

## Lithuania

On 11 June 2010, the Seimas (Lithuania's parliament) approved a series of amendments to the Labour Code, aimed at encouraging job creation via more flexible industrial relations. An earlier draft presented by the government in April underwent some amendments by a tripartite committee, which according to a new national agreement of 2009 must reach agreement on all labour law amendments.

The proposal of 14 April 2010, among other things, provided for layoffs without notice (in exchange for double compensation for the employee), fixed-term contracts for all new forms of employment (including those meeting the company's permanent needs) and changes to working time, up to its 'annualisation,' while maintaining the existing limits (12 hours a day and 48 hours a week, as opposed to a statutory 8-hour working day and 40-hour working week, as well as 120 extra hours per year). This draft was then discussed in the tripartite committee where it became clear that the employers' side was willing to give up the proposals concerning layoffs without notice, while the liberalisation of fixed-term contracts did not pose a problem for the union side (as it was a temporary measure for two years only anyway). Some major issues remained, however, such as overtime and the right to strike. In principle, overtime, except in some cases listed in the Labour Code or in collective agreements, was banned in Lithuania. In exchange, the right to strike was liberalised – formerly restricted by the need for a majority of employees to approve it via a secret ballot – and notably the possibility of taking strike action at company level, after a vote. The compromise reached is as follows. The principle of strikes at establishment level was validated, as well as the principle of two-hour strikes – 'warning strikes' – organised by union divisions without a vote among the employees but with seven days' notice. On the other hand, overtime was liberalised – with the prior consent of the employees, except in some cases – with a maximum of 120 hours a year or 180 hours if collectively agreed. Another major improvement for employees, in particular in times of crisis, was the introduction of the possibility to stop work for up to three months, if the employer fails to meet his obligations – paying wages, for instance – for at least two months in a row. In that case, he will have to pay at least the minimum wage for every month the employee is not working.

On a more positive note – at least regarding trade unions' joining forces against devastating and anti-social measures – a historic meeting of all the trade union organisations in Lithuania took place in October 2011. Since the early 1990s, there have been three national trade union confederations: the Lithuanian Trade Union Confederation (LPSK), the Lithuanian Labour Federation (LDF) and the Lithuanian Trade Union 'Solidarumas' (LPS 'Solidarumas'). There are also a number of small trade union organisations, including the Joint Trade Union (JPS), Klaipėda Town and Region Trade Union (KMAPS), the Lithuanian Medical Workers' Trade Union (LMDPS), Lithuanian Trade Union Unification 'Sandrauga' (LPSS 'Sandrauga'), Lithuanian Education Employees Trade

Union (LSDPS) and the National Association of Officials (NPPSS). Only the three peak trade union organisations are involved in social dialogue at national level, however, via the Coordination Centre of Lithuanian Trade Unions (LPSKC).

On 17 October 2011, the LPSKC initiated the first historic meeting of representatives from all trade unions in Lithuania. Following several further meetings, the unions' demands were agreed and signed by all nine unions for submission to the government and parliament (LRS) on 21 November. All nine trade unions are in particular furious about successive proposals passed by the government to liberalise labour relations, including the simplification of dismissal procedures, non-payment of severance pay and extension of working time. In particular, they are demanding:

- an increase in the minimum monthly wage to LTL 1,000 (€290) from 1 January 2012;
- amendments to labour legislation only to be made after reaching agreement with trade unions and employers' organisations;
- ratification by the government of ILO Convention No. 102 on minimum social protection standards; and
- ensuring the right of workers to go on strike and an end to the intimidation of workers' representatives.

In its Country-specific Recommendations (CSR) for Lithuania, the Commission recommended “to enhance labour market flexibility by amending the labour legislation to make it more flexible and to allow better use of fixed-term contracts.” In its national reform programme submitted in view of the 2012-2013 Commission Recommendations and adopted in March 2012, the Lithuanian government indicated it would take measures to *improve the conditions for business, individual work, and new job creation*. Planned measures included:

*“improving the regulation of working hours and the conclusion and termination of employment contracts; providing possibilities in the Labour Code of the Republic of Lithuania for companies to respond faster to market changes by expanding the possibility for concluding fixed-term employment contracts; establishing a deadline for giving notice of the termination of an employment contract based on the employee's years with that company; repealing the provisions regarding the dismissal of certain categories of employees only in exceptional cases; cancelling the payment of severance allowances exceeding the average wages for four months; providing the possibility for extending the duration of daily work; allowing the establishment of a more flexible work week; establishing annual leave in working days; providing the possibility for parties to agree on unpaid leave; enabling the provision of a list of specific jobs and duties for concluding contracts with full material liability in the work regulations, etc.*

*- Seeking to balance the responsibility of employers and reduce the administrative burden on employers in the field of labour relations, the Labour Code of the Republic of Lithuania provides for the repeal of service contracts, employment contract logbooks, the model employment contract and the model document certifying the employee's identity established by the Government by granting the right to economic entities to use working time sheets in the form approved by the employer, free-form employment contract, and free-form documents certifying the employee's identity. Having taken due account of the fact that the information obligation resulting in the largest administrative burden on*

*companies is the compulsory provision of information leaflets to the employee, it is provided that the issuance of this leaflet is at the employee's request (the procedure for the provision of information is established in a collective agreement or work regulations)."*

In its evaluation, the Commission noted however that Lithuania has only partially implemented the 2011-2012 CSR, mainly because *"no significant changes to the labour legislation were made in 2011. Regarding labour market flexibility, the Law on Temporary Employment Agencies to facilitate short-term employment entered into force on 1 December 2011. The law defines employment relations between temporary employees and temporary employment enterprises. However, its impact may not be significant, since temporary work agencies were already operating in Lithuania previously. Instead, a comprehensive review of the labour law could identify unnecessary restrictions and administrative hurdles that prevent flexible contractual agreements, such as dismissal provisions and flexible working time arrangements. Lithuania attempted to facilitate fixed-term employment by allowing use of fixed-term contracts in newly created jobs. However, this measure expires in July 2012. Discussions on changing the Labour Code have started, but no agreements have been reached so far. The national reform programme presents a number of measures to ease the regulative and administrative burden for employers and employees. It is, therefore, very important that these plans are realised swiftly and efficiently."*

In its 2012-2013 CSR, the Commission therefore recommended that *"a comprehensive review of labour law could identify unnecessary restrictions and administrative hurdles that prevent flexible contractual agreements, dismissal provisions and flexible working time arrangements. Additional measures to enhance participation in the labour market, especially for young people, unskilled persons and older workers, and to improve labour market flexibility are necessary,"* (recital 13) as is the need to *"enhance the effectiveness of apprenticeship schemes and to amend the labour legislation with regard to flexible contract agreements, dismissal provisions and flexible working time arrangements."* (CSR 3)

On 12 June, the Lithuanian government announced in Parliament the introduction of a bill amending the Labour Code following the failure of negotiations on the subject within the tripartite committee (*trysalés tarybos*). The draft Labour Code amendments the government intends to put to Parliament are considered necessary to help reduce unemployment in the country and foster job creation, in particular via more flexible industrial relations and more diversified and flexible forms of employment. Another goal is to increase competitiveness at EU level and to meet the European Commission's request to make Lithuanian labour law more flexible. The current Labour Code is apparently better suited to large businesses than to SMEs which to this day continue to represent the backbone of the Lithuanian economy. The Labour Code is said to be too inflexible, with fixed-term contracts and layoff notices that are too long and layoff pay that is too high.

The most significant measures proposed by the government include a) increasing the maximum working week from 48 up to 78 hours (whereby the average working week over the year would remain at 48 hours); b) increasing the maximum working day from 8 to 13 hours; c) introducing the possibility to sign fixed-term contracts for two years renewable twice; d) bringing annual leave down from 28 to 20 days; e) allowing employers to terminate without pay the employment contract of employees reaching the statutory retirement age (currently 65); and f) allowing employers to post work schedules one week before they come into force – instead of the current two weeks. Other amendments could affect the calculation of layoff pay and the duration of layoff notice.

The Lithuanian trade unions LPSK (Lithuanian Trade Union Confederation, *Lietuvos profesinių sąjungų konfederacijos*), LPS (Lithuanian Trade Union “Solidarity,” *Lietuvos profesinės sąjungos “Solidarumas”*) and LDF (Lithuanian Labour Federation, *Lietuvos darbo federacijos*) are heavily opposed to the new proposals and criticize the government’s fascination with the Danish flexicurity system. To them, the proposed amendments will not help improve production competitiveness, people’s income and buying power and job creation. The trade unions are also calling for further developing youth apprenticeships and training. They are not *per se* against flexible employment, as long as this is regulated through collective agreements and with clear guarantees for the workers.

Following the proposal of the Ministry of Social Security and Labour, the Labour Code was again amended at the end of June to change the existing two-level procedure for the resolution of individual disputes. The previous system provided for the hearing of individual labour disputes by a special Labour Disputes Commission at company level and in the courts. Whereas employers found that setting up such a commission meant additional costs on the one hand, on the other hand judicial resolution of individual labour disputes in the courts was lengthy and expensive. From 1 January 2013, the enterprise-level bipartite commissions will be replaced by mandatory regional commissions under the authority of the State Labour Inspectorate (cf. Law No. XI-2127 of 26 June 2012). These commissions will consist of one presiding labour inspector with a university education in law and two designated representatives from both sides of industry. The Labour Inspectorate shall provide administrative services to the commissions using its own employees. The latter will be responsible for accepting and registering applications relating to dispute resolution, preparing necessary documents ordered by the commission chairman, informing the parties of the time and place of hearing, and performing any other necessary duties. Commission decisions, taken by majority vote, are to be handed down in writing and signed by the commission members. Copies of the decision are to be issued to the parties within three working days of the date of the decision. The maximum time limit for the dispute resolution is to be 30 days and commission decisions will be binding. Parties disputing the commission’s decision will have a right to appeal to a higher institution or court. Claims will have to be lodged at a district court within a month of the date the decision is announced. The commission will have to examine all individual labour disputes, except dismissals and suspensions from work. An employee will have to apply to the Labour Disputes Commission within three months of the day on which he or she found or ought to have found that his/her rights were violated. It should also be noted that the new procedure will not prevent enterprises from maintaining their own labour dispute commissions if such a practice is already in place.

In July, the Lithuanian Parliament extended the duration of the temporary Labour Code provision allowing the conclusion of fixed-term employment contracts for “newly created jobs” (Law No. XI-2194). Articles 109 (1) and 109 (2) of the Labour Code allowed the conclusion of fixed-term contracts for objective reasons and in specific cases foreseen by laws and collective bargaining agreements. In addition, the “anti-crisis” legislation package of 22 June 2010 introduced a temporary possibility to conclude fixed-term employment contracts for “newly created jobs”. The duration of this measure was extended from 31 July 2012 to 31 July 2015. As with fixed-term contracts concluded on the basis of special legal provisions (e.g. for teachers at universities and higher education institutions) or collective bargaining agreements, the contracts for newly created jobs fall outside Article 111 (3) of the Labour Code, the article transposing the prohibition of misuse clause in the Fixed Term Work Directive (1999/70/EC). However, in this case, the Lithuanian law includes strict conditions for concluding such contracts (up to 2 years; not with former employees; not for former assignments; no more than 50 per cent of all

posts) which can be considered as measures to prevent abuse. In addition, these provisions will be applicable temporarily, meaning that all contracts concluded after 31 July 2015 will be considered indefinite employment contracts.

In view of the parliamentary elections of 14 October 2012, two of the biggest trade union organisations in Lithuania signed agreements with the two main political parties. The Social Democratic Party (LSDP) signed an agreement with the Lithuanian Trade Union Confederation (LPSK), while the Homeland Union-Lithuanian Christian Democrats ([TS-LKD](#)) agreed a deal with the Christian trade union organisation Lithuanian Labour Federation ([LDF](#)). The agreement between the LSDP and the LPSK included, among other things, mutual commitments to the statutory regulation of a minimum monthly wage, linking it to GDP, inflation and average wages; labour law amendments dependent on the agreement of the social partners; the liberalisation of labour dispute procedures (including the initiation of strikes); better protection for workers in cases of unemployment; giving the State Labour Inspectorate ([VDI](#)) more powers and resources; the signing of collective agreements in the public sector; and regular meetings between the signatories to discuss progress in complying with the provisions of this agreement. In their agreement, LDF and TS-LKD agreed amongst others to support each other's efforts in implementing the Constitution of the Republic of Lithuania and Lithuania's international commitments and to cooperate to improve Lithuania's labour system and legislation. TS-LKD made particular commitments to the support and promotion of collective bargaining; making a contribution to the initiation of legal acts or amendments to legislation covering financial support to trade unions from the State budget; and contributing to and actively sharing in the development of social dialogue. In the October elections, the LSDP took 38 of the 141 seats and TS-LKD 33 seats, while the Labour Party ([DP](#)) won 29 seats. Coalition negotiations proved difficult as public prosecutors and election officials accused DP party leaders of buying votes, and Lithuanian President Dalia Grybauskaitė said that the DP should not be part of the next government. Finally, on 22 November 2012, Lithuania's parliament approved a coalition government led by LSDP Leader Algirdas Butkevicius, and including the DP, the Order and Justice party ([TT](#)) and the Lithuanian Polish Election Action ([AWPL](#)).

On 6 November 2012, the Lithuanian Parliament adopted Law No. XI-2358 (State Gazette, 2012, No. 135-6859) amending the Labour Code. Amongst others, the provision of Article 101 Section 3 "Competition" was amended to liberalise the conclusion of fixed-term contracts in the private sector. The previous legislation allowed the conclusion of fixed-term employment contracts for a period not exceeding one year if a) there was a vacancy in a position that could be filled by way of competition, and b) this possibility was provided for by the competition regulations. The latter requirement was abolished by the new law. The new law also amends Article 177 (2) of the Labour Code and limits the right of employees to claim monetary compensation for unused annual leave over a period covering the last three years. Under the old law, financial compensation was in principle prohibited, though it did allow such in the case of an employment contract being terminated, irrespective of the length of the contract. It led to numerous cases in which employees, especially in higher positions in public institutions, refused to take annual leave and enjoyed generous payments for unused annual leave afterwards. The new provision will force employees to take leave during the respective working year and not to accumulate leave in order to receive compensation instead. The Law also provides for a transitional period until 1 December 2015.

## References/sources

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Epsucob@NEWS – Collective Bargaining in the Public Services: <http://www.epsu.org/>

ETUI-AIAS Collective Bargaining newsletter:

<http://www.etui.org/E-Newsletters/Collective-bargaining-newsletter>

ETUC website section on economic and social crisis: <http://www.etuc.org/r/1378>

ETUI website section on crisis: <http://www.etui.org/Topics/Crisis>

European Labour Law Network (ELLN) - <http://www.labourlawnetwork.eu>

### Periodicals

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### Contributions by ETUC affiliated organisations:

ETUC Litigation network (meetings 29 June 2012 and 10 December 2012)

ETUC Social Policy and Legislation Ad hoc working group (Meetings 13 November 2011, 5 April 2012, 24 October 2012).

ETUC Legal Experts Network NETLEX (Annual Conference 1-2 December 2011, 11–12 December 2012)