

University of Tartu
Centre for Applied Social Sciences (CASS)



Effect of Economic Crisis on Estonian System of Industrial Relations



Tartu
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This report has been made within the framework of the project entitled “Impact of the Economic Crisis on the National System of Industrial Relations: Policies as a Key Instrument for Recovery” and funded by the European Commission.

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Introduction

This report has been compiled by the researchers of the University of Tartu within the framework of the project entitled “Impact of the Economic Crisis on the National System of Industrial Relations: Policies as a Key Instrument for Recovery” and funded by the European Commission¹. The purpose of the study is to provide **an objective overview of the changes that took place in industrial relations during the crisis and the impact of the crisis-induced political decisions on the development of industrial relations in Estonia**. For the purposes of this report “industrial relations” means entry into collective agreements, which is one of the main manifestations of industrial relations on the organisational and sectoral level, as well as national-level social dialogue, i.e. communication between federations of employees and those of employers and their relations with the state, incl. their involvement in legislative processes, and the signing of collective agreements at the national level in general. So this report deals with all three levels – company, sectoral and national – where collective bargaining and entry into collective agreements is possible.

In Estonia, the majority of collective agreements are made on the company level. Approximately 6% of companies have signed collective agreements and a third of all workers are covered by such agreements (Working Life Survey 2009). When comparing these numbers with other countries, Estonia belongs among those countries where collective agreement on working

¹ Besides Estonia, Bulgaria, Croatia, Macedonia, Poland and Turkey were involved in the project.

conditions is not very common. This has been attributed to the lack of industrial relations tradition and insufficient state support for the development of such relations, as well as to the lack of knowledge and activity on the part of social partners whose attitude towards collectively agreeing on working conditions is rather negative (Espenberg et al 2012). The willingness to collectively agree on working conditions varies depending on employment areas: negotiations over matters of employment administration, occupational health and working time are preferred to be held collectively, whereas in salary-related matters, people tend to be rather individualist (Working Life Survey 2009).

When looking at the dynamics of industrial relations, it is clearly visible that both union membership as well as coverage by collective agreements in Estonia has significantly declined over the last decade as compared to the other European Union Member States. Union membership has decreased by approximately half and coverage by collective agreements by 40%. A recent study of industrial relations in the public sector (Study of industrial relations of the institutions of state and municipalities 2011), in the course of which both the representatives of employers as well as those of the employees were interviewed, gives several reasons for the decrease in union membership using the example of the Estonian public sector. The union is still today, more than 20 years after regaining independence, perceived as a Soviet legacy because during the Soviet era union membership was a prerequisite for applying for a vacation voucher or for the right to purchase a television set, or it enabled workers to undertake collective action. Nowadays the first option is also available for those not belonging to any unions and the second is provided as an incentive for employees in many organisations in any case. From the employees' perspective the problem is that they do not see any benefits arising from union membership since unions have failed to make them clear or explain them to potential members. Working conditions are satisfactory and therefore people see no reason to join a union in order to collectively bargain over better working conditions. Furthermore, the existence of a union and its members in an institution



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frequently depends on a single dynamic union leader – if there is no such person or they leave, union development in the institution comes to a stand-still. Another reason given in the study for reluctance to join unions is the membership fee, all the more so in a situation where the benefits granted under a collective agreement are generally extended to all employees – both union members and others. This has caused workers to leave unions. One of the reasons for the decline in union membership is also the age of union members: many union members are seniors who have stayed members primarily because they have been members for a long time. Therefore, the membership is dropping because there are more retiring seniors than young people becoming union members (Espenberg et al 2012).

This report focuses on the development of industrial relations in Estonia during the economic crisis. The first chapter introduces the research methodology. The second chapter outlines the framework of Estonian industrial relations – laws regulating the field, social dialogue partners and the bargaining system. Chapter three deals with the economic crisis and the challenges it presents to industrial relations. The fourth chapter focuses on the issue of the crisis impact on the development of industrial relations. The report also includes two case studies. The first of these shows how industrial relations evolved during the crisis in Estonia's leading energy company Eesti Energia. The second case study concentrates on the teachers' strike, which was the only strike to occur in Estonia during the economic crisis.

The research team thanks everybody who found time to share their experiences with us: Harri Taliga, Kalle Liivamägi, Ago Tuuling, Marek Sepp, Märt Masso, Epp Kallaste, Kirsti Nurmela, Sirje Tamberg, Kristi Mikiver, Sander Vaikma, Liis Roováli, Mariliis Proos and Sven Rondik.

Methodology

This research report was written based on various sources of information by combining both quantitative and qualitative methods of data analysis. **The first stage** of research consisted of analysis of documentation providing information on the results of surveys conducted in Estonia and on articles published in the media. The purpose of this stage was to get an overview of the problems that became topical during the economic crisis, the opinions of various parties, how the problems were solved and what kind of solutions were introduced. **In the second stage** an overview was made of the impact of the economic crisis on the Estonian labour market based primarily on the information provided by the Estonian Statistical Office.

The third stage consisted of interviews with representatives of social partners and labour market experts. Interviews were conducted with the leaders of three federations of employees – the Estonian Trade Union Confederation, the Federation of Trade Unions of Workers of State and Local Authorities, and the Estonian Employees’ Unions’ Confederation – participating in national-level social dialogue, plus a representative of the Employers’ Confederation, and Estonian experts on industrial relations.

In the fourth stage two case studies were carried out. The first analyses the development of industrial relations during the crisis in the largest Estonian energy company, Eesti Energia. This case study included an analysis of documents and media and interviews with representatives of both employees and the employer. The second case study focuses on the only strike organised in Estonia during the crisis. The strike was touched on in the interviews conducted in the third stage of research, and a media analysis also provided input for the case study.



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I Framework of Estonian Industrial Relations

1.1. Overview of Estonian Industrial Relations Legislation

In Estonia, the most important act regulating industrial relations is the Employment Contracts Act (State Gazette I 2009, 5, 35), its new version entered into force at the time when the economic crisis was clearly deepening, on 1 July 2009. The Employment Contracts Act mainly regulates individual employment relations, i.e. those between an employer and employee; however, it does include some sections regarding industrial relations. For example, working time in Estonia may on average generally not exceed 48 hours per 7 days over a calculation period of 4 months, but this calculation period may be prolonged by a collective agreement to up to 12 months for health care professionals, agricultural workers and tourism workers. Under the law it is also permitted to establish in a collective agreement that working time at night is different from that provided by law, to prescribe advance notice terms for cancelling employment contracts that vary from those stipulated by law, and also make exceptions to legally prescribed minimum rest time, incl. divide the rest time into portions.

The Act differed considerably from that of 1992. The aim was to move towards introducing a 'flexicurity' system. The act constituted a compromise between the wishes of various parties, and the umbrella organisations of both the employers and the employees were actively involved in its development. Entry into force of the act made it simpler for the companies to

lay off employees (the redundancy payment period was shortened). As a compromise, a trilateral agreement was reached in the course of the legislative process according to which the unemployment insurance benefit was supposed to be raised and the circle of people entitled to it was to be expanded. (However, the agreement did not become effective – see below.) Withdrawal from the agreement had an adverse impact on national-level social dialogue, i.e. dialogue between the state and social partners. This problem is analysed in greater detail in Section 2.2.1 below.

The following Acts are especially important to industrial relations².

- **Collective Agreements Act** (State Gazette I 1993, 20, 353, entered force on 16 May 1993; hereinafter “CAA”) which sets out the bases for entry into and performance of collective agreements.
- **Trade Unions Act** (State Gazette I 2000, 57, 372, entered force on 23 July 2000; hereinafter “TUA”) which provides for the principal rights and bases for operations of trade unions, and regulates their relations with national and local authorities as well as with employers.
- **Employee Trustee Act** (State Gazette I 2007, 2, 6, entered force on 1 February 2007; hereinafter “ETA”) which regulates the activities of the employees’ trustee when representing the employees and civil servants who have authorised them to do so before employers and employees.
- **Collective Labour Dispute Resolution Act** (State Gazette I 1993, 26, 442, entered force on 7 June 1993; hereinafter “CLDRA”), which provides for the procedure for resolving collective labour disputes and calling of strikes and lock-outs.

² In addition to those listed, employees can also be represented in Estonia through the European Works Council and representative body of employees, which is regulated by the Community-scale Involvement of Employees Act (RT I 2005, 6, 21). However, these are forms of representation which are only marginally implemented in Estonia: to the knowledge of the authors, no representative bodies of employees have been established in the country, and although there are members of the European Works Council, they are few in number – according to the Working Life study, fewer than 1% in companies with 5 or more employees



A brief overview of the aspects falling within the scopes of different Acts regulating industrial relations is given in Chart 1 below.

<p style="text-align: center;">COLLECTIVE AGREEMENTS ACT</p> <ul style="list-style-type: none"> • Definition of collective agreement • Parties to collective agreement • Scope of application of CA, incl. extension • Form of collective agreement • Content of collective agreement • Entry into, term and amendment of CA • Monitoring of performance of collective agreement, resolution of disputes, and liability 	<p style="text-align: center;">COLLECTIVE LABOUR DISPUTE RESOLUTION ACT</p> <ul style="list-style-type: none"> • Definitions of collective labour dispute, strike, warning and support strike, and lock-out • Parties to collective labour dispute • Requirements for notice and hearing of LDs • Conciliation – definition, rights and duties of conciliator, conciliation procedure • Strike and lock-out – procedure and management, restrictions to right of strike
<p style="text-align: center;">TRADE UNIONS ACT</p> <ul style="list-style-type: none"> • Definition and objectives of trade union • Competence and rights of trade unions • Passive legal capacity, foundation, management and dissolution of trade unions • Employees' rights arising from union membership • Obligations of employers in relations with unions • Rights and obligations of union representatives and guarantees in relations with employers • Supervision, resolution of disputes, liability 	<p style="text-align: center;">EMPLOYEE TRUSTEE ACT</p> <ul style="list-style-type: none"> • Definition and right of representation of trustee • Election and authorities of trustee • Rights and obligations of trustee • Rights and obligations of employers when providing information • Informing and consulting • Cooperation between trustee and employer • Supervision, liability

Chart 1. The most important Estonian industrial relations legislation.

1.2. Estonian Collective Bargaining System

In Estonia, collective agreements may be **bilateral or trilateral**. A collective agreement may be entered into between (Section 3 of CAA):

1. an employer³ and a union, federation or authorised representative of employees;
2. an association or federation of employers and a union or federation of employees;
3. a local government association and a union or federation of employees and officials;
4. a central federation of employers and a central federation of employees;
5. the central federation of unions of employees, a central federation of employers and the Government of the Republic, and between local federations of unions of employees, a federation of employers and local governments.

The first option for entry into collective agreements is generally applied on the organisational level incl. agreements between several organisations where one of the parties is the employer and the other a federation of unions or vice versa – several employers on one side and one or more federations or unions of employees on the other; and the second on the sectoral level. The third option is rather aimed at the public sector since the employer's side should be represented by a local government association,

³ In government authorities, agencies administered by government authorities or state administrative agencies, collective agreements may be signed by the head of the authority or agency as the employer. The head of the authority or agency is responsible for ensuring that the responsibilities undertaken by a collective agreement comply with the state budget. In local government authorities or agencies administered by local government authorities, collective agreements may be signed by the head of the authority or agency, as well as by the city or rural municipality government as the employer. The head of the authority or agency is responsible for ensuring that the responsibilities undertaken by a collective agreement comply with the city or rural municipality budget.



and such agreement is basically that of the institutional or sectoral level (depending on whether the employees are represented by a union or a federation of unions). This option has not been used in practice. The partners mentioned under the fourth and fifth option signs the so-called national level agreements. The fourth option is used to sign a national minimum wage agreement. The fifth option has not been very widely applied, but it has become useful in signing social partnership agreements as, for instance, in the case of the abovementioned Employment Contracts Act (see Chart 2).

Furthermore, hybrid schemes are applied in practice, such as collective agreements signed by and between the head of a public sector agency, the representative(s) of employees and the head of local government (e.g. an agreement signed by the principal of a school or nursery school, or a head of a museum, a representative of the employees and a head of the local government). This is due to the distinctive funding of the public sector where funds are received either from a ministry or local government (e.g. schools and museums) and therefore their representative is also involved in order to guarantee that the responsibilities undertaken are allocated the necessary funds. Likewise, there are collective agreements that have been signed by the associations of employees and of employers and additionally by the Government of the Republic, which also acts as the employer (health care sector).

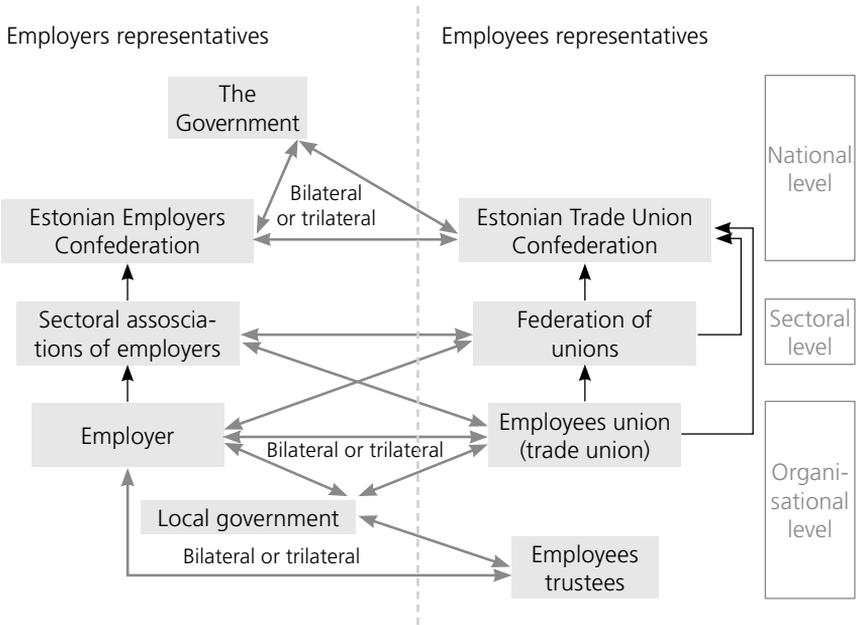


Chart 2. The Estonian national system of employee representation.

Note: grey lines indicate the industrial relations partners who can sign collective agreements in Estonia. Black arrows show potential membership of higher level organisations.

The content permitted in agreements signed at different levels varies. The collective agreements of so-called lower levels, i.e. in agreements that are signed between an employer and a union, federation or authorised representative of employees; an association or federation of employers and a union or federation of employees; a local government association and a union or federation of employees and officials; and a central federation of employers and a central federation of employees may indicate the following (Section 6 of CAA; Nestor et al 2011):

- wage conditions;
- working conditions;



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- working and rest time conditions;
- conditions for amendment and cancellation of employment contracts, and grounds for refusing to work;
- conditions and procedure for lay-off of employees and guarantees in the event of lay-off;
- occupational health and safety conditions;
- conditions for vocational training, in-service training and re-training, and assistance to the unemployed;
- guarantees and compensation which the parties consider necessary;
- procedures for monitoring the performance of the collective agreement and providing necessary information;
- procedures for amendment and extension of the collective agreement, and for entry into a new collective agreement;
- additional liability for non-performance of the collective agreement;
- the procedure for submitting demands of employees and employers in the event of a collective labour dispute;
- the terms that regulate other relations between the parties to the collective agreement.

Trilateral agreements or those signed between the central federation of unions of employees, a central federation of employers and the Government of the Republic, and between local federations of unions of employees, a federation of employers and local governments may indicate the following (Nestor et al 2011):

- the minimum wage and the procedure for amending it based on rises in the cost of living;
- additional measures to ensure occupational health and safety;
- additional employment guarantees;
- other additional guarantees pertaining to employment that the parties consider necessary;
- procedures for monitoring the performance of the collective agreement and receiving necessary information.

A collective agreement generally applies to all the employers and employees belonging to the organisations that are parties to the agreement unless otherwise provided by the agreement. This is viewed by the unions as one of the reasons why union membership is so small: in a situation where the agreement applies to both union members and other employees, the latter are less motivated to become union members (Espenberg et al 2012).

Additionally, it is possible in Estonia to enter into **extended collective agreements**, i.e. agreements which are applied to the party (parties) who have not signed the collective agreement (with the scope of extension indicated in the agreement). Extended agreements may regulate wage conditions and working and rest time conditions, and they are entered into between either:

- an association or federation of employers and a union or federation of employees; or
- a central federation of employers and a central federation of employees.

Although the law does not limit entry into an extended agreement to a single sector, in practice the extended agreements signed in Estonia have been sectoral, which are applicable to all companies operating in a sector. Since 2000, extended agreements have been signed in Estonia in two sectors – the medical and transportation sectors. A more detailed overview of these is given in Section 2.2.2 below. In practice, entry into extended agreements is hindered due to the fact that there is no union or federation of employers in Estonia to act as a partner to the federations of employees in entering into collective agreements (see also Study of industrial relations of the institutions of state and municipalities, 2011). The situation is similar in several private sector fields where there is a lack of either a federation of employers or of employees and therefore collective agreements must be signed on the company level. On the national level, the minimum wage agreement applicable to both the public and private sector is signed.



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1.3. Main Actors in Industrial Relations in Estonia

This chapter provides a short introduction to the main social dialogue partners – representatives of employees and those of employers. The state's primary task in industrial relations is to create a legal framework for the actions of social partners. When developing and amending legislation, the state follows the best practice of involvement⁴ according to which the government authorities involve stakeholders and the public in relevant decision-making in order to ensure that the decisions are of the best quality possible and also legitimate. However, interviews with representatives of various umbrella organisations connected to industrial relations show that in practice their involvement is problematic; this is analysed in greater detail in Section 2.2.1.

1.3.1. Trade Unions and Other Employee Representations

The largest Estonian organisation representing workers is the **Estonian Trade Union Confederation** (EAKL), which is comprised of 19 branch unions that represent state and municipal government officials, intellectuals, health care workers, transport workers (including road, railway, sea and air transport), industrial workers (including energy, light industry, food industry, timber and metal industry) and people employed in the service sector (postal, communication, trade, hotel and cleaning sector workers, etc.).

EAKL acts on behalf of the employees' interests in national minimum wage negotiations and holds bilateral and trilateral negotiations with employers and the Government. EAKL is also actively involved in legislative drafting in order to develop fair tax policies, stand up for sustainable employment and ensure social security and healthy working environment for

⁴ Best Practice of Involvement, State Chancellery. 29.12.2011. <http://valitsus.ee/et/riigikantselei/kaasamine-ja-mojude-hindamine/kaasamise-hea-tava>

workers. Through its member organisations, EAKL has approximately 33,000 members (as of 2010).

The other central federation is the **Estonian Employees Unions Confederation** (TALO), which represents cultural workers (including those working in theatres), engineers, radiologists, national broadcasting employees, journalists, trainers, farmers and the customs officials working in the capital. Due to the fact that educational workers left TALO, its membership has significantly decreased over the last couple of years – from 15,000 in 2009 to approximately 4,900 in 2010.

The next level consists of **federations of unions**, which in Estonia are mainly sectoral. However, there is a federation that includes the unions of several public sector fields (and also private sector insurance companies) – **the Federation of Trade Unions of Workers of State and Local Authorities** (ROTAL), it represents police, rescue, tax, customs, insurance and meteorological workers. Furthermore, various nursing and children’s homes, archives, prisons, courts, rescue brigades, Pension Board departments, and Chancellery of the *Riigikogu*⁵, etc., form separate divisions of ROTAL.

The third level is the **company level**, where employees are represented by unions and trustees. In general, they operate within a single company or institution. In Estonian industrial relations, employees may be represented in two manners: by trade unions or the authorised representatives of employees. **A trade union representative** is a representative who is elected by union members, an employee of the employer and performs the duties of the elected representative (Section 16 of TUA). **A trustee** is an employee of an employer who is elected by a general meeting of the employees of the employer to represent the employees in relations with the employer when performing the duties arising from the law (Section 2 of ETA). In general, collective agreements in companies, institutions, etc., are signed by a union of employees (i.e. a trade union), but if there is no such union,

⁵ The Parliament of Estonia



the agreement may also be signed by an authorised representative of the employees (i.e. a trustee). The procedure for the election, as well as the rights and duties of trade union representatives are provided for in the Trade Unions Act, and the procedure for the election, and the rights and duties of trustees are set out in the Employee Trustee Act. Since no overall information is collected on the representatives of employees, it is unknown how many such representatives there are in Estonia. A summary of the rights and obligations of trade union representatives and employee trustees is provided in the following chart.

TRADE UNION REPRESENTATIVE	TRUSTEE
<ul style="list-style-type: none"> • A union representative is an employee elected from among the union members. • Represents union members, however, they may also represent those not belonging to a union. • Unions are entitled to represent employees' rights and interests in matters pertaining to collective agreements. • Union representatives are entitled to have time off work in order to perform their union duties. • Unions are entitled to represent its members in labour dispute resolution bodies. 	<ul style="list-style-type: none"> • A trustee is an employee elected by the general meeting of employees to represent them in employment-related matters before the employer. • Represents all the employees of the organisation. • Trustees are entitled to hold collective bargaining sessions if there is no union with and no union members working for the employer or the union has waived the right to collective bargaining. • Trustees are entitled to get time off work in order to perform their trustee duties. • Trustees are entitled to represent employees in resolving collective labour disputes as per the terms and conditions and procedure provided for in the Collective Labour Dispute Resolution Act if there is no union with or union members working for the employer.

TRADE UNION REPRESENTATIVE

- In the event of any violations by the employer, unions may turn to the Labour Inspectorate and other supervisory institutions.
- Union representatives are entitled to freely examine working conditions and administration.
- Union representatives may participate in briefings and consultations.
- In briefings and consultations, union representatives are obliged to communicate information to various parties as and if necessary.
- Unions are entitled to request that the employer provide a room for union events at least once a month.
- Union members (incl. union representatives) are entitled to at least 5 days off work per year in order to attend union training events.
- Union representatives are obliged to keep confidential the personal data or the employer's clearly confidential information which they have learnt when performing their duties, and do so during the term of their office and thereafter.
- Union representatives are obliged to cooperate with other representatives of employees.

TRUSTEE

- Trustees are entitled to inform an interested union, a federation of employers and a federation or confederation of unions of any violation of working conditions by the employer.
- Trustees are entitled to freely examine working conditions and administration.
- Trustees are obliged to participate in briefings and consultations.
- Trustees are obliged to communicate information between the employer and employees.
- Upon agreement with the employer, trustees may use the employer's premises and other means necessary for the performance of their trustee duties.
- Trustees are entitled to participate in training events necessary for the performance of their trustee duties.
- Trustees are obliged to keep confidential the personal data or the employer's clearly confidential information which they have learnt when performing their duties, and do so during the term of their office and thereafter.
- Trustees are obliged to cooperate with other representatives of employees.



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TRADE UNION REPRESENTATIVE	TRUSTEE
<ul style="list-style-type: none"> • Unions are entitled to make proposals regarding draft laws pertaining to employees. • Unions are entitled to cooperate with state and government institutions and with employers in matters pertaining to employees. • Unions are entitled to organise meetings, pickets and strikes. • Unions are obliged to refrain from calling a strike during the term of a collective agreement and to ensure the performance of union duties stipulated in the collective agreement. 	<ul style="list-style-type: none"> • Trustees are obliged to observe the adherence to agreed working conditions and inform the employer or the labour inspector, if necessary, of any violations. • Trustees are entitled to request that the employer provide them with information necessary for the performance of their trustee duties and to consult with the employer using said information. • Trustees are entitled to involve experts in the performance of their trustee duties. • At an employee's request, the trustee is obliged to represent the employee in disputes with the employer prior to having recourse to a labour dispute resolution body.

Chart 3. Employees representation options in Estonia.

Sources: Ministry of Social Affairs, Employee Trustee Act, Trade Unions Act

The results of a recent study of industrial relations of the institutions of state and municipalities (2011), in the course of which both the representatives of public sector employers as well as those of employees were interviewed, show that in practice the role of a trustee poses various problems. In some cases the roles of the employee trustee and the union representative are blended, i.e. a single person performs the duties of both in an organisation and they consider the roles to be essentially the same. The reason given in such situations where two positions are filled by a single person has to do with the fact that a union representative can only represent the members of their union, but as the employee trustee they can speak for the entire staff of the organisation. In one case the position of the employee trustee was filled by the very head

of the organisation, which is a questionable solution as it creates a conflict – in industrial relations they should then simultaneously represent both the employer and the employees. It also turned out that there are trustees and representatives who are not familiar with the rights and duties accompanying their position.

The survey clearly shows that the actors' awareness of the system of industrial relations needs to be raised. In practice, this is also problematic – although the law stipulates that a certain period in a week may be dedicated to the performance of duties related to the representation of employees (the number of hours depends on the number of employees represented), the union representatives and employee trustees often perform such duties simultaneously with their professional duties or even during their free time. It is also difficult to find time for participation in training events. Another problem for employee trustees has to do with the covering of the expenses incurred in taking part in training events – the union representatives can cover these costs out of membership fees, whereas the employee trustees do not have that option. The lack of financial resources is also an issue in situations where the representation of employees is funded using common means – for this purpose, unions are able to make use of their membership fees, whereas employee trustees do not have this option.

It is thought that the lack of training events for employee trustees could be overcome by cooperation and exchange of experience between the trustees. However, here too there is no regional/national organisation or representation which could arrange the work of employee trustees, and no such meetings have been initiated (i.e. for trustees with no connections with trade unions).



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1.3.2. Employers' Associations

On the national level, entry into collective agreements is generally not very common in Estonia. The collective agreement regulating the minimum wage of police officers and rescue workers and the working time of the latter signed by and between the Federation of Trade Unions of Workers of State and Local Authorities (ROTAL) and the Ministry of Internal Affairs constitutes as an exception. At the local government level, more collective agreements have been signed, but the percentage of such agreements is still very small.

Local governments are included as a party to a collective agreement on two occasions. Firstly, in bilateral agreements where a local government is the employer. Secondly, in trilateral agreements whose purpose is to ensure that necessary funds are allocated from the local government budget to institutions funded by local governments (such as schools and libraries) in order to ensure the performance of agreements made. The role and responsibilities of the head of a public sector institution as the representative of an employer in entry into collective agreements is analysed in more detail in the study of industrial relations of the institutions of state and municipalities (2011). The study shows that entry into collective agreements in the public sector is sometimes hindered by the attitude of higher level institutions (i.e. the local government or ministry) or the heads of institutions are to a significant extent forced to follow the instructions given by the higher-level institutions. The institution heads interviewed gave examples where a ministry dictated the benefits they are not allowed to pay to their employees. Also, in at least one case, a ministry pressured an institution under their jurisdiction to terminate the collective agreement.

A single association represents private sector employers on the Estonian national level: the **Estonian Employers Confederation**, which was founded on 29 November 1997 by merging two organisations of employers – the Estonian Confederation of Industry and Employers, and the Estonian Confederation of Employers Organisations. The Employers

Confederation unites employers from all kinds of economic fields, both the industrial and tertiary sectors, incl. associations (altogether 25 as of 2011 summer and companies (currently 74). In total the Confederation includes either directly or through branch federations more than 1,500 companies that employ 145,000 people.

The next level comprises of sectoral **associations of employers**, and the one below that of **employers**, i.e. the heads of private and public sector organisations.



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II Crisis and Challenges to Social Dialogue

2.1. Economic and Employment Dimensions of the Crisis

The economic crisis had a significant effect on the Estonian labour market. From 2000 to 2007, unemployment decreased continuously and in the second half of the 2000s the problem instead was labour shortage, whereas the global economic crisis changed the trend to the opposite. The crisis hit Estonia faster than the other European Union Member States, because Estonia is very vulnerable to external shocks due to its small size and open economy. The economic growth, which during 2000-2007 placed Estonia among the most progressive countries in Europe, was replaced by a 3.7% downturn in 2008 (see Chart 4).

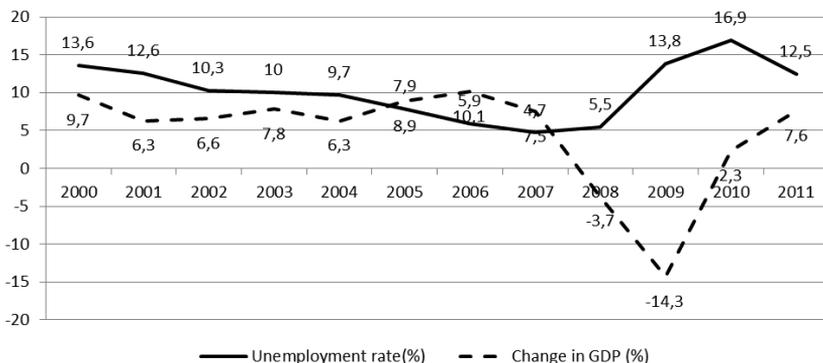


Chart 4. Change in GDP and unemployment rate in Estonia from 2000 to 2011.

Source: Statistics Estonia

In such a situation the state had to make difficult decisions. Throughout our re-independence, the Estonian Governments have strived for a balanced budget or budgetary surplus and avoided assuming government debts. At the end of the 2000s, conservative fiscal policies were continuously applied due to, among other things, the intention of introducing the euro. This meant that in a situation of decreasing revenues, expenses needed to be cut and the measures taken by the state to alleviate the negative impact of economic downturn were more modest than those taken in many other European countries at the beginning of the crisis.

Therefore, the effects of the crisis were carried over to the labour market (with a little delay, though). The effect on different groups varies. The unemployment of men rose a little more than that of women. When in 2008 the unemployment rate of men and women was practically equal, then a year later the difference was already more than 6 percentage points. The difference persisted in 2010 and only in 2011 the closing of this unemployment gap was noticeable due to the fact that although the unemployment rate declined among both men and women, the decline among the latter was smaller (see Chart 5).

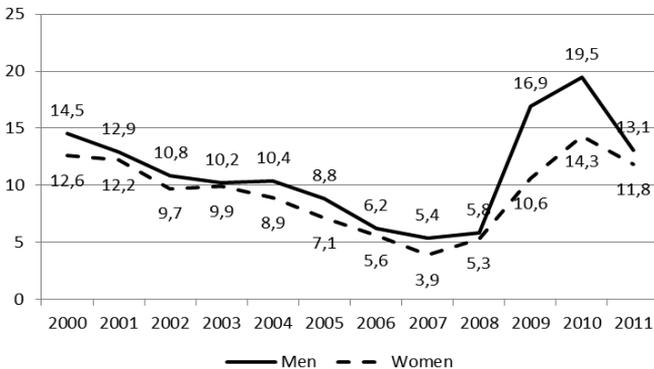


Chart 5. Unemployment of men and women (%) between 2000 and 2011.

Source: Statistics Estonia



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Therefore, in short, the employment of men was affected by the economic downturn more than that of women since it mainly hit the sectors where the staff consists mostly of men – in particular, construction where the bursting of the financial bubble caused a considerable decrease in the demand, and the branches of the industrial sector where export shrank due to the crisis coercing the companies to reduce their labour force. Since the Estonian industry was strongly oriented to foreign outsourcing, the decline in the number of orders immediately caused major problems because the overall quantity of production with which to balance the diminishing demand for outsourcing was small. The dynamics provided in Table 1 clearly show that the crisis hit the secondary sector the hardest. While before the crisis the number of the unemployed in that sector was approximately 13,000, the same indicator was more than 50,000 at the peak of the crisis.

Table 1. Number of the unemployed by economic sectors (thousand).

		2006	2007	2008	2009	2010	2011
Males and females	TOTAL	40,5	32	38,4	95,1	115,9	86,8
	Primary sector	2,1	2,3	2,2	4,3	3,7	3
	Secondary sector	16,7	12,7	13,6	45,2	50,7	34,5
	Tertiary sector	15,1	10,9	16,7	36,6	49,5	38,1
Males	TOTAL	21,3	18,9	20,2	58,5	66,5	45,6
	Primary sector	1,4	1,3	1,5	2,8	2,4	2,1
	Secondary sector	10,9	8,8	9,8	33,5	34,9	22,7
	Tertiary sector	5,9	4,5	5,4	17,2	22,1	14,4
Females	TOTAL	19,2	13,1	18,1	36,5	49,4	41,3
	Primary sector	NA	1	NA	1,5	1,3	0,9
	Secondary sector	5,8	3,9	3,7	11,6	15,8	11,8
	Tertiary sector	9,3	6,4	11,3	19,4	27,4	23,6

Source: Statistics Estonia

Note: NA – no reliable data available

According to the information provided by the Statistics Estonia, a large number of workers with a relatively low level of education were made redundant in the construction and industrial sector at the beginning of the crisis. This brought about structural unemployment – in the context of high general unemployment, there was a lack of highly qualified skilled workers, such as engineers, who could have helped develop own production and find new markets in replacement of those that were lost.

During the economic recovery, however, a reverse trend can be observed: thanks to the recovery of export markets the volume of industrial production grew rapidly in 2010, and the construction market, which has become more active, started reemploying men. The chances also improved to find work abroad, mainly in Finland where, too, the construction market has recovered. The economic recovery caused the unemployment rate of both men and women to decline.

When looking at unemployment by age groups, it is clearly evident that youth (less than 24 years old) suffered the most as a result of the crisis. Since it is harder for youth to enter the labour market because of their meagre or lack of professional experience, the unemployment rate among them has traditionally been higher than the general rate of unemployment in Estonia, similarly to other countries. During the economic downturn, the unemployment rate of youth in Estonia was at a record high reaching almost a third in 2010, which was the peak of the crisis (see Chart 6). On one hand, it was very difficult for young people to enter the labour market, and on the other, to keep their job since due to the economic situation the companies had to reduce their workforce in order to cut down expenses. As young people generally fill positions requiring less skill and their professional career is shorter, it is no wonder that during the crisis the employers preferred to preserve positions filled by more experienced (i.e. older) employees.



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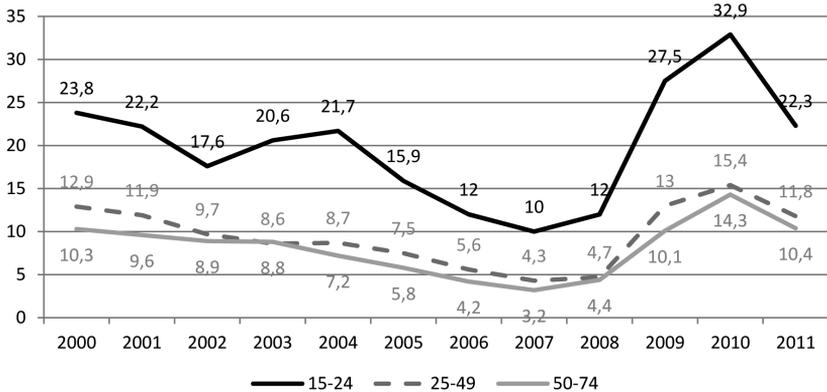


Chart 6. Unemployment rate (%) by age groups from 2000 to 2011.

Source: Statistics Estonia

During the economic crisis, the gap between the rates of unemployment among Estonians and non-Estonians also increased. Although unemployment among Estonians has always been smaller than among non-Estonians, the gap grew significantly during the crisis and peaked in 2010 when the unemployment rate of non-Estonians stood at 23.3% and that of Estonians at 13.4% (see Chart 7). There are several reasons for the faster increase in the unemployment of non-Estonians in the context of the economic crisis – poorer language skills, distribution between economic sectors and occupations, i.e. non-Estonians were concentrated in sectors and occupations that the crisis hit harder.

Krusell (2010) notes that although by nationality, more non-Estonians were left unemployed than Estonians, it is also important here that the risk of non-Estonians becoming unemployed was considerably lower if they spoke Estonian. Those non-Estonians who spoke Estonian were almost as likely to lose their jobs as Estonians; however, the likelihood of non-Estonians not having a good command of Estonian becoming unemployed was considerably higher than that of Estonians.

Nurmela and Kriger (2011) state that people of other nationalities in the labour market mainly operate in the fields that were hit the hardest by the economic crisis – the processing industry and construction. Prior to the start of the economic crisis in 2007, 40% of all employed people of other nationalities worked in these two sectors. Occupation also has an effect here. For instance, Rosenblad (2011) notes that at the lowest point of the downturn a half of skilled workers and a quarter of unskilled workers, machine operators and service and sales personnel were altogether unemployed. As of 2007, 21% of non-Estonians and 15% of Estonians were employed as skilled workers, a quarter of people of other nationalities worked as unskilled workers and machine operators, and 65% of them as service and sales personnel (47% of Estonians) (Nurmela and Kriger 2011).

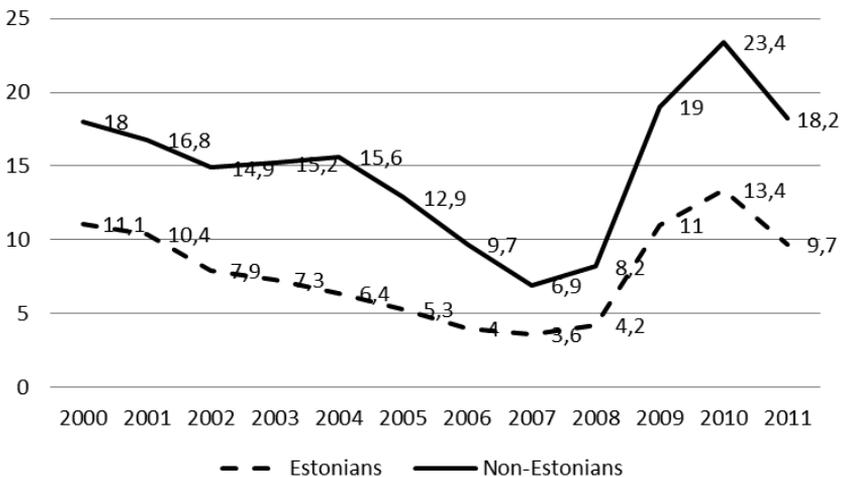


Chart 7. Unemployment rate (%) of Estonians and non-Estonians from 2000 to 2011.

Source: Statistics Estonia



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make quick decisions and therefore social partners were either not involved in the social dialogue at all or were involved in such a late stage that it rather gave the impression of only the formal, and not actual, intention of their inclusion. This has undermined the trust of social partners in the Government as their partner.

A good example of the Government not adhering to agreements already made is the situation with the new Employment Contracts Act (entered force in 2009). The new Employment Contracts Act was a compromise: when the Act entered force, it became easier to lay off workers; however, upon adoption of the Act in December 2008, it was agreed that the unemployment insurance benefit would be raised. The agreed security package included three measures whose purpose was to move towards the flexicurity system by making it easier for the companies to get rid of excessive workforce, but at the same time supporting the unemployed in finding a new job and providing financial assistance to them in the meantime.

- First of all, the Act provided for a 20 percentage point increase in the unemployment insurance benefit raising it from 50% to 70% of the worker's wage in the initial stage of unemployment, and a 10 percent increase (from 40% to 50% of worker's wages) from the 101st until the 360th day of unemployment.
- Secondly it was agreed that a 40% unemployment insurance benefit was guaranteed to those quitting their job upon agreement or at their own initiative. Until then only those whose employment was terminated on the employer's initiative were entitled to the unemployment insurance benefit. The prerequisite was that the person had to have paid unemployment insurance premiums within the last five years for 48 months at least.
- Thirdly, the Act provided for an increase in the unemployment allowance by raising it to half of the national minimum wage.

As was initially agreed, the reforms were supposed to have been implemented in January 2010 in order to provide each actor enough time to make



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the necessary preparations and raise awareness. The Act itself actually took effect on 1 July 2009. Prior to its entry into force, the Act was amended and altered several times, which constituted withdrawals from the agreements made.

A couple of months after the adoption of the Act, the Government decided not to increase the unemployment insurance benefit as agreed. Therefore, the unemployment insurance benefit payable during the first 100 days of unemployment decreased from 70% to 50%, and that payable from the 101st until the 360th day of unemployment from 50% to 40%, i.e. the current system remained effective. This means that the Government withdrew from the first agreement. The Government's respective actions were criticised by not only the social partners, but also by, for instance, social democrats who stated that *"it cannot be that only the paragraphs of the Employment Contracts Act suitable for the employers take effect. If the application of benefits to the unemployed is postponed, the entry into force of the entire Employment Contracts Act must be postponed."* (Tamm, 6 April 2009)

The *Riigikogu* also amended the system of the unemployment insurance benefit payment in the event that the employment was terminated upon the parties' agreement or on the employee's initiative – the payment of the benefit to those quitting their job at their own initiative or upon agreement was postponed to 2013. The Government explained this by referring to the economic crisis and claiming that due to the recession and rapidly increasing unemployment, the funds of the Unemployment Insurance Fund are not sufficient in the longer term for covering the benefits payable to people quitting their job on their own accord or upon agreement in addition to those payable to workers whose employment is terminated at the employer's initiative, irrespective of the maximum possible tax rate (4.2%) already applied.

When the crisis deepened, more and more was talked about the Government withdrawing from this agreement altogether. On 8 May 2012, the *Riigikogu* did repeal the amendments made to the Employment Contracts Act, which would also have served as grounds for payment of the

unemployment insurance benefit to those workers whose employment was terminated on their own accord or upon agreement with the employer, starting from the next year.

The social partners fear that the state will also withdraw from the third agreement on the unemployment allowance. Even if this is to stay effective, the Government's actions have undermined the credibility of the social dialogue. This does not affect only the situation with the Employment Contracts Act. In their interviews, the social partners also said that in their opinion the main problem on the national level during the economic crisis was the fact that decisions and cuts were made without involving trade unions.

In addition to complicated discussions regarding the Employment Contracts Act, several other aspects refer to problems with the social dialogue. Near the end of 2011, the Government's decision to include the available reserves of the Unemployment Insurance Fund and the Health Insurance Fund in the state budget caused tensions. The disagreements culminated by the employers removing their representatives from the Supervisory Boards of both the Unemployment Insurance Fund and the Health Insurance Fund at the end of 2011, and by the suspension of the powers of the employees' representatives in the Supervisory Board of the Unemployment Insurance Fund, which rendered the Supervisory Board incapable of making decisions and therefore the budget and action plan for 2012 were not adopted. The social partners were of the opinion that merging the social funds with the state budget materially limits the financial autonomy of the Health Insurance Fund and the Unemployment Insurance Fund, and that a constructive tripartite dialogue in the Supervisory Boards of these organisations would no longer be possible if the funds consolidation draft were to take effect. The head of TALO, Ago Tuuling, who is also a member of the Supervisory Board of the Unemployment Insurance Fund, commented on the situation as follows: *"For years we have had no tripartite negotiations that would result in an agreement on material socio-economic issues. We also no longer have the consultations that we used to have with the*



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Prime Minister, where the social partners came and talked about their wishes, problems and concerns and made proposals.” (Otsmaa 12.02.2012)

In 2012, the Employers’ Confederation announced that the employers are ready to restore their position in the Supervisory Board of the Unemployment Insurance Fund, if the Government approves the proposal of the Supervisory Board of the Fund to lower the rate of the unemployment insurance premium to 3% starting from 2013. On 26 March, the Supervisory Board of the Estonian Unemployment Insurance Fund, which convened for the first time in months, adopted the 2012 budget and announced a public competition for the position of chairman of the Management Board. The Supervisory Board also discussed the budgeting principles of the Unemployment Insurance Fund. Pursuant to the Supervisory Board’s proposal, the budgets for 2013–2015 are to be prepared and the rates of the unemployment insurance premium determined taking into account the following:

- the maximum rate of the premium is 3%;
- the optimum amount of reserves that at the end of the year may not exceed twice the amount of the highest amount of insurance benefits paid within a calendar year;
- the balance of running revenue and expenses generated and incurred in the financial year.

The establishment of the rates of the unemployment insurance premium has become an issue since, in recent years, the state has not taken the opinions of the employers or the employees under consideration. During the crisis, the rates of the unemployment insurance premium were raised to their maximum level (4.2% of which 1.4% is payable by employers and 2.8% by employees (see Chart 9). When the economic situation improved, the social partners and the Unemployment Insurance Fund proposed to decrease the rate because, on the one hand, the amount of disbursements made diminished thanks to the decline in unemployment and, on the other hand, the respective funds could be used to stimulate the economy.

The state, however, has continued to implement conservative policies. Pursuant to the coalition agreement, the rate of the unemployment insurance premium will be lowered starting from 2013, but no active dialogue has begun on this issue yet. At the meeting of the Supervisory Board of the Unemployment Insurance Fund that took place at the end of November 2011, the Government supported the proposal to keep the premium rate at the 4.2% level, but the union representatives were opposed to this (the employers' representatives had by then been removed from the Board).

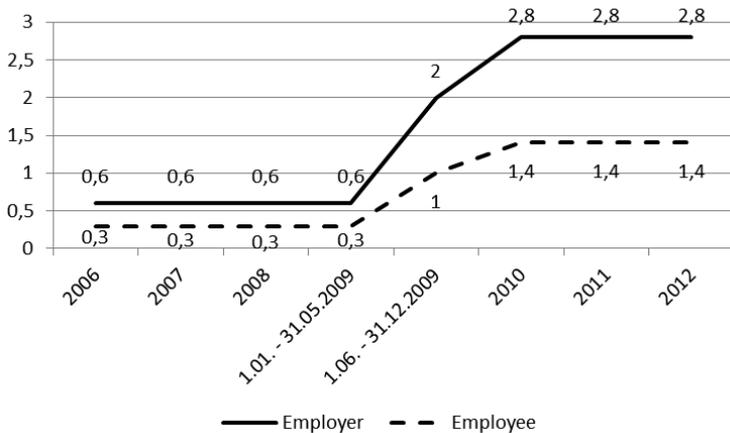


Chart 9. Rates of the unemployment insurance premium from 2006 to 2012.

The representatives of the employees were also greatly opposed to the amendments to the termination of collective agreements under the Collective Agreements Act (for more details, see Chapter 3.1.); however, notwithstanding the opposition, the amendments were implemented.

The crisis did not intensify bilateral national-level dialogue between the representatives of employers and those of employees regarding the matter of the minimum wage. The minimum wage did not change in Estonia during



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the crisis. Understanding the complicated economic situation, EAKL as the representative of employees did not force the issue of raising the minimum wage during the crisis years, knowing that this might increase unemployment even more. The national minimum wage was only slightly raised at the beginning of 2012, from 278 euros to 290 euros. Before this, the minimum wage was last raised at the beginning of 2008 when the increase was the largest ever, i.e. 21% (from 230 euros to 278 euros; for details see Osila 2012).

In conclusion it might be said that the crisis highlighted several problems with the social partnership that are primarily related to the involvement of social partners in the making of major decisions. Interviews with the representatives of employees showed that decisions made during the crisis reduced their belief in binding agreements. Therefore the coming years will be of key importance in terms of restoring confidence and keeping up constructive dialogue rather than letting it peter out.

2.2.2. Sectoral and Company Level

On the sectoral level, the crisis did not materially change the social dialogue. In the 2000s, extended collective agreements were signed in two sectors: the transportation and health care sectors. In the health care sector, collective bargaining ended unsuccessfully at the end of the 2000s and so far no new agreement has been reached. This, however, is not so much due to the crisis, but rather to the principal antagonism between different organisations representing the employees. Therefore, the agreement signed in 2007 is still applied in this sector.

The transportation sector is a positive example when it comes to industrial relations. Today, the sector applies an extended agreement⁶ that was

⁶ General working agreement on regular domestic services. Estonian Transport and Road Workers Trade Union. 08.02.2012. http://www.etta.ee/tooandjale_ytk?PHPSESSID=c73b8ae694b4c640c0e8e5ea1ab8cf95

last renewed on 8 February 2012. The agreement is signed by the Union of Estonian Automobile Enterprises representing the employers and the Estonian Transport and Road Workers Trade Union representing the employees, but the working and rest time conditions and wage conditions set out in the general agreement apply and are binding to all the employers and employees providing regular services and renting personnel for such purposes irrespective of the type of contract signed with such workers (incl. rented personnel and independent contractors).

Below we analyse industrial relations in the energy sector, which in the context of the crisis, is one of the best relevant examples in Estonia since the Federation of Trade Unions of Estonian Energy Workers have been able to sign collective agreements with Eesti Energia that provide for considerably better working conditions than those generally applied.



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Case Study 1. Collective Agreements in Estonian Energy Sector

Introduction

This case study provides an overview of the collective agreements tradition in the Eesti Energia PLC that is the most important employer in the Estonian energy sector: its average market share on the Estonian open market is 72% and on the Latvian and Lithuanian open markets 15% and 7% respectively (Eesti Energia, 27 April 2012). With regard to residential customers, Eesti Energia currently holds a monopoly position on the domestic market. The 100% shareholder in Eesti Energia is the Republic of Estonia. Eesti Energia is a group which administers a complete chain from oil shale mining and various modes of production to transportation and sale of electricity and the related services. As of 2012, the group employs a total of 7,600 workers.

In 2009, subsidiaries with different business names were merged under the common name 'Eesti Energia' and a single logo was introduced. Operations on foreign markets were consolidated under the common trademark 'Enefit'. Since then Eesti Energia has been operating under a common trademark and managing its business through various fields – retail business; production of electricity and heat; and fuel (Lingkreim, 5 May 2009) (see Chart 10).

One major change took place in 2010 when Eesti Energia's transmission network operator Elering was sold to the Republic of Estonia in order to ensure that the transmission networks remain independent of production and sales as required by the European Union (Annual Report 2009/2010 of Eesti Energia).

⁷ A substantial part of the case study is based on interviews with representatives of Eesti Energia and the Federation of Trade Unions of Estonian Energy Workers

RETAIL BUSINESS	PRODUCTION OF ELECTRICITY AND HEAT	FUELS
<ul style="list-style-type: none"> • Elektrilevi OÜ • Eesti Energia Võrgu-ehitus AS • SIA Enefit (energy sales in Latvia) • UAV Enefit (energy sales in Lithuania) 	<ul style="list-style-type: none"> • Eesti Energia Narva Elektriijaamad AS • AS Narva Soojusvõrk • Iru power plant of Eesti Energia AS • The Renewable Energy and Small-scale Combined Heat and Power Generation Business Unit • Eesti Energia Aulepa Tuuleelektriijaam OÜ • SIA Enefit Power&Heat Valka • Pogi OÜ • Energy Trading Unit of Eesti Energia AS • Eesti Energia AS Nordic Energy Link 	<ul style="list-style-type: none"> • Eesti Energia Kaevandused AS • Orica Eesti OÜ • Logistics company of Eesti Energia Kaevandused AS • Eesti Energia Õli-tööstus AS • Eesti Energia Tehnoloogiatööstus AS • Eesti Energia Elektrotehnika ja Automaatika AS • Eesti Energia Hool-dukuskeskus OÜ • Eesti Energia Testi-miskeskus OÜ • Enefit Outotec Technology • Jordan Oil Shale Energy Co (commercial planning of oil shale and electricity production in Jordan) • Enefit American Oil (oil shale development in the United States of America)

Chart 10. Fields of activity and subsidiaries of Eesti Energia AS.

Source: Eesti Energia AS



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There is a single federation of trade unions operating in the energy sector – the Federation of Trade Unions of Estonian Energy Workers – which unites 13 energy sector unions:

- Northern Power Networks Trade Union
- Viru Power Networks Trade Union
- Hiiu County Power Network Trade Union
- Trade Union of the Iru power plant of Eesti Energia AS
- Narva Energy Trade Union
- Energy Services Trade Union
- Southern Estonian Electricity Trade Union
- Tallinn Soojus Trade Union
- Termest Trade Union
- Trade Union of the Tartu Branch of Eesti Elektrivõrkude Ehituse AS
- Kütteks Trade Union
- AS Kuressaare Soojus Branch of the Federation of Trade Unions of Estonian Energy Workers
- Elering Branch of the Federation of Trade Unions of Estonian Energy Workers

The Federation of Trade Unions of Energy Workers has a total of 3,500 members working for companies dealing with the production, transmission, distribution and sale of electricity and heat. As of 2012, approximately 80% of its members worked for Eesti Energia group companies.

Furthermore, the Independent Trade Union of Miners and Energy Workers (formerly the Federation of Trade Unions of Oil Shale Workers) is active in the energy sector. This union was founded at the end of 2011 when the Estonia Mine Trade Union, Narva Quarry Trade Union, Aidu Quarry Trade Union, Oil Share Railway Trade Union and Baltic Power Station Trade Union merged. The Independent Trade Union of Miners and Energy Workers also mainly unites Eesti Energia employees. Since

there are no federations of employers operating in the energy sector, negotiations are primarily held with individual employers.

Collective Agreements Tradition in the Eesti Energia Group

The collective agreement tradition in Eesti Energia is long-standing – the first such agreement was signed in 1989. One reason for a long-term collective agreement on working conditions is certainly the strength of trade unions operating in the sector, but also the attitude of the employer towards such agreements. There are several reasons for this. Firstly, it is important for Eesti Energia as the market leader and monopoly holder from the point of view of their image to show that they care about their employees. Furthermore, the company has stated that as the need for labour force in the energy sector increases it is essential to ensure Eesti Energia’s competitiveness on the labour market: *“This is a common step taken by companies and trade unions in order to make Eesti Energia and other energy companies more attractive employers”* (Chief Financial Officer of Eesti Energia, Estonian National Broadcasting, 28 March 2006).

As of spring 2012, the Eesti Energia group had six collective agreements effective signed between the following subsidiaries of Eesti Energia and trade unions:

- AS Eesti Energia and the Estonian Federation of Trade Unions of Energy Workers (the collective agreement is also applicable to OÜ Jaotusvõrk (Distribution Network), Eesti Energia Võrguehitus AS (Power Grid Construction) and Eesti Energia AS; this is a so-called framework agreement – a kind of template for other collective agreements signed within the Eesti Energia group);
- AS Narva Elektriijaamad (Narva Power Plants) and the Baltic Power Stations and Narva Energy Trade Unions;



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- Eesti Energia Õlitööstus AS (Eesti Energia Oil Industry) and Narva Energy Trade Union;
- AS Narva Soojusvõrk (Narva Heating Network) and the Baltic Energy Trade Union;
- Eesti Energia Tehnoloogiatööstus AS (Eesti Energia Technology Industries) and the Energy Services Trade Union;
- Eesti Energia Kaevandused AS (Eesti Energia Mining) and the Independent Trade Union of Miners and Energy Workers (formerly the Federation of Trade Unions of Oil Shale Workers).

Below we focus on the collective agreement signed by and between the Estonian Federation of Trade Unions of Energy Workers and Eesti Energia, which is the framework agreement for other collective agreements signed within the Eesti Energia group. The terms and conditions of the collective agreement signed between the Estonian Federation of Trade Unions of Energy Workers and Eesti Energia are favourable compared to the general practice in Estonia. The agreement includes provisions on opportunities for training and refresher courses, on supporting the personal growth of employees and on developing occupational health and safety by, for instance, offering additional support packages to employees working in high risk and dangerous areas. These packages allow the company to meet its obligation to guarantee a safe working environment and contemporary tools and to pay an allowance in the event that the employee loses their ability to work due to an occupational disease or work injury or in the event of a fatal occupational accident. Additionally, the collective agreement prescribes, for example, back-to-work benefits payable after annual holidays and Christmas bonuses. A wage raise has also been an important collective bargaining subject.

Effect of the Economic Crisis

The effects of the economic crisis on the industrial relations in Eesti Energia are clearly visible. The collective agreement signed in 2008 by the Federation of Trade Unions of Energy Workers and Eesti Energia for a term of two years included a wage agreement which, unlike the rest of the agreement, was only made for a term of one year. At the same time, Eesti Energia did not reduce wages, which can be considered a commendable achievement.

The economic downturn also caused the collective agreement to be amended in 2009 and the payment of various benefits to employees (such as back-to-work benefits and Christmas bonuses) was suspended for 11 months. The reason given for this course of action was the changing economic environment and decreasing sales of electricity, which forced the group to start saving (Hankewitz 30.04.2009). According to the calculations of Eesti Energia, ceasing the payment of such benefits (also under other collective agreements) helped the company save up to one hundred million kroons. In 2010 the payment of benefits resumed.

The effect of the economic crisis was still being felt during collective bargaining in 2011. As a result of this bargaining, the agreement signed between the Federation of Trade Unions of Energy Workers and Eesti Energia did not prescribe a rise in principal salaries for 2012. The most important innovation in the most recent agreement was, according to Eesti Energia, the fact that it was brought into conformity with the Employment Contracts Act, which had been amended during the term of the previous agreement. Supporting the employees' personal growth, development of working environment and occupational safety, family values and the employees' health are new prioritised under the agreement.



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Future Prospects

The goal of Eesti Energia is to move towards a common collective agreement which is applicable to all group workers. However, agreement on a single policy is difficult to reach because the bargaining partners include various unions with different principles, and the background and history of the agreements varies as well. Entry into a single collective agreement is also hindered by the fact that the benefits and rights prescribed by current collective agreements are different. Unions would agree to sign a single collective agreement if all of the benefits were the most favourable thereunder, otherwise some of the employees would lose out with the signing of a single collective agreement. The employer, however, considers this impossible as the collective agreement would then be too burdensome on Eesti Energia.

Great pains have therefore been taken in recent years to bring the collective agreements into conformity. However, a representative of Eesti Energia stated in an interview that for the foreseeable future, entry into a single group-level collective agreement is unlikely. Nevertheless, the hope is to reach a common standardised collective agreement template for Eesti Energia which would be adjusted on a case-by-case basis considering the specific characteristics of each subsidiary.

In 2007, a social partnership agreement was signed by and between the Ministry of Internal Affairs and ROTAL in continuation of which in 2010 the first wage agreement applicable to both police officers and rescue workers was made. Therefore, the Ministry of Internal Affairs was required to negotiate with the union in order to amend the wage agreement. In other ministries, where there was no such agreement, cuts were made unilaterally without involving social partners.

One of the most important events relating to the social dialogue and industrial relations was the national strike of educational workers that took place from 7 to 9 March 2012, and the support strike organised by the Estonian Federation of Trade Unions at the same time. The main reason for the strike of educational workers was the teachers' wage issue and the principal message communicated by the Estonian Education Personnel Union was the proposal to raise the teachers' minimum wage by 20%. A short overview of the reasons for, progress and consequences of the strike is given below.

Case Study 2. Overview of Strike of Educational Personnel

Prologue – unsuccessful negotiations on the issue of raising the wages of educational workers in 2012

On 13 January 2011, the Minister of Education and Research and chairman of the Management Board of the Estonian Education Personnel Union signed an agreement on the minimum wages of educators in 2011. Among other things it was agreed that negotiations on the 2012 wages start in May 2011. During the discussions, the Estonian Education Personnel Union proposed, considering the potential improvement in the economic situation in 2011, setting a goal for the future wage negotiations and raising the minimum wage of teachers by at least 20%. The Government took note of this proposal then.



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In wage negotiations that took place on 5 September 2011, the new Minister of Education and Research who had taken office by then stated that the state budget strategy did not provide for any additional resources to be allocated in the 2012 budget for the purpose of raising the wages of those workers who got paid by the state, and therefore the teachers' wages in 2012 must be covered using the general funds allocated for the educational system, i.e. local governments must review their prospects for raising the teachers' wages. Further negotiations on the raising of the teachers' minimum wage ended unsuccessfully. The Minister of Education and Research stood by his opinion, but the local governments were not willing to jointly raise the wages of educators.

Since the negotiations of 19 September ended unsuccessfully for the Estonian Education Personnel Union, its council decided to continue fighting for teachers' wages by taking various measures. For instance, the Union wrote separately to each member of the *Riigikogu* in order to get the delegate to support in the budgetary procedure the raising of the minimum wage of educators by 20% starting from 1 January 2012.

On 25 October 2011, the Estonian Education Personnel Union organised a national teachers' rally in front of the *Riigikogu* building in Toompea in order to reinforce the teachers' request for raising their minimum wage and improving their working conditions. Over 1,500 people took part in the rally. In their inquiry to the *Riigikogu* and the Government of the Republic, the participants in the rally stated that they expected the members of the *Riigikogu* to allocate necessary funds for raising the wages and the Government of the Republic to support that. They also requested that the low wages of preschool educators, music school teachers, psychologists, speech therapists and other school specialists be raised as well, and that the work load of educators be reduced. At the end of the inquiry they expressly referred to the possibility of strike adding that unless the *Riigikogu* finds opportunities for

resolving the issue of raising the wages, they will continue fighting by taking any legally permitted measures, including strikes.

After the teachers' rally, the authorities somewhat changed their former positions and admitted that the teachers' wage issue needs to be addressed and that teachers' wages need to reach the national average of wages. However, the authorities avoided mentioning concrete numbers. On 3 November 2011, the Ministry of Education and Research and the Estonian Education Personnel Union signed a joint declaration on the appreciation of work done by teachers. This document does not include an agreement on the raising of teachers' wages in 2012; however, it states that "it is our goal to ensure that the average wage level of full-time qualified teachers is 20% higher than the national average and we shall cooperate in order to achieve said objective".

Turning to the Public Conciliator

In the 2012 budget, which was adopted on 7 December 2011, no funds were allocated for the resolution of the teachers' wage issue, and the Minister of Finance declared that the coalition did not deem it possible to allocate additional resources for raising the wages of workers getting paid from the state budget before 2016. The Government stuck to the opinion that ways for raising the wages should be looked for within the educational system – this means that additional funds for raising the educators' wages should be found in connection with the network of schools changing and the decrease in the number of students as well as with the related need for fewer teaching positions. This, however, is a long-term process.

Considering the Government's opinion, the Education Personnel Union concluded that the authorities and governmental bodies do not actually intend to raise the teachers' wages in the coming years. Therefore, it was decided at the meeting of the Council of the Estonian Education



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Personnel Union on 13 December 2011 that with the help of the Educational Institutions Union a national survey will be conducted among the teachers in order to find out whether they are ready to participate in a national strike in support of the fight for wages (the teachers supported the strike). In order to be entitled to strike, the Estonian Education Personnel Union also filed an application with the Public Conciliator asking him to help them reach an agreement with the Government of the Republic and local governments on the raising of minimum wages by grades awarded to teachers at professional evaluations. It was decided that if the Public Conciliator's actions prove unsuccessful, a national strike will be organised in support of their requests. The Estonian Education Personnel Union turned to the Estonian Trade Union Confederation (EAKL) and other trade unions and associations of employees in order to "get support for the Education Personnel Union's battle for wages, incl. for a possible strike, and to invite all the trade unions to strengthen and coordinate their cooperation and, if necessary, organise joint actions for the protection of the interests of all the workers."

At the conciliation meeting with the Public Conciliator on 1 February 2012, the representative of the Ministry of Education and Research, who was speaking for the Government of the Republic, and those of the Association of Estonian Cities and the Association of Municipalities of Estonia confirmed that there are no resources for raising the minimum wages of teachers in 2012. This means that the Public Conciliator could not broker a corresponding agreement and preparations were undertaken for the strike.

National strike

The strike of educational personnel took place from 7 to 9 March 2012. The main request of the strikers was the raising of the minimum wage of teachers by 20%; also proposals were made to the Government of

the Republic, *Riigikogu*, Ministry of Education and Research and local governments respectively to improve working conditions and to better resolve education-related organisational matters.

682 educational institutions and a total of 17,234 educational workers took part in the strike. 10,056 educators from 354 schools and 7,178 educators from preschools and other educational institutions went on strike. The educational institutions were free to choose how many days they wished to strike. 9,468 educators went on strike for one day, 3,094 for two and 4,672 for three days.

In addition to the teachers' strike, a number of support strikes were organised. For instance, the members of health care, transportation, cultural and other associations and unions participated in support strikes. Simultaneously with the strike of educational personnel, the Estonian Trade Union Confederation organised a support strike in which a total of 7,000 workers participated (including over 4,000 health care workers, approximately 1,500 members of the Intellectuals Union, 800 transportation workers, 400 energy workers and over 200 railway workers). Overall, 20 strikes were organised in Estonia in support of the requests of teachers and EAKL. Furthermore, pickets, strike meetings and demonstrations were arranged in several places. (Krkjov 14 March 2012; Estonian Education Personnel Union; Estonian Trade Union Confederation.)

The Trade Union Confederation used the strikes to protest against the Government's employment and social policies (EAKL, 7 March 2012). EAKL's requests to the Government presented in the strike declaration of 17 February were the following:

- to immediately begin trilateral negotiations and sign an agreement that would resolve the issues related to the reserves of the Unemployment Insurance Fund and would provide for a legal requirement according to which the unemployment insurance budget must be balanced;



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- add the amendments proposed by the unions to the Collective Agreements Act amendment bill pertaining to the termination of collective agreements, which was being processed by the *Riigikogu*;
- to stop reading the Employment Contracts Act amendment bill presented by the Legal Affairs Committee of the *Riigikogu*, which provided for the revocation of the agreement on the extension of the unemployment insurance benefit to those who quit their job voluntarily, previously postponed to 2013.

As indicated above, none of the requests of EAKL were actually met.

The support strike organised by EAKL was criticised. There were two main reasons for the criticism – first of all it was found that the support strike of EAKL overshadowed the teachers’ strike and, secondly, the Estonian Employers Confederation and the Government claimed that the support strike was illegitimate. The Public Conciliator also doubts the legitimacy of the strike. According to him the strike organised by the Estonian Trade Union Confederation in order to communicate their requests, and the support strikes are questionable since strikes of a political nature are not legally regulated in Estonia (Delfi 2 March 2012). EAKL’s support strike was perceived as political primarily due to the fact that according to the definition of strike provided for in the Collective Labour Dispute Resolution Act one cannot go on strike if they have no dispute with their employer, and the Estonian Trade Union Confederation does not have an employer against whom they could strike.

In response to the statements about EAKL’s support strike overshadowing the teachers’ strike, the head of EAKL, however, claimed that “although the teachers’ strike was mainly focused on the wage request, the opposition of the Education Personnel Union and EAKL is fabricated and contrived since educators are actually also protesting against the Government’s policies.” (EAKL, 7 March 2012). With regard to the legitimacy of the strike, the Estonian Trade Union Confederation

referred to the international strike law and stated that “in addition to national laws, strikes are regulated by international law and if these two contradict, international conventions prevail. Both the International Labour Organisation (ILO) and Council of Europe have repeatedly emphasised the states’ obligation to also permit strikes in protest of the Government’s social and economic policy decisions.” (EAKL, 6 March 2012) At the time of making this report, the decision on whether the strike was legal is still pending.

Six months after the strike of educational workers, positive trends in terms of teachers’ wages can be seen according to the Estonian Education Personnel Union. Although in 2012 there was no raise, which was one of the requests of strikers, the Minister of Education and Research has mentioned that teachers’ wages will be raised on 1 January 2013. The goal is to increase the minimum wage of teachers to 700 euros and to place 20% of salary funds (the ‘incentive component’) at the disposal of school directors for the purposes of differentiating salaries. So, in future, teachers’ average wages should be raised to at least 840 euros based on the minimum rate of teachers’ wages, i.e. 700 euros plus the 20% incentive component (Ministry of Education and Research). Whether these changes will be reflected in actual wages will become clear only at the end of September 2012 when the draft state budget is presented to the parliament. Nevertheless, the strike yielded visible results according to a representative of the Estonian Educational Personnel Union, since the question of teachers’ wages has become a widely discussed subject and both the government and society in general have acknowledged the need to raise them.

At the moment, it is too early to talk about the results of the teachers’ strike. Three months after the strike, the results are not clearly visible yet. The legitimacy of EAKL’s support strike is under intense discussions. In the light of the strike, the Collective Labour Dispute Resolution Act has now been taken under review with the view of increasing legal clarity.



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Collective bargaining was not as actively conducted on the organisational level either. At the peak of the economic boom in 2007 almost 100 collective agreements were signed, whereas from 2010 to 2011 the number of agreements was cut by approximately half (see Chart 11).

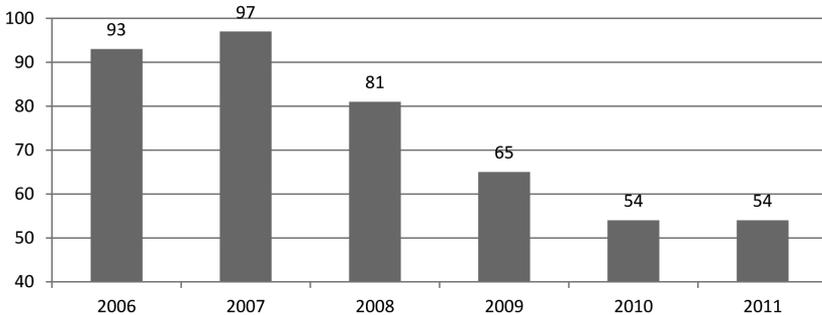


Chart 11. Number of collective agreements signed from 2006 to 2011.

Sources: Collective agreements database, Ministry of Social Affairs

The reason for this is simple – the unemployment rate, which increased visibly during the crisis, weakened the workers’ position in negotiations and their representatives also understood that preservation of jobs was of the utmost importance. Therefore, collective agreements were not signed as speedily as during the economic boom. Employees were presumably satisfied with the preservation of the level of salaries or working conditions agreed before the economic crisis, and the study of industrial relations of the institutions of state and municipalities (2011) shows that in some institutions the representatives of employees consented to amendments of collective agreements, which were unfavourable to employees. However, since no corresponding study has been conducted in Estonia, it is unknown how widely this was practised. It is also highly likely that the heads of organisations with no collective agreements were not as willing to negotiate such agreements as they had been during the economic boom period because the unstable economic situation did not favour the assumption of additional obligations.

III Political Measures Used to Overcome the Economic Crisis

3.1. Legislative amendments

The economic crisis has not brought about major changes in legislation governing collective labour relations. The only significant change, introduced in May 2012, was the amendment of the bases for termination of collective agreements. However, opinions on whether the crisis had any effect at all on this decision differed among those interviewed. Some did see a link between the amendment and the impact of the crisis. They indicated that the crisis showed business operators that a collective agreement entered into for an unspecified period could be very problematic for a company in a crisis situation. Others thought that the amendment was caused by different processes, including lobbying by companies, and that the economic crisis was not the principal reason for it.

According to the previous regulation, a collective agreement could be terminated only by agreement of the parties. After the expiry of a collective agreement, its terms and conditions continued to be valid, unless amended. The only exception was the obligation to refrain from striking, which ended with the expiry of the collective agreement. According to the Act that entered into force on 1 May 2012, if a collective agreement has become an open-ended agreement (unless either party notifies the other in writing at least three months before the expiry of the collective agreement that they do not want the extension of the agreement), each party has the



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right to cancel the collective agreement, notifying the other party at least six months in advance (Collective Agreements Act, RT I, 29.03.2012, 2).

The government justified this amendment by the memorandum of the Chancellor of Justice, which indicated that the unlimited validity of a collective agreement is not constitutional. Social partners have complained that they were not adequately involved in the process: the amendment was initiated by the Parliament and therefore the Government was not under an obligation to submit the draft to trade unions for approval. Trade unions find that this legislative amendment might encourage cancellation of collective agreements in the future, as according to the new provision a collective agreement may automatically become an open-ended agreement upon the end of its initial term and thereafter the parties may cancel it, giving three months' notice. It was also found that this legislative amendment was not really necessary, because in practice employers would have also been able to cancel very burdensome collective agreements on the basis of the Law of Obligations Act.

In 2012 the Ministry of Social Affairs began reviewing the legislation regulating industrial relations. A representative of the Ministry of Social Affairs revealed in an interview that the laws pertaining to such relations were largely adopted upon regaining independence and that in the intervening two decades the situation had changed to the extent that the whole legislative package needed to be updated. In particular, the focus here is on reviewing the provisions of the Collective Labour Dispute Resolution Act, the Statute of the Collective Labour Disputes Conciliator and the Collective Agreements Act. Social partners (EAKL, TALO and the Employers' Confederation and the Chamber of Commerce and Industry) are involved in this process. As at the beginning of autumn 2012, one meeting had been held and the representative of the Ministry of Social Affairs declared it successful. The goal is also to raise awareness of industrial relations in general.

3.2. Fiscal Measures Applied to Overcome the Economic Downturn

Much like the other Baltic States, the recession hit Estonia earlier and harder than most other European Union Member States. Although foreign experts recommended, among other things, that Estonia devalue its kroon in order to strengthen its international competitiveness, the government did not view this as a serious option – at least not in their public statements. Since a large portion of loans during the economic boom period were issued in euros, the devaluation of the kroon would have hit both households and companies hard. Furthermore, prior to the onset of the crisis the Estonian government had set its sights on joining the Eurozone, and achieving this goal meant that the Maastricht criteria had to be met. The country's external sovereign debt has generally been low, and during the crisis the government had to take measures to rein in the state budget deficit. In such a situation Estonia chose to make cuts to the state budget in order to keep the budget as balanced as possible. The plan to gradually lower the individual income tax rate was abandoned and the value added tax rate was raised from 18% to 20%.

In terms of industrial relations, the cuts had the most direct effect on public sector institutions. As a result of cutting expenditure, the budgets of state and local government agencies were reduced and therefore quite a number of public sector institutions were forced to renounce some provisions of the collective agreement or to perform them at a reduced level (The state and local government organizations study 2011). For example, there have been cases where the head of the agency and the representative of the trade union or employees agreed to not perform certain provisions of the collective agreement, which entailed additional costs for the employer. Generally, employees' representatives were responsive, and the overall economic situation was taken into account.



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Summary

The economic growth which, from 2000 to 2007, helped Estonia to become one of the most progressive EU Member States, transformed in 2008 to a 3.7% downturn. In such a situation the state had to make some hard decisions as the government did not want to abandon the balanced budget or even the budget surplus and low public debt goal which it had followed for the entire period since independence was regained. The state's objective was also to introduce the euro and therefore the Maastricht criteria needed to be met. This meant that in a situation of lower income expenditure had to be cut, and the fiscal policy measures taken by the state to alleviate the negative effect of the recession were more modest than in many other European countries at the beginning of the crisis.

In this context the economic crisis also significantly influenced the Estonian labour market and the effect of the economic downturn on different groups varied – the effect was particularly negative on the employment of men, young people and non-Estonians (specifically, non-Estonians who do not speak Estonian). Cuts made to the state budget during the recession directly affected the industrial relations in the public sector. As the result of the cuts both the state and local governments' budgets reduced and this forced several public sector institutions to withdraw from some of the provisions in their collective agreements or perform them to a lesser extent.

The economic crisis also had a major impact on the social dialogue between the state and social partners, which was primarily demonstrated by their worsening relations. Tensions were caused by several reasons –

both the Government's unwillingness to involve the social partners as bothersome parties in making complicated decisions as well as their wish to adopt decisions rapidly in order to reduce the effect of the crisis. An example of this is the adoption of the Employment Contracts Act in the course of which the Government withdrew from previous agreements made with the social partners. Many other aspects also point to problems with the social dialogue. For instance, near the end of 2011, the Government's decision to include the available reserves of the Unemployment Insurance Fund and the Health Insurance Fund in the state budget caused tensions. All of this has undermined the trust of social partners in the Government as their partner.

The crisis also had an adverse effect on company-level collective dialogue; the number of collective agreements signed decreased and benefits provided to employees were cut. Sectoral dialogue was also modest. The most noteworthy event was the teachers' strike in spring 2012 along with several support strikes. In autumn 2012 it nevertheless remains unclear how effective the strike was in terms of improving teachers' wage conditions.

However, it must be said that limited involvement of social partners and unwillingness to consider their proposals is not a problem encountered in a period of crisis alone. This has been a concern for Estonia for a long time: the crisis only highlighted the situation, since tough choices had to be made and social partners felt that they were not engaged in the process to a sufficient extent. Therefore, the state continues to face the challenge of developing constructive social dialogue in Estonia even after the crisis has ended.



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