

Social dialogue in Romania

The International Labour Organisation (ILO) defines social dialogue as covering all types of negotiation, consultation, or exchange of information between government representatives, employers and workers on issues of common interest relating to economic and social policies. The process of social dialogue can take the following forms:

- Bipartite (employers' organisations – trade unions) or
- Tripartite (involving the government as an official party to the dialogue); Informal or institutionalised;
- Taking place at national, regional, or company level;
- Inter-professional, sectoral, or a combination of the two.

These instruments guarantee the right of workers and employers' organisations to negotiate work conditions on a voluntary basis without external interference and to be consulted by national authorities on matters which fall within the scope of ILO's activity (tripartite consultations). Romania has ratified all these conventions.

An important distinction to be made is that between **social** and **civic dialogue**. While *social dialogue* takes place between representatives of employers and workers, alongside central or local authorities, the participants in *civic dialogue* are both employers' organisations and trade unions, as well as representatives of civil society (NGOs), which may be joined by representatives of the Government or other public authorities. The social partners are therefore employers' organisations and trade unions only, and this clarification is important for all the implications arising from the concept of social dialogue.

At ILO level, the main partners for social dialogue are the International Organisation of Employers (IOE), on the employers' side, and the International Trade Unions Confederation (ITUC) on the trade union side. The Employers' Confederation "Concordia" is the only IOE member confederation in Romania. Four trade union confederations in Romania are affiliated to ITUC (NBS, ALFA Cartel, CSDR, CNSLR – "Frăția").

Social dialogue at European level

European social dialogue is recognised in Articles 154 and 155 of the Treaty on the Functioning of the European Union (TFEU).¹ The European Commission is required to consult the social partners before submitting proposals in the field of social policy and on the content of such proposals², and they may decide, based on their officially recognised autonomy, to address the subject in a bipartite format.

¹ Treaty on the Functioning of the European Union, consolidated version, C 326/47, Art. 154, 155.

² Treaty on the Functioning of the European Union, consolidated version, C 326/47, Art. 154.

There are several structures involved in European social dialogue³:

1. Social dialogue committees

- The **Social Dialogue Committee (SDC)** is the main body for cross-sectoral social dialogue at European level. It is composed of representatives of employers and workers of the Member States, the European social partners, and representatives of the European Commission. It meets 3-4 times a year, adopts texts negotiated by both parties, and identifies potential future initiatives.
- **European Sectoral Social Dialogue Committees** – the forum where representatives of the European social partners at sector level can discuss specific issues. There are 43 sectoral committees currently.⁴

2. **Tripartite Social Summit** – is organised twice a year (one for each rotating presidency) and brings together the troika representatives of the rotating presidency of the Council of the European Union, of the European Commission, and of the social partners at the highest level. The aim of this forum is to ensure the effective participation of social partners in the implementation of EU economic and social policies in relation to the troika agenda.

3. **The Advisory Committees** – set up to support certain EU policies – have a tripartite structure (representatives of Member States and social partners). In this way, the European social partners can play an informal coordinating role. An example of such committee is the European Social Fund (ESF) Committee.

4. **Tripartite European Agencies** – the social partners are also represented on the Management Boards of the following European Agencies, thus directly contributing to the governance of these bodies:

- Eurofound;
- EU-OSHA – European Agency for Safety and Health at Work;
- CEDEFOP – European Centre for the Development of Vocational Training.

The social partners play an important role in the European Semester and in the national reforms assessed through this framework.

Social dialogue at national level

³ European Commission, DG Employment, Social Affairs and Inclusion, "Consulting European Social Partners: Understanding how it works", August 2011, < <http://erc-online.eu/wp-content/uploads/2014/04/2012-00292-E.pdf> >.

⁴ < <https://ec.europa.eu/social/main.jsp?catId=480&langId=en> >.



In Romania, social dialogue is regulated by the [Social Dialogue Law no. 62/2011 \(LDS\)](#). The civic dialogue at national level is carried out according to [Law no. 248/2013](#) on the organisation and functioning of the Economic and Social Council (ESC Law) and the [Rules of Procedure](#) of the Economic and Social Council (ESC ROF).

I. The social partners

The LDS defines the social partners as "trade unions or trade union organisations, employers or employers' organisations, as well as representatives of public administration authorities, which interact in the process of social dialogue". (Article 1 (a))

The participation of trade unions or employers' organisations in the institutionalised social dialogue is conditional on obtaining representativeness at national level, which gives the organisation concerned the status of social partner empowered to represent its members.⁵

Currently, the following organisations are representative at national level:

Trade Union Confederations:

- [National Trade Union Confederation "Cartel ALFA"](#)
- [National Trade Union Bloc](#)
- [The National Confederation of Free Trade Unions in Romania – "Frăția" \(Fraternity\)](#)
- [Meridian National Trade Union Confederation](#)
- [Confederation of Democratic Trade Unions of Romania](#)

Employers Confederations:

- [Employers' Confederation "CONCORDIA"](#)
- [National Council of Small and Medium-Sized Private Enterprises in Romania](#)
- [General Union of Romanian Industrialists](#)
- [Romanian National Employers' Organisation](#)
- [Employers' Confederation of Industry, Agriculture, Construction and Services in Romania – CONPIROM](#)

| Cumulative conditions to obtain the certification of representativeness at | |
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| Trade unions (Art. 51(1)A LDS) | Employers' organisations (Art. 72(1)A LDS) |
| <ul style="list-style-type: none"> • Having the legal status of trade union confederation (two or more trade union federations from different sectors of activity – Art. 41(3)); • Organisational and patrimonial independence; | <ul style="list-style-type: none"> • Having the legal status of employers' confederation (two or more employers' confederations – Art. 55(c)); • Organisational and patrimonial independence; |

⁵ Social Dialogue Law no. 62/2011, Art. 1(t).



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| <ul style="list-style-type: none"> • Member trade unions account for at least 5% of the number of employees in the national economy; • Existence of territorial structures in 50% +1 of Romanian counties, including | <ul style="list-style-type: none"> • Member employers' organisations account for at least 7% of all employees in the national economy, except for those in the public sector; • Existence of territorial structures in 50% +1 of Romanian counties, including Bucharest. |
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The fulfilment of the conditions necessary to obtain representativeness shall be established by **a court decision**, at the request of the trade union or employers' organisation concerned, after the submission of the representativeness file, which shall contain the documents listed in the table in Annex II, by:

- a) Trade union organisation – the same court that granted the status of legal entity – the court that has territorial jurisdiction over the organisation's registered office).
- b) Employers' organisation – Bucharest Tribunal.

Despite the attempt to reform social dialogue and related issues through Law no. 62/2011, it remains weak, mostly perfunctory in nature, amid a high degree of fragmentation, low capacity of the social partners, and lack of trust, in the absence of a long experience of dialogue. These issues are also raised by the European Union, even years later. In the [2019](#) and [2020](#) Country Reports, the European Commission draws attention to the limited involvement of social partners in policy-making and the limited role played by ESCs and social dialogue committees.⁶

Problems of social dialogue in Romania

1. High degree of fragmentation

The number of trade unions and employers' organisations in Romania is still relatively large, which leads to a high degree of fragmentation and a low level of representation. As far as employers' organisations in particular are concerned, this is evidence that the business environment is not sufficiently consolidated. Coupled with a relatively low degree of association, the five representative employers' confederations have a relatively low coverage at the level of the national economy.

Currently, the social partners obtain their representativeness based on the aforementioned court decisions. The current tendering procedure is profoundly ineffective and, in the absence of transparent control mechanisms, there is a suspicion that some of these organisations are not in fact representative. The veracity of the data included in the declarations submitted in the representativeness file is not verified by the courts, and the entire procedure involves excessive bureaucracy, and the traceability of the included data

⁶ European Commission, *2019 Country Report on Romania, including an in-depth review on the prevention and correction of economic imbalances*, SWD(2019) 1022 final, 27.02.2019; European Commission, *2020 Country Report on Romania*, SWD(2020) 522 final, 26.02.2020.



cannot be ensured.

2. The incongruity of sectoral interests and low number of economic sectors

In Romania, trade unions mainly represent the public sector, while employers' associations are set up exclusively by the private sector, which makes it difficult to reach common goals and agreements between the social partners.

[GD no. 1260/2011](#)⁷ provides a list of 29 sectors of activity according to which trade unions/employers' organisations can be established.⁸ This classification is limiting and fails to reflect the current economic diversity. Therefore, in the absence of common interests among employers derived from similar characteristics of their field of activity and working environment, it is rather difficult for employers from such widely differing fields to associate in federations at sectoral level. This is also one of the reasons why sectoral negotiations between trade unions and employers' organisations are not sufficiently well developed.

This issue is also mentioned in the European Semester Country Reports and Recommendations prepared by the European Commission. They state that the delineation of sectors reflects the diversity of the economy and does not allow sufficient representation of workers or employers, and discussions on the review of economic sectors have stalled.

3. Low organisational capacity of social partners

The high degree of fragmentation also determines a low organisational capacity due to the lack of resources. The social partners do not benefit from sufficient resources, financial or otherwise, to undertake concrete, coherent, and documented actions in bi- and tripartite social dialogue, which significantly sways the perception of the authorities, which tend to treat them less seriously, as well as the functioning of bi-partite social dialogue at sectoral and national level. This type of negotiations and consultations, in order to be carried out in a meaningful manner, need resources for documentation, analysis, substantiation, and negotiation. As the issues facing society, and hence the social partners, are new and more complex (see, for example, the transitions to the green and digital economy and the future of work in this context), the need for resources also grows.

At the same time, the low organisational capacity and autonomy limit the possibility of the Romanian social partners to implement the autonomous framework agreements concluded by the European social partners. Until now, only one Teleworking Agreement has been implemented in Romania by law.

4. Lack of trust

There is a historical lack of trust between the social partners, which often prevents reaching a consensus and therefore a solution to various problems of common interest. One of the reasons is the politicisation of relations between the social partners, who receive a faster response or more support from policy-makers in certain circumstances than they from social partners (circumstantial shortcut).

⁷ Decision no. 1260/2011 on the sectors of activity established according to Law no. 62/2011.

⁸ Social Dialogue Law no. 62/2011, Art. 42 and Art. 55.



II. Economic and Social Council (ESC)

[Law no. 248/2013](#) on the organisation and functioning of the Economic and Social Council defines this institution as an advisory body of the Parliament and of the Government of Romania, a public institution of national interest, tripartite and autonomous, sharing the same core philosophy as the European Economic and Social Committee (EESC)⁹. The ESC shall have competence in the following areas:

- Economic policies;
- Financial and fiscal policies;
- Labour relations, social protection, wage policies, equal opportunities and treatment;
- Agriculture and rural development;
- Environmental protection and sustainable development;
- Consumer protection and fair competition;
- Cooperation, liberal professions, self-employment;
- Citizens' rights and freedoms;
- Healthcare;
- Education, youth, research, culture, and sport.¹⁰

This institution aims to facilitate dialogue at national level between employers' organisations, trade unions, and representatives of civil society (NGOs).¹¹ A civic dialogue is therefore taking place at ESC level.

| Responsibilities of the ESC ¹² | | |
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| What can it do? | Based on what? | Notes |
| Issue advisory opinion on regulatory acts and draft legislation in the fields in which it has competence (Art. 5(a)) | Consulting the ESCs on regulatory acts initiated by the Government or legislative proposals put forward by members of Parliament is mandatory (Art. 2(1)) | <ul style="list-style-type: none"> • Opinions are adopted by a qualified majority by plenary vote (2/3 of the members of the ESC) (Art. 6(6)) • The time-limit to complete the review and issue an opinion on the regulatory acts is maximum 10 working |
| Providing insights and recommendations on economic and social state of affairs, developments, or events | Ex-officio referral or referral from any public authority, trade union or employers' organisation | |

⁹ Law no. 248/2013 on the organisation and functioning of the Economic and Social Council, Art. 1.

¹⁰ Law no. 248/2013 on the organisation and functioning of the Economic and Social Council, Art. 2(2).

¹¹ Law no. 248/2013 on the organisation and functioning of the Economic and Social Council, Art. 1(2).

¹² Law no. 248/2013 on the organisation and functioning of the Economic and Social Council.



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| at national level, subsequently communicated to the authorities, institutions, employers' organisation or trade unions, or NGOs with responsibilities, competences, or interests in | representative at national level, or from civil society representatives (Art. 2(3)) | |
| Prepares analyses and studies on economic and social realities (Art. 5(b)) | At the request of the Government, Parliament, or on its own initiative (Art. 5(b)) | |
| Signals to the Government or Parliament the occurrence of economic and social phenomena that require new regulatory acts to be drafted (Art. 5(c)) | | |
| Analyses and proposes measures to improve the implementation of international agreements and conventions to which Romania is a party and of the assistance programmes initiated by international bodies, in its own field of | | |

III. National Tripartite Council for Social Dialogue

The National Tripartite Council for Social Dialogue (CNTDS) is a national advisory body comprising of social partners, set up to maintain the tripartite social dialogue at the highest decision-making level.¹⁴ The CNTDS is chaired by the Prime Minister or, in their absence, by the Ministry¹⁵ of Labour and comprises of:

- a) Presidents of the nationally representative employers' and trade union confederations
- b) Representatives of the Government, at least at the level of Secretary of State, from each Ministry, and representatives of other State structures, as agreed by the social partners
- c) The representative of the NBR, the president of the ESC, and other members agreed by the social partners.¹⁶

The CNTDS is responsible for issues pertaining to minimum wages, programmes and strategies developed at government level, social dialogue, social and economic disputes, collective agreements at sectoral level.¹⁷

¹³ Law no. 248/2013 on the organisation and functioning of the Economic and Social Council, Art. 9.

¹⁴ Social Dialogue Law no. 62/2011, Art. 75.

¹⁵ Social Dialogue Law no. 62/2011, Art. 77.

¹⁶ Social Dialogue Law no. 62/2011, Art. 76.

¹⁷ Social Dialogue Law no. 62/2011, Art. 78.



The main problem in relation to the CNTDS is the lack of consistency in the frequency of its meetings, despite the important role it should play as a forum for social dialogue at the highest level. There is also draft legislation of major importance which should not be discussed only at ESC level. We therefore believe that the CNTDS should hold meetings at least once a month or once every two months, and that the frequency of meetings should be provided for either in the LDS or in its Organisational and Operational Rules. At the same time, the meetings should be based on an agenda communicated in a reasonable time, consisting of clear, topical topics of interest for the social partners, which fall within the remit of the CNTDS.

We believe that this body should be the direct link between employers, trade unions, and the Government, thus contributing to the development of social dialogue in Romania. That is why our proposals focus on ensuring constant interaction between the social partners.

