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Report on the Peer Review of the Economic and Social Councils in the Western Balkans

SOCIAL
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Report on the Peer Review of the Economic and Social Councils in the Western Balkans

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List of abbreviations

BiH	Bosnia and Herzegovina
ERP	Economic Reform Programme
FeBiH	Federation of Bosnia and Herzegovina
ESAP	Employment and Social Affairs Platform
ESC	Economic and Social Council
FYROM	Former Yugoslav Republic of Macedonia
MSWY	Ministry of Social Welfare and Youth
NLC:	National Labour Council
ToR	Terms of Reference

Executive Summary

This report consolidates the findings, and recommendations as resulted from the Peer Review of Economic and Social Councils (ESCs) carried out in Albania, Bosnia and Herzegovina (Republika Srpska and the Federation of BiH), Montenegro, Serbia, the former Yugoslav Republic of Macedonia and Kosovo (as defined by the UN Security Council Resolution 1244). It also draws upon the conclusions of the High Level Sub-regional Conference held in Belgrade on 5–6 July 2017.

Tripartite peer review teams, each composed of representatives of two ESCs, have reviewed the functioning of a third one with focus on the following areas: role and mandate laid down in national legislation; availability of technical and financial resources and internal and external technical support; composition; working methods and operational process; impact and outreach of the ESC's recommendations and opinions.

Over the last decade, a relatively wide infrastructure for tripartite consultation has been put into place in all Western Balkan countries. This process has been supported by region-wide ratification of the ILO core conventions, in particular the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), the Collective Bargaining and the Right to Organize Convention, 1949 (No. 98), and the Tripartite Consultation Convention, 1976 (No. 144). Social dialogue institutions have been enhanced in most of these countries, often with the support of the ILO.

Currently, the architecture of industrial relations across the Western Balkans is characterized by the predominance of institutionalized tripartite consultation at the policy level, with a weaker presence and effectiveness of collective bargaining mechanisms.

Despite the significant progress made in institutional building, social dialogue institutions still have low visibility in society and limited influence on national policy and law-making processes. The weak commitment of some important policy-makers to tripartite social dialogue, limited institutional support, and the insufficient technical capacity of these institutions to issue high-quality advice on a wide range of complex economic and social matters affect negatively their impact and credibility in the national debates. The level of trust among the tripartite actors of social dialogue is also low. In some cases, the government does not firmly understand its role as facilitator, supporter, and guarantor of genuine social dialogue, and the social partners doubt the government's ability to perform this role. The social partners still lack the necessary organizational infrastructure and technical capacity to commit to and deliver their potential contributions. In most of the countries under review, the ESC's mandate is sufficiently broad to include economic and social matters. This usually encompasses labour and employment reforms, fiscal and tax measures, health care, education and training, measures for mitigating the consequences of the economic crisis, competition and productivity, or privatization and structural reforms. However, tripartite social dialogue is often perceived as the exclusive responsibility of the Ministry of Labour and not of the "entire" government.

Whereas most countries' legislation obliges the government to seek the opinion or recommendation of the ESC on draft laws and policies falling under the ESC's competence, there is not yet a well-established and steady practice of compliance with this rule, and such a legal obligation is generally ignored by the more powerful ministries (such as Finance and Economy). Also, in most cases there is no institutionalized mechanism for monitoring the follow up action following the ESC's recommendations.

It has appeared that in many cases approximately only 50 per cent of all adopted bills falling under the scope of the ESC's competence were previously discussed by the national ESC. More often than not, members of parliament are not aware of the opinions and recommendations issued by the ESC, and neither is the general public.

Some social partners take the view that there is insufficient political will on the part of the government as a whole to make use of available social dialogue institutions to their full potential and to place genuine policy dialogue high on the political agenda.

As a general conclusion, all reviewed ESCs have been through a difficult period, reflective of the economic and social issues arising from the global financial and economic crisis, but they have remained effectively intact. This is a good indication of their resilience at times of crisis and bodes well for the future of the ESCs in the sub-region.

A number of general and country specific recommendations have been put forward with the aim to address the identified gaps and to increase the relevance and impact of the ESC's actions. These include ensuring a broad scope of legal competence of national ESCs to issue opinions and advice on economic, labour, and social reform agendas; setting out the legal obligation of the Government as a "whole" to seek and provide timely feedback to the ESC's recommendations, and an explanation of the follow up; despite financial constraints, tripartite social dialogue institutions should receive special consideration, and adequate resources for them to operate properly should be made available; additional sources of technical and professional expertise should also be explored, particularly from private sector think tanks, universities, research institutes, and civil society organizations; new topics for ESC consideration could relate to economic development, migration, challenges related to emerging forms of employment, and future of work issues.

At the High Level Sub-regional Conference, each peer reviewed ESC was invited to select at least two recommendations for future action, and to commit to further implementation. Among those selected, there is the commitment to reach a tripartite agreement on objective and easy to check representativeness criteria; establishment of a monitoring mechanism for the follow up given to ESC opinions; adoption of a new law on ESC; awareness raising campaigns on the role of the ESC with government and parliament; enhancement of cooperation with research institutes, academia, and civil society organizations.

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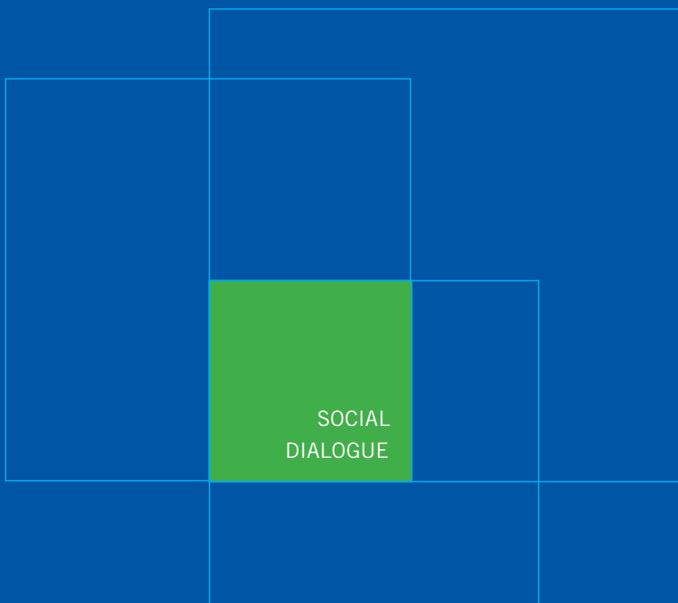
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PART 1



1. Introduction

The “Employment and Social Affairs Platform” (ESAP) is a regional project financed by the European Commission in the amount of €3 million and jointly implemented by the ILO and the RCC in the Republic of Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Montenegro, the Republic of Serbia and Kosovo (within the meaning of UNSC Resolution No. 1244). The three-year project was initiated in April 2016 to strengthen both the regional cooperation and the institutional capacities of national administrations and of employers’ and workers’ organizations by enabling them to develop and effectively implement labour market and social policy reforms as part of the EU enlargement process. The project management team is based in Sarajevo, Bosnia and Herzegovina. Project technical backstopping is ensured by ILO Decent Work Team/Country Office based in Budapest (DWT/CO Budapest).

The Western Balkan economies share similar structural characteristics and labour market features, including high unemployment and labour force inactivity, underfunded active labour market policies, limited resources for public employment services, and a mismatch between labour supply and demand. While creating employment remains an important challenge for all economies, regional cooperation represents an essential element of the Western Balkan economies’ stabilization and association process towards EU membership. Specifically, in the area of employment and social affairs, economies can share their experiences, learn from each other, and – through this sharing of knowledge and experience – optimize their policy-making and implementation practices.

One of the reforms emphasized in the Europe 2020 strategy is strengthening the capacity of the social partners to engage into social dialogue over economic and social reforms. As a pillar of the European social model, social dialogue between governments, employers’ and workers’ organizations at all levels is crucial for ensuring countries’ sustainable development, economic growth, employment creation and business performance, as well as creating a level-playing field for international competitiveness, job quality and good employment practices. The participation of employers’ and workers’ organizations in employment and social reforms is essential for their success and sustainability, as is the importance governments attach to the Economic and Social Council and its outcomes.

Despite some progress, social dialogue in the Western Balkans remains rather weak, and the effectiveness of social dialogue and collective bargaining as means for labour market governance is being challenged. National social dialogue processes are frequently constrained by polarized discussions on the labour market and labour law reforms, particularly in the recent challenging recessionary period.

The Economic and Social Councils (ESCs) have been established as national tripartite social dialogue institutions with a consultative and advisory role on labour, social, and economic related matters of national general interest in policy-making processes.

Although most ESCs are equipped with institutional mechanisms for channelling opinions and recommendations on economic and social reform, these mechanisms appear to not be functioning properly. As a result, the influence of ESCs over policy-making processes is limited. Insufficient social dialogue is mainly due to the lack of efficient coordination mechanisms, poor technical capacities of the ESCs, and sometimes a low political commitment from the social dialogue partners to reach agreements based on compromise.

Within its component on Social Dialogue, the ESAP project aims to improve the functioning of ESCs, including the institutional and technical capacity of their members in the target countries, notably by contributing to enhanced policy dialogue and development of the labour market institutions. The fundamental assumption is that effective social dialogue is ultimately conducive to quality jobs generation and economic and social progress.

Sections 2 below describes practical arrangements for peer review implementation, whereas Section 3 outlines factual findings related to the mandate, structure and operations of the seven target ESCs. Sections 4 analyzes the impact of the ESCs and provide recommendations for future action. It reflects a broad consensus

about what actions would be most desirable for future implementation. These include (a) greater ministerial and governmental presence, and support for the ESCs; (b) improved technical, human and financial resourcing; (c) greater transparency and deliberation in the consultation process and outcome delivery; and (d) improved communication to the parliament and to the public of the role, tasks and outcomes of the ESC.

A more specific analysis of the findings and recommendations of national reports is provided in Section 5, including a synopsis of the peer reviews. The functioning of national ESCs varies in terms of impact, effectiveness, support from participants, knowledge of ESC activity, and the relationships with governments and parliaments.

Each ESC was invited to select at least two recommendations for future action, and to commit to further implementation at the High-Level Subregional Conference in July 2017 in Belgrade. The proceedings and outcomes of the Belgrade Conference are presented in the Part 2 of the Report. Peer reviews findings and recommendations, as well as the selected recommendations to be further implemented by the concerned ESCs are summarized in a Matrix annexed to the Report.

2. Peer review implementation

Throughout this report, the term “ESC” is used for all countries for the ease of reference.

The peer review of the functioning of ESCs in the six target countries was launched at the subregional seminar held in Becici, Montenegro on 3–4 October 2016, where the national ESCs were represented by tripartite delegations.

On that occasion, the ESAP team introduced the peer review exercise and the Terms of Reference prepared by the ILO. Mutual understanding on how the peer review teams would operate, the scope of their reviews, the nature of the engagement required, the proposed format of the interview questionnaires, and the “pairing” arrangements for the peer review visits and the subsequent reporting were agreed and validated by the participating ESCs’ delegations.

Peer reviews of the structure, functioning and effectiveness of national ESCs were carried out in six target countries from November 2016–March 2017. Each ESC reviewed two other ESCs and was reviewed by two ESCs. It should be emphasized that in Bosnia and Herzegovina, separate assessments of the ESC of Republika Srpska and the ESC of the Federation of Bosnia and Herzegovina were conducted in accordance with the competencies of entities, and with the state constitutional and legal structure.

The peer review teams were tasked with identifying good practices and innovative solutions, and with facilitating peer discussion on how best to overcome the common challenges faced by ESCs in developing their influence over ongoing national debates on economic and social structural reforms.

Each ESC created four-member teams comprised of one government representative, one employer representative, one worker representative, and the ESC secretary. ESCs could form two different teams (“rotating teams”), each reviewing another ESC. Thus, each ESC could organize itself into two teams with different persons or social partners represented. For example:

- **Review Team 1:** Government representative A, Employers’ representative A, Workers’ representative A and the ESC secretary; and
- **Review Team 2:** Government representative B, Employers’ representative B, Workers’ representative B and the ESC secretary.

The four-member delegations from two project countries carried out peer reviews and made recommendations, of which at least two are expected to be implemented by the end of the project implementation period. ESAP provided support in drafting the final reports, making recommendations to ensure overall quality consistency of the processes and outputs. The ILO Office in Budapest and the ILO national coordinators also provided technical and logistical advice and assistance to the peer review teams before, during and after the visits.

The peer reviews consisted of a self-assessment (Part A) by the visited ESC and a questionnaire (Part B) used by visiting peer review team, as presented below.

2.1. Self-assessment

In preparation for the peer review mission, the host ESC carried out a self-assessment of existing relevant legislation and regulations, in particular the recent amendments to the Labour Law and other national social dialogue related laws, regulations and agreements. This included:

- an assessment of current legal and institutional frameworks on the functioning of the reviewed ESC in terms of their mandate, structure, composition, subordination and coordination mechanism; and

- an assessment of current institutional and implementation gaps in enabling the realization of an effective (produces the expected outcomes), efficient (cost-effective) and coordinated social dialogue at the national level.

The self-assessment was communicated to the relevant peer review teams 3 weeks before the peer review visits, and was discussed with the peer review teams during these visits.

2.2. Peer review interviews

The peer review interviews focused on the following four topics:

- I. The extent to which existing legal and institutional frameworks enable and support an effective and efficient tripartite social dialogue at the national level;
- II. Opinions and recommendations – identifying possible bottlenecks in the current working methods of the reviewed ESC and making recommendations for process improvement;
- III. The composition of the ESC; and
- IV. The impact of ESC’s recommendations and opinions.

During their visits, the peer review teams also interviewed beneficiaries and members of the ESCs in relation to the aforementioned topics.

2.3. Tasks performed by the peer review teams

WORK DESCRIPTION	TIME	OUTPUTS
Review and collect comments on draft peer review ToR (drafted by the ILO) as preparation for subregional consultation.	September 2016	Comments on draft peer review ToR.
Participation in subregional consultation. The purpose of the meeting was to validate the ToR for the peer review and for the review teams to be trained on how to conduct the review and draft the recommendation reports. Furthermore, a final agreement was reached on pairing ECSs for visits to a third ECS, and on the overall travel plan for the peer review visits.	October 2016	Confirmed peer review ToR. Agreed on travel plan for peer review.
Conduct peer reviews of ESCs according to the confirmed peer review ToR and travel plan. The specific tasks included: <ul style="list-style-type: none"> • Preparation for the review mission, including selection of the peer review team, coordination with the paired review team, and establishing meetings with ESCs to be reviewed in other countries. • Self-assessment of the existing relevant legislation and regulations. • Participation in the two-day review mission. • Draft country peer review reports according to a template, with support from an international expert. 	October 2016– March 2017	Six self-assessment reports on existing legislation and regulations. Six country peer review reports with specific recommendations for improving the functioning of the national ESCs in the target countries.

2.4. Peer review implementation plan

REVIEW TEAMS	VISIT	TIME
Kosovo A, Albania A	The FYR Macedonia	8–10 November 2016
Kosovo B, The FYR Macedonia B	Republic of Albania	16–18 January 2017
Albania B, The FYR Macedonia B	Kosovo	7–9 February 2017
Serbia A, Montenegro A	Bosnia and Herzegovina	6–9 December 2016
	Federation of BiH	7 December 2016
	Republika Srpska	8–9 December 2016
Montenegro B, Bosnia and Herzegovina B	Republic of Serbia	24–26 January 2017
Serbia B, Bosnia and Herzegovina B	Montenegro	21–23 February 2017

The peer review reports were presented at a subregional meeting in July 2017 as part of a discussion for the future implementation of selected recommendations by the ESCs. Representatives from ESCs in EU Member States also participated in the meeting, sharing inspiring practices from their organizations.

2.5. Implementation and review

All peer review teams completed their visits and presented their reports between February and May 2017. Based on interviews carried out with the stakeholders and the self-assessments provided by the reviewed ESCs, each peer review group was asked to report on the following key issues:

- the mandate and role of the ESC;
- the Technical Secretariat of the ESC;
- the members of the ESC;
- the impact of the ESC; and
- recommendations for future action.

These five key components founded the peer review reports. They provided invaluable information and insight on the existing institutional and regulatory frameworks, the historical genesis of the national social dialogue processes, commonalities and differences among the reviewed ESCs, and their progress over the last decade.

A more focused emphasis was placed on recent issues involving policy-making practices, outcomes, and challenges.

The detail and scale of these reports assisted enormously in obtaining a sub-regional overview of the common and divergent practices of ESCs. As is frequently the case, the culture of a particular country, historical, social and economic context and industrial relations practice inform and decide how it translates its experiences into law and regulation, and subsequently into its governing arrangements (both at the ESC institutional level and at the governmental or parliamentary level).

3. General findings

The countries of Central and Eastern Europe share a common legacy of nearly 50 years of socialist regimes. As a consequence, a paternalist type of “government-driven” social dialogue has developed, and this influences the manner in which the social partners get involved in tripartite social dialogue.

The political volatility of the subregion, in particular as a result of the disintegration of the former Yugoslavia, has lasted for years and is not completely overcome. It has hampered a smooth transition from a socialist economy to a democratic market economy. The slow transition process has resulted in the dramatic increase in unemployment, a decline in wages and social benefits, and in widespread poverty. With the rolling back of collective labour rights accelerated by the global economic crisis, trade unions have seen their power and influence diminish, and the voice of the increasingly predominant SMEs has generally not been heard in the national tripartite dialogue. Such a context considerably delayed the development of sound industrial relations across the subregion.

In the transition to a market economy, all target countries have established institutions and mechanisms for tripartite social dialogue and collective bargaining. Legal and institutional frameworks for social dialogue have been laid down in collective labour laws, which have increasingly become a prominent part of the legal labour systems since the collapse of the socialist regimes. Currently, the architecture of industrial relations across the Western Balkans is characterized by the predominance of institutionalized tripartite consultation at the policy level instead of collective bargaining. Over the last decade, a relatively wide infrastructure for tripartite consultation has been put into place in the Western Balkan countries. This process has been supported by wide levels of ratification of the ILO core conventions, in particular the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), the Collective Bargaining and the Right to Organize Convention, 1949 (No. 98), and the Tripartite Consultation Convention, 1976 (No. 144). Social dialogue institutions have been enhanced in most of these countries, often with the support of the ILO.

Despite the significant progress made in institutional building, however, social dialogue institutions are often not effective. Generally, they have low visibility in society and limited influence on national policy and law-making processes. The weak commitment of some important policy-makers to tripartite social dialogue, limited institutional support, and the insufficient technical capacity of these institutions to issue high-quality advice on a wide range of complex economic and social matters negatively affect their impact and credibility in the national debates. The level of trust among the tripartite actors of social dialogue is also low. In some cases, governments do not firmly understand the government’s role as facilitator, supporter and guarantor of genuine social dialogue, and the social partners doubt the government’s ability to perform this role. The social partners still lack the necessary organizational infrastructure and technical capacity to commit to and deliver their potential contributions.

Since the outset of the global financial and economic crisis, the effectiveness of social dialogue and collective bargaining in reconciling radically different views between governments, employers’ and workers’ organizations on key issues related to the reform of the labour market institutions has been challenged. Employers’ representatives and some governments have insisted on measures designed to increase labour market flexibility as a response to the economic crisis. Trade unions have strongly opposed these measures, and have called for better labour law enforcement and more effective policies to increase quality job creation. There are also very radical differences between the views of employers and workers on the scope, coverage and duration of collective agreements at all levels.

Tripartite constituents in the target countries have frequently reached stalemates in national social dialogue processes, and they have turned to the ILO for technical advice on corroborating their different positions. The ILO emphasizes (a) the need to observe and fully realize fundamental labour rights, in all situations and especially at times of economic hardship; (b) the need for an effective social dialogue among

partners which recognize each other as equal, legitimate, independent and credible; and (c) the need to promote collective bargaining as a self-regulatory tool complementary to the law at the disposal of the social partners and as a sound foundation for tripartite social dialogue.

In order to determine the correlation between the legal and institutional frameworks in place and the effectiveness of the ESCs, one has to assess whether the current institutional functions and structures enable tripartite social dialogue to produce results. ESCs should be able to influence policy and law-making processes by making high-quality recommendations on subjects of national general interest, and through monitoring their implementation.

3.1 Existing legal and institutional frameworks for tripartite social dialogue at the national level

In most of the target countries, national tripartite social dialogue has been institutionalized through the establishment of tripartite ESCs, with competence for economic and social matters of general interest. Most countries have one ESC, but Bosnia and Herzegovina (BiH) has two ESCs, with competences for social dialogue and collective bargaining at the entity level.

The legal basis for the organization and functioning of such institutions is laid down in the Labour Code (Republic of Albania), through a special law (Republic of Serbia, Montenegro, BiH–Republika Srpska), or through a legal basis in labour law and tripartite agreement among the government and workers' and employers' organizations, which have obtained their representativeness at the national level (FYR of Macedonia). Such laws or agreements set out the ESC's mission and mandate, its core competencies and responsibilities, define the composition and the manner of representation among its membership, determine the system of voting, provide for its obligations (FYR of Macedonia, Republic of Serbia, BiH – Republika Srpska) or for the possibility for the government or parliament to seek the ESC's opinion and recommendations, and establish mechanisms for sending recommendations and opinions to the institutions concerned. The establishment of support structures, the frequency of the meetings, and the financial and budgetary frameworks for the ESC are regulated in this way.

In most of the countries under review, the ESC's mandate is sufficiently broad so that to include economic and social matters. This usually encompasses labour and employment reforms, fiscal and tax measures, health care, education and training, measures for mitigating the consequences of the economic crisis, competition and productivity, or privatization and structural reforms (Republic of Albania, Republic of Serbia, BiH – Republika Srpska). This enables the concerned ESC to be connected to the general governmental process for economic and social reform. In some cases, the ESC's mandate is primarily labour related, focusing on labour relations, employment, the minimum wage, pay increases, the development of collective bargaining, social security, and pensions (the FYR of Macedonia).

However, although the ESCs generally have a mandate to address and debate a wide range of economic and social topics, tripartite social dialogue is often perceived as the sole responsibility of the Ministry of Labour and not of the "whole" government.

Most countries' legislation obliges the government to seek the opinion or recommendation of the ESC on draft laws and policies falling under ESC's competence. However, there is not yet a well-established and steady practice of compliance with this rule, and the legal obligation is generally ignored by the more powerful ministries (such as Finance and Economy).

3.2. Internal technical support structures for ESC's opinion and recommendation-making processes (technical secretariats and specialized standing committees)

The ESC's secretariat is either part of the labour administration, as an administrative unit in the ministry in charge of labour and social affairs (as in Republic of Albania and the FYR of Macedonia), or it is more autonomous and directly attached to the ESC (as in the Republic of Serbia and in BiH – Republika Srpska).

In the countries under review, the ESC secretary is a technical expert, a civil servant, or a former trade union or employers' organization employee. They are generally nominated by the Minister of Labour (after consultation with the social partners) or by the ESC.

An ESC budget is generally secured through the state budget, and it is managed within the budgetary allocation for the Ministry of Labour. Over the past ten years, the budgets for ESCs have suffered reductions in line with the wider cuts to government expenditure. In the Republic of Serbia, however, cuts previously imposed were lifted in 2017. In order to increase awareness of the role and the work that ESCs do, all of the ESCs reviewed have placed a special emphasis on securing and protecting adequate financial and technical resources.

Whereas the specialized standing committees are identified as a valuable asset of the ESC in all of the target countries, it appears that the quality of their work could be improved by involving wider expertise from civil society (such as from think tanks and NGOs), and from research and academic institutions. A number of potential solutions to make this happen have been put forward. These include establishing research funds through the joint contribution of tripartite constituents (FYR of Macedonia); redesigning or supplementing the allocated budget for particular projects (Republic of Serbia); and establishing *pro bono* cooperation with academic and research institutions, think tanks, NGOs and other ESCs (Montenegro).

3.3. Identified bottlenecks in the operational processes of ESCs

In all peer-reviewed countries, there is not yet a well-established practice whereby the government seeks the ESC's opinion or recommendation and provides feedback to the ESC, even where there is a legal obligation for the government to do so. Also, there is no institutionalized mechanism for following up after an ESC recommendation has been given.

The establishment of a tracking tool available to the secretariat of the ESC (like the one implemented in the FYR of Macedonia) has been identified as a good practice to achieve this objective.

Possible reasons for operational shortcomings include: (a) a certain urgency in policy and decision making due to the short deadlines for law and policy adoption processes; (b) the low priority given to social dialogue by some policy-makers and governmental ministers; (c) the short deadlines set for the ESC to adopt recommendations (e.g. 10 days in the Republic of Serbia); (d) the low and irregular frequency of ESC meetings (e.g. in the Republic of Albania and FYR of Macedonia); (e) ineffective opinion-making processes due to inadequate ESC voting systems, polarized debates, poor technical expertise, and inadequate research on complex economic and financial matters (e.g. an excessive representation of the three parties in Montenegro); (f) lengthy and bureaucratic procedural requirements for submission of ESC recommendations (e.g. in the Republic of Serbia, the opinion should first be submitted to the initiating ministry, and only after 30 days with no reply can be sent directly to the government); and (g) a certain tendency for governments to circumvent the ESC's debates by frequently adopting laws under "emergency procedures."

3.4. The members of ESCs and their contribution to the debates

There is evidence of a rather low ministerial presence in the ESCs' meetings. The exception is with the Minister of Labour, who usually chairs the ESC (with exception of the Republic of Serbia and BiH-Republika Srpska, where there is a rotation system in place). The practice of frequently replacing titular ministers with their deputies or junior officials has been noted.

The rule of consensus is generally applied in adopting recommendations and opinions within the ESC. However, given that full consensus can be difficult to reach, especially on structural reforms in times of economic hardship, it has been suggested the rule of consensus should be replaced by that of a qualified majority when consensus cannot be reached. Also, given the role of the government representatives in the ESC's meetings, which is primarily to explain and to defend the government's position on a certain legal or policy matter, and to receive feedback, the rationale of the governmental vote in the adoption of ESC's recommendations has been questioned.

Generally, the members of the ESCs and their specialized standing committees receive a monthly remuneration for their participation in the ESC. However, this practice varies in the region.

3.5. The impact of ESC's recommendations and opinions

In many cases, it appears that only approximately 50 per cent of all adopted bills falling under the scope of the ESC's competence were previously discussed by the national ESC.

More often than not, members of parliament are not aware of the opinions and recommendations issued by the ESC, and neither is the general public.

Some social partners take the view that there is not sufficient political will of the government as a whole to make use of available social dialogue institutions to their full potential and to place genuine policy dialogue high on political agenda.

As a general conclusion, all ESCs have been through a difficult period, reflective of the economic and social issues arising from the global financial and economic crisis, but they have remained effectively intact. This is a good indication of their resilience at times of crisis and bodes well for the future of the ESCs in the sub-region.

4. General recommendations and actions for further discussion and implementation

As a general principle, ESCs can be effective only if there are the following components in place:

mutual respect and trust among the tripartite actors;

- political will to debate social and economic laws and policies with impact on workers and employers in the national tripartite social dialogue forum;
- willingness of the three parties to debate key economic and social issues with a view towards compromise;
- adequate and consistent tripartite representation and presence at decision making levels of government, trade unions, and employers' organizations;
- technical capacity to deliver high quality outcomes and regular access to expertise;
- adequate structures and resources for administrative personnel, and a dedicated budget;
- collective and non-confrontational approach to dispute resolution;
- deferral of issues not agreed upon for further discussion rather than becoming matters for continued confrontation and division;

While the ESCs need the requisite structures to be effective, the key is making them work in practice. An ESC should produce, insofar as possible, resilient consensual outcomes which are subsequently translated into policy or law that improve upon the national economic and social environment and the living standards of citizens. Having the appropriate structures in place is essential, but the actual delivery of sustainable, consensus-driven policies and agreements is essential in order to ensure their legitimacy.

In all reviewed countries, the structure, representation and legislation for tripartite social dialogue institutions appear to conform to best international standards, but the participation and outcomes fail to meet best practice norms and expectations. This dichotomy remains the abiding challenge for all ESCs – to go from theory to practice, from intent to effect, and to stop going through the motions and actually ensure that their commitments are delivered.

It is therefore important that the overall goal behind establishing an ESC is reiterated.

- The objective of the ESC is to strengthen social dialogue over social and economic matters of general interest for the world of work, through the better use of the existing tripartite mechanisms and by reinforcing the involvement of the social partners in economic and social governance structures, particularly at national level.
- The ESC provides an institutionalized platform where genuine dialogue on current and future economic and social policies, issues and challenges can take place. This dialogue should inform and lead to the implementation of necessary policy changes on topics such as labour and industrial relations, social rights, employment, labour market governance related measures, but also economic and fiscal policies with impact on the working and living standards of citizens.
- The ESC creates a forum where key government representatives, and the social partners, with – when appropriate – participation of representatives of other groups of interests of civil society, can

discuss, deliberate, and eventually achieve consensus on key challenges to economy and society on topics of national general interest.

- The ESC can help a society achieve social equity and governmental transparency in the widest sense, through increasing incomes, improving social cohesion, and promoting policies that lead to a higher quality living environment.
- The ESC can host high-level discussions on matters pertaining to the European Union and the ILO and can devise joint actions to meet international obligations. This encourages a co-operative approach towards developing policies related to these international institutions.

4.1. The mandate of ESCs

Essentially, for ESCs to be effective and influential they require a broad consultative mandate. This allows them to represent the views and policies of employers and trade unions to the government, to hear their views and policies in return, to have debates and reach consensus on key agenda items, and to advise on important labour, social and economic matters. Such mandate allows the ESC to influence and shape policy-making, and to ensure governmental policies enjoy broad public support from key constituencies within the country.

In countries where the ESC has broader consultative remit, its mandate pertaining to wider economic and social policies is clearly set out by law or tripartite agreement. It includes policies and measures to mitigate the effects of the economic crisis, tax reforms, labour law reforms, healthcare, education and skills development, unemployment, and the informal economy.

In countries where the mandate is more restricted, the widening of their remit should be considered.

It is important to have a consistent approach across the sub-region in terms of the mandate of the ESCs so that to ensure that they are not solely involved in labour relations issues and workplace considerations such as social security, pensions, and minimum wage.

4.2. The consultative backdrop/Tackling the implementation gap

Legislative provisions for the establishment of ESCs in the participant countries provide for advisory and consultative duties, and administrative autonomy. However, an “implementation gap” emerges when the spirit, intent and provision of the primary legislative provisions are not carried over into practice by the government.

Most legislation regarding the operation of the ESCs provide for the government’s obligation to seek opinion on important draft legislative and policy measures as part of the consultation process. However, this requirement is breached more often than not. This breach usually takes place in the major economic and finance ministries rather than those in charge of labour and social affairs, health, or education. For example, the Republic of Serbia specifically refers to the good practices of the latter ministries. Other participant ESCs (Montenegro and the Republic of Albania) expressed the concern that there was no way to track whether the government had followed through on their recommendations.

The legal obligation of a government to consult with the national ESC is of paramount consideration, and adequate time must be given for these consultations to be inclusive and transparent. Otherwise it is only an exercise in “going through the legislative motions” to fulfil the basic statutory obligations of the government in relation to the ESC. A number of peer review reports make specific reference to governments truncating the consultative process by placing impossible time limits for the consultation period, or failing to consult with the ESC on urgent and vital legislation. For example, the peer review of the ESC of the Republic of Serbia refers to the passage of legislation on Public Enterprises, Excises and VAT where no consultation took place, and to the limited (5-day) consultation period on the new Labour Code.

To remedy these issues, there should be a specific legal imperative providing for a full and adequate consultation process on key legislation. There should also be a legal obligation of the government to provide timely feedback to ESC's recommendations, and an explanation of the follow up.

4.3. Supporting ESCs – Administrative, financial, technical, and professional expertise

A recurrent theme highlighted by all peer reviews is the lack of administrative, financial, technical, and professional support for the ESCs, either in total or in part. The ESCs are generally underfunded and lack sufficient internal human resources to adequately and professionally fulfil their respective mandates.

The governments of the project countries are currently undergoing budgetary challenges, and this is unlikely to change anytime soon. Despite financial constraints, they should continue to give social dialogue institutions special consideration, and strive to secure adequate resources for them to operate properly.

Consideration should be given and a discussion should take place as to whether the outcomes would be improved by the ESC operating under the authority of the office of the prime minister. In view of the current economic and social challenges being faced in the sub-region and the importance of fulfilling the key criteria for EU accession, this consideration should currently be given priority.

The Secretary has an important role in ensuring a smooth functioning of the ESC. He/she should have senior status and be an influential player in the industrial relations landscape. They should enjoy trust of all of the relevant parties, be a “doer” rather than a technocrat, and also act as a facilitator in difficult consultations or when there are tensions within the Council. All ESCs should give particular consideration to this appointment. The person chosen should hold a high-level public administration position, or be an “extern” supported by all of the parties with a track record of professional and public achievement.

ESCs should have access to technical and professional expertise including on contractual basis, but a balance should be kept so as not to down-sized the role of their dedicated full-time staff. Such an outcome would diminish operational continuity and corporate memory, and undermine the competency and experience of the technical secretariat.

Additional sources of technical and professional expertise should be also explored, particularly from private sector think tanks, universities, research institutes, and civil society organizations. Additional topics for ESC consideration could relate to economic development, migration, increased participation of women and young people in the workforce, gender and ethnic discrimination, and social inclusion measures.

5. Synopsis of Country Reports: Country-specific good practices, challenges and recommendations

5.1. Republic of Albania

5.1.1 Existing legal and institutional frameworks

The National Labour Council (NLC) is the highest tripartite advisory body at the national level.

The NLC is legally established by the Labour Code, as amended in 2015, and by the various ministerial orders regulating its functioning. The new Labour Code does not set out criteria for the social partners to be represented in the NLC, but provides for the Council of Ministers to establish them through governmental decree.

GOOD PRACTICES:

The NLC discusses a wide range of economic and social matters of general interest, including issues relating to the impact of the global economic downturn and crisis recovery, budgetary law, minimum wage, energy prices, and the ratification and implementation of ILO Conventions. The effectiveness of this practice has been illustrated in the level of engagement in debates over wages and pension reform.

CHALLENGES:

The lack of pre-determined, objective and transparent criteria for NLC membership can be a challenge to the legitimacy and representativeness of the NLC and ultimately to the political impact and credibility of its opinions and recommendations. It could also lead to the politicization of social dialogue, thereby undermining the objectivity of its outcomes.

5.1.2. Internal support structures

GOOD PRACTICES:

The NLC's work is organized around six specialized "Standing Committees," which are chaired by a senior official of the respective Ministry. Recently, the Council's rotating plenary meetings have been held in the offices of the constituent social partners' organizations.

CHALLENGES:

The NLC's Secretariat consists of two employees from the Ministry of Social Welfare and Youth (MSWY)¹ and two persons appointed by the social partners. The former have additional duties unrelated to the Secretariat tasks, whereas the latter work on a voluntary and ad-hoc basis.

No special premises are dedicated to the operation of the NLC, and it has no specific budget. The budget for its operation is provided for within the budget of the MSWY.

¹ Since October 2017, under the new governmental structure, the Ministry of Finance and Economy.

5.1.3. Opinion-making process and working methods

CHALLENGES:

There is no legal obligation for the Government to provide regular feedback to the NLC, and no systematic way to follow up with the NLC's recommendations and opinions.

5.1.4. Members of the ESC

CHALLENGES:

The level of representation in the NLC is unusually large and uneven. In the absence of pre-determined statutory criteria for representation, the composition of the NLC is established through governmental order. It seeks the representation of a multitude of governmental ministries, trade unions (national confederations and branch federations), and employers' organizations and business associations.

5.1.5. Impact of the ESC

GOOD PRACTICE:

The peer review report points to varying levels of success in issuing recommendations and opinions on the Labour Code, health insurance, education and training, health and safety, and on key economic issues.

CHALLENGES:

It is not clear to what extent they have been followed by policy-makers, or if members of Parliament are even aware of them when adopting certain laws.

The peer review report flags concerns regarding the discrepancy between the NLC's deliberations and their actual engagement with the political and parliamentary processes.

This shortcoming is highlighted by the limited role of the NLC in national economic reforms.

5.1.6. Recommendations

1. Pre-determined, objective and precise representativity criteria are a prerequisite of genuine and effective social dialogue (ILO). Therefore, the Government and the social partners should agree on a set of objective indicators of representativity that are easy to check, and those criteria should be laid down in law (e.g. a special law on representativity of the social partners for participation in tripartite social dialogue and collective bargaining).
2. An effort must also be made to harmonize the level of representativity in the NLC in order to maximize the impact of its outcomes.
3. The strengthening of the NLC Secretariat, particularly through involving specialists from the social partners, is needed. Independent professional expertise should also be provided for. The viewpoint is that the scale of activities requires this level of enhancement, and that the Council would gain from greater expertise.
4. With the aim to monitor NLC impact over law and policy making, a tracking mechanism should be adopted so that the NLC is able to ascertain and assess the level and degree to which their recommendations were being acted upon at the Council of Ministers. A suitable technological application to achieve this objective should be installed with the Secretariat.

5.2. Bosnia and Herzegovina

According to the Constitution and the law, Bosnia and Herzegovina (BiH) consists of two equal and constitutional entities: the Republika Srpska and the Federation of Bosnia and Herzegovina. The Brčko District of BiH is also a separate administrative-territorial unit.

The BiH entities independently perform their constituent, legislative, executive and judicial functions. They have their own constitutions, with clearly defined legislative and executive authorities within their parliaments and governments.

In accordance with the Constitution of Bosnia and Herzegovina and the constitutions of the entities, issues related to labour relations, social dialogue, collective bargaining, social protection, pensions, disability protection, and all other issues within the competence of economic and social councils are the exclusive competence of the entities.

The ESC of the Republika Srpska and the ESC of the Federation of Bosnia and Herzegovina are constituted at the entity level. Both ESCs observe the tripartite principle, involving the government, representative trade unions and representative employers.

This report contains two separate assessments of the social dialogue institutions in Bosnia and Herzegovina.

FEDERATION OF BOSNIA AND HERZEGOVINA (FedBiH)

5.2.1. Existing legal and institutional frameworks

The ESC of the FedBiH is the highest tripartite advisory body to the government. It operates on the basis of the 2002 tripartite agreement concluded between the government, the Confederation of Independent Trade Unions and the Employers Association.

This agreement regulates the work of the Council, defines its composition, and outlines its function, role and competencies. The Council can address matters relating to salaries and wages, collective agreements, taxation policy, employment and social policy, privatization, labour law, and a wide range of public policies.

The Labour Law of 2016 further expanded the role of the ESC to cantons and municipalities.

GOOD PRACTICES:

The ESC debates economic and social matters of general interest, including the promotion, review and monitoring of collective agreements.

Of particular interest is the fact that the ESC's meetings are public and widely advertised in the media.

CHALLENGES:

Since the legal base of the ESC is in two distinct pieces of legislation, the 2002 Tripartite Agreement and the 2016 Labour Code, the application of legal provisions are complicated and inconsistent for law enforcers and the public alike.

5.2.2. Internal support structures

The ESC has its own budget, allocated through the Ministry. Its activities fall under the remit of the Ministry of Labour and Social Policy of the FeBiH.

GOOD PRACTICES:

The Chairperson can be nominated by any of the social partners and must be agreed upon unanimously. They serve a renewable four-year term, and have no voting rights.

Expertise is provided to the Council when requested, and these costs are covered by the Ministry or Government. Other civil society groups are also invited to attend ESC meetings and give their views on matters relevant to the agenda, but they do not have voting rights.

CHALLENGES:

The ESC's Secretariat includes only four employees of the Ministry of Labour, and they also perform other duties in the Ministry.

5.2.3. Opinion-making process and working methods**CHALLENGES:**

According to the social partners, the main concerns include:

- ineffective consultation and a lack of agreed outcomes;
- limited capacity and resources of the Council;
- lack of engagement by ministries other than the Ministry of Labour.

It appears that the social partners are united in their view that there is insufficient engagement at the decision making level of the government on macro-economic issues, and for that reason the Council, while playing an important role in collective bargaining issues, is largely ignored on key economic matters. Government representatives take the view that in situations which require an urgent decision on key economic or financial issues, a prolonged consultative exercise might be counterproductive.

5.2.4. Recommendations

1. In order to establish a coherent and coordinated legal framework, all relevant norms should be streamlined into a special law regulating the functioning of the ESC.
2. The Council's status and functioning could be enhanced by more independent personnel and by enhancing recourse to additional external expertise.
3. Awareness-raising on the role of the government as a promoter, supporter, regulator, and enforcer of social dialogue should be carried out within key economic ministries.
4. The government should give additional consideration towards increasing the quality and consistency of its representation at the Council and its active involvement in the consultative processes, in particular over economic reforms.

REPUBLIKA SRPSKA (RS)**5.2.5. Existing legal and institutional frameworks**

The ESC of the Republika Srpska was established in 1997 by a special agreement between the social partners. The 2000 Law on Labour provided the legal base for the existence of the Council. A special law on the ESC was adopted in 2008 which additionally regulated its competences, work and activities. The ESC is a tripartite advisory body to the Government of Republika Srpska, with the additional role of promoting collective bargaining. The new Labour Law entered into force in 2016 gave the ESC additional competences related to the minimum wage and wage fixing, and extension of collective agreements. The ESC is also called to promote collective bargaining and to represent the interests of workers and employers in the wider social and economic sphere.

GOOD PRACTICES:

The legal obligations of the government to consult with the ESC on matters falling under its scope and to provide feedback on its recommendations are partially observed by some ministries. However, there is no steady practice of the government as a whole in this respect.

5.2.6. Internal support structures

GOOD PRACTICES:

The ESC is financed directly through the state budget.

CHALLENGES:

The Secretariat has only one full-time professional employee, and operates from rented offices.

There are also operational and logistical issues which create functional difficulties at the Secretariat level, according to the social partners. The trade unions are of the view that the support services to the Council should be enhanced. The Ministry takes a contrary view.

5.2.7. Opinion-making process and working methods

CHALLENGES:

A lack of trust between the social partners and the government appears to be a root cause of much of the ESC's dysfunction. Recently there has been disagreement between the employers in the private sector and trade unions over the new Labour Code, which has caused problems for the ESC and prevented it from completing many of its tasks. The disagreement has also limited the ability of the ESC to make decisions on key labour market issues that are highly relevant for the entire economy, such as illegal employment practices, and has hindered consensus on broader key economic issues.

Although the ESC is mandated to provide recommendations and opinions on draft laws and by-laws, certain recent laws have been rushed through the parliamentary process without the opinion of the ESC. In some cases, insufficient time was given under the existing procedures for the ESC to fully consider the legal content.

The level of ESC activity has also diminished. Its previously active schedule has been reduced to only two meetings in 2015 and three in 2016. This appears to be both a political issue and one relating to the capacity and resources of the ESC.

5.2.8. Recommendations

1. Current timeframes set in existing procedural rules should be reasonably extended (based on the needs assessment by the concerned parties), so as to allow meaningful and thorough debates on complex matters in the ESC. Existing rules of procedure should also address, in a clearer manner, some organizational aspects like conveying extraordinary meetings or the procedure for submitting new initiatives.
2. The ESC would benefit from an increased number of specialized standing committees (there are only two that are currently operational), which would provide the necessary technical background and input to the Council's debates on a wide range of economic and social matters.
3. In order to live up to its mission, the ESC should hold at least six to eight meetings per year.
4. A new tripartite initiative is needed to rebuild trust among the member organizations and to revitalize the ESC through constructive dialogue.
5. The government as a whole should give additional consideration to increasing the quality and consistency of its representation in the Council, and to ensuring the wide systematic observance of their legal obligations regarding the ESC's consultative processes over broad reform agendas.

5.3. The former Yugoslav Republic of Macedonia

5.3.1. Existing legal and institutional frameworks

In August 2010 the government, representative trade unions (the Federation of Trade Unions of Macedonia and the Confederation of Free Trade Unions of Macedonia) and the Organization of Employers of Macedonia signed an agreement for the establishment of the new national ESC. This agreement came after a two-year break in the functioning of the ESC, and replaced an earlier agreement from 1996.

The ESC is a consultative and advisory body to the Government on employment and social matters. These include labour market policies, wage and price policies, social insurance, social protection, healthcare, occupational health and safety, education and vocational training.

It has also an advisory role in the ratification of ILO Conventions, pursuant to the Tripartite Consultation Convention, 1976 (No. 144).

5.3.2. Internal organizational support structures

GOOD PRACTICES:

The Secretariat of the ESC is tripartite, made up of two civil servants from the Ministry of Labour and one additional member from each of the social partners. Additional administrative expert support is granted when needed.

There are six specialized standing committees of the ESC: Labour Relations and Wages, Labour Market and Employment, Safety and Health at Work, Social Security, Licensing of Conciliators/Arbiters of Labour Disputes, and Corporate Social Responsibility.

CHALLENGES:

The technical capacity of the Secretariat to influence the recommendation-making process is limited.

5.3.3. Opinion-making process and working methods

GOOD PRACTICES:

The obligation of the government to seek the ESC's recommendation on laws covering labour relations, employment, pension and disability insurance, and occupational safety and health, and to provide feedback on their follow-up, is generally observed. However, only the Ministry of Labour and Social Policy has developed a constant practice in this respect.

In order to track the follow-up given to the ESC's recommendations, a monitoring tool has been made available to the Secretariat of the ESC.

CHALLENGES:

Bills, national programmes and strategies on economic reforms are rarely if ever submitted to the ESC for discussion. Even when they pertain to labour related issues, bills and strategic documents initiated by the Ministry of Finance or the Ministry of Economy are not debated in the ESC. They are generally adopted by the government without the recommendation or opinion of the Council.

5.3.4. Members of the ESC

The Council consists of 12 members: four from the Government (the Minister of Labour and Social Policy, the Minister of Finance, the Minister of Economy and the Vice President for Economic Affairs), four members of the Organization of Employers of Macedonia, two members from the Federation of Trade Unions of Macedonia, and two members from the Confederation of Free Trade Unions of Macedonia.

CHALLENGES:

Despite the comprehensive, high-level ministerial composition of the ESC, it is still not yet an advisory body to the whole Government. Only the Minister of Labour and Social Policy usually participates in the debates.

5.3.5. Recommendations

1. A greater level of technical expertise should be made available to the ESC through establishing cooperation with research institutes, academia, and other civil society organizations.
2. Procedures should be put in place and existing ones amended so that legal and strategic documents of general economic and social interest must include the recommendations and opinions of the ESC.
3. The government should play a larger role in fostering social dialogue, and this should be carried out within key economic ministries and by members of Parliament. The greater involvement of key governmental decision makers at the final deliberative stages of draft proposals would give the Council greater effectiveness and authority.

5.4. Montenegro

5.4.1. Existing legal and institutional frameworks

The Social Council of Montenegro is established by the Law on the Social Council, as amended in 2013, and its accompanying statutes and rules of procedure. The Law provides for the Council to deliberate over a wide range of economic and social issues, including negotiations of the general tripartite collective agreement.

5.4.2. Internal support structures

GOOD PRACTICE:

The Social Council's works are supported by standing and ad-hoc tripartite specialized commissions and working groups.

CHALLENGES:

The Secretariat of the Council has only one staff member, which is clearly insufficient for the ESC's workload and related activities.

Even though the Council has access at times to various experts, there is still a need for a more proactive approach towards supplementing the administrative Secretariat.

5.4.3 Opinion-making process and working methods

CHALLENGES:

Existing voting system is not conducive to consensus building.

The large number of representatives of each party makes the opinion making processes difficult, lengthy and sometimes ineffective.

5.4.4. Members of the ESC

CHALLENGES:

Key economic and development ministries are not represented in the Social Council.

5.4.5. Recommendations

1. In order for the Secretariat to fulfil its multi-task programme and to adequately support the work of the Council, a staff increase to at least three persons is recommended. The additional staff should ideally come from the social partners.
2. The number of representatives of each party should be reduced to eight members maximum, in order to increase the effectiveness of the opinion-making process.

3. The government representation should include key ministers dealing with a wider economic and enterprise development issues, so as to allow the Council to engage into debates over broader reform agendas.
4. Additional expertise resources should be made available for the Council.
5. Existing voting arrangements should be reviewed so as to facilitate a consensus building approach to policy recommendations.

5.5. Republic of Serbia

5.5.1. Existing legal and institutional frameworks

The Social and Economic Council (SEC) of the Republic of Serbia was established initially by a 2001 Tripartite Agreement. Currently, the legal base for the functioning of the SEC is the 2004 Law on Social and Economic Council, as amended in 2008.

5.5.2. Internal support structures

GOOD PRACTICES:

Currently, there are four specialized standing committees (working groups) operational within the SEC, namely for legislation, collective bargaining and labour dispute resolution, economic issues, and occupational health and safety.

Each standing committee has four members, one from each representative social partner.

SEC's meetings agenda is set by a tripartite "collegium," which is composed of representatives of the government, member organizations and the SEC's Secretary. It should meet on a monthly basis according to law.

CHALLENGES:

Only three out of ten positions foreseen for the Secretariat are currently filled.

The budgetary allocation for the SEC was downsized in 2016 to 62 per cent of its 2009 budget. However, the budget has since been increased to 300,000 for 2017.

The technical capacity of the SEC's standing committees to provide technical input on a broad range of complex economic, fiscal and legal issues is still limited. Cooperation with academia, research institutes and civil society organizations would increase the quality of the ESC recommendations.

5.5.3. Opinion-making process and working methods

In 2016, the ESC held six regular and two emergency meetings to discuss legal, economic, social, and labour matters.

GOOD PRACTICES:

There is a relatively well established practice of some ministries to seek the ESC's recommendations and to provide feedback on their follow-up.

CHALLENGES:

The very short deadlines given for debating and issuing recommendations and opinions on a bill often make the discussion and its outcome meaningless (e.g., five days for debating the new Labour Code).

The representatives of the social partners in the specialized standing committees of the SEC do not usually participate in the tripartite working groups convened by relevant ministries when initiating law and policy drafting processes. This prevents the standing committees from becoming acquainted systematically with the goals and content of the legal and policy initiatives of the Government.

The procedural requirement that a recommendation on a bill should first be submitted to the initiator line ministry and only after 30 days if no reply has been received could be sent directly to the government unnecessarily delays the process, and often makes it so that the legislative deadline is missed.

The government has shown a certain tendency to circumvent the SEC's debates by frequently adopting laws under "emergency procedure."

Adoption of SEC's recommendations and opinions is by consensus. However, the quorum required is low, which might delegitimize the process and the quality of its outcomes. As experience has shown, an absolute application of a consensus rule might stop the SEC from submitting a recommendation or opinion, especially when sensitive issues are discussed.

Moreover, the practice in which ministers are replaced by deputies does not give the Council the full support and authority needed for its deliberations and conclusions.

5.5.4. Impact of the ESC

GOOD PRACTICES:

Of particular significance has been the discussion of matters under negotiation in the process of EU accession.

CHALLENGES:

The Government has failed to consult the ESC in regard to other significant legislation, such as the laws on Public Enterprises, Excises, and Value Added Tax. This has diminished levels of trust towards the Government, particularly among the trade unions.

Members of Parliament are generally not aware of the debates in the ESC, nor of its recommendations.

5.5.5. Recommendations

1. Social partners should be involved at an early stage in the tripartite working groups on drafting bills with concerned ministries. Early involvement of the social partners in such processes would increase the quality of technical input of the standing committees, and would allow smoother debates in the ESC.
2. Bills debated in the SEC should be accompanied by the SEC's recommendations and opinions when submitted to Parliament. This would inform parliamentary debates and would increase the influence of the ESC over policy and lawmaking.
3. The SEC's opinions should be submitted both to the Government and the concerned ministry, and shorter time limits for their feedback should be set out.
4. When consensus is not reached, the SEC's recommendation or opinion should be adopted by qualified majority vote. This is likely to improve the effectiveness of the ESC.
5. The quorum necessary for SEC meeting should be enlarged. In the absence of an appropriate quorum, the legitimacy of the recommendations and opinions reached might be diminished. This is likely to increase the level of trust among the ESC members, and to improve the quality of its outcomes.
6. Dissenting opinions should be recognized in the ESC's recommendation or opinion. This would allow members who have voted against or abstained from voting to substantiate their position and make their views known to the concerned decisionmakers.
7. SEC's specialized standing committees should, to the largest extent possible, draw upon professional and technical experts from academia, research institutes and civil society organizations. The representatives of such institutions or organizations could participate in the specialized standing committees without the right to vote.
8. The Government should fully acknowledge the ESC as the national tripartite advisory body. It is important for the Government as a whole to acknowledge the added value of social dialogue in the policy and lawmaking process.

9. Collective bargaining as a *sine qua non* condition for effective tripartite social dialogue should be strengthened, especially in the private sector. For this purpose it is suggested that at least once per year the SEC discusses the state of collective bargaining, as well as the status and enforcement of collective agreements at various levels.

This would contribute to building trust, mutual recognition and the empowerment of the social partners.

5.6. Kosovo (within the meaning of the UNSC Resolution No. 1244)

5.6.1. Internal support structures

The Secretariat of the ESC is based in the Ministry of Labour and Social Welfare, and the Head of the Secretariat and its supporting staff are employees with that Ministry. Two representatives of the trade unions and employers' organizations (one each) are also members of the Secretariat.

CHALLENGES:

Despite the legal provision, the Council has no separate premises or specific budget. There are also issues relating to the availability of funding and the skilled technical expertise of the Secretariat.

5.6.2. Opinion-making process and working methods

GOOD PRACTICES:

Regulations require only a two-thirds majority in adopting decisions after efforts are made to achieve consensus on key issues.

5.6.3. Members of the ESC

GOOD PRACTICES:

It appears that the social partners have a positive and constructive relationship, and they have succeeded in agreeing on many issues relating to social dialogue on a bipartite basis.

CHALLENGES:

Government representatives do not always actively participate in taking up important laws and programmes to be discussed with the Council.

5.6.4. Impact of the ESC

GOOD PRACTICES:

The Council has produced a number of key strategic and policy documents and proposals. These include matters relating to the Decision on the Minimum Wage 2011, the Employment Sector Strategy 2014–2020, and the General Collective Agreement of 2014. Other areas addressed include specific labour law matters relating to strikes, EU Directives, and bipartite negotiations and agreements between employers and trade union organizations.

CHALLENGES:

The Council's work is not known by the general public.

5.6.5. Recommendations

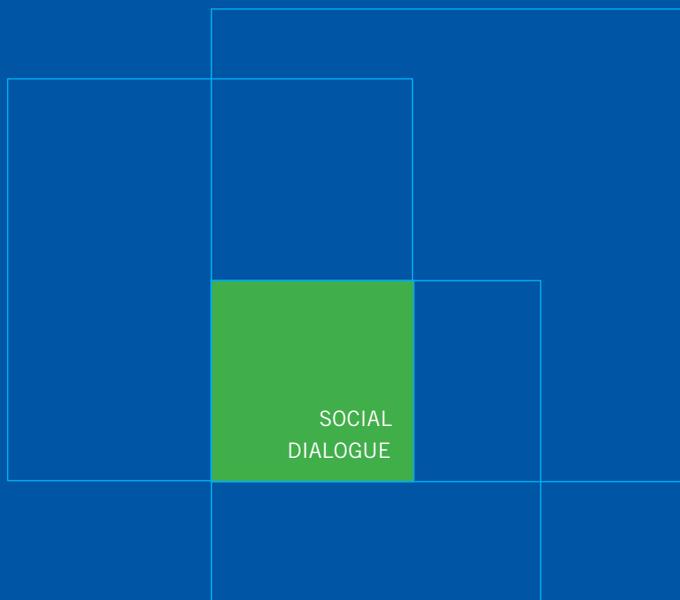
In light of the challenges identified in the peer review, the following recommendations were put forward:

1. Efforts should be made by both the government and the social partners to secure the funds necessary for the adequate functioning of the Secretariat.

2. Establishing cooperation with research institutions, academia, and other civil society organizations is likely to improve the technical expertise of the Secretariat.
3. The government should be more proactive on matters being discussed at the Council. The social partners should not always be making every initiative, particularly the trade unions, to influence the agenda and the deliberations of the Council.
4. The visibility of the role and successes of the ESC should be highlighted more, and a media and communication strategy should be designed by a special working group to achieve this objective within the forthcoming year.

PART 2

The proceedings and outcomes
of the ESAP High Level
Sub Regional Conference,
July 5–6, 2017



1. Introduction

The Conference objectives were set so as to facilitate:

- sharing of the peer review teams' findings and receiving feed back to their respective reports;
- making of specific commitments by the ESCs to prioritize recommendations and actions to be fulfilled within the next phase of the project; and
- agreement on capacity-building required for the implementation of recommendations agreed upon during the Conference and the future operation of the ESCs.

2. Setting the wider agenda

The Conference was opened by the newly-appointed Minister of Labour, Employment, Veteran and Social Affairs in the Republic of Serbia, Mr Zoran Djordjevic. The Minister commented on the importance of regional co-operation among the countries of the Western Balkans, and welcomed the objectives and aims of the ESAP project that sought to improve the effectiveness of the ESCs in the region.

Mr Antonio Graziosi, Director of the ILO DWT/CO in Budapest, spoke of the need to strengthen the capacity of the ESCs in the region so that they could become strong, respected and influencing agencies in the formulation and determination of social, economic and labour policies in the member countries. Observing that the draft report had provided a good analysis of the current situation in each ESC and the challenges they face in becoming more effective in their operations, they now were required to move forward by agreeing to specific recommendations.

Mr Kiril Kiryakov, International Policy Officer, DG Employment, Social Affairs & Inclusion for the European Commission, referred to the progress made under the Project since the Sub-Regional Preparation Seminar in Becici, Montenegro in October 2016. This is reflected in the draft report and summary matrix for this Conference.

He emphasized the importance of achieving progress in the Accession process to membership of the EU, as well as the need for greater social partner involvement in policy making, and pointed out that the ESCs were essential vehicles towards achieving that objective. His view was that employment creation was a continuous challenge, particularly with youth unemployment, skill migration and the informal economy. He also noted the need to reform social protection measures and the standards of labour market governance.

Ms Susanne M. Nielsen, ESAP Chief Technical Advisor, outlined both the objectives of the Conference and the political and economic environment within which the ESCs were operating. The Western Balkans shared interests, experiences, and a common desire for progressive change and mutual cooperation. This was exemplified in the peer review team exercises and project tasks, where there was a high degree of willingness to share knowledge, understanding and experience and inspiring practices.

A major and essential objective of the conference was for the ESCs themselves to identify and agree on at least two recommendations, chosen during the peer review process, that they would prioritize for action and delivery during the next phase of the project. The group sessions later on in the conference were specifically designed to provide an opportunity to discuss what was necessary to actively implement these recommendations.

3. Presentation of the Country Reports

In opening this session, Ms Cristina Mihes, ILO Senior Specialist in Social Dialogue and Labour Law, thanked the peer review teams for their excellent work and for the professionalism of the reports submitted to the ESAP team.

She also complimented each host country for facilitating the work of the peer review teams. It was a superb example of mutual cooperation in pursuit of a common objective: the enhancement of the effectiveness of ESCs in the subregion.

The rapporteurs for each country presented the key challenges and good practices which had arisen from their respective reviews and visits. They also reported upon the major issues that arose from their engagement with the ESC secretariat, government members, trade unions' and employers' representatives.

The presentations provided participants with an opportunity to gain significant insights into the dynamics and structures influencing key developments leading to success in the ESCs, and also with insight into the specific issues impeding their development. This country-by-country analysis allowed for a focused discussion on the impediments to achieving more effective ESCs.

These insights were also important and definitive contributors to the recommendations for the ESCs, as agreed upon in later sessions of the conference.

As referred to earlier in this report, no country reported on its own ESC and the visiting delegations were tripartite. These processes gave greater credibility and validity to the peer team review reports.

Both sessions discussing these reports provided and allowed the conference delegates and members of the ESCs to:

- 1) correct any aspects of the Draft Report which were factually incorrect;
- 2) comment on the Draft Report and address issues which required clarification or amendment; and
- 3) update the participants on more recent developments which may have occurred since the country reports were received.

The sessions provided for a lively and informative debate on various issues, including the technical capacity of the secretariats, budgets, an ESC's jurisdiction, the effects on the social dialogue process, aspects of the economic crisis and how it has affected the relationship between the tripartite partners, governmental use of the ESCs and their level of their participation, the perception of parliaments and ministries of the ESC, and the role of ESCs in policy and legislation formation, and the implementation of the outcomes of ESC deliberations.

4. Comparative and inspiring experiences of ESC-type institutions in selected EU countries (Poland, Denmark and Portugal)

Poland's National Social Dialogue Council was presented by Ms Agata Oklinska (Deputy Director, Social Dialogue/Social Partnership Department, Ministry of Family, Labour and Social Policy).

The SDC is firmly based both in Constitutional provisions (Articles 12/20/59), where social dialogue is seen as "a fundamental right for the State." It is also enshrined in key legislative enactments from 1991 and again in 2015. The Council does not replace the Government and Parliament as the key decision-making bodies, but is focused on achieving consensus on key economic and social policy objectives.

Since the economic crisis of 2008, the primary role of the Council has been to mitigate the worst effects of this crisis on employees and employers through overarching agreements relating to macro-concerns on the central issues of employment, business continuity and industrial labour code developments.

In this respect, the President of the Republic of Poland engaged personally in the deliberations of the Council from 2013 to 2016. The Social Dialogue Act (SDC) of 2015 strengthened the role of the Council in the legislative process and facilitated both bilateral and tripartite social dialogue. In this period, over 800 opinions were drafted, some in relation to draft laws from various ministries. The Council has access to the Supreme Court in regard to interpretive requirements which may arise from the need to clarify legal interpretations on legislation.

The Council is representative of a wide range of both employer and trade union groups and of several senior ministers from key Government departments. The Chairperson of the Council is on a rotational basis between the constituent bodies represented on the Council.

Significant achievements for the Council in 2017 include the agreements on the Labour Code and the Public Procurement Law. In June 2017, the President participated in a plenary session of the Council. Another aspect of the effective functioning of the Council is the Tripartite Sectoral Teams dealing with important economic and social policy matters and potential solutions to the issues that arise. Currently, a discussion is underway on various amendments to the SDC Act of 2015.

Denmark's National Employment Council was presented by Mr Joergen Bang–Petersen, Chief Advisor for the Confederation of Danish Employers.

Mr Bang–Petersen outlined the Danish system of employment and “flex security” and the national and regional local authority organization system of labour market operations. The National Employment Council operates under the aegis of the Ministry of Employment and acts as an advisory body to the Minister on all aspects of employment policy throughout the eight regional labour markets and 98 municipalities in Denmark.

It consists of a Chairman and 24 representatives encompassing the social partners, the municipalities, and the Danish Council of Organizations of Disabled Persons. The Council has responsibility for all major initiatives involving the labour market, training, annual employment goals and targets, and the piloting of schemes on integration and access to the labour force.

Tripartite negotiations over several years have concluded in several agreements relating to the labour market and workforce planning, such as the 1987 agreement on pension reform and the two agreements from 2016 on training and skill development and on integration in the workplace.

In conclusion, Mr Bang–Petersen referred to several key aspects to achieving successful outcomes: all interests must be represented, there should be a limited number of participants, the role and responsibility of constituents on the Council should be clear and based in law, the secretariat should be professional, with access to databases and research, and the parties should be dedicated to reaching consensus in coordinating their activities within the Council.

Portugal's Economic and Social Council was presented by Ms Caterina Braga, Senior Expert of the ILO Portugal (Former Sec Gen ESC, Portugal).

The ESC of Portugal was established by law in 1991 and has, as its primary remit, the participation of all social actors in the decision–making process on social and economic policy. It has a consultative role and provides opinions on the economic and social agenda, EU institutions, and on EU funding, but also plays a key role in matters relating to social dialogue and industrial relations.

It operates through a Board of Directors, a Coordination Council and four standing committees. The most important committee is the Committee on Social Concertation, which is composed of six Government representatives, four union members and four employers.

The ESC itself is composed of 66 members. It is widely based and inclusive of civil society, has four Vice Presidents, and meets in plenary session six times each year. Notably, the President of the Council is elected by Parliament (with a two–thirds majority required) and serves for the same period as the Parliament.

The Council had significant and notable achievements during the recession, and in the difficult circumstances involving the international “troika”. The Council made recommendations on the National Reform

Plan in 2016 and again in 2017, the National Budget Account, and a major local Government reorganization involving the transfer of powers within municipalities. Other achievements relate to the minimum wage, the promotion of social dialogue, business competitiveness, social cohesion, and the reduction in employer social security costs in order to generate employment and labour market modernization. It has also adopted several joint opinions on sensitive issues.

The ESC also has authority to provide arbitration on labour disputes, and has done so on several occasions since 2009.

Ms Braga emphasized in conclusion that during the period of the Adjustment Programme, there never was an interruption in the social dialogue process.

5. Closing the gap: Challenges and possible ways to overcome them

This session of the conference was facilitated by Cristina Mihes, ILO and Kieran Mulvey, International Expert and former Director General, Workplace Relations Commission for Ireland. It focused on the general and specific findings from the peer review team reports and the "Summary Matrix" accompanying the conference documentation.

Ms Mihes referred to the commentary in Section 3 of the draft report ("General Findings") and the challenges and good practices identified in the report, based on the broad observations of the peer review teams.

A shared legacy in terms of labour and industrial relations systems, social dialogue culture and practice, and similar political agendas aiming at accession to the EU explains the legal and institutional solutions chosen by the countries for enabling tripartite social dialogue. The countries also face similar challenges on making social dialogue institutions work effectively. Generally, governments are underutilizing the practice of seeking the ESC's opinions and following up after recommendations are made. Secretariats have insufficient technical capacity to support their ESCs, and there is limited regular access to the necessary expertise and analytical tools.

There were many significant challenges at the individual level in the operation, functioning, and active participation of government representatives in the work of the ESCs. Although most countries' legislative bases for their ESCs are well-founded and subject to periodic review, there were some countries where the remit of the councils need to extend beyond purely labour-related matters.

Undoubtedly, the technical resources available to the ESCs were extremely limited, and in some cases had diminished during the most recent economic crisis. This had to be addressed if the councils were to retain their national credibility, increase their operational capacity, and tackle the increasingly complex social dialogue issues and their effects on society, the workplace and employment arising from the fallout of the global recession.

Adjusting to these outcomes requires political will and genuine engagement of all parties in the process of social dialogue. This allows societies to avoid the confrontational and unilateral "emergency procedure" approach to policy, lawmaking and budget planning.

All tripartite partners need to increase their capacity to engage with key priorities for sustainable progress, work towards mutual goals, agree on solutions, and then adhere to their commitments. Furthermore, ESCs have an essential institutional role in achieving the requirements for EU accession and the core Conventions, in particular Conventions No. 87, No. 98 and No. 144.

Mr Mulvey presented a synopsis of the key bottlenecks in achieving successful ESC outcomes. These related largely to the following:

- inadequate consultation and lack of early stage involvement of the social partners, and low governmental engagement at the senior level;

- insufficient tracking of outcomes at the end stage;
- circumvention of the process by the government in “emergency” situations;
- short deadlines for issuing recommendations to allow for thorough analysis and debate, leading to consensus and the improved quality of recommendations;
- lengthy procedure for channeling ESC recommendations to line ministries first and eventually to the government;
- deadlock of discussions where there is no consensus; and
- lack of secretariat resources and technical expertise.

Mr Mulvey referred to the specific recommendations contained in the peer review group reports and summarized in both the draft report and the “Summary Matrix.” He extended his thanks and appreciation to the peer teams and the national ESCs for their professional and detailed contributions in their respective reports.

There were effectively two columns outlining the recommendations. The first related to most of the recommendations made in the peer reports, and the second column referred to those which the ESCs themselves had prioritized for action and implementation over the next 12 months.

The Republic of Albania had chosen three specific recommendations: early stage consultation with the ESC, tracking the progress on opinions, and strengthening the Secretariat, including a review of representivity criteria and the regulations around such criteria. Bosnia and Herzegovina–Federation of BiH selected the recommendation concerning the drafting of a new law that would regulate the work of the ESC. The peer review report on Bosnia and Herzegovina–Republika Srpska included several specific recommendations. These related to the need to increase technical support, strengthen collective bargaining, revitalize the social dialogue process, secure greater government participation at key ministerial levels, and provide more clarity around the rules and regulations for the operation of the ESC. ESC of BiH– Republika Srpska committed to work on the quality of social dialogue process and to increase the number of ESC standing committees.

The report on the ESC of the FYR of Macedonia highlighted three recommendations: increase the level of technical expertise made available to the ESC (such as research bodies, academia and civil organizations); put procedures into place to ensure that draft legislation and policies of strategic significance could not proceed without being accompanied by the opinion or recommendation of the ESC; and undertake an awareness-raising campaign with parliamentarians and ministers on the social dialogue process and its key outcomes. Peer recommendations on Montenegro centered on the level of ministerial input, the large size of the ESC and the inefficiencies arising from it, the simplification of the voting system and technical capacity. ESC selected to address the first two recommendations.

The report on the Republic of Serbia set forth a large number of recommendations. The report included a narrative around each recommendation with specific observations, and indicated the relevant authority charged with the responsibility for implementation. The recommendations included involving all parties in early stages of the consultation process, reporting the opinions and deliberations of the ESC to Government and Parliament, increasing the capacity and status of the Secretariat, considering replacing the consensus rule with a qualified majority system, ensuring a constant high level government presence to give authority to the ESC, and strengthening the collective bargaining process, particularly in the private sector. ESC selected three recommendations for further implementation, namely to communicate its opinions and deliberations to Parliament, to introduce shorter feedback requirement and to work on better recognition of its role by the Government.

The peer review team for Kosovo (within the meaning of the UNSC Resolution no. 1244) listed four areas where action was necessary in relation to the effectiveness of the ESC. They highlighted the need for greater public visibility on the ESC's role and successes, the adoption of a communication strategy for the ESC, the need for greater technical and financial support, and more consistent government participation at the higher level. ESC committed to draft and approve a communications strategy for 2018–20 and to secure permanent premises and budget for its operations.

To summarize, Mr Mulvey referred to the considerable degree of unanimity among ESCs regarding the key challenges that face them, despite the particular local circumstances and distinct economic environments. He outlined the specific recommendations made for each ESC, and gave some background to each of the specific recommendations.

6. Panel session: The place of ESCs in the future of social dialogue

A specific session, chaired by Youcef Ghellab, Head of the Unit for Social Dialogue, ILO–Geneva, and involving Mr Vukasin Zogovic, (Deputy GS, Union of Free Trade Unions, Montenegro), Ms Belinda Nikolovska (Executive Director, Organisation of Employers–FRYM), and Mr Goran Neshevski, (Secretary, ESC, FRY of Macedonia) deliberated upon the important contributions that the ESCs bring to the institutional architecture of the national social dialogue process.

Mr Ghellab stated that in most countries, the national institutions for tripartite social dialogue had been established 15–20 years earlier in a social and economic environment that was markedly different from the current one. The new global economy is characterized by massive and rapid technological change, and is triggered by four major drivers of this change:

- technological change involving the internet and its appendages;
- an ageing population;
- climate change and its consequences for the environment, natural resources and food production; and
- the exacerbation of globalization and its consequences for migration, increasing inequalities, and increasing vulnerable groups in our societies.

The tripartite panel outlined their views on what roles the national institutions for social dialogue could play in the future, given the massive and deep transformations underway in the world of work and in the workplace. The major questions for the panelists centred on the challenges and opportunities for the institutions for social dialogue, such as ESCs. They asked how they could remain relevant and proactive, assisting governments, trade unions and employers' organizations to build and maintain consensus in this rapidly changing social and economic landscape.

The generally accepted viewpoint of the panelists was that there were many varied challenges for society, and that sometimes very disparate views are confronted by the tripartite constituents to address these issues. In response to the points raised by Mr Ghellab, participants noted how it was particularly difficult in current times to obtain consensus on matters relating to labour law, pay determination in the private and public sectors, and public expenditure issues relating to privatization, health, education, social security and employment creation.

Employers felt pressured by increased regulation, insufficient employment incentives and corporate taxation structures. Unions were of the view that labour codes were not sufficiently robust in defending workers' rights, that collective bargaining structures were being jeopardized, and in some cases that ILO conventions were being ignored.

Participants said that the earlier presentations on Poland, Denmark and Portugal, showing how EU countries, were meeting similar challenges through their ESCs or relevant tripartite structures, were especially informative and provided optimism for the future. There was a strong consensus among participants that there needed to be a renewed emphasis on the key ILO Conventions surrounding tripartite consultation, and collective bargaining, and that a greater degree of knowledge and promotion of fundamental Conventions was necessary.

7. Future actions and recommendations

Five thematic headings were identified for group discussion. These were designed to lead and assist in formulating key actions and targets for the respective ESCs.

- Regulatory changes required for enhancing ESC effectiveness
- Mechanisms for monitoring the follow up to ESC opinions and recommendations, and the most effective method of engaging with policy and law makers
- Capacity-building for the ESC secretariats
- Awareness-raising to inform decision makers, parliaments and the general public on the role of the ESC
- Implementation of the ILO Tripartite Consultation Convention, 1976 (No. 144) (International Labour Standards)

Two sessions were organized towards the conclusion of the conference for participants to agree on the key actions that would assist in improving the effectiveness of the ESCs and lead to sustainable outcomes, both among the ESCs and within each individual ESC. The working groups identified the following activities to be undertaken within the ESAP project in the near future.

7.1. Subregional level

1) Organize a sub-regional seminar on regulatory frameworks enabling effective ESC

Many peer review teams reported that a greater degree of legal clarity was needed on the purpose and function of the ESCs. Because of this uncertainty, many governments and ministries fail to adequately consult with the ESC and the social partners on draft laws and policies. A specific request for technical assistance in drafting a new law on ESC has been put forward by the president of the ESC of the Federation of Bosnia and Herzegovina.

The purpose of this seminar would be to identify legal bottlenecks that are currently inhibiting the proper and effective functioning of the ESCs and to discuss workable solutions to address them.

Deadline: end of 2017

2) Develop subregional training and capacity-building for ESC secretariats.

Every country reported on the operational challenges faced by the ESCs. Various reasons were outlined as to why this is the case, but one fact emerged clearly from the ESC secretaries session – the ESCs are largely overburdened, with little support or assistance.

A specially dedicated regional website could assist ESCs considerably in sharing information, staying up-to-date on legal developments, and following the work of other ESCs. They indicated that they

needed a specific training programme to learn new skills, particularly given the tripartite nature of the constituencies they are required to service in the ESC. It was important for them to create a “community of professionals” who would be supportive of each other and available to share information and experiences.

Deadline: end of 2017

3) Hold a subregional conference on the implementation of the selected recommendations.

The delegates were of the opinion that it would be important for the cohesiveness of the project to organize a follow-up seminar to allow individual ESCs to share their experiences in the implementation of the recommendations they had committed to at the conference.

This would also present an opportunity for the ESCs to identify other problematic areas which may need to be addressed in the future.

Deadline: end of 2018

7.2. Peer learning

- 1) **Organization of a special “ESC Information Day” for members of parliaments.** This would brief members of parliament on the ESC work programme, and would raise awareness of the ESC’s work. The participation of European members of parliament will be sought by the project.

Deadline: end of 2018

- 2) **Peer Learning Seminar relating to the experiences of the Republic of Serbia and of Bosnia and Herzegovina–Republika Srpska.** Good practices would be shared regarding the operation of specialized Standing Committees and their effectiveness in dealing with broad policy matters.

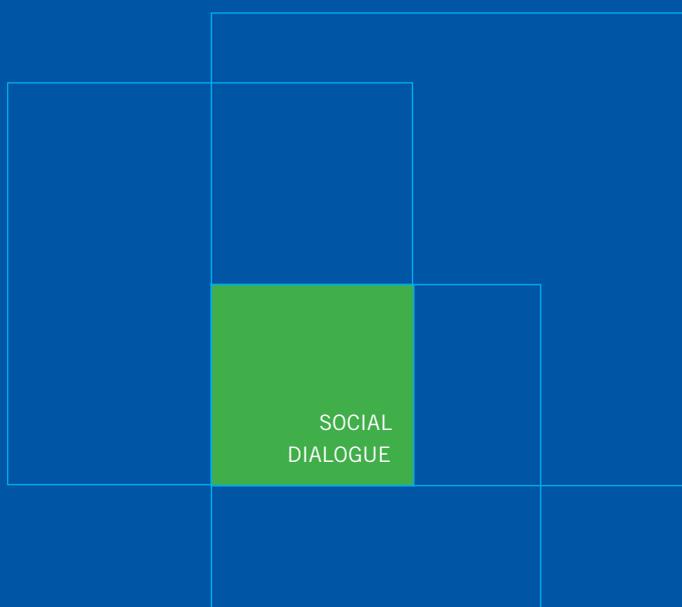
Deadline : end of 2018

- 3) **Peer Learning seminar on the transfer of know-how from the ESC of the FYR of Macedonia to the NLC of the Republic of Albania.** This would focus on the establishment of a mechanism for tracking the follow up to NLC recommendations.

Deadline: end of 2018

ANNEX

Peer Review of the Economic and Social Councils in the Western Balkans



Summary matrix

COUNTRY	GOOD PRACTICES	CHALLENGES	RECOMMENDATIONS	SELECTED RECOMMENDATIONS FOR FUTURE IMPLEMENTATION
REPUBLIC OF ALBANIA	<ul style="list-style-type: none"> • Tripartite specialized Standing Commissions support the works of the National Labour Council (NLC) • Involvement of NLC in the review of the Labour Code • Outcomes of plenary sessions and the issues discussed are available to the public and media 	<ul style="list-style-type: none"> • Absence or inconsistent attendance of ministerial representatives at meetings • No formal involvement of NLC in the Parliamentary debates and in the work of other national bodies like the National Economic Council or Albanian Investment Council • Composition of NLC and its constituent parties needs to be reviewed 	<ol style="list-style-type: none"> 1. Government should ensure earlier stage consultation with the NLC 2. NLC secretariat should track the follow up to NLC recommendations with the relevant Ministry and the government 3. Government should strengthen the human and technical capacity of the Secretariat and provide for more professional training for NLC members and the Secretariat 4. Government and the social partners should agree on a set of objective, easy-to-check criteria to be set out by law (e.g., a special law) and harmonize the level of representativeness in the NLC to maximize the impact of its outcomes 	<ol style="list-style-type: none"> 1. Government and the social partners agree on a set of objective, easy-to-check representation criteria to be set out in a regulation (e.g., a special law) and harmonize the level of representativeness in the NLC in order to maximize the impact of its outcomes 2. NLC adopts a “tracking” system so that it can assess the degree to which their recommendations are acted upon at the Council of Ministers

COUNTRY	GOOD PRACTICES	CHALLENGES	RECOMMENDATIONS	SELECTED RECOMMENDATIONS FOR FUTURE IMPLEMENTATION
BOSNIA AND HERZEGOVINA ESC of the Federation of BiH	<ul style="list-style-type: none"> • ESC meets regularly • ESC reviews and monitors implementation of collective agreements • All parties are represented at high level • Holds meetings on “thematic issues” 	<ul style="list-style-type: none"> • ESC is mandated to address a wide range of economic and social matters, but in practice it is excluded from debates on key economic reforms • Access to discussions in Parliamentary Committees is limited • Tripartite consensus is rarely reached • Lack of independence of, and funding for, the Secretariat 	<ol style="list-style-type: none"> 1. Government and the social partners should agree on a special law on the ESC, clarifying the role, formation and consultation process of the ESC and its authority 2. Government should introduce a legal obligation for Ministries to consult with the ESC on new policies and draft laws 3. Government should secure an independent budget, separate from the Ministry of Labour, to strengthen the autonomy of the ESC and its Secretariat 4. ESC members should be trained and informed on how to enhance the role and influence of the ESC 	<ol style="list-style-type: none"> 1. ESC initiates tripartite consultations and agrees on a draft law on ESC of FBiH 2. ESC carries out awareness-raising on the role of the Government as promoter, supporter, and regulator for the implementation of social dialogue in key Ministries

COUNTRY	GOOD PRACTICES	CHALLENGES	RECOMMENDATIONS	SELECTED RECOMMENDATIONS FOR FUTURE IMPLEMENTATION
BOSNIA AND HERZEGOVINA ESC of Republika Srpska	<ul style="list-style-type: none"> • Chairperson nominated on a rotation basis • ESC promotes collective bargaining • Had regular meetings prior to 2016 • Meetings are public, with an active media interest 	<ul style="list-style-type: none"> • Lack of trust between the parties in the ESC • Government and Ministerial attendance is not consistent, and some Ministries do not participate or submit draft laws or new policies for ESC opinion • Parties have difficulty agreeing on joint agenda, they meet infrequently, and there is a lack of consensus driven outcomes • Very polarized debates on recently adopted Labour Law • No collective bargaining in the private sector and issues with recognition of trade unions • Specific problems with follow-through at the Parliamentary level on ESC recommendations <p>Note: the Employers' Association did not attend the peer review process.</p>	<ol style="list-style-type: none"> 1. All parties should increase their representation in ESC 2. Government to increase technical and human resources and the ESC's budgetary autonomy 3. ESC to establish more tripartite specialized standing committees (currently only two on OSH and Informal Employment) 4. The social partners to take measures to strengthen collective bargaining in the private sector 5. Build trust among the parties and revitalize the social dialogue processes 6. Government as a whole should fulfil their consultation obligations around key laws, policies and strategies 7. Review existing rules of procedure of the ESC to achieve greater clarity and improved application 	<ol style="list-style-type: none"> 1. ESC increases the number of tripartite standing committees 2. ESC eliminates the stalemate in the social dialogue process

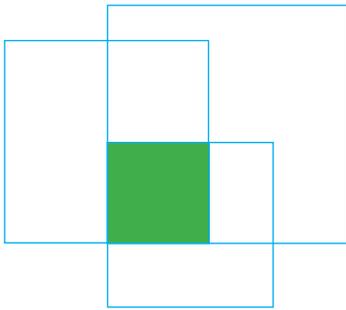
COUNTRY	GOOD PRACTICES	CHALLENGES	RECOMMENDATIONS	SELECTED RECOMMENDATIONS FOR FUTURE IMPLEMENTATION
THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA	<ul style="list-style-type: none"> • ESC plays advisory role on the ILO Conventions' adoption and ratification • Tripartite specialized standing committees support the ESC works on key issues (e.g. Labour Relations and Employment, the Minimum Wage fixing and Corporate Social Responsibility) • Two representatives of the social partners are part of the ESC Secretariat 	<ul style="list-style-type: none"> • Limited technical capacity of the Secretariat and standing Committees • Low presence of senior governmental representatives • Limited consultation and low impact on economic reforms, and social dialogue largely confined to labour-related matters • ESC is a very young institution which needs to build its reputation in society 	<ol style="list-style-type: none"> 1. ESC should enhance cooperation with research institutes, academia, and other organizations of civil society in order to get a greater level of technical expertise 2. Government should enact and implement procedures so that legal and strategic documents of general economic and social interest could only be discussed when accompanied by ESC recommendations 3. ESC should raise awareness on the role of the Government in fostering social dialogue, with key economic ministries and MPs 	<ol style="list-style-type: none"> 1. ESC enhances cooperation with research institutes, academia, and other organizations of civil society in order to get a greater level of technical expertise 2. ESC initiates procedural changes to ensure that key draft laws and strategic documents are accompanied by ESC recommendations when submitted to Parliament

COUNTRY	GOOD PRACTICES	CHALLENGES	RECOMMENDATIONS	SELECTED RECOMMENDATIONS FOR FUTURE IMPLEMENTATION
MONTENEGRO	<ul style="list-style-type: none"> • ESC provides for institutionalized collective bargaining process • Good dialogue and mutual trust exists between the partners 	<ul style="list-style-type: none"> • Size of representation of each party in ESC needs to be addressed to improve its functionality • Technical Secretariat needs increased resources • Composition of Government representation needs to be addressed, as they are represented by only one ministry (Labour and Social Affairs) 	<ol style="list-style-type: none"> 1. Government should provide greater technical resources to the ESC 2. Government and the social partners should provide for more clarity on the powers of the ESC and the necessary level of ministerial input 3. Government and the social partners should review the size of the ESC and provide for an independent chairperson 4. ESC should clarify voting rules and procedures 5. Greater expert support on key economic and social issues should be available 	<ol style="list-style-type: none"> 1. Each party reduce the number of its representatives in ESC to maximum eight 2. ESC includes high level officials of key ministries covering economic development entrepreneurship development

COUNTRY	GOOD PRACTICES	CHALLENGES	RECOMMENDATIONS	SELECTED RECOMMENDATIONS FOR FUTURE IMPLEMENTATION
REPUBLIC OF SERBIA	<ul style="list-style-type: none"> • Well-established internal support structures, with a built-in “collegium” and four specialized standing committees (PWGs) in the ESC • Active engagement of the social partners in the ESC’s works • Rotational chair between the tripartite constituents • Hosts consultation process on EU accession and integration • Monthly meetings 	<ul style="list-style-type: none"> • Effectiveness of the ESC depends on the full participation of the PM and other Ministers • Circumvention of the ESC due to political “emergency” decision making undermines its authority • Role of the social partners is not fully recognized or appreciated, and issues of trust arise • Short deadlines and time limits for debates and consultation • Limited recognition of the important role of the ESC in policy and law making processes • Limited resources for the PWGs and the Secretariat 	<ol style="list-style-type: none"> 1. Line ministries should involve the social partners at an earlier stage in the tripartite working groups on drafting laws and policies, including relating to economic reforms 2. Government and Parliament should require that bills are accompanied by the ESC’s recommendations when discussed and submitted to Parliament 3. Government should provide for the ESC’s opinions to be submitted both to the Government and the concerned ministry, and for shorter time limits for their feedback 4. ESC should adopt recommendations by a qualified majority vote when consensus is not reached 5. ESC should increase the quorum necessary for its meetings 6. ESC should include dissenting opinions in its recommendations 	<ol style="list-style-type: none"> 1. ESC initiates necessary measures to ensure that draft laws and strategic documents are accompanied by the ESC’s recommendations and opinions when submitted to Parliament 2. ESC sends its recommendations simultaneously to the government and to concerned line ministries and initiates procedural changes with the government in order to receive government feed- back in shorter time 3. ESC and the social partners advocate for the government to fully acknowledge the ESC as the national tripartite advisory body and to increase its budget

COUNTRY	GOOD PRACTICES	CHALLENGES	RECOMMENDATIONS	SELECTED RECOMMENDATIONS FOR FUTURE IMPLEMENTATION
REPUBLIC OF SERBIA	<ul style="list-style-type: none"> Well-established internal support structures, with a built-in "collegium" and four specialized standing committees (PWGs) in the ESC Active engagement of the social partners in the ESC's works Rotational chair between the tripartite constituents Hosts consultation process on EU accession and integration Monthly meetings 	<ul style="list-style-type: none"> Effectiveness of the ESC depends on the full participation of the PM and other Ministers Circumvention of the ESC due to political "emergency" decision making undermines its authority Role of the social partners is not fully recognized or appreciated, and issues of trust arise Short deadlines and time limits for debates and consultation Limited recognition of the important role of the ESC in policy and law making processes Limited resources for the PWGs and the Secretariat 	<ol style="list-style-type: none"> ESC should enhance cooperation with academia, research institutes and civil society organizations so that its PWGs should draw upon their technical expertise ESC should allow members of academia, research institutes and civil society organizations to participate in the work of the PWGs without voting rights Government should fully acknowledge the ESC as the national tripartite advisory body In order to strengthen collective bargaining, especially in the private sector, ESC should have a thematic meeting to discuss at least once per year the state of collective bargaining and the status and enforcement of collective agreements at various levels Government should increase resources to reflect the workload of the ESC Government should secure an appropriate representation at ESC meetings, thus giving the ESC greater recognition 	<ol style="list-style-type: none"> ESC initiates necessary measures to ensure that draft laws and strategic documents are accompanied by the ESC's recommendations and opinions when submitted to Parliament ESC sends its recommendations simultaneously to the government and to concerned line ministries and initiates procedural changes with the government in order to receive government feed-back in shorter time ESC and the social partners advocate for the government to fully acknowledge the ESC as the national tripartite advisory body and to increase its budget

COUNTRY	GOOD PRACTICES	CHALLENGES	RECOMMENDATIONS	SELECTED RECOMMENDATIONS FOR FUTURE IMPLEMENTATION
KOSOVO (as defined by the UN Security Council Resolution 1244)	<ul style="list-style-type: none"> • ESC has produced recommendations and agreements on key issues, e.g., the Minimum Wage Employment Strategy General Collective Agreement 2014 • Social partners appear to adopt common positions on agenda matters • Government represented by five senior Ministers 	<ul style="list-style-type: none"> • Need for permanent premises and specific budget for the operation of the ESC as required by law • Government should be more proactive, providing more input and showing greater initiative 	<ol style="list-style-type: none"> 1. Increase public visibility of the role and successes of the ESC 2. Communications Strategy should be devised for the ESC 3. Provide additional funding and technical support to the ESC 4. Require the focused participation by Government representatives in the ESC 	<ol style="list-style-type: none"> 1. ESC draft and approve its communication strategy for 2018–2020 2. ESC secure permanent premises and budget for its operations



Within the framework of the project "Employment and Social Affairs Platform" (ESAP) funded by the European Union (EU), the ILO has designed and managed a comprehensive peer review exercise of the structure, functioning, and effectiveness of the existing Economic and Social Councils (ESCs) in the Western Balkans.

The reviews were carried out by peer review teams consisting of ESC members participating in the ESAP project with the support and under the guidance of the ILO.

The present document is based on the country reports drafted by the ESC review teams and provides the analysis of the findings and recommendations. Furthermore, this report describes the practical arrangements for a peer review process and steps to be taken in relation to the implementation of selected recommendations.