

## Trade Union Rights in Romania

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*In International Union Rights, Vol.8, Issue 1, 2001:20-21*

In the general context of decreasing power of labour movement and the radical economic transformation towards market economy after the collapse of communism in 1989, it is hardly surprising that trade unions in Romania face a series of challenges to protect and enforce their rights. The existing legislative framework concerning trade union rights is largely acceptable, but there are many problems regarding its enforcement and implementation. In addition, the macro-economic recession since the reintroduction of capitalism (a decrease of about 25% of GDP), corruption and also the lack of experience of trade unions have had a negative impact on trade union rights.

### **The situation of trade unions**

The trade union movement started to develop in Romania at the end of the 19<sup>th</sup> century as a consequence of the industrial revolution, in a similar way to those from Western Europe. Nevertheless, until 1944 the trade union movement was weak, mainly because the industrialisation process was not advanced and there were few workers in industry. Between 1944 and 1989 there was no independent labour movement, trade unions were progressively subordinated to the Communist Party having the well known 'transmission belt' function.

The collapse of communism in 1989 and the transition towards democracy and market economy determined a radical change of the state of trade union. From the beginning of 1990, the communist union became ineffective and other trade union organisations emerged, many of them based on the old structures. In 2000, the state of the five main confederations is as follows:

- the largest confederation – CNSRL- Fratia created in 1993 through a merger of the reformed official union (CNSRL) and the a new union (Fratia), has 33.7% from a total of around two millions trade unions members;
- the BNS created in 1991 and it represents 20.6% of all trade unions members;
- the CSDR was created in 1994 as result of a split from the CNSRL- Fratia and it comprise 16.5% union membership;
- the CNS-Cartel Alfa was created in 1994 and it represents 16.4 % of trade union members;
- The Meridian was created in 1994 and it covers 8.9 % of all trade unions members.

The main goal of all these confederations is to defend and promote professional, economic and social aims of their members. However, since 1989, their main influence has been in the creation of the new labour legislation.

The power of trade unions has been declining, particularly at company level. This may be reflected in the decreasing of trade union members from around 90% in 1991, to 77% in 1995 and 58% in 2000. The reasons for the decline are partly similar with those in developed countries, such as the decrease of manufacturing sector, the expansion of employment in services and sectors where unions are not well represented, and partly

because of specific circumstances of the transition period, such as the restructuring of the all sectors which had overmanning, the closure of large enterprises and the emergence of the private SMEs with virtually no trade union representation.

### **Constrains on trade union rights**

A pluralist labour legislation has been introduced since 1991. The basic rights of freedom of association, collective bargaining and strike are guaranteed by the new Constitution of 1991, but the specific labour legislation imposes some constrains on trade unions activities by making them subject to control by various state authorities.

Under the terms of the Law on Trade Unions each trade union organisation has to be registered with a court in order to acquire legal status. However, the procedure is not very complex and all workers have the right to join or not a trade union. The law allows minimum 15 employees to form a union, and two unions from the same industry can form a union federation if they jointly have at least 60 members, and two federations can form a confederation. According to trade unionists, these provisions of the law induced a very high fragmentation and often competing trade unions at every level.

The Law on Collective Labour Agreements gives the right to the representative trade unions to negotiate collective labour contract at national, branch and local levels. Nevertheless, a trade union can conclude agreements only if it has a legal status and fulfils a minimal membership condition: (a) at company level, at least one third of employees should be members, (b) at sectoral level, a seven per cent membership from the labour force of that particular sector and (c) at national level, the total number of trade union members must be equivalent to at least five per cent of the entire labour force. In order to be valid, collective agreements concluded at each level have to be registered with a state agency.

More restrictions on trade union rights are stipulated by the Law on the Settlements of Collective Labour Dispute which provides for a complex procedure before a strike can be called. Prior to initiate a strike, the trade union has to notify the employer in writing of their claims, and the employer has to respond to this notification in written in 48 hours. If the employee representatives are not satisfied with the employer's response, they have to send a written notice to the Ministry of Labour and Social Protection (MOSLP) containing the basis of the labour dispute and the representatives' names of the parties' involved. The MOSLP has conciliation procedures, together with the representatives of the parties, which has to be carried out within maximum seven days and the result written in a report. If an agreement was reached, it becomes binding for both parties. In the case that no agreement was reached, employee's representatives can call a strike, if they have the support of at least half of the union members, or if there is no trade union, a majority of workers may declare a strike by secret ballot.

An employer may petition the district court to declare illegal the strike, and such a decision may be appealed at the region court. Furthermore, an employer may petition the Supreme Court to suspend a strike for up to 30 days provided that the strike affects the major interests of the national economy or the humanitarian interests. The MOLSP may require to settle a dispute by arbitration when a strike lasted over 20 days and its

continuation may affect major interests of the national economy or humanitarian interests. Three members, representing the government, employer(s) and employees, compose the arbitration panel whose decision of the panel is binding.

In certain industries, a strike is allowed provided that at least one third of the normal service is maintained during the strike. The sectors in which this requirement is necessary are: health care, pharmaceuticals, education, telecommunication, radio, television, railways, river transport, civil aviation, public transportation, public sanitation, and supplies of bread, milk, meat, gas, electricity, heat and water. Moreover, in some sectors, such as police, the army, central bodies of the state administration, and town halls the strike is not allowed at all.

### **Spirit of law ignored**

Nevertheless, the main problems concerning trade union rights are related to the way in which the legislative framework operates (or not) in practice, in both, public and private sectors. The state under its double role, as employer and legislator often 'interprets' the law in its favour or just refuses to respect it. For instance, many strikes in the public sector are declared illegal, some ministries refuse to negotiate a collective agreement at sectoral level (e.g. in 2000 the Ministry of Transport) and within several state owned enterprises, ministries intervene in negotiations at companies levels. In addition, the right to negotiate in the budgetary sectors is just perfunctorily since the funds for wages are previously allocated by the law in the state budget.

Furthermore, the state of trade union rights in the private sector is much worse. For instance, in the new private enterprises, most of the owners do not accept trade unions and collective bargaining, although it is against the legislation. The situation has not been much better in the privatised enterprises, where usually the existing unions survived, but they are weak and most of them are not informed or consulted about the privatisation process.

The new owners have used a series of stratagems to weaken the unions: they promoted the most active trade union leaders in the management functions, from where sometimes they were afterwards dismissed; they 'create' yellow unions, which 'negotiate' collective agreements enclosing provisions with worse conditions for employees than are stipulated in the law, particularly related to overtime, holiday and week-end work.

Nevertheless, there are trade unions which could not be bought by the management and trade union leaders who really fight against corruption in the privatised enterprises. The most notorious case was at Tepro Iasi where a prominent trade union leader, Virgil Sahleanu, was killed in September 2000, reportedly because what he might have revealed about the privatisation of the company. He had been at the forefront in organising a series of strikes against the failure of the new owner to modernise the plant, and refusal to guarantee the workers their jobs. According to the CNSRL-Fratia, 'the intimidation addressed to trade unionists has become a practice in Romania'.

**Conclusion**

One of the main changes in the legislation sought by the trade unions is to have a legal right to participate in the privatisation process (similar to Poland or the Czech Republic), in order to prevent corruption and to protect the rights of the workers when the ownership is changed. In addition, they ask for more transparency of the state institutions, the reforming of the social protection system, particularly the retirement system and also a real collective bargaining in the budgetary system. Hence, much remains to be done in order to have effective trade union rights in Romania.