

***International Association of Economic and Social Councils***

***and Similar Institutions***

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**SOCIAL DIALOGUE IN ROMANIA**

1. **SOCIAL DIALOGUE IN ROMANIA**

**INTRODUCTION**

For the International Labour Organization, social dialogue includes all types of negotiation, consultation or simply exchange of information between, or among, representatives of governments, employers and workers on issues of common interest relating to economic and social policy.

Social dialogue is the most suitable tool for promoting better living and working conditions and greater social justice. It is an instrument through which governance can be enhanced in many fields.

 It is relevant to any effort aiming to achieve more productive and effective enterprises and sectors and a fairer and more efficient economy. It thus contributes to a more stable and more equitable society. It also has particular relevance to the globalisation process.

**HISTORY**

In Romania, social dialogue became manifest in the early 1990s and underwent several phases of development. During the first phase, the basis of social partners’ organizations was set. Economic and social conditions were not favorable, however, owing to a major economic decline, accompanied by a fall in employment and an erosion of the purchasing power of employees as a result of inflation (by two to three figures a year). It was a time of social unrest, with numerous strikes and widespread protests with the state and trade unions the main interlocutors in social dialogue. In the early 1990s over 90% of employees in the economy worked in the state sector.

Compared to employers’ organizations, trade unions got off to a better start as a result of continuity in their existence and a law of their own since 1991. The former General Union of Trade Unions in Romania (*Uniunea Generala a Sindicatelor din România,* UGSR), which had brought together all unions in a single national-level organization, separated into several organizations and subsequently underwent various regroupings or divisions.

The establishment of employers’ organizations began in 1990, based on a law dating back to 1924 (Law no. 21/1924),which, however, proved inadequate for current needs. The Government Decision no. 503/1991 also marked the beginning of employers’ organizations that were set up for the express purpose of representing state companies in social dialogue. The relatively slow pace of the privatization process encumbered the progress of the employers’ movement.

Nevertheless, several employers’ organizations were set up. By late 1996, employers’ organizations in Romania reached an agreement to merge and for the first time, apply for membership in the International Organization of Employers; subsequently, however, the agreement was cancelled. This is the stage when the first forms of social dialogue established, by the Tripartite Secretariat for Social Dialogue (Government Decision no. 349/1993) subsequently dissolved. Social partners were involved in discussing laws with direct relevance on industrial relations, paving the way forward.

The second phase began in 1997, when several laws on industrial relations were passed. A number of tripartite institutions were set up, the most important of which was the Economic and Social Council (Consiliul Economic si Social, CES).

**PARTICIPANTS**

At the national level the social dialogue involves the participation of the following social partners:

* Nationally representative employers confederations
* Nationally representative trade union confederations
* Government of Romania

*Employers’organizations*

On 1st of September 2012, in Romania there were registered nine nationally representative confederations as follows:

1. Confederation of Industry of Romania CONPIROM www.conpirom.ro
2. National Council of Romanian Employers Co.NPR
3. Romanian National Employers P.N.R. www.pnr.org.ro
4. General Union of Industrialists in Romania UGIR www.infotrip.ro / mambo
5. General Union of Industrialists of Romania-1903 UGIR -1903 www.ugir1903.ro
6. National Confederation of Romanian Employers CNPR www.cnpr.ro
7. National Council of Small and Medium-sized Enterprises in Romania CNIPMMR

 [www.cnipmmr.ro](http://www.cnipmmr.ro)

1. National Union of Romanian Employers UNPR www.unpr.ro
2. Employers Confederation of Industry and Trade Services Romania C.P.I.S.C. www.cpisc.ro

### Trade unions

On 1st of September 2012, in Romania were recorded five nationally representative

trade union confederations as follows:

1. National Confederation of Free Trade Unions of Romania – “Fratia”

 www.cnslr - fratia.ro

1. National Trade Union Confederation "Cartel Alfa" - [www.cartel-alfa.ro](http://www.cartel-alfa.ro)
2. National Trade Union Bloc - www.bns.ro
3. National Trade Union Confederation "Meridian" - www.csnmeridian.ro
4. Democratic Trade Union Confederation of Romania.

*Government* – The National Tripartite Council for Social Dialogue,which operates according to its own rules of organization and operation, is the institutionalized structure of tripartite consultation of national interest, established at the level of the Romanian Government in accordance with the Law no. 62/2011 on the social dialogue.

The National Tripartite Council for Social Dialogue within the Ministry of Labor assumes part of the attributions of the Economic and Social Council as well as the specific attributions of tripartite consultations at the national level. The entity maintains the continuity of the mechanisms of tripartite consultation among the Government, trade unions and employers` organizations, as a consequence of the structure change in the Economic and Social Council.

**PROCESS**

Since early 1990s, Romania has put in place a new system of industrial relations based on the ILO’s core labour standards and adoption of the European Union acquis. Modern approaches to the management of employee relations and the development of social dialogue are relatively new concepts for the Romanian labour market. The changes introduced in Romania have generally brought about an increase in the role and the relevance of the social partners in the management of economic and social change. However, there were issues with respect to the effectiveness and consistency of bipartite social dialogue and tensions relating to the role played by government in tripartite dialogue.

The **Civic dialogue** is the form of dialogue between representatives of civil society (social partners, organized civil society organizations or foundations, craftsmen, retired associations, etc., generally defined as NGOs) as well as a form of direct dialogue between the Government and the Administration with the NGOs through an NGO platform or other types of network consultation.

Although the term of civil dialogue is not defined in the national legislation, through the adoption of the Law no. 62/2011 on the social dialogue, the structure and the organisation of the Economic and Social Council was changed so that from a tripartite social dialogue structure at national level it has become a structure of civil dialogue (between representatives of civil society) similar to that of the European Economic and Social Council.

Thus, the civil society representatives participate, along with the social partners, to the consultation process within the ESC.

Although undefined, the social dialogue carried on within the ESC between representatives of the civil society is a civic dialogue. The dialogue between the Administration or the Government and the NGOs, also understood as a civic dialogue, is limited, in the absence of a NGO platform or of some direct networks, to their just being consulted under Law 53/2003 on transparency in public administration and of Article 51 of Government Ordinance no.26/2000.

The dialogue between the Parliament/Government and the Economic and Social Council (structure of civil dialogue), although similar to the social cooperation between European institutions and the European Economic and Social Committee as defined by TFEU, is assimilated to the social dialogue at high level.

The **social bipartite dialogue** may take the form of a autonomous dialogue (trade unions, employers associations) without any Government intervention or regulation, or may be understood as a dialogue between the trade unions and the employers’ associations developed within compulsory collective bargaining (regulated by the Law), or under the form of the consultation between the Government and the trade unions or the Government and the employers’ associations meant to solve economic and social issues.

The **social bipartite dialogue** occurs with predilection in the framework of the compulsory collective bargaining, regulated by Law, as well as within the procedure of settling collective labour disputes. Thus, in accordance to the provisions of Law 62/2011 on the social dialogue, the compulsory level of collective bargaining is the unit. The Law also establishes the representation of the parties within a negotiation, the effects and applicability of collective agreements concluded, and the way of solving collective labour conflicts.

An **atypical structure of autonomous dialogue**, promoted in the attempt of retrieving the model of autonomous dialogue from within the European sectoral committees, is the sectoral committee, organised at “branch” level, under Law no. 132/ 1999, amended, on the functioning of the of the CNFPA (National Council for Adults Professional Training). It is a combination of at least two organizations, an employers’ one and a trade union’s organization of federative type, representative at sectoral level, but which can take the atypical form of autonomous multiparty social dialogue by the possibility to also integrate in the structure ministries representatives.

In Romania, the **tripartite social dialogue** occurs at three levels and takes the shape of mutual consultation and information. In its more advanced form, it could take the form of social partnership or negotiation.

The tripartite social dialogue takes place within the institutionalized structures of tripartite consultation (National Tripartite Council for Social Dialogue, commissions for social dialogue) established at national, central and local level under Law no.62/ 2011 on the social dialogue, as well as within other consultation instances as the parliamentary working committees or ad-hoc tripartite structures.

# The tripartite social dialogue at national level occurs both within the institutionalized framework of the National Tripartite Council for Social Dialogue, high-level structure regulated by Law no. 62/2011, and in other frameworks of tripartite consultation as the parliamentary working committees or ad-hoc tripartite structures as, for instance, the inter-ministerial commissions.

**The tripartite social dialogue at sectoral level** occurs within the institutionalized framework of the social dialogue commissions established at central level (within ministries and public central institutions). They are made up of representatives of ministries and trade unions and employers' organizations at national level. Social partners within these commissions are consulted on all legal acts drawn up at the ministry level and on other issues of concern to social partners in their field of competence.

## The social dialogue at territorial level occurs within social dialogue commissions at prefectures level. These commissions are made up by more representatives of the local administration and of one member nominated by each confederation representative at national level. Their objective is to inform and advise social partners on decisions taken by local authorities on problems of local interest.

A notion increasingly used is that of “**plus” tripartite social dialogue**, promoted by the International Labor Organization, which implicate extending tripartite social dialogue to civil society organizations. In Romania, although no regulations for this purpose have been established yet, in practice, there is a higher participation of NGOs in the tripartite consultations within the social dialogue commissions. Still, they have a guest status within these instances.

 **II. ECONOMIC AND SOCIAL COUNCIL OF ROMANIA**

**INTRODUCTION**

 The Economic and Social Council is an autonomous tripartite public institution of national interest, set up for the purpose of achieving the tripartite dialogue at national level between employers, trade unions and representatives of the organized civil society.

 The Economic and Social Council is consulted as binding by initiators of draft acts in its field of competence. The result of this consultation is embodied into opinions on draft laws.

The ESC fields of competence are:

a) economic policies;

b) financial, fiscal policies;

c) Labor relations, social protection and wage policy;

d) health policies;

e) education, research and culture.

 The Economic and Social Council may issue opinions and recommendations on its own initiative or on referral at the request of any representative public authority or employers’ and trade union organization, on economic and social state of facts, evolutions or economic and social events of national interest. Following these referrals, the ESC shall issue opinions and recommendations.

**HISTORY**

The building of the institutional social dialogue began in 1997, with the adoption of the law on the organization and functioning of the Economic and Social Council, which created the institutional framework at the national level where social partners were informed and consulted on draft legislation designed to put into practice Romania's social and economic policy.

In its initial form, the Economic and Social Council comprised 27 members, who composed the Plenary Session (Plenum), appointed by the social partners, as follows:

1. 9 members appointed, by mutual agreement, by the employers’ confederations representative at national level;
2. 9 members appointed, by mutual agreement, by the trade unions’ confederations representative at national level;
3. 9 members appointed by the Government.

# On 13 May 2011 a new law no.62/2011 on the social dialogue was enforced. This act of law involves the abolishment of the trade union law, the law on collective labor agreement, Economic and Social Council Act, the law on social dialogue committees.

 The Economic and Social Council (CES) is to become a ‘public institution of national interest charged with the creation of the conditions for a civic dialogue between employer associations, trade unions and structured entities of the civil society’. In the previous legislation (Law No. 109/1997), the CES was defined as a ‘tripartite public institution of national interest established for the social dialogue at national level between trade unions, employer organizations and the government’.

**STRUCTURE**

The present ESC Plenary Session has a structure consisting of 45 members including the President and the Vice-presidents.

The nomination of the members of the Economic and Social Council is made as follows:

a) 15 members nominated by the employers’ confederations representative at national level;

b) 15 members nominated by the trade union confederations representative at national level;

c) 15 members representing civil society appointed by decision of the Prime Minister, on proposal of the Ministry of Labor, Family and Social Protection; they shall be representatives of cooperative structures, professions, consumer protection organizations, scientific and academic community, farmers organizations, organizations of retired people, community local organizations, associations representing families and people with disabilities and other NGOs.

The Economic and Social Council maintains its role as a public institution of national importance, in charge of creating the proper environment for civic dialogue among employers` organizations, trade unions and the structured entities of the civil society.

The Economic and Social Council is reorganized as an institution for tripartite dialogue. For the first time, civil society representatives can be a part of the Economic and Social Council, while Government representatives are now withdrawn from it. Thus, there is an open way to consultative forums for the civil society. In other words, the Government is bowing out of the CES, giving up its place to the representatives of civil society entities.

**WORK**

 The Economic and Social Council acts as a consultative body for the Government and the Parliament of Romania and shall have the following duties:

1. issuing opinions on draft acts initiated by the Government or the Parliament in the fields of competence pursuant to Article 83 (2), inviting the initiators to take part in the debates on draft acts;
2. elaborating analyses and studies on the economic and social realities at the request of the Government, of the Parliament or on its own initiative;
3. informing the Government and the Parliament on the emergence of economic and social events that call for new regulations;
4. observing the duties following from the Convention 144 / 1976 of the International Labour Organisation on tripartite consultations, intended to promote the enforcement of international labour standards adopted on the 2nd of June 1976 in Geneva and ratified by the Romanian Law 96/1992.

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**III.FUTURE OF THE SOCIAL DIALOGUE IN ROMANIA**

Social dialogue is an invaluable mechanism for the design of policies to fit national priorities. Furthermore, it is a strong basis for building the commitment of employers and workers to the joint action with governments needed to overcome the crisis and for a sustainable recovery.

Assuming new responsibilities of the social partners, use a higher grade instruments as provided by the Treaty on European Union, increasing quality of industrial relations and emphasize the principle of subsidiarity in the implementation of agreements reached between the social partners at Community level are imperative aspects.

Strong political determination is required to use the existing instruments of dialogue during crisis conditions, adapting them if necessary. At the national level, social dialogue will be very useful in finding the necessary balance between macroeconomic stability, employment growth and the protection of the most vulnerable sectors.