

## THE ROLE OF TRADE UNIONS IN REGULATING LABOR RELATIONS

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### **Abstract:**

*The most important concern of trade-unions is direct communication between management and employees and the loyalty and responsibility employees show towards the company. Trade-unions reason for being is to re-establish the balance of power between employers and employees. Trade unions participate with their own representatives, by the law, to negotiations and conclusions of collective labor contracts, to transactions or agreements with the public authorities and employers associations, and also in the specific structures of social dialogue.*

*In the context of present transformation, with an instable labor market, we can identify some difficulties for trade-unions, such as:*

*- inability to organize themselves effectively in profession sectors of activity, which leads towards an impossibility of the trade union representative;*

*- decentralization of regulations regarding the labor relations in what concerns the economical agents and working place, with the consequence of infidelity issues from employees towards the unions they are members of;*

*- highly different qualification for the employees, making thus heavier the unification of their interests.*

*As an answer to a demand of trade-union recognition, the management usually must determine the level on which they sustain the unionist representation, and to find out in what degree trade-union may become a negotiating agent. We only speak about a partially recognition, if the employer limits the role of trade-unions only when speaking of representing their members in working conditions problems.*

*Due to globalization process, in Romania, trade-unions lost increasingly more the opportunity to exercise their pressure upon international companies, facing in the same time to a decreasing number of members, as we shall see in the present material.*

**Key words:** trade union organizations, employer, syndication, collective bargain, social dialogue.

**Classification JEL:** J51, J52, J53

## INTRODUCTION

Associative-type organizations, unions have a multiform character; they arise from history and their social, economic and political surroundings without being determined only by those aspects. This paper suggests the understanding of the role trade unions have in regulating the collective work relationship. Lately there has been registered a decline in most European countries trade unions. This fall is not a result of the disbelief employees have in this association or law, but to the changes the economy suffered, the reduction of institution with a large number of employees and the emergence of small and medium enterprises, the impact of unemployment and so on.

### 1. TRADE UNION – CONCEPT AND SETTLEMENT

The term "union" has its roots in the Latin word "syndicus" and the Greek one "sundikos", both of them naming a person who assists somebody in justice, that is an official. Trade unions stand for the materialization of fundamental right to association and an important piece in the process of establishing the uprightness between social partners.

According to a specialized opinion (Cole, 1997), trade union is an employee's organization with the main purpose of protecting and promoting employee's interests at the working place, mainly through negotiations means and collective consulting with the employers.

The juridical frame for organizing and running trade-unions in Romania is primarily assured by the Law 54/2003 (1). This Law states, in art.1, that "unions are established for protecting the

rights stated by national legislation, in agreements, pacts and international conventions to which Romania is a part of, but also in collective labour contracts and advancing the professional, economical, social, cultural and athletic interests of its members." The law also provides the independence of trade unions associations towards the public authorities, politic parties and employers associations.

There are also some other internal acts which define and characterize trade unions in the following manner:

- art. 9 from the Constitution: "trade unions, employers associations and occupational associations appear and develop their activity by the law, according to their rules. They contribute to defending the rights and promoting their members occupational, economic and social interests";

- art. 217 line 1 from Labour Code "trade unions represent independent legal person, without patrimonial interest, formed for defending and promoting collective and individual rights, and also the occupational, economic, social, cultural and athletic interests of its members".

Internationally speaking, this occupational association was recognized by the Conventions of International Labour Organization (ILO) and by acts decreed by Europe and European Union's Council: ILO Convention no. 87/1948 regarding the unionist freedom and unionist right protection, ILO Convention no. 135/1971 regarding the protection of workers' leaders, article 11 from the European Convention of human rights and fundamental freedoms approved in 1950, European Social Charter approved in Strasbourg 1996, ratified by Romania (2), article 118 from Rome's Treaty.

Taking into consideration the texts mentioned above, trade unions can be defined as organizations – independent juridical persons – constituted with the scope of defending and promoting occupational, economic, social, cultural and athletic interests of its members – employees, public servants, other professionals or persons about to be qualified – provided in internal labour law and in international papers, and also in the collective working contracts, who work according to its own regulations (Voiculescu, 2003).

## **2. THE ROLE OF TRADE UNIONS.**

Trade unions reason for being is to re-establish the power balance between employers and employees (Armstrong, 2001), endowing with a "common voice" the employees and making their grievances heard.

Relating to union members, in order to fulfill the purposes trade unions want to achieve, in the context of defending and promoting social interests of its members, trade unions can develop a large scale of activities, including also from economic, social, commercial or banking field. In this regard, Romanian law disposes that trade unions can: financially sustain their members in fulfilling their occupation, to create their own accommodation houses, to organize and sustain financially and material the athletic activity gathered in associations and sports clubs, and also cultural-artistic activities, editing and printing their own publications in order to increase the level of knowledge of its members and to defend its interests. According to The Country Report achieved on June 2006 in Romania regarding discrimination, only 8% of the interviewees appreciated the role of trade unions in fighting against discrimination.

Lately, trade-unions' capacity to serve its members and the way in which they do this has changed. Their position is now more defensive, and tries to protect their members from abusive firing and from modifications of contracts and procedural agreements. (3).

Relating to power, trade unions are characterized as being pressure groups which act in a socio-politic frame in order to assert their members interests. In all factories, no matter their bigness, employees union can be organized in fact, and the patronage cannot oppose to this initiative. Each representative trade union can create unionist departments at the level of production units (workshops, sections, factories, plants) which will name its own trade-union assignees. The shop stewards represent their organizations in relation with the management of the factory. We can appreciate that together with political parties - specific institutions of the political life, trade unions

have an influence on the political games. Although in their charters it is written they don't want power, (which even legally is impossible) but they only want to have an influence with the means they are familiar to trade unions are a stabile presence in the areas in which the political decisions are made. From this angle, trade unions are categorical type associations, that is, they put together individuals according to the division of labour – the criterion of occupation, activity area (industrial, commercial or agricultural).

Socially, an important role is given to trade unions in the context of social dialogue. In countries such as Romania, Czech Republic, Slovakia, Slovene, Estonia and Hungary the process of globalization had an influence, and trade unions lost their possibility to pressure the international companies, facing in the same time a number reduction of its members.

Currently, Romanian legislation is on the same line with the communitarian acquis, in the field of social dialogue. The current juridical frame institutionalizes the tripartite social dialogue to all levels of national economy, giving in the same time, the base for bipartite social dialogue, but there are still important lacks that must be solved in what concerns the enterprise and division level. Among the causes of this situation, we can cite present criteria of representatives and excessive fragmentation, especially of patronal organizations, and also the low rate of syndication in small and medium enterprise and in the private field.

Tripartite social dialogue takes place among the following structures: Social and Economical Council, sectorial tripartite social dialogue, social dialogue in territorial ground.

A higher form of social partnership is given by the negotiation and signing of social agreements at a national level, from who's considerable results we may notice the elaboration and sustain all together of various bills and acts with distinct social impact.: Labor Code (Law no. 53/2003), Management Law (Law no. 356/2001), Trade unions Law (Law no.54/2003), The law regarding encouraging labor employment and social protection of unemployed (Law no. 76/2002). Partnership has an important role in the decreasing number of labor conflicts in the late years in Romania, and also in the disappearance of nationalist claiming unionist movements, the dissatisfaction coming only when talking about the problems with an impact on certain area or frequently local. According to the quarterly statistic bulletin in the labor and social security field, the complete number of clashes in 2006 decreased from 121 (registered in 2003) to 95.

Bipartite social dialogue (trade unions, patronages) is mostly found in the process of negotiation and concluding collective working contracts and also in the ones that speak about solving collective conflicts, stated by the Law 168/1999. We appreciate that the perspectives of developing bipartite social dialogue based on the increasing of social partners capacity will generate their highly involvement in solving the economical and social problems and will create new forms of profitable partnership to assuring a peaceful climate and social stability in Romania.

In unionist activities we can identify four main groups of main interests. (4).

1. *collective contracts (agreements)*, highly affecting the salaries of employees and conditions of employment;
2. *procedural issues of trade-unions*, authority, employers arbitrary and ensuring the protection of employees at working places, the rightness of promoting and continuous professional training of employees, and also production regulation and distribution of work;
3. *state contribution*, that is setting the minimum gross wage per country from where results also the financing of social policies and facilities, specifying the structure of political and legal actions trade, macro-economic policies with an impact on the employment of personnel conduct, firing the employees and so on;
4. another group of interests sees in a special way the consumption, the environment and housing, services and so on.

### 3. TRADE UNIONS RECOGNITION AND INVALIDATION

A key area of „strategic option” in the management of labor relations is related with the aspect of trade union recognition, for collective determination of terms and conditions of employment (Lock, 1992).

Trade union recognition by an employer is made with the sole purpose of having a collective negotiation, which will lead to an agreement regarding the wages and hiring conditions. If the employer limits the role of trade unions only when speaking of working conditions of its members, we only speak about a partial recognition.

Nowadays, employers have the possibility to decide if they recognize or invalidate a trade union, to choose the desired trade union and select the conditions they agree to. Realizing a dialogue with one or more unions is rarely a spontaneous action from the management, for the sole reason that this requires expenses and commitments: bigger wages than the rest of the market (about 14 % up), better working conditions, and statutory guarantees. There are also some advantages, most measured are about reducing changing of working hand and increasing the professional capacity (Gazier, 2001).

When speaking about new businesses, employers can deny trade unions recognition. The organization which must decide on the recognition or invalidation of a trade union, is usually taking into consideration some or all of the following factors:

- a. the way in which the importance of introducing a new specific procedure that will control the collective bargains;
- b. if there already exists a trade union, the degree in which the management can exercise the power – for example modifying working agreements and introducing flexible arrangements or multi-qualification;
- c. the history of trade union relationships;
- d. the number of trade union members and the degree in which they consider they need the protection offered by the union;
- e. the decision of cancelling the recognition must take into consideration if the benefits obtained are more valuable than the consequences generated by the changing of status-quo;
- f. preferences for a certain trade union, regarding the reputation or the degree in which he can maintain satisfactory relationships.

Regarding the recognition of trade unions as a social partner by the EU, this thing is already known by adopting a series of important norms. EU already recognizes the employees and their representatives as “social partners” in their own institutions. They accept representation, consulting and taking part to various tripartite organizations of EU.

Being a part of trade unions goes between 87.5% in Denmark to only 9.1% in France. Members are multiple in organizations with over 200 employees. This variation reflects different traditions of European member countries, from the capitalist pattern of free market in United Kingdom, to social market concept wide spread in Germany. Brewster ends stating that trade unions from Germany, different from the ones in United Kingdom, “tend towards being more involved and have more positive working relations with the employers”.

Approaching and applying the EU legislation by the European Commission and Court, is shaped by their understanding of the “European social pattern”, that sees trade unions as social partners (Bercusson, 2002).

EU main norms (5) regarding the information and consultation, enlarges the role of employees representative when speaking of companies that hire at least 150 workers or working institutions with at least 100 employees. This fact had to be applied by national governments starting with 23 March 2005. This norm asks for a process of 9 stages of information and consultation:

- transmitting the information/data;
- familiarization with the data and examining them;

- leading an appropriate study;
- preparing for consulting;
- formulating an opinion;
- meeting;
- employers' rational answer to opinion;
- "the exchange of views and establishing a dialogue, discussion, in order to make a decision or to reach an agreement";
- "employer's and employee's representatives must cooperate and pay due attention to the mutual rights and obligations, taking into account the interests of the institution or enterprise and the ones of its employees".

Due to political changes in Central and South Europe, a number of unions have joined the European Trade Union Confederation, and in 2002 their member's number arrived at 76 national confederations of trade unions from 35 countries together with another 11 European industrial federations, representing some 60 millions members. The Confederation is recognized by the EU, by the Council of Europe and the European Association of Free Trade as a representative part of the trade union movement to European level.

The main objectives of the Confederation are:

- to influence the direction of European legislation and policy -making process through representation in EU institutions and participation in consultation processes including the Economic and Social Committee of the EU;
- to engage in regulating employment working with employees at European level through European processes of social dialogue. UNICE and the Confederation are recognized by EU as social partners and are allowed to negotiate agreements falling within the European level. This resulted in three such agreements which relate to parental leave, part-time work and fixed-term contracts, which are now part of EU legislation under the ratification of the EU Council of Ministers;
- campaigns for the rights of employment through union actions, including the organization of demonstrations in European cities to promote union causes.

#### 4. TRADE UNIONS IN ROMANIA

In Romania, the immediate effect of the Revolution from December 1989 was the abolition of the type of unique union by enterprise, organized on territorial base and it's replacing with occupational unions or similar occupations, more effective way for knowledge and protection of professional interests. Experience has highlighted the reverse of the coin, however: breaking into pieces the power and weaken their resistance in confrontations with employers (Burloiu, 2001).

Changing the ownership of companies, bankruptcy or restriction of activities, development of a sector of small and medium enterprises, foreign capital penetration and multinational enterprises, the emergence of new business, acted as pressure waves, constantly changing economic and social foundations on which the social partners build their own institutions. In addition to these changes, an important catalyst for change was adapting to the criteria the European social model, adopting a legal framework and the creation of structures compatible with those of the European Union member states.

Each of the factors mentioned above gave birth to new restrictions and forced to changes and re-assembling between different unions. To those disturbing factors are added some other psychological one, strongly related to the first. In conditions in which employees found that their working places disappear, their wages are deteriorating in real terms, and the union fight fails to stop such trends, the appetite for trade unionism of those who remained at their working place reduced. Moreover, in this context, it was inevitable that the natural movement for attracting new members and give rise to greater competition between organizations, including attempts to change existing affiliations of organizations from lower levels.

According to a study conducted in 2002 on 22 branches of the national economy,

syndication rate of employees in Romania was 44%, compared with about 90% in the early 1990s, you could say that the range of trade unions was confined to about half. However, the number of trade union organisations increased from 2615 in 1996 up to 6852 in 2004. (6). National trade union confederations exist, so remember: the National Confederation of Free Trade Unions in Romania – FRATIA (CNSLR-FR IA), having around 800,000 members; the National Confederation of Trade Unions “Cartel ALFA” (CNS Cartel ALFA), representing over 1,000,000 members; the National Bloc of Trade Unions (BNS), the Confederation of Democratic Trade Unions in Romania (CSDR); the National Trade unions Confederation MERIDIAN (CSN MERIDIAN).(7)

In various branches, there are notable differences in this point of view. Thus, the syndication rate is maintained in the extractive industry to a high level (85%), this branch being on the first position at this indicator. A close level was recorded on heavy industry as a whole (83%). The following locations were the branches of chemistry, oil processing, rubber and plastics (76%), electricity, gas, water and health and social work (61%), transport (57%), light industry (50%), Agriculture (37%), Public Administration and Commerce, hotels and restaurants (30%) and Forestry (27%). In Commerce branch, hotels and restaurants, which hold the largest share of total employees in the national economy (14.6%), were recorded one of the lowest rates of syndication (30%).

### **5. Labor relations in the context of global crisis**

Collective bargaining retains an important role in Europe, despite a moderate decline in trade union membership (from 27.4% in 2000 to 25.6% in 2005). In 2006, almost two-thirds of European workers were covered by a collective agreement. Membership of employers' organisations – which largely determines collective bargaining coverage – appears to be stable. However, there are marked differences between the Member States. Membership of trade unions ranges from 8%-80% and membership of employers' organisations from 20% -100%. While bargaining coverage is 68% in the EU-15 Member States, it is 43% in those countries that joined the EU since 2004. (8)

Wage bargaining seems to have had an impact on the gender pay gap, wage inequality. Minimum wages are an increasingly important component of wage setting in the EU. Statutory minimum wages now exist in 20 Member States. Only in Member States where strong employers' organisations and trade unions negotiate for a large number of firms and workers in a coordinated way is the lowest wage floor set by collective agreement rather than statutory minimum wages. Commission considers that social partner organisations themselves need to be strong and must build a relationship based on trust. That is why the EU has substantially increased the support to social partners through the European Social Fund, in particular in the Member States that have joined the EU since 2004.(9)

### **CONCLUSIONS**

High quality industrial relations are a key element in managing economic change and reducing its costs, helping workers and companies adapt to change while protecting them from transitory shocks. Good relations between workers and employers produce positive economic and social effects, both in times of slowing economic growth.

A structured dialogue between workers and employers representatives can help the EU face the economic crisis. Policies on working conditions and training and labor market policy can not remain the sole responsibility of the state, unions and employers play an important role in this sense.

## ENDNOTES

- (1) Published in the Official Gazette no. 73 / 5 February 2003, as amended;
- (2) Revised European Social Charter was ratified by Romania by Law no. 74/1999;
- (3) W. David Rees, "The Art of Management", 2005;
- (4) F. Pa a, Modernization of trade unions, in the journal "Reports of work, no. 10/2007, p. 51;
- (5) EC Directive no. 91/533 of 14 October 1991 on the employer's obligation to inform the worker about conditions of employment;
- (6) Lumini a Dima, The evolution of labour law in the member states of the european union, 1995 -2006, country study of Romania, p.10, [www.europa.eu](http://www.europa.eu), <http://www.insse.ro/Anuar%202005/CAPITOLE/cap15.pdf>, p. 56;
- (7) International affiliation of the trade union confederations: BNS – ETUC (1996), ICFTU (1995); Cartel Alfa – ETUC (1996); CNSLR Fratia – ETUC (1996), ICFTU (1993); CSDR – ETUC (1995), WCL (1996);
- (8) Industrial relations en Europe 2008", European Commission, Luxembourg, 2009, , [www.europa.eu](http://www.europa.eu);
- (9) European Commission „High quality industrial relations can help EU face crisis” Bruxelles, le 3 février 2009.

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