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EUROPEAN SOCIAL CHARTER

Response by the Government of Romania to comments submitted by the BNS (Romania) on the 21st National Report on the implementation of the European Social Charter

Report registered by the Secretariat

on 18 August 2022

CYCLE 2022

Annex

Observations and clarifications
on the comments submitted by the National Trade Union Confederation (BNS) on the 21st National Report on the Revised European Social Charter, related to the thematic group "*The Rights in the work domain*"

Article 2

As regards "*the work beyond the normal working hours in order to achive the established workload, which will often lead to undeclared word*", we believe **it is necessary to distinguish between undeclared work and overtime work** and so we want to make some clarifications:

According to Law 53/2003 - Labour Code, republished, undeclared work is:

(a) accepting a person for work without concluding an individual employment contract in written form, at the latest on the day before the start of work;

(b) accepting a person for work without submitting the elements of the individual employment contract to the general register of employees at the latest on the day before the start of work;

c) accepting an employee for work during the period in which the individual employment contract is suspended;

(d) accepting an employee for work exceeding the working time laid down in the individual part-time employment contracts.

According to Article 114 of the same Law:

(1) The maximum statutory working time may not exceed 48 hours per week, including overtime.

(2) By way of exception, working time, including overtime, may be extended beyond 48 hours per week, provided that the average number of hours worked, calculated over a reference period of 4 calendar months, does not exceed 48 hours per week.

(3) For certain activities or occupations as determined by the applicable collective agreement, reference periods longer than 4 months but not exceeding 6 months may be negotiated by the relevant collective agreement.

(4) Subject to compliance with the regulations on the protection of the health and safety of employees at work, for objective or technical reasons or reasons concerning the organisation of work, collective agreements may provide for derogations from the reference period laid down in paragraph 1. (3), but for reference periods not exceeding 12 months in any case.

According to article 119:

(1) The employer is obliged to keep at the workplace a record of the working hours worked daily by each employee, with an indication of the start and end times of the working hours, and to submit this record to the control of the labour inspectors whenever requested.

(2) For mobile employees, employees performing work at home and employees of micro-enterprises the employer shall keep records of the hours worked daily by each employee under the conditions agreed with the employees by written agreement, depending on the specific activity performed by them.

Article 120:

Str.Dem.I.Dobrescu, nr.2-4, Sector 1, București
Tel.: +4(0) 213 158 556
E-mail: dae@mmuncii.gov.ro
www.mmuncii.ro

(1) The work performed outside the normal duration of the weekly work time, as provided in Article 112, shall be considered overtime work.

(2) The overtime work may not be performed without the employee's consent, except for a force majeure or urgent works meant to prevent accidents or to remove the consequences of an accident.

Article 121:

(1) At the employer's request, the employees may perform overtime work in compliance with the provisions of Articles 114 or 115, as applicable.

(2) The performance of overtime work above the limit set according to the provisions of Articles 114 or 115, as applicable, shall be prohibited, except for a case of force majeure or for other urgent works meant to prevent accidents or to remove the consequences of an accident.

Article 122

(1) Overtime work shall be compensated with paid hours off during the next 60 calendar days after the work has been performed.

(2) Under these conditions the employee shall benefit from the adequate wage for the hours performed beyond the normal work schedule.

(3) In the periods of reduction of the activity, the employer shall have the possibility to grant paid days off from which the overtime hours that are going to be carried out during the following 12 months may be compensated.

Article 123

(1) If the compensation with paid time off is not possible within the time limit provided in Article 122 (1) during the next month, the overtime work shall be paid to the employee by adding a benefit to the wage corresponding to its duration.

(2) The benefit for overtime work, granted under the terms provided by paragraph (1), shall be established by negotiation, within the collective labour contract or, as applicable, the individual labour contract, and may not be lower than 75% of the basic wage.

Article 124

Young people under 18 years of age may not perform overtime work.

Article 4

According to Law no. 53/2003- Labor Code, republished, the gross minimum basic salary per country guaranteed in payment, corresponding to the normal work schedule, is established by a decision of the Government, **after consulting the trade unions and employers' associations.**

For 2022, according to Government Decision no. 1071/2021 for the establishment of the minimum gross basic salary per country guaranteed in payment, starting from January 1, 2022, the gross minimum basic salary per country guaranteed in payment has increased to 2,550 lei per month, without including increments and other additions.

Although the minimum wage is established annually by Government Decision, for the field of construction, GEO no. 114/2018 provides that, between January 1, 2020 and December 31, 2028, the minimum salary will be at least 3,000 lei per month.

We mention that the Parliament of Romania adopted Law no. 135/2022 by which new categories of personnel were introduced to receive the minimum salary of 3000 lei, starting from June 1, 2022 and until December 31, 2028, respectively personnel working in the agricultural sector and in the food industry.

At the same time, we mention that, according to Art. V of the Emergency Ordinance no. 142/2021, starting from January 1, 2022, the gross minimum basic salary per country guaranteed in payment can be applied for an employee for a maximum period of 24 months, from the moment of concluding the individual employment contract. After the expiration of that period, the employee will be paid a basic salary higher than the gross minimum basic salary per country guaranteed in payment. These provisions also apply to the employee paid with the minimum gross basic salary per country guaranteed in payment, who has already concluded an individual employment contract, the maximum period of 24 months being calculated starting from January 1, 2022.

We also specify the fact that, the Government's Emergency Ordinance no. 67/2022 provides for a tax exemption for employers who increase the minimum wage by 200 lei, between June 1, 2022 and December 31, 2022. These provisions do not apply to staff paid from public funds.

Regarding the correlation of the minimum wage with the minimum consumption basket, we state the following:

Currently, although the notion of "minimum monthly consumption basket" is provided for in the legislation, the value of the consumption basket is not established by a normative act.

After the appearance of Law 174/August 2020 for the amendment and completion of the Government Emergency Ordinance no. 217/2000 regarding the approval of the minimum monthly consumption basket which established the structure and components of the minimum basket for a decent living, the National Institute of Statistics analyzed the components of the published minimum monthly consumption basket for a decent living, as regards their related quantities in order to identify the values that are missing from the law and the possibility of their calculation and the available data on the prices associated with the components. Following this evaluation, a methodology was created which was submitted to the approval of the Methodological Approval Committee according to the procedures in force.

The members of the Committee highlighted the fact that the normative act does not contain quantities and values for all expenditure chapters, certain products or services do not fall within the scope of the Consumer Price Index and cannot be calculated. As a result, a value of the "minimum consumption basket for a decent living" cannot be calculated without amending the O.U.G. no. 217/2000.

We also mention the fact that, in the EU statistical system, the basket of goods and services is not calculated nor is it used as a standardized indicator at the level of the member states.

Establishing the minimum wage in accordance with the provisions of the Directive on adequate minimum wages in the European Union:

On October 28, 2020, the European Commission launched the proposal for a Directive on adequate minimum wages in the European Union.

We mention the fact that the new European Directive will form the basis of the Romanian Government's approach regarding the establishment and revision of the minimum wage and the national procedure for consultation of the social partners.

Establishing the minimum wage - reform provided for in the National Recovery and Resilience Program (PNRR)

In the PNRR, within Component C13, Reform 5, with the title "An objective formula for calculating the minimum wage in the economy", it is provided for the development of an objective mechanism on the

Str.Dem.I.Dobrescu, nr.2-4, Sector 1, București
Tel.: +4(0) 213 158 556
E-mail: dae@mmuncii.gov.ro
www.mmuncii.ro

basis of which, starting in 2024, the guaranteed gross minimum wage per country will be established in payment, in line with the guidelines of the current draft Directive for establishing the minimum wage at the level of the Member States.

The main activities within this reform:

• Carrying out an analysis/study on the method of establishing the minimum gross salary per country guaranteed in payment;

• Elaboration of the objective mechanism for establishing the minimum gross salary per country guaranteed in payment;

• The adoption and entry into force of the normative act regarding the objective mechanism for establishing the minimum gross salary per country guaranteed in payment - Q1 2024.

Among the objectives of the Government Program 2021-2024, there are negotiations with unions and employers in order to establish a predictable mechanism for increasing the minimum wage in the economy.

Article 5

The right to trade union association and the right to collective bargaining are guaranteed by the Romanian Constitution to all citizens, without discrimination, including foreign citizens legally present on Romanian territory (art. 9, art. 16-18 and art. 40-41) and the Labour Code which regulates all work and employment relationships, unless there are specific exemptions by special legislation. (art. 1 and 2, art. 6 (2), art. 7, art. 17, art. 217) Also, Law no. 62/2011 explicitly provides for the freedom of employees to decide without coercion to join and join unions (art. 3), disaffiliation from the union being freely decided by the employee (art. 33).

In compliance with the guarantees of the Charter, national legislation (Law 62/2011, O.G. no. 26/2000 on associations and foundations, professional statutes) guarantees all workers and employers/companies the right of free and voluntary association and membership to associative structures for the defense of economic interests, social and professional in the work relationship, before the authorities and the courts. (trade unions, employers' associations, professional associations). Labour rights are regulated by the Labour Code, the right of trade union association and the free exercise of trade union activity being guaranteed to persons in an employment relationship, without discrimination and at the level of all employers. (art. 6-7, art. 39 and art. 217)

The social dialogue law, related to the Labour Code, specifically regulates the way of setting up trade union representative organizations, guaranteeing the exercise of the right of association, free access to management positions in organizations and protection against dismissal on trade union grounds, without discrimination and without conditions, to all persons employees with an individual employment contract (in the sense of the Labour Code) and minors starting from the age of 16 without the consent of the legal representative being necessary. (art. 3-12) In terms of access to similar working conditions, Law no. 62/2011 on social dialogue stipulates the *erga omnes* applicability of the clauses of the collective labour contracts concluded at the unit level, i.e. to all employees in the unit. (art. 129 and art. 133).

As protective measures, the Labour Code provides for the obligation to recognize the exercise of trade union rights at the level of all employers in accordance with the Constitution (art. 217), as well as the explicit prohibition of waiving legal rights, any transaction in the sense of limiting rights being sanctioned with the nullity of Right. (art. 38)

In practice, the Labour Code stipulates the obligation of the employer, prior to the employment and conclusion of an employment contract, to inform the worker in advance of the legal rights, which also

include the worker's right to be accompanied both to the prior information and to the conclusion and/or modification of the contract of work by an external consultant or by a representative of the trade union, if a member. (art. 17)

The individual employment contract is concluded only with the consent of the parties and in written form (art. 18) and cannot contain clauses contrary to or inferior to the legal provisions and applicable collective agreements (art. 11), contrary clauses being null and void.

Article 6

Law no. 62/2011 on social dialogue stipulates the obligation of collective bargaining in units with more than 21 employees, on any topic of interest to the parties. (art. 129)

The employer may invite the representative union to participate in the board of directors or another body similar to it, including in the case of public administration, to discuss issues of professional, economic and social interest. (art. 30) The social dialogue law also provides for the possibility for trade unions, according to the statute, to offer members socio-cultural services. (art. 25)

The working and employment conditions are established by the Labour Code and related legislation, and the collective agreements negotiated within the limits and conditions of the law are applicable hierarchically from the higher level (sector, group of units) to the enterprise level, without the possibility of derogation at the enterprise level, which diminishes the consensus of interest and the margin of negotiation above the enterprise level. The legal validity of a collective labour agreement, regardless of the level of negotiation, is a maximum of 2 years, with the possibility of extending its effects by 1 year through an additional act.

At the same time, Law no. 62/2011 guarantees trade union organizations the right to develop their own regulations, to organize their management and activity and to formulate their own action programs and prohibits any intervention by public authorities, employers and their organizations of a nature to limit or prevent the exercise of trade union rights (art. 7), and the relations between trade union organizations and their members are regulated by their own statutes (art. 32).

Also for clarification, we mention that, **under the terms of the social dialogue law, collective bargaining is carried out both on the basis of "representativeness" which legitimizes the majority representation of employees at the negotiation, the concluded contracts being the source of law and applied extensively/*erga omnes* to all employees (from the unit, group of units, units of the signatories of the contract by sector), as well as on the basis of the "mutual recognition" of the parties (art. 153), the negotiated voluntary agreements being the law of the parties, with clauses applicable to the members.**

Voluntary agreements are not registered and monitored administratively and as such, only the texts published/made public by the care of the parties can be analyzed, such as the reported example of the Collective Agreement at the level of the construction sector, concluded/renegotiated periodically from 2012 to 2020, between non-representative federations per sector. The agreement established salary coefficients and a mechanism for expansion through the voluntary affiliation of firms.

In 2020, the signatory federations obtained in court the recognition of representativeness at the level of the construction sector and concluded the Collective Labour Agreement in the civil construction sector, registered and administratively reported at the level of a group of units in compliance with the law.

Clarifications related to the application of collective labour contracts negotiated representatively on the basis of the social dialogue law:

Str.Dem.I.Dobrescu, nr.2-4, Sector 1, București
Tel.: +4(0) 213 158 556
E-mail: dae@mmuncii.gov.ro
www.mmuncii.ro

Collective labour contracts at unit level are applicable *erga omnes*, to all employees in the unit without distinction related to the duration of the individual labour contract/similar contract. [art. 1 33 para. (1) lit. a)]

Collective agreements at the level of groups of establishments are applicable to all employees in the establishments forming the group. [art. 133 para. (1) lit. b)]

Collective labour contracts at the activity sector level are applicable to all employees in the member units of the employer organizations that signed the contract, the law providing a mechanism for extending the clauses at the request of the signatory parties and with the favorable agreement of the Tripartite National Council for Social Dialogue. [art. 133 para. (1) lit. c), art. 143 para. (5)]

A number of 30 collective bargaining sectors were established by the social partners and adopted by the Government through GD no. 1260/2011 and HG no. 13/2017. The clauses of the collective agreements are applicable from a higher level to a lower level, without the possibility of derogation. In 2014, the Government proposed to the social partners the review of the collective bargaining sectors in support of achieving representativeness and improving the application of the current social dialogue law (initiative rejected in 2015 in the Tripartite National Council for Social Dialogue, after technical consultations) and restarted the consultations on the negotiation sectors in 2017, in parallel with the revision of the social dialogue law, an initiative postponed again by the social partners until the adoption of the amendments to the social dialogue law.

The measures to promote and support collective bargaining, which bring together European and ILO practices in the matter, are included/provided by the applicable legislation (Labour Code, social dialogue law and specific legislation) respectively:

- Recognition of trade union rights and freedoms, the right to free and voluntary association and affiliation, the prohibition of discrimination, adverse treatment and dismissal on the grounds of exercising rights and trade union activity, facilities for trade union organization and the establishment of the ban on renouncing legal rights/from collective agreements;

- Establishing the obligation to initiate collective bargaining in all units with over 21 employees to boost negotiation and joint consultations;

- Regulation of collective bargaining procedures and rules in the absence of an agreement of the social partners in the matter (steps, negotiation terms, the obligation to inform, the legitimacy of the negotiating parties, the resolution of collective labour conflicts, etc.);

- The social partners can request, depending on the developments of the labour market, the recognition by regulation at the request of the social partners of the collective bargaining sectors established/agreed upon by them;

- Regulation of mechanisms and procedures for amicable settlement with institutional support for conciliation and mediation to facilitate the conclusion of collective agreements and reduce conflicts and collective actions;

- Establishing the *erga omnes* application of collective agreements negotiated at unit and group of units level for the direct extension of the protection of the clauses to all employees, as well as the regulation of a mechanism for extending the application of collective agreements concluded at sector level in order to cover employees in all units from the sector (at the request of the signatory parties and with the favorable agreement of the Tripartite National Council for Social Dialogue);

- Supporting the involvement of all trade union organizations in negotiations and eliminating any possible inconveniences related to the recognition of the representativeness of the organizations, through the possibility of negotiation based on the mutual recognition of the parties, the agreements/texts concluded being the law of the parties, with clauses applicable exclusively to the members.

- Establishing sanctions and ways of reporting and attacking, with facilities for access to the court.

- As early as 2009, sectoral social dialogue committees were regulated, with funding from the state budget and from own sources, as a measure to encourage sectoral dialogue between trade union and employer federations in matters of employment, professional training and to identify the common interest in the sectoral negotiation. (EOG no. 28/2009)

- Another measure of support was related to social partners' access to European funds to increase the capacity for expertise, participation in dialogue and collective bargaining.

The government intends to further support the increase in the action capacity of the sectoral social dialogue committees and the organization and action capacity of the social partners through the 2021-2027 European funding programs.

For clarification, we mention that "employee representatives" are not "representatives of non-unionized workers", but persons freely elected by the majority vote of all employees (affiliated or non-unionized) to represent them in collective bargaining according to the mandate granted. (art. 222 of the Labour Code). Employee representatives can only be elected in the absence of a representative trade union. (art. 221) The attribute of collective bargaining is ensured in relation to the mandate granted by employees in the exercise of their right to collective bargaining, not as a trade union prerogative. The number of employee representatives is established in agreement with the employer depending on the size of the enterprise.

The monitored statistical data do not highlight how many of the employee representatives who concluded collective agreements are union representatives (of non-representative organizations), but their high negotiation capacity cannot be omitted.

Although the Labour Code does not establish a procedure for appointing candidates in the General Assembly, in order to justify the statement of exclusion of certain categories of trade union representatives, we note that the trade union affiliated to a representative federation of the sector is a directly authorized party in collective bargaining alongside the employee representatives according to Art. 135 para. 1) lit. a) of Law 62. All trade union organizations are recognized with trade union rights and prerogatives (art. 27-28), and as a measure in exercise art. 153 of Law no. 62/2011 promotes voluntary negotiation on behalf of members.

Decisions of the Constitutional Court of Romania no. 62/2019 and no. 125/2020 declares the provisions of art. 3 paragraph 2), art. 51 para. 1 letter c), art. 134 point 2 and art. 135 para. (1) and (2) of Law no. 62/2011. (trade union association, representativeness and right to collective bargaining).

The legislation recognizes all trade union organizations and employers/employer organizations the right to negotiate collectively, under the conditions of legal procedures or on the recognition of the parties and on behalf of the members, and provides guarantees that the collective bargaining attribute of the employee representatives, freely elected by the majority vote of all employees, to be within the limit of the union mandate granted by the employees and in the absence of the representative union or affiliated to a representative federation. The legislation establishes the means of referral, amicable settlement and appeal and sanctions applicable in conjunction with the general regime of sanctions, labour jurisdiction and common law provisions.

Success in implementation is dependent on the good faith and cooperation of the parties, on workers' knowledge of their rights and the appropriate use of avenues of complaint and appeal, as well as on the real capacity of institutions and organizations to act.

Collective bargaining in the budgetary sector

The social partners and unions in the public sector were consulted and negotiated the coefficients and salary rights in the context of the development and successive adoption of the legislation on the

remuneration of staff paid from public funds (Law 330/2009, Law 284/2010, Law 153/2017), as well as and later, including in the context of managing the pandemic crisis. The social dialogue law allows the negotiation of effective salary rights only if they are provided by the specific legislation within minimum and maximum limits. The initiative to amend the law on wages in the public system is currently being analyzed within a working group established at the level of the Ministry of Labour.

The right to strike: The national regulation on the exercise of the right to strike (constitutional right) takes into account the recommendations of the ILO regarding the minimum requirements for exercise, including the promotion of amicable settlement as a means of limiting collective actions and strikes.

For clarification, we mention that in accordance with the law of social dialogue, the right of collective action is exercised through the right of all trade union organizations to rally, protest, demonstration (art. 27, 28), the right to trigger and carry out collective labour conflicts in connection with the initiation, negotiation and conclusion of collective agreements (art. 156), guaranteed to the legal parties to collective bargaining, as well as the right to strike, recognized only by employees (unregulated lockout), exercised as an extreme form of collective labour conflict, the parties to the strike being and those of collective conflict.

Thus, in the exercise of the right to strike, provided for in articles 181-207, representative unions may initiate a strike, under the terms of the law, with the written consent of at least half of the number of union members, and in their absence, the elected representatives of the employees with the written consent of at least a quarter of the number of employees of the unit or, as the case may be, of the subunit or department. (art. 183 paragraphs (1) and (2)).

In the absence of a collective labour contract, the law does not condition the exercise of the right to strike.

The social dialogue law does not regulate the exercise of forms of collective protest (protest, rally, etc.) nor spontaneous strike, Japanese strike, etc. which constitute ways of freely exercising the trade unions' right to collective action/strike.

The social dialogue law establishes the obligation to establish a mandatory minimum service with the provision of one third of the activity in the event of a strike in the national security sectors (art. 205), the organization and establishment of the minimum service in practice being left to the discretion of consultation and negotiation in each unit .

Exceptions:

Navigators exercise the right to strike under the terms of the international conventions to which Romania is a party. The social dialogue law prohibits the seafarers' right to strike "from the moment of departure on the mission until its completion" (art. 203), the duration of the mission being established by the embarkation/mission contract.

Aviators are forbidden the right to strike during the "duration of the flight mission", defined in art. 3 paragraph 1) of the Romanian Air Code as "the activity of a crew member from the moment he enters service, after an appropriate rest period, but before the start of a flight or a series of flights, until the moment that member of the crew leaves service after the completion of that flight or series of flights".

Penitentiary police officers have the right to strike recognized by the own Statute - Law no. 154/2019.

Police officers are forbidden the right to protest and strike according to the Police Statute - Law no. 330/2002, the regulation being consistent with art. 6 of the Charter, with the jurisprudence of the ECHR and art. 5 of the ILO Convention no. 98/1949. In practice, during 2017-2020, the police unions exercised the right to collective actions (meeting, "strike" protest by suspending the police service) in defense of professional, social and economic interests (salary rights, restructuring, organization of activity).

Str.Dem.I.Dobrescu, nr.2-4, Sector 1, București
Tel.: +4(0) 213 158 556
E-mail: dae@mmuncii.gov.ro
www.mmuncii.ro

Article 28 (Protection of trade union leaders)

Law no. 53/2003 - The Labour Code was amended to strengthen protection against discrimination, harassment and intimidation of workers' representatives. (art. 5).

As previously reported, legal provisions guarantee trade union and elected employee representatives protection against adverse treatment and dismissal during the term of office in the exercise of trade union rights and activity, as well as legally facilitated and collectively bargained and/or negotiated directly with the employer, so that the operation of the enterprise is not affected. We consider that the national provisions are consistent with the explicit provision of art. 28 of the Charter which refers to the protection against dismissal motivated by their capacity or activities as representatives of workers in the enterprise, as well as with the guarantees of art. 1 and 2 of the ILO Convention no. 135/1971 and of art. 4 of the ILO Convention no. 98/1949 which provide for facilities and protection against dismissal for carrying out trade union activities, outside working hours and with the consent of the employer during working hours.

Decisions of the Constitutional Court of Romania no. 681/2016 and no. 814/2015 are binding "erga omnes": "the normative provision whose unconstitutionality was found can no longer be applied by any subject of law (much less by public authorities and institutions), terminating its effects by law, for the future, namely from the date of publication of the decision of the Constitutional Court in the Official Gazette of Romania, according to the second sentence of the first sentence of art. 145 paragraph (1) of the Constitution".

Application of guarantees art. 10 of the social dialogue law that prohibits the modification and/or termination of individual employment contracts/service relationships of members of trade union organizations for reasons related to union membership and trade union activity, as well as the prohibition of dismissal for participating in a strike, as well as the guarantees of the Labour Code related to the protection of employees against dismissal for reasons of exercising trade union rights (art. 59), reinforced by the obligation of the employer to provide reasons for the dismissal under the penalty of legal nullity, are legal guarantees, and violations are resolved by the courts, which administer the evidence and establish as the case may be, legal nullity, reinstatement, sanctioning the employer's abuse according to legal provisions and granting compensation accordingly.

In order to strengthen protection against unfavorable treatment, the Labour Code prohibits any direct and indirect discrimination, harassment, intimidation against employees on grounds related to trade union membership and trade union activities, including in the process of complaints and referral to the court (art. 5 Labour Code) , with penalties for violation reaching 9 minimum wages per economy. (art. 260 (r) Labour Code)

Labour jurisdiction, art. 260 of the Labour Code and articles 217 and 218 of the social dialogue law adequately provide for judicial procedures, dissuasive fines and criminal sanctions in order to protect employees and trade union representatives in the exercise of trade union rights and freedoms.

The expansion of the notion of trade union discrimination in the application of the principle of equality led to the strengthening of the forms of protection of employees and their representatives in the matter of trade union discrimination. The Labour Code establishes the obligation of employers, with the exception of micro-enterprises, to include in the Internal Regulation, an act with legal value, established in consultation with the trade unions, rules/procedures for the observance of non-discrimination.

The national legislation provides for referrals and appeals (the Labour Inspectorate, the People's Advocate, the National Council for Combating Discrimination, the courts), as well as amicable ways of resolution (mediation and conciliation of individual and collective conflicts).

The duties of the elected representatives of the employees, the manner of fulfilling them, as well as the duration and limits of the mandate are established within the general assembly of employees, in accordance with the law. (art. 224 of the Labour Code) As employees, the elected representatives of the

Str.Dem.I.Dobrescu, nr.2-4, Sector 1, București
Tel.: +4(0) 213 158 556
E-mail: dae@mmuncii.gov.ro
www.mmuncii.ro

trade unions have technical and communication means that can be used for the exercise of trade union activity, under the conditions agreed with the employer, including through the collective labuor contract and/or direct negotiation, depending on the needs, importance and possibilities of the enterprise.

Article 21

Framework Law no. 467/2006 regarding the **information and consultation of employees** guarantees their right to participate through their representatives, with a predilection for activities organization, restructuring, company transfers, but other topics of interest, such as social services and socio- cultural.

Some of the social facilities are established directly by law. (eg. the law on holiday vouchers, the law on maternity protection, etc.)

The right to participate is guaranteed by Law no. 53/2003 - Labour Code, republished, art. 39 in conjunction with art. 175-184 regarding ensuring safety and health at work and the establishment of the Safety and Health at Work Committee, the latter's organization and operation being specifically regulated according to Government Decision no. 1425/2006 approving the Norms for the application of Law no. 319/2006 on occupational health and safety.

The Labour Code also provides for the employer's obligation to adopt an internal Regulation, in consultation with the unions or employee representatives, and to inform the employees about its provisions (art. 241-243).

Information and consultation proved effective in the management of the COVID-19 crisis when, for the protection of employees, the validity of collective labour contracts was extended during the state of alert, requested by the unions. Other measures adopted in support, in consultation with the social partners, were predominantly general in nature and aimed at supporting employees and employers, including through fiscal and financing measures and facilities. The measures adopted in the field of labour aimed at subsidizing technical unemployment, working at home, adapting the legislation on telework, establishing the reduced subsidized work schedule.

The labour legislation provides dissuasive sanctions for non-compliance with the legal obligations of information and consultation (1,000-25,000 lei) and/or for the violation of trade union rights and/or the refusal to start collective bargaining at unit level. (15,000-20,000, respectively 5,000-10,000 lei) The sanctions are corroborated with the provisions of common law regarding the legal regime of contraventions.

The means of complaint and attack are: the Labour Inspectorate, the National Council for Combating Discrimination and the court, with amicable ways of resolving individual and collective labour conflicts also being provided. (independent mediation, conciliation of collective conflicts through labour inspectorates, mediation and arbitration)

In the period 2017-present (August 2022) there were no legislative developments in the matter of social dialogue (union association, representativeness, collective bargaining), although a series of legislative initiatives to revise the social dialogue law were registered in the Parliament, projects in different stages of the adoption process. One of the main reasons why these legislative changes were not adopted is that, following the debates, the social partners did not reach a consensus. Currently, several European directives and recommendations are in the works at the EU level, which will have a major impact on national legislation and the acquis acquis communautaire. Among the notions debated at the European level, we mention the definition of the worker and the identification/standardization of atypical labour contracts, notions debated including with the European social partners - entities that also include the representative social partners at the national/sector level in Romania.

In the 2012-2018 period, the consultation efforts of the Government and the relevant ministry regarding the measures to amend the social dialogue legislation, efforts supported with technical assistance by BIT,

did not lead *to a consensus of the social partners*, as *parties directly involved in application*. In the period 2018-2020, the social partners, the business environment and the Ministry of Labour were consulted in the legislative procedure for the adoption of the parliamentary *draft law amending the social dialogue law* (L567/2018, Plx 715/2018*), as mentioned* in the Report of the Labour Committee of the Chamber of Deputies with a favorable opinion for adoption in October 2020.

However, the adoption was not supported *by consensus,* the employers' confederations requesting Parliament through a joint address to continue the consultations, while the trade union confederations supported the adoption. (NBS and CSN Cartel Alfa) The remaining divergent aspects are mainly related to representativeness and collective bargaining.

The legislative project is being adopted by the Plenary of the Chamber of Deputies, the decision-making body.

Link: http://www.cdep.ro/pls/proiecte/upl_pck2015.proiect?idp=17541

Str.Dem.I.Dobrescu, nr.2-4, Sector 1, București
Tel.: +4(0) 213 158 556
E-mail: dae@mmuncii.gov.ro
www.mmuncii.ro