Info.Base:

Information and Consultation

– Base for Responsible and Active Participation of Employees in Public Sector

Info.Base: Information and Consultation – Base for Responsible and Active Participation of Employees in Public Sector

Project **"Info.Base: Information and Consultation – Base for Responsible and Active Participation of Employees in Public Sector", VS / 2014/0050,** financed by **European Commission - The Directorate-General for Employment, Social Affairs & Inclusion was implemented by National Federation of Trade Unions in Administration (FNSA)** in Romania from **1st November to 30th November 2014.**

Partners of the project were: **The National Agency of Public Servants (A.N.F.P.)** in Romania and trade unions from Bulgaria, Serbia, Montenegro, Lithuania, Poland, Spain and Malta, i.e.: **National Federation of Commerce, Services, Customs and Tourism CL Podkrepa (T.U.K.O.T.)** — Bulgaria, **Granski Sindikat Uprave, Pravosuđa Policije "Nezavisnost"** — Serbia, **Unija Slobodnih Sindikata Crne Gore (U.S.S.C.G.)** — Montenegro, **Lithuanian Trade Union Federation of Public Services** — Lithuania, **The All-Poland Alliance of Trade Unions (O.P.Z.Z.)** — Poland, **Federación de Servicios a la Ciudadania de CCOO (F.S.C.)** — Spain, **General Workers' Union (G.W.U.)** — Malta.

The objective of the project, which was confirmed during its implementation, was to increase involvement of trade unions from the public sector by acquainting them with the EU legislation and policy in the area of information, consultation and active participation, so they can exert influence on making decisions regarding a public sector. At the same time, implementation of the project provided an opportunity for the exchange of the best practices and the EU legal acquis between member states and candidate countries.

Consequently, **two Conferences and two Working Workshops with participation of representatives of all partners were prepared and organized. Their objective was** information and consultation through analysis of the EU law and policies with regard to employee involvement, with particular emphasis on the Directive 2002/14/EC and monitoring the process of its implementation in the national jurisdictional of partner countries that covers the area of public sector.

Therefore, an Inaugural Conference of the project was held in Bucharest (Romania) on **18th and 19th March 2014**. During the conference, the main objectives of the project were presented and then all partners presented the ways of implementation of Directive 2002/14/EC in the scope of public services at the national level. A discussion was also carried out from the perspective of current challenges and expectations related to a social dialogue in the public services sector in Europe, highlighting the need for active participation of trade unions in promoting the right to information and consultation with employees. The conference created good conditions for their participants to share the best practices in the scope of information and consultation, the possibility to define needs in this respect at the national level, as well as present problems and draw

attention to the situation in the public sector in both member and candidate countries of the EU.

First **workshops** were held in **Belgrade (Serbia)** on **17th June 2014.** They provided an opportunity for the partners to analyse the possibilities created by Directive 2002/14/EC with regard to a social dialogue in the public services sector, seeking solutions jointly to improve the social dialogue in the public services sector in Europe and create negotiation methods that might be used in the social dialogue in the public services sector. Materials presented by a Romanian expert, which constitute **Attachment No. 1** placed at the end of this publication, were the grounds for the workshops. The partners emphasized the need of greater involvement of trade unions at the countrywide level in preparing their members to improve knowledge and skills of employee representatives from the public sector, and thus ensuring a smooth process of communication.

"Participation of employees in the decision-making process reflects a relative balance between the forces of employee organizations and employer organizations, which have underpinned political and economic stability, development of democratic countries with market economies for decades. Simultaneously, such participation enables employees and trade unions to assume responsibility for development of strategy and economic policy of a company and introducing a multifaceted creative strategy to this strategy and having extensive knowledge. The rights to organise in trade unions and participate in collective bargaining are closely related to themselves, so they cannot be put into effect without simultaneous exercise of the right to information, consultation and participation in the decision-making process."- said a representative of a Serbian trade union.

The discussion on the legal frameworks of involvement in the project employees of the public sector from partner countries and the exchange of the best practices in the scope of a social dialogue in the public sector, with particular emphasis on examples and the ways to improve this dialogue, was continued during **Working Workshops** organized **in Sofia (Bulgaria) on 25th September 2014.**

"The success of any public or private organization that delivers services depends on trust of customers or recipients in quality of these services. Although the public option provides traditionally certainty as regards receiving a product or a service at a generally lower price, quality does not need to be overlooked. This could be explained by the fact that public/private duality experienced at some public institutions (transport, health, educations) results in refocusing their recipients on more customized or more satisfying quality of services, even though they pay more to get them. The criterion of quality is fully consistent with the basic principle of the public service that seeks to find the most suitable response to the needs of citizens. In addition, quality increases the level of trust among those who manage us" – contended a representative of Polish trade unions.

During the workshops, the ideas of the partners regarding a social dialogue and involvement of social partners were thoroughly discussed, and the initiative put forward by the Romanian Agency of Public Servants (A.N.F.P) as regards improving a social dialogue for public administration employees was well-recognized by all participants.

At the **Final Conference** that was held on **23th October 2014** in **Madrid** (Spain), discussion focused particularly on evaluation of the project results, but also on the ways of informing and consulting employees, the possibilities of acting and cooperation in the areas such as: the impact of information and consultation on the sector of public services, the best domestic practices in the scope of informing and consulting employees, the methods of improving a social dialogue in the public services sector.

As **conclusions** of the project and starting points for new activities in the future, meetings of trade unions and the regional public authorities were proposed to be organised by areas/sectors of the activities, so that a discussion can cover specific issues, development of new joint projects in the scope of information, consultation and active participation in the public sector to ensure continuity of this and other projects in compliance with social and economic realities.

Participation in this project revealed the partners care about initiating and developing a social dialogue at the national and European levels, as a condition necessary to improve quality of public services performed. It enhanced the role of information and consultation with trade unions as a base for responsible participation and contributed to improvement of international cooperation between partner organizations.

Implementation of the project in the atmosphere of close cooperation created equal opportunities for partners to share thoughts and opinions, experiences and the best practices, which was facilitated by the possibility to speak out in their native languages, thereby contributing to achievement of the project's objectives by each partner. Establishing high priority for sustainable implementation of the project elements in member and candidate states has led to dissemination of ideas and the project results among a wide target group in the EU and beyond, while experiences of the participating candidate countries brought benefits to the candidate countries in their efforts to join the European Union.

The activities taken within a project highlighted the role of social actors and partners in improving a European social dialogue and contributed to establishment of a platform promoting international cooperation in a culturally diverse Europe.

National representation of partners allowed to disseminate the results and conclusions of a wide target group and inclusion of the idea of informing and consulting trade unions as a base for responsible and active participation of a larger group of public sector employees - the representatives of partner organizations and stakeholders from partner countries and other members states of the European Union.

Attachment 1

Effective negotiation methods implementable in a social dialogue in the public services sector

In this presentation, I will try to make a general review of collective negotiations, emphasizing the factors that impact the level of unionisation and its effects, and I will indicate legislative elements that refer to collective bargaining, negotiation methods, features of employment contracts, etc.

Collective bargaining is extensive and complex, while negotiations in the public sector have specific features. Identification of managers, who control negotiations and make final decisions, is simple in a private organization. In a public sector, there are more participating decision-making factors: the government, ministries, local authorities, mayor and a president of a district council, if necessary. In addition, collective bargaining in a public sector is embedded in legislative and statutory frameworks that define who can be represented by trade unions, what negotiation topics and employee rights are in case of unsuccessful negotiations. And finally, political aspects can influence a negotiation process in a public domain. Tensions between certain civil servants and the groups that focus on political activities can influence a negotiation process. Public or management sector employees can attempt to use the existing balance of external political forces. The another key element is the status of people working in the sector, in the context in which trade unions in local and regional governments function, negotiate and are involved in a social dialogue. Are they ordinary employees or do they hold a special employment status that reflects the fact that they hold power on behalf of a state and as a part of an approach to public services in which a great number of people working in the public sector are subject to specific legislation? The name given to people with special status differs depending on a state. For example, in Germany and Austria they are called "Beamte", in Spain "funcionarios", and in France "functionnaires titulaires" – the terms are sometimes translated in English as "civil servants" or "public servants". Although specific terms of employment for people with special employment status differ depending on a state, in most cases they stipulate greater protection, more limited freedom and greater requirements in order to act in compliance with the needs of a state. For example, even though it is difficult to dismiss public servants with special employment status and they can enjoy a lifelong career warranty, there might be also specific rules governing the way of their employment and promotion. They may be also obliged to travel across a country as required by an employer and they might be subject to other disciplinary procedures than people employed in a private sector. The status of people employed in local and regional governments is important in the context of industrial relations, as it may influence the extent to which their remunerations and terms are subject to collective bargaining instead of being agreed unilaterally by a government through legislation process, and, in more extreme cases, it can determine if they are able to take industrial actions. Actually, in 16 out of 27 EU countries that went under analysis, at least some people employed in local and regional governments hold a special employment status, which differs substantially from the status of people employed in a private sector. The situation looks different only in 11 countries: in Cyprus, the Czech Republic, Ireland, Italy, Latvia, Malta, the Netherlands, Poland, Slovakia, Sweden and the UK. It does not mean that in all

these countries there are no differences between the status of people employed in local and regional governments and the status of private sector employees. For example, there are differences between the situation of public and private sector employees in the Netherlands. However, these differences are much smaller than before.
Nonetheless, although there are 16 countries in which some people employed in local and regional governments hold special status, the proportion of people holding such a status is very diverse. For example, in France almost four-fifths (79%) of people employed in local and regional governments hold this status, while in Estonia it is a very small group. The proportion of people with special employment status differs also depending on a tier of government in which they are employed. Generally, it is more probable that the special status is held by people employed at the regional or district level than the people employed at the commune level. For example, in Germany 61% of people at the regional level hold a special status (they include in most cases teachers, policemen or people employed in the judicial system), while only 14% of people hold the same status at the commune level. Likewise in Spain, where only 11% of people employed at the regional level include ordinary employees; the percentage grows to 51% at the province level and to 61% at the commune level. There is also a declining trend in the number of employees with special status in many states - at least in "old" member states that still maintain this distinction. However, the proportion of employees who hold special status has decreased as a result of deliberate policy to limit them only to "uniformed men and women", such as firemen, prison service personnel, the police and civil servants at a very high level.

Factors that influence sindication:

Some contemporary social phenomena that favour or inhibit unionisation are:
• Dissemination of draft laws on collective bargaining that allow employees from the public services sector to organise in trade unions and declare strike in some cases.
• Public administration employees are more willing to join a trade union than the ones employed in a private sector. It refers both to women and men. Strong support for unionisation by public administration employees is attributed to the conviction that a collective action is a better strategy in a greatly politicised employment sphere of a public sector.

The strongest anti-trade union forces are:
• The general propensity of management personnel to not involve in trade unions, which are traditionally related to an executive party;
• General lack of trust to the power of trade unions that is too common;
• Lower trust to trade unions in the effect of management personnel activities that aim to persuade executive personnel to neither establish not join any trade union;
• Counteracting syndication by management board by means of different legal measures and in other ways.

Why do public administration employees join trade unions?

The reasons for joining trade unions by public administration employees:
• Low salary and bad working conditions;
• Dissatisfaction with institution management methods;
• Concern about economic health of institution;

• Job insecurity and fear of job loss;
• Pursuit for increasing the level of involvement in the decision-making process.

Effects of sindication

From the management's perspective, there is a tendency to highlight aspects that are potentially negative for unionisation: no flexibility in management, more frequent disputes at work and growing labour costs.

Employees emphasize positive aspects: greater opportunities to express their opinions at work, remuneration, benefits and better working conditions, better access to information on reasons and motives for making managing decisions.

1. Remunerations and benefits grow in places where trade unions function

Remunerations and benefits for employees are greater than those which would be offered if no trade unions functioned. It is particularly important in relation to employees with lower educational level and younger employees with shorter work practice. The ability of trade unions to exert influence on the level of remuneration depends largely on their ability to maintain monopoly on a labour force. If a trade union can organise a substantial part of available labour force, it will have a greater impact that in the case when a large part of employees are not members of trade unions.

Trade unions have also a significant share in getting benefits for their members and other employees.

2. Trade unions decrease staff turnover

Decreasing staff turnover results from the fact that trade union members have already established their way to present their postulates and greater employment stability.

3. Trade union members have greater demands at a work place

We usually expect that a low level of satisfaction is related to high staff turnover ratio. However, a situation is different for trade unionists. Trade unions provide employees with a safe channel where they express their dissatisfaction, which encourages its users to be demanding. It may lead to higher level of dissatisfaction among employees, whose the main source are relations with employers and, secondly, working conditions.

4. Trade unions have a favourable impact on productivity

Three factors that may explain why trade unions have generally a favourable impact on productivity. Firstly, trade union members can express their problems, which is a factor that decreases employee turnover, what in turn generates greater employment stability. Secondly, although trade unions can incite industrial disputes, they can also establish stable and positive employment relationships. Positive work environment is related to high productivity, conversely, poor employment relationships in presence or absence of trade unions are usually related to low productivity. Thirdly, presence of a trade union may actually

improve management productivity, because it compels management to planning and development of reasonable practices in the scope of management, helping an organization to act more effectively and efficiently.

5. Trade unions increase substantially labour costs

Employees are satisfied with better remunerations and using numerous benefits, but net results show that trade unions have negative effect on expenditure of institutions.

Legal regulations regarding collective bargaining agreements play an important role when managers and employees cannot come to an agreement as regards terms of an agreement. Such a situation is called a deadlock. In case of a deadlock, law requires making certain steps before declaring a strike. Available alternatives: **conciliation, mediation and arbitration.** Conciliation proceedings and mediations are sometimes deemed synonymous, and sometimes they are distinguished.

Conciliation proceedings are related to using a third and neutral party who tries to encourage parties to solve a dispute in an informal (unofficial) way. A conciliator attempts usually not to go into many details, but he/she tries to encourage parties to make joint efforts.

Mediation requires participation of a third and neutral party who participates in solving a dispute in a more active way. Participation of such parties may be required by a statute before proceeding to any other trade union actions. A mediation process has a formal character and a mediator meets with representatives of two groups jointly and separately. A mediator can give recommendations for a solution, but they do not entail an obligation for neither party.

Arbitration involves a third and neutral person who listens to arguments of both parties and then he/she formulates decisions regarding solving disputes. Arbitration involves a formal process of investigation, when both parties put forward arguments and evidence to support their own positions.

Arbitration may take various forms. It might be obligatory, i.e., required by law, it might be voluntary, i.e. parties to a dispute may come into mutual agreement that they will comply with an arbitrator's decision. A common form of arbitration is called "an obligation" or arbitration of interests. In these types of arbitration proceedings, parties to a dispute present their opinions to an arbitrator who makes a decision in case of disputable issues. Depending on how arbitration is defined, an arbitrator may be made to choose either a manager or a trade union's position, or he/she may be entitled to build a new solution by reconciling positions of both parties. The latter type of arbitration was criticised, as it may inspire excessive trade union demands who harbour hope that an arbitrator will "narrow the difference". It may lead also to so-called a "narcotic effect" when parties get used to arbitration, reducing the possibility of serious collective bargaining.

An alternative type of arbitration of interests, which mitigates this problem slightly, is called arbitration of the "final offer" when an arbitrator is made to choose between management board and trade union's positions. Law might not provide

for arbitration proceedings, in case of which an arbitrator may make a final decision, as it may be deemed as usurpation of rights of the bodies appointed or elected who manage a public organization. In that case, another type of arbitration may be used, which is called a conciliation arbitration, in case of which an arbitrator gives recommendations for solving a dispute.

In the public sector, two types of arbitration of interests are usually used. The first deals with "each problem separately" and an arbiter decides upon each disputable element of an agreement, the second uses a "full package" approach, in which an arbiter chooses either a manager's proposal for the agreement or a trade union's one as a whole. Evidence confirms that using arbitration of interests decreases a number of strikes. Obligatory arbitration entrusts a lot of power to a third party.

However, procedures for solving disputes are an important part of collective bargaining.

If an agreement has not been reached through procedures of solving a conflict, the law on collective bargaining may provide for declaring a strike by the public sector employees. In such an event, law prescribes rules under which an employee organization shall notify employers of its intent to declare a strike.

Public servants' right to strike is a controversial issue in terms of its perception by a public opinion. The right to organise strikes in the public domain has its pros and cons.

Arguments for:
• Public sector employees should have the same right to strike as the one exercised by people employed in the private sector;
• Collective bargaining has low value, unless they are supported by threat of strike;
• Strikes are not organised so often to justify their limitations and they rarely threaten health or public safety.

Arguments against:
• Public employees deliver important services that should not be impeded by strikes;
• Public sector employees are not identical to private sector employees who are a part of a market economy system;
• Strikes can bring a serious impact on public safety and health.

The problem seems to be resolved for the benefit of the majority of public sector employees; the right to strike was included in legislation regarding collective bargaining.

Collective bargaining process

Despite the general model of collective bargaining process, no event is identical to any other. The results of collective bargaining come from a subtle process of interaction between various factors. They include:

1. Attitudes and personality of people

The people who participate in negotiations bring their individual personalities to the negotiating table, their attitudes, history of their life, values, skills and abilities with regard to interpersonal and group relations. The way in which every man reacts to a conflict, confrontation, flattery and even long working hours can have a substantial impact on the result of negotiations.

2. Situational influences

Power relations between parties are of significant importance. The more equal power of parties is, the more effective a negotiation process is. The general attitude of trade unionists and administration outlines a context for a negotiation process. A strong negative bias may hinder effective negotiations, while a strong positive attitude can foster them. There is a tendency to perceive collective bargaining as a negative process. It is natural that a manager opposes trade unions. Trade unions pose at least a threat for the ability of management personnel to have a control over a work place. In places where trade unions do not function, management personnel may act individually if they function in compliance with legal order. In addition, they can assume that establishment of a trade union will divide an organization, which has not happened before. The problems that could be solved in an informal and friendly way change into formal complaints that need to be considered in compliance with statutes and specific rules. Managers' freedom of action is limited and opposing relations emerge.

Managers, particularly in the public sector, may also feel that establishment of trade unions will prevent them from reaching goals. Instead of spending time on development and maintenance of public services, time and money are wasted on negotiating agreements and handling complaints and accusations of unfair work practices.

Negative bias leads to continuation of negotiation procedures by both parties. Colosi and Berkeley call them Theory U and Theory M according to Mc Gregor's X and Y Theories (Theory X states that people do not like working and should be forced and punished to work, they like being guided and living without duties and want safety at work, while Theory X states just the opposite, namely, that people work willingly, do not like being under control and supervision, do not reject responsibility, and, although they want safety, they have also other needs of self-fulfilment and self-respect).

Trade unions act in line with the paradigm of Theory U that includes assumptions under which:
• a manager tries to pay employees the lowest remuneration possible for the greatest amount of work;
• a manager will introduce any technological improvements which make employees work better;
• a manager hinders from establishing trade unions by using tactics of manipulation and compulsion;
• a manager will punish a supporter of a trade union whenever he has the opportunity;
• as managers are inflexible, strikes break out.

On the other hand, managers have a completely different set of assumptions (Theory M), including:
• employees demand incessantly more money and less work;
• trade unions impede all forms of technological advancements;
• trade unions use manipulation and compulsion tactics;
• strikes are caused by unjustified trade unions' demands.

The above axiomatic values may have influence on the negotiation process and attempts must be made to limit a potentially negative impact of such convictions.

3. Environmental factors

They cover respective legal regulations regarding collective bargaining, financial conditions of institutions, objectives and tasks of an organization, organizational climate, local and domestic economic environment and history of industrial relations.

4. Negotiation skills and strategies

Techniques and approaches used in the negotiation process determine their results. Negotiation strategies based on distrust and hidden messages can potentially lead to difficult negotiations. The way in which each party presents its opinions, uses its power and communicates plays an important role.

5. Philosophy of negotiations

The method of negotiation used by management should depend partly on a wider management philosophy and on understanding political and fiscal reality in which a given institution functions. Instead of getting negative bias based on "unfriendly" assumptions in relation to trade unions, it is better for a manager to assume a positive approach, emphasizing the importance of services' quality and high standards of professional performance. It is important to note that although a board can reserve a right to planning, choosing policy and making personal decisions for themselves, it is not prohibited from consulting employees in these matters and develop good communication with employees to improve quality of decisions. In case of an employment agreement that retains entitlements of management, while denying the rights of crew, it is unsurprising that it will result in worse services and fall in productivity.

A negotiation process requires that both parties sit at the negotiation table and endeavour to solve their problems in the spirit of sincerity and in good faith. It is called an obligation to negotiate.

Once a trade union is registered, a board is obliged to run negotiations with this trade union. Management should not negotiate individually, but only with representatives of trade unions. Negotiating in good faith means that parties agree to meet within reasonable deadlines and discuss elements of a collective employment agreement and other rights. A board is obliged to be open and sincerely interested. It does not mean that employers or trade unions consent to make particular concessions, yet it means that a manager or trade union that refuses to conduct negotiations is blamed on unfair practices at work.

To show good faith, management must use some tips that include:
• Choosing negotiators with recognised authority;
• Providing essential information on the request of trade unions in a due time;
• Avoiding one-sided actions;
• Avoiding proposals in type of, e.g. "If you agree, it is OK, otherwise there is nothing to talk about";
• Avoiding the attempt to ignore representatives of trade unions by direct meetings with employees;
• Avoiding statements that suggest that a manager is not going to sign an agreement.

Areas of negotiations

There are three types of issues: obligatory, prohibited and possible. The topics that must be negotiated by a manager are called obligatory issues. Prohibited topics are those which would violate law regulations or are prohibited by laws on collective bargaining.

Possible topics are those which could be proposed both by management and employees and which could be rejected for negotiations by both parties. In case of these topics, management must be very careful not to lose authority during negotiations. For example, management should not resign from this which is called "managerial prerogatives" or "management rights". These rights are traditionally deemed to be exercised by management. Certainly, many entitlements granted to management are interested for trade unions. The way of promoting, transferring and disciplining people is of interest for trade unions and trade unions themselves make collective efforts to undermine management rights to make these decisions.

The stages of collective bargaining

Collective bargaining has different stages before a final agreement is signed.

Stage 1: Preliminary negotiations

This stage includes preparing to negotiations with trade unions. First preparatory steps that need to be taken:

1. It is recommended that this group has a main spokesman, legal adviser and a person responsible for staff matters and a financial specialist. It has been highlighted that it would be better for a director not to be a member of a negotiating body, thus he/she is not involved in personal disputes. A specialist, who will play a role of a main negotiator until the end of negotiations, may be appointed.

2. A review of an agreement with particular attention paid to official complaints. It will help in establishing future postulates of trade unions. However, if it is a first agreement negotiated, a board must try to identify the most important points where complaints made by employees might occur.

3. A review of an agreement to identify the problem areas. Some elements might have been unclear or caused increase in costs. These elements must be specified as areas of a potential change in a new agreement.

4. Collecting information on the costs related to a current agreement. They cover remunerations and other pay benefits.

5. Collecting demographic data on current crew and the number of employees within each job category. This data will be required for proper forecast of extra costs, benefits and remunerations proposed by a trade union.

6. Collecting information on other collective agreements and trends in collective bargaining. It is important to monitor development of situations that evolved in other institutions and define trends. It might help in forecasting demands of trade unions.

7. Forecasting and analysing postulates that are crucial for trade unions. Determining costs of each demand and their impact on authority and managerial power.

8. Projecting a budget and forecasted revenues to meet the costs of a projected agreement and retain a competitive position on the labour market.

9. Establishing a communication structure that allows administration, council and a negotiating body to discuss problems quickly and effectively, as they arise during negotiations. In some cases trade unions try to bypass a negotiating body of management, going directly to management members. Good communication minimises effects of this strategy. It is also important that a negotiating body of management maintains good communication with supervisory authorities. It is also important that a negotiating body of management personnel has good communication with supervisory authorities. As the supervisory body often maintains direct and close relations with employees, it might provide necessary information regarding positions of employees during negotiations.

10. Developing contingency plans if an agreement fails to be reached and a strike begins.

Stage 2: Formulating proposals and negotiating

At this stage, both management and trade unions may submit their proposals and counterproposals. Traditionally, a trade union submits its proposal first. A board might response with counterproposals or present a whole range of new conclusions based on their own view of the situation. In both cases, presenting proposals for negotiations, a board and trade unions can identify the most important conclusions for both parties and potential points where a quick agreement might be reached. At this moment, the whole situation might look like a theatre, as both parties try to establish their positions.

This stage of negotiations includes three parts.

Firstly, distributive negotiations from the initial stages of negotiation process, when parties try to test their limits by expressing their demands in an uncompromising language and style. It might be achieved by using confrontational or argumentative tactics.

The second part includes integrative negotiations when parties are more flexible and willing to change previously established and presented line. A language and non-verbal skills play an increasingly more important role at this stage. The tone of negotiations is likely to change and evolve towards atmosphere of greater cooperation and be more conciliatory.

The third part includes decisions and actions. At this stage, problems are clear and both parties must make decisions regarding the matters that are or are not accepted.

Although it seems that "a kind of a game is played", this whole performance might be important. Management boards that function in a public domain often facilitate negotiations for trade unions, disclosing too many certain details in a negotiation process and too early. It is not always desirable, as trade unions want to be perceived by their members as the ones that win concessions from management, otherwise they may be blamed of ineffectiveness. Generally, issues less important are negotiated first, as they might possibly create atmosphere of cooperation and compromise, while pay issues should be discussed at the end. At the final stage of negotiations, is desirable to make concessions only if they are a resultant of final agreement and the attempt to take initiative by focusing on proposals of management instead of trade unions.

In favourable conditions, a practical result of negotiations is a written agreement, i.e., a collective employment agreement.

Stage 3: Implementation of a contract

Once an agreement has been reached, it can be implemented. At this stage, parties to the agreement bring provisions of the agreement into force. It is a difficult and important element of collective bargaining.
No perfect agreement exists; there is always some kind of ambiguity due to a language used. Each agreement has specific meaning in three dimensions: **implementation, interpretation** and **bringing into force.**

Implementation covers application of provisions of an agreement. Implementation of some parts of the agreement might be easy, while other parts might require interpretation.

Interpretation is necessary when there are no clear provisions in an agreement. Issues for interpretation appear when differences in understanding particular provisions of an agreement exist. They might then cause serious disagreements between management and a trade union. Such differences might lead to lodging a complaint or accusation of unfair employment practices.

Bringing into force relates to practices and procedures established during implementation of an agreement. The way in which an agreement is implemented and interpreted sets the precedents and sets of practices.

A management board shall put any efforts to ensure that supervisory authorities are well-prepared to interpretation and execution of employment agreements. It is the best way to ensure that a manager retains his/her rights provided for in an agreement and he/she can exercise them in a proper way.

In case of any disagreements as regards implementation and interpretation of an agreement that cannot be resolved by parties of the dispute in line with an internal settlement procedure, the agreement itself might be used for solving disputes. This process is similar to arbitration of interests; a third party might hear a dispute and make a decision on the basis of presented arguments.

Provisions of a collective employment agreement

The content of an agreement depends largely on local conditions, as well as on size and type of an institution. However, there are common features that might possibly coincide. The above-listed are only examples and are not an exhaustive list of elements of an agreement.

1. Declaration on the objective

This declaration includes official names of parties to an agreement. It may also include declarations on the basic objective of the agreement, such as "promoting working relations between a management board and a trade union" or "continuous performance of effective services". In this part, management should also include a statement that the agreement made supersedes all previous agreements in terms of its relevance.

2. Declaration on recognition

In this part, a trade union is officially recognized as a negotiating factor for employees. Establishing people included in a negotiating body is of key importance.

3. Power and limitations of an agreement

Agreements for public administration employees are prepared in compliance with law. An agreement usually contains statements that any contractual provisions that breach laws or statutes are deemed invalid. An "emergency clause" has been also introduced. It stipulates that if any provisions are deemed illegal, the other part of an agreement shall remain in force. Additional provisions introduce "closure clauses" that prohibit from making any attempts to reopen negotiations in duration of an agreement and a statement under which topics uncovered by the agreement shall be regulated by existing practices and staff policies.

4. Declaration on the rights of management

An agreement usually includes provisions on the rights assigned by management for themselves. As it has been noted above, it is important for a manager not to resign from his/her rights and responsibilities in the scope of managing an institution. His/her rights to planning, controlling institutional policies and employment conditions must be precisely defined. As particular legislation of a country identifies and defends this right, some agreements quote these legal provisions directly.

5. Declaration on non-discrimination

An agreement may state clearly that under no circumstances neither trade unions nor management make decisions regarding employment on the grounds of race, origin, disability, religion, age, gender, marital status, etc. In addition, there are no provisions under which an employer cannot take punitive measures in relation to people who want to join a group or take part in trade union actions.

6. Negotiation procedures

An agreement may specify precisely how negotiations evolve and how disputes shall be resolved. This part can specify elements, such as:
- who can initiate negotiations;
- deadlines in which proposals must be submitted;
- time limits for passing response to proposals;
- a day on which negotiations should be started;
- the form of a final agreement;
- dispute settlement procedures if parties cannot reach an agreement.

7. Regulations regarding a strike or refusing employees an access to work places

In compliance with regulations included in the previous section, this section discusses if strikes are permitted, under which conditions and what procedure should be complied with to go on strike. If an agreement prescribes obligatory arbitration, then the document will probably prohibit going on strike during its validity. Likewise, management agrees not to refuse employees the access to a work place.

8. Declaration on the rights of trade unions

This section presents the rights of a trade union and its members. The following issues might appear:
- using billboards and other types and forms of communication with employees;
- the right of trade union members to participate in management meetings;
- the consent of a management board to deduct automatically a fee for trade unions from remuneration of an employee;
- determining time and place where a trade union can run its activities at the premises/ on a site of an institution;
- the right of an employee to inspect personal files and the right to question or response to any negative content included there.

Two aspects need to be specified, namely: related to using billboards and time and place where trade unions can run their activities. From management's point of view, some agreements stipulate that message boards might be used only for displaying advertisements regarding meetings and trade union elections. Materials against management might be banned immediately. Likewise, an agreement might limit performance of trade union activities, including telephone calls (incoming or outgoing ones) during breaks, meal breaks or at other time beyond working hours.

9. Individual rights

An agreement might include provisions under which employees have the right to join trade unions, participate of refuse to participate in trade union activities without any fears or intimidation either by a trade union or management of an institution.

10. Vacancies, promotion or employment on a trial period

These provisions relate to the way in which employees may apply for vacancies. Generally, the procedure for displaying job offers and registering deadlines are regulated by applicable law. Establishing proper criteria of selection are particularly important for management. Focused on the quality of services, a management board should make all efforts to ensure that competences, skills, knowledge and motivation of employees are valued more than age, however, if all conditions are equal, work practice may be an important factor.

11.Working hours

Contractual arrangements may also define a working week. An agreement should define precisely a working week, indicating a number of hours during a week that composes a full-time job of an employee and the number of working days during each week. The days from e.g. Monday to Friday are not likely to be defined, as it is necessary to work also at the weekends. It is beneficial for management if an agreement does not stipulate that an employee works a certain number of hours or days during a week. Additional provisions should specify time for a lunch break and other breaks, as well as overtime allowance. Likewise, there might be provisions regarding a type of overtime work. Work on Saturdays and Sundays may require additional provisions, in particular, in reference to its feature of voluntary appearance.

12. Remunerations and other benefits

An important part of employment agreements concerns the right to remuneration. Other provisions may indicate differences in pay for employees who have part-time jobs or work on a half-time basis.

13. Dismissal

It is possible that an agreement contains provisions regarding job redundancies. Age is often deemed to be the most important criterion when classifying data on employees. Employees with the longest work practice are dismissed as the last, while employees employed on a trial period and with short work practice as the first.

14. Leaves

An agreement may contain provisions regarding procedures for conditions under which employees are granted a leave. Generally, a leave concerns a situation when a person is granted a consent for one-day or multiple-day absence from work. Typical types of leaves include: a holiday leave, maternity/paternity leave, paid

leave for care of children under two years old, sick leave, training leave, special leave, leave for personal and family reasons and on other special occasions.

15. Discipline

Some agreements may contain explicit provisions regarding disciplinary measures. For example, a progressive system of such measures may be predicted. There are details concerning an employee right to submit a complain due to disciplinary procedures an employee was subject to, the right to be represented by a trade union in a dispute related to disciplinary measures and adding materials related to disciplinary measures to personal files of an employee.

16. Procedures for submitting complaints

A substantial part of an agreement covers procedures regarding complaints. A critical element of this part is related to defining a complaint. A trade union may try to negotiate a wide definition, which would mean that any actions of management are deemed unfair and are the subject of a complaint. Management should consider narrowing this notion and its specific attitude to the agreement. Complaints should be treated as signals of breach or wrongful interpretation of respective provisions of an agreement.
In addition, particular exceptions are indicated.

Generally, the procedure for submitting a complaint results in specific steps which should be taken by its author and management in relation to such measures. A relatively short time for complaint handling is recommended to prevent from cumulating them. If parties are not able to solve a problem, an agreement may contain provisions regarding arbitration of complaints. This procedure is similar to arbitration of interests. Procedures required for selection of an arbitrator, who is a third and neutral party, are prepared. An arbitrator reviews facts, runs a hearing and makes decisions that are binding for all parties involved.

17. Trainings and professional development

An agreement may specify conditions under which employees can obtain additional knowledge and skills. In this case, and institution covers all costs required to participate in conferences and seminars or pay tuition fees for extended courses or within a training programme.

18. Other possible provisions to be specified in an agreement

Example 1:
Using video terminals: in this area, safety has become a problem of the last years, in particular, due to low level of radiation transmitted through a screen and physical discomfort that appears after long time spent in front of a screen. The effects of using video terminals for a long time include: backache, ocular hypertension, headaches. An agreement may include provisions regarding a number of hours allowed for an employee to spend incessantly in front of a terminal, durance and frequency of breaks and conditions under which a change of work station is possible.

Example 2:
Intellectual freedom: some agreements may include provisions that defend employees against retaliation if they write articles for publication. In return for non-intervention by management of an institution, an agreement may require from employees to attach a statement that they express their opinions on their own behalf and not on behalf of the institution.

The elements listed above are representative for some contents included in the agreement. Depending on history and situation, the number and type of negotiated problems change. Ultimately, most elements of an agreement are identical to those which should be dealt with by management, irrespective of a trade union. The difference is that a trade union plays an important and formal role in developing staff policy.

This copy is free.
This publication is published in the framework of the project
“Info.Base: Information and Consultationn– Base for Responsible and Active Participation of Employees in Public Sector”.
Sole responsibility lies within autor. The European Commission is not responbsible for any use that may be made of the information contained herein.

Info.Base:

With financial support from the European Union