

Croatia Accession Report

Based on a survey of trade unions in Croatia undertaken by TUAC in Spring 2023, this note reports on the state of affairs regarding several core principles used by the ELSAC and the Investment Committee in the OECD's accession review of Croatia. The focus is on fundamental labour rights, social dialogue and whether industrial relations systems are aligned with the 2018 OECD Jobs Strategy, and to measure the commitment to and effectiveness of measures to promote responsible business conduct.

Labour Rights

- Freedom of association and right to organise

The freedom of workers to organise in trade unions is enshrined in the Constitution and reports from local trade unions indicate that this is quite well respected, with no restrictions from the government or deficiencies in labour law.

At the same time, efforts by employers to prevent companies from organising, and to discourage trade union membership, are on the increase.

- Right to collective bargaining

The right to collective bargaining is also enshrined in the Constitution and recognised by law. However, despite employers being reluctant to bargain and often even refusing altogether to negotiate on wages, the government has introduced measures that make bargaining more difficult. For example, a 2014 labour law reform limited the validity period on collective bargaining agreements that had reached their expiration date to three months. Before the 2014 reform, agreements remained valid and applicable until a new one was negotiated. This reform had an impact on sector level bargaining as it offered employers a way out of collective bargaining. Today, just two private sector level agreements continue to exist (catering-tourism and construction), as trade unions have not succeeded in the past nine years to initiate new negotiations, or to conclude new agreements in the four other sectors that also used to experience sector-level bargaining.

While the government has the legal ability to enforce these agreements, little to no effort is being made to do so. An amendment to the 2021 Minimum Wage Act provided the Labour Inspectorate with the power to supervise the payment of wages as defined by extended sectoral bargaining agreements, but there are doubts as to whether this is implemented in practice. In the past, the government has often failed to implement agreements applicable to itself.

In addition, legislation from 2010 restricts the right of workers to bargain collectively over wages in financially weaker local and regional government units.

Finally, there are problems in the implementation of this Act on representativeness of employer organisations and trade union organisations.

- While trade unions are requested to provide evidence of their representativeness¹ in collective bargaining, this does not apply to employer sector-level organisations. Nor are there any criteria that sector-level employer organisations need to fulfil in order to be representative. This imbalance causes problems in negotiating sector collective agreements.
- The criteria to determine trade union representation are not the same for all trade unions and are imbalanced. For public services (education, health care, social care, culture, research, social insurance), the composition of the negotiating committee is defined by a Commission². Yet for state administration, only those trade unions who represent at least 20% of the total number of unionised workers involved in the negotiations may be part of the negotiating committee.
- The procedure for recognising collective bargaining representativeness takes too long. Months can pass between the application and the decision by the Commission to acknowledge the representative status of the union.

- Right to a safe and healthy workplace

There is respect for the right to health and safety at work, but improvement is necessary, as this is a low priority topic. For example, recent changes to the Labour Act failed to place any obligation on the employer with regard to certain working arrangements, particularly remote work.

- Effective labour inspection

A system of labour inspection is in place, but its function is more of a formality. Inspection is seen as 'educational' rather than for enforcing regulations, which could entail imposing sanctions. For example, when checking on unlawful overtime, the labour inspection will often pre-announce its visit, only be on-site during regular working hours and hold discussions with workers in the presence of their management. Labour inspection

¹ The main criteria for trade union representativeness is for a trade union to have at least 20% of members of the total number of unionised workers at the level for which representativeness is to be recognised.

² This Commission manages the procedure for recognising trade unions. It consists of five members and five alternate members, appointed for a period of five years by the Minister for Labour Affairs. These members are appointed from the ranks of independent experts, of whom two members and two alternate members are chosen based on a written proposal by a trade union organisation and an employer organisation of a higher level, the representativeness of which has been recognised by a national level.

functioning is also non-transparent, with hardly any reports being issued or presented to social partners. Labour inspection staff is limited to 120 inspectors for a workforce of 1.2 million, with an ongoing failure to fill vacant positions.

- Other labour rights

There are no other systemic worker fundamental rights problems. However, labour rights and working conditions for foreign workers are deteriorating because of an extremely liberal and employer-driven migration policy over the last two years.

Croatia is one of a few European countries where the gender pay gap is increasing, from 8.7% in 2014 to 11.2% more recently.

The informal economy is estimated to represent between 7 and 35% of GDP. While its importance in the economy has fallen over the last ten years, the level of informal activity is still high.

Social dialogue and industrial relations in line with the 2018 OECD Jobs Strategy

The OECD's 2018 Jobs Strategy calls for the promotion of quality industrial relations systems based on inclusive collective bargaining; in other words, collective bargaining that achieves high coverage of workers. The Jobs Strategy considers the existence of well-organised social partners with broad membership the best way to achieve such high coverage, while noting the advantage of the instrument of administrative extension of sectoral agreements in the absence of such robust social partners.

The state of social dialogue in Croatia is not good. Whereas union density is at 22%, collective bargaining coverage on average is at 46%, but this is due to high coverage in the public sector. It is much more limited in the private sector (16%), where bargaining is random and mostly at company level. The latter is driven by the structure of the economy (98% of businesses are micro and small enterprises) together with the implementation of union avoidance strategies by employers. There is also a restrictive approach to extending sector level agreements. An obligatory test based on strict public interest criteria is necessary before a sector level agreement may be extended. The 2014 labour law reform complicated matters further, as it had the effect of no longer stating exactly who oversees the test.

Employers express little appreciation for the process of social dialogue. While individual employers do see the benefit of it to a very limited extent, the Croatian Employer Association (CEA) is mostly interested in using social partnership to obtain better access to the government for lobbying rather than for collective bargaining.

The Economic and Social Council is an advisory body where discussion on economic and social policy takes place. The Council however is losing influence, as social partners are excluded from the process of policymaking itself and only able to get involved when draft legislative texts have already been drawn up.

Trade unions as a social partner organisation are hardly involved in the governance of labour market and social protection systems. They do have a seat on several Steering Committees, but this is too limited to be able to exert any influence.

Promoting responsible business conduct

The NCP was established by a Decision of Government on 23 May 2019.

NCP performance is quite poor. Meetings are limited in number and mainly insubstantial. There is no commitment to the NCP mandate for promoting responsible business conduct, or for assisting businesses and trade unions to resolve issues.

Commitment on developing and maintaining trade union relations and informing trade unions and businesses about the OECD RBC standards, is passive with few actions supporting such commitment.

Key demands for the accession process of Croatia

Trade unions from Croatia insist that the process of accession must focus on the following reforms and policies:

- Promote collective bargaining by addressing the lack of will on the part of employers, especially the lack of commitment to sector level bargaining from the Croatian Employers Association.
- Push employer organisations to demonstrate tangible commitment to collective bargaining in order to qualify as a national social partner.
- Deviations from the existing Labour Act need to be strictly conditional on social partners agreeing to such flexibility in a sector-level collective agreement.
- Better legal protection of union representatives.
- Involve social partners in ensuring respect for those collective bargaining agreements that have been extended in the absence of governmental capacity to do so.
- Effective follow up on issues related to the functioning of the National Contact Point, i.e., a more active approach in promoting RBC with businesses, assistance in resolving issues between trade unions and businesses, and informing trade unions about the functioning and activities of the National Contact Point.