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Collective Bargaining and Social Dialogue in Romania

Magdolna Vallasek
PhD, Senior Lecturer
Sapientia Hungarian University of Transylvania (Cluj-Napoca, Romania),
Department of Law
E-mail: mvallasek@kv.sapientia.ro

Abstract. The European Commission considers social dialogue to be crucial for promoting both competitiveness and fairness in Europe. We can notice that countries with the tradition of social dialogue tend to have stronger and more stable economies, and they are often the most competitive ones in Europe. Starting from this fact, the European Commission considers that 'knowing the important role that social dialogue plays and the positive benefit it has on a country's economy, the challenge today is to enhance its role across all EU Member States.'[1] Although the importance of social dialogue and collective bargaining is unanimously recognized by scholars, governance, and the social partners, the Romanian situation can hardly be considered an ideal one. Numerous problems in the practice of social dialogue can be identified, having their origins in the legal regulation, the lack of traditions, and some other issues as well. In this paper, we shall briefly present the Romanian legal regulation concerning social dialogue and collective bargaining, and we intend to point out some of the most urging problems, focusing on the analysis of these issues.

Keywords: social dialogue, collective bargaining, trade union, employer, employee

1. Introductory Remarks concerning Social Dialogue in Romania

In the last few years, a massive process of legislative reforms reshaped the main institutions of social dialogue in Romania. This wave of transformations came as a response to the challenges and negative effects of the economic crisis in 2007–2008 on the Romanian labour market and as important modifications of the Romanian Labour Code at the same time, projected to add some extra flexibility to

1 European Commission 2016.

the individual labour relations. The fact is that the economic crisis did not bring totally new challenges to the labour market, but some of the persisting problems became more visible indeed. 'The economic crisis only emphasized further the existing challenges by decreasing the activity rate and increasing unemployment and growth of informal economy.'[2]

Although it is evident that the economic crisis has aggravated some of the persisting problems of the Romanian labour market, this became a real subterfuge for the government to make modifications to the labour regulations, sometimes without any discussions with the social partners or even against their opinion. Furthermore, these modifications were intensely criticized not only by the trade unions but by a large number of labour law specialists and international organizations, too.

> With concern growing over the impact of the 2011 legislative reforms on industrial relations in Romania, the ILO commissioned a study to consider the impact of these reforms on working conditions and employment relations. The study concluded that on the whole the social impact of the reforms appears to have been detrimental to social partnership, collective bargaining and the quality of employment.[3]

The study identifies some of the negative effects as follows: the difficulty for trade unions and employers' organizations to operate effectively; the negative impact on national institutions of social dialogue; the malfunctioning of the Economic and Social Council; the weakening of collective bargaining on some important fields of interest, for example, minimum wage, the large number of employees who are no longer covered by collective agreements, and other problems which seem to persist in time and are present nowadays too.

2. The Process of a Reform. Background and Labour Market Indicators

In May 2011, the new Social Dialogue Act came into force and changed the rules of the game for collective bargaining in spite of the critical voices and opinions of the social partners, some scholars, and international organizations.

As Stefania Bărbuceanu epitomized the situation:

> 2011 was characterized by several changes in the ministry of labour, while pressure at the beginning of the year continued on the Boc Cabinet,

2 Incaltarau–Maha 2014. 44–66.

3 Dimitriu–Țiclea–Chivu–Ciutacu 2013. IX.

> which survived an eighth no-confidence vote. The Minister of Labour was changed twice, putting pressure on the business continuity in the ministry. Labour legislation was also changed as the new Labour Code, based on Law No. 53/2003, was approved at the beginning of the year, followed by the enacting of the Labour Social Dialogue Code, also approved by the Romanian Government. The new laws have changed substantially the basis of the Romanian labour and social legislation and policies.[4]

In a much starker opinion, the legislative changes adopted in 2011 are considered to be 'similar to an earthquake hitting the social dialogue in Romania'.[5] Although the legislative changes were widely criticized, and some important negative effects were pointed out, it must be acknowledged that:

> [T]his legislation followed the Romanian government's passage of a broad package of economic and labour reforms comprising wide-ranging cuts in entitlements and tax rises. These reforms were aimed at achieving macroeconomic stability and reducing government budget deficits, thus satisfying conditions Romania had signed up to in agreements it had made with various international financial institutions.[6]

In order to understand the necessity of the reform, we have to observe some of the labour market indicators of that period. As the main argument for the introduction of the legislative changes was the economic crisis, we have to observe the effects of the crisis that marked the Romanian labour market. The effects of the economic crisis became visible in 2009 when public revenues started to decrease, and economic growth started to slow down. 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 some austerity measures with direct implication on the employment and labour market. These measures of the Government hit the public sector first, including 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, while the minimum wage was kept at 600 RON. The ordinance also cut some social security benefits, for example,

4 Barbuceanu 2012. 3.
5 Roşioru 2018. 73.
6 Dimitriu–Țiclea–Chivu–Ciutacu 2013. XI.

the paid maternity leave. At the end of 2009, meal tickets and gift vouchers were abolished for employees in the public sector, and the threshold of income tax on pensions was lowered. At the same time, VAT was increased in 2010 from 19% to 24%, and health insurance became compulsory for pensioners too.[7]

The effects of the economic crisis were visible both in the unemployment and in occupational ratio, affecting more or less several sectors of the Romanian economy (constructions, for example). Considering unemployment, one of the major problems seemed to be the fact that the age and professional structure of the unemployed people does not tally with the demands of the economy and labour market. On the other hand, 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-sized enterprises reduced or even stopped their activities. Although there is no precise data provided in this matter, in the case of Romania, the migration of workers to other Member States, especially Italy, Spain, the United Kingdom, and Germany, is a major problem too. Based on EURES data, we can say that after 2010 the number of highly qualified workers who left the country has grown significantly.

Labour market indicators also reflect the different aspects of the crisis and of the legislative provisions introduced in order to mitigate the negative effects of the crisis. First of all, by introducing Law No 40/2011 for the modification of Law No 53/2003, the Romanian Labour Code – published in the Romanian Official Gazette No 225/31.03.2011 –, the Romanian government intended to make labour relations more flexible in order to help to create new jobs. For example, the probationary period has increased from 30 days to 90 days and from 90 days to 120 days in the case of managers. A regulation came into force which provided the employer with the possibility to reduce the work schedule from 5 days to 4 days per week, reducing also the wages when a situation of economic, technical, or structural problem occurs for a period longer than 30 days. An obligation for the employer was introduced to register the resignation of the employee, and the notice period was increased from 15 calendar days to 20 working days and from 30 calendar days to 45 working days in the case of managers. According to the new regulations, the maximum period of fixed-term employment contracts was increased from 24 months to 36 months, as it was previously. Extraordinary work (overtime) must be compensated with leisure time within 60 days instead of 30 days, as it was before. Significant modifications were also introduced in the field of temporary work or collective redundancy.

All the changes of the legal provisions and the measures regarding the flexibility of the labour market were considered beneficial overall as the number of employees was slowly recovered, and the occupational rate in 2013 was once again at the level of 2008; and based on the data provided by the European

7 Further details are presented in Vallasek–Petrovics 2018. 3–6.

Commission, by the end of the reference period 2007–2016, it exceeded that level. Starting with 2012, a significant rise in the number of part-time employment contracts became noticeable too, such contracts constituting about 18% of the total number of employment contracts.[8]

3. The Process of a Reform. International Background

Analysing the changes of the regulations brought in force in order to find answers and solutions to new challenges and finding appropriate provisions to deal with the global crisis, we can see that, regarding the reforms, the case of Romania is typical for European countries, especially when taking into account the Central and Eastern European region. For example, the structural changes in the latest decade have shown unanimously for every Member State of the European Union the increase of women's participation in the labour market or of the part-time employment contracts even though there are significant differences between the Member States in this regard. At the same time, there is considered to be a common tendency towards the decentralization of collective bargaining on a workplace level, the raising of the representativeness threshold, and neglecting the role of some institutions of social dialogue in the Central and Eastern European region, all these factors having a negative influence on the social partners.[9]

A very broad and elaborate research made on the labour market situation of the Central and Eastern European region after the economic crisis proves that the responses formulated by the governments were quite the same.[10] For example, a typical response of austerity was the wage cut, present on the Romanian labour market too. We can see as well that the flexibility of labour relations gained major importance in that period. It was a commonly used reason for the modification of labour codes to make labour relations more flexible: Labour Codes suffered amendments or were replaced by new ones, for example, in 2013 in Slovenia, 2009 and 2014 in Croatia, 2008 and 2011 in Montenegro, and in 2012 in Hungary, and the same situation existed in other countries too. These flexibility measures marked especially the institution of fixed-term employment contracts, the probationary period, the work programme, extraordinary work, temporary work, or collective redundancy.

Similar tendencies can be observed in many European countries in the field of the regulation of social dialogue. The main issue about social dialogue seems to be the shrinking power of social partners, especially of the trade unions. It is true that weakening the power of trade unions has already got a longer history.

8 http://ceelab.eu/assets/images/summary_of_outcomes_in_case_of_romania_en_final.pdf
9 http://ceelab.eu/assets/images/summary_of_outcomes_in_case_of_romania_en_final.pdf
10 Horváth I.–Hungler S.–Rácz R.–Petrovics Z. 2018.

> Throughout much of Europe unionisation rates have declined since the 1980s. While the extent of decline varies between nations, no trade union movement has implemented an effective strategy to restore the levels of the late-1970s, leading some to question the relevance of trade unionism for the twenty-first century, the future role of trade unionism and the embeddedness of unions in globalized capitalism.[11]

Other researchers draw attention to the differences concerning the problems trade unions have to cope with.

> On one hand, they face joint and growing challenges across countries (such as unemployment, the growth of precarious labour and the rise in inequality, alongside a long-term erosion of their membership base connected to fundamental structural and cultural changes). And against the background of the New Economic Governance, most of them are facing a much more streamlined neoliberal economic policy approach on the part of their national governments than in earlier decades. On the other hand, unions have to try and cope with these challenges under widely varying conditions.[12]

Apart from the situation of the actors of social dialogue, there are important evolutions in collective bargaining and its levels. For example, based on the comparative analysis of the above-mentioned multinational research on the Central and Eastern European labour markets, we can notice that in this region most of the collective agreements are concluded on the level of the employer instead of on a sectoral level.

Evaluating governments' responses to the crisis by the social partners, trying to find out to what degree social partners are satisfied with their governments' measures implemented to mitigate the negative effects of the economic crisis, the conclusion is that 'the opinion of social partners very much depended on the level of their involvement in the decision-making process. The more social partners' views had been considered during the decision-making process, the more satisfied they were with the results.'[13] And another aspect that seemed to be identical for many countries in the Central and Eastern European region is that 'employers' associations have been generally more satisfied with the government measures, especially with those aimed at the flexibilization and deregulation of the labour market.'[14]

Despite that the evolution of the Romanian labour market is in many ways identical to the above presented general tendencies, we can spot some important

11 Waddington 2014. 7.
12 Lehndorff–Dribbush–Schulten 2017. 7–8.
13 Horváth I.–Hungler S.–Rácz R.–Petrovics Z. 2018. 28.
14 Ibid.

particularities, too. These aspects are mainly based on the new Romanian regulation of social dialogue.

4. Social Partners in Romania

In a study elaborated in 2016, researcher Victoria Stoiciu concluded that '[T]he 2011 labour law reform considerably diminished employees' freedom of association and restricted the right to form unions to an extent that the ILO has criticized as non-compliant with its standards.'[15]

This opinion is quite unanimously shared by researchers and not only, and it seems to be evident when analysing the changes in the regulation of social dialogue introduced by the new Social Dialogue Act. At the same time, in parallel with the modification of the social dialogue regulations, the modification of the Labour Code in 2011 brought some limitations to the trade union leaders' rights too, for example, by abolishing the regulation containing the interdiction of dismissal for the period of their mandate extended with extra 2 years after it.

Trade unions must be independent non-profit legal entities, established to defend and promote collective and individual rights and the professional, economic, cultural, and social interests of their members towards the employers (Article 214, Section 1 of Act No 62/2011). The freedom to set up or join trade unions or employers' associations is based on Article 40 of the Romanian Constitution, stating that citizens may freely associate into political parties, trade unions, employers' associations, and other forms of association. Though this principle is clear, the actual regulation creates a situation that encumbers the use of this generally recognized right, especially for trade unions.

First of all, according to Law No 62/2011, a minimum of 15 members is required in order to form a trade union, but they have to be workers in the same establishment. Though the minimum number of the members has not changed, this compulsory condition did not exist prior to the new legislation: 15 employees working in the same branch but in different establishments could set up a professional union. It is obvious that it has become much harder, if not impossible in some cases, to establish a trade union especially considering the situation of the workplaces with fewer than 15 employees.

The Memorandum of technical comments on the draft Labour Code and the draft law on social dialogue of Romania drawn by the ILO in 2011[16] criticized this provision too. The Memorandum stated that:

15 Stoiciu 2016.

16 http://www.csnmeridian.ro/files/docs/Technical%20Memorandum%20Romania%20on%20Draft%20Labour%20Code%20and%20Draft%20Law%20on%20Social%20.pdf

> [W]hile a minimum membership requirement is not in itself incompatible with Convention No. 87, the Committee on Freedom of Association has stated that the number should be fixed in a reasonable manner so that the establishment of organizations is not hindered. What constitutes a reasonable number may vary according to the particular conditions in which a restriction is imposed but should take into account the proportion of small enterprises in the country. The Office therefore recommends that the requirement of 15 workers to establish an enterprise-level trade union be assessed against the prevalence of small businesses in the labour market with a view to ensuring that it will not hinder the establishment of unions in an important segment of enterprises.

The decline in trade union membership started almost immediately after the change of the political regime in 1989. This phenomenon was not a Romanian particularity; it was present in all the countries of our region. Still, the new requirements of Law No 62/2011 have deepened the crisis of trade union density, which dropped from about 90% – where it stood at the beginning of the 1990s – to an approximate 20–40% although reliable official data do not exist on that matter.

On the other hand, according to the legal definition, the employers' associations are non-political, non-profit, and autonomous legal entities based on the principle of free association, established to defend and promote the rights and interests of their members as they are stipulated by law, international treaties and conventions, and their own statutes.

Representativeness of the trade unions and employers' organizations gained new regulation as well by Law No 62/2011.

The conditions of representativeness are different depending on the level of the trade union or employers' organization.

At the national level, a trade union organization must have the legal status of a confederation, systemic and financial independence, the affiliated trade unions must cumulate at least 5% of the employees of the national economy and must have territorial structures in over half of the counties, including Bucharest, while an employers' organization may be representative at the national level if the members affiliated to the employers' confederation employ at least 7% of the total number of employees in the national economy, the confederation has local structures in over half of the counties of Romania (including Bucharest), and it has systemic and financial independence and the legal status of confederation.

At a sectoral level or at the level of groups of companies, the conditions for representativeness of trade unions are the following: legal status of trade union federation, systemic and financial independence, and the members affiliated must have at least 7% of the total number of employees in that particular sector

or group of companies, while an employers' organization is recognized as representative if the members of the federation employ at least 10% of the total number of the employees in the sector as well as it has systemic and financial independence and the legal status of federation.

In order to be representative at the workplace level, the legal status of trade union as well as systemic and financial independence are required, and the number of the members must be over half of the number of employees of the company, while at the workplace level the employer is representative by law.

In parallel with the new regulation concerning representativeness, the rights and protection of the trade union leaders have diminished after the legislative reforms of 2011. First of all, the amendment of the Labour Code in 2011 brought some limitations of the elected trade union leaders' rights too, for example, by abolishing the regulation containing the interdiction of dismissal for the period of their mandate extended with an extra 2 years after it.

Like this, although elected trade union leaders cannot be dismissed for reasons pertaining to the accomplishment of the mandate, they are still left without protection as their mandate terminates.

> The intention of the legislator, through the legal reforms, was to reduce the protection of trade union leaders against dismissal, in the sense that during their mandate, the employer could dismiss them on any grounds (including redundancy and capability), with the exception of those related to the accomplishment of said mandate. However, this last intention was impeded by a defective law-making method, which led to frequent non-correlations between the recent amendments and the former regulation. More precisely, the legislator did not modify Article 60(1)(g) of the Labour Code accordingly, which prohibits the dismissal of employees for the duration of exercising an elected office in a trade union body, with the exception of the dismissal for cause, in case of a serious breach of work duties or repeated breaches of work duties.[17]

This quite absurd situation persisted for many years. Finally, Article 60(1)(g) of the Labour Code was declared to be unconstitutional by the Constitutional Court.[18]

The interdiction stated in the Labour Code is doubled by the provision of Article 10 of the Social Dialogue Act, which declares that the modification and/or the termination of the employment contracts of trade union members is prohibited for reasons pertaining to their trade union membership or trade union activity and that this prohibition is applicable in the case of civil servants too.

17 Dimitriu–Țiclea–Chivu–Ciutacu 2013. 11.

18 Decision no 814/2015 of the Romanian Constitutional Court was published in the Official Gazette no 950/2015.

Another lesion to the trade union leaders' rights in the new regulation was the suppression of the right to paid time off for performing union activities during their mandate. Prior to the new provisions, based on Trade Union Law No 54/2003, the elected trade union leaders had the right to use 3–5 days per month to perform their mandated duties, without any wage cuts.

A special feature of Romanian social dialogue is the institution of employees' representatives (or workers' representatives). Their status, duties, and rights are governed by the Labour Code, stating that in workplaces with more than 20 employees, where no representative trade union organization is established, the workers can elect their representatives, who can also negotiate and sign collective agreements. Taking this provision as a starting point, it seems that we can witness a shift of power from trade unions to the representatives of employees.

> The tasks of workers' representatives, who can only be elected if there are no union members, are to ensure that workers' rights are complied with, to participate in drawing up the company's rules and generally to promote the interests of the workers. The specific consultation rights of the workplace union organization also pass to the workers' representatives, where they exist.'[19]

In spite of some similarities, there are, of course, quite important differences between trade unions and employees' representatives.

> Unlike trade union organizations, the elected representatives of employees do not have a legal definition established by law. However, in keeping with the interpretation of the provisions of Art. 221, para. (1) of the Labour Code, these employees are elected by the general assembly of employees in establishments with fewer than 20 employees and where the trade union organizations are not representative, according to the law. (…) However, in the Romanian legislation, these two types of representation are differently regulated, which requires several modifications.[20]

19 Barbuceanu 2013. 13.

20 Moarcăş Costea–Popoviciu 2013. 50–51. The modifications of the Social Dialogue Act proposed by the authors included: 'the legal status of elected representatives of employees (conditions of election, mandate, their protection, etc.) to effectively participate as partners in the social dialogue and collective bargaining; employees' representation should be empowered to bargain in full respect of the provisions of Article 5 in the ILO Convention 135/1971; as for the protection of trade union leaders, Romania needs to harmonize its present legislation with the provisions of the revised European Social Charter, meaning that their protection should be also maintained after the end of their mandate for a certain period of time, to be agreed by the social partners.'

5. Collective Bargaining and Collective Agreements

The new Social Dialogue Act is considered to mark a real turning point for the institution of collective bargaining and collective agreements, some researchers even characterizing the new regulations as being a real change of paradigm. This statement is based on the fact that though the Romanian Constitution declares in Article 41, para. (5) that the right to collective labour bargaining and the binding force of collective agreements shall be guaranteed, there have been essential modifications to the legislation of social dialogue which are not in line with that provision.[21]

The changes in the collective bargaining system introduced by the new legal provisions had a direct and immediate effect on the number of employees covered by collective agreements. Though official data is incomplete in this field, the data provided by the ILO in 2013 shows a collective agreement coverage of about only 35%, knowing that under the prior regulation the collective agreement coverage was of 97–98%. The main cause of this significant decline is the abolishment of national-level collective bargaining.

Starting from the legal provisions, collective bargaining can be defined as the negotiations between the employer or employer's association on the one hand and the trade union or the employee representatives on the other hand in order to settle the regulation of the working relations between the parties and any other problems of common interest.

Beginning with 2011, the Romanian collective bargaining system has suffered major changes, on the one hand, due to the modifications of its levels and, on the other hand, because of the new criteria used for the determination of representativeness and the sectors of the economy. As national-level collective bargaining has been abolished, the highest level of collective bargaining in Romania is the sectoral level. According to Article 133 of the Social Dialogue Act, the collective agreements concluded at the sectoral level are applicable for all employees of the companies belonging to the respective sector of activity for which the collective agreement has been concluded and who belong to those employers' associations that have signed the contract. This means that in fact not only national-level collective bargaining became impossible but cross-sectoral collective bargaining too.

Sectoral-level collective agreements can be negotiated and signed by social partners that are recognized as representative of the economic sector, and they can only be enforced if more than 50 per cent of all employees in the sector work for companies that are members of the signatory employer organizations. If this criterium is not fulfilled, the agreement will be effective only at a group of units level. The representativeness threshold is 7% of the total number of

21 Pătru 2014. 276.

employees in that particular sector. The sectors of the economy in the new system are determined according to the NACE codes of activity instead of the old system of branches of the national economy. After the old collective agreements which were concluded at a branch-level had expired, the number of sectoral-level agreements dropped dramatically to one or two per year, while in 2015 and 2016 no collective agreements had been concluded at all.

> Experts of the European Trade Union Institute explained 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[al] 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.[22]

Collective bargaining in Romania is concentrated on the workplace level. The number of collective agreements concluded at a workplace level was constantly increasing after the legislative changes. In her study, Stoiciu explains that the expected outcome of the transformation of the collective bargaining system was:

> [T]he creation of stronger sectoral and company unions and union mergers that would put an end to the fragmentation of both sectoral and company level. Contrary to expectations, this did not occur. (…) The result was a decentralized social dialogue, coexisting with high fragmentation and characterized by a power shift from umbrella organizations to the sectoral and company unions. But the power did not translate into stronger unions or higher collective bargaining coverage at company level, rather the opposite – it weakened the unions and their bargaining power.[23]

At the company level, collective bargaining is mandatory only if there are more than 20 employees at the enterprise. However, in these cases, collective bargaining is mandatory but concluding a collective agreement is not. The employer must commence the negotiations with trade unions or employee representatives, but there is no legal provision to make the concluding and signing of the agreement mandatory or, for that matter, one which would list those obligatory clauses that must be discussed between the parties.

The most important elements of such agreements are: the minimum salary at the company level, salary rights for the employees such as: meal vouchers, gift vouchers for special days, vacation vouchers/bonuses, bonuses for contribution to the company's success etc., training plans for the employees, working time and the

22 Vallasek–Petrovics 2018.
23 Stoiciu 2016. 4.

compensation for overtime and time worked during holidays and weekends, specific organization of work schedules (shifts, night-time work, flexible working time, etc.), supplementary vacation days and other days of paid leave in case of special events, compensations in case of collective redundancies, aid for employees in case of unfortunate events, and rules regarding the evaluation of employees for fitness.

As presented above, an important characteristic of the Romanian collective bargaining system is that due to the new criteria of representativeness at the enterprise level a real tendency towards the replacement of collective agreements signed by representative trade unions with those signed by employees' representatives may be noticed. At the workplace level, about 85–90% of the collective agreements are negotiated and signed by employees' representatives.[24] The shift away from trade union power to representatives of employees remained even after the amendment of the Social Dialogue Act in 2016, when a new provision was added according to which a trade union may also negotiate at the company level, even if it does not meet the representativeness criterion, if it is a member of a federation which is representative on a sectoral level.

Independent of the level on which the collective agreement was concluded, the legal provisions containing the rights of the workers are considered compulsory and minimal, collective agreements can set rights and duties only while respecting this legal framework. Derogation from the laws can only be made to the benefit of the employees. In practice, there are many situations when the collective agreement concluded on a workplace level does not contain any provision except the faithful repetition of the legal clauses from the Labour Code and the Social Dialogue Act.

6. Concluding Remarks

The legislative reform of 2011 reshaped the scene of Romanian social dialogue and collective bargaining. The modifications were considered to be similar to an earthquake, to be brutal and were widely criticized. By our days, after a few years of social dialogue practice in the new conditions, the analysis of the situation has still not resulted in optimistic and positive predictions. The collective agreement coverage and trade union density is at a dramatically low level, and there are no signs of recovery.

Unfortunately, in many countries in Europe – and not only –, we can assist to problems very similar to those presented in the case of Romania. What the future of collective bargaining and social dialogue will be is not known, but the importance of these institutions is unanimously recognized. Collective labour rights can offer a higher degree of protection for workers, and the need for

24 Id. 7.

flexibility in labour relations must not lead us to sacrifice some of the already gained collective labour rights. After all, 'the main object of labour law has always been, and we venture to say will always be, a countervailing power to counteract the inequality of bargaining power, which is inherent and must be inherent in the employment relationship'.[25]

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25 Davies – Freedland, 1983.

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