

Comparative Aspects of Labor Relations in France and Romania

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Abstract

The issue of labor relations is highly complex, given the fact that each of the parties involved in the employment relationship (employees, managers, employee representatives, trade unions, employers, state) have objectives and some points of view in their regulation. Moreover, at the level of the whole European area, there are many differences from one country to another regarding the quality of labor relations. In this article, the authors aim to highlight some elements of specificity in terms of labor relations in some European countries, according to criteria such as: the role of trade unions and employers, social dialogue, collective negotiation and employee representatives.

Keywords: *labor relations, trade unions, employers, social dialogue, collective negotiation, flexibility, equal opportunities, non discrimination*

JEL classification: M54, R23

1. Introduction

The term **employment relationship** describes the relationship which exists between employer and employees at work, these relationships can be formal, as employment contracts or agreements or informal proceedings, such as the psychological contract which expresses certain expectations both from the employees and the employer. Labor relations can have an **individual** dimension, in terms of expectations of each employee's or a **collective** dimension, aiming at the relations between the management of companies and trade unions or employee representatives. The dimensions of the employment relationships are:

- the major item (job, rewards, opportunities and career development opportunities, communication relations, organizational culture of the company as representative elements individually and collectively - collective agreements made between employees and company management and joint committees);
- parties involved (managers, employees, trade unions, employers, unions and employers' associations);

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- the development form (can be individual or collective, at the level of organization, industry or national economy);
- structure (procedures, rules which are based on labor relations and even the expectations of each of the parties constituting the psychological contracts).

2. Labor relations in France

The trade union movement in France is one of the weakest in Europe, only 8% of the total employees in the entire national economy have union membership. Currently there are only five trade union confederations, such as CGT (Confédération Générale du Travail), which has 712.000 members, FO (Force d'Ouvrier) with 300.000 members, the CFTC (Confédération Française du Travailleurs Chrétiens) – 60.000 members, CFDT (Confédération Française Démocratique du Travail) – 807.000 members and CFE-CGC (Confédération Française de l'Encadrement) which has a total of 340.000 members. These five trade union confederations are considered nationally representative. There are three other unions which have not a representative status and in order to obtain it they have to address to a court. The status of the five union confederations remained unchanged since 1966, but currently there is pressure from social partners as well as other confederations or unions to acquire representative status at least in the national economy. Although the number of confederations with representative status is low, however, between these five trade union confederations there is a great rivalry, although the reasons are not always obvious, and sometimes there are differences between their leaders, even if they aim the same subject and would require consensus. Representative trade union confederation status enables the designation of candidates for elections to be held in France. For example, CGT is recognized as a union confederation, which promotes a communist political orientation. This is actually one of the most important reasons that justify the rivalry between the five representative trade union confederations in France. In this regard, in 2003, in France it was introduced a number of legislative provisions that prohibit the promotion by the representative trade union confederations of political projects. CFDT was noted over time through increased ability to make a series of compromises with governments that have led France. However, CFDT had an important role in the campaign of national protests, which ended with the introduction in 2006, in the labor law of the new employment contract. FO promotes, politically speaking, the socialist trend CFTC promotes “economic performance and social justice” with a Christian social orientation. CFE-CGC represents the interests especially of the managerial staff located in the middle - management. All five trade union confederations are formed on the same criterion, namely at industry level, with offices organized geographically.

Collective bargaining is conducted at all three levels: national, branch and company. 93% of the total number of employees in France, benefiting from the provisions and outcomes of collective bargaining. Branch-level negotiations can take place across the country, regional or even local level. Legislation adopted in

2004 gives companies a greater degree of flexibility in allowing the micro-level negotiations, according to deviate from some elements of specific provisions of the collective agreement applies national or branch level.

Collective negotiations take place at three levels: national, branch, company. 93% from the total number of employees in France benefit of the collective negotiations' provisions and results. Negotiations at branch level can develop in the whole country, regionally, or even locally. The legislation adopted in 2004 gives companies a greater degree of flexibility, allowing them in the micro-level negotiations, to deviate from some provisions of the collective work agreement available at national or branch level.

The most important level at which collective negotiation takes place is the branch or industry level. There is, in this sense, even legislative provisions that the salaries must be negotiated annually, and at an interval of five years it must be renegotiated the job hierarchy (classification of occupations).

Also, employers are required to annually negotiate salaries, working conditions, working hours; they are even penalized if they have not concluded such agreements. In some cases, the government extends at national level the provisions of collective agreements concluded at branch level, which means that, formally speaking, collective negotiations have a huge impact on employment.

At national level only representative trade union confederations may conduct collective negotiations, while the other only at branch level. Legislation adopted in 2004 in this area gives a greater flexibility particularly to small and medium size enterprises, which can develop collective negotiation at organizational level attended by labor councils (where they are available) or employees representatives. No matter the situation, such collective agreements must be endorsed by a union. If at a company level there are no employees, negotiations can take place directly between managers and staff. In such a situation, there is the option that one of the unions which negotiate with employers at branch level to delegate at the company level one or more persons to negotiate with the management.

The agreements concluded at the branch level must be signed and acknowledged in this way, mainly by unions representing the majority of employees in the industry. Collective agreements concluded at branch level represents the starting point for collective negotiations conducted at the microeconomic level. To be valid, collective work agreement concluded at company level, must be approved by a majority of council members or the employees representatives. Also, the collective agreement concluded at an enterprise level can become valid if the work council is made up mostly of members appointed by trade unions representing the interests of the majority of employees within the industry, and other members of the labor council had no objections.

The main issues addressed in collective negotiations conducted at national level refer to social security and labor relations. At branch level, collective negotiation aim at salaries, working hours and working conditions. At company

level there are generally negotiated wages, working hours, non-discriminatory treatment and the criteria, mainly performance standards that should be met by employees. The state's role is to establish the minimum gross wage in the economy, which in 2008 amounted to 1308.88 euro [15].

In terms of representation at work, this process is characterized in France by a very high degree of complexity, the management and union organization being established, in companies where unions are, by all members of that union. Depending on the activity developed, in the same company multiple unions can exist, from different industries.

At company level where there are large and medium-sized unions, union delegates may be elected, who promote the interests of the union, on the one hand in dealing with company management, and on the other hand in dealing with employees, union members. In general, in companies where there are unions, they have a strong position, enjoying fundamental rights in the negotiation process and nomination of candidates for the work councils. Representatives of employees and work councils can operate at both company and factory or branch level. In the companies with fewer than 200 employees, company management can decide whether the employees and the council are working as separate entities, or rather the employees representatives belong to the work council. Normally, at a company level, the work council and the employees representatives work as separate entities. Moreover, French companies and the council should be established for health and safety at work, which is designed to negotiate and supervise the quality of working conditions; the structure and its members are delegated as a result of "local" negotiations held at the union level in each company. Due to very low degree of unionization, only 8% of the total number of employees are union members; in most of the small and medium sized companies there are no unions.

Companies or subsidiaries with more than 50 employees and where there are many unions in different sectors, each union is entitled to nominate a union delegate. A study conducted by the Research Institute of the Ministry of Labor in France (DARES), at the level of the French companies and their subsidiaries in other countries has shown that in companies or subsidiaries with more than 200 employees, there are at least two union delegates [13].

Employee representatives may be elected at the level of all companies with at least 11 employees, their main role being to solve together with company representatives, the complaints of the employees. Also, the employees must ensure that in the organizations they come from, there are rules, procedures, regulations and whether they are respected. The number of employee representatives at company level is determined depending on its size and number of employees.

In companies with more than 1000 employees, a representative of employees has to be elected for every 250 employees. Employers are legally required to meet monthly with elected representatives of employees who are employed in that company. French Ministry of Labor studies show that in 87% of companies there are representatives of employees [16].

Work councils must work up in all companies with at least 50 employees. In 81% of French companies there are working councils and the number of members is determined according to the number of employees.

In the companies with a number of employees between 1000-5000, the number of work council members increases by one unit for every 1000 employees and over 5000 employees, the number of work council members increases by one member at every 2500 employees. The maximum number of members of a work council can be of 15 members in the companies with at least 10.000 employees.

The work councils are conducted by representatives of the employer and the large companies organize labor councils, committees specialized in various fields such as: training, economic field, etc.

Unlike the employee representatives, unions have the necessary power and authority, through negotiations to change and improve the rules, regulations and procedures. Unions may participate in negotiations on wages, training employees and working time. According to the French law, such negotiations must be conducted annually. Also in France, according to the new regulations introduced in French labor law since 2005, unions can negotiate long-term staffing plans, thus having the power to impose restrictions on the companies hiring and layoffs, particularly for restructuring. Such negotiations are conducted every three years and can be seen especially in companies with at least 300 employees. Also, unions may actively intervene in the election of employee representatives, requesting that the union delegation to attend meetings of employee representatives.

Unlike trade unions, employee representatives do not have the right to negotiate with the company management; they intervene to resolve interpersonal conflicts arising at work, follow the correct application of labor law and fair reward. Under the new labor laws, employees' representatives may participate in negotiations in companies where there are no unions, but in clearly specified conditions.

Labor councils have the right to be informed and consulted in regard to certain social and economic aspects, they can initiate and participate in collective negotiations in companies where there are no unions, under very clearly described conditions.

Among the most important social issues within the jurisdiction of labor councils may be mentioned: the number and structure of employees, reasons for use of temporary labor, use of part-time employment contracts, staff planning, training employees, changing the collective agreements. The economic-financial information which have to be provided to the employment councils concern the following: ownership structure, the evolution of company' sales and profit, the achieved production level, the value of investments, the structure and value of the wage fund, the refurbishment plans. Work councils' right to be consulted is quite limited; labor councils must be consulted by the employer only if the company undergoes major changes that will affect the structure and size of the workforce, working hours and employment conditions, including training policy. The specific situations in which labor councils must be consulted are: implementation of major

structural changes, the reduction in the number of employees, the introduction of new production technologies, changing conditions and working time. The action of work councils consultation do not necessarily imply their agreement on changes to be implemented at the organizational level, but rather a means by which they make their presence felt and to prevent some institutionalized social movements, such as strikes. Under French labor law, employers must obey the point of view of work council, but with no guarantee or certainty that following discussions, the initial change of employer plans will be modified. In 2005 there were approximately 154 collective agreements concluded, for a total of 125 companies that went through a restructuring of the business. Labor councils have an important role in organizing social and cultural activities for company employees, such as: dining, organizing holidays, sports, the creation of libraries and reading rooms, etc.

Representatives of the employees may become members of the board of directors of a company, following their designation by all employees or representative of employees who hold shares in the company. If neither of these two statements do not materialize in practice, the employees may attend board meetings as observers with the right to ask questions. Cases in which the employees are members of governing boards are commonly found in state companies. For example, state enterprises that have between 200 and 1000 employees, employee representatives are assigned three seats on the company's board of directors. In companies with more than 1000 employees, one third of the board of directors is composed of representatives elected by all the company's employees.

Also, the presence of employee representatives on boards of directors can be seen in some companies listed in the private or state property privatization. For example, in companies whose board of directors consists of more than 15 members, 4 seats belong to the employees representatives, three of them are elected by employees, and one by the employer. It should be noted that in privatized companies it is not mandatory, legally speaking, that the company board should have employees representatives.

3. Labor relations in Romania

The last 15 years have provided an opportunity for unrest in the social dialogue in Romania, in a general context, economic and social, that can be characterized in many ways, as not suitable and effective for the development of stable industrial relations. Both trade unions and the employers were forced to organize and pursue their interests amid a considerable economic downturn, sometimes dramatical.

Compared with some European countries like Germany and Britain [16], union density is relatively high in Romania, about 30-35% of employees are union members. The main trade union confederations are CNSLR-Fratia (Confederation of Free Trade Unions in Romania - Fratia), BNS (National Trade Union Bloc), CSDR (Confederation of Democratic Trade Unions in Romania), CNS Cartel Alfa

(National Trade Union Confederation Cartel Alfa) and CNS Meridian (Meridian National Trade Union Confederation), each having a large number of affiliated unions in different industries. Existing statistics in Romania, show that the number of employees who are union members is approximately 2.000.000 people of whom approximately 1.000.000 members are affiliated to the CNS Cartel Alfa, and 800.000 trade unionists in CNSLR Fratia; BNS represents the interests of 440.000 employees, and CNS Meridian has about 313.650 members.

The five major trade union confederations are representative at national level, which gives them the right to initiate and participate in the negotiation of collective labor contract. All five trade union confederations are members of the Economic and Social Council (ESC). To be nationally representative, any trade union confederation in Romania, must meet some very clear criteria, set out in Law 130/1996, such as:

- have organizational independence and heritage;
- have their own trade unions in at least half of the counties, including Bucharest;
- include representative trade union federations from at least 25% of the industries;
- include the aggregate number of members, at least 5% of the number of employees in the national economy.

The representative trade union confederations at branch level must have an organizational independence and heritage and represent the interests of at least 7% of the number of employees within the industry. Trade unions established at unit level represent at least one third of the unit employees.

Cartel Alfa and CNSLR Fratia Confederations have not only the largest number of members, but they also have most of the trade unions federations, a total of 76 (38 union federations for each). BNS has 39 affiliated trade union federation, and CNS Meridian and CSDR, 25 and 20 trade union federations. However, a large number of union federations are not affiliated with any of the five major union confederations representative at national level. They operate in areas such as transport (28) government (23) and energy, gas and water supply (13).

Over time there have been several attempts to unify many trade union confederations in order to increase the national capacity to negotiate. One such attempt was in 2004, when BNS and CNSLR Fratia gave up, at the last moment, the conclusion of such an agreement. In January 2007, it was tried to form the Association of Trade Union Confederations in Romania as a result of the alliance between the CNSLR Fratia, BNS and CNS Meridian. The new structure was to bring together union members of all three trade unions and to have its own management structure, and the chairmanship should be provided by rotation.

Unlike other European countries, in Romania the number of union members in the industry is greater than in the public sector. For example, in 2005, the union density recorded in the mining industry was 85% of total employees, 83% in metallurgy and 73% in chemical industry, while in the public sector the union density was only 30%.

The main objective of collective negotiations carried out at national level is to establish the minimum gross wage in the economy. Collective negotiation takes place at a number of companies and sectors of national economy, but only in the organizations where unions are strong, major changes take place.

The law provides that collective negotiation can take place at national level, at branch and company level. Collective agreements concluded at national level are the basic elements to be followed in negotiations, conducted at branch or company level. In some cases the results of negotiations undertaken at the organizational level have a significant influence on collective negotiation at national level. In companies where there are no trade unions, collective negotiation takes place between the elected representatives of employees and company management. The legal validity period of collective agreements is 12 months, sometimes they can be extended by agreement of the parties for a period not exceeding five years. Where collective agreements are negotiated and concluded on a year period, the dialogue between the two partners (employees and the organization) must resume annually and the maximum duration of collective negotiation must not exceed 60 days.

Collective negotiations occurred at the sector or organization level should cover, in compliance with the current legislation, issues like: working conditions, minimum wage at unit or branch level, employee rights, the value or the amount of the rewards for the employees, the conditions of the work shift or night work and training opportunities that the employers provide for their employees etc.

In the organizations where there is not a trade union, legislation provides the election of a representative of employees who is mandated to negotiate and conclude a collective work agreement with their employer. This requirement applies to all companies with at least 20 employees and none of them is a member of the union. Employee representatives may not conduct activities that are recognized by law solely for the unions. The number of employees representatives is determined by mutual agreement with the employer, in relation to the number of his employees.

Among the main responsibilities [10] for the employee representatives we can mention the following:

- a. to pursue the rights of the employees, in accordance with the law, with the applicable collective agreement, with the individual employment contracts and internal rules;
- b. to participate in developing internal regulations;
- c. to promote the interests of the employees related to wages, working conditions, working time and rest time, stability in work and other professional interests, economic, social and related labor relations;
- d. to inform the authorities about the failure of the legal provisions and applicable collective agreement.

The total number of collective agreements concluded at branch level, was 48 in 2007. These collective agreements cover not only industry, mainly from the private sector such as tourism, chemical industry, transport, agriculture, machine

building industry or commerce, but also public sector industries, such as health, education, social services and community services. According to statistics, in Romania, in 2008, there were a total of 11.729 collective agreements concluded at company level between employees and employer representatives.

In order for a trade union confederation to initiate and/or participate in collective negotiations conducted at national level, it needs to fulfill the following conditions: to be present in at least half of Romania's counties, to be represented in at least 25% of national economy sectors (to have employees in all sectors of national economy) and to meet 5% of the total number of existing employees in the national economy. Employers' associations representing the interests of certain categories of employers must total at least 7% of the total number of existing employees in the national economy, in order thus to participate in collective negotiations. Trade unions and confederations involved in the negotiations conducted at branch level should meet at least 7% of the total number of employees in the industry. Regarding the unions' ability to participate in collective negotiation at company level, they need to meet at least one third of the total number of employees of that organization. Negotiations at national level are the most important reference point in the negotiations held at branch or company level. Collective agreements negotiated at branch or company level may not contain provisions below those established in the collective work agreement concluded at national level.

Regarding the participation of unions in management decisions at the firm level, it should be noted that employers may invite representatives of trade unions or employees at meetings of senior management, but these practices are not mandatory. In such situations, union leaders and employee representatives have no voting or decision-making role in the company's board of directors, but only an advisory role. Thus, leaders of the unions or employee representatives have an information role or at least advisory; the most frequently raised topics are professional, social, economic, cultural problems faced by the employees of that company.

Conclusions

The trade union movement in France is one of the weakest in Europe, only 8% of the total number of employees in the entire national economy being union members. In Romania, about 30-35% of the total number of employees are union members. Also, in Romania trade unions or confederations can not be represented in the board of administration of the companies where they are established, but they may attend meetings of the board, having informative or consultative role. In France, the main issues addressed in collective negotiations conducted at national level refer to social security and labor relations. In Romania, the single collective work agreement at national level [12] contains a number of provisions related in particular to the gross minimum wage in the economy, working time, health and

safety, individual employment contract, professional training which represent the starting point in negotiations developed at branch or company level.

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