



Improving knowledge on the impact of Central- and Eastern European social partners on competitive labour market reforms facing the global crisis, VS/2016/0368

**CASE STUDY:
ROMANIA**

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National Report

Romania

1. Overview

As Felicia Rosioru correctly points it out, “[T]he legislative changes adopted in the context of the economic crisis were similar to an earthquake hitting the social dialogue in Romania”.¹ The crisis led to a decentralized collective bargaining system, at the same time the role of the trade unions was weakened at company level. This report will focus on the legislative changes as a result of the economic crisis in Romania, embracing a ten-year period from 2007 and 2016 with special emphasis on the “world of work”, social dialogue and employment. Changes presented in this report seem to have shifted social partners and trade unions into the background. One of the symptoms of this process is that the representatives of the employees elected under the law have appeared in several roles and have become the holders of various rights exercised formerly by trade unions. The question may therefore be put, whether this was a response to the crisis, or if it can be traced back to other reasons. It seems that the reason for curtailing trade union rights should not only be sought in response to the crisis. It also seems that Act No. 62/2011 on Social Dialogue, was adopted without a direct link to the economic and financial crisis.² The new provisions seem rather to be ‘political’ decisions,³ rooted in the broad context of transformation of the labour law into a more flexible/employer-friendly one. Replacing trade unions with workers’ representation weakened employee representation. In practice, in a lot of workplaces, the representatives of employees are appointed by the employer.

2. Methodology

The research started with data collection through desk research to gather information on basic labour market indicators and national, legal regulations. This was followed by a questionnaire sent to the social partners in Romania. The latter part of the research was in fact rather disappointing. Although every nationwide employers’ association and employee organization received the questionnaire⁴, only one answer came back from the trade union side, however, it

¹ Felicia ROSIORU: Collective Bargaining in Romania: The Aftermath of an Earthquake. In: Sylvaine LAULOM (ed.): *Collective Bargaining Developments in Times of Crisis. Bulletin of Comparative Labour Relations*. Volume 99. Wolters Kluwer, 2018. p. 73.

² *Ibid*, 78.

³ See for the explanations: *Ibid*, 78–80.

⁴ Employer’s associations: Confederația Patronală CONCORDIA (CONCORDIA Employers Confederation), Uniunea Generală a Industriașilor din România (UGIR) (General Union of Romanian Industrialists), Consiliul Național al Întreprinderilor Private Mici și Mijlocii din România (National Council of Private Small and Medium Enterprises), Confederația Patronatului Român, Confederația Patronală din Industrie, Agricultură, Construcții și Servicii din România (Employers Confederation from Industry, Agriculture, Constructions and Services), Confederația Națională a Patronatului Român (CNPR) (National Confederation of Romanian Employers). Trade unions: Confederația Națională Sindicală ”CARTEL ALFA” (National Trade Union Confederation “Cartel Alfa”), Blocul Național Sindical (National Trade Union Bloc), Confederația Națională a Sindicatelor Libere din România Frăția (National Confederation of Free Trade Unions of Romania – Brotherhood), Confederația Sindicatelor Democratice din România (CSDR) (Democratic Trade Union Confederation of Romania), Confederația Sindicală Națională MERIDIAN (National Trade Union Confederation “Meridian”), Sindicatul Liber al Învățământului Preuniversitar Clejean, Sindicatul Libertatea Căi Ferate Cluj, Federația Solidaritatea Sanitară din România, Sindicatul Salariaților din Învățământ Turda, Sindicatul Independent Liceul Tehnologic Al. Borza, Federația Națională a Sindicatelor din Administrație, Sindicatul Independent al Aeroportului Internațional Avram Iancu Cluj.

was not on the merits. The questionnaire was sent to illicit responses for a second time, yet it still failed to engender a response. The social partners were sought via telephone to somehow cover the gap, but were unavailable. The questionnaire was then sent to the Hungarian Business Association in Romania in its capacity as an employer organization. The presidency of the association promised that the questionnaire had been sent to their members and all incoming responses would be forwarded, but we received no replies.

In respect to data collection the biggest obstacle – just like in other countries – was a severe scarcity of data available on industrial relations in Romania, especially regarding trade union density and collective agreement coverage, and the controversy surrounding different sources, such as data from the Romanian National Institute of Statistics (Institutul Național de Statistică), International Labour Organization (ILO), Eurofund, and other sources (European Trade Union Institute, Romanian trade unions etc.). Unfortunately, we could not find any official information for certain years. According to the statistical yearbooks indicators and data were also missing, and no statistics are provided by sources from the ministries and other institutions. It is also a problem, that sometimes annual, sometimes monthly data are reported for certain years. Obviously, these two methods are not the same, so we tried to use either average data or counting at end-December data.

In some cases, we had to gather information from the websites of employers' organizations or trade union confederations. Unfortunately, with only a very few exceptions, there are no English versions for the websites, and the existing ones are not complete, furthermore, there are no official translations in English for most of the organizations' names.

3. Economic Crisis in Romania

The effects of the economic crisis on the Romanian national labour market. There are some obvious effects of the economic crisis of 2007–2008, although according to some opinions; “despite being worsened by the economic crisis, these problems are mainly due to the long period of socialism that marked the population's mindset, not to mention the transition to a more liberal regime guided by the market mechanism”⁵ The evident effects of the economic crisis can mainly be observed in the following fields.

The effects of the crisis were fundamentally perceived for the first time in 2009, when public revenues started to decrease.⁶ The data published by the National Institute of Statistics in 2008 showed a 7.3% real increase in gross domestic product (GDP) compared with the previous year, which climbed up to 4.5% by August 2009.⁷ At that time investment expenditures fell by cca 6% compared with January-August 2008.⁸ In 2009 the outbreak of the economic crisis slowed down growth to 6.6%, and to 1.6% in 2010.⁹ In the first quarter of 2011 compared to the fourth quarter of 2010, real GDP recorded its first increase of 0.6% since the onset of the

⁵ Cristian INCALTARAU – Liviu-George MAHA: *The Effects Induced by the Recent Economic Crisis on the Labour Market Policies in Romania*. Revista de Cercetare si Interventie Sociala, 2014, Volume 47, pp. 44–66. <http://www.rcis.ro/en/section1/135-volumul-472014decembrie/1975-the-effects-induced-by-the-recent-economic-crisis-on-the-labour-market-policies-in-romania.html>. According to experts the economic crisis was caused not only by a lack of financing sources but also by other causes that were more complex. (See Eugenia Ramona MARA – Monica ACHIM – Angela FILIP: *Analysis of the Taxation System in Romania in the Economic Crisis Context*. p. 2. http://feaa.ucv.ro/annals/v2_2010/0038v2-036.pdf).

⁶ Adina DORNEAN – Dumitru-Cristian OANE: Romanian fiscal policy sustainability during the financial crisis: a co-integration approach. 7th International Conference on Globalization and Higher Education in Economics and Business Administration, GEBA 2013, *Procedia Economics and Finance* 20 (2015) p. 164., <https://www.sciencedirect.com/science/article/pii/S2212567115000611>.

⁷ Eugenia Ramona MARA – Monica ACHIM – Angela FILIP: *Analysis of the Taxation System in Romania in the Economic Crisis Context*. p. 2.

⁸ *Ibid.*

⁹ Romania: Industrial relations profile. p. 2.

https://www.eurofound.europa.eu/sites/default/files/ef_files/eiro/country/romania.pdf.

crisis.¹⁰ However, in 2011 GDP grew by 2.5%.¹¹ Romania adopted different measures to stimulate the economy in order to cope with the crisis, to achieve budgetary sustainability and maintain fiscal sustainability. In March 2009 the Romanian Government asked for financial assistance from the International Monetary Fund and the European Union, and received a loan amounting to 12.9 billion euros. In order to get the loan Romania had to adopt budgetary measures starting from 1 July 2010. The VAT rate was increased from 19 to 24%.¹²

Unemployment. After the outbreak of the crisis a marked increase in unemployment and a reduction of employment could be observed. The total employment dropped from 8.7 million employees (2008 and 2009) to 8.4 million in 2010 and 2011. The average number of employees was 5.0 million in 2008, 4.8 million in 2009, 4.4 million in 2010 and 4.2 million in 2011.¹³ Some sectors of the economy were seriously affected (e.g. construction and consumption-related sectors). This could be why unemployment is higher in the male population. It is a real problem, that the age and profession structure of unemployed people does not tally with demands in the economy. It can be noted that the surge in unemployment was a consequence of the effects of the economic crisis on the private sector, as a large percentage of small and medium size enterprises reduced their activities. In 2009 the Government Emergency Ordinance of 2009 extended the unemployment benefit period (which was three months) by an additional three months.¹⁴

Migration. Job losses were a major causal factor for the migration of Romanian workers to other countries, especially to Italy, Spain, the United Kingdom and Germany. "According to the data published by Eures, in 2011 17,318 people went abroad to look for work, and turned to Eures adviser to find a job in various European countries (National Agency for Labour Employment, 2011). A new element is that for the first time in five years of Eures Romania,

¹⁰ ILO, The Impact of the crisis on wages in South-East Europe, 2011, pp. 239-241, <http://www.ilo.org>.

¹¹ *Ibid*, Romania: Industrial relations profile, p. 2.

¹² Adina DORNEAN – Dumitru-Cristian OANEA: Romanian fiscal policy sustainability during the financial crisis: a cointegration approach. p. 164. According to Mara, Achim and Filip other important fiscal measures adopted in order to cope with the crisis in 2008 were the following: 1. a minimum corporate tax rate (lump-sum tax) depended on companies' turnover (500 to 10,000 euros), 2. A VAT rate reduction for the construction of social dwellings and, subject to conditions, private dwellings not exceeding 120 m² (from 19 to 5%), 3. a 2 % tax on gross income for taxpayers who derive income from agricultural activities, 4. An increase in employee's and employers' social security contribution rates, "a decrease in employers' contributions for work accidents and illnesses during employment" by 0.5%. 5. An increase in the level of deductibility of voluntary health insurance (from 200 to 250 euros), threshold of deduction for employees' contribution to facultative pension schemes 200 to 400 euros), 6. "An increase in the cap for the deductibility for voluntary pension and health contributions from corporate and personal income", 7. An increase in excise duties on alcohol beverages, cigarettes and fuel", 8. The "introduction of an employee tax credit as a form of negative income tax to the maximum amount" of 181.03 euros per year, 9. "Temporary tax exemptions on capital gains from trading securities on the Romanian stock market", 10. "Specific types of capital gains realized by non-residents are now subject to permanent tax exemption", 11. "A reduction in the car pollution tax". (Eugenia Ramona MARA – Monica ACHIM – Angela FILIP: *Analysis of the Taxation System in Romania in the Economic Crisis Context*. p. 7.) In respect to taxation see also Lucian Constantin Gabriel BUDACIA – Mirela PĂUNESCU – Florinel Marian SGÂRDEA – Elena Monica SABĂU: *Romanian tax system – opportunities and failures*. Proceedings of the World Multi conference on Applied Economics, Business and Development (AEBD '09) https://www.researchgate.net/publication/267977380_Romanian_tax_system_-_opportunities_and_failures.

According to Sergiu-Bogdan Constantin and Mihaela-Nicoleta Bacanu the structure of tax revenues at the beginning of the crisis (2007) were the following: profit tax 8.78%, income tax 12.35%, VAT: 30.70%, excise: 11.71%, social insurance contributions: 36.47%; in 2013: profit tax: 6.73%, income tax: 14.79% VAT: 31.94% excise: 13.01%, social insurance contributions: 33.52% (Sergiu-Bogdan CONSTANTIN and Mihaela-Nicoleta BACANU: *Study on Tax Revenues in Romania as Contributor to the European Union Budget*, Centre for European Studies, Alexandru Ioan Cuza University of Iași, EURINT Proceedings 2015, http://cse.uaic.ro/eurint/proceedings/index_htm_files/EURINT2015_CON.pdf, p. 116., Table 4.).

¹³ Romania: Industrial relations profile, p. 2.

¹⁴ *Ibid*, p. 2.

the number of job seekers in European countries with secondary and post-secondary educational levels was higher than that of the persons with primary and secondary school levels of education. In general, their applications were targeted at skilled and unskilled jobs in agriculture, construction, manufacturing, the hospitality sector and so on, but there were also applications for highly skilled jobs (engineer, doctors, teachers, and so on). ”¹⁵

Increasing unemployment led to increased costs for labour market policies, increased costs for labour, growth in the black economy (probably the increased number of part time labour contracts) and a deficit in the health and social insurance budget. At the same time, the economic growth parallel to the migration of the work force created a labour shortage in many sectors of Romania's economy, resulting in growing wage pressure.

Wage policy. In the private sector the reduction of wages was a direct result of the declining economic activity. At the same time the anti-crisis measures consisting of wage reductions generated differences and wage inequities in both the public and private sectors of the Romanian economy. In 2010 the Romanian Government came out with a whole package of laws containing various austerity measures, as a response to the economic crisis. According to Eurofund, until 2011 indexation of the minimum wage was based on tripartite consultation, but since 2011 it has been set unilaterally by the Government.¹⁶

The Public sector was seriously affected, the austerity measures of the Government included wage cuts and the elimination of some bonuses. Government Emergency Ordinance No. 118/2010 on measures to strengthen the state budget introduced an average net income decrease of 25% in education, 20% in health and social assistance and 13.9% in public administration. According to the ordinance wages in the public sector were cut by 25%, but later in 2011 wages were corrected again by 15%, and in 2012 were increased to the level of 2010), meanwhile the minimum wage was kept at 600 RON. The ordinance also cut social security benefits (e.g. paid maternity leave) and pensions by 15%. (Although this latter measure was ruled unconstitutional by the Romanian Constitutional Court and was abandoned by the Government).

At the end of 2009, a Government Emergency Ordinance abolished meal tickets and gift vouchers, and lowered the threshold of income tax on pensions.¹⁷

The social security system was reformed too: Act No. 277/2010 on social benefits supporting families and Act No. 292/2011 on social assistance introduced a stricter means tested system and, instead of the minimum wage, introduced the so-called “social reference indicator” (SRI) for calculating the amount of benefits (1 SRI is 500 RON, for example: in 2012 the child care benefit for children under 18 was 0.084 SRI, which was 42 RON per month). At the same time the financial burden of the social benefits was partially transferred to the local government authorities by creating the social security fund: 30 per cent of it was made up of money granted from the state budget and 70 per cent from local budget amounts. According to some researchers the effect of this latter provision was the widening of the gap between the poorer and richer areas of Romania.¹⁸ When comparing average wages and minimum wages among the countries examined in the project, it could be seen that the biggest and most proportionate changes were in Romania. In 2010 value added tax was increased from 19% to 24%, and the Uniform Pension Act and the National Education Act introduced an obligation for retired people to pay health insurance.¹⁹

¹⁵ <http://upet.ro/annals/economics/pdf/2012/part2/Fleser-Criveanu.pdf>.

¹⁶ Eurofound, *Collective Bargaining in Europe in the 21st Century*. Luxembourg, 2015, <http://adapt.it/englishbulletin/wp/collective-bargaining-in-europe-in-the-21st-century>, p. 17.

¹⁷ Romania: Industrial relations profile, p. 2.

¹⁸ See Victoria STOICIU: *Austerity and Structural Reforms in Romania. Severe Measures, Questionable Economic Results and Negative Social Consequences*. <http://library.fes.de/pdf-files/id-moe/09310.pdf>.

¹⁹ Romania: Industrial relations profile, p. 2–3.

In 2009 and 2010 the Romanian Government introduced measures governing the labour market to cope with the economic and financial crisis. The Government Emergency Ordinance of 2009 introduced the concept of technical/temporary unemployment. This measure enabled companies to suspend business for a certain period of time to avoid redundancies. During this period the employer had to pay a minimum of 75 per cent of the employees' base salary in exchange for an exemption from the obligation to pay social insurance.²⁰

In July 2008, the Romanian government and the social partners signed the '*Tripartite agreement on the growth of the minimum wage for the period 2008–2014*',²¹ which became the standard in any negotiations on the national minimum wage.²² The Government, and the social partners also drafted an anti-crisis programme.²³

4. Labour Market Indicators

4.1. Size of the Labour Market

In Romania, there was a decrease in the size of the labour market in 2013 (5,743 thousand people) and in 2014 (5,850 thousand people), whereas after 2015 there was a slight increase, however it did not reach the pre-crisis size (6,436.5 thousand people in 2007).

Year (2007-2016)	Size of Labour market (*1000)
2007	6,436.5
2008	6,317
2009	6,213
2010	6,062
2011	6,153
2012	6,229
2013	5,743
2014	5,850
2015	6,062
2016	6,239

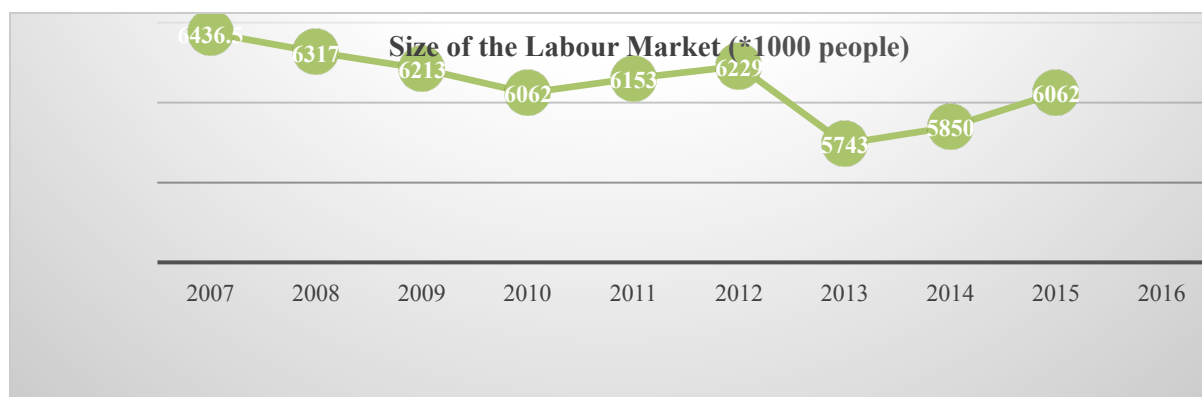
Source: National Institute of Statistics

²⁰ *Ibid*, p. 2.

²¹ Constantin CIUTACU: *Tripartite agreement on minimum wage rises for 2008-2014*. <https://www.eurofound.europa.eu/observatories/eurwork/articles/tripartite-agreement-on-minimum-wage-rises-for-2008-2014>.

²² Romania: Industrial relations profile. p. 8. https://www.eurofound.europa.eu/sites/default/files/ef_files/eiro/country/romania.

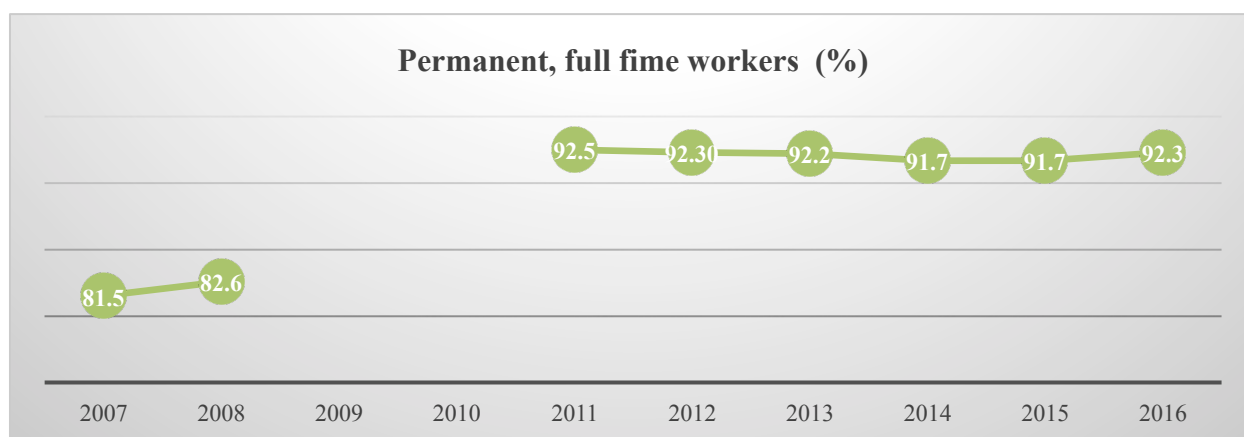
²³ *Ibid*, Constantin CIUTACU: *Anti-crisis measures agreed by social partners*. <https://www.eurofound.europa.eu/observatories/eurwork/articles/anti-crisis-measures-agreed-by-social-partners>.



The labour market is predominantly composed of permanent, full time workers in Romania. There was a sharp drop after 2012, but then a recovery in 2013. Unfortunately, we could not find any data pertaining to 2009-2011.

Year (2007-2016)	Permanent workers (%)
2007	81.5
2008	82.6
2009	N/A
2010	N/A
2011	92.5
2012	92.3
2013	92.2
2014	91.7
2015	91.7
2016	92.3

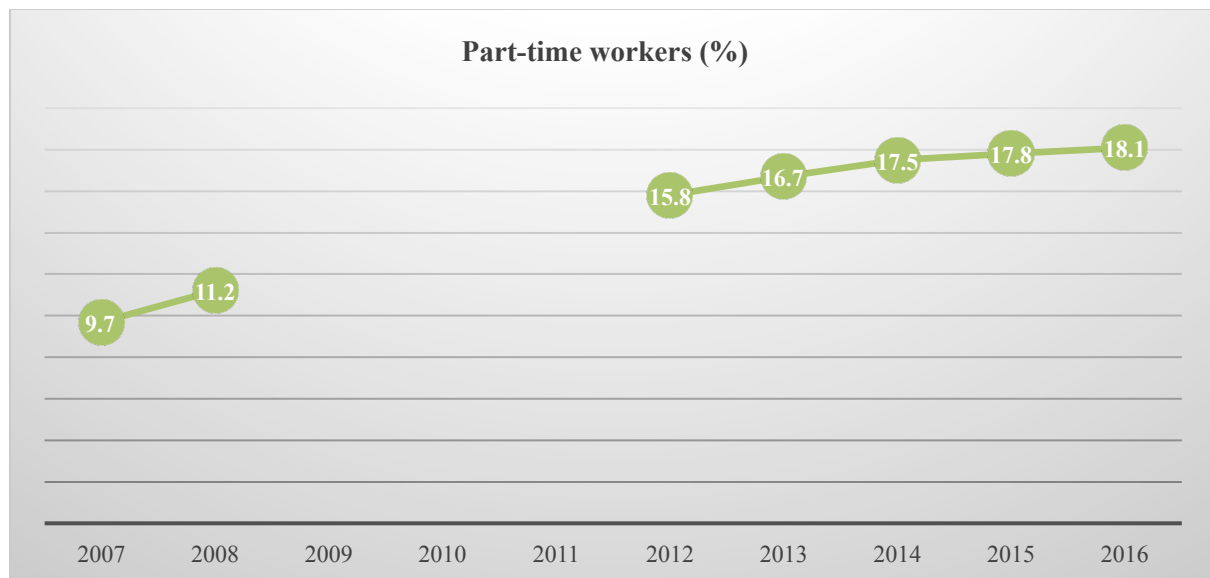
Source: Activity Report of the Labour Inspectorate (Ministry of Labour, Family, Social Protection and Elderly) for the years 2007-2016



The ratio of part timers started growing significantly from 2012, and as of 2016. Interestingly, the ratio of female and male workers remained very steady in Romania. Unfortunately, we could not find any data pertaining to 2009-2010.

Year (2007-2016)	Part-time workers (%)
2007	9.7
2008	11.2
2009	N/A
2010	N/A
2011	N/A
2012	15.8
2013	16.7
2014	17.5
2015	17.8 ²⁴
2016	18.1

Source: Activity Report of the Labour Inspectorate (Ministry of Labour, Family, Social Protection and Elderly) for the years 2007-2016



Year (2007-2016)	Male/Female %
2007	54.9/45.1
2008	54.9/45.1
2009	54.9/45.1
2010	54.7/45.3
2011	55/45
2012	55.2/44.8
2013	56/44
2014	56/44
2015	56/44
2016	N/A

Source: National Institute of Statistics

²⁴ Note that OECD data from 2015 is 4.2% (<https://data.oecd.org/emp/part-time-employment-rate.htm>).

It must be noted, that unofficial employment takes diverse forms (e.g. deliberately hiding earnings, not declaring or under-declaring income or employees, tax evasion, fake self-employment).²⁵ The underground economy in Romania consists of 2/3 from undeclared work, and 1/3 from not reporting income by enterprises.²⁶ It must be noted that tax evasion is high in Romania and it is growing (VAT has the highest share of both total GDP and tax evasion).²⁷

The Shadow Economy in Romania (2008-2014)

	2008	2009	2010	2011	2012	2013	2014
GDP (billions of euros)	139.7	117.5	121.9	131.3	131.7	139,4	150,0
Share of shadow economy % of GDP (per cent)	29.4	29.4	29.8	29.6	29.1	28.4	28.1
Shadow economy (billions of euros)	41.1	34.5	36.3	38.9	38.3	39.6	42.1

Source: KEARNEY, A.T. – SCHNEIDER, F., 2013. *The Shadow Economy in Europe*, 2013. <https://www.atkearney.com/documents/10192/1743816/The+Shadow+Economy+in+Europe+2013.pdf>²⁸

4.2. Unemployment

Two different sets of data in respect to the unemployment rate are calculated in Romania. The ILO unemployment rate is calculated by the National Institute of Statistics using the definition provided by the International Labour Organization. According to the international definition of ILO criteria unemployed people are aged 15-74 years who, during the reference period, simultaneously meet the following conditions: 1. have no job and are not carrying out any activity in order to receive income, 2. are looking for a job, undertaking certain actions during the last four weeks (registering at employment agencies, or private agencies for placement, attempts to start an activity on their own account, publishing notices, asking for a job among friends, relatives, trade unions etc.), 3. are available to start work within the next two weeks, if they immediately find a job.

The rate of registered unemployment, determined by the National Employment Agency (ANOFM), is calculated on the basis of the number of unemployed people registered in the ANOFM database. The registered unemployed are persons who fulfil the cumulative conditions stipulated by Law No. 76/2002 regarding the system of unemployment insurance and employment incentives and who register at the employment agency in the territorial zone of their domicile or residence, or to another provider of employment services, functioning

²⁵ Adriana Veronica LITRA: The underground economy in Romania. *Bulletin of the Transylvania University of Braşov Series V: Economic Sciences*, Vol. 9 (58) No. 1, 2016. p. 235.

http://webbut.unitbv.ro/BU2015/Series%20V/2016/BULETIN%20I%20PDF/25_LITRA%20AV.pdf.

²⁶ *Ibid* 231.

²⁷ CONSTANTIN – BACANU: *Study on Tax Revenues in Romania as Contributor to the European Union Budget*, p. 118.

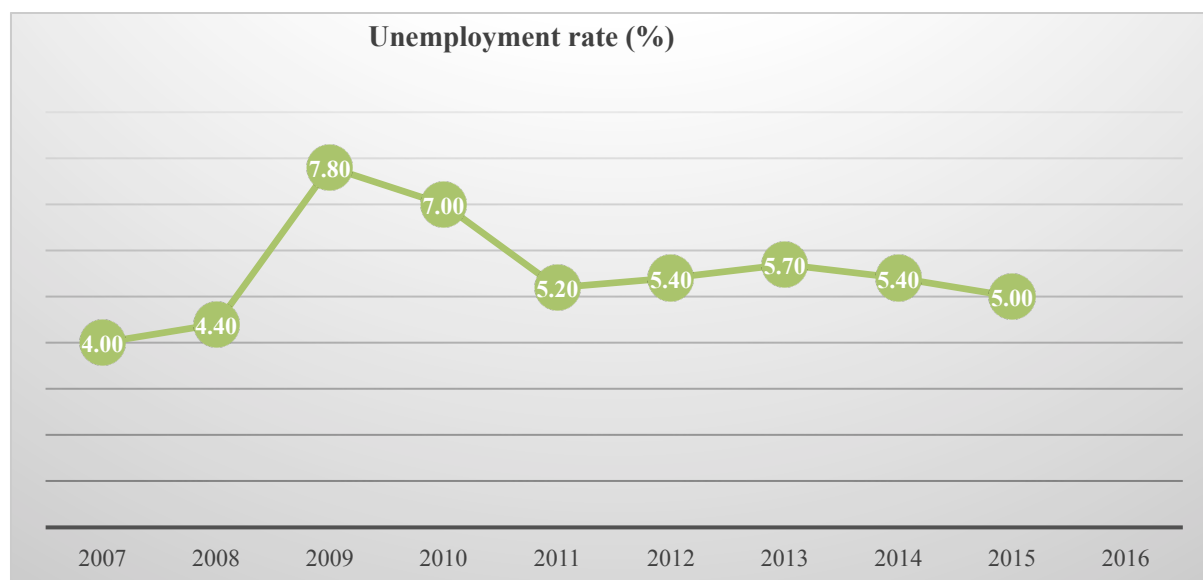
²⁸ See *Ibid* 232.

according to the law, in order to get a job.²⁹

The unemployment rate reached its peak in 2009, then fell in the following year. It started to rise again in 2011 and 2012, from 2014 started to decrease again slowly.

Year (2007-2016)	Unemployment rate
2007	4/6.4
2008	4.4/5.8
2009	7.8/6.5
2010	7.0/7
2011	5.2/7.2
2012	5.4/6.8
2013	5.7/7.1
2014	5.4/6.8
2015	5/6.8
2016	4.8

Source: National Institute of Statistics/National Employment Agency



Source: National Institute of Statistics

For example, in 2012 in order to cope with unemployment the National Employment Agency conducted an accreditation programme for small and medium enterprises in manufacturing, services and in the tourism sector with a maximum of 250 employees and/or cooperating members with labour or service relationships. According to the programme at least 50% of the newly created jobs had to be filled by unemployed persons registered at employment agencies, and the vacancies could not be the result of redundancies in the 12 months prior to the conclusion of the employment contract. In this case the employer was obliged to maintain the business for at least three years. The amount of the subsidy was 70 per cent of the gross national minimum wage for a maximum period of 12 months per person. Act no. 76/2002 on the unemployment insurance system and employment stimulation stipulated that employers

²⁹ On unemployment in Romania, see Diana COZMA IGHIAN – Rita TOADER – Anne Marie HORDĂU – Cezar TOADER: For unemployment, see: The analysis of Unemployment in Romania, *North Economic Review*, Volume I, Number 1, 2017. <http://ner.cunbm.utcluj.ro/wp-content/uploads/2017/10/NER-2017.32.pdf>.

taking on graduates from educational institutions receive the abovementioned amount of subsidy.³⁰

4.3. Wages

Although minimum statutory wages and average wage levels were steadily increasing from 390 RON (114 EUR) in 2007 to 1,250 RON (275 EUR) in 2016, in 2009 and 2010 - as a result of the crisis – there was no increase. In 2013 and 2013 the net value of the minimum statutory wage decreased from 159 EUR to 155 EUR. In 2007 the average monthly wage was 1,396 RON (408 EUR) and was only 2,886 RON (634 EUR) in 2016. The wage costs remained approximately at the same level.³¹

Minimum monthly gross wage (2007-2016)

Year (2007-2016)	Month	Minimum monthly gross wage (RON/EUR)
2007	Jan. – Dec.	390/114
2008	Jan.- Sept.	500/140
2008	Oct.-Dec.	540/142
2009	Jan.-Dec.	600/142
2010	Jan.-Dec.	600/142
2011	Jan.-Dec.	670/159
2012	Jan.-Dec.	700/155
2013	Jan.	700/155
2013	Feb.-June	750/171
2013	July-Dec.	800/179
2014	Jan.-June	850/189
2014	July-Dec.	900/205
2015	Jan.-June	975/216
2015	July-Dec.	1,050/236
2016	Jan.-Apr.	1,050/236
2016	May-Dec	1,250/275

Source: National Institute of Statistics

³⁰ Adina Popovici BARBULESCU: Youth Unemployment in Romania and Measures to Combat It. *Procedia Economics and Finance* Vol. 3 (2012) p. 1200.

<https://www.sciencedirect.com/science/article/pii/S2212567112002961>.

³¹ 16 per cent flat rate personal income tax remained steadily the same (See <https://tradingeconomics.com/romania/personal-income-tax-rate>, National Agency for Fiscal Administration, (ANAF). In 2017 the minimum wage was 1,450 RON (320 EUR).



Gross average wage (2007-2016)

Year (2007-2016)	Gross average wage (RON/EUR)
2007	1,396/408
2008	1,761/493
2009	1,845/436
2010	1,902/450
2011	1,980/470
2012	2,063/456
2013	2,163/484
2014	2,328/517
2015	2,555/566
2016	2,886/634

Source: National Institute of Statistics



Labour costs (2007-2016)

Year (2007-2016)	Labour costs (per cent)
2007	41.8
2008	41.6
2009	43.1
2010	43.3
2011	43.3
2012	43.5
2013	43.4
2014	43.7
2015	41.8
2016	N/A

Source: National Institute of Statistics

5. Social Dialogue

5.1. Social Partners

Trade unions must be independent non-profit legal entities, established to defend and promote collective and individual rights, and the professional, economic, social, cultural and sporting interests of their members.³²

Data provided on trade union density is rather vague. On the one hand, there are no official data on trade union density, on the other hand, similarly to other countries in the region, Romanian trade unions are reluctant to reveal the number of their members.³³ Trade union density has been gradually shrinking after the fall of the socialist regime. Back in 1990 it was around 80 per cent, cca six million people were trade union members.³⁴ According to the ILO statistics trade union density was less than 19.8% in 2013,³⁵ while according to Eurofound it was 40%,³⁶ and to ETUI 33%.³⁷

According to data provided by the European Trade Union Institute there are five representative trade union confederations at national level. The Confederația Națională a Sindicatelor Libere din România-Frăția (CNSLR-Frăția) is the largest confederation consisting of 28 trade union federations with over 800,000 members. The second largest trade union confederation is Confederația Națională Sindicală Cartel Alfa. According to data published on its website it has one million members and comprises 41 trade union federations, however, other estimates report 400,000 members. Blocul Național Sindical (BNS) consists of 40 trade union federations and has 320,000, Confederația Sindicatelor Democratice din România (CSDR) has cca 350,000,³⁸ Confederația Sindicală Națională Meridian (CSN

³² Article 214 Section 1 of Act No. 62/2011 (Social Dialogue Act).

³³ *Industrial relations in Romania – background summary*. <https://www.etui.org/Reforms-Watch/Romania/Industrial-relations-in-Romania-background-summary>.

³⁴ *Ibid.* In 2002, an ILO – UGIR-1903 study put trade union density at 44%. In 2007, according to Eurofound, density was at 39% in the industrial sector, and 7.1% in the public service (*Industrial relations in Romania – background summary*. <https://www.etui.org/Reforms-Watch/Romania/Industrial-relations-in-Romania-background-summary>).

³⁵ Jelle VISSER – Susan HAYTER – Rosina GAMMARANO: *Trends in collective bargaining coverage: stability, erosion or decline?* Issue Brief No 1 - Labour Relations and Collective Bargaining, 29 September 2015, p. 5. http://www.ilo.org/global/topics/collective-bargaining-labour-relations/publications/WCMS_409422/lang-en/index.htm.

³⁶ Romania: Industrial relations profile. p. 10. https://www.eurofound.europa.eu/sites/default/files/ef_files/eiro/country/romania.

³⁷ <http://www.worker-participation.eu/National-Industrial-Relations/Countries/Romania>.

³⁸ Estimated data from the Ministry of Labour: 249.264 members.

Meridian) has around 170,000 members,³⁹ (according to the estimated data from the Ministry of Labour CSN Meridian had 264,811 members in 2016).

The trade union density data available on the Ministry of Labour's website published in 2012 are rather different from those published by the trade union confederations. According to these data the five trade union confederations had a total of 1,432,266 members (CNSLR-Frăția: 306,486, Cartel Alfa, 301,785, BNS: 254,527, CSDR: 249,264, Meridian: 320,204 members),⁴⁰ which means a 32% density (the total workforce was 4,449,100 employees in 2012). It must be noted, that the Ministry of Labour's website includes the official documents submitted by the trade unions for obtaining the representativeness on different levels (from national level to sectorial and group of companies). Although this is a reliable source for the number of trade union members, the presented documents are from different years, and the set of documents published on the website is incomplete, making the calculation of the trade union density quite difficult.⁴¹

There are various studies on the trade union density using informal data. In 2002, a survey conducted by ILO concluded that the trade union membership rate was 44 per cent, which meant two million trade union members.⁴² In 2005, the European Union PHARE twinning programme for the 'Promotion of an autonomous social dialogue' estimated trade union density at 40%–46% (1.8–2.1 million members).⁴³ The ICTWSS database puts trade union density at 33.7% in 2007 and 32.8% in 2008.⁴⁴

Since 2010 the law has required a minimum of 15 members who are employed by the same company in order to form a trade union. Before the enforcement of the Social Dialogue Act, 15 persons working in the same branch or profession, albeit in different companies, were required to set up a trade union. This resulted in a large proportion of employees being excluded from forming a trade union because a number of employees are employed by small employers (companies).⁴⁵ Estimated data points out that about 90 per cent of Romanian companies have fewer than 10 workers, which means that in all those enterprises no trade union can be set up.⁴⁶

The representatives elected in the management bodies of the trade unions shall be provided legal protection against any form of pressure, constraint or restraint in the exercise of their functions. During their term of office the representatives elected in the management bodies of the trade unions may not be dismissed for reasons not related to the person of the employee, for professional unfitness or reasons related to the fulfilment of the mandate received from the employees in the organization.⁴⁷ This was a significant step backwards regarding the protection of trade union leaders after 2011, contrary to the previous legislation, which

³⁹ *Industrial relations in Romania – background summary*. <https://www.etui.org/Reforms-Watch/Romania/Industrial-relations-in-Romania-background-summary>.

⁴⁰ *Ibid.*

⁴¹ <http://www.mmuncii.ro/j33/index.php/ro/?id=997:reprezentativitate-sindicat&catid=29:domenii>.

⁴² Luminița CHIVU: Trade union strategies to recruit new groups of workers – Romania, 2010, <https://www.eurofound.europa.eu/observatories/eurwork/comparative-information/national-contributions/romania/trade-union-strategies-to-recruit-new-groups-of-workers-romania>.

⁴³ *Ibid.*

⁴⁴ Victoria STOICIU: *Romania's Trade Unions at the Crossroads Challenged by Legislative Reforms, Economic Crises and a Power-loss of 60 per cent*. Friedrich Ebert Stiftung, 2016, <http://library.fes.de/pdf-files/id-moe/12924-20161123.pdf>.

⁴⁵ *Ibid.* The proportion of companies with fewer than 10 employees in the industrial, building, trade and market services sectors was 87.2% in 2003, 89.2% in 2008 and 99.1% in 2010 (See *ibid.*).

⁴⁶ For example, in 2013 at the workplace level 37% of employees were represented by trade unions (representing 8% of companies), 63% of employees were represented by elected employee representatives (52% of companies). See *Industrial relations in Romania – background summary*. <https://www.etui.org/Reforms-Watch/Romania/Industrial-relations-in-Romania-background-summary>.

⁴⁷ Article 220 Section 1-2 of Act No. 62/2011 (Social Dialogue Act)

extended the protection to two years after the mandate. The current provision applies only to the duration of the trade union activity.⁴⁸

According to statistical data published by the National Institute of Statistics, the number of the trade union organisations has been rising (2009: 8,558, 2010: 8,598, 2011: 8,682, 2012: 9,329, 2012: 9,915 and 2014: 9,372 trade unions).⁴⁹ On its official website the Ministry of Labour presents the list of trade unions becoming representative in a particular year (no data published for 2007-2010, 2011: 12, 2012: 54, 2013: 11, 2014: 11, 2015: 22, 2016: 29 trade union became representative.)

The employers' (so-called business) organisations are legal entities. An employers' organization is recognized as representative at sectoral level, if the members of the federation employ at least 10 per cent of the total number of the employees in the sector. An employers' organization may be representative at national level, if the members affiliated to the employers' confederation employ at least 7% of the total number of employees in the national economy, and the confederation has local structures in over half of the counties of Romania (including Bucharest).⁵⁰

5.2. Tripartite Social Dialogue

Putting into force the Social Dialogue Act in 2011 changed the actors of the tripartite social dialogue in Romania, establishing the National Tripartite Council for Social Dialogue (Consiliul Național Tripartit pentru Dialog Social) as the main actor of tripartite dialogue. Prior to that, the Economic and Social Council (CES) filled the main role in the tripartite social dialogue. After the 2011 legislative changes, the Government left the Economic and Social Council and was replaced by civil society representatives, who, in the opinion of some stakeholders, transformed the Economic and Social Council, formerly a tripartite body, into a bipartite social dialogue structure.

The Economic and Social Council 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). Act No. 248/2013 on the organization and functioning of the Economic and Social Council was also amended. The main amendments and additions were aimed to redefine the specialty areas of the institution, the decision-making process, and the procedures for the naming of civil society's representatives in the Economic and Social Council Plenum and for the filling of vacancies in the Council Plenum. Nowadays, the Economic and Social Council is a public body with an advisory role to the Romanian Parliament and Government, with the responsibility for debating and making recommendations on the main legislative and economic issues on the public agenda.

According to Article 11 of Act No. 248/2013 on the organization and operation of the Economic and Social Council the Council consists of 45 members, 15 members are appointed by the employers' interest representation organizations, 15 by trade unions, and 15 members

⁴⁸ According to the Romanian Constitutional Court the provision prohibiting the dismissal of the elected representatives of the trade union for the term of their office (except for disciplinary reasons), without being strictly linked to union activity contravenes the Constitution because of the prohibition's absolute nature (Decision No. 814 of 24 November 2015). The decision of the Constitutional Court was criticised by the trade unions, which claimed that the protection is merely declaratory and formal, not adequate, nor in conformity with Article 1 of ILO Convention No 135/1971 and Article 7 of Directive 2002/14/EC. See *Industrial relations in Romania – background summary*. <https://www.etui.org/Reforms-Watch/Romania/Industrial-relations-in-Romania-background-summary>.

⁴⁹ *Industrial relations in Romania – background summary*. <https://www.etui.org/Reforms-Watch/Romania/Industrial-relations-in-Romania-background-summary>.

⁵⁰ *Ibid.*

are nominated by the prime minister among the representatives of civil society.⁵¹ In September 2013, Prime Minister Victor Ponta named the 15 civil society representatives in the Economic and Social Council.

The National Tripartite Council for Social Dialogue is an institutionalized structure of tripartite consultation of national interest, a consultative body, established by the Romanian Government under Act No. 62/2011 (Social Dialogue Act), functioning according to its rules of organization and operation. In the summer of 2015 the National Tripartite Council for Social Dialogue finally adopted its internal rules. Although created in 2011, until 2015 the National Tripartite Council for Social Dialogue was not a functioning body due to the lack of internal statutes, establishing working and decision-making procedures.

During the last years of the examined period, the tripartite social dialogue took part in six nationwide employer's organizations,⁵² five trade union confederations⁵³ and the representatives of the Government. The Chair of the National Tripartite Council for Social Dialogue is the Prime Minister of Romania, the Minister of public consultation and social dialogue is the deputy by right, and the members of the Government, appointed by the Prime Minister at least at the level of secretary of state in each ministry, are also involved in the work of the National Tripartite Council for Social Dialogue. The Technical Secretariat is provided by the Ministry of Public Consultation and Social Dialogue, as well as by the Social Dialogue Directorate staff.⁵⁴

The purpose of the National Tripartite Council is to conduct tripartite consultations on strategies of economic and social government, the minimum wage gross guaranteeing payment, the settlement of conflict situations to ensure a climate of social peace, ending social agreements, analysing requests for extension of collective agreements at sectoral and other issues of common interest or related to the development and implementation of strategies, policies and programmes of the Government.⁵⁵

It must be noted that at the sectorial level, Social Dialogue Tripartite Committees with a consultative role are formed within 17 public authorities and institutions.

⁵¹ NGOs with the aim of protecting human rights, including women's, minors' rights, organizations in the field of healthcare and disability protection, prevention of poverty, environmental and rural development, local community, and other NGOs, which scope of activities complies with the activities of the Economic and Social Council.

⁵² Consiliul Național al Întreprinderilor Private Mici și Mijlocii din România (National Council of Private Small and Medium Enterprises) (from 2 August 2016 – until 2020), Confederația Patronală CONCORDIA (CONCORDIA Employers Confederation) (from 10 October 2013 – until 2017), Uniunea Generală a Industriașilor din România (UGIR) (General Union of Romanian Industrialists) (from 27 May 2014 – until 2018), Patronatul Național Român (PNR) (Romanian National Employers Organization) (from 17 March 2015 – until 2019), Confederația Națională a Patronatului Român (CNPR) (National Confederation of Romanian Employers) (from 16 July 2015 – until 2019), Confederația Patronală din Industrie, Agricultură, Construcții și Servicii din România (Employers Confederation from Industry, Agriculture, Constructions and Services) (from 21 October 2015 – until 2019). See http://dialogsocial.gov.ro/wp-content/uploads/2017/01/2016-10-13_Lista_conf_patronale_sindicale-1.pdf.

⁵³ Confederația Națională Sindicală "CARTEL ALFA" (National Trade Union Confederation "Cartel Alfa") (from 21 January 2016 – until 2020), Blocul Național Sindical (National Trade Union Bloc) (from 23 February 2016 – until 2020), Confederația Națională a Sindicatelor Libere din România Frăția (National Confederation of Free Trade Unions of Romania – Brotherhood) (from 16 June 2016 – until 2020), Confederația Sindicatelor Democratice din România (CSDR) (Democratic Trade Union Confederation of Romania) (from 18 April 2013 – until 2017), Confederația Sindicală Națională MERIDIAN (National Trade Union Confederation "Meridian") (from 22 March 2016 – until 2020). See http://dialogsocial.gov.ro/wp-content/uploads/2017/01/2016-10-13_Lista_conf_patronale_sindicale-1.pdf.

⁵⁴ See <http://dialogsocial.gov.ro/despre/>.

⁵⁵ Article 78 of Act No. 62/2011 (Social Dialogue Act).

5.3. Collective Agreements and Trade Unionism

The need for flexibility led to the reforms in respect to social dialogue. The role and influence of the trade unions has decreased since the beginning of the crisis. When Act No. 62/2011 on Social Dialogue came into force, it not only diminished the influence of the trade unions, but the legislative changes also seriously affected the coverage of collective agreements, as the previous national level of bargaining was abolished. Through this Act collective bargaining was decentralised and the national and the cross-sector agreement was abolished. This resulted in the collective agreement coverage rate falling from 98% to 35% after 2011,⁵⁶ wage bargaining mainly moved to the company level, and the coordination within the sectors became increasingly weaker.⁵⁷

Coverage of collective agreement (2007-2016)

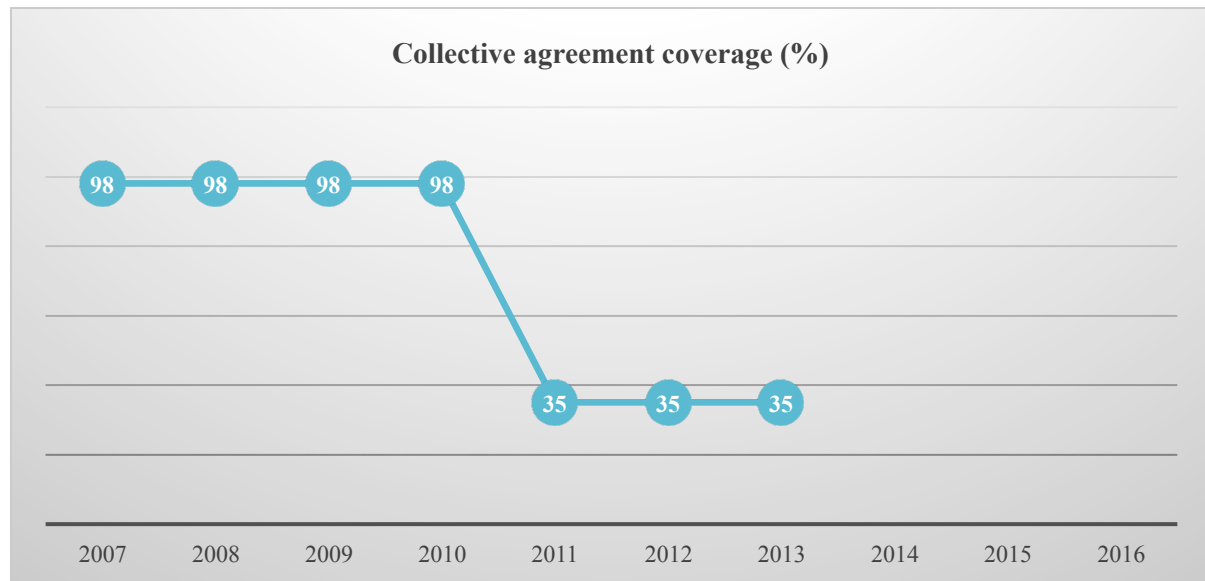
Year (2007-2016)	Coverage of collective agreement
2007	98
2008	98
2009	98
2010	98
2011	35
2012	35
2013	35
2014	N/A
2015	N/A
2016	N/A

Source: ILO⁵⁸

⁵⁶ Eurofound, *Collective Bargaining in Europe in the 21st Century*. Luxembourg, 2015, <http://adapt.it/englishbulletin/wp/collective-bargaining-in-europe-in-the-21st-century>, p. 42.

⁵⁷ See also: Tamás GYULAVÁRI: Chasing the Holy Grail? Stumbling Collective Bargaining in Eastern Europe and the Hungarian Experiment. In: Sylvaine LAULOM (ed.): *Collective Bargaining Developments in Times of Crisis. Bulletin of Comparative Labour Relations*. Volume 99. Wolters Kluwer, 2018. p. 23, 32.

⁵⁸ See http://www.ilo.org/ilostat/faces/oracle/webcenter/portalapp/pagehierarchy/Page27.jspx?indicator=ILR_CBCT_NOC_RT&subject=IR&datasetCode=A&collectionCode=IR&_adf.ctrl-state=19kl4vutg4_33&_afLoop=430951696297658&_afWindowMode=0&_afWindowId=null#!%40%40%3Findicator%3DILR_CBCT_NOC_RT%26_afWindowId%3Dnull%26subject%3DIR%26_afLoop%3D430951696297658%26datasetCode%3DA%26collectionCode%3DIR%26_afWindowMode%3D0%26_adf.ctrl-state%3D6as5dxiy8_4



It must be noted that no official data is available for the period 2007-2016. The latest data provided by ILO is from 2013, coverage of collective bargaining being 35%, the same as in 2012 and 2011. For the period of 2007-2009 it was 98%, and in 2010 97.1%. According to a joint statement of the union confederations BNS and Cartel Alfa in 2012 the estimated data provided by these trade unions was 36%.⁵⁹

The last National Level Collective Agreement was effective from 2007 until 2010 and applied to all employees.⁶⁰ The collective agreement mainly repeated the legal provision of the former Labour Code, but paid days off for some personal reasons (marriage, the birth of a child, death of relatives, etc.) were also included.

According to the abolished previous system the branch-level collective bargaining was obligatory on an annual basis, and a national agreement covered a period of four years. Before 2011 there was an option to conclude a company, group of companies, branch or national level collective agreement, but according to the Act the level of collective bargaining has only remained at the level of the employer (company) or sector.

At company level, collective bargaining, similarly to the previous system, is mandatory in the case of employing 21 employees, though from 2011 'sector-level bargaining' has been linked to stricter representativeness criteria for all levels. The criteria of representativeness are crucial, because only representative trade unions and employers' organisations may participate in collective bargaining.⁶¹ The reduction in coverage of collective agreements has also contributed to the fact that the collective agreement concluded in the previous system at sectoral level covered all employees in the sector. To be recognised as a representative at national level, trade union confederations must have a number of its affiliated organization members that is equal to at least 5% of the total number of employees in the national economy, above that the trade union confederation must have local structures in over half of the counties of Romania (including Bucharest).⁶² The new provisions in 2011 "were accompanied by practical impediments, as trade unions were obliged to get their company

⁵⁹ See Press statement 2 July 2012: CNS Cartel ALFA si BNS: Modificarea Legii dialogului social o prioritate <http://www.cartel-alfa.ro/default.asp?nod=67&info=48020#>. See <http://www.worker-participation.eu/National-Industrial-Relations/Countries/Romania/Collective-Bargaining#note2>

⁶⁰ Released in the Romanian Official Gazette, 5, 29. January 2007.

⁶¹ *Industrial relations in Romania – background summary*. <https://www.etui.org/Reforms-Watch/Romania/Industrial-relations-in-Romania-background-summary>.

⁶² *Ibid.* See also Felicia ROSIORU: Collective Bargaining in Romania: The Aftermath of an Earthquake. p. 77–78.

level representativeness (according to the new criteria) recognized by the courts.”⁶³

Derogation from the law is possible only if it is to the advantage of the employees. According to Article 132 of Act No. 62/2011 (Social Dialogue Act) the collective agreements can set rights and obligations only under the terms of the statutory labour law and within the limits of the legal provisions. The existing legal provisions in terms of the employees' rights are considered to be the minimum criteria for the provisions of the collective agreement. A collective agreement cannot set a lower level of rights that is fixed in a collective agreement concluded on a higher level. Collective agreement, concluded in the public sector cannot set any other provisions referring to the salary of the workers that is stipulated in the law for that particular category of staff.⁶⁴ The collective agreement must be concluded for a defined term (for 12 or 24 months) and may be extended once, for another 12 months. Only one collective agreement can be concluded at each company, group of companies or sectoral level.⁶⁵

Though the number of collective agreements at company level is rising the coverage is getting lower and lower because the trade union density has been declining (according to the International Labour Organization the trade union density is cca 20 per cent).⁶⁶ The decentralisation of collective bargaining resulted in the company level trade unions having to start to re-organise their activities in order to increase the trade union membership and to reach the company level representativeness.⁶⁷

The seriousness of the situation and its perception by trade unions are well characterized by the only answer received back from one of the trade unions *“the impact of the economic crisis on social dialogue had a profound change in the Romania. Until 2010 it was possible to conclude a collective agreement at national and sectoral level, but after 2010 the social dialogue in Romania has drastically decreased. As a result of the change in the rules on social dialogue a large number of collective agreements have been concluded with workers' representatives and not with trade unions, which cannot be interpreted as a social dialogue under European social dialogue. Therefore, we believe that no data is relevant for the given period until the two periods are separated.”*

We came to the conclusion that the reason for curtailing trade union rights should not only be sought in response to the crisis. The new provisions seem rather to be political decisions, which were driven by the need for flexibility and the transformation of the labour law into a more employer-friendly one (which means a complex phenomenon as well, undeniably including economic aspects, business-promoting goals, etc.).

As Felicia Rosioru notes “[T]he legislative intervention was brutal, without involving the social partners and it has ruined the social dialogue and the system the social partners managed to build in two decades, after the fall of the communism. Decentralization of collective bargaining to the lowest level has weakened the social acquis achieved so far by the trade unions at national and local level, and affected sectoral collective bargaining.”⁶⁸

⁶³ Felicia ROSIORU: Collective Bargaining in Romania: The Aftermath of an Earthquake. p. 78.

⁶⁴ Article 138 of Act No. 62/2011 (Social Dialogue Act).

⁶⁵ *Industrial relations in Romania – background summary*. <https://www.etui.org/Reforms-Watch/Romania/Industrial-relations-in-Romania-background-summary>.

⁶⁶ See *Industrial relations in Romania – background summary*. <https://www.etui.org/Reforms-Watch/Romania/Industrial-relations-in-Romania-background-summary>, GYULAVÁRI: Chasing the Holy Grail? Stumbling Collective Bargaining in Eastern Europe and the Hungarian Experiment. p. 32, Jelle VISSER – Susan HAYTER – Rosina GAMMARANO: *Trends in collective bargaining coverage: stability, erosion or decline?* Issue Brief No 1 – Labour Relations and Collective Bargaining, 29 September 2015, http://www.ilo.org/global/topics/collective-bargaining-labour-relations/publications/WCMS_409422/lang--en/index.htm.

⁶⁷ GYULAVÁRI: Chasing the Holy Grail? Stumbling Collective Bargaining in Eastern Europe and the Hungarian Experiment. p. 32.

⁶⁸ Felicia ROSIORU: Collective Bargaining in Romania: The Aftermath of an Earthquake. p. 74.

5.4. Sectoral Level Collective Bargaining

Employers' organizations and trade union confederations take part in the bipartite social dialogue.⁶⁹ The actors of the bipartite interest reconciliation remained the same, but due to the new criteria of representativity at enterprise level, the tendency shows a shift away from trade union power to representatives of employees. Only the representative trade union may conclude a collective agreement at sectoral level, if it has the legal status of union federation, and has organizational and patrimonial independence with at least 7% of employees in the sector concerned.⁷⁰ A sectoral level collective agreement must be negotiated and signed by social partners that are recognised as representative of the economic sector. It can then be registered with the competent authorities. However, it can only be enforced at sector level if more than 50 per cent of all employees in the sector work for companies that are members of the signatory employer organisations. If not, the agreement can still be registered but will be effective only at a group of units level. From 2011 the number of sectoral level collective agreements was very low (one or two per year), in 2015 and 2016 no collective agreements were concluded at sectoral level.

Number of sectoral level collective agreements (2007-2016)

	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
number and sector	7 (construction, local transport, electricity, chemicals and petrochemicals, textile industry, leather industry, expired) + 3 additional agreements (e.g. electricity, chemicals and petrochemicals)	5 (cellulose industry, wood industry, agriculture and fishing, mining and geology, automobile industry, expired)	2 (COMAT, tourism, expired) + 1 additional agreement (glass industry)	5 (chemicals and petrochemicals, construction, steel industry, agriculture, fishing, all expired) + 2 additional agreements (construction sector, food and tobacco industry, all expired)	1 (research and design, expired) + 7 additional agreements (textile/clothing, automobile, glass and pottery industry, 2 construction, mass-media, research, development, design sector)	2 (education and research, education, both expired)	1 (medical and veterinary activities) + 1 additional agreement (medical and veterinary activities) (from 2014 until 2015)	1 (education, expired)	-	-

Source: <http://dialogsocial.gov.ro/sector-de-activitate/>⁷¹

⁶⁹ E.g. Metal/electrical industries, energy sector, constructions, public Sector, textile/clothing industry, media and culture, timber industry/silviculture, plastic industry, commerce, banking sector, agriculture and food products, forestry, telecommunication, transportation. The sectors of the national economy are set by Government Decree No. 1260/2011, on the sectors of activity stipulated in Social Dialogue Act.

⁷⁰ Article 51 of Act No. 62/2011 (Social Dialogue Act).

⁷¹ See also <http://www.mmuncii.ro/j33/index.php/ro/component/content/article?id=951:ccm-ramura>.

In 2014 there were eight, and in 2015 only five representative employers' confederations at a national level.⁷² The number of representative employer's confederations has been declining, e.g. in 2015 there were only ten representative employers' federations out of the 29 sectors in which collective agreements could be concluded. Although in 2015 there were nine sectors, where representative trade union federations existed, there were no representative employers' federations.⁷³ Experts of the European Trade Union Institute explain the loss of members by the fact that, in the absence of an extension decision by the Minister of Labour, the collective agreement concluded at sector level is only mandatory for employers belonging to the signatory employers' federations, so in order to avoid applying the collective agreements concluded at this level employers frequently withdraw from the employers' federation.⁷⁴ Under the Social Dialogue Act a sectoral level collective agreement may be extended by the decision of the Minister of Labour if the employers belonging to the signatory employers' federations represent more than half of the total number of employees in the sector. From 2011 to 2015, no collective agreement has met the legal requirements to become the subject of an extension decision.⁷⁵

5.5. Collective Bargaining at the Workplace Level

"A trade union is regarded as representative and allowed to negotiate a single-employer collective agreement only if at least half plus one of the company's workers are affiliated (compared to one-third under the previous legislation). Only one trade union can be representative in one company compared to up to three under the old legislation."⁷⁶ The non-representative trade unions are excluded from collective bargaining.⁷⁷ If there is no representative trade union at company level, negotiations can be carried out by the trade union federation to which the trade union belongs.⁷⁸ If there is no existing trade union at the employer level, negotiations can be carried out by employee representatives.⁷⁹ The direct consequence of the new regulation is that since 2011 only a few sectoral collective agreements have been signed in a year. These sectoral collective agreements no longer cover all the employees of the sector, only those who are members of the signatory employers' organizations.

As mentioned above, it is mandatory to negotiate a collective agreement for every company with 21 employees or more,⁸⁰ however, it is mandatory only to start the negotiation, not to conclude the collective agreement. According to the principle of majority a trade union is considered to be representative in order to represent the employees only if it has members at enterprise level at least 50 per cent plus one of the employees of the unit. If this condition is not met, then the representatives of the employees elected under the law are also involved in the negotiations. The law does not provide a specific procedure for the election of employee representatives (individual vote on lists, electronic, specify the number of votes necessary for validation, etc.), but only states the mandatory participation in the elections of more than half of the total number of employees (including temporary ones), whether they are union

⁷² See *Ibid.* In 2015 the representative employers' confederations were: Consiliul Național al Întreprinderilor Private Mici și Mijlocii din România, Confederația Patronală 'Concordia', Uniunea Generală a Industriașilor din România, Patronatul Național Român, Confederația Națională a Patronatului Român.

⁷³ *Ibid.*

⁷⁴ *Ibid.*

⁷⁵ *Ibid.*

⁷⁶ Eurofound, *Collective Bargaining in Europe in the 21st Century*. Luxembourg, 2015, <http://adapt.it/englishbulletin/wp/collective-bargaining-in-europe-in-the-21st-century>, p. 25.

⁷⁷ *Industrial relations in Romania – background summary*. <https://www.etui.org/Reforms-Watch/Romania/Industrial-relations-in-Romania-background-summary>.

⁷⁸ The so-called representativeness by membership was reintroduced in January 2016. See *Ibid.*

⁷⁹ See Eurofound, *Collective Bargaining in Europe in the 21st Century*.

⁸⁰ Article 129 of Act No. 62/2011 (Social Dialogue Act).

members or not.

In 2007 (from 1 January until 30 September) 9,678 (6,197 collective agreements and 3,481 additional agreements),⁸¹ in 2016 9,366 (7,269 collective agreements and 2,097 additional agreements)⁸² collective labour agreements were concluded at company level. The number of the collective agreements at enterprise level concluded in 2016 is almost the same as it was in 2007, but, due to the new criteria of representativity at enterprise level, it seems to be a real tendency to replace collective agreements signed by representative trade unions with those signed by employees' representatives.

The increase in representatives of the employees is quite obvious after 2011. In enterprises with more than 20 employees where no representative trade union organization is established the workers can elect their "employees' representatives", who can also negotiate and sign collective agreements. This provision also indicates a shift from trade union power to representatives of employees.

The representatives of the employees are a real alternative to representative trade unions at the workplace level, as they can exist and are functional only at the company level, where there are no representative trade unions, and will exercise the rights provided for representative trade unions where these latter are not established. The mandate of the representatives of the employees shall not exceed two years. During their term of office, the representatives of the employees may not be dismissed for reasons related to the mandate received from the employees.⁸³

Prior to the present regulation, the employees' representatives could only be elected in the units where there was no trade union at all. Currently, the employees' representatives can also be appointed in the units where there is a union, but not a representative one, and in this case, they can even participate in the collective negotiation, together with the union.⁸⁴ If the trade union existing in the company is not affiliated to a representative union federation, the employees' representatives are the only ones authorized to represent the workers for negotiations, the union having no right.⁸⁵ Another problem seems to be, that, in practice, the employee representatives are generally selected by the management of the company and are not freely elected by the workers, and they have no bargaining experience and knowledge, nor any real support from the workers. Still, the agreements signed by the employee representatives have the same legal effects as a collective agreement concluded by a representative trade union. The option to conclude a collective agreement by elected employee representatives "has been strongly criticised because, according to Convention No 135 of the International Labour Organization, the existence of elected representatives must not be used to undermine the position of the trade unions or their representatives".⁸⁶

Estimated data is presented in a study by Stoiciu Victoria,⁸⁷ about the proportion of the collective agreements signed by employees' representatives calculated on the basis of the total number of existing enterprise level collective agreements (2011-2014) is the following.

⁸¹ Source: Ministry of Labour, <http://www.mmuncii.ro/pub/imagemanager/images/file/Statistica/Buletin%20statistic/2007/conditii60.pdf>.

Informal data regarding the total number of existing enterprise level collective agreements indicates a larger number (total 12,206) for 2007, although it is not specified whether these are collective agreements or collective agreements *and* additional agreements.

⁸² Source: Ministry of Labour, http://www.mmuncii.ro/j33/images/buletin_statistic/conditii_an_2016.pdf.

⁸³ Article 222, Section 3 and Article 226 of Act No. 62/2011 (Social Dialogue Act).

⁸⁴ Article 135, Section 1 a) of Act No. 62/2011 (Social Dialogue Act).

⁸⁵ Article 135, Section 1 b) of Act No. 62/2011 (Social Dialogue Act).

⁸⁶ *Industrial relations in Romania – background summary*. <https://www.etui.org/Reforms-Watch/Romania/Industrial-relations-in-Romania-background-summary>.

⁸⁷ <http://library.fes.de/pdf-files/bueros/bratislava/13216.pdf>.

Collective agreements signed by employees' representatives (2011-2014)

	2011	2012	2013	2014
Total number of agreements	7,473	8,783	8,726	9,477
Signed by unions	1,050	1,235	1,226	1,332
Signed by employees' representatives	6,423	7,548	7,500	8,145

Unfortunately, there were no reliable data on how the content of collective bargaining changed during the crisis and if there were any innovative solutions. Based on experience, however, where collective agreements have been concluded at plant level with the employees' representatives, the content of the collective agreement became somewhat formal, such as the repetition of existing legal provisions, and collective agreements generally containing certain provisions on wages, wage-related issues and holidays. In addition, there are a lot of provisions in the collective agreements that are copied verbatim from the Labour Code or from other laws.

The reason for this is that derogation from the laws can only be made to the benefit of employees, which is not necessarily the goal of the employers. On the other hand, as stated above, according to Act No. 62/2011 (Social Dialogue Act) the role of the employees' representatives has been revalued, however, their real power is far more than questionable.

6. Strike Activity

Article 43.1 of the Romanian Constitution (Section II, Fundamental Rights, Freedoms and Duties) guarantees the right to strike, as it declares that employees have the right to strike in the defence of their occupational, economic and social interests. According to the definition of Social Dialogue Act a strike is any form of collective and voluntary work stoppage in a unit. The representative trade unions are entitled to organize strikes, however, in the absence of such unions, the right to strike may be held by the representatives of the employees.⁸⁸ Practically, a strike may be held only if there is no valid collective agreement.

A strike can be declared only if the mandatory procedures provided by law for the settlement of a collective labour conflict⁸⁹ have been exhausted, after the initiation of a warning strike and if the starting date of the strike has been communicated to the employer at least two working days in advance. According to the law, there are three types of strike: warning strike, full strike and solidarity strike.

According to Article 166–174 of Act No. 62/2011 (Social Dialogue Act) conciliation is mandatory prior to calling a strike. Conciliation is carried out between the parties in conflict with the participation of the delegate of the Territorial Labour Inspection (in the case of enterprise level conflicts) or of the Ministry of Labour (in the case of sectorial or group of units level). The delegate of the competent authority calls the parties for conciliation and will guide and support them towards settling the conflict by common agreement. Mediation and arbitration are possible, but not mandatory.

The right to strike is prohibited for judges, prosecutors, military personnel, and special status personnel of the public order body.⁹⁰ The right to strike is restricted for the personnel of any type of transportation, and for the personnel of essential services, namely those provided by establishments of health and social assistance, telecommunications, public radio and television, respectively by rail transport establishments, by establishments that ensure common transportation and public sanitation, as well as the provisioning of the population with gas, heat, power and water. Striking is allowed in these services on condition that the

⁸⁸ Article 181 of Act No. 62/2011 (Social Dialogue Act).

⁸⁹ See Chapter 8.

⁹⁰ Article 202 of Act No. 62/2011 (Social Dialogue Act).

functioning of at least one third of normal activity is ensured.⁹¹ Article 59 of the Labour Code prohibits dismissal based on the exercise of the right to strike, provided that employees act in accordance with existing laws.

Overview of strike activity (2007-2016)

Year (2007-2016)	Number of collective actions	Lost working hours	Number of employees affected	Aim of the strike	Outcome
2007	12	494,034	8,081	salary reasons 68.6%, working conditions 2.3%, other claims 29.1%	N/A
2008	8	138,453	16,730	salary reasons 78.4%, working conditions 0.9%, social rights 0.9%, other 19.8%	N/A
2009	1		360	salary reasons 73.9%, other 26.1%	N/A
2010	0		0	-	-
2011	0		0	-	-
2012	0		0	-	-
2013	0		0	-	-
2014	0		0	-	-
2015	N/A	N/A	N/A	N/A	N/A
2016	2	N/A	more than 82,000	See below	See below

Source: National Institute of Statistics

A nationwide labour conflict and announcement of an open-ended strike starting on 19 July 2016 by the National Federation of Administration Trade Unions (FNSA). The FNSA demanded a 25 per cent increase in the basic wage, and other bonuses and allowances. After a series of negotiations and the engagement of the Government to take into consideration the demands of the trade union, the conflict was resolved.

A general strike broke out that involved about 82,000 employees (health care and social assistance sector) in autumn 2016 commenced by Sanitas Federation (a representative trade union from the health sector). The reason for the strike was because their amendments proposed to the Government Emergency Ordinance had been rejected by Parliament. The strike was declared illegal by the Bucharest Tribunal, as it had not fulfilled the legal requirements for starting a strike. But following the general strike, the Parliament approved an amendment to Government Emergency Ordinance 20/2016 and increased wages by 15 per cent in both the health care and education sectors starting on 1 January 2017.

7. Participation – Information and Consultation Rights

There were no data provided on the number of works councils, because there is no such instrument under Romanian law. However, in the case of Community-scale undertakings and

⁹¹ Article 205 of Act No. 62/2011 (Social Dialogue Act).

Community-scale groups of undertakings, European Works Councils are regulated in order to transpose European legislation. Act No. 217/2005 on the establishment, organisation and functioning of European Working Councils constituted a verbatim translation of Council Directive 94/45/EC of 22 September 1994 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees. Act No. 186/2011 to amend Act No. 217/2005, simply incorporates the regulations contained in Directive 2009/38/EC of the European Parliament and of the Council of 6 May 2009 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees.

Employees' rights to information and consultation under Directive 2002/14/EC are fulfilled by the representatives of trade union organizations, or in cases where no trade union is present, individuals elected to represent the employees. Act No. 467/2006 on establishing the general framework for informing and consulting employees⁹² is applicable to enterprises with at least 20 employees, however, provisions do not apply to the crews of commercial ships during voyages. The rights to information and consultation are mandatory and apply automatically, with no employee initiative required to trigger them.

Act No. 467/2006 does not include specific provisions describing practical arrangements for information and consultation. Chapter II, Section 1 provides only that employers must inform and consult employee representatives on the recent and probable development of the activity and the economic situation of the company; the situation, structure and probable development of employment within the undertaking or establishment and on anticipatory measures envisaged, in particular where there is a threat to employment; decisions likely to lead to substantial changes in work organisation or in contractual relations, including those referred to in the legislation on collective redundancies and on employee rights in transfers of undertakings. Information must be given at such a time, in such a way and with such content as are appropriate to enable, in particular, employees' representatives to conduct an adequate study and, where necessary, prepare for consultation. Consultation must take place while ensuring that the timing, method and content thereof are appropriate; at the relevant level of management and representation, depending on the subject under discussion; and in such a way as to enable employees' representatives to meet the employer and obtain a response, and the reasons for that response, to any opinion they might formulate.

Article 6 of Act No. 467/2006 stipulates that the arrangement for information and consultation can be defined freely and at any time by collective agreements concluded in accordance with law. Collective agreements, as well as any subsequent renewals, can provide for arrangements that differ from those set out in the law, on the condition that the employer and the employees' representatives respect rights and reciprocal obligations, and take into account the interests of the enterprise as well as of the employees. The employer is not obliged to communicate information or undertake consultation when the nature of that information or consultation is such that, according to objective criteria, it would seriously harm the functioning of the company or would be prejudicial to it. If the employee representatives do not consider such confidentiality appropriate, they can refer the matter to the relevant legal authorities.

The Social Dialogue Act eased the employer's information obligation. Since 2011 the employer has not been required to invite trade union representatives to attend meetings of the board of directors, they should only be informed in writing of decisions affecting the professional, economic and social interests of employees.⁹³ Under the previous Act⁹⁴

⁹² Published in the Official Journal of Romania on 18 December 2006.

⁹³ *Industrial relations in Romania – background summary*. <https://www.etui.org/Reforms->

employers had to inform trade union representatives about the use of funds intended to improve working conditions and safety at work, and about all aspects associated with the sporting or cultural interests of employees, according to the Social Dialogue Act these obligations have been removed.⁹⁵

In companies of more than 50 employees, a health and safety committee must be set up by the employer.⁹⁶

8. Collective Labour Disputes

Act No. 62/2011 (Social Dialogue Act) sets out the procedure to be followed in labour disputes. According to the law, labour disputes are divided into collective labour conflicts and individual labour conflicts.

The procedure for solving collective labour conflicts involves three steps as follows. 1. When a conflict of interest has been openly declared, conciliation procedures are initiated by a representative of the Ministry of Labour, Family and Social Protection or of the local labour inspectorate. 2. If such a conciliation attempt fails, mediation can be sought, subject to the parties' mutual agreement. 3. Arbitration can be resorted to at any time during a collective labour conflict, by mutual agreement of the parties. The first step is compulsory, while the other two are left to the parties' choice. Nevertheless, mediation and arbitration of a collective labour conflict are mandatory if the parties, by mutual agreement, have decided on these issues prior to initiating a strike or during a strike.⁹⁷

Before the adoption of Act No. 62/2011 (Social Dialogue Act) conciliation was not compulsory before strikes and trade unions were allowed to organise industrial action to enforce the implementation of collective agreements. Since the enforcement of the Social Dialogue Act conciliation before strike action has been mandatory and workers are not allowed to go on strike if the collective agreements provisions are not implemented or the solution to the conflict requires legal changes. In conclusion, in terms of collective labour conflicts the Social Dialogue Act seriously affects the employees' rights because a conflict may only be related to aspects regarding the initiation, development and conclusion of the negotiations of collective agreements and may only be generated outside the validity period of a collective agreement.

In Romania there is no special body for reconciliation of labour disputes, however, according to Article 179 of Act No. 62/2011 (Social Dialogue Act), the parties in conflict may ask for the arbitration of the Collective Labour Conflicts Mediation and Arbitration Office, an institution within the framework of the Ministry of Labour (yet not really functional). The decision of the Collective Labour Conflicts Mediation and Arbitration Office is mandatory for the parties. Unfortunately, there are no data on the number of cases. It is characteristic of the institution's activity (or rather lack thereof) that on 30 January 2018 an official notice was issued that after the debate held in Parliament on the draft of the act aimed at making mediation activity operational in social dialogue, the office should start a mediation training for the professional mediators in the future.⁹⁸

Watch/Romania/Industrial-relations-in-Romania-background-summary.

⁹⁴ Act No. 54/2003 on Trade Unions.

⁹⁵ *Industrial relations in Romania – background summary*. <https://www.etui.org/Reforms-Watch/Romania/Industrial-relations-in-Romania-background-summary>.

⁹⁶ Romania: Industrial relations profile. p. 8. https://www.eurofound.europa.eu/sites/default/files/ef_files/eiro/country/romania.

⁹⁷ See also Chapter 6.

⁹⁸ <http://www.cmediere.ro/page/2021/operationalizarea-oficiului-de-mediare-si-arbitraj-in-cadrul-directiei-de-dialog-social>.

Number of collective disputes (2007-2016)

	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
numbers of conflicts	86	116	92	73	35	23	22	19	35	N/A (at least 3)

Source: Romanian Statistical Yearbook 2010 and 2016⁹⁹

Official data provided by the Ministry of Labour shows that the number of conflicts was high in the manufacturing and construction industries, due to salary reasons.¹⁰⁰ The number of employees in the companies involved in the conflicts fell from 268,700 in 2008, to 161,500 in 2009, and to 114,400 in 2010, then in 2011 rose to 120,500 employees. The participation rate of the workers in the companies involved followed a similarly declining pattern: from 76.2% in 2008, to 64.8% in 2009, to 53.9% in 2010, and to 46.2% in 2011.¹⁰¹ Unfortunately, we could not provide any specific reasons or explanation for the high number of collective disputes in 2008.

Although there are no official data pertaining to labour disputes in 2016, two strikes¹⁰² and one collective action took place in 2016. Labour disputes generated by the enforcement of the Government Emergency Ordinance 20/2016 on unitary pay in the public sector. The trade unions from the education sector protested against the proposal providing for a wage increase of 10 per cent starting on 1 August 2017. The unions asked for a 5% increase starting on 1 August 2016 and another 5% increase on 1 January 2017. Their requests were rejected by the Government.

9. Labour Law and the Crisis

In 2011 the Romanian Labour Code was modified by Act No. 40/2011 in order to make the labour legislation more flexible. The modifications faced the disapproval of the trade unions, employers' organizations and the parliamentary opposition, so it was enforced with the Government's assumption of responsibility. The new regulation made the termination of labour contracts easier, and facilitates the use of fixed-term employment contracts and of the temporary work. Another effect of the new law was a limitation on the immunity granted to former trade union leaders. Flexibility has gained remarkable popularity, and in examining changes in respect to labour law we may conclude that increased flexibility, similarly to Hungary, was not accompanied by increased security.

⁹⁹ http://www.insse.ro/cms/files/Anuar%20arhive/serii%20de%20date/2010/pfd/ASR%202010_romana.pdf, and http://www.insse.ro/cms/sites/default/files/field/publicatii/anuar_statistic_al_romaniei_2016_format_carte.pdf.

¹⁰⁰

http://www.mmuncii.ro/pub/imagemanager/images/file/Statistica/Buletin%20statistic/2008/conditii3_%2063_sit e.pdf. In 2008 – construction sector: 99,202 participants in 11 conflicts, energy sector (production and supply of electric power, heating, gas, hot water, and air conditioning) 35,927 participants in 19 conflicts, metalworking industry: 18,888 participants in 16 conflicts. In 2009 – energy sector: 46,484 participants in 13 conflicts, mining industry: 10,920 participants in one conflict, motor parts industry: 4,000 participants in one conflict. In 2010 – manufacturing of road transport vehicles, full and semi-trailers: 15,192 participants in eight conflicts, energy sector: 6,426 participants in four conflicts, metalworking industry: 4,911 participants in seven conflicts. In 2011 – road and pipeline transport sector: 34,716 participants in 12 conflicts, financial intermediation sector: 9,596 participants in two conflicts, metallurgy: 5,044 participants in four conflicts. In 2008 78.4%, in 2009 73.9%, in 2010 40.3 per cent of the conflicts were triggered by pending wage claims, in 2010 59.7 per cent generated by changes in companies' structure without employee consultation and disputes related to collective bargaining. See Romania: Industrial relations profile. p. 6–7. https://www.eurofound.europa.eu/sites/default/files/ef_files/eiro/country/romania.

¹⁰¹ Romania: Industrial relations profile. p. 6. https://www.eurofound.europa.eu/sites/default/files/ef_files/eiro/country/romania.

¹⁰² See Chapter 6.

Before the amendment of the Labour Code the labour contract in a non-written form was presumed to be concluded for an indefinite period of time. The presumption has ceased, and it is now mandatory to conclude the contract in a written form and to have it registered before commencing a job.¹⁰³ Before the amendment, fixed-term employment could be extended twice, this limitation has been removed.¹⁰⁴ The probationary period has increased from 30 days (90 days for managers) to 90 days (managers: 120 days).¹⁰⁵ The 60 days/per year of posting with an optional prolongation of 60 days has been changed: in the case of consent posting it can be renewed every other 60 days each time.¹⁰⁶

Before the amendment the employment relationship ceased upon receipt of the official decision of retirement, according to the modification, termination is linked to the fulfilment of the retirement conditions (having reached the retirement age and service time).¹⁰⁷ Notice period in the event of dismissal increased from a minimum 15 working days to 20 working days,¹⁰⁸ upon resignation of the employee from a minimum of 15 days (managers: 30 days) to a maximum of 20 days (managers: 45 days).¹⁰⁹

From 2011 the employer was allowed to apply a four months reference period instead of three months, with a maximum 12 months limit.¹¹⁰ Extraordinary work (overtime) must be compensated with leisure time within 60 days instead of 30 days.¹¹¹ Prior to the modification of the Labour Code annual leave was due no later than by the end of the following calendar year, but after the change, the employer must provide it within one and a half years of the next calendar year.¹¹² The wage supplements for night work rose from 15 to 25 per cent.¹¹³

Before the amendment 20 hours/month representative activity of the employee was paid by the employer, after 2011 the employer only has to provide it, if the parties agreed to it.¹¹⁴

Romania

European Semester - European Commission's country reports and country-specific recommendations

The second phase of the research focused on the role of the social partners in the European Semester. The research started with a desk research in order to gather information on the European Semester documents related to Romania. The scope of this examination focused mainly on the European Commission's country reports and country-specific recommendations. During the next phase we made efforts to gather information through a questionnaire sent to the social partners in Romania. Similarly to the first phase, researchers had a hard time obtaining the relevant information.

¹⁰³ Article 16 of Act No. 53 of 2003 on Labour Code modified by the Act No. 40/2011.

¹⁰⁴ *Ibid*, Article 80.

¹⁰⁵ *Ibid*, Article 31.

¹⁰⁶ *Ibid*, Article 44.

¹⁰⁷ Article 56 of Act No. 53 of 2003 on Labour Code modified by the Act No. 49/2010.

¹⁰⁸ Article 73 of Act No. 53 of 2003 on Labour Code modified by the Act No. 40/2011.

¹⁰⁹ *Ibid*, Article 79.

¹¹⁰ *Ibid*, Article 111.

¹¹¹ *Ibid*, Article 119.

¹¹² *Ibid*, Article 141.

¹¹³ *Ibid*, Article 123.

¹¹⁴ *Ibid*, Article 228.

1. Country reports and country-specific recommendations

In the case of Romania the European Commission's country reports generally focus on the following topics:

- low employment rate and the integration of young people, the Roma and (older) women on the labour market,
- high level of inactivity,
- the problem of the emigrant work force (cca 2.5 million Romanians working abroad),
- training and life-long learning, active labour market policies,
- the national spending on labour market policies is low and not well coordinated with the European Social Fund (ESF),
- weak social dialogue and limited collective bargaining,
- pension age (equalisation of the pensionable age for men and women),

- minimum wage.¹¹⁵

The expectations of the European Union towards the Romanian labour reform, summarized in the country-specific recommendations mainly reflect upon the labour market reforms that have been introduced, but there remain several fields where Romania made no real progress or made only limited progress, although some of these issues have been present in the country-specific recommendations for years.

In order to be in conformity with the European Commission's recommendation, the Romanian government introduced important legislative measures, such as *the modification of the Labour Code* in order to make labour relations more flexible. The modifications came up against the disapproval of the trade unions, employers' organizations and the parliamentary opposition, although finally it was enforced with the Government's assumption of responsibility. The new

¹¹⁵ In 2013 the European Commission recommended that Romania take action within the period 2013-2014 to: Improve tax collection by implementing a comprehensive tax compliance strategy and fight undeclared work. Equalise the pensionable age for men and women and underpin the pension reform by promoting the employability of older workers. Improve labour market participation, as well as employability and productivity of the labour force, by reviewing and strengthening active labour market policies, to provide training and individualised services promoting lifelong-learning. Enhance the capacity of the National Employment Agency to increase the quality and coverage of its services. Fight youth unemployment, implement without delay the National Plan for Youth Employment, through a Youth Guarantee, for example. Alleviate poverty, improve the effectiveness and efficiency of social transfers with a particular focus on children. Complete the social assistance reform by adopting the relevant legislation and strengthening its link with activation measures. Ensure concrete delivery of the National Roma integration strategy. Speed up the transition from institutional to alternative care for children deprived of parental care. In 2014 in respect to the period 2014-2015 e.g.: Improve tax collection by continuing to implement a comprehensive tax compliance strategy, stepping up efforts to reduce VAT fraud. Fight undeclared work. Reduce the tax burden for low- and middle-income earners in a budget-neutral way. Finalise the pension reform started in 2010 by equalising the pensionable age for men and women. Strengthen active labour-market measures and the capacity of the National Employment Agency. Pay particular attention to the activation of unregistered young people. Strengthen measures to promote the employability of older workers. Establish, in consultation with the social partners, clear guidelines for transparent minimum wage setting, taking into account economic and labour market conditions. In order to alleviate poverty, increase the efficiency and effectiveness of social transfers, particularly for children, and continue reform of social assistance, strengthening its links with activation measures. Step up efforts to implement the envisaged measures to favour the integration of the Roma into the labour market, increase school attendance and reduce early school leaving, through a partnership approach and a robust monitoring mechanism. In 2015 regarding the period 2015-2016 e.g.: Implement the comprehensive tax compliance strategy, strengthen verification control systems in order to tackle undeclared work, and push ahead with the equalisation of the pensionable age for men and women. Strengthen the provision of labour market measures, in particular for unregistered young people and the long-term unemployed. Ensure that the national employment agency is adequately staffed. Establish, in consultation with the social partners and in accordance with national practices, clear guidelines for setting the minimum wage transparently. Introduce the minimum insertion income. Increase the provision and quality of early childhood education and care, in particular for the Roma. In 2016, in respect to the period 2016-2017 e.g.: Strengthen the National Employment Agency's services to employers and jobseekers, in particular by tailoring services to jobseeker profiles, better linking them with social assistance, including social services, and reaching out to unregistered young people. Establish, in consultation with social partners, objective criteria for setting the minimum wage. Take action to prevent early school leaving and increase the provision of quality education, in particular among the Roma. Adopt the equalisation of the pension age for men and women. In 2017, in respect to the period 2017-2018 e.g.: Ensure the full application of the fiscal framework. Strengthen tax compliance and collection. Fight undeclared work, including by ensuring the systematic use of integrated controls. Strengthen targeted activation policies and integrated public services, focusing on those most isolated from the labour market. Adopt legislation equalising the pension age for men and women. Establish a transparent mechanism for minimum wage setting, in consultation with the social partners. Improve access to quality mainstream education, in particular for the Roma and children in rural areas. In 2018, in respect to the period 2018-2019 e.g.: Ensure the full application of the fiscal framework. Strengthen tax compliance and collection. Complete the minimum inclusion income reform. Improve the functioning of social dialogue. Ensure minimum wage setting based on objective criteria. Improve upskilling and the provision of quality mainstream education, in particular for the Roma and children in rural areas.

regulation made it easier to terminate labour contracts, and facilitated the use of fixed-term employment contracts and temporary work. Another effect of the new law was a limitation on the immunity granted to former trade union leaders.

Another requirement was the *strengthening of the active labour market measures*, in particular for unregistered young people and for the long-term unemployed. In this field the country reports reflect the measures introduced in Romania such as the 27 pilot Youth Guarantee centres, the database of young people not in employment, education or training, the regulations on apprenticeships, but it also criticizes the limited progress achieved.

The setting of the guidelines for transparent *minimum-wage setting* has been a very important issue for some years. The European Commission requires a mechanism, based on clear and objective criteria related to economic and labour market conditions. The Government has set up a tripartite working group with the aim of establishing such a mechanism, without any real result.

Some *institutional reforms* are required too. The country reports reflect the progress made in this field, but progress is still not enough. Substantial progress was made in strengthening the *National Employment Agency's* (NEA) services. The NEA is undergoing a major change process reflected in a strategy and including 1. establishing for the first time an initial profiling and segmentation process, which became a working procedure and legislation in October 2016 (most of the people in the NEA database have already been profiled); 2. adoption of a catalogue of services, for the first time bringing together the service offer of the organisation towards jobseekers and towards employers; 3. reinforcement of case management capacity – pilot project developed in October/November 2016; 4. setting up an integrated approach to NEETs (Not in Education, Employment or Training) outreach, including a substantial increase in agency staff for the delivery of the Youth Guarantee to be rolled out.

There is a permanent requirement in the country reports for the equalisation of the pension age for men and women. A draft law submitted to Parliament in 2013 has been adopted by the Senate, but not by the lower Chamber. In 2017 another draft was prepared for the modification of the pension law (the pension age for men is 65 and for women it is 63). The modification is not supported by the social partners.

2. European Semester and the Social Partners

The question related to the European Semester focused on four main topics, which can be described by four words: institutionalization, impact, feedback and assessment. As we were unable to receive any information from employers' associations and employee organizations we had to turn to published reports, documents and interviews. Our four questions were the following:

1. How are the social partners involved in the European Semester?
2. How are our European Social Partners involved in the national process? What is the national social partners' impact at both the European level and national level in the annual growth survey, country report, national reform programme and country specific recommendations elaboration during the implementation?
3. What is the feedback of the national social partners on the country specific recommendations?
4. Assessment of the content of the Commission's country report and country specific recommendations in respect to the social partners' own priority for collective bargaining, and whether the actual reforms are referred to in the country reports?

Ad question 1 and 2. Romania is one of the three states where the social partners do not participate in the preparation of the National Reform Programme (NRP). The introduction of

Romanian National Reform Programme for 2007-2010 lists the organizations that participated in its elaboration. It can be stated, that these organisations are either governmental bodies or other bodies of state power.¹¹⁶ This document mentions two organisations as social partners which participated in the National Reform Programme: National Confederation of Romanian Employers (Confederația Națională a Patronatului Român) and the Romanian Chamber of Commerce and Industry, and the Chamber of Commerce and Industry of Bucharest (Camera de Comerț și Industrie a României și a Municipiului București), although the role of these organizations is unclear. It also must be mentioned that the representation on the employee side cannot be found in the Romanian National Reform Programme for 2007-2010.

Practically speaking, the role of the social partners in the National Reform Programme is minimal and negligible. However, a certain degree of consultation processes can be observed starting in 2012. The Social Dialogue Committee set up under the Ministry of European Affairs agreed on the National Reform Programme with the employers' and employees' interest representation organisations. This Social Dialogue Committee expressly considered the social dialogue necessary. It also has to be emphasized that recent years have shown a positive shift as the National Reform Programme 2017-2020 has been sent to those employers' and employees' interest representation organisations that are representative nationwide with the aim of consultation, and on 15 March 2017, a conference was held to discuss it. This was preceded by the ministry responsible for the social dialogue developing a National Strategy for Social Dialogue in 2015,¹¹⁷ the primary objective of which was the involvement of the social partners in the National Reform Programme. However, it is questionable whether the consultation process is formal and not on the merits.

It is a reoccurring finding of the Romanian country reports and country specific recommendations that the social dialogue in Romania is weak and, in many cases, merely formal, and it includes only informing the social partners by the Government. The feedback from the social partners is weak and usually appears in the form of resolutions as a reaction to the country reports and country specific recommendations. The resolutions do not include any novelties, and contain only general statements taken from the texts of the country reports and country specific recommendations (e.g. to set transparent guidelines and specific criteria for the minimum-wage growth, to examine labour market demand and to align training structures to labour market demand, to stress the importance of social dialogue, emphasizing the fact that consultations with social partners in Romania are essentially of a purely formal nature).

Ad question 3. There are three national employee interest organizations which are members of the European Trade Union Confederation (ETUC): the National Trade Union Block, Cartel-Alpha, and CNSLR Fratia, but there is no noticeable feedback from these trade unions. It is solicitous that besides the weakness of the Romanian social dialogue the communication with the institution of the European Union is rather weak as well. It must be noted that these organizations do not have a website in English or in any other language (there is only one organization which has an English-language website, and even then, only the headlines are in English while the content is in Romanian).

Ad question 4. As we stated above, the question of determining the minimum wage, and the need for the criteria of raising the minimum wage should be determined with the social partners, appear several times in the country specific recommendations. This is in line with the Romanian social partners, in particular the trade unions' repeatedly stated expectations, especially after the amendment of the law on collective bargaining agreements (Act No. 62/2011 (Social Dialogue Act), which abolished collective bargaining at a national level.

¹¹⁶ Guvernul României: Programul Național de Reforme, 2007, <http://www.tvet.ro/Anexe/4.Anexe/Programul%20National%20de%20Reforme.pdf>.

¹¹⁷ http://www.mmuncii.ro/j33/images/Documente/Proiecte_in_dezbateri/2015/2015-nov_Strategie_dialog_social.pdf.

The rules of collective bargaining and *weaknesses of the social dialogue* appear in the country reports as well as the country specific recommendations as well as general observations.

Similarly, the social partners are being asked to involve themselves in pension policy and in participating in the reforms. It is worth noting that this is currently (Summer of 2018) taking place without any consultation, and the trade unions have issued a separate bulletin to ask the ministry to provide them with the draft of the new act on pensions to at least give them an idea of what kind of changes would be made by the Government.