers' and Entrepreneurs' Associations of the Czech Republic.

Trade union confederations have more staff and a bigger expert apparatus than employers organisations. A number of trade unions also have a high quality apparatus of professionals. The unions' expertise is often made use of by the actual confederations. In small confederations, their staff and experts are largely volunteers who have another job or are pensioners. Small confederations suffer from a lack of qualified and language-skilled workers. EU entry broadened the agenda and the requirements for covering the new agenda. Employer federations are substantially undersized in terms of staffing. Their experts have to cover a wide spectrum of issues, which limits both the quantity and quality of their outputs. Specialist work is often done with the help of experts from affiliated associations or firms. The staffing levels of both trade unions and employers are regarded as insufficient, especially with the broadened agenda following EU accession.

Annex 2 Foresight project

The aim of section is to eliminate the most relevant weaknesses in the current organisational capacities of central organisations of trade unions and employers in the Czech Republic

WHAT	To deal with insufficient personnel capacities of social partner organisations as concerns quantity and skills (both expertise and language knowledge)
WHY	The improvement of this capacity would help social partners' organisations to increase their influence and achieve higher quality activities. This would give a new impulse to social dialogue and facilitate its work, including participation in the European social dialogue and enable it to play a bigger role in society and decision-making.
WHO	All social partners
WHEN	Continually
WHERE	At all levels – with special attention to be paid to regional level
WHICH RESOURCES	Recruitment of new members, European and other resources (programmes, projects, etc.)

Annex 3 National tripartite team

PhDr. Hana Málková, Czech-Moravian Confederation of Trade Unions

Mgr. Veronika Drábková, Ministry of Labour and Social Affairs of the Czech Republic

Ing. Ivana Břeňková, Trade Union of Health Service and Social Care in the Czech Republic

Ing. Oldřich Körner, Confederation of Industry of the Czech Republic

Ing. Vladislav Lánský, Union of Employers' Associations of the Czech Republic