

PARTNERSHIP AND SOCIAL DIALOGUE IN ALBANIA: THE ACTUAL STATE AND FUTURE STRATEGIES

This study presents the socio-economic conditions of creating the social dialogue in Albania, its functioning and existing problems, it also suggests opportunities for further development and strengthening of the social dialogue and democracy in the country.

JEL: J38, J50

Tripartism² and social dialogue, as a relatively new phenomenon of the past century, which has spread quickly, is based on legal order, on the good functioning of the economy, on a stable organization of both employers and employees, and on the harmonization of interests among the State – the employer – the employee, at a high level of social protection and education. Playing a major role in the formulation of labor policies, in the promotion of social justice, and in the establishment and monitoring of labor standards, the tripartite process is realized through dialogue and consensus. Proceeding from the interests and goals of each partner, one can identify the problems and find the best possible solutions through mutual understanding and toleration. In this way, tripartism and social dialogue have institutionalized an almost unknown phenomenon so far, which objectively leads to the development and deepening of democracy, to the economic and political stability of certain countries and elsewhere. Therefore, nowadays in Europe it is considered a part of *good governance*, and the globalization of world economy reserves a special place and role for it.³

Partnership and social dialogue, ranging from national level down to the economic units, *represent a further completion and development* of parliamentary democracy, because, **firstly**, by formulating and implementing the economic and social policies on both national level and that of economic units, based on the consensus and harmonization of interests, those ensure peace, stability, prosperity, and the consolidation of the political mechanism by the main actors in society; **secondly**, they are more flexible, because partners can come together as often as required concerning the fundamental economic and social problems; and, **thirdly**, they also ensure the achievement of long-term and short-term objectives. Partnership and social dialogue are also in compliance with the *principles of market economy*, because they influence the creation of a productive environment for business and

¹ Prof. Dr. Lulzim Hana, Director of the Institute of Economics at the Albanian Academy of Sciences, phone/fax: (+355 4) 271 822, e-mail: lulzimhana@yahoo.com.

² "Tripartism is the name of the process, which plays a crucial role in formulating labour policy, promoting social justice, and setting and monitoring labour standards worldwide"- See: "Tripartism in the 21st century: Building on bedrock," ILO-Geneva 2003, p.4

³ International Labour Office, Working Paper No. 12 –Geneva 2003, p.1

investments; they are a very efficient *instrument for finding the desired solution to various economic and financial problems*, etc. Those alone are sufficient to show that partnership and social dialogue are *not forms of managing crises* but instead they are efficient means of solving problems, which arise on the road of social development, without causing painful conflicts. Stressing this priority, we must emphasize that partnership and social dialogue are attributes that belong ***only to democracy, only to the type of society, which proclaims and observes the basic human rights and liberties.***

It is already an indisputable fact that the International Labor Organization, through originating, inspiring and persisting with respect to the practical activities of applying tripartism and social dialogue in the countries of the market economy, has rendered a precious contribution to the development and consolidation of democracy and social peace. However, we think that of the same value is its activity of applying these practices even in the countries that emerged from communist dictatorships, directly helping to soften the tensions inherent in the transition towards market economy, to have a transparent development of this process, and to create and consolidate the efficient structures of the new democracies. Of course, the efficiency of the activity related to tripartite social dialogue in the countries in transition depends on, and is connected with, the processes of economic development and their democratization, the consolidation of social partners and their enabling to carry out their own functions, their independence in avoiding the overlapping of their respective functions, and their predisposition to consult and collaborate with one another.

A. The Creation and Functioning of Tripartite Social Dialogue in Albania

As was the case with the other former communist countries, in Albania before 1990, no one could speak of tripartite social dialogue for lack of its major indispensable elements: democracy, freedom, private property, free initiative, legislation and the required environment to serve this goal. The ruling party, which was the real State, liquidated private property and the class of entrepreneurs and their organizations, drafted and applied legislation that justified its absolute reigning over the entire life of the country, and paralyzed any kind of free initiative. It was the sole real owner of national assets, whereas the other economic units had to fulfill the directives and duties set by the owner with respect to the level of production, distribution, consumption, prices, etc. It was this very owner that appointed the administration staff, and fixed wage levels and living conditions.

The paradox was that this all-powerful owner claimed to represent the working class and protect its interests. Therefore, according to law, Trade Unions were considered to be the aides of the party, whose main duty was the communist education of the workers and their mobilization to fulfill the tasks arising from the State plan.⁴ Thus Trade Unions were actually deprived of the right to protect workers' rights and their working and living conditions, not to mention the use of the forms of Trade Union movement, such as protests, demonstrations, etc. Therefore, the Trade Unions, though formally in existence, had no legal powers to be social partners. Thus, with the start of the democratic processes, everything had to begin from scratch even in this field.

⁴ The Constitution of PSR of Albania, Tirana 1976

1. The Creation of Conditions for Partnership and Social Dialogue in Albania

The collapse of the dictatorial State and the legalization of political pluralism, the establishment of the freedom of speech and free private enterprise, marked the beginning of a new period in the history of Albania – the period of embarking on the road to democracy and market economy. It is widely known that transitions are difficult because during them it is not only the internal obsolete structures that get destroyed to pave the way for the creation of new ones, but also foreign relations go through the same process, and this takes time and, of course, has its economic cost. In the case of Albania, the problem became more complicated both because of the former application of the most extreme variant of the system that had entirely emptied its generating power, forcing the country into the grip of deep versatile crises, and because of the conflicting situation that spread all over the region, which brought about some direct as well as indirect consequences.

Under those circumstances the official politics decided to apply the “Shock Therapy”, aimed at accelerating the rate of transition. As a result of this, the vast majority of enterprises closed down and 60 percent of those employed in the former state-owned sector lost their jobs; production decreased drastically and the structure went through considerable changes (actually our country has a level of production, which equals only to 1/3 of the industrial production of the years before 1990). These factors, as well as some further domestic political developments which were extremely tense, have lead to the present economic and social tableau:

1. A very high level of unemployment. Officially, registered unemployment is 13-14 percent, whereas the demographic or real unemployment is around 30 percent.⁵ In addition to this, it is important to note the fact that actually the vast majority of those employed belong to small economic units or family businesses.

2. Emigration in large proportions. Although there is no adequate data on the number of emigrants, it is estimated that, for economic reasons, 1/4 to 1/3 of the population⁶ has fled the country, i.e. about the size of the entire population of the country in the middle of the last century. It is characteristic that younger generations and intellectuals have become subject to this process.

3. The low level of income of the vast majority of the population in general, and of pensioners in particular. According to the estimates of World Bank experts, 1/5 of the population lives on an income equal to one dollar per day, whereas more than half of it on two dollars.⁷ Along with this, the polarization of Albanian society has increased at exceptionally high rates.

4. A very high level of informality and corruption. According to calculations already published, the level of informality is estimated to be over 50 percent. According to the last report of the World Bank for the level of corruption in 24 East European Countries and Central Asian Countries during 1999-2002, Albania and Kyrgyzstan come in the first place, where 2-3 percent of firms' turnover goes into the pockets of bureaucrats as bribes.⁸

⁵ Statistical Yearbook 1993-2002 – INSTAT, Tirana 2003.

⁶ Ibid.

⁷ Report of INSTAT and World Bank-“Gazeta shqiptare” May 16, 2004.

⁸ The second report of the World Bank, 2004. “Economia” newspaper, Tirana, May 16, 2004, p.5.

5. Fast increase of the deficit in the balance of trade and foreign debt. Actually in Albania, for each exported dollar, 5.5 dollars are imported, while foreign debt is higher than 1 billion dollars.⁹

Regardless of this inadequate framework, though to some extent not entirely unexpected, one should by all means identify the **achievements in the field of pluralism and free initiative** (where 75 percent of the Gross Domestic Product is realized in the private sector), *in the field of legislative and institutional reforms, in the field of regional and Euro-Atlantic integration, in the creation of the required environment and of the will to develop an economy in accordance with market laws at a high rate.* It was precisely these changes that allowed the creation of indispensable conditions for the establishment of partnership and social dialogue, following the positive experience of other countries. Among them, here are the most important ones:

- a) the setting up of institutions;
- b) the approval of adequate legal provisions;

a) Setting Up of Institutions.

The first condition for the establishment of partnership and social dialogue is the setting up of institutions. Because of the historical heritage, because of the fact that, during this period of transition, the State presents itself both as an owner – a function gradually disappearing as days go by – and as an arbiter, because of its function to draft and implement legislation, *the role of the State is of primary importance.* Therefore, from the very beginning of democratic processes, there started its restructuring to better suit to the needs of time and the problems which had to be solved. Within this framework, in 1992, for the first time in Albania, the Ministry of Labor, Emigration, Social Affairs and Former Politically Prosecuted People, which is now entitled the Ministry of Labor and Social Affairs, was set up. Subordinate to it are several important institutions, such as: the National Employment Service (1995), the State Inspectorate of Labor (1993), the General Directorate of Economic Aid (today known as the State Social Service), etc. The bodies, which are subordinate to the Ministry of Labor and Social Affairs, have their management boards consisting of representatives coming from the three social partners.

An achievement of indisputable value was the creation of Trade Unions to really protect the economic and social interests of employees and, in general, of the poor strata of society. The contribution rendered by the workers' movement to overthrow dictatorship was utterly decisive and, likewise, the creation, organization and strengthening of Trade Unions, have played a major role in the consolidation of democracy. The year 1991 marked the establishment of the first independent Trade Union Organization – The Independent Trade Union of Albanian Miners (February 1991). Some months later two big Trade Union Confederations were created on a national scale: The Union of Independent Trade Unions of Albania (BSPSH), and the Confederation of Albanian Trade Unions (KSSH). BSPSH consists of the Trade Unions of 18 branches spread all over the territory of the country, including electro-energetic, PTT services, medicine, light and construction industries, public services, etc., 13 of which are members of the International Trade

⁹ Report of INSTAT 2004, Tirana.

Unions Secretariat; whereas KSSH consists of 13 National Occupational Trade Union Federations, including education and science, industry, trade, transport, etc., 7 of which are affiliated to the International Trade Unions Secretariat. In recent years, various Trade Union Federations have been created, such as the Union of the Trade Unions of Albanian Employees (USPSH) in 1994, the Federation of the Trade Unions of Private Trade, Banks and Services of Albania (FSTBSH), etc. Their actual number is more than 60. It is important to point out that more than half of the Trade Union Federations and 80 percent of the Trade Union members belong to these 2 confederations. Trade Unions play a major role in the National Council of Labor, as well as in central and local management boards of different organizations, by way of affirming and protecting the interests of employees.

With the collapse of the dictatorship, with the establishment of political pluralism and the creation of a market economy, the new private business, which had already come into existence, felt the need of getting organized and of founding the *organizations of the employers*. Thus, in 1993, the first society of employers was created – the Union of Democratic Businessmen; in 1995, the biggest organization of Small and Medium Business Community was created – KONFINKOM; in 1997, the Organization of Free Albanian Employers (SPLSH) was created; in 1998, the Union of Albanian Business Organizations (BOBSH) was created; in 2000, the Council of the Organizations of Employers (KOP) was created, etc. Besides these, other bodies were created within the framework of branches, such as the Council of Albanian Agribusiness (KASH), and the Union of Industrialists and Investors in 2000, the Organization of Construction Businessmen, etc. Some of these organizations have become full members of their European and world counterparts. The establishment of the businessmen organizations was of great importance for the protection of their own interests, as well as for the creation of an environment required for the application of fair competition.

The organization of the Trade Union movement, of businessmen, and the construction of State adequate structures, **was the first indispensable step for the creation of the National Council of Labor in 1996**. This was a very important event for the realization of partnership and social dialogue, which was made possible through the persistence of the Trade Unions and the recommendations and assistance of the International Labor Organization. Being the highest consultative tripartism body – Government – Employer – Employee – the National Council of Labor aims at the establishment of good social understanding and preservation of social balances through the harmonization of interests, social dialogue and consensus, as well as at the minimization of conflicts and attainment of agreements on the basis of the political will of the parties concerned.¹⁰ To realize these goals, the objective of the National Council of Labor, as its regulations read, is the examination and recommendation of the social and economic policies of the country, of the problems related to the application of the labor legislation, as well as the creation and functioning of national organizations, which have to do with employment, the policies of vocational training, of the protection of employees and of the working and production conditions, the ratification of International Conventions of labor and the application of their respective norms, etc.

¹⁰ Decision No. 379 of the Council of Ministers, Tirana, May 20, 1996.

The creation of non-governmental organizations (civil society) and of foreign foundations are other important structures, which have influenced positively, and still continue to do so, the application of partnership and social dialogue. Actually in Albania more than 600 organizations of this type have been registered, of which the major entity is the Albanian Foundation of Civil Society (FSHSHC). The most important mission of civil society is the establishment of fair and transparent relations with the government, the development of democratic culture and social dialogue. The non-governmental organizations, together with Trade Unions, have played an important role in sensitizing population about the economic, social and juridical problems.

b) Approval of Adequate Legal Provisions

The transformation towards market economy and the creation of the institutions designed to apply partnership and social dialogue would be impossible *without the radical change of the legislation, without the approval of contemporary legislation*, relying on the assistance of international organizations. Moreover, it should be stressed that the change of legislation and the creation of the institutions have followed each other.

In 1991, the *Main Constitutional Provisions of the Republic of Albania* were passed, and they allowed the approval of new adequate laws to govern the market economy, as well as the creation of institutions designed to apply partnership and social dialogue. Thus in 1993, the *Law on Trade Unions* was approved, and it made possible the creation of many federations of Trade Unions. The first ever organizations of employers were also created. In the same year, the *new Law on Social Insurance* was approved, and it is fundamentally different from the previous one of the communist regime. According to its requirements, the Management Council of the Institute of Social Insurance should consist of representatives coming from the State, from the organizations of the employers, and from the Trade Unions, thus the conditions for social partnership are fulfilled.

An important event was the *approval of the new Labor Code* in 1996, which had been drafted in compliance with the principles of market economy and through foreign assistance. The Labor Code includes the rights and duties of employees, of employers, and the State, in the field of labor and wages. The major part of the Law on Trade Unions that had been included in it was abrogated. Practice showed that it needed corrections and improvements, which, in general, were realized through the approval of the revised Code in 2003.

In 1998, the *Constitution of the Republic of Albania* was adopted – the fundamental law of the State – and its drafting required much foreign consultation. It defines and sanctions the political, economic and social order, the central and local bodies of power, the organization of the defense of the country and of the armed forces, of the courts and Prosecutor's Office, as well as the basic rights and duties of citizens. All previous legislation had to be adapted to it.

It can be said that the approved laws and the amendments made to them, together with the sub-legal acts, have created the legal package necessary for the formal functioning of partnership and social dialogue, which, of course, need to be further developed and perfected. But their successful application depends mostly on the level of familiarity with them and on the demand to implement them correctly. Apart from this, as far as their introduction to the public is concerned, what is worth

mentioning is the work done by the Institute of Labor and the School of Trade Unions, which must further continue and deepen in the coming years.

In the whole work for the construction of the institutions and the legislation designed to apply partnership and social dialogue, the positive experience and the assistance of other countries, especially that of the International Labor Organization, has played a crucial role. It has been constant and comprehensive, aiming at establishing the international standards of labor. The main directions are as follows:

Firstly, becoming familiar with international legislation in general and with that of labor in particular. To achieve this goal, various approaches have been made use of. Thus, to become familiar with the Labor Conventions, the Albanian Confederation of Trade Unions and its Danish counterpart drafted the project "The Improvement of Labor Market in Albania", through which the translation and publication of various useful relevant materials were made possible. This has served the Trade Unions, the employers and the State bodies, to become familiar with the conventions as required.

Secondly, the acquisition of experience from direct bilateral and multilateral contacts. Thus, worth mentioning are the contacts with Italy, Germany, USA and the countries of South-Eastern Europe, etc. In this respect, a great contribution has been received through the participation of representatives of the Government, of employers and of Trade Unions in the annual meetings of the International Labor Organization, in which they have benefited a lot from the experience of this prestigious labor organization and from the experience of other countries as well.

The concrete contribution of the International Labor Organization in Albania is also evident in the organization of three national labor conferences, two out of which focused on the improvement of the wage system and one on the perfection of social partnership. These conferences made a scientific analysis of the actual state of labor and social partnership, setting concrete responsibilities for the perfection of the wage system and for the better functioning of the partnership and social dialogue, such as, for example, the indispensability of fixing the official living minimum, an index which should be taken into consideration while determining the minimum wage and the other incomes of the population, etc. To fulfill this task and the persistent demands of Trade Unions, the Government created a work team designed to serve this aim.

Thirdly, in the direct assistance for the creation of institutions and legislation. The precious help, which allowed us not only to quickly become familiar with the value of international experience and legislation in order to establish market economy on strong and stable foundations, but also the practical results of their application in Albania, constituted precisely one of the major reasons of ratification after 1990 of 60 percent of the Conventions that Albania has ratified since it became a full member of the International Labor Organization. Among them, the following are worth mentioning: Convention 105 on the abolition of forced labor; Convention 111 on discrimination with regard to employment and occupation; Convention 138 on the minimum age; Convention 135 on workers' representatives; Convention 144 on tripartite consultations; Convention 151 on labor relations in the public sector; Convention 181 on private employment agencies; Convention 26 on the minimum wage fixing mechanism; Convention 95 on the protection of wages; Convention 131 on fixing the minimum wage;

Convention 173 on the protection of workers' claims; Convention 182 on worse forms of child labor; Convention 150 on labor administration; Convention 154 on the promotion of collective bargaining; Convention 174 on the prevention of major industrial accidents; Convention 175 on part-time work; Convention 176 on safety and health in mines, Convention 177 on home-based work; Convention 178 on labor inspection; Convention 183 on maternity protection; Convention 155 occupational safety and health; Convention 168 on employment promotion and protection against unemployment; Convention 171 on night work, etc. These, together with the other previously approved conventions, such as Convention 87 on the freedom of association, Convention 98 on the rights to organize collective bargaining, ratified since 1957, show that the fundamental conventions have been ratified, although the percentage of the conventions ratified by Albania – 22 percent of the total number of conventions of the International Labor Organization – is still low.

The *sine qua non* condition for the development and consolidation of democracy, for the good performance and efficiency of partnership and social dialogue, is the individual freedom in the political, economic and social field. The European Social Charter, which was drafted and approved by the Council of Europe in 1961, and revised in 1996, to complement the European Convention on Human Rights, is the instrument that sanctions the respect for basic human rights and liberties. The 31 Articles of the revised Charter define the economic and social rights of the employees and of the entire population. The governments that sign and ratify it must guarantee citizens a number of social and economic rights, such as the right to employment, the right to normal working conditions, the right to appropriate payment, the right to strike, the right to protection of children and women, the right to protection of emigrants, the right to family reunion, etc. Albania is one of the 22 States that have signed the Social Charter, and one of the 7 States that have ratified it.

The ratification of the European Social Charter is the first very important step, but the fulfillment of its requirements remains the major thing to be done. To this end, along with the efforts of internal factors, precious contribution is being rendered by various international organizations. Thus, for example, the Danish Trade Unions, through sponsoring the School of Trade Unions and the Institute of Trade Union Studies, have directly helped to enhance the level of Trade Union activists, enabling them to assimilate the requirements of the Social Charter and of other various Conventions, as well as to carry out studies and publish several monographs dealing with such issues and helping a wider audience to become familiar with and assimilate those, in order to realize and consolidate partnership and social dialogue as required. Likewise, even the German Foundation "Friedrich Ebert" has organized meetings with the social partners for the purpose of promoting the application of the requirements of the European Social Charter. Among them, special attention has been paid to the problem of Albanian emigrants: most of them work in EU Member Countries, such as Greece, etc., have no employment contracts, are subject to discrimination related to wage, time and working conditions, enjoy no social insurance whatsoever, etc.

2. Functioning of the National Council of Labor

The creation of the National Council of Labor and Social Affairs, which after 1998 was to be called the National Council of Labor, in support of the agreement of 1996 between the Union of the Independent Trade Unions and the Government, and upon the recommendation and assistance of the International Labor Organization, was an important event towards the democratization of Albanian society in general, and of the economic and social sphere in particular. To let it function, its structures, rules and constituent bodies were set up.

The National Council of Labor consisted of **25** members, **5** representatives of the Government (top authorities of the Ministry of Labor, the Ministry of Finance, the Ministry of Health, the Ministry of Education, and the Ministry of Justice, and in their absence, representation was done by candidate members who were deputy Ministers of the relevant ministries), **10** members representing the organizations of the employers (or candidate members, in their absence), and **10** members representing the Trade Unions (or candidate members, in their absence);¹¹ 80 percent of the seats belonging to the Trade Unions are equally divided up between the BSPSH and KSSH. Thus, the State was represented by five Ministers who had direct connections with these problems, and played a major role in the application of tripartite social dialogue. In 1993 in the Ministry of Labor they set up the Department of Labor Relations, whose major task is the development of policies in the field of labor relations, the promotion and development of social dialogue within the framework of partnership, and recognition and application of international labor standards. Constituent bodies of this department are also the Sector of Relations with Social Partners and the Secretariat of the National Council of Labor.

The National Council of Labor is chaired by the Minister of Labor, whereas its two deputy Chairmen are appointed by the most important representatives of the employers and of the Trade Unions respectively, who at the beginning were reappointed every two years (later that changed to every 6 months). The members were appointed to serve for four years, a term which later was reduced to two years. The Council, as stated in the Decision of the Government, "as a rule, is to meet not less than four times in a year, but it can also meet upon the written request to its Chairman by the majority of members"¹².

For its better and more efficient functioning, the Council managed to set up the following tripartite commissions: the Commission for Employment Promotion, the Commission for Vocational Formation, the Commission for Wages, the Commission for Social Insurance, the Commission for Working Conditions, the Commission for Safety and Health at Work, as well as the Commission for Social Affairs. Their duty is to examine the social issues in the respective fields, and apply the conclusions of the National Council of Labor for the orientation and application of the State policies to the fields of their activity; of the draft decisions of the Government, which have to do with the fields of their activity; of the issues about which the National Council of Labor has referred to them for consultations and opinions. To achieve these objectives, each commission may set up work teams and involve qualified experts. The Secretariat of each tripartite Commission will be provided by the respective administration of the Ministry of Labor, a thing that will

¹¹ Decision No. 379 of the Council of Ministers, Tirana, May 20, 1996.

¹² Decision No. 767 of the Council of Ministers, Tirana, December 8, 1998.

by all means have its impact on enhancing the role and weight of the State in all their activities.

Although it has functioned for a relatively short period (7 years), one may still identify the steps made towards the creation of an appropriate environment for dialogue, of the spirit of consensus and preoccupation to discuss and find proper solutions to problems, which have to do with the present and future of market economy in Albania. While attentively examining the activity of the National Council of Labor since 1999, one can see the efforts made to perfect its organizational and functional structure, as well as the proper treatment and provision of well-grounded recommendations concerning important problems of the actual stage of development. Among them, the following are worth mentioning:

Firstly, the recommendations for the perfection of the legal system, by a better reflection of the requirements of international conventions. Here, one should mention the recommendations for the revision and perfection of the Labor Code of 1996, which were approved by Parliament in 2003; for amending Law Number 7703 On social Insurance, Law Number 8097 On Supplementary Pensions, the Decree on Strikes, etc.; for the ratification of the recommendations of the International Labor Organization, such as those for the promotion of collective agreements and the mechanisms of settling collective disputes, for safety and health at work, for the prevention of accidents, for the elimination of the worst forms of child labor, for the protection of maternity, etc.

Secondly, the recommendations concerning the indispensability of changing the situation in several vital directions, such as that of the official living minimum, that of indexing economic aid and wages, that of the strategy of development of the labor market, that of the reduction of the informal market, other important problems, which pervade the economic and social development of the country.

Thirdly, the efforts for organizational perfection of the National Council of Labor and its structures. During a period of five years (1999-2003), the National Council of Labor has met seven times. According to the proposals made upon Decisions of the Council of Ministers, the composition of the Council has changed time after time. Here, one can mention the enhancing of State representation from **five** to **seven** Ministries, adding the Ministry of Economy and Privatization and the Ministry of Industry and Power Engineering, which are directly connected with the problems that are treated there; likewise, even the criteria for the representation of the organizations representing business and Trade Unions have changed in accordance with the change in their weight and role. Within this framework, one should also mention the changes concerning the time limits required for it to convene and the appointments of the specialized Commissions (fusion of Commissions took place, but new Commissions were also created, such as the case with the Juridical, Financial, and Economic ones). Lastly, the Council managed to create its separate fund, as a specific part of the funds of the Ministry of Labor and Social Affairs, which has its own sources and targets.

B. The Future Challenges to the National Council of Labor

The activity of the National Council of Labor cannot be separated from the tense political situation and the fact that it is a new structure lacking experience and built by partners, which are in the process of formation and consolidation, not to mention

the mentality and the lack of experts in the field of partnership and social dialogue. Therefore, regardless of the precious help of the International Labor Organization and other international organizations, this activity has had its shortcomings, limitations and weaknesses, which hindered the smooth functioning of the partnership and social dialogue as shown on fig. 1. In our opinion, the main shortcomings and weaknesses are as follows:

Firstly, weaknesses of organizational character, among which, some worth mentioning are:

a) The failure to apply the schedule of the meetings of the National Council of Labor as defined in accordance with the decision of the Government, and its own regulations. It is already known that the Council was to convene at least four times in a year, and therefore they have collected the opinions of its members concerning the problems, and the annual program based on the topics of four meetings has been approved as well. This has not been possible yet; besides, during the last three years, they have held four meetings. There have even been cases where the Council failed to convene for 16 months¹³. Since the Council was at the top of the pyramid, its negative effect down the hierarchy became greater and greater.

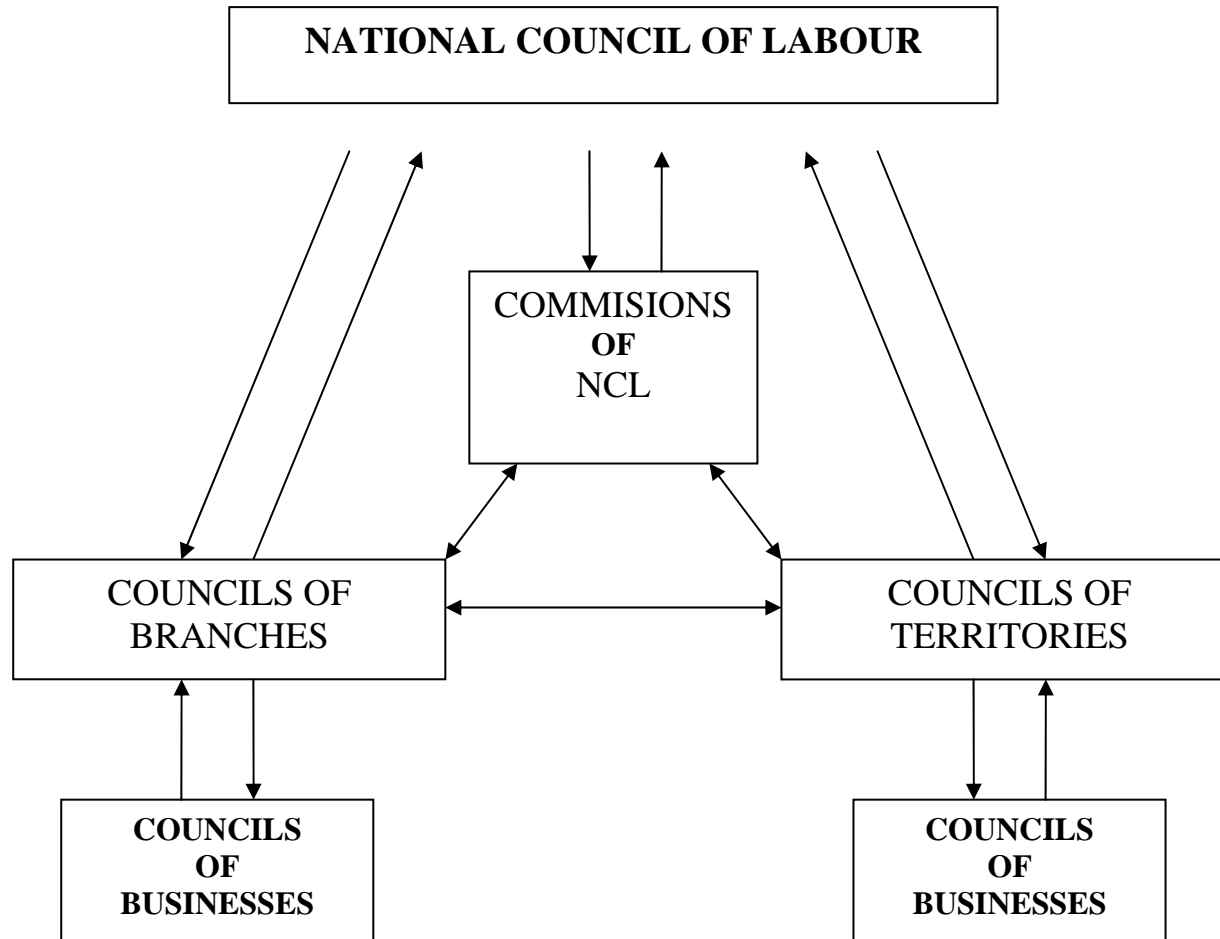
It is almost impossible to come across such practice in other countries. The global experience shows that counterpart organizations of the Council generally convene as required, although the problems they deal with are not as acute as our problems.

According to the information gathered, in Hungary, the Council convened 23 times within a single year. It is obvious that the situation in Albania is abnormal and runs contrary to the goal of the organization of this institution and to the respective recommendations of the International Labor Organization. Moreover, we think that the recent Decision of the Government (2003), which removes the compulsory duty of the National Council to convene at least four times in a year, fails to change this situation and, what is even worse, does sanction it.

b) The poor functioning of its tripartite Commissions. These commissions were set up for the purpose of dealing with problems arising in the fields that they cover, and of providing the Council with opinions and recommendations, a thing which clearly speaks of their role and importance, as well as of the need for each partner to appoint its best experts in them. Although social partners assigned the participants to these commissions (unfortunately, not always the right people), we can say without hesitation that, with the exception of the Commission of Wages and that of Juridical Issues, their role and functioning leave much to be desired. We think that this has had a direct impact on the functioning of the National Council of Labor itself.

¹³ The materials of the meetings of the National Council of Labour 1999-2003.

Figure 1



c) The failure of partnership and social dialogue to function on both branch and territory levels. It is true that, within the branch framework, several agreements have been reached between State institutions and the respective federations of Trade Unions. It is positive that, in some cases, analogous federations of the BSPSH and KSSH have reached common agreements. However, the organizations of employers have not been included in these agreements and, consequently, in those branches of the economy where the private sector is involved, such as in construction, trade, transport, etc., these agreements are really inapplicable. The situation is even worse in territorial terms, where there is no harmony between the Governmental organization and the organizations of both employers and Trade Unions. To find a way out of this situation, we consider it to be indispensable that, firstly, organizations of employers and workers be set up all over the country based on territorial criteria, and secondly, either the organization of employers and workers be done on prefecture basis, or the State organization be done on district basis. The second case would give rise to many problems. There is an indisputable need for the organization of the three partners with appropriate structures, as the first step for the smooth course of events, as well as for the application of the recommendations of the National Council. It is true that the recommendations for such a thing have been provided, but they have not been implemented for lack of commitment on the part of the three partners.

d) The real financial and organizational independence of the National Council of Labor. It is already known that financial independence is the first condition to achieving real independence. But lack of funds has been such that, in general, neither the members of the Council nor those of the Commissions have been paid for the work done, not to mention here the need to cover the expenses for the realization of certain programs. This is the reason why representatives of business and Trade Unions have continuously demanded the creation of their own budget. The recent decision of the Government to create this fund as a special part within the framework of the funds of the Ministry of Labor and Social Affairs is a positive step; however, we think that it is insufficient. We are of the opinion that the financial problem, like the whole structure of the organization of the work from the Council down to the Commissions, keeps this organization of the tripartite system *closely connected* with the State. The Secretariat of the Council and the Chairmen of the Commissions being employees of the Ministry of Labor and Social Affairs, it is difficult to think that they will act contrary to the interests of the State and in favor of the partners, even when such a thing is indispensable. If we add to this the fact that actually neither the Trade Unions nor the organizations of employers in general have qualified experts to cope with the problems presented by the staff of the Council or the Commissions, the problem becomes even sharper. We think that this situation is one of the main reasons why the representatives of the BSPSH and KSSH come to the conclusion that partnership and social dialogue “has much of a show in it” or that “it is viewed as a façade and not as a value”.

On the organizational level, the Trade Unions and the representatives of the employers see the possibility of changing this situation in making the National Council of Labor subordinate at least to the Deputy Prime Minister. Along with this move, they also propose the change of the name into “National, Social and Economic Council”, taking into full consideration the fact that it does not deal only

with economic problems but also with social ones. The arguments presented in support of this may be summarized as follows:

- The range of problems covered by the Council is wider than that of an individual Ministry;
- Affiliation to the Council of Ministers would create greater possibilities not only to strengthen the discipline in its work but also to change the recommendations into decisions at more rapid rates than in the case of being affiliated to a separate Ministry;
- With the additions already made, the State partner will be represented by seven Ministers or half the Government, a thing which makes it much more difficult for it to be efficiently run by a single Minister. Moreover, the experience already gained has shown that it is difficult to indicate a meeting of the Council, in which present were all the top authorities of its Member Ministries, not to speak here of the cases where they do not send their representatives when they are absent themselves;
- The experience of many other countries where the National Council of Labor is subordinate to the Government is much more successful not only with respect to the range of problems and the participation in its activities, but also with regard to the application of its suggestions.

Representatives of the State are of a completely different opinion and demand that the actual status of the Council does change. Their main arguments may be summed up as follows:

- The National Council of Labor has only three actors, whereas the National, Social and Economic Council have more actors. Therefore, it may be an *ad hoc* Committee of economic and social policies, subordinate to the Government; it will be comprised of representatives from the National Council of Labor, from the Council of Education and Training, from the Council of Business, and from other actors.
- In Albania, the major problem for the time being is that of unemployment, which is the work object of this Ministry.

Secondly, the ignoring of several economic and social problems that preoccupy the country, the most important of which we think are the following:

a) One-sided drafting by the Government of the Strategy for Economic and Social Development of the country and of Poverty Reduction, without the representatives of the Trade Unions and of the employers and without prior discussion of it in the National Council of Labor. It is already known that, under the conditions of market economy, employers and employees are the principal actors that realize the objectives assigned by society, and therefore it would be difficult to think of achieving economic and social prognoses without having their opinions. This makes it indispensable for the representatives of Business and Trade Unions to take part in the preliminary drafting and approval of these strategies. Since as many as several sharp problems of the object of partnership and social dialogue can and should be envisaged right at the stage of the drafting of these strategies, we think that it is not normal to not discuss them in advance at the National Council of Labor, as well as not to take its opinions and recommendations into consideration. To ignore the opinion of the National Council of Labor on these major problems is to *de facto* deny this Institution. This and other cases mentioned in this survey have created the impression among the representatives of the Trade

Unions that the State has not yet formulated a clear opinion about the role and importance of partnership and social dialogue, as well as about the mechanism of their application.

b) Realization of the process of privatization without the actual participation of Trade Unions and employers. The representatives of the Trade Unions think that the Government has not desired to have their partnership in the process of privatization and dismissal of workers from their jobs. According to them, this has paved the way to the lack of transparency, closed work, nepotism, corruption and economic crime. The privatization of small and medium-sized businesses is a clear evidence of great irregularities and injustices, starting from the assessment of assets to be privatized down to their selling to privileged persons or groups. The population were provided with securities; however, because of the way the former operated with them, those soon changed into “waste papers”, as people called them, and actually may be called “papers of no value”.

The opinion of the representatives of the Trade Unions is that even the privatization of strategic objects is following the same path. Closed work, lack of transparency, and the elimination of the social partners from this process, have reached such a stage that they have announced as an objective the selling of their assets only to foreign investors, excluding from this process almost the entire domestic business, a thing which has caused the latter to be dissatisfied. The consequences of this work have been clearly seen since the first privatization of these objects. According to the information gathered, the mobile telephone company AMC was sold to foreign investors at a price of 85 million American dollars, at a time when its annual profits amounted to 70 million American dollars. Investment of capital at proportions that can be paid back within 15 months can hardly be found elsewhere. Therefore, we consider it necessary for the privatization of strategic sectors of the economy to become subject to partnership and social dialogue.

c) Drafting of the State budget while actually avoiding the social partners. It is well-known that the State budget cannot be built without setting important indices, such as the minimum wage, the average wage, the level of pensions and social aids, the expenses related to education, culture and health, the rates and major proportions of the development of the country, etc., which are the direct object of partnership and social dialogue. If, during the first years of the creation of the National Council of Labor, State budget was not discussed by it, in 2002 and 2003, a big step forward was made, and the draft-budget, after its approval by the Government, became the subject of discussion. Such an action reduces greatly the possibility of correcting it. We think that it would be much more efficient to discuss it before its submission for approval to the Council of Ministers, a thing which would create a greater space to take full consideration of the suggestions and recommendations of the social partners.

d) Commitment and persistence to make public and implement the recommendations of the Council concerning the minimum official standard of living and the level of the minimum wage. It is evident that, in Albania, we still do not have the official index of the minimum standard of living, a thing which was stressed even in the conclusions of the National Conference organized in Tirana by the International Labor Organization in 1995. For the sake of truth, it should be said that Trade Unions have studied and defined a version of the minimum standard of living since 1998, whereas the Government, only two years ago, carried out a study

on the level of the minimum standard of living. It is positive that the conclusions of this study were discussed in the National Council of Labor, but regardless of this, this index has not yet been made public officially. We think that it is the duty of the National Council of Labor to insist on announcing its recommendations or on demanding explanations concerning the reasons why this has not been done.

Closely connected with the index of the minimum standard of living is the index of the minimum wage. Actually, in Albania the real minimum wage is lower than it was before 1990, which is the result of the increase of the level of retail prices and of the tariffs related to services at rates higher than those of the increase of the minimum wage. It is already known that the transition has its own price, which affects the living standard of employees. It seems that, in such circumstances, the Government preferred the way of approving the minimum wage without having consulted the Trade Unions and the representatives of the employees. Last year, the Ministry of Labor and Social Affairs carried out a study on the minimum wage, and this material was for the first time submitted to the social partners for discussion. However, we notice again that the minimum wage was defined in 2003 by the Government without preliminary consultations. We think that it is time for the National Council of Labor and its *best qualified experts to undertake a thorough study* on the level of the minimum wage, of the level of pensions and of social aids, which would play an important role even in reducing informality and corruption.

e) Persistence in making a comprehensive analysis of the pensions issue and of the implementation of reasonable and feasible recommendations of the Council concerning the actual stage of development. We think that, with respect to this issue, society and social partnership have a lot to do, because we have to deal with the social strata in need, who are not strong enough to continue their economic and production activity, and have increasing demands with respect to health services. In this survey, we do not aim at making a thorough analysis of this issue, but we would like to stress several issues, which have gone through wide discussion and debate in scientific forums, in State bodies and the press. In the long run, the major issue of this discussion is reduced to the following concepts: *pension is a legal right acquired through work, namely, it is based on the contributive character, or this character should be accompanied with solidarity as well, of which the scope widens in accordance with daily interests.* To justify this approach, the advocates of the second thesis present the difficulties that the Albanian economy and society are going through. But the advocates of the first thesis – contributive character of pensions – stress that it is true that Albanian society is going through many difficulties; and it is equally true that the selling of the objects created through the work of these people for about three decades and a half continues to be one of the most important sources of revenue for the State budget, which directly includes even the contribution for society and for old age pensions. Underlining this truth that can be found in any book on economics, we do not abstract from the concrete Albanian territory and from the possibilities of the country, on the contrary, we rather think that the criteria should be fairer, and that there should be struggle to apply them into practice as correctly as possible and as soon as possible. There is no reason for us to remain slaves of schemes or laws, which were made in the period of the beginnings of transition, when the pressure of difficulties and the lack of knowledge could lead us even to unscientific solutions, which of course were the wrong ones.

The law (Article 32, section 2) is right in stating that the pension “*should at least ensure a minimum living standard*”, a standard which is determined under country and time-related conditions. But is this true actually ? Isn't it a reminiscence of the past and contrary to the contributive character when the law defines that “*the total amount of the pension will not be greater than double the base sum*” (Article 32, section 4) ? It is true that, in the former system, this provision was applied, but we cannot forget that then the difference between the minimum wage and the maximum wage, and the level of social insurance contributions were as defined above. How is it possible for us today, when the difference in social insurance contributions is 1:5, to remain stuck in the old scheme ?! This objectively forces the payers of higher contributions to seek other ways, because through their pensions they receive only a small part of them. Therefore, we think that the pension should reflect the contributions, and keep away from bureaucratic administrative decisions, which under the conditions of the market economy cannot be the optimal solutions and have a long life. This violation of the contributive character is clearly evident in the change of the pension level in accordance with the time of one's retirement. Only because of this factor, there are several cases where a director receives a pension lower than that of his dependents who have retired several years after him. Even these, without a detailed analysis of the sub-legal acts, are sufficient to show the seriousness of the problem and the need for the specialized bodies of the National Council of Labor to deal with it in a competent and scientific way, and persist in putting those into practice.

Another acute problem is also the increase of the retirement age from 55 to 60 for women and from 60 to 65 for men. According to Trade Unions, the amendment prepared by the Government for this purpose passed through an accelerated procedure in Parliament, without having been first discussed at the National Council of Labor and without having drawn the opinions of the social partners. Avoidance of dialogue made the Trade Unions refer to the Constitutional Court with their legal claim to organize a referendum for the abrogation of this amendment, not to mention the protests organized to serve this purpose.

Thirdly, more commitment and willingness is required to submit the problems to the National Council of Labor, and find the ways and means of applying its recommendations. The problems outlined above show that there is still a real lack of awareness concerning the need and the positive solutions that partnership and social dialogue offer to the country at this stage of its development. Laying down and solving problems at negotiating tables create an environment of work and good understanding, have a lower cost, and avoid tensions, which are created by strikes, protests, etc.

The source of shortcomings and weaknesses of the functioning of partnership and social dialogue should be sought in both subjective and objective factors of the development of the country, in the strength and role of each partner. During the entire process of the development of human society, the relations among people and among social groups are relations of interests, the accomplishment of which depends on the strength of each group or individual and on the their capability of fairly combining the daily interests with the future ones, their own interests with those of others to the common benefit.

Social partnership also results from the common interests for the transition to market economy as fast as possible, for the dynamic development of the economy

and democracy, and for the improvement of social conditions. But each partner has different interests as well, which often run contrary to one another.

The State partner, of which the owner's weight has decreased at rapid rates and is almost non-existent, should objectively play the role of the arbiter for the harmonization of interests between employers and employees. But, to play this role, it should be stable and powerful. For the time being, it does not have this position. Transition and the fierce political struggle, the unstable regional situation and its international obligations, the empty treasury, largely dependent on income from emigration, and the anemic economy, have extremely weakened it, restricting its scope of action. In this weakness one should seek one of the reasons why our country has no real thorough short-term, or medium-term, or long-term strategies of economic and social development of the country, but instead, it has a three-year plan of development compiled by the Government without consultations with the social partners, which has not been approved by Parliament; in this weakness one should seek its avoidance of the social partners whenever its interests run contrary to theirs. And here we also speak of interests that have to do with the present and the future of the country.

Today it is known that the main duty of the State with regard to the economy is the creation of better conditions for increasing national production and reducing unemployment, because the level of per capita Gross Domestic Product in Albania is many times smaller than that in other countries, and unemployment is really high (around 30 percent). The problem of unemployment becomes even more difficult with the return of a part of the emigrants from Europe. Under such circumstances, the increase of the national production and the reduction of unemployment in order for the employers to create jobs and for foreign investors, of which the weight is far from what possibilities and needs suggest, to do so, becomes really difficult. Being under urgent daily pressures, no to mention certain subjective interests, which make the problem even sharper, the State often harms the interests of business through its fiscal policies. Thus, the signing of the Free Trade Agreement with the World Trade Organization and with other countries of the region indeed obliges it to apply fiscal policies, which, in this period, directly affect the interests of many businessmen, making some of them go bankrupt; however, it is equally true that it should undertake the policies of business promotion, the lack of which will make them react and protest with Parliament.

Informality and corruption have become diseases of grave consequences for the image of Albania in the world; they also have a negative influence even in attracting investors. According to various sources, investment is around 50-60 percent. The informal entities deposit no liabilities in the State budget or in social insurance, whereas some others, using the mechanism of keeping double records and accounting balances, deposit lower payments in the State budget, report a smaller number of employees, for most of whom they do not pay any social insurance contributions. This activity increases considerably the profits of a group of businessmen at the expense of workers, of the revenue in the State budget and of the Social Insurance Institute, as well as of fair businessmen who are placed under unfavorable conditions of competition. Of course, these phenomena take place in Albania daily and no one can say they cannot be eliminated. But it is the interests of certain circles connected with Statesmen, it is the low level of the wages of employees and the high level of unemployment and it is the weakness of

various bodies of both civil and non-civil society, which leave free space for this ruining phenomenon to thrive.

In our opinion, those and many other problems may be laid down for solution only if the parties concerned have the will to solve the problems fairly, only if transparency and the required mechanisms of control are sought and offered, only if compensating legal alternatives are sought and found to promote business, and only if the law is applied equally to all. This is the right way to overcome the conflicting interests of the State and business and bring about positive results in the work of the National Council of Labor.

The State partner, because of the above-mentioned reasons, in some cases, does not take full consideration of the demands of the Trade Unions even when they are discussed in the National Council of Labor, giving an example that leaves a bitter taste related to the failure to implement the law. To this end, it is sufficient to remember the definition of the minimum standard of living, of this "measurement unit of poverty", which, according to the Labor Code and the Law on Social Insurance, should be officially made public by the Government, as well as of the minimum wage, which should be constantly indexed on the basis of the increase of inflation. It is known that those are important indices for the determination of many other economic indices and of the well-being of the population, that those are changeable in both space and time, and therefore they should be calculated on a daily basis throughout the year, remaining the pure work object of the Trade Unions and one of the most important issues to be dealt with in the National Council of Labor. If, until the end of the last decade, the Governments did not deign to discuss such problems *en bloc*, last year, for the first time, the Council discussed the study on the minimum living standard, which has not been announced yet. When the minimum wage was set in 2003, the Government did this on one-sided bases. Also, there have often been cases where the increases of wages were below the increasing rates of inflation. These actions, which are a bad example of the implementation of the law and gravely harm partnership and social dialogue, are influenced by many factors, of which the principal one is the impossibility to ensure the living minimum through wages. But we think that the chosen approach is not only far from the consensus indispensable for a fruitful work on the part of the Council, but it also has other negative influences.

The position of the State partner in relation to the organizations of the employers and Trade Unions in the National Council of Labor has been privileged not only because of its function in the past, not only because of its legal and implementation powers, but also because of its representatives in the Council, who, as far as the problems discussed there are concerned, have greater arguing strength, since the whole pyramid of the relevant Ministry works for them. The other partners do not, and will not, have these possibilities for a long time in the future; besides, even their representatives in secretary's offices and commissions are all State employees. Therefore, until now, the proposals related to the topics of the meetings of the Council have also come from the State representatives. To balance this situation to a certain extent, we think that two paths should be followed:

- *Full membership in the National Council of Labor of two or three experts in these problems, who have no conflicts of interests;*

- *Setting up at the organizations of employers and employees of permanent study bodies, or of bodies that work for them, until the conditions are created for the latter to become permanent.*

Reaching of the collective employment contract on national and branch bases between the Government and the Trade Unions was an act done in the right direction. The first agreement was reached in 1996 between the Government and BSPSH; in 2002 we have two agreements of this kind, following the two-month pressure of the Trade Unions – between the Government and BSPSH, and between the Government and KSSH – and in 2003 there came the agreement between the Government and the Trade Unions, a new experience that is worth mentioning, because, for the first time in the history of Albanian pluralism, both confederations maintained the same attitude towards this issue of such importance, and the range of the problems laid down for solution was not only incomparable with previous ones, but it also acquired the proportions of an agreement, which can be fairly called the “agreement of the social peace”¹⁴. Without dealing with the previous agreements at length, the main duties laid down for solution by the recent agreement may be summed up in the following:

- the analysis of the work concerning the application of the agreement should take place twice a year;
- holding of the Tripartite Labor Conference;
- particular setting of the wage increases and of their indexing;
- drafting of the program for the wage and pension increases, so that the living minimum is ensured;
- consultations with the Trade Unions concerning the draft-budget of 2004;
- consultations with the two confederations concerning the making and implementation of the privatization policies;
- measures to soften the consequences resulting from the reconstruction in the electric and power sector, etc.

It is evident that until now these important duties and some others, which are useful for the present level of economic and social development and for enlivening and vitalizing partnership and social dialogue, have not been performed by the Government in accordance with the schedule made to serve this purpose, as was the case with previous agreements. When these problems are ignored at a central level, their negative influence below is much higher.

The agreements signed between the federations of the Trade Unions and governmental institutions, regardless of their making an important step forward, have a great shortcoming because, firstly, there is a lack of the representation of the organizations of employers, which have several organizational problems. Consequently, agreements signed with the ministries that cover construction, trade, light industry, etc., which are generally privatized, are less fruitful, because they are not signed by the employer, i.e. by the person who is asked to, and must, implement them. This of course is one of the reasons that in Albania only 30 percent of employees have employment contracts at a time when in Europe, as reported by the Institute of Labor of the European Confederation of the Trade Unions, 50-98 percent of the employees work on the basis of employment

¹⁴ Employment Bargains and Contracts, Tirana 2003, p.25.

contracts.¹⁵ The lack of employment contracts runs contrary to the first requirements of the International Labor Conventions, of the European Social Charter, of our lawfulness, and it has cleared the ground for the development of informality and corruption; secondly, Trade Union movement being fragmented, the same governmental institution is required to sign similar agreements with several Trade Unions, a thing which will have its consequences during their application. These and other problems lead us to the conclusion that probably one of the ways out of this situation, under the present circumstances, would be *to find mechanisms for imposing sanctions in the cases of failure to apply the agreement, and meanwhile, as regards employment contracts, it is necessary to extend the degree of their use, asking the bodies of central and local power to use all the legal means to force the employers to sign them, as well as the judicial bodies to impose strict sanctions in the case of their violation.* To execute this legal right, the representatives of the Trade Unions should be much more resolved and persist in having their contracts observed.

In partnership and social dialogue, the Trade Unions are powerful partners. If they are connected with the State because of the interests for the development and consolidation of democracy, for the preservation of peace and social stability, for increasing the well-being, and for the observance of the basic human rights and liberties, their ties with the organizations of employers are even stronger because the employer and the employee are connected as if they were Siamese brothers and cannot exist without each other. Yet, regardless of this, they have conflicting interests. If other conditions remain unchanged, the wage increase leads to reduced profits and vice versa. To establish the balance socially acceptable at any period, of consequence are the economic and social situation of the country, the organizational strength of each party and the State policies.

Political pluralism created the conditions for the development of a true Trade Union movement, and it is evident that the latter played a great role in overthrowing the dictatorship. Through the efforts to protect the interests of workers and of the poor strata of population, the **Trade Unions** grew up, gained experience, and realized that, without inter-trade unionist collaboration, regardless of political beliefs, it is difficult to accomplish their objectives. However, we have to point out the fluctuations of the problem and stress that much work is needed to make them healthier. Among the main issues, some are worth mentioning:

a) Enlargement of membership. Although this is a permanent duty, in the actual stage, it has become extremely indispensable, because the number of the members is very small. According to the data of the Trade Union federations, in 2002 the number of the Trade Union members who pay membership fees in the public and non-agricultural private sectors respectively represents only 17,2 percent of the total number of employees in these sectors¹⁶. Transition and restructuring of the economy, the closing down of many large and medium-sized enterprises and fragmentation of production, increase of unemployment, etc., have directly lead to the reduction in the number of employees, and consequently of Trade Unions membership. But this can by no means justify its low level in relation to those who have jobs. The reasons should be sought in the great difficulties of

¹⁵ Labour Market in Albania, Tirana 2000, p.52.

¹⁶ The materials of the Trade Union Organizations.

finding jobs, in the pressure exerted on certain owners, in the weakness and incapability of the State to respect and protect the legal rights of employers and, last but not least, in the weak work done by Trade Unions themselves. Only in this way can we explain the paradox that, on the one hand, the rights of workers are violated and, on the other, Trade Union membership is small and the Trade Union movement is weak.

The overcoming of the situation lays down before the organizations the need to change the forms and methods used until now for the extension of the membership network both in cases where there are and there are not members in the relevant sectors. It is unacceptable that still in many private businesses there are no Trade Union organizations and their influence is almost non-existent. According to polls, only 20 percent of the businesses in the private non-agricultural sector have Trade Union organizations, that is, the workers of 80 percent of the businesses are unprotected, without employment contracts, and at the mercy of their employers. It is understandable that there is no room for the application of the requirements of Labor Code concerning working times, wages, social insurance, etc. Moreover, there are even cases where businessmen do not allow the creation of Trade Unions and hinder the exercising of their activities, in accordance with the requirements of the law. There should be put an end to hindering and the absence of Trade Union organizations in several businesses with foreign or joint capital, because they are expected to emanate Western positive experience even in this field.

b) Reflection of Trade Unions work on the grass roots. The low level of the Trade Union membership is a result of the insufficient work on grassroots level. It is sad but true that their work and role is almost non-existent below. According to polls conducted by the Labor Institute of the Trade Unions, only 4.6 percent of the polling participants think that Trade Unions work well, 30 percent think they do very poor work, whereas 51 percent provide no answers. This data, on which any comment is pointless, lay down before the Trade Unions the need to better rearrange the course of their work so that, along with the treatment of major problems, they get down to the daily concerns and problems of employees, because this will further strengthen the Trade Unions and will give them the weight required to more easily solve even major problems.

c) A better coordination of work among Trade Union organizations and the efforts to eliminate their fragmentation. Albanian legislation allows the creation of Trade Union organizations with 5-20 members, but requires that they get registered in court. This, of course, is an unavoidable democratic act under the conditions of the fragmentation of the units of production and services, and aims at creating the best possible conditions for the organization of the Trade Union movement to protect the interests of employees. Consequently, there were created a great number of Trade Union Organizations, which, for a small country like Albania with a small number of employees, we think is both unnecessary and harmful. We stress this because there are many parallel Trade Unions, some of which are phantom Trade Unions, as they have no members, no employment contracts, and they have no offices or staff of their own. Under such conditions, they fail to have any effect on bringing employees together, rather, they succeed in dividing them. With respect to this, even the application of the law, which requires the registration of Trade Union organizations in court, has had its own influence.

Although this law aimed at giving the Trade Unions the legal status and, consequently, the authority as defined by law, the requirement to have the name of their founder registered at the court practically lead to the concept that the Trade Union is his/her own property, and he/she has often changed into its real owner, violating seriously the internal democracy of the organization and acting contrary to Trade Union interests.

It is known that the real strength of Trade Unions is their membership and, when based on the law, they become even more stable. Therefore, in order to avoid the feudal concept that we often encounter among their founders, it would be right to find ways and means of avoiding the names of their founders, namely, the creation of Trade Union organizations should not be treated like that of business companies. Probably there ought to be sought other mechanisms to avoid phantom Trade Unions and reduce their number, such as the creation of branch-based federations, etc.

To strengthen the Trade Union movement, it is both necessary and indispensable to coordinate the activities of their organizations concerning the major problems, and such coordination should begin from smaller units down to the two confederations. With regard to this, there is positive experience. Some similar federations that are member to BSPSH and KSSH have reached joint agreements with the relevant institutions, thus helping each other. But there are other similar federations, which do not have relations of collaboration and consider one another as adversaries, and this practice should have already been overcome. Regardless of the political beliefs of their leaders, it should be realized that the interests of employees that they represent are the same everywhere and that if Trade Union split-up may be useful to someone, it is not to the employees themselves. The fragmentation of Trade Unions is the best way to paralyze their activity and leave employees without any protection.

It is positive for the entire Trade Union movement that the relations of collaboration between the two confederations have been increasing. But we think that, as the experience of the most developed capitalist States suggest, it is high time *to create a central trade-union body* with the participation of the confederations of Trade Unions, and of the independent federations outside these two confederations. The object of this organization will be the protection of the interests of employees and sharing the same opinion concerning the problems to be discussed in the National Council of Labor. At the same time, subordinate to it will also be study and vocational training centers of the trade unionists.

d) Implementation of the law for employment contracts. The entire work of tripartite social dialogue, in a sense, is materialized in reaching and executing the collective contracts below. Although labor legislation may be good, although many agreements may be reached on national and branch bases, their impact will remain non-existent unless employment contracts in the business units are not concluded and executed. Unfortunately, the level of work with respect to contracts in our country is very low, especially in the private non-agricultural sector. There are various reasons, but here are the most important ones:

- The poor work of Trade Unions, of which the organizations are non-existent in many businesses;
- The informality of a considerable part of the non-agricultural sector, which leads to the open hindering of the creation of Trade Union organizations, and

to the failure of owners to strike employment contracts. The worst thing is that work without contracts is observed even in many joint enterprises, and several times in the State sector as well.

- The insufficient work done by the relevant State levels to impose the application of law, etc.

In daily practice, we encounter efforts made by various employers to replace the employment contracts with personal ones. We deem it right that Trade Unions persist in signing first the collective contract, because in this way the employees get objectively united to protect their rights.

The lack of employment contracts has very grave consequences for employees, favors informality, corruption, and unfair competition. The insistence of Trade Unions that each worker should have his/her own employment contract would directly contribute to making the economic and social environment healthier, and it would also be an efficient means for the extension of membership, because the employees would directly benefit from the work of Trade Unions. As regards this crucial issue, we think that it is more than indispensable for the State to do more organized work for the application of law.

These and other problems would be less serious, if there were no fluctuations in the activity of Trade Union organizations, which have resulted from the dynamics of the transformation processes in the market economy, from the lack of experience, politicizing and the weaknesses in the work of Trade Union leadership, from the interests of the organizations of employers and the State. In short, their causes may be summed up as follows:

Firstly, the distribution of the properties that belonged to the former communist Trade Unions. The giving of the properties to Trade Unions by the democratic Government aimed to make them economically independent from the State and thus create the real basis for their good functioning and coordination. But in practice, this took another course. Starting with the division of the properties up among the Trade Union organizations down to their administration, the conflicts were inherent, disappointing many militants.

Secondly, privatization did lead to the fragmentation of property and together with it to the decrease of the workers' concentrations in the increase of unemployment. This should have been an envisaged process and, through more qualified work by all the parties, some of its consequences might have been reduced;

Thirdly, the spirit of dictatorship in Trade Union movement. This has not been caused only by the mentality of the past, but it also was nourished on individual economic interests of several Trade Union leaders, and their efforts to take hold of Trade Union properties, or of their income. All this was accompanied with great split-ups among them, which weakened the Trade Union movement considerably;

Fourthly, the support of the State for the Trade Union movement was a conditioned one. This was the reason why representatives of the Trade Union movement were often brought face to face with post factum even concerning problems belonging to them, a thing that would influence the determination of Trade Union leaders to continue their own work, the employees below included.

It is important to stress that in the new millennium one can identify signs of considerable change in the work of Trade Unions, in overcoming the internal conflict situations, in their better structuring, in their efforts to be present in all the

prefectures and branches, in their functional connection with the Government and the organizations of employers, in presenting and advocating the most serious problems, etc.

To successfully develop partnership and social dialogue, the **organizations of employers** play a special role, because the economy is going towards complete privatization and the actual private sector has the major weight in the Gross Domestic Product and in employment. It is already known that organizations of the employers are indispensable for the market economy, and the approved legislation has made their coming into existence possible. They, as is the case with the Trade Unions, have kept on increasing, have extended their domestic and international relations, and their activity for the protection of the interests of the fair business has marked improvement.

Yet the experience gained until now shows that the organizations of employers have not played the assigned role properly in discussing and solving the economic and social problems of the country as efficiently as possible. To realize this and a representation of higher dignity in the National Council of Labor, there arises the need to improve work in the following directions:

a) Increase in the number of the businessmen members of the organizations of employers. It is true that these organizations have a relatively small membership number. Polls show that only 20 percent of the businesses are members to them¹⁷. Under such conditions, it is difficult to think that they would be able to play their assigned role, that they would be able to protect the interests of the employers and render their required contribution to the social and economic development of the country and to the National Council of Labor. There are many different reasons, however, the most important one is connected with the relatively small interest of the businessmen in directly dealing with the problems under the conditions of increasing informality in the economy and, thus, only a few of them feel the need of being organized. For the time being, they are interested in personal agreements with State representatives or others concerning certain problems profitable for them, such as the finding and acquisition of construction sites, etc., and they care little about the need to create a favorable environment and establish the legal regulations necessary for the solution of all these problems without going through too much trouble. They themselves pay a high price for the consequences of this, not to mention here employees and the economy as a whole. Fragmentation and the level of development make it possible for them to often fail to realize the progress of processes in due time; they come to realize the problems and the consequences related to them only after those are submitted for discussion at tables, as was the case with the Agreement on Free Trade, or with several fiscal policies.

The organizations of employers, as representatives for the protection and development of fair business, have the duty to find ways and means necessary to extend their membership, make people realize and become interested in joining them, a thing that would be a useful contribution to reduced informality and corruption and to the development of fair competition. The organizations of employers are pure organizations of entrepreneurs to protect their legal interests and therefore neither the Chamber of Commerce nor any other organization can

¹⁷ The materials of the organizations of employers.

replace them. It is time to make it clear that staying outside the organizations of employers is both unfavorable and harmful for them. Hence, the strengthening of the role of these organizations would greatly increase their weight in relation with the Trade Unions and with the State to provide optimal solutions to the tasks arising from the economic and social development of the country. We think that, in increasing the membership of the organizations of the businessmen, the State plays an important role, and it must persist in the implementation of laws and in eliminating informality in the economy.

b) The extension of the organizations of employers on branch and territorial bases. The development of real partnership and social dialogue is practically impossible without the physical presence of the partners in the entire pyramid. Partnership and social dialogue are not to be found only in the center, but they must be present in branches and territories, a thing that would have a very positive impact on the improvement of work in the center. Trade Unions find it always easy to find their partners in a branch or district. Therefore, work that is more careful is required to territorially extend the branch-based existing branches, and create them on the bases of local organization, as is the case with the organization of the other partners. The State cannot continue to allow certain businessmen to keep on working without employment contracts and other obligations that result from them.

c) A better coordination of work among the organizations of the employers. If it is required for business to properly play its assigned role in the National Council of Labor and in the whole life of the country, then it will be considered as indispensable that all the organizations of employers carry out work that is more careful in order to come up with the same opinions in the Council. We stress this because both theoretically and practically it has been proved that the lack of coordination of the activities among them has negatively influenced the protection of the interests of businessmen and fair competition.

Along with the measures for the further consolidation of partners and of the Council, the enhancing of the role of partnership and social dialogue is connected also with the work of the other links, starting with the Parliament down to the local government. Thus, for example, it is true that the bodies of employers and Trade Unions have presented their concerns about important problems to the relevant Parliamentary Commissions, finding the approval of the deputies who are members of them, but no solution has been provided, as is the case with the demands for announcing the official living minimum or for the revision of the Law on Social Insurance, etc., or the Parliament has examined and approved several laws, such as that on the State budget, that on the revision of the retirement age, etc., without having collected the opinions and recommendations of the National Council of Labor first. We think that it is time for Parliament to better focus on the "parliament of labor" and help the latter to become stronger as soon as possible. This aim would be also served by the demand to collect the opinions of the National Council of Labor whenever they discuss about draft-laws on social and economic problems. Strengthening of the partners and enhancing of the level of social dialogue are impossible without the correct implementation of the law and without the support of the judicial bodies to solve quickly and fairly, in accordance with the law, the problems arising from life. We stress this because we find it strange that a trial has gone on for five years and has had 60 sessions, only because a new Trade Union organization has been created parallel with the name of an existing Trade Union, a

thing that runs contrary the Albanian legislation. These and some other cases have a negative impact on their being trustworthy, consume too much time and worsen their financial situation.

We think that the judicial bodies must be sensitive and move more quickly while having to do with abuse and bad administration of the properties belonging to Trade Unions. We do not find it right that violations observed by the State Control concerning the administration of properties belonging to Trade Unions failed to become subject to examination at the courts, and those who had committed violations were not brought to court.

Seeing the whole process of tripartite social dialogue in the course of its functioning and under the concrete circumstances that our country is going through, we can say that there are useful achievements and possibilities to forge ahead to the benefit of the transformation and of faster and steady economic and social development of the country, of social peace and harmony.

C. Conclusions and Recommendations

The collapse of communism, the establishment of pluralism and promotion of free initiative, the legislative and institutional reforms, the creation of the required environment and the willingness to develop economy at fast rates and in accordance with the laws of the market economy, regional and Euro-Atlantic integration, etc., were the first conditions for the birth and development of the process of partnership and social dialogue in Albania. This process has its own natural evolution; a thing that is clearly reflected in the following major directions:

Firstly, the institutions of tripartite social dialogue have been set up, and are being consolidated. We mention here the setting up of the State structures designed to serve this aim, the emergence for the first time after more than a century of a true Trade Union movement and the establishment of the organizations of employers, which all together allowed the creation in 1996, for the first time in the history of Albania, of the National Council of Labor and of its required structures. Within this short time frame, together with structural improvements, its activity has kept on growing efficient with respect to the recommendations for the perfection of the legal system, for changes in some directions of the strategy of development of the labor market, for the living minimum, etc.

Secondly, we can say that, along with the setting up of the institutions, there was created and approved the indispensable legal system, such as the Constitution of the Republic of Albania, the Labor Code, many individual laws, etc., including the ratification of many International Conventions. Through the amendments made to laws and sub-legal acts, there was created the legal package necessary for the normal functioning of partnership and social dialogue.

It is difficult to think that all these would have been achieved without the help and support of international institutions, especially of the International Labor Organization, of which contribution has been rendered in various directions, starting with the creation of possibilities to become familiar with global experience and benefit from it down to the sending of its specialized teams of experts to help realize the structural development and the necessary perfections, and manage the organization of useful activities, etc.

Partnership and social dialogue, as a new practice in a country in transition, has of course issues that should be further improved and perfected in the future. We think that the main directions to realize these would be the following:

Firstly, overcoming of the deficiencies of organizational character, starting from the organization of the meetings of the Council down to its real financial independence. No positive results can be expected in the case where the pyramid of the tripartite social dialogue meets once in 16 months, and therefore we **consider improper the recent decision of the Council of Ministers, which removes the compulsory duty of the National Council of Labor to convene at least four times a year**. The failure of the Council to function as required has also been reflected in the work of the tripartite commissions, which are generally anemic, and in fact in the failure to set up tripartite structures on branch and territorial bases. The National Council of Labor should be both organizationally and financially independent.

The shortcomings of organizational character are inherent even in the functioning of the organizations of employers and of Trade Unions themselves. We can mention here the relatively low level of their membership, the great number of Trade Union organizations and their failure to properly coordinate their work (the same is true with regard to business organizations), their insufficient extension on branch, territorial, and business unit bases, the dissatisfactory level of work based on contracts, etc. To avoid some of them in the Trade Union movement, we think that it would be fruitful to pay greater attention and find the most suitable mechanisms for **increasing their membership and better reflecting their work below, for registering Trade Union organizations in court, for eliminating the phantom Trade Unions, and for reducing their number through federations on branch bases, etc.** Meanwhile, as regards the organizations of employers, **a duty of primary importance remains the increasing of membership, their consolidation on a central level, and finding of ways and means for extending them on branch and territorial bases.**

To enhance the role and strength of the Trade Union movement, proceeding also from the positive world experience, we think that it is time **to create a central inter-trade unionist body**, with the participation of the Trade Union confederations and of the independent federations as well. The object of its work will be the protection of the interests of employees and the unification of the opinions concerning the problems to be discussed in the National Council. At the same time, subordinate to it will also be study and vocational training centers of the trade unionists.

To make the National Council of Labor function better and its name to respond properly to the object it covers, it is recommended that **it should be at least subordinate to the Deputy Prime Minister and have the name "National, Social and Economic Council"**. Of course, this also requires the enhancing of the role, responsibility, and the good functioning of Trade Union organizations and of employers in all levels.

The Council now being very dependent the State employees, to better cope with the duties and protect the interests of the Trade Unions and of the organizations of employers, we consider it necessary to include also in the Council **two or three unbiased experts who have no conflicting interests, until these organizations manage to create qualified structures.**

Secondly, ignoring of the social partners by the Government while dealing with the main problems that preoccupy the country, such as the strategy of social and economic development and of poverty reduction and that of privatization, setting of the living minimum, of the minimum wage, of the pensions level, etc., the opinion is that it is indispensable and recommended that, within the framework of the Council, there should be organized a thorough study concerning the problems related to the living minimum, to the minimum wage, to the level of the pension and social aid, at the actual stage of the development of the country.

Thirdly, a greater and stronger will is required to find ways and means to put the recommendations of the National Council of Labor into practice. The duties of the whole State pyramid concerning this issue are of primary importance. The State being a law-making and executive body, its action or lack of action in applying the recommendations of the “parliament of labor” are of decisive importance for enhancing or reducing the authority of this “parliament”; meanwhile, the fulfillment of the requirements of the collective agreement of employment is an evidence of the seriousness of the State, whereas permission of work without employment contracts is an evidence of its incapability to insist on and realize the implementation of the law.

Increased partnership and social dialogue requires the enhancing of democratic culture. Therefore, it is the duty of the partners and of other institutions to render their contribution in this respect, to set up research and training centers designed to help and explain the labor legislation as clearly as possible, to make the citizens fully aware of their own rights and duties. With regard to this, better work should be done when it comes to the mass media.

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