

DESK RESEARCH ROMANIA

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Introduction

The labour market in Romania has undergone significant changes in recent years, with economic transition from socialism to capitalism and globalisation having a profound impact on the functioning of trade unions. Despite these challenges, the trade union system in Romania appears to be relatively resilient compared to some other countries in Europe. According to data from the National Trade Union Confederation (Cartel Alfa), as of 2021, there were approximately 1.5 million trade union members in Romania, representing around 20% of the total workforce. However, this is a decline from the peak of trade union membership in the early 1990s, when trade union density exceeded 80%.

This report provides an overview of the current state of trade unions in Romania, exploring their membership and bargaining power, as well as their role in decision-making. We examine the factors that have contributed to the decline of trade unions in Romania, such as the financialization of the economy and the liberalization of labour markets. Additionally, we explore the unique characteristics of the Romanian labour market and the historical experience of trade unionism in Romania that have enabled the trade union system to remain relatively strong. Through a review of the relevant literature and data analysis, this report aims to provide a comprehensive understanding of the challenges and opportunities facing trade unions in Romania today.

1. Development of trade unions in historical perspective

The history of trade unions in Romania dates back to the late 19th century, when workers in the textile and metal industries formed the first unions. The trajectory of trade unions in Romania has been significantly impacted by the country's political and economic conditions. The first professional association, the Association of Printing Workers in Bucharest, was established in 1858. However, it ceased its activity in 1871. In 1872, the General Association of all workers in Romania was founded.

After 1900, unions were established within specific professions or related professions. On February 22, 1905, the Carpenters' Union, was established, followed by the establishment of the General Commission of Trade Unions in Romania in 1906. In the same year, the general statute of the trade union movement was adopted, and mutual aid houses for trade unions were established.

Between 1919 and 1921, the development of trade unions accelerated, and by 1924, trade unions were reorganized as legal entities. In 1949, all trade union assets were collected under the umbrella of the General Confederation of Labour, which was established in 1945.

During the communist era (1945-1989), trade unions were controlled by the state and lacked independence. They were considered a tool for the government to control and manipulate the workforce, but they also played a crucial role in providing basic social benefits such as health care, education, and housing to workers.

After the fall of communism in 1989, trade unions in Romania began to gain more independence and freedom. The first free and independent trade unions were established in 1990, and the number of unions rapidly grew in the following years.

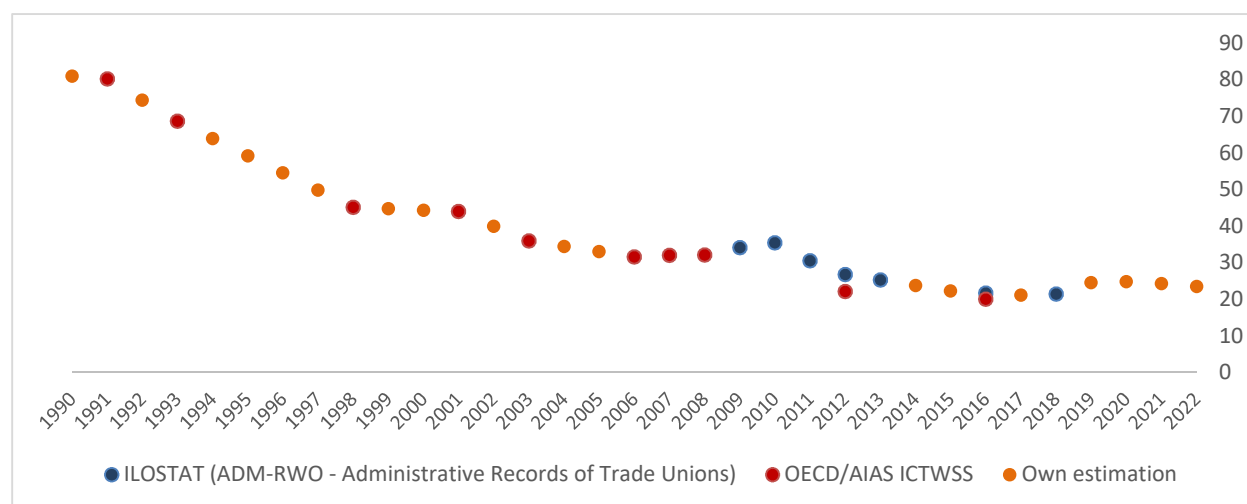
In January 1990, the Romanian Drivers' Union (Sindicatul Soferilor din Romania) was established, bringing together employees from the Heavy Equipment Company for Construction and the Bucharest Autobase. In February 1990, the Romanian Drivers' Union, with 250,000 members, joined forces with the Independent Free Trade Union "Policolor" Bucharest (Sindicatul Liber Independent "Policolor") and the Free Trade Union "Aviație" (Sindicatul Liber "Aviatie") to form the Trade Union Confederation "Brotherhood" (Confederația Națională Frăția). In March 1990, the National Confederation of Free Trade Unions in Romania (CNSLR) was established. However, some members later left the CNSLR to form the Cartel Alfa Trade Union (Confederația Națională Sindicală "CARTEL ALFA" - (C.N.S. "Cartel Alfa").

In 1993, the CNSLR- Frăția was formed after the merger of the two unions (CNSLR and CSI Frăția). Later, several federations split from the CNSLR-Brotherhood to establish the Confederation of Democratic Trade Unions in Romania (CSDR). In 2004, the CNSLR-Frăția and the National Trade Union Bloc announced plans to merge, but the proposal was abandoned by the end of the year.

In 2007, the CNSLR-Frăția, along with the National Trade Union Bloc and CSN Meridian, formed the Alliance of Trade Union Confederations in Romania (ACSR). This was a legal entity with a defined status, headquarters, and management structure, and represented the first step towards merging the three trade union confederations.

At its peak, the trade union density in Romania, which measures the proportion of workers who are union members, reached around 80% in the early 1990s. Since then, the trade union density has steadily declined and currently stands at around 23%¹. The decline is attributed to several factors, including the negative impact of economic reforms, the growth of the informal economy, and the weakening of the collective bargaining system. However, union density is higher in Romania, compared to many other countries in Central and Eastern Europe, with approximately 20 to 25 percent of the workforce being unionized. The trade union density is displayed in the Figure 1. Data are compiled from ILOSTAT (ADM-RWO - Administrative Records of Trade Unions), ICTWSS database (OECD/AIAS - Amsterdam Institute for Advanced Labour Studies) and our own estimations based on the number of members reported by main Trade Unions and number of employees.

Figure 1: Trade Union Density



Source: OECD

Currently, the functioning of the Trade Unions is regulated by Art. 9 of the Romanian Constitution, Art. 214 of the Labour Code and Law no. 62/2011 regarding social dialogue.

¹ It is difficult to assess very accurate this indicator, since data are unreliable and often conflicting, depending on the source. Moreover, only the Unions keep the record of members.

Trade unions formed and registered may be affiliated with trade union federations, trade union confederations or territorial trade unions. Generically, they will be designated under the name of trade unions.

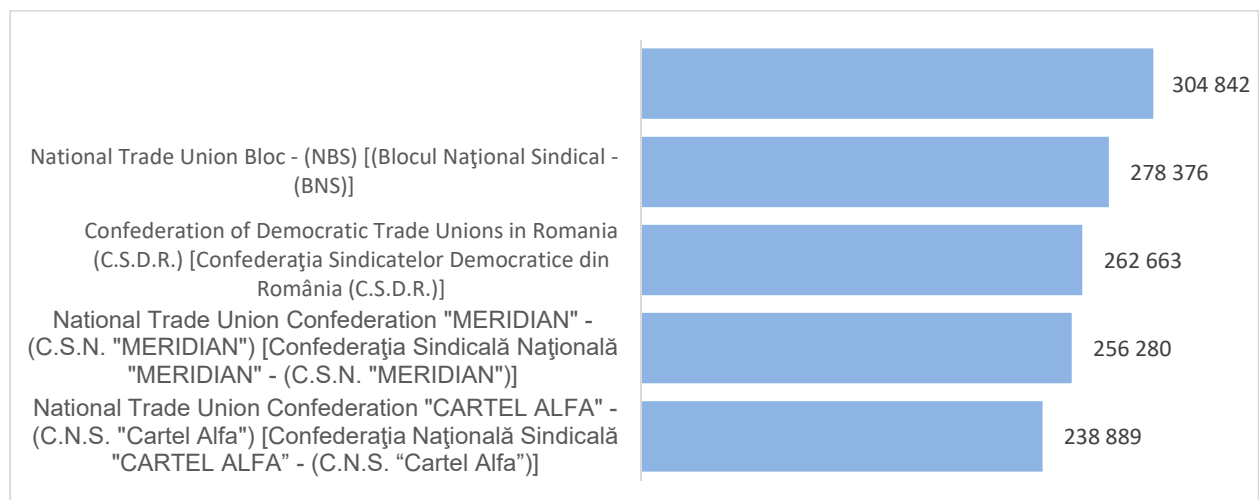
Trade unions can be associated, according to the criteria of the sectors of activity, in the following trade unions:

- Trade union federations - established by the association of two or more trade unions from the same sector of activity;
- Trade union confederations - established by the association of two or more trade union federations from different sectors of activity;
- Territorial trade union unions - constituted by federations and confederations of component trade unions.

A trade union can be affiliated, at national level, to a single trade union federation. Also, a trade union federation may be affiliated, at national level, to a single trade union confederation. Trade unions can also join similar organisations (federations and confederations) at European or international level.

At present, the union landscape is divided into five different confederations, namely CNSLR-Frăția, BNS CNS Cartel Alfa, CSDR, and CSN Meridian, each having similar membership numbers and a range of affiliated federations (Figure 2).

Figure 2: Trade Union Confederations and their membership number



Source: Ministry of Labour and Social Protection,

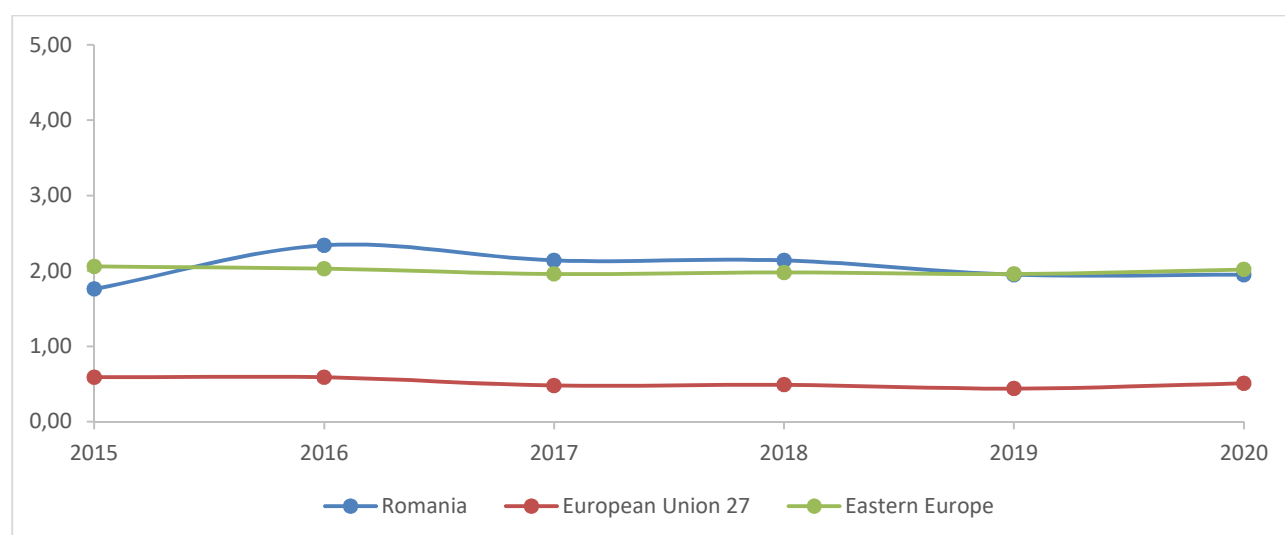
Approximately 1.3 million individuals in Romania are affiliated with trade unions. This estimate is reliable as the confederations are required to report their membership numbers to obtain national representative status, and these reports are made available on the website of the Ministry of Labour and Social Protection. These five main union confederations are all very similar size, mainly due to the requirement to have at least 5% of total employment in membership to be nationally representative. Therefore, they all need to have at least around 250,000 members to keep that status.

In recent years, trade unions in Romania have faced challenges such as declining membership, lack of support from the government, and difficulties in organizing workers in the informal economy. Despite these challenges, trade unions continue to play an important role in advocating for workers' rights and better working conditions in Romania.

1.2. An overview of collective bargaining in Romania

In terms of freedom of association and collective bargaining (FACB) level², Romania reaches a lower level than the European Union (27) average but is situated at a similar level with the Eastern European level, see Figure 3 below.

Figure 3: Freedom of association and collective bargaining (FACB) level



Source: ILO,

² The measure the level of national compliance with fundamental labour rights (freedom of association and collective bargaining or FACB) is made by ILO based on six ILO supervisory body textual sources and on national legislation. It has a range from 0 to 10, with 0 being the best possible score (indicating higher levels of compliance with FACB rights) and 10 the worst (indicating lower levels of compliance with FACB rights)

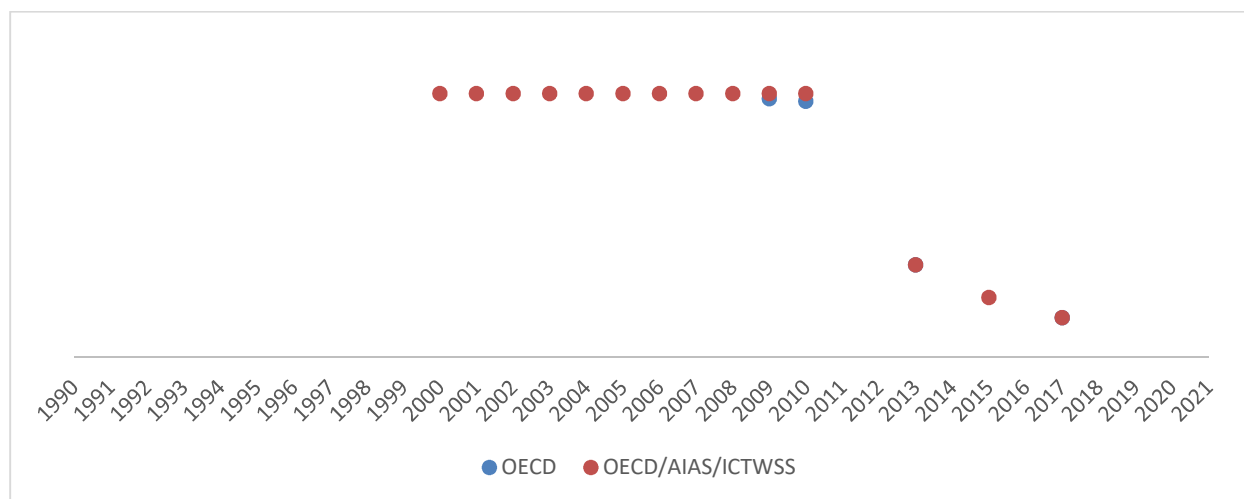
In Romania the collective bargaining is regulated by the Law 367/2022 which entered in force at the end of December 2022. This replaced the old regulation covered by the Law 62/2011 on social dialogue.

According to the Law 367/2022, the collective bargaining is mandatory both at group level, if the unit has at least 10 employees, and sectoral level³. At group (company) level, the employer or the employees can initiate the negotiation process. If they do not, the representative union will initiate it. The negotiation process must be completed within 45 calendar days, unless both parties agree to an extension.

During the collective bargaining, the employer must provide the trade union/employee representatives with supplementary information including plans for organizing work, setting work schedules and determining work hours for the upcoming contractual period, measures to safeguard employee rights in the event of a transfer of a business or parts thereof, and proposals for enhancing employee safety and well-being at work for the forthcoming contractual period.

The collective bargaining coverage is presented in the Figure 5.

Figure 4: Collective bargaining coverage



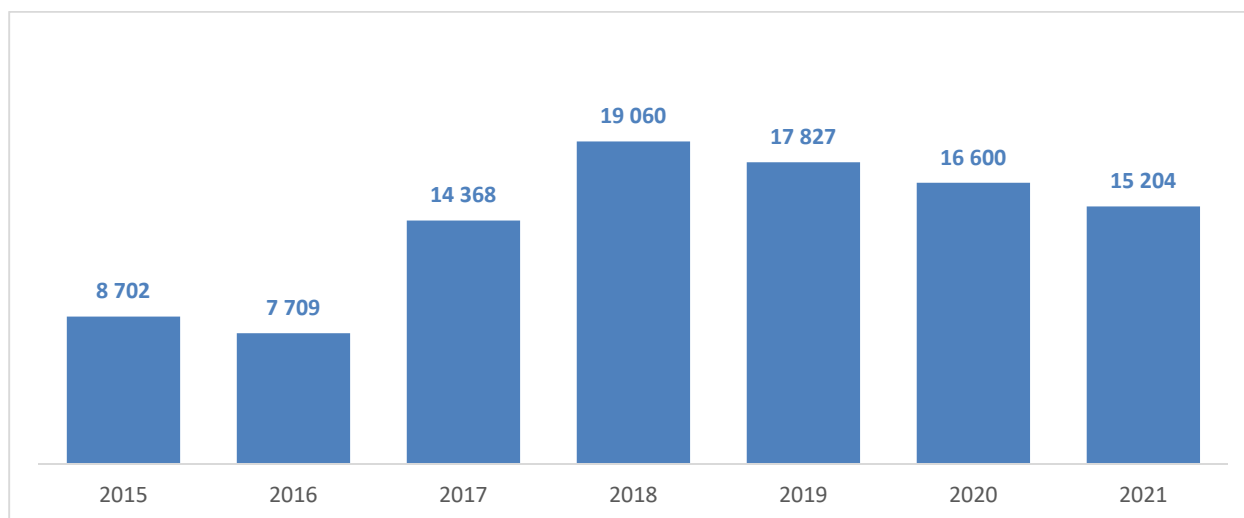
Source: OECD/AIAS/ICTWSS

³ Sector agreements (when the signing employers' organisations represent more than 50% of the employees in the sector) and group-level agreements (when the share is below 50%).

Even though sectoral collective bargaining is mandatory, in practice there are very few agreements. For instance, in 2021 no collective agreement was concluded. Instead, collective bargaining at group level (company) are more present.

Figure 5 highlights the number of collective agreements (at company level) concluded between 2015 and 2021.

Figure 5: Number of collective agreements at company level



Source: Ministry of Labour and Social Justice, and Labour Inspection Office (2021)

There is a poor collective wage bargaining coverage. According to Eurofound, European Company Survey (2019), in 2019 the collective wage bargaining coverage was 48% of all employees (at all levels). In 2020, Romanian Labour Inspections estimates that 32% of employees are covered by such an agreement (estimation available only at company level).

1.3. The Covid 19 crisis impact on the union movement

In the year 2020, a major focus of the national trade unions was their involvement in the creation of government initiatives aimed at mitigating the impact of the COVID-19 pandemic on the workforce. These initiatives included short-time work, technical unemployment, and compensation for child care during school closures. However, the trade unions initially expressed criticism of the emergency ordinance that introduced short-time work, alleging that it gave employers too much control over changing work schedules without consulting employees or unions. Following negotiations and the threat of protests,

the unions were able to secure amendments to the bill that were more favourable to employees.

In light of the increase in unemployment, the national trade unions called for an increase in unemployment benefits, which had remained unchanged since 2008. They argued that, according to the ILO Convention 168/1988 ratified by Romania, unemployment benefits should be a minimum of 50% of the minimum wage for those without unemployment insurance, and 50% of their last wage for those with insurance.

The trade unions also played a role in discussions surrounding a draft law to amend the Social Dialogue Act (62/2011 - Law 367/2022 was finally entered in force and replaced the Law 62), advocating for modifications to revitalize collective bargaining, defend freedom of association, and simplify the criteria for organizing strikes. The number of nationally representative trade unions remained unchanged from 2019, and the level of multi-employer collective bargaining remained low, with only five multi-employer collective agreements reached in 2020, compared to nine in 2019. Two sector-level agreements from 2019 continued to be in effect in the public health care and pre-university education sectors.

In the initial months of 2020, prior to the declaration of a state of emergency, three labour disputes were recorded, which was two fewer than in the same period in 2019. During the state of emergency, no labour disputes were recorded as all collective agreements were automatically extended, and no collective bargaining took place. In the third quarter of the year, only three labour disputes were recorded, and the number of employees involved decreased from 2,501 to 1,471.

2. Legal and political-economic context for trade unions

Trade unions in Romania are established and operate under a series of legislative regulations. The main sources of the current legislative framework are the Romanian Constitution, the Labour Code and the Social Dialogue Law, which has undergone several amendments over the years.

The right to work, social protection of labour, freedom of association and the right to strike are guaranteed by the Romanian Constitution (1991) amended and completed by the Law No. 429/2003 on the revision of the Constitution of Romania, as follows:

- For the right of association, article 40 states that *“Citizens may freely associate in political parties, trade unions, employers' organisations and other forms of association”*.
- Article 41 refers to labour and social protection of labour and stipulates the following rights: *“(1) The right to work may not be restricted. The choice of profession, trade or occupation and of place of work shall be free. (2) Employees shall be entitled to social protection measures. These concern the safety and health of employees, the working arrangements for women and young people, the establishment of a minimum gross wage in the country, weekly rest, paid rest leave, work under special or special conditions, vocational training, and other specific situations established by law. (3) The normal working day shall not exceed 8 hours on average. (4) For equal work, women shall receive equal pay with men. (5) The right to collective bargaining in labour matters and the binding nature of collective agreements are guaranteed.”*
- The forced labour is prohibited by article 42.
- The right to strike is provided by article 43 ruling that: *“(1) Employees shall have the right to strike in defence of their occupational, economic and social interests. (2) The law shall lay down the conditions and limits for the exercise of this right, as well as the guarantees necessary to ensure essential services for society.”*

Labour Code (Law 53/2003) governs the field of labour relations, the way in which the enforcement of labour relations regulations is carried out, as well as labour jurisdiction.

The legal landscape of Romanian industrial relations is amid transformation. Positive changes are expected by social partners through a new Social Dialog Law (SDL) after many years of struggling to overcome the negative impact of the labour legislation changes in 2011.

In the following sections, we will refer to the organisation and activity of trade unions regulation in relation to SDL 62/2011 in force by December 2022, as time is too short for the new SDL 367/2022 to have produced effects in this respect , and which is already subject to legislative amendments/adjustments (Ministry of Labour and Social Solidarity, 22 March 2023) together with Law 53/2003 (Labour Code) which should be correlated

accordingly. However, we will mention the long-awaited important changes comprised in the latter.

2.1 Legal framework for trade unions: representation and functioning of trade unions; tripartism, bipartism, collective bargaining and resolution of collective labour disputes; rights for unionisation and strike; legislation for collective bargaining.

The social partners in Romania are now implementing a new Social Dialogue Law (367/2022) published in the Official Monitor no. 1238/ 22 December 2022. With this new act, the legislator has chosen to expressly abolish the old Social Dialogue Law 62/2011. For more than 11 years, in Romania, the trade unions organisation, representativeness and its entire activity (including collective bargaining, freedom of association, labour disputes, organisation of strikes) have been regulated and deeply negatively affected by the older one. Other social partners, such as employers' organisations, have also been affected by the negative effects of this law, which, although designed to improve social dialogue, has managed to do exactly the opposite. This law has been strongly criticized in the coming years (Stoiciu, 2016, ILO, 2021) because it has weakened the role of the social partners in social dialog and reduced trade union rights and even raised the discrimination phenomenon. It has also forcibly decentralized collective bargaining (European Trade Union Institute, 2016).

One of the main changes concerning trade unions brought about by the new Law on Social Dialogue (SDL) reduces the percentage required for a trade union to become representative, stating that a trade union can be representative if it comprises at least 35% of the employees/workers in a legal employment/service relationship with the company in question (as opposed to at least 50%+1, as was the case in SDL 62/2011).

Furthermore, the conditions for setting up a trade union are now more flexible, a trade union can now be set up by at least 10 employees in the same unit (as opposed to 15, as was the case in SDL 62/2011) or at least 20 employees in different units but in the same sector. Also, the possibility of union membership has been extended to include, for example, unemployed or self-employed workers. However, unemployed trade union members will not be considered when determining the number of trade union members in relation to which trade union representativeness is established.

Another important change is the mandatory requirement for trade union representativeness for collective bargaining at sector level or unit group level that member trade union organisations should have a membership of at least 5% (as opposed to 7%, as was the case in SDL 62/2011) of employees/workers in the collective bargaining sector or unit group, as appropriate.

Concerning employee representatives, the new regulations extend the scope of situations in which the representation of employees' interests is allowed, stating that in an employer where at least 10 employees/workers are employed (as opposed to at least 21 employees, as was the case by now) and where there is no trade union, the interests of employees/workers may be promoted and defended by their representatives, elected and mandated specifically for this purpose, in accordance with the law.

The new law also reintroduces the possibility of a national collective labour agreement, as SDL 62/2011 abolished collective bargaining at national level.

Given both the adverse effects of the old law on industrial relations and the recent legislative changes aiming to optimize them, the main changes in fundamental rights of unions over the years are presented in a comparative register in Table 1.

Referring to SDL 62/2011, Eurofound (2022) summarizes the industrial action and disputes in Romania as follows: The strike cannot be declared unless all other legally binding mechanisms for the reconciliation have been exhausted and a warning strike has taken place. A strike cannot be organized during the period of application of the collective agreement that is in force or during the mediation and arbitration procedures (or if so, it is considered illegal).

Table 1. Main changes in fundamental rights of trade unions

		Before Social Dialog Act - SDA 62/2011	Key changes after adoption of SDA 62/2011	Key changes after adoption of SDA 367/2022
Collective Bargaining	<i>National level</i>	Trade unions negotiate collective labour agreements (CLA) annually national, cross-industry collective agreements, binding on all.	Unions cannot negotiate national and cross-sectoral CLAs. Collective agreements can be negotiated at unit, group and sector level.	CLAs can be negotiated: ✓ at unit level, ✓ at unit group level, ✓ at sector level ✓ at national level
	<i>Sector level</i>	20 sectors (out of a total of 32) were covered by CLA in 2011	0 CLAs active at sectoral level in 2021, with only a few at group of units and units' level.	

	<i>Company level</i>	Trade unions were considered representative if their density was $\geq 33\%$. Union representatives could take up to five days paid leave per month to deal with union affairs.	Unions are considered representative if their density is $\geq 50\%+1$ and the component trade union organisations have a combined membership of at least 7% of the workforce in the sector or group of units. => Unions with a density below 50% are not entitled to conclude CCs, but can ask representative union federations to negotiate on their behalf. Collective bargaining is only compulsory at unit level, unless the unit has fewer than 21 employees. Union representatives can take up to five days unpaid leave per month to deal with trade union matters.	Unions are considered representative if their density is $\geq 35\%$ and member trade union organisations have a membership of at least 5% of the employees/workers in the collective bargaining sector or group of units. Collective bargaining is mandatory at the unit level with at least 10 employees/workers and at the level of the collective bargaining sector. Trade union federations may be representative simultaneously in several collective bargaining areas, at the level of several groups of units or at the level of several units.
<i>Freedom of association</i>		A minimum of 15 employees from the same profession can form a trade union.	A minimum of 15 employees from the same company is required to form a union. => Trade unions cannot be formed in more than 90% of companies in Romania with less than 15 employees.	A minimum of 10 employees from the same company is required to form a union.
<i>Actions of protest</i>		Conciliation/mediation before the strike was not compulsory. Trade unions had the right to organize protest actions to enforce the CLA.	Conciliation/mediation mandatory before initiation of the protest. Employees do not have the right to strike if: - CLA provisions do not apply; - Settlement of the dispute requires legislative changes.	Conciliation/mediation mandatory before initiation of the protest. Employees do not have the right to strike if: - CLA provisions do not apply, now with some exceptions at sectoral level. - Settlement of the dispute requires legislative changes.

Source: Trif (2015), SDL367/2022

The law regulates two other types of industrial actions: the solidarity strike and the warning strike. The solidarity strike is declared with the aim of supporting the demands of the employees from other companies belonging to the same group of units or to the same sector. It cannot last more than one working day. The warning strike must last a maximum of two hours and must be organised at least two days before the ‘main’ strike.

Under the SDL 62/2011, the decision to declare a strike could be taken by the representative trade union organisations participating in the collective labour dispute only with the written agreement of at least 50% plus 1 of the members of these trade union.

In the SDL 367/2022 it is stated that: the decision to declare a strike shall be taken by the trade union organisations entitled to negotiate the collective labour agreement and which have initiated the collective labour dispute; in the absence of representative trade unions, the decision to strike shall be taken by non-representative trade unions with the written agreement of at least one quarter of the employees/workers of the establishment (same regulation for the employees in units without any union organisation).

In Romania, social dialogue between stakeholders takes place at both bipartite and tripartite levels which are regulated by the social dialog law. The SDL 367/2022 defines bipartite social dialogue as “dialogue conducted only between trade unions/trade union organisations and employers/employer organisations” while tripartite social dialogue is defined as “dialogue between trade unions/trade union organisations, employers/employers' organisations and central/local government authorities”.

Bipartite social dialogue can take the form of an autonomous dialogue (trade unions, employers), without any involvement of the Government in its regulation and organisation, or it is understood as a dialogue between trade unions and employers, expressed within the framework of compulsory collective bargaining (regulated by law) or in the form of consultation between Government - trade unions or Government - employers for the solution of problems of economic and social interest. Autonomous (bipartite) dialogue goes beyond legislative regulation and is based on mutual respect between the partners, voluntary capacity for action and negotiation, and committed involvement of the parties. However, practice shows that in Romania, autonomous dialogue remains misunderstood and poorly developed, due to the central role assumed by the Government throughout history in regulating and conducting collective bargaining and social dialogue in general.

The bipartite social dialogue is particularly evident in mandatory collective bargaining, regulated by law (old and new SDL), and in the procedure for settling collective labour disputes.

The Ministry of Labour and Social Solidarity describes the tripartite social dialog settings as taking place at different levels and taking the form of consultation and mutual information and, in the advanced form of social partnership, negotiation. Tripartite social dialogue at national level is manifested both in the institutionalised framework of the National Tripartite Council for Social Dialogue, a high-level structure regulated by Law 367/2011, and in other occasional tripartite consultation frameworks such as parliamentary working committees or other ad hoc structures such as interministerial committees. A particular manifestation of social dialogue at national level, similar to the social cooperation between the European institutions and the European Economic and Social Committee, is the consultation between Parliament/Government and the Economic and Social Council, set up as a structure for (civic) dialogue between representatives of civil society, i.e. the social partners and organised civil society organisations (see civic dialogue in the section 4.).

The main attributions of the Tripartite National Council, as stated in SDL 367/2022, are:

- to provide the framework for consultation on the setting of the guaranteed minimum wage;
- to debate and analyse draft programmes and strategies drawn up at government level;
- to develop and support the implementation of strategies, programmes, methodologies and standards in the field of social dialogue;
- to resolve social and economic disputes through tripartite dialogue;
- negotiating and concluding social agreements and pacts and other agreements at national level and monitoring their implementation;
- the establishment of collective bargaining sectors in which the social partners agree to bargain collectively, which shall be approved by Government decision;
- examining and debating trade union and employers' complaints submitted to the International Labour Office of the International Labour Organisation, in accordance with the provisions of its Constitution;
- examining and debating national reform programmes and country-specific recommendations made by the European Commission;
- to examine and debate the report on the revised European Social Charter requested by the European Committee of Social Rights and the report on the International Labour Organisation conventions ratified by Romania;

- reviewing at appropriate intervals the unratified Conventions and International Labour Organisation recommendations which have not yet been given effect, with a view to adopting measures to promote their implementation and ratifying them, where appropriate;
- consideration of questions arising from reports to be submitted to the International Labour Office under Article 22 of the Constitution of the International Labour Organisation;
- proposals for the denunciation of ratified Conventions;
- other tasks agreed between the Parties.

2.2. Political-economic context for trade unions: Relationship between political parties and the unions, ties and contradictions over the years; Power and strength of trade unions in social dialogue system

Political-economic context was a turbulent one for emerging trade unions in Romania after the fall of communist regime in 1989. One of the main tasks of the post-communist trade unions was the transformation from communist instruments of state control over the workplace into representation mechanisms of workers (Varga, 2013). The years of transition were extremely provocative for both gaining workers confidence and struggling to influence the new emergent labour landscape as all governments (no matter the political color) in the 1990s and early 2000s were highly committed to the privatization of the state-owned factories (mainly from heavy industry).

The influence of Romanian trade unions on state policies was strongest in the 1990s and progressively declined in the 2000s and beyond, becoming virtually insignificant after the government's unilateral legislative changes in 2011. The recession was used by the centre-right government as a pretext to reform the industrial relations system (Trif, 2013).

In the first 15 years of the Post Communist Europe transition, Romanian trade unions organized and participated in significant worker protests. However, while protest capacity stayed relatively high, the extent of influence over national policies decreased.

After the 1990s post-communist socioeconomic transition, privatizations often carried out without trade union consultation, and de-industrialisation process between 2000 - 2020

Romanian economy has started to gradually shift from industry to services, following the EU pattern, with impact on sectoral negotiations (PwC, 2022).

There is a complex relationship between trade unions and politics in Romania. From the perspective of organisational ties, despite the legal provision that trade unions do not get involved in politics, a few collaborations of trade union confederations with political parties were mentioned by scholars (Stoiciu, 2016; Trif, 2004). In many cases, trade unions have been politically involved and have used their influence to secure favourable labour laws. They have sought to use their political influence to advance their interests but have also faced criticism from members who see this as a betrayal of their role as worker representatives.

Some unions have formed cooperation agreements with political parties - CNSLR Frăția had several cooperation agreements with Social Democratic Party, while BNS cooperated with Great Romania Party switching to centre-right political alliance DA - and have used their electoral support to secure positions for union members on party lists (Stoiciu, 2016).

Some union leaders have switched to politics, becoming MPs or government officials themselves. For example:

- The leader of the CNSLR trade union in 1990 and founder of the Confederation of Democratic Trade Unions of Romania in 1994 became the Prime Minister of Romania from 12 December 1996 to 30 March 1998;
- The founder of the Confederation of Independent Trade Unions Brotherhood (CSI Frăția), which he led until 1993, when it merged with the CNSLR trade union, becoming Executive President in the resulting union – CNSLR Frăția occupied the position of Minister of Transport in 2000 – 2004;
- The President of the Federation of Free Trade Unions in the Wood Industry in 1990-1994 and Vice-President of CNSLR Frăția in 1992-1994 occupied the following positions: Secretary of State, Ministry of Labour and Social Protection 1994-1996, Minister of Labour and Social Protection 2000-2003, Minister Delegate for Relations with the Social Partners 2003-2004;
- The President of the Maramureș branch of the Free Education Trade Union in 2004 occupied the following positions: General Secretary of the Federation of Free

Education Trade Unions in 2007 occupied the following positions: Minister Delegate for Social Dialogue in 2012 and 2014-2015, and Minister of Education in 2017-2018;

- The President of Electrica Zalău Trade Union in 2003-2008 occupied the following positions: Minister of Economy, Trade and Business Environment in 2012; Minister of Transport, Infrastructure and Communications in 2019 - 2020; Minister of Internal Affairs from 2020 to present.

In addition, there were organisational ties at regional level, where union representatives could join local or county councils.

2.3 Challenges, threats and opportunities faced by trade unions in expanding their power and the scope and coverage of collective agreements

For many years the social dialogue process in Romania has been classified as rigid and inefficient at national level (by social partners) and in the international country evaluations (Chivu, Ciutacu, Dimitriu & Țiclea 2013, European Commission, 2019; ILO, 2022;), both legislative changes and the institutional architecture of the sectors contributing to this inefficiency (PwC, 2022).

Repeated violations of the rights of freedom of association and collective bargaining have been reported by the main trade unions in Romania and relevant international bodies. Notably, ILO Conventions C087, C098 ratified by Romania since 1958 have been infringed.

Studying the period between 2015-2019, Eurofound (2020, p. 42) noticed that “in Romania, the 2011 social dialogue reform was still having effects on social partners and institutions, with significantly reduced collective bargaining coverage at sectoral level. Meanwhile, collective bargaining at company level in 2018 barely achieved the number of agreements reached in 2008, and agreements were mostly negotiated with employee representatives, not representative trade unions.” Also, Romania was identified one of the European countries with ineffective involvement of social partners, with social dialogue practices requiring further action. Despite CSRs (Country Specific Recommendations) and CEACR (Committee of Experts on the Application of Conventions and Recommendations - ILO) persistently addressing the issue, the shortcomings identified in participation in Romania have remained almost unchanged throughout the years, and the effectiveness of social dialogue itself was characterized by stagnation.

As of PwC study conducted in 2022 for Concordia employer organisation, the majority of interviewed stakeholders (Ministry of Economy, CNS Cartel Alfa, CNSLR Frăția, BNS, UGIR, Employers' Federation of Financial Services, National Union of ITC, Support Services and Outsourcing Employees - SITT, Employers' Confederation Concordia) still found the social dialogue ineffective in Romania as a result of: the lack of social dialogue culture, in general; the lack of national objectives to support the process of social dialogue at all levels; the type of regulated sectors in the social dialogue process; the distribution of employees in companies; the rigidity of the tripartite social dialogue; the lack of legislation and strategy alignment to the structural changes of the Romanian economy; the lack of social partners on both sides for sectoral collective bargaining; the legal barriers for setting up trade unions, respectively the representativeness thresholds associated with Law 62/2011.

Currently, 30 sectors of activity⁴ cover the sectoral bargaining process in Romania, according to HG 1260/2011 (Ministry of Labour and Social Solidarity, 2011). For 20 of the 30 sectors there are no representative social partners on both sides of industry who could bargain collectively, which blocks the premises social dialogue (PwC, 2022).

According to Ministry of Labour and Social Solidarity, the situation of collective labour agreements at sectoral and unit level is presented in the Table 2 below.

⁴ defined according to the Statistical Classification of Economic Activities -NACE Rev. 2

Table 2. State of collective labour agreements by sector [2022]

Activities Sectors	employees [%]	CCM group [%]	CCM unit [%]
S1 Agriculture, aquaculture and fisheries. Forestry and hunting economy	2.4	0	3
S2 Mining and quarrying	0.2	0	1
S3 Energy, oil and gas and energy mining	3.9	0	1
S4 Food, beverage and tobacco industry	3.1	0	5
S5 Textiles, textile products, clothing. Leather and footwear	2.7	0	5
S6 Logging and primary processing of wood. Manufacture of paper and paper products	1	0	2
S7 Chemical and petrochemical industry and allied activities	2	0	2
S8 Manufacture of glass and fine ceramics. Manufacture of building materials - manufacture of other non-metallic mineral products	0.7	0	1
S9 Manufacture of basic metals	0.5	0	0
S10 Manufacture of machinery and equipment and of fabricated metal products	6.1	0	6
S11 Manufacture of electrical, electronic and fine mechanical equipment. Other industrial activities	1.8	0	1
S12 Manufacture of furniture. Other manufacturing	1.2	0	2
S13 Community services and utilities. Waste management, remediation and environmental protection activities	3.1	10	2
S14 Civil and industrial construction	7.5	5	8
S15 Commerce	14.9	0	13
S16 Land transport and related services	5.3	0	3
S17 Water transport and related services. Air transport and related services	0.8	0	1
S18 Post and courier services	0.8	0	0
S19 Tourism, hotels and restaurants	3.1	0	4
S20 Culture and media	1.9	0	1
S21 Information technology and telecommunications	3.3	0	1
S22 Financial, banking and insurance activities	1.6	5	1
S23 Assistance, consultancy and support services. Other service activities	10.3	10	7
S24 Public administration. Activities of extraterritorial organisations and bodies	5.6	19	2
S25 Pre-university education	5.1	29	4
S26 Higher education	1	5	0
S27 Health. Veterinary activities	5.2	14	2
S28 Social work	1.7	5	1
S29 Sports activities, gambling and betting. Other associative activities	2.7	0	1
S30 Scientific research and technological development	0.4	0	0

Source: Ministry of Labour and Social Solidarity - <https://dialogsocial.gov.ro/>

In the Recovery and Resilience Plan (RRP)⁵, the Romanian Government pledges to improve social dialogue by implementing a new social dialogue law (Law 367/2022 mentioned above) and by supporting the main stakeholders (including trade unions and employers' representatives) to have a relevant impact in the policy-making process (Ministry of Investment and European Projects, 2021). The RRP also addresses digitisation and transparency, both at the level of consultation processes and at the level of legitimacy of the social partners, by digitising representation. “From a social point of view, the RRP includes reforms regarding the setting of the minimum wage and the modernisation of the Romanian social benefit system with the help of a subsistence minimum, aimed at combating poverty and creating fairer working conditions” (Dumitriu, 2022, p.1), stressing the importance of consulting social partners. This creates new hopes and opportunities for trade union representatives in Romania to expand the power, scope and coverage of collective agreements and to boost public trust in the institution.

3. Trade unions strategies

Trade unions operate in a complex and rapidly changing environment, facing significant challenges in the form of global economic shifts, technological disruption, and political instability. In response to these challenges, trade unions in Romania have developed a range of strategies to protect the rights and interests of their members, including collective bargaining, social dialogue, political lobbying, and community mobilisation.

3.1. Organisational strategies in attracting members

Trade unions in Romania use a large combination of strategies to attract new members and strengthen their organisation. Online presence is the most common strategy for attracting members. All main trade unions have a website and social media pages to communicate with members and potential members. Through these they offer online resources, information about activities and initiatives, and promote the value of union membership.

In 2021, the Federation of Free Unions in the Petroleum and Energy Sector (FSLI) in Romania has launched a digital campaign aimed at attracting and engaging with members. Specifically, the campaign involves the launch of a new mobile application that allows

⁵ approved by the Council of the European Union on 28 October 2021

members to access a range of services and resources directly from their smartphones. The new mobile application provides a range of features and benefits for members, including access to news and updates, information on collective bargaining agreements, legal assistance, and training and education resources. The app also provides a way for members to communicate with the organisation and stay up-to-date on events and initiatives.

Recently (2023), the National Trade Union Bloc (BNS) in Romania has implemented a significant digital transformation strategy aimed at improving the organisation's ability to attract and retain members. The digital transformation strategy has involved the creation of a new online platform (mybns.bns.ro) that allows members to access a range of services and resources, including legal assistance, job postings, training and education materials, and information on collective bargaining agreements. The platform also provides a secure and convenient way for members to communicate with the organisation and stay up-to-date on news and events.

3.2 Strategies in collective bargaining processes: negotiations with social partners' organisations and state institutions, coalition building with other organisations;

The provision in the Romanian Constitution (Art. 41 (5)) guaranteeing the right to collective bargaining and the binding force of collective agreements is an important recognition of the role that collective bargaining plays in protecting the interests of workers and promoting social justice.

There is not available too much information about the particular strategies that trade unions have. However, they often mobilize their members to support their bargaining positions during negotiations. This can involve organizing strikes, work stoppages, and other forms of industrial action to put pressure on employers to negotiate in good faith. In some cases, the trade unions use data and research to support their bargaining positions, such as by presenting evidence on wages, benefits, and working conditions in their industry or sector. An example of using evidence-based arguments to support their bargaining positions came from 2019 when BNS mobilized its members and engaged in a series of negotiations with employers across several key sectors, including healthcare, education, and public administration. They proposed a minimum wage increase of 400 lei (about 90 euro) per

month, which would bring the minimum wage to 2,800 lei (about 600 euro) per month citing data showing that Romania has one of the lowest minimum wages in the European Union.

4. Trade unions, civil society and social movements

The relationship between trade unions, civil society, and social movements is complex and dynamic, with each group having a unique role to play in shaping the social and political landscape of Romania. The next section explores the intersection of these three groups, with a particular focus on the challenges and opportunities facing trade unions in the context of civil society and social movements in Romania.

4.1 The relationship between trade unions, civil society organisations and social movements: ties and contradictions over the years

The existing information and literature describe two types of possible relations (formal, informal) that should be considered referring to relationships between trade unions, civil society organisations and social movements.

On the formal side (regulated by law), both trade unions and employers' representatives agree on the importance of differentiating between social and civil dialogue (Concordia, 2021; BNS, ed.). Thus, the defining features of the two types of dialogue are described as follows: Social dialogue takes place between employers' and workers' representatives, plus central or local authorities. The participants in the civil dialogue are employers, trade unions and representatives of civil society (NGOs), to which may be added, in other formats, representatives of government or other public authorities; Social partners are only employers and trade union organisations.

The civic dialogue structure, CES is an advisory body to the Romanian Parliament and Government in the specialized fields established by law 248/2013. It is a public institution of national interest, tripartite, autonomous, set up for the purpose of carrying out tripartite dialogue at national level between employers' organisations, trade union organisations and representatives of non-governmental civil society associations and foundations. It is compulsory for the CES to be consulted on draft laws initiated by the government or on legislative proposals by deputies or senators, the result of which is expressed in advises on draft legislation.

The fields of expertise of the Economic and Social Committee are: economic policies; financial and fiscal policies; labour relations, social protection, wage policies and equal opportunities and treatment; agriculture, rural development, environmental protection and sustainable development; consumer protection and fair competition; cooperation, liberal professions and self-employment; citizens' rights and freedoms; health policies; education, youth, research, culture and sport policies.

CES has to comply with several tasks:

- approve draft legislative acts in the specialist areas mentioned above, initiated by the Government, as well as the legislative proposals of the deputies and senators, inviting the initiators to the debate on the normative acts;
- prepare, at the request of the Government, Parliament or on its own initiative, analyses and studies on economic and social realities;
- report to the Government or to Parliament on the emergence of economic and social phenomena requiring the drafting of new legislation;
- it can invite the initiators of the draft legislative act to take part in the debate, both in the standing committees and in the Plenary of the Economic and Social Council;
- no reasons shall be given for favourable opinions;
- opinions with comments and proposals shall contain full reasons for each objection or proposal;
- unfavourable opinions shall include a statement of reasons;
- opinions shall be adopted by a two-thirds majority of the members of the Economic and Social Council present, voting in plenary session;
- if an opinion cannot be adopted in accordance with the law, the views of the parties will be communicated to the initiator;
- the opinion of CES or the views of the parties shall be forwarded in writing to the initiator of the legislative act, signed by the president;
- establishes relations with national and international bodies and organisations in the social and economic fields;
- analyses and proposes measures to improve the implementation of international agreements and conventions to which Romania is a party, as well as assistance programs initiated by specialized international bodies in its own field of activity.

The advisory body shall examine the draft legislative acts received and shall deliver its opinion within a maximum of 10 working days of receipt of the request. If not, the initiator is entitled to submit draft legislation for adoption without the opinion of the Economic and Social Council.

CES also has attributions to both establish relations with national and international bodies and organisations in the social and economic fields and to analyse and propose measures to improve the implementation of international agreements and conventions to which Romania is a party, as well as assistance programs initiated by specialized international bodies in its own field of activity.

On the other side, the relationship not necessarily regulated by law, between trade unions, civil society and the social movements (including popular or mass protests) of the last 30 years in Romania reveals an ideologically divided society.

While the 1990s were dominated by trade union-led workers' social movements struggling to frame the political-economic scene in transition, after 2011 emerged another type of social movements perceived as middle-class protests (Margarit & Rammelt, 2020) described as being founded on the interests of young people (environment, anti-corruption, reform of justice system) with their intrinsic appreciation of Western models of democracy and meritocracy. Thus, Margarit & Rammelt (2020) emphasize that despite the high level of social mobilization Romania witnessed since 2012, the mobilization efforts of trade unions and popular protests did not manage to converge because of the incompatible mobilization frames. Furthermore, a gap was identified (Heemeryck, 2018) between the Romanian civic and environmental⁶ local movements and the transnational NGOs actively working to implement “democracy” and “civil society” programs in Romania.

4.2 The most important mobilizations of industrial actions such as strikes, demonstrations and symbolic actions in the latest three decades in regard to issues concerning the bargaining process

Traditionally, in Romania the industrial actions were difficult to initiate due to strict legislative provisions. In the old Law 62/2011 on social dialogue was stipulated that

⁶ The new social movements that emerged in 2012, built around gold-mining issues in the Roşia Montană region reveals a gap between two civil societies with divergent interests: one favouring the reproduction of capitalism, the other representing local aspirations.

“collective labour conflicts may be initiated (therefore, also strikes) only on the occasion of bargaining about a collective labour contract. i.e. if the employer refuses to bargain; if the employer rejects the employees’ claims; or if the parties do not reach an agreement”.

The Law 367/2022 which entered in force in December 2022, includes some more permissive provisions, indicating that collective labour conflicts can be triggered in the following situations:

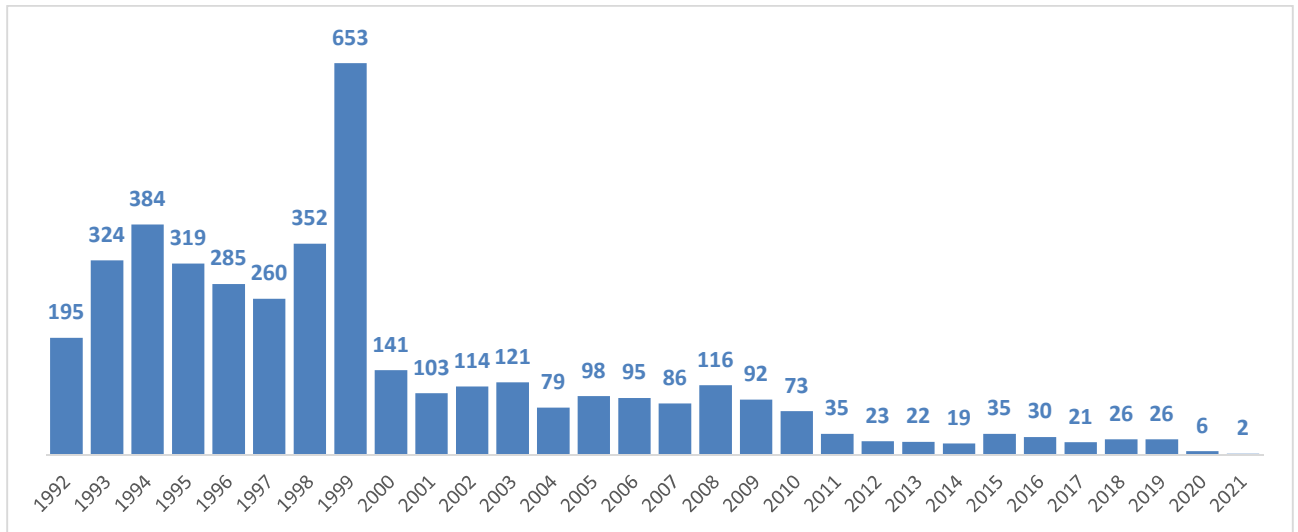
- the employer refuses to start the negotiation of a contract (if it has not concluded such a contract or the previous one has terminated);
- the employer/employer organisation does not accept the claims made by the employees/workers;
- the parties do not reach an agreement on the collective labour contract (until the date established by mutual agreement for the completion of negotiations);
- period agreed by the parties for their renegotiation has expired or if the parties do not reach an agreement regarding the renegotiation of the clauses to be periodically renegotiated;
- if the employer refuses to adhere to the collective labour contract/agreement at the collective bargaining sector level (although he participated in the negotiations).

There are not available longitudinal data about the context in which the industrial actions emerged, but a recent study published by Eurofound (2022), based on data from IAM revealed that, at the level of 2021, about 14% of total labour disputes were connected to collective bargaining issues, 43% to grievances over company-level policies, 14% to grievances over public policies, 7% to restructuring, and 7% to other issues.

According to INS, in the period between 1992 and 2021 there were 4,135 conflicts of interest⁷, see Figure 6.

Figure 6: Yearly frequency of conflicts of interest

⁷ Conflicts of interest refer to the work temporary interruptions, generally for claiming purposes or normal labour relationships between the unit, on the one side, and its employees, on the other side

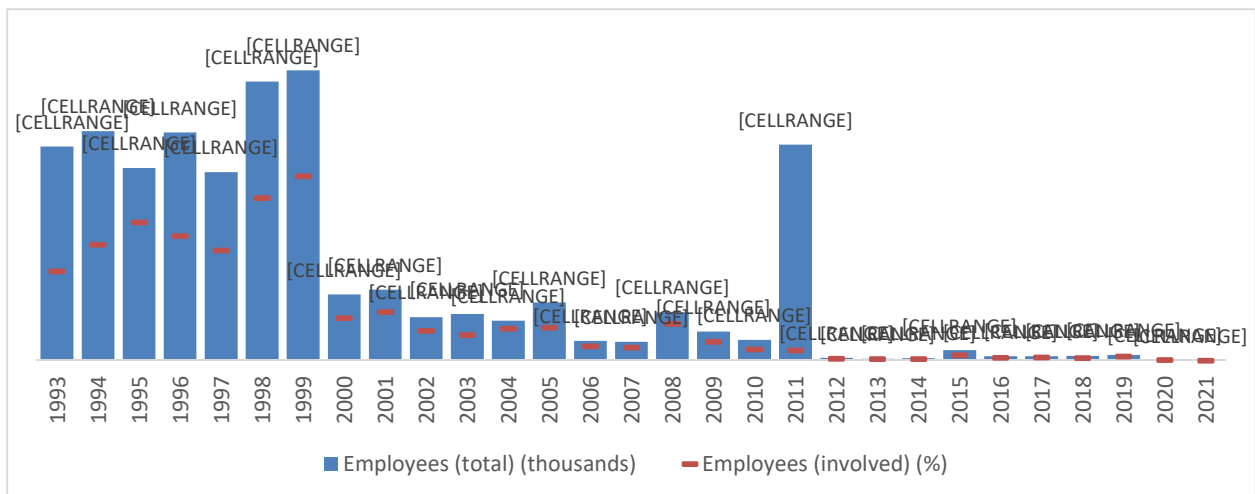


Source: INS

There was a general trend of increasing conflicts of interest in Romania during the 1990s, peaking in 1999 with 653 cases reported. However, since the early 2000s, there has been a general downward trend in the number of reported conflicts of interest, with occasional spikes in certain years. In recent years, there has been a relatively low number of reported conflicts of interest, with only six cases reported in 2020 and two cases reported in 2021. It is worth noting that the actual number of conflicts of interest may be higher than reported, as cases may go unreported or unnoticed.

These labour disputes involved an average of about 60% of employees from the total number of employees from companies where disputes were taken place (Figure 7).

Figure 7: Number of employees from units where conflicts of interest took place and percent of employees involved

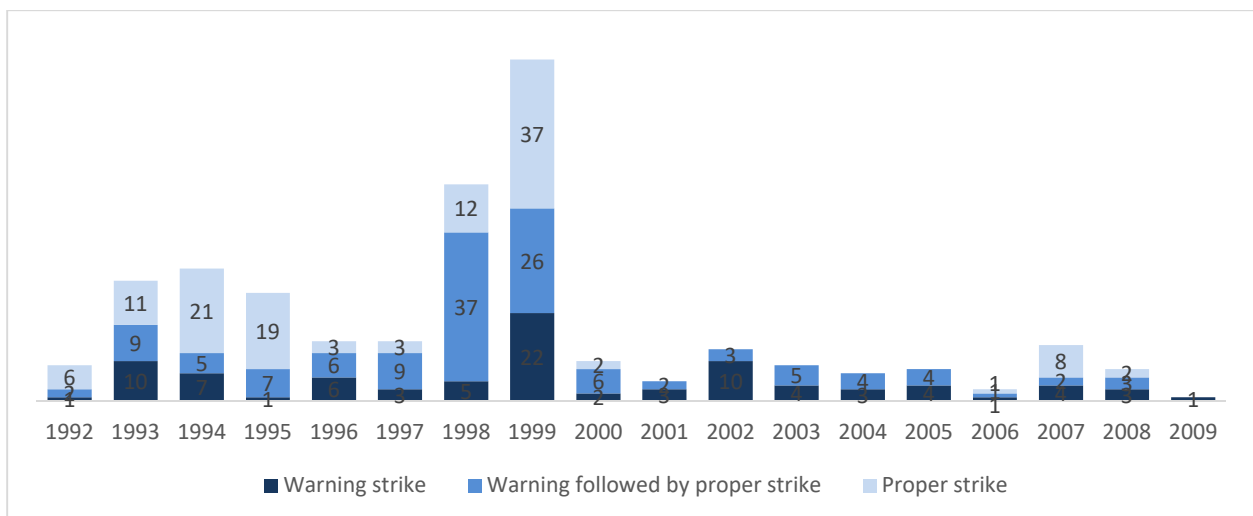


Source: INS

Labour disputes in Romania have fluctuated over the years. There was a significant increase in labour disputes in the mid-1990s, with over 70% of employees (from units where conflict had taken place) involved in 1995. However, the number of disputes decreased in the following years, with a few exceptions. In recent years, the number of disputes has been relatively low, with less than 75% of employees involved in any given year since 2010.

However, not all these labour disputes led to the strike. Since 2010, no strike was reported in Romania (it is about the strikes initiated by observing the procedure provided by law)⁸ (Figure 8). The data shows that there has also been a decline in the number of strikes in Romania over the years. In the early 1990s, there were more warning strikes than proper strikes, but by the late 1990s, the trend shifted towards more proper strikes. However, after 2000, there has been a significant decrease in the number of strikes, with only a few warning strikes and proper strikes occurring each year.

Figure 8: Strikes initiated by observing the procedure provided by law by type of strikes



Source: INS

A significant proportion of labour disputes in Romania are connected to collective bargaining issues, with the majority being grievances over company-level policies. The number of labour disputes and strikes in Romania has fluctuated over the years, with

⁸ The Labour Code and the Social Dialogue Law (Law 367/2022) govern the right to strike, specifying that it can only be declared after exhausting all other legal means for reconciliation and conducting a warning strike. It is not permitted to organize a strike during the period of application of a collective agreement or during mediation and arbitration procedures. Two other forms of industrial action, the solidarity strike and warning strike, are also regulated. The solidarity strike is intended to support the demands of employees in the same group of units or sector, and it cannot last more than one working day. The warning strike must last a maximum of two hours and must be organized at least two days prior to the main strike.



occasional spikes in certain years but a general downward trend since the early 2000s. In recent years, there have been relatively few reported labour disputes and no strikes initiated by observing the procedure provided by law since 2010.

However, industrial actions in Romania are difficult to initiate due to strict legislative provisions that limited the circumstances in which strikes could be triggered. However, the new Law 367/2022 has introduced more permissive provisions that enable collective labour conflicts to be triggered in various situations.

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