



**SURVEY REGARDING THE IMPLEMENTATION
OF DIRECTIVE 2002/14 (P.D. 240/2006) FOR
INFORMATION AND CONSULTATION IN
ROMANIA**

May 2016

Contents

Summary.....	Error! Bookmark not defined.
Romania present situation and last evolution	6
Methodology used.....	13
Responses to questionnaires	14
Conclusions of the Romanian national report	22
BIBLIOGRAPHY	27
ANNEX I	28

Summary

INVOLVE PROJECT

Romanian Country report

Summary

CNSLR-FRATIA true IESS has undertaken the present survey in the first semester 2016 on the basis of interviews using a structured questionnaire. Its aim is to verify the situation regarding information and consultation, in other words the application in practice of Directive 2002/14 and of related Directives 98/50 and 2009/38.

The interviewed persons were the presidents of company' level trade unions and or other trade unions delegates from the same level. No branches or national responsible were involved

1. Context of industrial relations

The Romanian economy suffered badly in the global financial crisis of 2008, prompting the government, which it transferred immediately the bill to charge of employees' side by launching a draconian austerity programme in 2010. It was followed by a serious aggression against the law concerning industrial relations initiated by the same Government that modified, true assumption the political responsibility, the [Labour Code, namely](#) the law 53/2005 by adopting the social dialog code law 62/2011, an act that practically made impossible the existence of collective agreements at national level.

Despite the fact that last figures about Romanian economy show that "macroeconomic situation is stable, with low inflation and external deficits"¹¹ and "Romania had one of the highest growth in the European Union"¹ the situation of Romanian employees remain still bad. According to the last report of European Commission "Poverty and social exclusion are among the highest in the European Union" and "Social transfers have a limited impact on reducing poverty and the provision of social services is insufficient". After legislative changes in 2011 the Social dialog has been seriously damaged. On the other hand we have to say that effects of crisis are visible in Romanian economy mainly concerning multinational Companies that are confronted with strong restructuration. At the Company level the effects of restructuration process takes the form of several kind of effective changes:

- Ownership changes (acquisitions and mergers)
- Operational changes (subcontracting, activity- production reorientation, relocation, closure of working point and/or factories)
- Working organizational changes (new-atypical employment contracts, layoffs, changing of working time, job rotation etc)

¹ <http://www.worldbank.org/en/country/romania/overview>

These changes together with the new legislation adopted in 2011 (the new Labor Code and the Code of Social Dialogue) strongly affected the industrial relations evolution.

1. Information and consultation in practice

Concerning the Law 467 that transposes in the Romanian juridical system the Directive 2002/14, we consider that, in practice, the situation itself is still unsatisfactory, and this is due to the following reasons:

- Legislation, which is confused, fragmented and ever-changing (affecting in negative sense the employees). This makes difficult for trade unionists to follow and valorize effectively the employees' rights and to set up tools in order to exercise these rights.
 - The formal transposition of EC Directives related to information and consultation. The Law nr 467/2006 even is 80% a copy-paste of the Romanian translation of directive text the sanction section, excepting 3 very limitative aspects, doesn't preview any sanction for violation of the law. In this way, legislation does not fully support in practice the application of the Directive.
 - The general negative attitude of the employer side towards information and consultation under different pretexts and the insufficient legislation in terms of concrete obligations. It seems that the will to decide without informing anybody prevails for them than building positive industrial relations in the workplace.
 - Consultation is a distinct stage. In practice though, in many cases it is confused with information or with the collective bargaining process. We must emphasize that one cannot conduct a consultation process properly without good information. Also, situations that require consultation are less frequent.
- **Worker representation**

In Romania there is no tradition and no legal support for functioning working councils. Instead, there is very strong the tradition of trade unions at the company level. This is main item to the organization of trade unions in Romania and provides any form of employee representation at this level. Although restrictions placed on the representativeness by The code of social dialogue -Law 62 of 2011- it can and ensure effectively the exercising of the right to information and consultation at Company level.

- **Arrangements of information and consultation**

The general perception is that is normal that the company to be in charged to host and to ensure the necessary condition for information and consultation – usually this is the practical situation.

Proposing agenda but agreeing it with the employees representatives is also a normal thing.

Confidentiality is understood as a normal practice for special situation even though many times, employers are using it as a pretext to hide sensible information.

The consultation is tackled more seriously than information (even though practically information it is a preliminary condition for consultation) mainly because it is more easily punishable..

- **Multinational Companies (MNCs)**

The number of MNCs in Romania has grown significantly, particularly after the year 2000. They have acquired mostly public utilities companies, manufacturing industries (cement, metal, machine building, petroleum), but also financial brokering and trade businesses. So far, no social unrest or economic events have occurred having as a specific target the public image of the MNCs operating in Romania. Generally speaking, the MNCs have not been noted as bringing any contribution to the improvement of the national collective bargaining pattern, but they did propose some best practices for the social partners and information and consultation could be an example

- **Sanctions**

Theoretically there are sanctions in the law 467/2002 and in the law 217/2005 but even though there are around 10 years since these two laws are in force we are not aware of any concrete situation of effective punishment for violating them.

Romania present situation and last evolution

The international financial crisis severely affected economic and social developments in Romania

According to Eurostat data, gross domestic product (GDP) declined by -7.9% in 2009 and 0.8% in 2010. The macroeconomic recovery came in 2011, when GDP increased by 1.1%, then by 0.6% in 2012, 3% in 2013 and 0.7% in 2014. Expressed in real expenditures per capita (PPS), the percentage variation between 2008 and 2014 was 14.3%. Economic growth has been strong over the last three years, gradually broadening its base. It has been expanding strongly since 2013, the drivers of growth switching gradually from net exports to domestic demand

In figures, the profile of Romania describing the key characteristics of working life in Romania, published by EUROFOUND in November 2015, gives the following table:

Tab 1 Key figures on working life in Romania

		Year
Collective bargaining coverage in private sector establishments	78%	2013
Establishments having any kind of workplace representation in %	52%	2013
Number of any type of industrial dispute between 2008 and 2013, % of establishments	2%	2010-2013
Number of total work accidents per 1000 workers	0.5%	2012
Percentage of establishments granting flexitime to their employees	51%	2013

Source EUROFOUND November 2015." Romania: working life country profile"

Labor market

The unemployment rate had been increasing since 2008, when it reached 5.8%. After a small decrease in the unemployment level in 2012 (6.8% compared to 7.2% in 2011), the unemployment rate reached 7.1% in 2013 and was back at 6.8% again in 2014. In 2014, the unemployment rate was higher among men (7.3%) than women (6.1%), a difference registered in the pre-crisis years that continued after 2008. However, it seems that the crisis hit women harder, since the unemployment rate increased more among women (from 4.4% in 2008 to 6.1% in 2013) than among men (from 6.5% to 7.3% in 2014).

At the end of 2014, the number of fixed-term contracts was 253,515 (around 4%), of which 101,643 (around 1.5%) were part-time fixed term contracts (according to data from the Labour Inspection).

Unemployment is low and the employment rate has been increasing but is still below the EU average. Labour market institutions, including social dialogue and the public employment service, are not functioning properly. The National Employment Agency has yet to offer tailored and personalised services, either to jobseekers or to employers. Access to the labour market for vulnerable groups is limited. The percentage of young people not in employment, education or training is above the EU average and outreach tailor-made to activate them remain limited. The early school leaving rate is high, in particular for the Roma and the rural population. Prevention and remedial programs are limited. For vocational education and training, quality issues persist and participation in adult education is very low.

Source EUROFOUND November 2015." Romania: working life country profile"

Industrial relations

Social dialogue in Romania only became effective after the country's transition to democracy in 1989. The trade union movement was completely reformed and the Employers organization became to be set-up and developed. After 1989, the privatisation of state-owned companies put the jobs of thousands of workers in jeopardy, resulting in a rather conflict-driven type of industrial relations. Despite their opposition to it, the trade unions did not obstruct the privatisation process. The restructuring and privatisation led to a massive decline in trade union membership. Once the transition period and the deindustrialisation process came to an end, industrial relations became more consensus oriented. Collective bargaining legally allowed at all levels – national, sectoral and company. The national and sectoral trade unions had a stronger negotiation capacity than the company-level unions, which often lacked the know-how and human resources. These circumstances led to the situation in which the national and branch collective agreements were decisive for

the negotiations of wages at the company level. In 2011 social dialogue legislation was changed, resulting in a new law (62/2011) that abolished national collective bargaining and made sectoral bargaining almost impossible. Collective bargaining at company level became more important in this context, but the company-level trade unions still fight against a lack of adequate expertise and the high representativeness criteria imposed by law.

Source EUROFOUND November 2015." Romania: working life country profile"

Social partners

Trade unions, employers' organisations and public institutions play a key role in the governance of the employment relationship, working conditions and industrial relations structures. They are interlocking parts in a multilevel system of governance that includes European, national, sectoral, regional (provincial or local) and company levels

1. Trade Unions Organizations

Currently, BNS, Cartel Afla, CNSLR Fratia, CSDR and Meridian, the five nationally representative confederations, publish their official documents on the Ministry of Labour website. Together, they account for 1,432,266 members out of a total of 4,449,100 employees (October 2014). This figure is indicative of a trade union density of approximately 30%, which is similar to the figure estimated prior to the social dialogue legislation change in 2011. The ICTWSS database puts union density in Romania at 32% in 2008, while the ILO estimations indicate a union density of 32.2% in 2007; now it is estimated around 18%

Main trade union confederations and federations

There are five national representative confederations in Romania: CNSLR Fratia, CNS Cartel Alfa, BNS, CNS Meridian and CSDR. The number of representative federations that submitted their documents to the Ministry of Labour in order to be acknowledged as representative is 89.

2. Employers' organisations

About employers' representation

The employers can freely form or join an employers' organisation. An employers' organisation can be affiliated only to a hierarchically superior employers' organisation.

The effect of these legal provisions was a drop in the number of nationally representative confederations. Until 2007, 12 employers' organisations were recognised as representative and were entitled to engage in national collective

bargaining. In 2008, the Alliance of the Employers Confederations of Romania (Alianța Confederațiilor Patronale din România, ACPR) was formed. ACPR was created as an umbrella organisation for seven of the other employers' organisations (CNIPMMR, UGIR, ARACO, CoNPR, CPISC, CNPR and PNR).

In 2014, eight employers organisations were acknowledged as representative:

- the Romanian Employers' Organisation Confederation (Confederatia Patronatul Român, PR);
- the Romanian National Council of Private Small and Medium Enterprises (Consiliul Național al Întreprinderilor Private Mici și Mijlocii din România, CNIPMMR);
- the General Union of Romanian Industrialists (Uniunea Generala a Industriasilor din România, UGIR);
- the General Union of Romanian Industrialists 1903 (Uniunea Generala a Industriasilor din România 1903, UGIR 1903);
- the National Council of Romanian Employers (Consiliul National al Patronilor din România, CoNPR);
- the Confederation of Employers in Industry, Services and Retail (Confederatia Patronala a Industriei, Serviciilor si Comertului, CPISC);
- the Employers' Confederation Concordia (Confederația Patronală 'Concordia');
- the National Confederation of Romanian Employers (Confederatia Nationala a Patronatului Roman).

Tripartite and bipartite bodies and concertation

Tripartite social dialogue is organised at national, territorial and sectoral level. In an attempt to reform social dialogue at all levels, in 2011 the composition of the Social and Economic Council (CES), a tripartite body for social dialogue at national level, was modified. After the 2011 legislative change (Law 62/2011), the government left CES and was replaced instead by the representatives of civil society, which, in the opinion of some stakeholders, transformed CES, which was formerly a tripartite body, into a bipartite social dialogue structure. CES is a consultative forum and it must be consulted for all the draft laws in its area of competence (economy, taxes, labour, social protection, health, education, research, culture and wages).

Law 62/2011 provided for the formation of a new body for tripartite dialogue: the National Tripartite Council for Social Dialogue (Consiliul National Tripartit pentru Dialog Social, CNTDS), a tripartite consultative body formed by representatives of the employers' organisations, trade union organisations, the government, the National Bank and the president of the CES. The CNTDS is the consultative forum for setting the minimum wage at national level, for analysing governmental strategies and programmes and for solving, via tripartite dialogue, economic and social disputes. On several occasions, the trade unions accused the government of not convening the CNTDS regularly or not adequately preparing for the tripartite body's meetings and thus obstructing social dialogue.

At local level, the social dialogue commissions are established at the prefecture level. The participants are the representatives of local administration, representatives from each nationally representative confederation as well as other relevant stakeholders that may take part should their presence be agreed upon.

At the sectoral level, social dialogue tripartite committees are formed within 17 public authorities and institutions, such as the Ministry of Labour, Ministry of Finance, Ministry of Health and so on.

Public authorities involved in regulating working life

In Romania, the public authority and institutions active in the industrial relations area are as follows.

The **National Tripartite Council for Social Dialogue** (Consiliul Național Tripartit pentru Dialog Social, **CNTDS**) is a national-level consultative body that includes trade unions and employers' organisation representatives as well as representatives of the government, the National Bank and the Economic and Social Council.

The **Economic and Social Council (CES)** is a national institution, formed by civil society, trade union and employers' organization representatives, that must be consulted on any legal changes with implications for the economic, social and fiscal area.

The **Ministry of Labour** is the public authority responsible for social protection, employment, labour mobility and social dialogue, the latter via their Delegate to the **Ministry for Social Dialogue**.

The Ministry of Labour is in charge of the elaboration and application of policies and strategies regarding social inclusion, social protection, employment and the labour market. Several public institutions responsible for working conditions are coordinated by the Ministry of Labour (Labour Inspection, the National Agency for Occupation of the Workforce, the National House of Public Pensions). **The National Agency for Occupation of the Workforce (ANOFM)** oversees the application of employment strategies and professional training as well as the implementation of social protection for the unemployed.

Labour Inspection supervises and controls the application of the labour legislation by the employers concerning working conditions, health and security at the workplace and other legal provisions.

Although there are no distinct labour courts, work litigation/conflict settlement may be done by initiating judicial action through the regular courts.

When resolving conflicts between an employer and employee, the newly issued Civil Code introduces a mandatory provision requiring the parties to go through a session during which the advantages of the mediation procedure are presented. Upon completion of this informative session, the parties may decide to carry on with the mediation procedure to resolve the conflict or to present their case in court..

The **Ministry of Labour** is the authority in the field of health and security at the workplace. They are also in charge of elaborating strategies and policies as well as the legislation monitoring and appointing the companies/people that provide prevention and protection services in the field of health and safety at the workplace.

The **Ministry of Health** is the key authority in the field of public health assistance that elaborates the regulations in the field of health protection at the workplace. The Ministry of Health also supervises workers' health and is responsible for professional training in the area of occupational health.

The Labour Inspection controls the application of the health and safety at work legislation through implementing programmes regarding professional risks, running investigations and imposing sanctions if need be.

Lastly, the National Institute for Scientific Research within the Labour and Social Protection offers scientific research that substantiates the policy measures in the area of health and safety at work

Source EUROFOUND November 2015." Romania: working life country profile"

.Workplace-level employee representation

Representation of employees at the workplace is accomplished by trade union organisations at company level. There are no work councils or other bodies at the company level in Romania that would ensure employee representation. However, a trade union cannot be founded in companies with fewer than 15 employees, leaving workers employed by small companies without any legal representation. In companies with more than 20 employees where there is no trade union organisation, the workers are represented by the employees' representatives.

The establishment of European work councils was introduced in 2005, but the law only applies to companies of community size.

Source EUROFOUND November 2015." Romania: working life country profile"

Legislation on information and consultation In Romania,

legislation on information and consultation consists of a package of laws regulating all the aspects of this process, respectively defining partners and beneficiaries, timing and procedures, particularities, etc. The main regulatory acts are:

- Law 467/2006 regarding information and consultation of employees;
- Law 53/2003-Labour Code;
- Law 217/2005 regarding the constitution, organization and operational aspects of the European Workers' Councils revised by law 186 /2011
- Law 62/2011- The Law on Social Dialogue;
- Law 188/1999 regarding the status of civil servants;

Romanian legislation transposing EC Directives concerning information and consultation

EC Directive	Romanian legislation
Directive 98/59/EC on collective redundancies	Law 53/2003-Labour Code
Directive 94/45/EC on the establishment of European Works Councils	Law 217/2005 regarding the constitution, organization and operational aspects of the European Workers' Councils, together with the revisions did by law 186/2011
Directive 2002/14/EC on information and consultation	Law 467/2006 regarding information and consultation of employees;

Methodology used

In Romania the representation of workers at the company level is, generally speaking, the task of trade unions of the company level and, logically, and their representatives are the main concerned for the information and consultation process

CNSLR-FRATIA has implemented the survey previewed in the framework of the INVOLVE project using the following methodology:

- There were a few preparatory restricted trade union meetings organized by OBES in Athens to fix the template of the questionnaire to be used; an English version was send in Romania and was translated in Romanian
- Interviews were carried out by an expert from the IESS side.
- The trade unions responsible aimed to be involved in survey received by mail general information about the Involve project
- The expert visited the trade union at their workplace. All interviews were face to face. In most cases participated more than one members of the Board of the trade union interviewed.
- The occasion of having the interview was used at the same time to diffuse information about the provisions of the legislation and for offering consultancy on specific problems they face.
- There are 11 interviews collected using the above methodology.
- Lists of the persons interviewed and companies, in which information and consultation practices were examined, are available in Annex at the end of the report.

Although the number of interviews is 11, the general picture is reliable for big size companies (more than 500 employees), because it covers a wide range of company sectors, and ownership of the share capital. From the interviewed 11 companies 2 are from Metallurgical industry, 1 from Metal processing industry, 1 from, petrochemical industry, 1 from glass industry, 1 from wood industry, 1 from cement industry, 1 from alimentary industry, 1 from energy distribution sector, and 2 from commerce. The survey doesn't cover small and medium size companies.

In the following chapter we transfer the summary of the results per question.

Synthesis of responses to questionnaires

1. Is there a written agreement between the employer and the trade union, establishing practical details of information and consultation? If yes, what does it include?

7 from 11 trade unions asked replied that there is no dedicated agreement between the management of the company and the trade union concerning information and consultation but they are clauses in collective agreements referring to. Only 2 cases Carrefour and EON have got special agreement concerning information and consultation and one situation LUKOIL there are special reference in the official agenda of general manager (regular periodic meeting with the trade unions).

In term of industrial relation culture, it seems that in Romania the provisions existing in collective agreements are enough to fulfill the legal obligation concerning information and consultation. We have to say that according to Romanian legislation it is compulsory to run the process – information and consultation – but there doesn't exist any compulsory tools or procedure to follow.

2. What kind of situation of changes in employment requiring information and consultation procedures did face your company or the company (ies) you refer to and when?

Trade unions made reference to a wide range of situations, such as:

- a. Mass redundancies
- b. Creation or closure of a department or working point
- c. Introduction of new technology or changing technology
- d. Atypical labor contracts (fix term-seasonal contract part time etc)
- e. Transfer of a part of the staff to another company
- f. Unification of departments
- g. Major changing in production portfolio
- h. Closure of a factory
- i. Closure of the company
- j. Payment system changing

3. What were the main problems you had to face?

Answers to this question are four categories:

- ***7 responses referred to the problems they had as far their companies are concerned mainly speaking of the redundancies after closure of working plants (factories shops)***
- ***2 responses referred to freezing salaries***

- **1 response says the information is done after decision is taken**
 - **1 response referred to temporary non paid holidays because of reduction of demand.**
4. Did information precede the decision making of the employer or the employer just announced an already made decision? Did he call you for information and consultation?
- **9 from 11 of interviewed peoples answered positively to the both part of the question**
 - **In one case –TMK Artrom – there was only information but not consultation**
 - **In one case – Metro- the answer was totally negative**
5. With whose initiative did information take place? Where did it take place? Who participated from each side (employee/employer? Was there an agenda and who prepared it?
- **In all the situations, the initiative was of the employer, the site the process is running in is a meeting room of the company;**
 - **Concerning representation at the meeting:**
 - **The Employer is ,usually, represented by the General Manager but in some cases by the Financial Manager or the Human Resources Manager, or a company lawyer and (depending on the case) by the responsible(director) of the department or working point concerned**
 - **The employees are represented by a delegation designed by the representatives trade unions(usually 3-6 persons).**
 - **The agenda is usually advanced by the initiator (employer) and agreed together with the trade unions**
6. Did your employer inform you in written using analytical and documented information about the above-referred changes in employment?
- **In 10 from 11 cases the employer offered wrote information: in 7 cases information delivered included analytical elements, in two cases the details were forwarded after special request –EON and ARCELOR MITTAL- in one case was only general information without of relevant details- Metro**
 - **In one case -Luck oil- there wasn't any support information**
7. Did you ask for analytical information taking the initiative yourself, when for example there were rumors that there would be restructuring or redundancies? On what issues did you ask for information?

In all 11 companies there were requests of information after rumors concerning closure probability of working points associated with redundancies.

8. Did you ask for assistance of an expert or any third party (e.g. an economist, a lawyer or an engineer)? What kind of assistance did you get?
 - **In 5 cases from 11, the answer was negative, mainly, because the interviewed said that they have got the expertise inside the trade unions**
 - **In other 6 cases, there was a request for expertise on economy and legal issues but only in two situations – Carrefour and Arcelor Mittal – the experts were paid by the company.**

9. Did you have any objection about the information procedure followed? What juridical process did you engage (Labour Inspectorate, Ministry of Labour, Court of justice etc.)?
 - **In 6 companies from the 11 participants to the survey, there wasn't any objection concerning the information procedure used.**
 - **In one company –EON- the objection was solved after discussion between trade union and administration**
 - **In one company –Metro – the trade union had objection but didn't used any other tool for pressing**
 - **In three companies- Carrefour, Arcelor Mittal and NIKMOB- there was recorded an official labour dispute solved by the mediation procedure; The trade union from NIKMOB recorded complaint to Labor inspection too.**

10. Was the information you received satisfactory? Did it cover the economic situation of the company, evolutions of employment and changes in work contracts or redundancies?
 - **In 6 cases from 11 information was ok**
 - **In 4 companies –EON, Carrefour, Arcelor Mittal and NIKMOB – the process of information was improved and became to be satisfactory, after solving the dispute between administration and labor.**
 - **In one- company –Metro- the situation remains still bad-only formal information procedure.**

11. Did you transfer information you got from the employer to employees and how did this take place?

All 11 trade unionists interviewed said that they transferred information they received by the management to employees through several direct meetings with the workers and general Assembly of the trade union.

They also posted information as an announcement on the table of announcements or in special dedicated place. In Carrefour trade unions used the e-mail network, At Luk oil in the web portal of the company there it is a dedicated section for the trade union.

12. Did your employer give you information he said was confidential? Did he explain to you the reasons of confidentiality and how long would it last? Did you have any problems?

- **In 5 situations out of 11 – it has not been the case –the company didn't give confidential information**
- **In the other 6 cases the employer gave confidential information but this didn't generate any troubles.**
- **In two cases -NIKMOB and Metro- it was reported that the company used the pretext of confidentiality in order to hide relevant information.**

13. In the case your employer provided you with information you asked, how much time did you have to examine data provided in order to form and express your views and opinions during consultation?

All the respondents declared that they have got enough time to analyze information and react; the necessary period was different, according with the complexity of the problem, from 2 hours to few days and one week.

14. Did you ask in written for clarifications on the information received? Did the employer answer to you in written, in order that you get prepared for consultation?

- **In 3 companies –Heidelberg Cement, Luk oil and Bergembier SA Ploiesti- the trade union answered that it wasn't necessary to ask for additional details because information was satisfactory from the beginning**
- **In other 7 companies, the trade unions declared that they asked for clarification and they received it, even though in few cases they had to repeat the request**
- **In one case –Metro –even after request of clarification the information delivered by the company was general without any necessary details.**

15. Where did consultation take place? Who participated from each side? Who wrote the agenda with issues to be discussed?

In all 11 companies participants to this survey said, a consultation process was carried out . Usually, the company provided the meeting facilities and initiated the process. The agenda was proposed by the initiator and was bargained and agreed by the both parts.

In this kind of meetings from the employer attended a team namely: The general manager or a representative of him, Economic manager (or responsible) Human resource Manager (or responsible), a legal advisor and- depending on the case- a technical advisor.

The employees are represented by a delegation elected by the representative trade unions (usually 3-6 persons).

16. How long did consultation last? Were there written minutes signed by the employer and the employees? Did you ask for assistance of an expert or any third part?

- **In 10 cases from 11 was an one day meeting lasting from one hour and half to four hours**
- **In one case -VARD Tulcea - there were several meetings during a period o 5 weeks**
- **In all cases there were minutes for each meeting, signed by the both parts, except in one case- Luk oil- where the minutes were kept by a special responsible but is not signed.**

17. Did you ask the employer for justified responses to the opinions that you expressed during consultation? On which matters? Did you get them?

In all the cases trade unionists asked for justified responses to the opinions they expressed during consultation. They received the answers, except in one case- Metro.

18. Except of the consultation procedure, did you manage to create conditions pressing the employer towards your positions (trade-union pressure, allies in the community, political pressure, Ministry of Labour, Labour Inspectorate etc.) ?

- **In 5 cases from 11 companies the answer was negative – it hasn't be necessary**
- **In 4 cases –Carrefour, Vard Tulcea, Luk oil and EON- there was used only trade-union pressure**
- **In 2 cases – Arcelor mittal and Metro – there were recorded Official labor disputes.**

19. How do you assess the results of the information and consultation? Did the opinion you expresses during consultation achieve in influencing or changing decisions made by the employer for changes in work organization or work contracts?

- **Only in two cases from 11 the result was appreciated as unsatisfactory**
- **The other 9 out of 11 answers estimated that information and consultation has influenced decisions about changes in work organization and work contracts. Even if these results were not entirely satisfactory for the workers, they still are a positive sign that information and consultation may be used and have tangible**

results in order to improve the working conditions. Another positive thing is that the information and consultation process is combating the effect of dangerous rumors.

20. Did you conclude to an agreement regarding the employer's decisions on the future?

- **Four answers out of 11 say that the agreement reached during consultation process has been included in the collective labour contract.**
- **In one case there was a verbal agreement (respected)- Carrefour**
- **In three cases- VARD Tulcea, EON and Luk oil- there was a written agreement**
- **In other three cases there wasn't any agreement for future decisions-NIKMOB. TMK Artrom and Metro.**

21. What practical advice would you give to trade unionists facing analogous situations?

Advice given refers to different facets concerning information and consultation, for example:

- **Tackling in a serious manner the process of consultation and information**
- **Organizing a strong trade- union action**
- **Setting –up an effective internal information system**
- **Use of experts,(economist, layers, marketing)**
- **Coordination with other trade unions and trade unions structures (Federations, county organizations)**
- **Unity and solidarity**
- **Permanent claim for information for any item even if it seems not being important**
- **Improving knowledge in legal issues, fiscal and marketing**
- **Keeping written minutes for all the meetings.**
- **To be transparent and true to their colleagues.**

22. Which processes and means did workers' representatives use to inform all employees on the results of information and consultation?

Again here, all respondents have identified the direct discussion(during dedicated meetings or general assembly of the trade union) and posting an announcement as the most appropriate ways for informing employees about the results of information and consultation. In Carrefour and Lukoil the electronic network is used too.

23. In case your employer did not give you information you required or refused information & consultation procedure did you proceed to juridical measures? If yes, which exactly and what was the result? Were there sanctions for the employer and if yes which?

All the respondents (11 out of 11) answered this question in a negative way: there wasn't any explicit refuse from the employer side.

24. Do you consider that these sanctions were effective, dissuasive and proportionate to the seriousness of the offense to employment? Were there sanctions at all?

No object to answer

25. In case the company belongs to a multinational grouping of companies, in which there is a EWC have you informed the EWC? Has the subject been discussed in the EWC? Has the EWC restricted Committee discuss the subject with the central management of the grouping in a meeting of information and consultation based on a report of the central management? Have you been called to participate in this meeting? Have you informed employees about the results?

➤ **Only eight out of 11 companies participants of this survey have got EWC:**

- **In five cases – it was a discussion concerning the problems from Romanian divisions inside of EWC restricted Committee; in two cases this debates was considered as formal (Metro and EON). Anyhow, concerning the concrete decision, it is considered that the only useful moment for changing decision is during local consultation process**
- **In two cases – respondents said that there wasn't any effective problem to be discussed in EWC restricted committee**

➤ **In 7 out of 8 situations, there is one or more representatives form Romanian plants and in 5 cases there is a Romanian representative in the EWC restricted committee (Carrefour, Arcelor Mittal, EON, VARD Tulcea and Metro).**

➤ **In one case- Bergenbier SA Ploiesti- there was only a tentative to set up an EWC.**

➤ **In another case -LUK OIL- there is a different situation; inside this multinational company there is an international Trade union, but not EWC.**

26. What difficulties or obstacles have you encountered due to the Law, administrative system, juridical system or in general?

Almost all the trade union representatives participating to this survey considered that the new labor code and the code for social dialog, adopted in Romania in 2011 are hostile for employees and are real obstacles for social dialog development. The missing of effective sanctions for the employer that are violating labor laws is another important difficulty.

27. What would you suggest to other trade unionists that face analogous problems?

The majority of answers to this question say that is very important to be well organized as trade unions and to have good negotiation skills; cooperation between trade unions and solidarity is considered very important too.

For representatives the suggestion was:

Seriousness

Patience

Attention

Tenacity

Good professional prestige

Involvement

Combativeness

Conclusions of the Romanian national report

On the basis of the examination of the responses of the 11 interviews we try to achieve an overview regarding worker's information and consultation in Romania.

2. Context

Even though last figures about Romanian economy show that "macroeconomic situation is stable, with low inflation and external deficits"*** and "Romania had one of the highest growth in the European Union"**** the situation of Romanian employees remain still bad. According to the last report o European Commission "Poverty and social exclusion are among the highest in the European Union" and "Social transfers have a limited impact on reducing poverty and the provision of social services is insufficient". After legislative changes from 2011 the Social dialog has been seriously damaged. From the other hand we have to say that effect of crisis are visible in Romanian economy mainly concerning multinational Companies that are confronted with strong restructuration. At the Company level the effects of restructuration process is feel in several kind of effective changes:

- Ownership changes (acquisitions and mergers)
- Operational changes (subcontracting, activity- production reorientation, relocation, closure of working point and/or factories)
- Working organizational changes (new-atypical employment contracts, layoffs, working time changing, job rotation etc)

This changes together the new legislation adopted in 2011(the new Labor Code and the Code of social Dialog) strongly affected the industrial relation evolution.

*** - <http://www.worldbank.org/en/country/romania/overview>)

3. Information and consultation in practice

Mainly speaking about employers' area, in Romania, the information and consultation culture is weak. IT is seen much more as "fashion" of Social Europe than as an objective necessity. However, even if there is no practice of dedicated agreements addressing this issue, there are common , specific provisions about information and consultation in labor collective agreements. The situation itself is still unsatisfactory, and this is due to the following reasons:

- Legislation, which is confused, fragmented and ever-changing (affecting in negative sense the employees). This makes difficult for trade unionists to follow and valorize effective the employees' rights and to set up tool in order to exercise this rights.
- The formal transposition of EC Directives related to information and consultation. The Law nr 467/2006 even is 80% a copy-paste of the Romanian translation of directive text. The sanction section, excepting 3 very limitative aspects, doesn't preview any sanction for violation of the

provisions of the law. In this way, legislation does not support in practice the application of the Directive.

- The general negative attitude of the employer side towards information and consultation under different pretexts and the insufficient legislation in terms of concrete obligations. It seems that the will to decide without informing anybody prevails for them than building positive industrial relations in the workplace. Even following the findings of the survey, in the majority of the cases decisions were made after information took place. There were 2 cases, where the decision preceded the information; additionally, we have to say that the survey didn't touch the small and medium size companies, where the situation is dramatic. In two cases, information was not substantial.
- Consultation is a distinct stage. In practice though, in many cases it is confused with information or with the collective bargaining process. It is very interesting that all those surveyed responded, that consultation was carried out. In practice, the obligation of consultation is more visible than that of informing and failure to comply with this obligation is clearly sanctioned. We must emphasize that one cannot conduct a consultation process properly without good information. Also situations that require consultation are less frequent.

4. Worker representation

In Romania there is no tradition and no legal support for functioning working councils. Instead, there is a very strong tradition of trade unions at company level. This is main feature of the organization of trade unions in Romania and provides any form of employee representation at this level. Although restrictions placed on the representativeness by the code of social dialogue - Law 62 of 2011- it can ensure effectively the exercising of the right to information and consultation at company level.

5. Arrangements of information and consultation

In all the cases the meetings take place in the company offices and agenda is advanced by the employer side and agreed with the trade unions representatives.

Information received is seldom analytical and documented and in most cases in written. 6 out of 11 of respondents to the survey assessed information received as satisfactory and other 4 appreciated that information improved during the process and became satisfactory, after solving the dispute between management and labor. Time to examine data provided and prepare for consultation seems to be enough. More clarifications on information received were offered after specific request.

Recursion to the confidentiality clause was used in 6 cases and in 2 situations seem to offer a pretext to the management to omit information, invoking that management had to retain this information because of confidentiality reasons. The reaction of Trade unions was limited to specifically pressing. Only in 3 situations there were recorded official labor disputes and no case was brought to the Court.

Consultation between the management representative(s) and the trade union is generally more effective and the necessary time around 3 hours; only in one case there were many meetings during 5 weeks.

Justified and documented responses to opinions the trade union expressed were given in the big majority of the situations examined with only an exception.

Experts used are lawyers and economists.

Information of the rest of employees of the companies seems to be a standard process through direct meetings and posting in special places, inside of the workplace.

It is also common that the company-based trade union uses a wide range of measures (by establishing alliances, addressing society, or undertaking trade union actions, such as strikes, threat of strikes and stoppages) to create pressure to the management.

Analysis of the results of the individual cases reported in the survey shows that results of information and consultation procedures influence more management decisions, when there is sufficient time for consultation, written minutes, in which the trade union had the assistance of a lawyer and those in which it created conditions of internal and external pressure and positive attitude towards their case.

6. European scale company

Even though potentially the EWC should be a practice, in all multinational Companies only 8 out of the 11 companies interviewed have got it. One company-NIKMOB- is not a multinational, in another one –Brgenbier- there was an unsuccessful tentative to set –up it and another one – Lukoil – there is a special different situation. In this company exists an international trade union(seems to be something specific for the Russian based companies)

Although EWCs exist for a considerable number of years now - speaking mainly of the European Union as a whole, there- isn't yet a practice of coordination of action at the national and European level. Raising the problem from local or national level seems to be considered as a formal thing without any real effect for the workplaces concerned. The situation is more difficult when there is not a direct representation in the EWC from the country.

7. Sanctions

Sanctions in case of offense of the Directive 2002/14 – transposed in Romanian legislation by Law nr 467/2006 - are not “effective, dissuasive and proportionate”; The reasons are:

- The situations that could be penalized, according to the law , are scarce and difficult to prove.
- The amounts of penalties are very low –between 210 and 11000 Euros
- It isn't clear who is entitled to establish these sanctions
- The juridical system takes too much time in order to judge a case and issue the respective judgment, which makes it ineffective.

8. Advice to other trade unionists

Advice of participants to the survey to their colleagues concerning information and consultation includes:

- To be organized and to ensure the unity and solidarity
- The representatives should be persons with a good professional prestige having high capacity of understanding all the situations.
- To be very strict and disciplined with the procedure keeping written minutes and paying high attention.
- To study the legislation, to know well their rights and the procedure of information and consultation, to continuously develop their negotiation and consultation skills.
- To use economic experts additionally to lawyers, to ask in written for documentation and to keep written minutes.
- To be combative using documented arguments.
- To be firm and tenacious, to sit around a table with the management and discuss, and not to step back.
- To be transparent and to strongly and permanently communicate with the rest of workers.

Conclusions

In Romania the information and consultation process is not entirely well understood but is quite satisfactorily sustained by legal system. Not all the worker representatives know how and how much should exercise the right for information and consultation.

In order to have good effects an improvement of legislation, mainly concerning the representation of workers and to clarify the specific sanction authorities in case of violation of Law nr 467/2006 concerning information and consultation, is necessary.

The trade union organization should develop programs in order to raise awareness, knowledge and skills of trade unionists concerning their right to information and consultation. The outputs of this project will be useful but it are necessary supplementary other tools – training modules and sessions, dedicated handbooks, booklet etc – in order to improve the knowledge of social partners about the information and consultation process.

The changing of the legislation, setting-up the friendly frame for social dialog, is also fundamental in Romania having a positive effect to the information and consultation process.

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List of the companies visited during survey

1. **Carrefour Romania** is one on the biggest retailer operating in Romania:

- 28 supermarkets Carrefour
- 98 supermarkets Market
- 43 PROXI MARKETS Express
- 10 PROXI MARKETS Contact

Over 8500 employees

President of Trade Union Carrefour –Mr. **Vasile LEESCU**

<https://www.carrefour.ro/>

2. **ArcelorMittal Galati**

About ArcelorMittal

ArcelorMittal is the world's leading integrated steel and mining company, with a presence in more than 60 countries. ArcelorMittal is the leader in all major global steel markets, including automotive, construction, household appliances and packaging, with leading Research & Development (R&D) and technology, as well as sizeable captive supplies of raw materials and outstanding distribution networks. Located in the South-East of Romania, ArcelorMittal Galati employs about 6,200 people and is the largest integrated steel plant in the country and leader in manufacturing metallurgical products, with a production capacity of 3 million tonnes of steel. Galati, known as the 'steelmakers' city' is situated on the banks of the River Danube. The Company has 6 operating facilities in Romania, which include Galati, Tulcea – a lime quarry, Iasi, Roman, Hunedoara and Romportmet –a captive port on the Danube.

Around 5800 employees

President of Trade Union "Siderurgistul ArcelorMittal Galati" - Mr **Gheorghe**

BEZMAN

Vicepresident – **Costica POPA**

3. TMK-ARTROM SA, in Slatina

TMK-ARTROM is a leading Romanian pipe manufacturer, located in southern Romania, in the town of Slatina. The plant produces seamless pipes for industrial applications, including for the mechanical engineering and automotive industry.

TMK-ARTROM has today an important share of the European market for industrial seamless pipes representing mechanical pipes, hydraulic cylinders, automotive and energetic pipes. More than 80% of the plant's output is intended for sales outside of Romania, mainly within other EU countries, the USA, and Canada. TMK-ARTROM is one of Europe's largest producers of industrial seamless pipes.

TMK-European Division was created inside TMK as a consolidate business unit, developed on the structure of TMK-ARTROM and consists by four companies:

- TMK-ARTROM SA, in Slatina, Romania (as TMK-European Division's General Management Unit);
- TMK-RESITA SA, in Resita, Romania;
- TMK-Italia s.r.l, in Lecco, Italy;
- TMK-Europe GmbH, in Dusseldorf, Germany.

Around 1000 employees in SLATINA plant

President of Trade Union "ARTROM" – Mr **Cristian GHEORGHE**.

4. VARD Tulcea SA

VARD is one of the major global designers and shipbuilders of offshore and specialized vessels. Headquartered in Norway and with approximately 10,000 employees, VARD operates ten strategically located shipbuilding facilities, including five in Norway, two in Romania, two in Brazil and one in Vietnam. Through its specialized subsidiaries, VARD develops power and automation systems, deck handling equipment, and vessel accommodation solutions, and provides design and engineering services to the global maritime industry.

Around 3000 employees in Tulcea plant

President of Trade Union "SL shipyards" – Mr **Doru Schiopu**

5. HeidelbergCement in Romania

HeidelbergCement România is a major building materials producer in Romania, operating three cement plants (Tașca near Bicăz, situated in the north-east of the country; Chișcădaga near Deva, located 400 km north-west of Bucharest; and Fieni, located within the vicinity of the capital Bucharest), 19 ready-mixed concrete plants, and 14 quarries and ballast pits.

Since 1998, the company's investments in environmental protection rose to over €41 million and are aimed at implementing the most advanced standards and technologies for the reduction of noise, dust, and emissions. All three cement plants have already significantly increased the proportion of alternative fuels for the seventh year in a row. In the Fieni plant, we have been generating electricity from kiln waste heat since July 2015. The facility has an average net output of 3.6 MW. Through these and other energy efficiency measures, the Fieni plant is able to reduce its external electricity procurement by one quarter

Around 1000 employees in Romania

President of Trade Union "Cement workers" Mr *Dorel* **OANCEA**

6. SAINT-GOBAIN GLASS ROMANIA SRL Calarasi

Saint-Gobain, the world leader in the habitat and construction markets, designs, manufactures and distributes building materials, providing innovative solutions to meet growing demand in emerging economies, for energy efficiency and for environmental protection.

Around 550 employees in Romania

President of Trade Union "Glass Calarasi" - Mr **Marian UDREA**

7. Bergenbier SA Ploiesti

Today Bergenbier S.A. is one of the top three brewers in Romania, having around 600 employees, a modern brewery in Ploiesti that brews more than 3 million hectolitres per year and a competitive national distribution chain.

600 employees

President of Trade Union "Bergenbier"- Mr **Claudiu STOICA**

8. LUKOIL Ploiesti

LUKOIL is one of the world's biggest vertically integrated companies for production of crude oil & gas, and their refining into petroleum products and petrochemicals. The Company is a leader on Russian and international markets in its core business

Around 500 employees

President of Trade Union "Teleajen"- Mr Gheorghe PARASCHIVOIU

9. NIKMOB SA Nehoiu is a local producer of wood furniture having as main customer IKEA retailer

Around 400 employees

President of Trade Union "NIKMOB"- Mr **Gheorghe BOGZOIU**

<http://www.nikmob.ro/en>

10. E ON Romania

E.ON is an international privately-owned energy supplier which faces fundamental change: through implementing its new strategy, E.ON will in future be focussing entirely on renewables, energy networks and customer solutions, which are the building blocks of the new energy world. The conventional generation and energy trading businesses were combined into a distinct company, Uniper, as per 1st January, 2016.

Around 5000 employees

President of Trade Union "EON Gaz"- Mr **Eugen LUHA**

11. METRO ROMANIA

29 hypermarkets Cash & Carry

Around 4500 employees

President of Trade Union "METRO Romania" - Ms **Gina MOISE**

<https://www.metro.ro/>