



Romania's Trade Unions at the Crossroads

Challenged by Legislative Reforms, Economic Crises
and a Power-loss of 60 per cent

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- The 2011 labour law reform considerably diminished employees' freedom of association and restricted the right to form unions to an extent that the ILO has criticized as non-compliant with its standards.
- Through legal reforms, the collective agreement coverage rate dropped by two-thirds to only 35 per cent. The enterprise level is now the main level of collective bargaining, in effect crowding out representative trade union organisations.
- The abolition of national collective bargaining in 2011 has effectively deprived union federations of their most important instrument of action, while new tripartite mechanisms for minimum-wage determination have so far been unable to fill the gap.
- Chronic strategic shortcomings and a legitimacy crisis had contributed to the trade unions' inability to influence labour legislation reforms in 2011. The impact of economic recession was less severe for trade union membership than the economic transition period that preceded it.
- While changes to the 2011 reform package appear to be critical, that would not solve the trade unions' structural problems, which need to be addressed from within.



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1. Trade union landscape: Five major confederations unable (as yet) to cope with decentralized bargaining structures

As in many central and eastern European countries, the most noticeable characteristic of the Romanian trade unions is their constant decline in membership after 1989. Trade union density in Romania fell from 90 per cent at the beginning of the 1990s to around 35 per cent in 2006.¹ The ICTWSS database puts union density in Romania at 32.8 per cent in 2008, calculated as net union membership as a proportion of paid workers, recording a slow decline compared with 2007 (33.7 per cent density).² A reliable but incomplete national source are the documents provided by the Ministry of Labour's website that includes the official documents submitted by each confederation for obtaining the representativeness. According to this source, the five national representative confederations have about 1,400,000 members out of approximately 4,500,000 employees, which corresponds to a trade union density of approximately 30 per cent.

The abovementioned data bring us to the conclusion that the sharpest decline in union membership happened before the 2008 economic crisis. The impact of the recession was less severe for union membership than the economic transition period that preceded it. The large scale deindustrialization from the 1990s onwards, the structural mutations of the transition from a state planned economy to a market economy and a permanent legitimacy crisis of the unions had a much more virulent effect on Romanian trade union membership than the economic crisis, which deepened existing weaknesses. However, despite the constant decline, before the economic crisis the Romanian trade unions were still among the strongest in central and eastern Europe in terms of union density and influence over labour legislation.³

1. Trif, A. (2015), »Social dialogue during the economic crisis: the survival of collective bargaining in the manufacturing sector in Romania«, Friedrich-Ebert-Stiftung Romania, available at: <http://library.fes.de/pdf-files/bueros/bukarest/12419.pdf>

2. Database on Institutional Characteristics of Trade Unions, Wage Setting, State Intervention and Social Pacts, compiled by the Amsterdam Institute for Advanced Labour Studies AIAS of University of Amsterdam.

3. Carley M. / Weilerand A. / Newell H. (2007), »Industrial relations developments in Europe 2006«, Luxembourg, Office for Official Publications of the European Communities. Available at: <http://www.eurofound.europa.eu/publications/htmlfiles/ef0734.htm>.

Both before and since 2008, the trade union landscape in Romania has been characterized by fragmentation. Trade union fragmentation is common in central and eastern Europe, but in Romania the legal framework contributed to the development of a fragmented trade union movement.⁴ There are five representative national trade union confederations, without any significant difference among them in terms of doctrine, affiliated sectors or composition: the National Trade Union Bloc (Blocul National Sindical, BNS, created in 1991), CNS Cartel Alfa (created in 1990), CNSLR Brotherhood (CNSLR Fratia, created in 1993), CNS Meridian (created in 1994) and the National Democratic Trade Unions Confederation (Confederatia Sindicatelor Democrate din Romania, CSDR, created in 1994). Despite a radical legislative reform of social dialogue, which abolished national collective bargaining and deprived the confederations of their main role in 2011, the structure of the umbrella organizations remain largely unchanged, in spite of several discussions about possible mergers.

The union landscape changed significantly at the sectoral level, both as an effect of economic restructuring, but also, more recently, due to the 2011 reform of social dialogue legislation, which redesigned the economic sectors. In 2002, trade union density in industry was over 75 per cent,

while in the food industry it was around 50 per cent. The highest union density was in the metal industry (83 per cent).⁵ In fact, the highest union membership is in the public sector, especially in health care and medical assistance (Sanitas Federation, with 105,000 members) and education (*Federatia Sindicatelor din Invatamanat Spiru Haret* – the »Spiru Haret« Education Unions Federation with 66,000 members and *Federatia Sindictelor Libere din Invatamant* – the National Federation of Free Unions in Education with 179,000 members), which are also the only two sectors that concluded sectoral collective agreements after 2011. In 2014, representative trade union federations existed in 21 economic sectors (out of 29 economic sectors in total). The eight economic sectors without representative trade unions are the textile industry, wood processing, postal services, commerce, industrial and civil constructions, tourism, assistance and

4. Trif, A. (2015).

5. Preda, D. (2006), Patronate i sindicate în România. Coordonate la nivel de ramură. Bucuresti: Friedrich-Ebert-Stiftung.

Table 1: Romanian representative trade union confederations

	BNS	CNSLR Fratia	Cartel Alfa	CSDR	Meridian	Total
2003*	375 000	800 000	345 000	345 000	170 000	2 015 000
2008**	375 000	800 000	400 000	345 000	170 000	2 090 000
2011***	150 000	520 000	1 050 000	101 000	170 000	1 941 000
2015****	253 227	306 486	259 443	249 264	264,811	1 333 231

Sources: * and ** Eurofound (2009), *** ITUC (2014), **** Romanian Ministry of Labor

consulting services, sport activities and gambling. About 730,000 employees work in the commerce sector and about 170,000 in the textile industry, together accounting for almost a quarter of total employees; the two sectors have among the lowest average wages.⁶

In 2011, the social dialogue legislation reform triggered a new dynamic between the umbrella organizations, on one hand, and sectoral unions and company unions, on the other hand. Before the legislative reform, social dialogue in Romania was highly centralized, despite the union fragmentation. Collective tripartite bargaining was held at national level and the provisions of the collective national agreement were automatically extended to all employees and were compulsory for sectoral and company level bargaining. Moreover, the union federations that did not meet the threshold criteria for representativeness (7 per cent of the total sector's employees) could become representative by getting affiliated to a representative confederation. Therefore, the national union confederations played a key role in social dialogue and industrial relations; but the negative side of this situation was an increasing gap between the national level and their members, as well as a gap in expertise and financial resources, with the expertise concentrated at national level and financial resources at company level, where the membership fees were collected.

The Social Dialogue Law (62/2011) abolished collective bargaining at national level and removed the possibility for unions to obtain representativeness by becoming affiliated to a representative federation/confederation, while raising the representativeness threshold

6. Draft Strategy for Social Dialogue, available at http://www.mmuncii.ro/j33/images/Documente/Proiecte_in_dezbatere/2015/2015-nov_Strategie_dialog_social.pdf

The reforms have made it considerably more difficult for trade unions and employers' organizations to operate effectively (ILO).

at the company level from 30 to 50+1 per cent of the company's employees. The expected outcome of this transformation was the creation of stronger sectoral and company unions and union mergers that would put an end to the fragmentation at both sectoral and company level. Contrary to expectations, this did not occur: despite a few isolated mergers, the overall number of union organizations increased after 2011: from 8,598 in 2010 to 8,682 in 2011, 9,329 in 2012 and 9,915 in 2013.⁷ The result was a decentralized social dialogue, coexisting with high fragmentation and characterized by a power shift from umbrella organizations to the sectoral and company unions. But the power did not translate into stronger unions or higher collective bargaining coverage at company level, rather the opposite – it weakened the unions and their bargaining power.⁸ According to an ILO study on the impact of the new legislation, the reforms have made it considerably more difficult for trade unions and employers' organizations to operate effectively.⁹

2. Trade union rights and working conditions under the new Social Dialogue Act of 2011

In Romania, the right to form a union and become affiliated to a union organization is guaranteed by law. However, the Social Dialogue Act (62/2011) stipulates that a union organization can be founded by a minimum 15 employees working in the same establishment, which

7. »Anuarul Statistic al Romaniei 2013«, National Institute of Statistics.

8. Chivu, L. / Ciutacu, C. / Dimitriu, R. / Ţiclea, T. (2013): The impact of legislative reforms on industrial relations in Romania, International Labour Office, Industrial and Employment Relations Department (DIALOGUE), Decent Work Technical Support Team and Country Office for Central and Eastern Europe. Budapest: ILO.

9. Idem.

Table 2: Situation of representative trade unions and employers organizations at sectorial level

Agriculture	Extractive industry	Energy, oil, gas and mining	Food, beverage and tobacco industry	Textile and leather	Wood processing
■	■	■	■	□	□
Chemical and petrochemical industry	Sticla si ceramic	Metallurgy	Automotive and metal manufacturing	Electric and electronic equipments	Furniture
■	■	■	■	■	■
Communal services and public utilities	Industrial and civic constructions	Commerce	Transportations	Maritime transportation and air transportation	Postal services
■	■	■	■	■	*
Tourism, hotels and restaurants	Culture and mass media	Telecommunications and technology of information	Financial activities, banking and insurances	Consultancy, support and other services	Pre-university education
■	■	■	■	■	*
Tertiary education and research	Health care, sanitary and veterinary activities	Social assistance	Sport, gambling and other activities	Public administration	
*	*	*	*	*	

The table shows which economic sectors have representative trade union federations (■), representative employer's organizations (■), or no representative union nor employer's organizations (□). If the social partner is represented by the Government and not by employers' organisations the sector is marked with (*)
Source: Romanian Ministry of Justice.

severely limits workers' rights in companies with fewer than 15 employees, which affects about 1.2 million employees in total.¹⁰ Before 2011, the law provided for the possibility of setting up a »professional union«, formed by a minimum of 15 employees working in the same branch, but in different establishments. In its technical memorandum from January 2011, the International Labour Office (ILO) criticized the new law's provisions for non-compliance with the core international labour standards.¹¹ The ILO also pointed out that the Social Dialogue Act's definition of a worker as an individual who is a party to an individual labour contract and performs work for and under the authority of a private employer could not capture the variety of emerging patterns of work organization and it is going to be incre-

In effect, less than one per cent of companies are larger than the legal threshold for trade union organization.

asingly difficult to establish whether or not an employment relationship exists between the parties based on the sole criterion that the work is performed under the authority of an employer. The ILO states that the provision requiring a minimum of workers from the same enterprise to establish a union is not in itself incompatible with Convention No. 87, but the Committee on Freedom of Association stated that the number should be fixed in reasonable manner and should take into account the proportion of small enterprises in the country. According to some recent data from Romania, the proportion of companies with fewer than ten employees out of the total number of companies from industry, construction, commerce and market services was 87.2 per cent in 2003, 89.2 per cent in 2008 and 99.1 per cent in 2010.¹²

10. Idem.

11. International Labour Office (2011): Memorandum on technical comments on the draft labour code and the draft law on social dialogue of Romania, January 2011. Available at: <http://www.csnmeridian.ro/files/docs/Technical%20Memorandum%20Romania%20on%20Draft%20Labour%20Code%20and%20Draft%20Law%20on%20Social%20.pdf>

12. Chivu, L. / Ciutacu, C. / Dimitriu, R. / Ţiclea, T. (2013), The impact of legislative reforms on industrial relations in Romania, International Labour Office, Industrial and Employment Relations Department (DIALOGUE), Decent Work Technical Support Team and Country Office for

The legislative reform introduced in 2011 considerably diminished the legal protection of union leaders. Prior to 2011 union leaders could not be dismissed on professional grounds during their mandate and two years after the mandate ceased. The legislative reform (Art. 60 para. (1) g) of Law No. 53/2003 – Labour Code) diminished the special protection that the trade unions previously enjoyed at the workplace and provided that union leaders cannot be dismissed on professional grounds only during their mandate, leaving them without protection immediately after their mandate ends. Four years later, in November 2015 the Romanian Constitutional Court (CCR) ruled as unconstitutional the article providing that a person who occupies a leading position in a trade union may not be dismissed by the employer, except for serious or repeated disciplinary violations. The Constitutional Court states that the protection of persons elected to trade union leaderships must operate exclusively in relation to trade union activity actually performed and not in terms of work. The CCR also states that union employees are in the same legal position as other employees in terms of the legal provisions of the Labour Code. Trade unions criticized the decision, claiming that 99 per cent of the union leaders in Romania perform their union activities while continuing to be employed and the Constitutional Court decision will diminish their power in negotiations with their employers, who will be free to dismiss them if they become too vocal.

The legal framework protects union members and union leaders against discrimination or other abuses at the workplace. In practice, however, the legal provisions are not always applied. Several cases of employees that have been dismissed as a result of their trade union membership have been reported and union leaders accuse multinational companies of anti-union practices.¹³ One of the most prominent cases is that of Aerolimit Professional Union, the trade union of Wizz Air. At the end of 2014, shortly after Wizz Air had been notified of the establishment of the Aerolimit Professional Union, its leader, Mircea Constantin, was dismissed. The vice-president and secretary of the trade union were suspended

for two weeks on the ground that »their involvement in the trade union makes them a safety hazard during flights«. The pressure imposed by the company increased and many workers were afraid of losing their jobs. The management even contacted people on their days off to inquire about their position vis-à-vis the union. In November 2014 another 19 union members were dismissed. In March 2015, a court ruled that Mircea Constantin, president of SAP, had been unlawfully dismissed and ordered the company to reinstate him and in July 2016 the court ordered the reinstatement of the cabin crew members dismissed by Wizz Air. Despite the court rulings, the company did not enforce the decisions: the union's president and vice-president have been legally reinstated, but the company continues to prohibit their access to the workplace (no access card, no email address and so on).

The right to strike is also guaranteed in Romanian law, but several provisions obstruct it. In Romania, a strike cannot be conducted while a collective agreement is in force.

Several obstructions to the right to strike prove to be very effective.

A strike can be started only after expiry and during collective bargaining, but only if the employer refuses to start collective bargaining, the employer does not accept the demands formulated by the employees during collective bargaining or the employer and employees do not reach an agreement within the legal term established for the finalization of collective bargaining. This provision restricts the employees' right to strike as long as the collective agreement is valid, even if the employer breaks or does not respect its provisions. The provision also violates the right to strike of all those employees working in establishments with fewer than 21 employees, where collective bargaining is not mandatory by law and where, consequently, no strike can be held. Because the exercise of the right to strike is strictly dependent on collective bargaining, any restraint of the possibility to bargain is equivalent to a restraint of the liberty to strike itself. Another excessive provision provides that only representative trade unions (50%+1 of the company's employees) can hold a strike. In those units where there are no representative unions, the elected representative of the employees can start a strike with the written approval of at least 25 per cent of the employees. The ambiguity of the law's provisions leaves room for many different interpretations that can easily result in a strike being declared illegal. Although currently Romania has the tensest industrial relations among the EU

Central and Eastern Europe. Budapest: ILO.

13. Ernu, V. (2014), »Este o realitate, majoritatea companiilor multinaționale sunt anti-sindicale (...) In compania Auchan nu există sindicat«, interview with Vasile Gogescu, published on 23 June 2014 on www.criticatoc.ro.

countries (ranking 26th, according to World Economic Forum data) the National Institute for Statistics reports no strikes between 2010 and 2014.¹⁴

3. Trade unions core tasks: stuck between decentralization of collective bargaining and ill-functioning tripartite forums

Before 2011, collective bargaining was allowed at all levels, national, sectoral and company. The national and sectoral trade unions had the strongest bargaining capacity, while the company level often lacked the know-how and human resources needed in the bargaining process. These circumstances, combined with the legal provision regarding the favourability clause, led to a situation in which the national and branch collective agreements were decisive for wage negotiations at the company level. Collective agreement coverage before 2011 was estimated at 98 per cent¹⁵ or even 100 per cent.¹⁶

Table 3: Number of collective agreements at sectorial/branch level in Romania, 2005–2015

Year	Collective agreements at branch level/sectorial level
2005	11
2006	8
2007	9
2008	9
2009	2
2010	8
2011	0
2012	2
2013	1
2014	1
2015	0

Source of data: Romanian Ministry of Labour

14. Draft Strategy for Social Dialogue, available at: http://www.mmuncii.ro/j33/images/Documente/Proiecte_in_dezbatere/2015/2015-nov_Strategie_dialog_social.pdf

15. European Commission (2015). Industrial Relations in Europe 2014. Luxembourg: Publications Office of the European Union.

16. Chivu, L. / Ciutacu, C. / Dimitriu, R. / Ţiclea, T. (2013): The impact of legislative reforms on industrial relations in Romania, International Labour Office, Industrial and Employment Relations Department (DIALOGUE), Decent Work Technical Support Team and Country Office for Central and Eastern Europe. Budapest: ILO.

After the 2011 reform of social dialogue legislation, national collective bargaining was abolished in an attempt to decentralize social dialogue. Currently the main level for setting wages is bargaining at company level. Sectoral collective bargaining is legally allowed for representative employers' organizations and representative trade unions, but the high representativeness criteria, together with the conditions for extending the agreements at sectoral level imposed by law make sectoral collective bargaining

Crowding out of representative trade unions from company-level collective bargaining.

very difficult. According to the law, a trade union or employer organization needs to have at least 7 per cent of the total number of employees in the sector in order to become representative; in order to extend to the whole sector a collective agreement signed between the social partners that are representative at sectoral level, the partners must prove that each of them has at least 50 per cent of the sector's employees. As a consequence, only two sectoral collective agreements have been concluded since 2011, for the health care and veterinary activities sector (the collective agreement of 21.11.2013, signed between the Ministry of Health and Sanitas Federation, CNS.SAN.Asist, CNS Cartel Alfa, BNS, CNSLR Fratia and CNS Meridian) and for the pre-university education sector (collective agreement of 13.11.2014, signed between the National Federation of Free Unions from Education, FSLI, FSI Spiru Haret and the Ministry of Education).

Mandatory collective bargaining is at the enterprise level for companies with more than 21 employees. Data from the Labour Inspectorate point to 14,343 active collective agreements at company level in September 2015. But it is worth mentioning that 86 per cent of the overall number of active collective agreements were concluded and signed by employees' representatives and only 14 per cent by representative trade unions. The situation is even more dramatic in the private sector – only 8 per cent of the collective agreements at company level have been concluded by representative trade unions. Prior to the 2011

Political success: Reform of the reform may allow unions to re-gain some grounds lost.

legislative change, all agreements at company level were signed by representative unions. These figures illustrate the impact of the 2011 reform on trade union strength and collective bargaining by unions.

Table 4: Collective agreements concluded at company level in Romania, 2005–2015

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Total collective agreements	10936	11602	12206	11729	10569	7718	7473	8783	8726	9477
Concluded by unions	10936	11602	12206	11729	10569	7718	1050	1235	1226	1332
Concluded by employees representatives	–	–	–	–	–	–	6423	7548	7500	8145

Source: Labour Inspection

In order to address this critical situation, in 2013 the trade unions managed to submit through a group of 73 MPs (most of them from the Social Democratic Party) a draft law aiming to amend the Social Dialogue Law. The law was adopted two year later, in December 2015. The new law provides for a significant change in the collective agreement process that will impact the above described situation. The new law stipulates that in companies without a legally representative trade union, the collective agreement can be signed by the representative trade union federation. It is expected that this provision will boost the trade union role in the collective bargaining process and rebalance the relationship between unions and employees' representatives.

Following the abolition of national collective bargaining in 2011, collective bargaining coverage declined from 100 per cent in 2010 to approximately 35 per cent.¹⁷ The abolition of collective bargaining left uncovered approximately 1.2 million employees working in 450,000 companies with fewer than 21 employees; as for the respective companies, collective bargaining is not compulsory.¹⁸ Additionally, before Law 62/2011 came into effect the law provided for mechanisms for the extension of collective agreements to companies not affiliated to the signatory federation. Under the 2011 legislation such a mechanism no longer exists. ILO data on changes in bargaining coverage rates show that Romania had the sharpest decline from 2008 to 2013, at minus 60 per cent. On average, there has been a drop in bargaining coverage of 4.6 per cent in a reference group of 50 countries.

17. Eurofound (2009), Romania – industrial relations country profile, available at <http://www.eurofound.europa.eu/observatories/eurwork/comparative-information/national-contributions/romania/romania-industrial-relations-profile>.

18. Chivu, L. / Ciutacu, C. / Dimitriu, R. / Ticlea, T. (2013): The impact of legislative reforms on industrial relations in Romania, International Labour Office, Industrial and Employment Relations Department (DIALOGUE), Decent Work Technical Support Team and Country Office for Central and Eastern Europe, Budapest: ILO.

4. Trade unions' power resources as a legacy of previous tripartite structures and a failure to adapt

Bohle and Greskovits (in 2012) have argued that Romania has a special type of society with weak state institutions, high centralization of collective bargaining and relatively high mobilization power of trade unions.¹⁹ The trade unions' links to political parties enabled them to play a key role in establishing one of the most favourable legal frameworks for employees in the region until 2011. Next to the participation in various tripartite institutions, allowing for trade union consultation in the legislative process, national collective bargaining was one of the main sources of union legitimacy before 2011. However, this was merely external legitimacy, not reliant on its members, but on the outcome of collective bargaining and political involvement. This strategy, with a focus on tripartite participation and collective bargaining at national level implied weak ties with individual members and / or affiliated organizations and disconnection between union leaders and their members. Over time, this resulted in legitimacy issues among union members.

Traditional system allowed for erosion of organizational coherence and legitimacy issues.

In the context of ever declining trust in politics among Romanian citizens, the political involvement of some union confederations, such as CNSLR Fratia and BNS, resulted in favourable labor laws, but also eroded members' trust in trade union leaders. CNSLR had several cooperation agreements with the Social Democratic Party (2004, 208), through which the confederation offered electoral support to the party in exchange for eligible places for union members on the party lists. In 2004 BNS

19. Bohle, D. / Greskovits, B. (2012) , Capitalist Diversity on Europe's Periphery, New York: Cornell University Press.

announced its cooperation with the Great Romania Party (Partidul România Mare, PRM), a right-wing extremist party. The arrangement made the headlines, while foreign embassies criticized the decision. Nevertheless, BNS reiterated that it would not put an end to the cooperation as it guarantees 15 seats in the future parliament for trade unionists, and declared that in its opinion PRM is a political formation in the process of modernization, with democratic values and principles. After being elected to parliament, the 17 BNS MPs switched and offered their support to a centre-right political alliance (DA). Several other trade union leaders from branch federations switched to politics, becoming MPs or government officials. All these incidents reinforced the perception that the unions function as launching platforms to political careers and serve their leaders' personal interests, who use union members for their own ends. Opinion polls show a sharp decline in popular trust in trade unions, falling from about 80 per cent at the beginning of the 1990s to around 20 per cent in 2008.²⁰ A similar trend can be seen with regard to trust in the government, parliament and other state institutions.²¹

Corruption scandals and corruption allegations have further eroded the trade unions' image. In 2013, the president of CNSLR Fratia, the biggest Romanian union confederation, was sentenced to seven years in prison for corruption. In the same year, the Vice-President of CNSLR Fratia, Liviu Luca, was accused of corruption and money laundering and was put under judicial control in February 2016. Despite the criminal investigation against him, started in 2013, the confederation did not remove Mr Luca from his position in the European Economic and Social Committee, to which he was appointed by CNSLR Fratia; on the contrary, the confederations reappointed him in 2015. This was perceived as a gesture of solidarity with a corrupt person and reinforced the idea that the trade unions are corrupt, unreformed institutions. Other union leaders have been accused of conflicts of interests for holding incompatible positions during their term of office. Media articles disclosing the substantial wealth of several union leaders, the significant revenues often earned from trade union-related activities that are of-

ten impossible to justify further discredited the unions. The corruption allegations eroded members' trust, but also make the trade union leaders – and consequently the whole organization – vulnerable in relation to the government, weakening their negotiating power.

The lack of legitimacy, combined with internal structural weaknesses, made the trade unions unable to effectively oppose the austerity measures announced by the government in 2010, consisting in budgetary cuts and structural reforms. Despite the unions' protests, in 2010, the wages of government employees were cut by 25 per cent and social security benefits by 15 per cent, while VAT was increased by 5 per cent, from 19 per cent to 24 per cent. A new Labour Code was passed in March 2011, despite disapproval of the trade unions and the parliamentary opposition and in June 2011 the social dialogue legislation was modified.²² The abolition of national collective bargaining became a key issue for all five national union confederations, which found themselves deprived of their most important instrument of action and, correspondingly, of their main source of legitimacy.

Against this background, the responses of the trade union confederations have mostly involved using tripartite mechanisms to push for changes in the Social Dialogue Act, hoping to restore some favourable provisions from the previous legislation. With few exceptions, all efforts have failed: a change in the Social Dialogue Act was made at the end of 2015 and provide for a bigger role for the union federations in collective bargaining at company level, but many other union requests were ignored. Although unions continue to exercise their consultative role in the existing tripartite bodies at local and national level, the impact of the tripartite social dialogue commissions on the policy making process is rather limited. A report issued at the beginning of 2015 that analysed tripartite social dialogue in 2014 indicated that sectoral social dialogue at the ministerial level included 117 meetings of the commissions for social dialogue.²³ During these meetings, 332 legislative drafts were de-

20. Mișcarea sindicală din România după 20 de ani, in *Revisa 22 Plus*, no. 290, on 12.8.2009; <http://www.revista22.ro/articol-7281.html>.

21. ICCV, *Valorile romanilor*, Newsletter No. 5, July 2009; http://www.iccv.ro/valori/newsletter/NLVR_NO_5.pdf.

22. Stoiciu, V. (2012): *Austerity Measures and Structural Reforms in Romania: Severe Measures, Questionable Economic Results and Negative Social Consequences*, Belgrade: Friedrich-Ebert-Stiftung; <http://library.fes.de/pdf-files/id-moe/09310.pdf>.

23. *Anuarul Dialogului Social 2014 (2015)*, issued by the Ministry of Labour, available at: http://www.mmuncii.ro/j33/images/Documente/Dialog_Social/2015-02-25_AnuarulDialoguluiSocial2014.pdf.

bated. The report also stated that the effectiveness of sectoral social dialogue was limited by poor preparation for the meetings and by the disproportionate number of documents submitted for discussion in one session, which often transformed the meetings into a pure formality. The trade unions are also members of the Social and Economic Council (CES), a tripartite body for social dialogue at national level. After the 2011 legislative changes (Law 62/2011), the government left the CES and was replaced by civil society representatives, who, in the opinion of some stakeholders, transformed the CES, formerly a tripartite body, into a bipartite social dialogue structure. The CES is a consultative forum and must be consulted on all draft laws in its area of competence (the economy, taxes, labour, social protection, health, education, research, culture, wages). But the institution has serious functional deficiencies, due to a series of legally unclarified issues and misinterpretations of the law.

Although national collective bargaining has been abolished, the trade union confederations are consulted on the statutory minimum wage within the framework of the National Tripartite Council for Social Dialogue (Consiliul National Tripartit pentru Dialog Social, CNTDS), a tripartite body formed by representatives of the employers' organisations, trade union organisations, the government, the National Bank and the president of the CES. The CNTDS is a consultative forum for setting out the minimum wage at national level, analysing government strategies and programmes and for resolving, via tripartite dialogue, economic and social disputes. On several occasions, the trade unions accused the government of not convening the CNTDS regularly or not adequately preparing the tripartite body's meetings and thus obstructing social dialogue. Four years after it was established by law, the CNTDS was still not a functioning body due to the lack of an internal statute establishing its working and decision-making procedures. In the summer of 2015, after prolonged efforts the Council adopted its internal statute, which allowed it to function properly. In December 2015, the unions were consulted on the government's recent decision to freeze the minimum wage in 2016. Following the government's announcement, the five national trade union confederations addressed an open letter to Prime Minister Dacian Cioloş, arguing that economic growth must be shared fairly by all and urging the government to increase the

After four years, the tripartite determination of Minimum Wages was not functioning, yet.

minimum wage starting from 1 January 2016. Representatives of the government, trade union confederations and employers' organizations met to discuss the proposals in the National Tripartite Council for Social Dialogue. Following the negotiations, the government announced a minimum wage increase to 1250 RON/month, but starting from 1 May 2016.

5. Conclusions and prospects:
a possible rediscovery of more »traditional« power resources?

The trade unions' influence on political and legislative processes prior to 2011 had a significant impact on working conditions, wealth distribution and employees' well-being. Labour legislation in Romania was among the most protective in Europe with regard to employees, often drawing criticism from employers and business representatives. As a result Romania had one of the lowest shares of fixed-term and part-time contracts among EU member states, according to Eurostat. As a rule, the national minimum wage negotiated at national level was always higher (5–10 per cent) than the statutory minimum wage set by the government. Also, the national collective agreement stipulated different minimum wage indexes, depending on qualifications and educational level, as well as different occupational categories. This had a significant effect on wealth distribution. In 2011, before the social dialogue and labour law reform, only 2 per cent of employment contracts were at the minimum wage (less than 100,000 contracts); in 2014, after the reform, the share of minimum wage contracts reached 25 per cent (1,060,875 contracts). The employees' wage share in GDP was only 35 per cent in 2014 compared with 39 per cent in 2008, although the number of employees increased in 2014 compared with 2011 by approximately 300,000. This means that a higher number of employees were getting a smaller share of GDP and the incidence of precarious work was growing. Thus, the declining trade union influence is negatively affecting all employees and is having an impact on social justice.

The number of Minimum Wage Contracts increased ten times from 2011 to 2014.

Romanian trade unions are confronted with multiple challenges: declining membership, loss of trust among members, negative public image, corruption scandals

and excessive legislative requirements for collective bargaining and representativeness. One can observe some changes in trade union strategies and practices in an attempt to break the deadlock. For example, BNS organised a legislative initiative for changing the Labour Code, which was modified in 2011. After a failed attempt to gather enough signatures in 2012, in September 2014 BNS submitted to the Romanian Senate legislative initiative B497/2014, which had gathered more than 130,000 signatures. In September 2015 the Romanian Senate tacitly adopted the draft law and sent it to the Chamber of Deputies, where it is currently being debated. Democratic participation in the BNS campaign to gather signatures was one of the first attempts to address the issue of weak internal democracy and the lack of communication between the bottom and the top inside Romanian trade unions. In trying to influence the political agenda and the legislative process, BNS did not make use, as before, of its formal position in tripartite bodies or the leaders' personal political capital. By contrast, the traditional source of union strength – the power and legitimacy coming from the base – was rediscovered.

It is not yet clear whether BNS's endeavour will remain an isolated incident or will become the rule for Romanian unions in future. There are other examples, at com-

pany and federation level, that indicate that some unions are looking in a new direction and embracing a new style of action. Strengthening the broken ties between members and leaders, between national, sectoral and workplace levels is a crucial challenge that the Romanian trade unions must address. While a further reform of the social dialogue reform to align it with international labour standards is necessary, it will not solve the trade unions' structural problems. One should not forget that despite the favourable legislative framework in place before 2011, the unions' internal problems have deepened continuously, culminating with their inability

Could legislative reform whip trade unions into rekindling organizational principles and legitimacy?

to oppose legislation that only put oil on fire and revealed existing weaknesses. The strategy for

overcoming the challenges involves rediscovering traditional union practices, namely members' organising, internal campaigning and constant communication between all levels. Legislative reforms had negative effects on the unions, but may also prove to be an opportunity for renewing and rekindling the links between the top and the bottom and switching to a different sort of legitimacy, namely, the legitimacy bestowed by members' power and support. It is highly probable that during this process, some trade unions will disappear or become totally irrelevant, the consequence of which will be a lower membership rate.



Appendix

	Confederatia Nationala a Sindicatelor Libere din Romania-Frația (CNSLR – Fratia, National Confederation of Free Trade Unions of Romania – Brotherhood)	NTUC Cartel Alfa (National Trade Union Confederation »Cartel Alfa«)	Blocul National Sindical (BNS, National Trade Union Bloc)
Founded	1993	1990	1991
President and Vice-President	Leonard Barascu, President Liviu Luca, Prime Vice-President	Bogdan Hossu – President Liviu Apostoiu, Vice-President Petru Sorin Dandea, Vice-President	Dumitru Costin, President Ion Pisc, Prime Vice-President
Number of member-unions	28 branch federations, from all economical sectors; 41 local branches (county offices)	41 branch federations from all economical sectors; 42 local branches (county offices)	34 federations from all economical sectors; 41 local branches (county offices)
Total no. of members	306,486	259,443	253,227
Funding / Financial sources	Membership fees	Membership fees	Membership fees
Trade union organization and tariff coverage	7.1 % unionisation rate at national level	5,6 % unionisation rate at national level	5,5% unionisation rate at national level
Political orientation / affiliation	No declared political orientation. In the past the confederation had several protocols agreements signed with the Social-Democratic Party	Christian-Democratic according to the statute. No political partisanship during its whole activity.	No declared political orientation. In 2004, BNS announced its cooperation with the Great Romania Party (Partidul România Mare, PRM), a right wing, extremist party, as it guarantees 15 seats in the future parliament for trade unionists. After being elected in the parliament, the 17 BNS MPs have switched and offered their support for another center-right political alliance (D.A).
International memberships	ETUC, ITUC	ETUC, ITUC	ETUC, ITUC

	Confederatia Sindicala Nationala Meridian (National Trade Union Confederation »Meridian«)	Confederatia Sindicatelor Democratice din Romania (CSDR, Democratic Trade Union Confederation of Romania)
Founded	1994	1994
President and Vice-President	Ion Popescu, President	Iacob Baciu, President
Number of member-unions	29 branch federation; 42 local branches (county offices)	20 branch federation; 40 local branches (county offices)
Total no. of members	264,811	249,264
Funding / Financial sources	Membership fees	Membership fees
Trade union organization and tariff coverage	5.7 % unionisation rate at national level	5,2 % unionisation rate at national level
Political orientation / affiliation	No political orientation	No political orientation
International memberships	CESI (European Confederation of Independent Trade Unions)	ETUC, ITUC

Sources: Confederations' web-sites; Ministry of Labour for the membership data.

	Federatia Sanitas – Sanitas Federation	Federatia Sindicatelor Libere din Invatamant – National Federation of Free Unions of Education	Federatia Sindicatelor din Invatamant Spiru Haret – »Spiru Haret« Education Unions Federation
Founded	1990	1990	1995
President and Vice-President	Leonard Barascu, President Marius Sepi, Prime Vice-President	Simion Hancescu, President Ioan Tent, Prime Vice-President	Nistor Marius Ovidiu, President
Organization area	Health care sector	Education sector	Education sector
Number and importance of company unions / Employee representation at company level	Trade unions from over 500 medical establishments; 42 local branches (in every county)	60 trade unions from company level from 4.400 establishments	About 80 trade unions
Total no. of members	105,000	179,000	61,884
Funding / Financial sources	Membership fees	Membership fees	Membership fees
Trade union organization and tariff coverage	54 % unions densit in the sector; signed a sectorial collective agreement in 2014	63 % union density in the education sector; signed a sectorial collective agreement in 2014 (together with »Spiru Haret« Education Unions Federation)	Signed a sectorial collective agreement in 2014 (together with the National Federation of Free Unions of Education)
Political orientation / affiliation	No political affiliation	No political affiliation	No political affiliation
Membership in Trade Union Confederations and international memberships	CNSLR FRatia; EPSU (European Public Servants Union)	CSDR; European Trade Union Committee for Education (ETUCE); Education International	CNSLR Fratia; Education International

Sources: Ministry of Labour for the membership data; federations' web-sites.



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