

# Luxembourg: The representativeness of trade unions and employer associations in the hospital sector

[Correspondent:] Please change the title to: '<Country>: The representativeness of trade unions and employer associations in the hospital sector'.

## [Correspondent:] Length and format

The responses of the national centres should be no longer than 2,500 words.

**Important: Please use this EIRO template questionnaire to respond, filling in the answer to each question underneath that question. Please also be reminded to fill in the metadata.**

Please retain all headings in the document. Do not change the text of the headings. You may add sub-headings if necessary. Please retain any text appearing in blue, which uses the 'Comment Text' paragraph style, as this will be automatically removed prior to publication. All other text (not in headings or in comments) will be retained and published online, so please ensure that it is suitable for publication.

If you have any queries on administrative issues (deadlines, submission etc), please contact Alexandra Gryparis in the first instance. If you have any queries on the content of the information requested, please contact Franz Traxler ([franz.traxler@univie.ac.at](mailto:franz.traxler@univie.ac.at)) and Georg Adam ([georg.adam@univie.ac.at](mailto:georg.adam@univie.ac.at)) who are coordinating the study.

## [Correspondent:] Timing

The deadline for the submission of responses by national centres is **4 December 2007**.

**In order to fill in this questionnaire it is absolutely necessary to carefully read the accompanying guidelines (i.e. briefing note).**

## Abstract – Required

[Correspondent:] In the abstract, summarise the quantitative relevance of the hospital sector in your country's economy and the sector's characteristics with respect to collective bargaining and the national actors' representativeness. The length should be no more than **100 words**.

The sector of the hospitals includes 13 establishments represented by the Luxembourg Agreement of the Hospitals (Entente des Hôpitaux Luxembourgeoise) which employ 7308 workers on January 1, 2007 (2,44% of wage-earners in the Luxembourg economy). The active trade unions are the OGB-L and the LCGB. The most representative trade union is the OGB-L, which gathered 85,54% of the voices at the last social elections in 2003 in the sector. The current collective agreement was applied for the first time on January 1, 2004 and was valid for 2 years with a renewal possibility by tacit agreement. Currently it is always of application.

## 1. Sectoral properties

Please provide the following data:

	1994	2007**
--	------	--------

Number of employers (Note: if the number of employers is not available, please indicate the form of the unit (e.g. companies, establishments, etc.) the number refers to)		13
Aggregate employment*		No data
Male employment*		No data
Female employment*		No data
Aggregate employees		7308
Male employees		1675
Female employees		5633
Aggregate sectoral employment as a % of total employment in the economy		No data
Aggregate sectoral employees as a % of the total number of employees in the economy		2,44%

\* employees plus self-employed persons and agency workers

\*\* or most recent data

## 2. The sector's unions and employer associations

This section includes the following unions and employer associations:

1. unions which are party to sector-related collective bargaining (In line with the conceptual remarks outlined in the accompanying briefing note, we understand sector-related collective bargaining as any kind of collective bargaining within the sector, i.e. single-employer bargaining as well as multi-employer bargaining. For the definition of single- and multi-employer bargaining, see 4.2)

Are active in the sector 85.110:

- OGB-L<sup>1</sup>.
- LCGB<sup>2</sup> (At the time being, the LCGB do not want to collaborate in this kind of studies).

2. unions which are a member of the sector-related European Union Federation (i.e. EPSU – European Federation of Public Service Unions)

OGB-L is member of EPSU.

3. employer associations which are a party to sector-related collective bargaining

EHL – Entente des Hôpitaux Luxembourgeois.

---

<sup>1</sup> Onofhängege Gewerkschaftsbond Lëtzebuerg.

<sup>2</sup> Lëtzebuenger Chrëschtlechen Gewerkschafts-Bond.

4. employer associations which are a member of the sector-related European Employer Federation (i.e. HOSPEEM – Hospital and Healthcare European Employers’ Association)

For the notion of ‘sector-related’, see the conceptual remarks in the accompanying background briefing note. Please be reminded that trade unions and employer associations should be excluded where their domain covers, for instance, only medical practice activities according to NACE 85.12, but not any part of hospital activities according to NACE 85.11!

- EHL is member of:
1. HOPE (European Hospital and Healthcare Federation)
  2. Association Européenne des Directeurs d’Hôpitaux.

## **2a Data on the unions**

### *2a.1 Type of membership (voluntary vs. compulsory)*

Voluntary.

### *2a.2 Formal demarcation of membership domain (e.g. blue-collar workers, private-sector workers, service sector employees, etc.)*

No formal demarcation.

### *2a.3 Number of union members (i.e. the total number of members of the union as a whole)*

OGB-L: 59.300 members.

### *2a.4 Number of union members in the sector*

OGB-L: 3152 members among which 2361 women and 791 men.

### *2a.5 Female union members as a percentage of total union membership*

In total for the OGB-L : 33% of the members are women

### *2a.6 Density with regard to the union domain (see 2a.2)*

-

### *2a.7 Density of the union with regard to the sector*

OGB-L: 5,32%

### *2a.8 Does the union conclude collective agreements?*

For OGBL: yes

*2a.9 For each association, list their affiliation to higher-level national, European and international interest associations (including cross-sectoral associations)*

Please document these data union by union.

Union density is defined as the ratio of union members to potential union members, as demarcated by the union's domain and by the sector.

If the domain of a union embraces only part of the sector, then the data on density should refer to this part.

OGBL is member of EPSU.

## **2b Data on the employer associations**

*2b.1 Type of membership (voluntary vs. compulsory)*

Voluntary

*2b.2 Formal demarcation of membership domain (e.g. SMEs, small-scale crafts/industry, health services, etc.)*

There is a distinction between general hospitals (controlled by a law) and the « budgetised » hospitals.

*2b.3 Number of member companies (i.e. the total number of members of the association as a whole)*

EHL has 24 members.

*2b.4 Number of member companies in the sector*

There are 13 members in the sector (6 general hospitals and 7 « budgetised » hospitals).

*2b.5 Number of employees working in member companies (i.e. the total number of the association as a whole)*

The members of EHL employ in total 8477 workers (1854 men and 6623 women) (data on 1/1/2007)

*2b.6 Number of employees working in member companies in the sector*

There are 7308 wage-earners in the sector

*2b.7 Density of the association in terms of companies with regard to their domain (see 2b.2)*

- Density in the general hospitals domain:  $6/24 = 25\%$ .
- Density in the « budgetised » hospitals:  $7/24 = 29\%$ .

*2b.8 Density of the association in terms of companies with regard to the sector*

Density with regard to the sector:  $13/24 = 54\%$

*2b.9 Density in terms of employees represented with regard to their domain (see 2b.2)*

100% with regard to their domain

*2b.10 Density in terms of employees represented with regard to the sector*

100%.

*2b.11 Does the employer association conclude collective agreements?*

Yes

*2b.12 For each association, list their affiliation to higher-level national, European and international interest associations (including the cross-sectoral associations).*

Please document these data employer association by employer association.

Employer density in terms of companies is defined as the ratio of member companies to the potential member companies, as demarcated by the employer associations' domain and by the sector.

Employer density in terms of employees is defined as the ratio of the number of employees working in the member companies to the number of employees working in the potential member companies, as demarcated by the employer associations' domain and by the sector.

If the domain of an employer association embraces only part of the sector, then the data on density should refer to this part.

EHL is member of HOPE, EAHD et de COPAS<sup>3</sup>.

---

<sup>3</sup> Confédération des organismes prestataires d'aides et de soins association sans but lucratif.

### **3. Inter-associational relationships**

#### **3.1. Please list all unions covered by this study whose domains overlap.**

OGB-L and LCGB.

#### **3.2. Do rivalries and competition exist among the unions, concerning the right to conclude collective agreements and to be consulted in public policy formulation and implementation?**

no

#### **3.3. If yes, are certain unions excluded from these rights?**

no

#### **3.4. Same question for employer associations as 3.1.**

EHL is the only employer association concerned

#### **3.5. Same question for employer associations as 3.2.**

no

#### **3.6. Same question for employer associations as 3.3.**

no

### **4. The system of collective bargaining**

Collective agreements are defined in line with national labour law regardless of whether they are negotiated under a peace obligation.

#### **4.1. Estimate the sector's rate of collective bargaining coverage (i.e. the ratio of the number of employees covered by any kind of collective agreement to the total number of employees in the sector).**

100% coverage

#### **4.2. Estimate the relative importance of multi-employer agreements and of single-employer agreements as a percentage of the total number of employees covered. (Multi-employer bargaining is defined as being conducted by an employer association on behalf of the employer side. In the case of single-employer bargaining, it is the company or its subunit(s) which is the party to the agreement. This includes the cases where two or more companies jointly negotiate an agreement.)**

There is only 1 agreement signed between the EHL, the OGB-L and the LCGB.

**4.2.1. Is there a practice of extending multi-employer agreements to employers who are not affiliated to the signatory employer associations?**

Some not affiliated hospitals apply on a voluntary basis parts of the collective agreement.

**4.2.2. If there is a practice of extending collective agreements, is this practice pervasive or rather limited and exceptional?**

See 4.2.1.

**4.3. List all sector-related multi-employer wage agreements\* valid in 2005 (or most recent data), including for each agreement information on the signatory parties and the purview of the agreement in terms of branches, types of employees and territory covered**

\* Only wage agreements which are (re)negotiated on a reiterated basis. For the notion of ‘sector-related’, see the conceptual remarks in the accompanying briefing note. Please be reminded that agreements should be excluded where their purview covers, for instance, only medical practice activities according to NACE 85.12, but not any part of hospital activities according to NACE 85.11. In case of regionally differentiated, parallel agreements, an aggregate answer explaining the pattern may be given.

La convention collective actuelle a été appliquée pour la première fois le 1<sup>er</sup> janvier 2004 pour une durée de 2 ans avec tacite reconduction. Actuellement elle est toujours d’application.

**Sector-related multi employer wage agreements**

Bargaining parties	Purview of the sector-related multi-employer wage agreements		
	Sectoral	Type of employees	Territorial
OGB-L and LCGB	yes	Blue-collar workers and white-collar workers of the private sector	National

**5. Formulation and implementation of sector-specific public policies**

**5.1. Are the sector’s employer associations and unions usually consulted by the authorities in sector-specific matters? If yes, which associations?**

As far as the OGB-L is concerned, meetings are organised on a regular basis with the Ministry of Health on general and specific issues.

For some issues, the trade union meet with various political parties

OGB-L participates in the council of some professions of the health sector.

**5.2. Do tripartite bodies dealing with sector-specific issues exist? If yes, please indicate their domain of activity (for instance, health and safety, equal opportunities, labour market, social security and pensions etc.), their origin (agreement/statutory) and the interest organisations having representatives in them:**

**For OGB-L:** no consultation with regard to the sector in the « classic » tripartite but participation in some round tables on specific issues.

**EHL** participates in a quadripartite (Employers, trade unions, gouvernement et the « Union des Caisses de Maladie »). For example, in the hospitals sector, the actors of the social security system consult each other on the budget of the « Union des Caisses de Maladie ».

**Sector-specific public policies\***

Name of the body and scope of activity	Bipartite/tripartite	Origin: agreement/statutory	Unions having representatives (reps)	Employer associations having reps.

\* Sector-specific policies specifically target and affect the sector under consideration.

**6. Statutory regulations of representativeness**

**6.1. In the case of the unions, do statutory regulations exist which establish criteria of representativeness which a union must meet, so as to be entitled to conclude collective agreements? If yes, please briefly illustrate these rules and list the organisations which meet them.**

For each collective agreement, a single negotiating committee is formed which brings together those unions which meet the conditions stipulated in articles L.161-3, L.-161-4 and 161.-5 of the labour code, according to the agreement concerned<sup>4</sup>:

Article L.161-3 defines the recognition criteria for a union:

- It must be a professional grouping of employees with an internal structure, whose aim is to defend its members' professional interests and represent them collectively, as well as to improve their working conditions.
- It must be independent from its contractual partners and must provide evidence of sufficient capacity, of organisational independence and of financial autonomy (from its potential contractual partners).

<sup>4</sup> We merely offer a brief summary of the labour code articles here.

- With regard to the power to negotiate and sign collective agreements, unions are classified in accordance with articles L.161-4, L.161-7 and, where applicable, article L.-162-4.

Article L-161-4 defines the general national representativeness of a union in terms of its capacity to sustain a major labour dispute at national level.

Article L.161-5 defines the criteria that unions must meet in order to claim general national representativeness. They must represent an average of at least 20% of workers falling within the two categories of worker covered by the law, and at least 15% of each of these two categories. This criterion is assessed on the basis of the results obtained by the union at the last two elections to the professional employees' chambers for private-sector blue- and/or white-collar workers held before the date of the decision on the application for recognition of general national representativeness in accordance with the law. During the said elections, the union must have obtained an average of 20% of the votes in the two categories of workers concerned, and at least an average of 15% of the votes in each of the two categories of workers concerned. Only those results are taken into account which relate to the categories of workers falling within the field of application of the law: groups<sup>5</sup> of professional chambers consisting of workers not covered by the law are not taken into account. Where there are mixed groups, only those results relating to workers covered by the law are taken into account;

- the union must actually be active in the majority of economic sectors and regions of the country; this presence is checked on the basis of the results obtained by the union at the most recent election for personnel delegations to have been held before the date of the decision on the application for recognition of general national representativeness;
- the union's activities must be diversified in both material and geographical terms.

In addition, there is the exception of national representativeness in an economic sector of particular importance, as set out in article L.-161-6. The economic sector's importance is defined with reference to the number of employees in it: at least 10% of the people referred to in article L.161-1 employed in Luxembourg must be affected. In addition, more than one company must be affected. At present, the only sector in Luxembourg of particular importance to the national economy is the financial sector.

In order to seek recognition of national representativeness within the meaning of article L.161-6, according to article L-167-1 the union must:

- have presented lists and had elected candidates at the last two elections to the professional chamber(s) to have been held before the date of the decision on the application for recognition of representativeness;
- have obtained either 50% of the votes for the group of the professional chamber where the group coincides entirely with the field of application of the collective agreement concerned, or, where it does not coincide in this way, or if the group consists entirely or partly of workers not covered by the field of application of the law, 50% of the votes at the most recent elections for personnel delegations in the sector as defined in accordance with the foregoing provisions. In such a case, no account is taken of votes received by candidates who stood in the name of the applicant union, excluding so-called neutral candidates.

---

<sup>5</sup> The professional chambers are divided into a number of groups comprising precise categories of worker. For example, both the Chamber of Labour and the Chamber of White-Collar Workers are divided into six distinct groups of workers.

The unions in question are:

For general national representativeness: the LCGB, OGB-L and the CGFP<sup>6</sup>.

The union with national representativeness in a sector of particular importance for the economy: ALEBA<sup>7</sup> (financial sector).

**6.2. In the case of the unions, do statutory regulations exist which establish criteria of representativeness which a union must meet, so as to be entitled to be consulted in matters of public policy and to participate in tripartite bodies? If yes, please briefly illustrate these rules and list the organisations which meet them.**

Only unions with general national representativeness may participate in the tripartite negotiations. The unions in question are the LCGB, OGB-L and the CGFP.

For the criteria see 6.1.

**6.3. Are elections for a certain representational body (e.g. works councils) established as criteria for union representativeness? If yes, please report the most recent electoral outcome for the sector.**

Results of the social election of 12 december 2003 for the sector of the EHL :

OGB-L :	82,54%
LCGB :	15,87%
Not affiliated :	1,59%

**6.4. Same question for employer associations as 6.1.**

Not concerned

**6.5. Same question for employer associations as 6.2.**

Not concerned

**6.6. Are elections for a certain representational body established as criteria for the representativeness of employer associations? If yes, please report the most recent outcome for the sector.**

Not concerned

---

<sup>6</sup> General Confederation of the State Sector.

<sup>7</sup> Luxembourg Association of Banking and Insurance Employees

## Commentary

Please give your views on the issue of representativeness in the sector, especially on jurisdictional disputes and recognition problems, and indicate any specificities or other problems which refer to representativeness in this sector in your country.

-

Franz Traxler and Georg Adam, Institute of Industrial Sociology, University of Vienna

Roland Maas, Ceps