

Nordic Undeclared Work Project 2019-2021

Nordic countries and Estonia and Latvia

Work group cooperation

Social partners webinar, Teams meeting, 3. February 2021



The webinar was about trust and practical tripartite cooperation. The aim of this webinar was to look at the outcome of our previous seminar and discussions and further develop the findings and compile examples of good practice.

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1. Introduction and aim of the webinar

Moderator Pål H. Lund, Special Adviser and Coordinator of international cooperation undeclared work at the Norwegian Labour Inspection Authority gave an introduction of the webinar.

The webinar is about trust and practical tripartite cooperation. The aim of this webinar is to look at the outcome of our previous seminar and discussions and further develop the findings and compile examples of good practice.

Tripartite cooperation here means cooperation between authorities, employee organisations, such as trade unions, and employer organisations. It is important in the labour market to make this cooperation work and that all stakeholders are on board in order to progress in the same direction that takes us forward. To go in the same direction, problems and issues need to be addressed and not to be hidden or «put under the table». On the contrary, a factor for a successful tripartite cooperation is to present the issues that need to be handled.

The second topic, trust – how do we establish trust between social partners and authorities? Another goal of the webinar is that it will result in a list with good examples to be shared of how to act and what needs to be taken into consideration to establish trust.

In both topics, trust and practical tripartite cooperation, two perspectives are used: *workers organisations vs employers organisations and social partners vs authorities/agencies*.

1.1 Presentation of the project

The pilot project, The Nordic Baltic Undeclared Working Project, funded by the European Commission, started in 2018 with a lot of activities. The project was a success and got more funding money for this current project 2019-2021. The project involves labour inspectorates from Estonia, Latvia, Finland, Sweden, Norway, Denmark and Iceland. The project is led by a steering group with one member from each country (Sweden is project leader). The project includes several working groups;

- WG inspections (led by Finland and Denmark)
- WG prevention and communication (led by Iceland)
- WG knowledge, effect, and analyses (led by Sweden)
- **WG cooperation; authorities and social partners, how can authorities work together on a national basis? (led by Norway)**

Project objectives are to share good practice, establish network and promote activities. Results from the project will be published in reports (and partial reports from different working groups) and presented in relevant forums. A final webinar will be held in March.

1.2 Findings from Copenhagen seminar October 2019

- All countries have some experience with cooperation between authorities (most common with labour inspectorates) and social partners, though some are more experienced than others.
- It is a common understanding that a holistic (using different means) and coordinated cooperation is important to fight undeclared work.

- The Nordic countries have a longer tradition in cooperation than the Baltic countries, but also here there are differences between the countries due to different legislation and competences.
- Social partners are important stakeholders in the fight against undeclared work. It's essential to involve them because of their knowledge of the situation "on the ground" and because they also have channels as agents of influence among their members.
- The seminar concluded that they share common ideas for better cooperation and the solutions may lay in better structured cooperation with clear channels for communication, joint risk evaluation and common planning of both preventive and control activities.

1.3 Challenges cooperation between social partners and labour inspectorate - country wise

Denmark

- *The Working Environment Authority (Labour inspectorate) is only looking at working environment and is not allowed to bring in the unions into the inspected workplaces*
- *Social partners deal with all salary and work time issues but are not permitted to do joined actions with the authorities*
- *Issues with information sharing because the social partners are not authorities*
- *Very sector specific organisation of the social partners resulting in a high number of actors*
- *There is a long tradition of cooperation on work environment. There is a close dialogue and guidelines from either the Working Environment Authority or the social partners are going through a written hearing of the other part before finalising the text.*
- *Cooperation is more difficult when it comes to social dumping.*
- *There are regional/national meetings between different authorities to discuss their work, findings, and tendencies.*

Iceland

- *Advisory Group has not yet been established*
- *The forum is working on cooperation agreement*
- *A solid cooperation with social partners has not been established yet*
- *Legislation challenges*
- *Information sharing challenges – there is no act to secure information sharing. A draft is ongoing (Feb-21), but not sure when it will be sent to the Parliament*
- *The labour market is not big, therefore cooperation is rather quick and easy*

Sweden

- *Resources: manpower and finances*
- *Swedish work environment authority is only looking at occupational health and safety (not wages and labour conditions)*
- *Information sharing; hard between authorities*
- *Level of expertise continues lack of knowledge on the field. Need of looking with wider perspective, but the legislation is only OSH (occupational safety and health)*
- *Different priorities of the labour inspectorate and the social partners*
- *Deepen the cooperation with social partners from 2021*

Norway

- *The social partners' lack of resources*
- *The social partners are not organised in the same way making it hard to cooperate on an appropriate level*
- *The decrease in the number of organised workers especially foreign workers – some sectors, esp. the vulnerable*
- *The instability in the wishes/interests of politicians/partners*
- *The lack of an approach to handling tips about undeclared work*
- *Authorities' secrecy regulations*
- *Practical arrangement of contact on a local level*

Estonia

- *Need for a central database enabling all the authorities to access the information*
- *Lack of members in the unions. There is no collective agreement, people don't see the benefit of being a member.*
- *Lack of cooperation; the Estonian labour market take inspiration and learn from other countries to develop their labour market. Important to raise awareness.*
- *Communication with the other authorities.*
- *Most sectors are subject to minimum wage. Only some exceptions.*
- *No regular formalised contact between the social partners and labour inspectorate (one meeting a year) – only occasional cooperation in the field*
- *Time and resources; hard to find manpower. There is a will but not enough manpower.*
- *Different priorities*
- *Fragmentation of databases*
- *Complexity of regulation*

Latvia

- *The labour inspectorate undergoes a transformation from a "punishing" institution to a "communication-dialogue institution", includes both strategy and action*
- *Shift of mindset/thinking of all persons involved, and society as such (willingness to communicate, communication & working methods). Legal consciousness*
- *Gaining trust of society and changing the perception of the Labour Inspectorate. Establish trust and new perspectives, it is not only about fines and inspections.*
- *Effectiveness: Agreements may look good on paper but what happens in reality?*
- *How to be effective not only "On Paper" and making the parties willing to achieve a goal*
- *The universality of the issues: Cannot be isolated to the institutional level only. A goal to be more inclusive, and to have a closer cooperation with social partners.*
- *Offers possibilities to use the authority as consultants for free but low interest of using this service*
- *Aims to deepen their cooperation with social partners*

Finland

- *Resources – more inspectors now*
- *Legal frames:*
 - *The labour inspectorate can give companies advice about salary, but they cannot fine the companies*
- *Lack of knowledge on the collective agreements on the ground – how to get the information to the workers?*
- *Lack of a risk analysis in order to focus the actions and use the resources better*

Participants discussed the division of competences in Nordic countries. The discussion on division between legislation and competence needed to be nuanced, for example in Sweden. There is a division of tasks within the Nordic model. The enforcement of collective agreements includes working time and salaries. According to LO (LO=the Swedish Trade Union Confederation, a country organisation for 14 Swedish trade unions), it is important not to get caught in a catch 22-situation. LO is of the opinion that nobody in Sweden is responsible for, and nobody takes care of existing problems in the working life in Sweden. It is good that we have discussions on a national and cross-national level about this. It is essential to fill the gap between competences. According to LO, there is a default in inspections due to secrecy legislation and the inspections are not efficient due to the legislation. Finnish state labour inspectorate representative concludes, if the authorities can't do anything, it is most likely that the social partners can. All must take responsibility for their own competences and roles.

1.4 Conclusions on challenges cooperation between social partners and labour inspectorate

- i. Legislation and competence differ between countries and authorities. Are there any gaps between legislation and competence? There are different collective agreements. What can be done better? How can we proceed better given the facts that we have?
- ii. There is a lack of union members. It is hard to reach members and people do not see the benefits of being a member.
- iii. Secrecy issues; it is difficult keeping each other on track because of secrecy in information sharing.
- iv. There is a tradition for cooperation in many countries.
- v. Covid-19 has had a major impact on the execution of labour- health and safety inspections. Many countries have done much fewer inspections than previous years.

2. Practical Cooperation

Presentation on Practical Tripartite Cooperation by Norwegian Employers' Association Spekter and the United Federation of Trade Unions Fellesforbundet

Tore Eugen Kvalheim, representing The Employers' Association Spekter and Geir Kvam representing The United Federation of Trade Unions. (See report, "Getting and staying together, 100 years of social dialogue and tripartism in Norway")

2.1 Cooperation – a long tradition and at all levels

There is a long tradition of cooperation in Norway that dates back 100 years. It goes without saying that it takes time to establish and develop the base of tripartism. To enable this, there need to be trust between the shareholders, between the trade unions and the employers' organisations. At the time when tripartite cooperation started in Norway, the unemployment rate was increasing. Consequently, there was a collective understanding for the legitimacy for cooperation. In general, there is a strong support for the system with cooperation. Three positive effects of good cooperation are that it gives a higher productivity, the decision-making progress gets better and there is more transparency in the decision making.

2.1.1 Governmental level

In Norway, tripartism exists at all levels; at **governmental, branch and local levels**. At the top level (*governmental level*), the Government Contact Committee, led by the Prime Minister, hold a meeting two times a year to discuss the upcoming wage negotiations and the next year's national budget. This tradition has been going on for 30-40 years. Participants are, apart from the Prime Minister, ministers, heads of central trade unions and heads of employer organisations. Another important meeting at governmental level is the Council of labour and pension. They meet four times a year, led by the Minister of labour. The purpose of the meetings is to hold discussions on labour and pensions, equality and working life. Other participants at this meeting are heads of central trade unions and heads of employer organisation. Having these meetings at governmental level sends the signal to the public that cooperation starts in the top in the society, in and with the government.

2.1.2 Branch level

Tripartite cooperation is also performed at **branch level** and within different branch areas. Examples of different forums are the Norwegian ILO-committee, the Labour Inspection Authority Council, a working group on equality in working life and a cooperation council on skills & vocational education.

Branch programs are an important tool to inform and educate about working conditions. They are also a help in collaborative work to reduce sick leave. An example is the branch program for transport which is led by the Labour Inspection Authority. The participants are branch unions and employer organisations. The task of the program is to lift the working/employer conditions in the actual branch. It is done by measures like information campaigns, brochures, education (workshops), legislative measures, fact-finding, and seminars. In some branches, social dumping and criminality are not uncommon aspects of work life. Vulnerable branches of these aspects are cars, hotel/restaurants/catering cleaning and transport.

In 2014, a tripartite sectorial program for road transport and coaches was established by the government. The reason was that the government saw that the transport industry had challenges they could not solve without the authorities' active contribution.

To start the cooperation, they first established what common problems they saw, and what facts they all agreed upon. After hard and long discussions to reach common ground, what could they agree upon, they passed the obstacles by the trust for each other. The trust of having the same goal.

The situation was that foreign drivers in Norway are not always union members (or not at all). This led to that the drivers were not aware of their rights regarding working conditions, e.g. they were not getting the minimum wage they are entitled to. The project resulted in cooperation between many authorities with different competencies and a research report translated into 14 languages. It also resulted in a licence for lighter transport vehicles. The reason why this was a success was that everybody trusted each other.

2.1.3 Local level

Regarding cooperation at **local level**, the social dialogue between the employers and the unions is very important. At a regional/local level (small companies), there is a resistance to contact the authorities, whereas at central level it is done frequently. The knowledge of the authorities is something that all levels can benefit from.

2.2 Plenary discussion - What are your experiences, what are the challenges and how can we overcome obstacles?

In the plenary discussion, different examples and opinions were brought up regarding cooperation. When e.g. an authority has an assignment (or several), it is important that somebody puts the agenda and is responsible for it, especially when external stakeholders are involved (here social partners). When beginning a new assignment, the framework and the problem should be discussed, and somebody should be responsible for it. Likewise, it is important that everybody understands what role to have in the project, and to take responsibility for their role. This facilitates the proceedings of work afterwards for everybody. Everybody has a need for fact, and it is advisable to set a goal (everybody wants to have a result).

How can authorities reach out to social partners in order to reach common ground? Discussions between employer organisations and unions are needed on practicalities on what can be done together. How can a solution be found for better communication and consultation? Materials that are distributed regarding controls, work equipment, working conditions etc. need to comply with law. To get this to work, both authorities and social partners need both to do their part and to take their responsibility in the cooperation.

Another question that was raised is how to get a holistic view on how to control labour conditions. In some countries these problems are addressed by the trade unions and not an authority. However, Union representatives do not have the right to access all work sites such as authority inspectors has. They can't access workplaces where there is no collective agreement or union members. The ideal situation would be to have an established system for common inspections with trade union representatives and authority inspectors together. In some of the participating countries this is not a problem though the authorities have the responsibility to control both occupational safety and health as well as labour conditions. In cases where there are criminal activities involved, the inspection is often focused on the salary and the pay slip. New technologies are also emerging.

A comment to the above question was that there are different challenges in different countries. Working life changed dramatically during the last 15 years and people work more internationally now. Given this, how do we take care of people and their working conditions? Some branches have high rate of organisation in unions, and some don't. Criminal competition does not benefit us because it is not competition.

There was a discussion on the role we all have when it comes to preventing undeclared work and social dumping and how much social partners should be involved in this work. Should social partners (be or not) an active partner? Different perspectives were discussed.

Social partners don't have the competence to work with fighting work related criminality and social dumping. As it is today in e.g., Sweden, these questions fall between two stools. In Sweden, salaries are controlled via collective agreements and in Denmark via trade unions. However, it can be difficult to control non-organised workers when the mandate isn't always clear and there aren't enough personnel to execute the controls. To control the collective agreements, they need information about it but can't get hold of it. In Finland, labour inspectors don't handle crime directly, but they contact the police or the authority of taxation if needed.

On the other hand, social partners can have a role in informing members and in controlling and sharing information with authorities. It may be so that social partners don't fight crime, but they have a role in outreaching and in preventing criminal activity. An example was given on well-functioning cooperation on information to employers and employees using a webpage. An aspect of inspectorates that is missing, is feed-back from the labour inspector to the workplace.

In Norway the unions have an active role in combatting social dumping. If workers are organised, social dumping can be handled by the Union (only be the Union). However, when there is no collective agreement and a worker is working overtime without getting paid, the worker can talk to the company and contact the Labour Inspection Authority. If companies break the Working Environment Act, the Labour Inspection Authority needs the information. Given the situation, other authorities need to be contacted. If taxes are not paid, the tax authority should be contacted. In short, find out what kind of social dumping we are facing. If the Union can't handle it, the authorities should be contacted. There is no single answer, but we need to find the best method to act on social dumping.

A question was raised if the participating countries have forums/arenas for meetings between labour inspectorates and social partners. Some have regular meetings (on e.g. wages), others have more personal contacts on specific single events. It was also said that awareness needs to be raised on how we should act. Instead of agreements, we need to develop the process. It is important with personal contacts, but when personal is changing, it is not sustainable nor valid anymore. A practical example on what can be done is to control the data of tax and customs with wages.

2.3 Conclusions on tripartite cooperation

To be able to establish well-functioning practical cooperation, the group concluded that the following conditions are relevant:

- i. There is a need for different forums and arenas where contacts and meetings can be held. These forums for contacts should both exist at a formal level and at a more informal level (personal contacts).
- ii. Establish common understanding and knowledge of problems that we are facing in the labour market and sharing of information, in the country and in specific sectors.
- iii. Holistic approach based on the stakeholder's competences (risk evaluation, information, negotiations/interventions etc). Different stakeholders have different competencies.

3. Trust

Presentation on Trust by the Norwegian employers' Association Spekter and the United Federation of Trade Unions Fellesforbundet

3.1 Setting a framework – trust at different levels

Trust is important for us and it is something that develops through time. It is an added value in cooperation that every stakeholder gains from. Trust is needed at different levels in society and in different forums. *Firstly*, we need trust amongst each other, the social partners, the trade unions and

employers' organisations. To gain trust, we need to respect the different roles that we play and to share common goals. *Secondly*, we need trust towards public institutions/government institutions and agencies. Low corruption or absence of corruption in society is the key to obtain trust in public institutions. They play an important role to make regulation function for all of us. *Finally*, we need trust towards legal instruments. Legal instruments (for trade unions/employers) exist to solve legal disputes such as conflicts of interest or disputes at strikes. Moreover, they set a framework of the ongoing (conflictual) situation. Different institutions can help in these situations, e.g., national wage board, the Labour Court and even International Labour Organization (ILO).

According to Spekter, "rule books" are at hand in these situations. The rule books can include instruments like collective agreements, legislation, standards, or a toolbox (see below).

3.2 The Toolbox

Fellesforbundet explains that the toolbox that has been developed consists of different agreements, dialogue, and trust. It serves as a good tool to be able to solve problems when they come (not if).

Examples of agreements that are used are the Basic Agreement, the Collective Agreement (negotiations every two years) and the Working Environment Act.

The two most important tools are The Basic agreement and the Working Environment Act. However, for them to serve their purpose, trust, mutual respect and understanding for each other's roles are crucial.

When a collective agreement is established, the aim is to arrange meetings between employees (shop stewards) and company representatives to get them to work together for the benefit of both the company and the employees. It is also recommended that both the company and the employees seek external assistance from the Norwegian Labor Inspection Authority and possibly the road authorities or other relevant authorities in the actual service area. This normally works well, since the authorities do an excellent job of informing how to do things right from the start.

3.3 How to get a good dialogue?

An essential question here is how do we get a good dialogue? Given the example here, both the workers organisations as well as the employers organisations need to have the same common goals. When there are common goals, everybody knows what to strive for. In this given situation it means that both parties shall benefit from the cooperation. The companies shall make money and have reliable conditions. In addition, the workers should have decent pay and good working conditions. However, mistrust can also arise, both from leaders and workers. This happens mostly when there are no agreements, but everybody act and do things as they wish. There is no mutual understanding of what to achieve. Trust on the other hand, builds resources to handle disagreements and to get a good dialogue. Differences of opinions and tuff discussions can more easily be approached and solved.

3.4 Trust takes time

Building trust between groups and people takes time, it is not a quick fix. Sometimes it is established fast and sometimes it takes longer time. It is common to fail and having to try again. The Norwegian

example shows us a long and winding road and it has taken more than 80 years to get them where they are today.

There are certain conditions that have played a great role in the development in Norway. These are specifically the good economic situation in Norway due to the oil. Another important condition is the political situation; there has been a stable democracy for a long time. During the last 30 years, eight different political parties have been represented in the Parliament. Even though there have been different governments with different priorities, everybody can rely on the government and the labour authorities to use the toolbox. Even though corruption exists, it is in small scale.

3.5 Plenary discussion - What are your experiences, what are the challenges and how can we overcome obstacles?

During the discussion, several examples were given on different situations in different countries. Firstly, what happens if there is (and if there is not) a common understanding for a certain work procedure or goal. It was concluded that it is important to establish a common understanding of how to work, otherwise there is no trust between the stakeholders.

What should then be in place to establish trust between e.g., social partners and authorities? If there is a lack of understanding in why auditing is done, it can be an idea to use the social dialogue to get guidelines of how to improve the daily work. Since work is more risk-based today, it is easier to have a common goal. At a more practical level, trade unions can give tips (when they feel they have everything they can) to the authorities. Companies should not be afraid of contacting labour inspections as soon as possible. Instead, focus should be on how we can proceed together (and not as adversaries). Authorities also have the possibility to contact and have a dialogue with employers.

There can also be situations (e.g., government project) when there should be a national dialogue between social partners and labour inspectors. If the social partners don't get information on the proceedings and development of the project, they don't know what is happening. It can be difficult to know how to solve. Here, it is important to gain trust. In general, if this happens, it is due to misunderstandings and too high expectations. A solution can be to find common facts and information to build a common ground and to set a common goal. Make sure the purpose and wanted outcome of the action is clear for everybody. Make sure there are not too high expectations of the outcome and make small steps that all agree upon. This enables cooperation and gives the project a push forward.

An example was raised on when there has been trust between social partners and labour authorities doing inspections, but when there has been a change in behaviour. There had been common agreements and inspectors had access to working places. The labour market had also been very unionized (95%). The geography of the country can also be a factor here. During the last few years, there is less trust between social partners and authorities. The reasons for this change can be that there had been a change in leadership in the largest unions (and within the employers' side) and the leaders are more hostile. Employers are considered bad until they prove otherwise. Discussions in media make it even harder to come to joint conclusions. This shows how important it is with human relations. Some people can be easier to interact with, others are more difficult. In addition, internet has its' limits in building relationships.

Even though there is trust between social partners and authorities and there are bilateral communication and agreements, there will always be some disagreements. For example, one party can try to get more benefits, which in turn injures the trust element. Although there is trust, there can also be reservations in opening up to transform the dialogue in a more positive direction. In addition, in situations where trust exists, mistrust can be developed while negotiating. Every part needs to protect their side and their purposes. It is important to have arenas for the negotiations and when leaving the arenas, we still have respect for each other. Another important aspect that was mentioned is that to be able to establish trust, it is essential that the level of knowledge and information of the different parties, is somewhat on the same level. If one party (or two) has more information than the other parties, it can complicate the creation of trust between three parties.

3.6 Conclusions on trust

What is needed to establish trust between us when we collaborate? The following examples were pinpointed:

- Time, establishing trust takes time with continuous engagement
- Goals, respect different positions and goals, but try to establish common understanding and goals. To have a respectful expression
- Trust in institutions and in agreements
- The personal touch, respect, and knowledge
- Early intervention when facing issues, do not let obstacles and problem grow
- If there is no trust, put it on the agenda for discussion. Why is the trust missing, how can we establish trust?

4. Conclusions

The webinar has discussed how to establish well-functioning tripartite practical cooperation between authorities, employers' organisations and employees' organisations (such as trade unions). The webinar has also discussed the importance of and the need for and trust within cooperation. We have seen that trust is crucial for cooperation, it is like the glue between us to make things work.

Many examples and experiences have been brought up, both regarding the ideal situation, how we would like cooperation and trust to be, but also experiences on how situations really are today (both positive and those that can be improved). Since this regards human interaction, we are all likely to experience situations when we comprehend things differently than our counterpart and when we have different mind sets to reach a certain goal. For this reason, the webinar also discussed and put forward several suggestions on how to act in situations of misunderstandings and lack of cooperation and mistrust. Using these tools, a situation can be turned into another direction for all parts to work for the same goal and to get good results together.

March 2021, written by Cecilia Mobach, Senior Analyst at Swedish Work Environment Authority