

«Institute
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PESSIS 3 “PROMOTING EMPLOYERS’ SOCIAL
SERVICES ORGANISATIONS IN SOCIAL DIALOGUE”

«COUNTRY-CASE STUDY: *ROMANIA*»

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**A dialogue between management and labour. Promoting employer's social services in social dialogue
ROMANIA Case Study**

Table of contents

1. Introduction – Argument to the Study
2. Research methodology
3. Social dialogue in the social services sector
4. Mapping of social services in Romania
 - 4.1 Magnitude of the public social services sector
 - 4.2 Magnitude of the private social services sector
 - 4.3 Socio-demographic profile of the employees in the social services sector
5. Collective bargaining agreements and other arrangements
6. A qualitative overview on the effectiveness of social dialogue in the social services sector in Romania
7. Future prospects of social dialogue in the social services sector
8. The case for EU level Social dialogue in the social services sector
9. Conclusion and Recommendations
10. Bibliographical References



1. Introduction – argument to the Study

The purpose of this research is to offer a national case study in the field of social dialogue in the social services sector in Romania, providing a thorough overview of the current situation on labor and social dialogue issues, using both qualitative and quantitative data.

Romania suffers from lack of qualitative and quantitative data on the dialogue between employers and representatives of employees from the social services sector, and in this context, the present research aims to a better understanding of how social dialogue is structured and organized around its core components. It also plans to point out the barriers this sector faces and the possible solutions to address them, while revealing practical examples that arose from the research.

2. Research Methodology

The main research methodology used for documenting empiric evidences for the present report included:

- *Desk research on existing literature/official reports on social services sector available in Romania*¹ (official reports prepared by the Department of Social Dialogue and working papers of working groups under the Delegated Ministry for Social Dialogue²; independent reports prepared by civil society entities with regards to social dialogue in the reference sector; relevant academic research papers on social dialogue in the social services sector)
- *Legislative analysis* of the main pieces of legislation regulating social dialogue in Romania;
- *Data mining* – information collected from the Government Departments (Social Dialogue delegated Ministry, Ministry of Labour: National Child Protection Agency, National Agency for Persons with Disability, National Employment Agency, Departments for Elderly and for Social Services Accreditation) and 47 General Directorates of Social Assistance and Childcare (the largest employer of social workforce at county level (41)/Bucharest districts (6 plus the Capital General Directorate of Bucharest);
- *Analysis of collective agreements in the social services sector*

¹ Please see footnotes and bibliography for reference

² <http://www.mmuncii.ro/i33/index.php/ro/dialog-social/societate-civila>



«Country-Case Study: **ROMANIA** »

Project PESSIS 2 "Promoting Employers' Social Services Organisations in Social Dialogue"
Agreement number: VS/2015/0339

- *Interviews with stakeholders:* 5 interviews with trade unions (FNS ProAsist, SANITAS, Ferereation of Personal Assistants of Persons with Disabilities, National Trade Union Confederation CARTEL ALFA, National Free Trade Union Confederation FRAȚIA), 2 with employer organizations (National Confederation of Romanian Patronage, National Council of Romanian Patronage) , 13 with NGOs – social service providers.

3. Social Dialogue in Romania

Pursuant to the Ministry of Labor, Family, Social Protection and Elderly, social dialogue involves all types of negotiation, consultation, partnership, cooperation and exchange of information at different levels, between representatives of the economic, social and decisional field, and mechanisms to prevent and solve labor conflicts.

The social dialogue aims to establish a social partnership between state authorities and economic and social actors, legitimate to represent group interests of labor and to participate to the enact, acceptance and coherent management of national and European policies on employment, including professional training, equal treatment, social inclusion and access to employment.

In Romania, the institutionalized social dialogue comprises two major components: **bipartite social dialogue**, between trade unions and employers, and **tripartite social dialogue**, between trade unions, employers' organizations and the Government. The institutional framework for exercising bipartite social dialogue are social dialogue committees, established at both central and local public administration levels, and the tripartite dialogue takes place in the National Tripartite Council for Social Dialogue, as stipulated by Law no. 62/2011, regarding Social Dialogue.

The legislative framework of the Social Dialogue include the following main pieces of legislation:

- Law no. 53/2003 - Labor Code, with further amendments, Title VII;
- Law no. 62/2011 - Social Dialogue Law, with further amendments;
- Law no. 248/2013 on organization and working of the Economic and Social Council, with further amendments;
- Law no. 467/2006 on the general framework for informing and consulting of employees;
- Law no. 217/2005 – Law of European Enterprise Committees;



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Project PESSIS 2 "Promoting Employers' Social Services Organisations in Social Dialogue"
Agreement number: VS/2015/0339

- Government Decision no. 187/2007 on informing and consulting employees in European companies;
- Government Decision no. 188/2007 on informing and consulting employees in the European cooperative societies;
- Government Emergency Ordinance no. 28/2009 regulating certain social protection measures (sectoral committees);
- International Labor Office Convention no. 87/1948 on Freedom of Association and Protection of the Right to Organize;
- International Labor Office Convention no. 98/1949 on Right to Organize and Collective Bargaining
- International Labor Office Convention no. 154/1981, regarding the promotion of collective bargaining;
- International Labor Office Convention no. 98/1949, regarding the Right to organize and the collective bargaining principles;
- International Labor Office Convention no. 135/1971 on the protection of workers' representatives and the rights granted to them;
- Government Decision no. 1260/2011 on labor sectors established under Law no. 62/2011;

The most important piece of legislation is Law no. 62/2011 as it covers the establishment, organization and functioning of trade union and employers' organizations; representativeness criteria; the social dialogue structures (National Tripartite Council for Social Dialogue, Economic and Social Council, social dialogue committees); procedures for negotiation of collective agreements.

Also, the enactment of the Social Dialogue law in 2011 marked a significant change in the way social dialogue is structured, as it has brought more flexible labor relationships and introduced some innovations, like the enlargement of power trade unions have in the collective bargaining process. One of the most problematic aspects of Law no. 62/2011 is related the *representativeness* criteria for trade unions: minimum 15 members employed by the same unit and minimum 50% + 1 from the employees from the same unit. These criteria have been highly contested, given the situation in approx. 40% of the SMEs in Romania have between 5 to 26 employees.

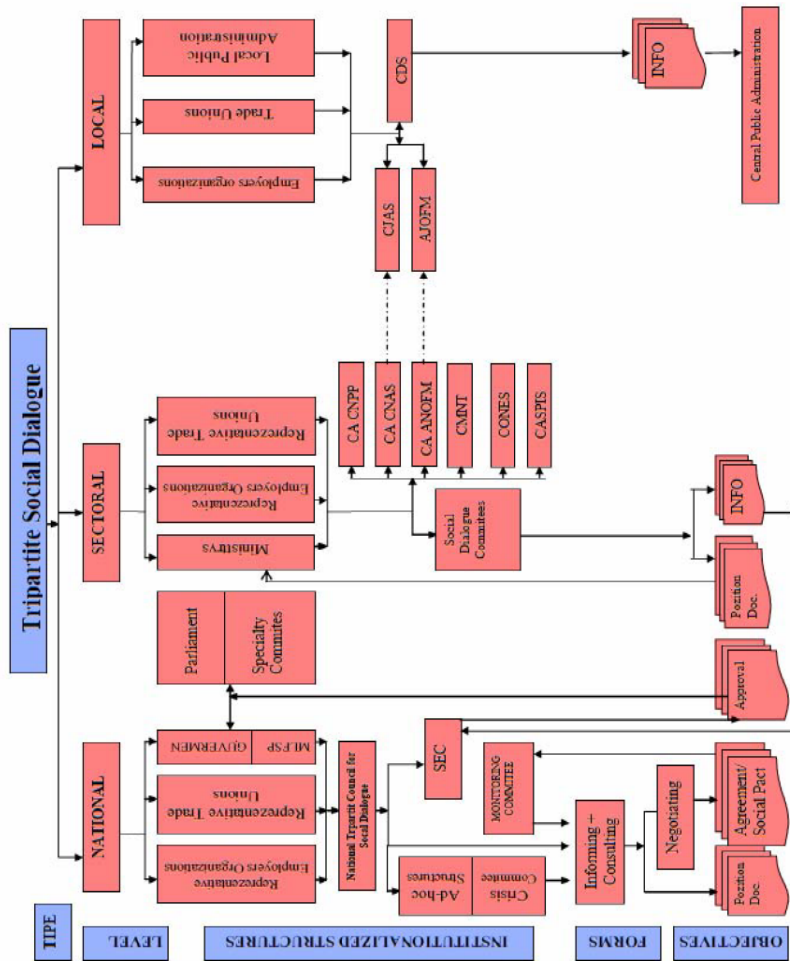


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Agreement number: VS/2015/0339

Table 1: Structure of Tripartite Social Dialogue in Romania



Source: European Social Dialogue,
Report prepared by the Ministry of Labor, Family and Social Protection

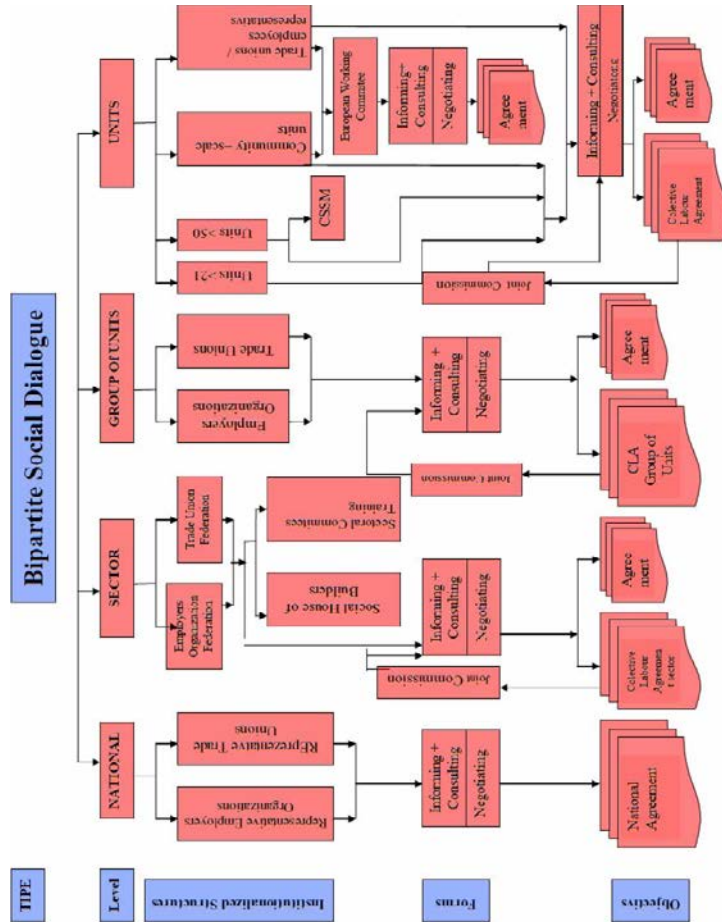


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Agreement number: VS/2015/0339

Table 2: Structure of Bipartite Social Dialogue in Romania



Source: European Social Dialogue,



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4. Mapping of social services in Romania

In Romania, any discussion on social services must be related to the national system of social assistance, which is defined by Law no. 292/2011 as a "set of institutions, measures and actions of the state, represented by central and local authorities and civil society, and used to prevent, mitigate or eliminate the temporary or permanent situations likely to generate poverty and social exclusion of persons, family, groups or communities" (Art. 2).

According to the same law, the national system of social defines two main categories of support:

1. *Social assistance benefits*, as a form of subsidy for individual/familial income, in order to ensure a minimum standard of living and a form of support for promoting social inclusion and increase the quality of life of certain categories of persons;
2. *Social services*, defined as the activity or set of activities implemented to meet social and special needs of the individual, family or group to overcome difficult situations, prevent and remove the risk of social exclusion, promote social inclusion and improve quality of life.

According to Art. 1 from Government Ordinance no. 68/2003³, social services "are provided by local government authorities and as well by natural or legal persons, public or private", and are organized at community level, depending on the identified needs, on the number of potential beneficiaries, on the complexity of situations and degree of social risk. Regarding their classification, social services are: social care services and socio-medical care services. In turn, each category involves other types of activities and services. Social care services, for example, are divided into primary services and specialized services.

The primary services aim to prevent or limit situations of difficulty or vulnerability that can lead to marginalization and social exclusion, and among such services as:

³ http://www.mmuncii.ro/pub/imagemanager/images/file/Legislatie/ORDONANTE-DE-GUVERN/OG68-2003_act.pdf



«Country-Case Study: **ROMANIA** »

Project PESSIS 2 "Promoting Employers' Social Services Organisations in Social Dialogue"
Agreement number: VS/2015/0339

- a) identifying individual and group needs, and the main categories of social services beneficiaries;
- b) information on risk situations and social rights of the individual;
- c) educational and supervisory measures to prevent deviant behavior;
- d) counseling for elderly, disabled, people with chronic pathology, alcohol, drugs and other toxic substances addictions, people infected or living with HIV/AIDS, their families and other members of the social group with which have been in constant or fortuitous contact;
- e) counseling for individuals and families who adopt children or have infants in foster care or custody;
- f) advice for young people leaving child protection institutions;
- g) counseling and support for neglected, abused, victims of domestic violence or human trafficking people;
- h) material and financial support to persons and families whose income is insufficient to cover minimum needs;
- i) emergency measures for the following people: homeless, victims of human trafficking, domestic violence, and for any person in difficulty;
- j) any other measures of social protection.

Specialized services aim to maintain, restore or develop individual capacities to overcome a social need, and their scope is:

- a) hosting, care, recovery, rehabilitation and social reintegration of elderly, disabled, chronically ill people, alcohol or drugs addicts, victims of domestic violence or human trafficking;
- b) support and assistance for children and families in need;
- c) hosting and special education for children or young people with disabilities or who have difficulty adapting;
- d) hosting youth leaving the child protection system for a determined time, in accordance to legislation;
- e) social and professional insertion of youth leaving the child protection system;
- f) hosting homeless people for a definite period of time;
- g) assistance and support for independent and active life of old people and care for the elderly that are in situation of dependence;
- h) measures to support integration into work, other than those provided by the Labor Code, including workshops;
- i) measures of rehabilitation, pre-orientation and vocational rehabilitation established by law;



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Project PESSIS 2 "Promoting Employers' Social Services Organisations in Social Dialogue"
Agreement number: VS/2015/0339

- j) receiving and care in emergency situations, with or without hosting, support and social accompaniment, adaptation to an active life or social and professional insertion of individuals or families in need or at risk;
- k) actions to identify, help, support, train and inform, advice, expertise or coordination to prevent any forms of addiction;
- l) activities, social measures and services, pilot type;
- m) any other measures of social intervention.

Social-medical care services can be classified into the following categories:

- a) basic services: help for body hygiene, dressing and undressing, nutrition and hydration, transfer and mobilization movement inside, communication;
- b) support services: help for cooking or delivering it, shopping, housekeeping, companionship in public transportation, facilitating travel, administration and management activities, leisure activities;
- c) health care services;
- d) recovery and rehabilitation services, medical and social related subjects: physical therapy, physiotherapy, occupational therapy, psychotherapy, speech therapy, chiropody and others;
- e) rehabilitation environment adapting services: small fitting, repairs and the like.

Social assistance Law no. 292/2011 provides the legal and institutional frame, setting out general principles and rules for granting social assistance measures and criteria of organization and functioning of the system, in order to ensure adequate conditions for development and implementation of public policies in the social sector. In accordance to this, in Art. 30, social services are grouped into several categories:

1. *In their scope*, social services can be classified as: services for assistance and support to ensure basic needs of the individual, personal care services, recovery/rehabilitation services, insertion/social reintegration services.
2. According to the *category* of beneficiaries, social services can be classified into social services for children and/or families, people with disabilities, elderly, victims of domestic violence, homelessness, people with different addictions to alcohol, drugs or other toxic substances, internet, gaming, etc., victims of trafficking, detainees, people under probation services, persons mentally affected, people in isolated communities, long-term unemployed and social services support for the beneficiaries caregivers.



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3. According to the *type* of assistance, social services are classified into: accommodation services for fixed or indefinite period: residential centers, protected housing, night shelters etc.; services without accommodation: day care centers and/or home care units, social canteen, social ambulance etc.
4. Relative to the *place* where are provided, social services can be: at the beneficiary's home; in centers; in residential centers; at the domicile of the person providing the service; in the community.
5. According to the legal status of the provider, social services can be organized as public structures or private.

6. Based on the *regime of social service provision*, these can be provided under *normal or special regime*.

The Ministry of Labor, Family, Social Protection and Elderly has decided in August 2016 through Government Decision that the licensing for social services provision shall be issued by 3 subordinated institutions: National Authority for Child Rights Protection and Adoption for services for children, National Agency for Equality of Chances between Women and Men for victims of domestic violence and National Authority for Persons with Disabilities for services for the disabled (as compared to the former procedure, where a single department within the Ministry would issue accreditations). The same new regulation has brought simplification of the licensing procedure, as most requirements are met electronically.

With regards to the *magnitude* of the social sector in terms of number of employees, statistics are scarce at national level and one cannot provide with accuracy a figure, moreover since the sector is heterogeneous in terms of coverage at national level and reporting standards (particularly for private service providers) are basically missing. Another aspect that we should consider is that not always the statute of *employee* in the social services sector actually refers to a professional category represented in social dialogue – but rather a form of social support that is allocated to a person belonging to a vulnerable category (e.g. the *personal assistant* of the person with a disability – this category being extremely numerous in the case of Romania).

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However, a rough number considering the information collected by the Researcher using the law on freedom of information⁴, triangulated with secondary reference information on the private sector points to an approximate no. of **70.000 employees in the social services sector**⁵, where approx. **53.000 are in the public sector** and **17.000 in the private social services sector**.

In order to cross-check the quantitative information presented above, IPP realized several interviews with key stakeholders from social services sector. We talked to leaders of trade unions representing, mostly, social workers from childcare field, people with disabilities and elderly. The number of social workers represented by the trade unions who took part to this research varied from 200 to 12.000.

Asked what do they understand through social services, half of them opted for the definition stated in the section 28 of the Government Decision no. 1260/2011 on labor sectors established under Law no. 62/2011⁶, where social assistance is characterized as "Residential care and social assistance with accommodation", "Activities of retirement homes and homes for persons unable to care for themselves", "Other social work activities with accommodation", "Social work activities without accommodation", "Social work activities without accommodation for the elderly and for persons unable to care for themselves", "Other social work activities without accommodation". The other half of the respondents said that social services are a form of active support for families and communities in difficulty.

43.1 Magnitude of the public social services sector

By 31 December 2015, within the General Directorates for Social Assistance and Childcare of the 41 counties and 6 districts of Bucharest, in the department of Child Protection were employed a total of **32.604 people**, out of whom **12.005** (meaning 36.82%) are **social workers in foster care**⁷. It is interesting to note down that figures are approximatively similar with the ones from 2013, when the sector was still affected by the massive cut-offs (in salaries and staff) from 2009. According to the National Strategy on

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⁴ Please check the *Methodology* section for more information

⁵ Excluding personal assistants

⁶ <http://lege5.ro/Gratuit/gi4dkmjsa/hotararea-nr-1260-2011-privind-sectoarele-de-activitate-stabilite-conform-legii-nr-62-2011>

⁷ http://www.mmuncii.ro/j33/images/buletin_statistic/copil_an2015.pdf



«Country-Case Study: **ROMANIA** »

Project PESSIS 2 "Promoting Employers' Social Services Organisations in Social Dialogue"
Agreement number: VS/2015/0339

Social Inclusion and Poverty Reduction for 2015 – 2017, these measures taken by the Government at the time have affected the personnel in the foster care centers (decreasing from 16.534 in 2008 to 12.513 in 2013), social workers in foster care (from 15.023 in 2008 to 12.201 in 2013). In 2011, studies pointed to a deficit of approx. 11.0000 social workers for the whole system (at local and county level).

The National College of Social Workers from Romania has a total number of **5.782 social assistants** as registered members, out of more than 30.000 graduates⁸.

Furthermore, according to the official information provided by the Ministry of Labor, Family, Social Protection and Elderly, a total number of 636.716 persons with disabilities are formally entitled to have a **personal assistant** (according to the provisions of articles 35 and 45 from Law no. 448/2006 on the protection and promoting the right of disabled people⁹) who is paid from the State budget through the local authorities, but there is no official information centralized related to the total number of registered personal assistants of disabled persons in Romania at present.

According to the information provided by the General Directorates of Social Assistance and Childcare to the official requests for public interest information issued by IPP, a total number of **43.382 employees**¹⁰ in the public social services sector were registered as of March, 1st, 2016.

The average number of social workers in public service at county level in Romania is of **1.058**. According to a report published by the Institute for Research of Life Quality in Romania¹¹, a social worker covers approx. 35,000 inhabitants.

Table 3: Number of employees in the Public Social Services per County (as of March, 1st, 2016)

⁸ http://www.cnasr.ro/imag/files_1/38139820856615c1ad83f2.pdf

⁹ http://www.dreptonline.ro/legislatie/lege_protectia_persoane_handicap_448_2006_rep_2008.php

¹⁰ The number sums up the information provided by 41 out of 47 GDASCs (Arad, Călărași, Giurgiu, Iași, Ilfov, Sălaj, Neamț). We estimate that the missing counties, based on the average no. of social workers per county and relative to the no. of inhabitants, have a total number of approx. 10.000 employees in the public social services sector.

¹¹ <http://www.revistacalitateavietii.ro/2006/CV-3-4-06/8.pdf>

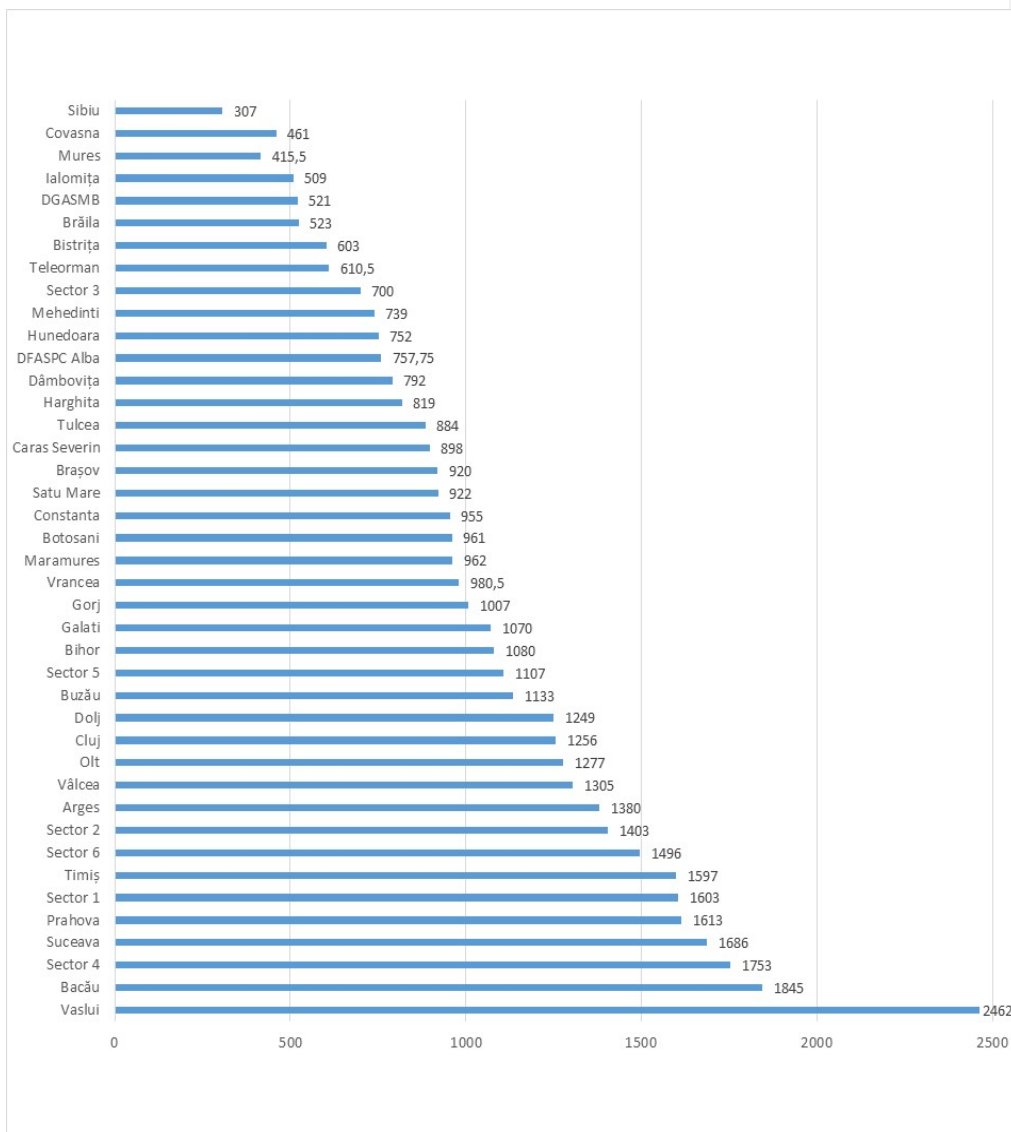


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Agreement number: VS/2015/0339

Source: Official information provided by GDASCs upon FOIA request



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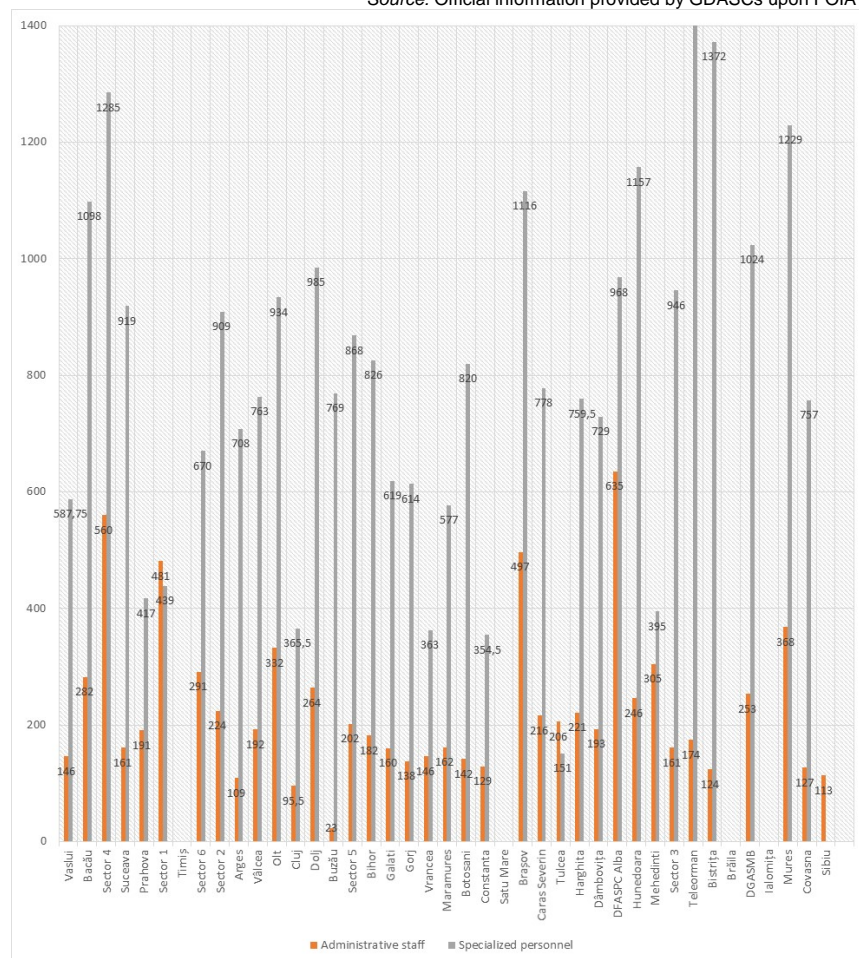
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Project PESSIS 2 "Promoting Employers' Social Services Organisations in Social Dialogue"

Agreement number: VS/2015/0339

Table 4: Number of employees – administrative personnel vs. specialized personnel in public social services

Source: Official information provided by GDASCs upon FOIA request



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4.2 Magnitude of the private social services sector

While in the beginning of 2000, the number of private entities (associations and foundations) active in the social sector/charity was predominant – representing 42% of the total number of non-governmental organizations existing in Romania, by 2010 this percentage has decreased to 22,6% - still the statistics in relative, as it only covers the ones that have declares as main activity area *social assistance*¹². However, the social services providers had in 2010 the highest number of employed personnel in the non-governmental sector in Romania – 16.480 employees. In Bucharest, in 2010, were registered 135 social service providers, out of which 122 were private. These entities are associations, foundations and legal persons providing primary and specialized care such as: education, accommodation for a(n) (un)limited period of time, mediation, psychotherapy, community reintegration, family reintegration, basic services for daily activities, juridical counselling, social counselling, psychological counselling, occupational therapy, hydro therapy, identification and evaluation, information, kinetic therapy, psychological, social and professional orientation, professional reintegration, food provision, palliative care, socio-medical care, recovery and rehabilitation, support for independent living, emergency support for crisis situations, accompany support. The number of social services provided by the private service providers at the time was of 925, out of 1.133 services in total, provided by all social services providers licensed in Bucharest.

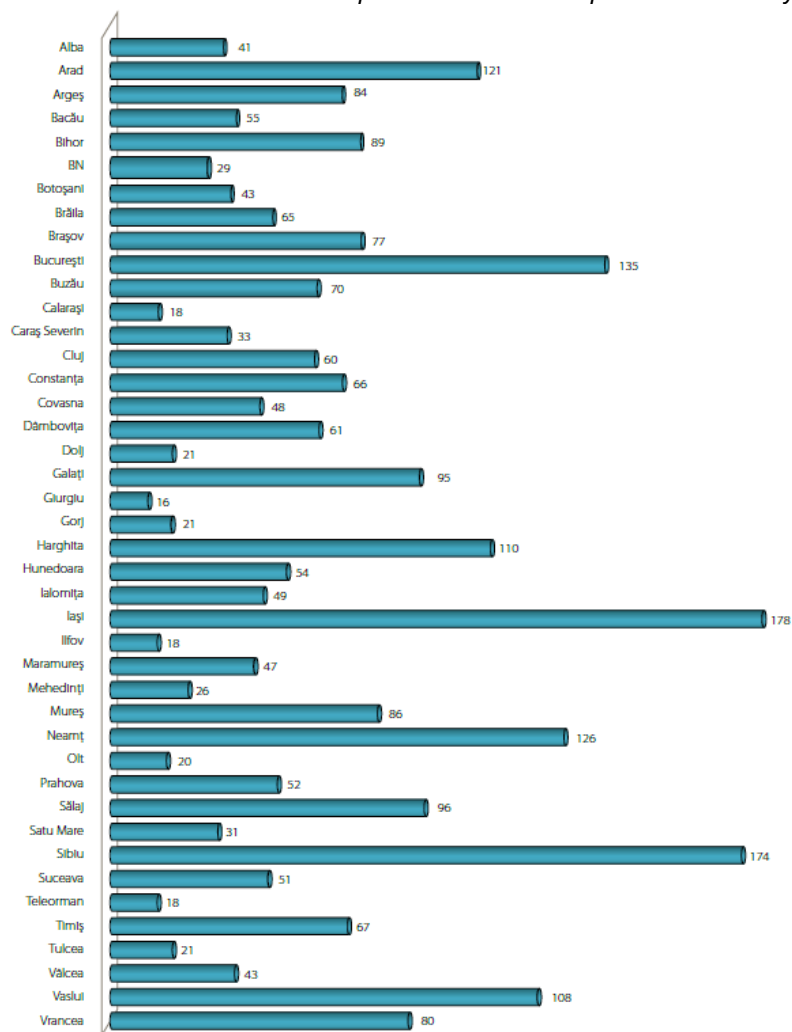
¹² Referred to as CAEN Code (National Classification of Economic Activities in Romania)



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Agreement number: VS/2015/0339

Table 5: Number of accredited private social service providers at county level



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The number of specialized personnel employed in the social services sector has registered a continuous increase between 2000 – 2005 (when it almost tripled), while it has decreased between 2006 – 2010. Possible explanations of this dynamic are:

- Reduced social services providing;
- Decrease of number of beneficiaries of social services
- Decrease and/or attempts to making the private social services more effective – covering with a lower staff same number of beneficiaries, while respecting the minimum quality standards imposed by law.

In 2010 (a year marked by the economic crisis), the private social service providers have cut off personnel by almost 11%.

Table 6: Evolution of number of employees in the private social services sector (2000 – 2010)

Accredited social service providers	2000	2005	2007	2009	2010
Average no. of employees/service provider	7,8	12,3	11,0	10,0	8,9
0 employees	54%	26%	25%	25%	26%
1 – 5 employees	22%	25%	29%	33%	31%
5 – 10 employees	8%	17%	17%	19%	21%
11 – 20 employees	6%	15%	16%	12%	12%
Over 20 employees	10%	16%	13%	11%	10%

Source: Social Services in Romania. The Role of Social Economy actors, 2013¹³

On a national average, a private social services provider had an average of 14 employees in 2010, out of which 11 employed with undetermined time employment contract, 2 with determined time employment contract, 2 with other contractual forms.

¹³ Report prepared by Gabriela Dima,
http://www.ies.org.ro/library/files/raport_serviciile_sociale_in_romania_rolul_actorilor_economiei_sociale.pdf



Table 7: Distribution of public and private social service providers in Romania

Development Region	Total no. of social service providers	Private social service providers (associations and foundations)	Ratio of private service providers
North East	561	242	43%
West	275	187	68%
North – West	352	208	59%
Center Centre	536	286	53%
South – East	397	106	27%
South	298	81	27%
Bucharest Ilfov	131	122	93%
South – West	153	55	36%

Source: Registry of Social Services, Ministry of ~~Labor~~Labour, apud Report IES (see reference above)

There is no information available with regards to the participation of employees from the private social services sector in trade unions, nor any reference to any trade union formed at private social services providers unit – however, the representativeness criteria of minimum 15 employees would be a serious impediment.

4.3 Socio-demographic profile of the employees in the social services sector

Official data collected by the Ministry of Labor, Family, Social Protection and Elderly is not disaggregated on gender, age or place of geographic location of provision of social services.

However, complementary research – such as the evidences of the National College of Social Workers from Romania¹⁴ do point to such profiling, indicating that: *most social*

¹⁴ http://www.cnasr.ro/imag/files_1/38139820856615c1ad83f2.pdf



«Country-Case Study: **ROMANIA** »

Project PESSIS 2 "Promoting Employers' Social Services Organisations in Social Dialogue"

Agreement number: VS/2015/0339

assistants are women (88%), about 36 years old and with vast professional experience, despite the low payment (between 800 and 1,000 lei/178 and 223 euros in rural areas). Also, over 70% of them work in the public system of social assistance, the rest being employees of nongovernmental organizations (including services organized by the church).

Most of the social workers (in absolute numbers) is working in rural areas (66%). At the same time, on the number of people working in public social assistance services is significantly different between urban and rural areas. In urban areas the average number of employees in a public social service is of 5 social workers (5.75), whereas in rural areas the average is of only 1.27. The National Strategy on Social Inclusion and Poverty Reduction 2015 - 2020¹⁵, points to a higher average in urban areas (1.3 in rural social public services, and 9.7 in urban areas - cities up to 50,000 inhabitants).

The same strategic document states that *over a third of rural areas and ten percent of small towns do not have public social services*, even though law no. 292/2011 requires all municipalities to have such services. This can be corroborated with the spending on social services – not more than 0.6% of GDP.

¹⁵ <http://www.mmuncii.ro/j33/images/Documente/Familie/2015-DPS/2015-sn-is-rs.pdf>

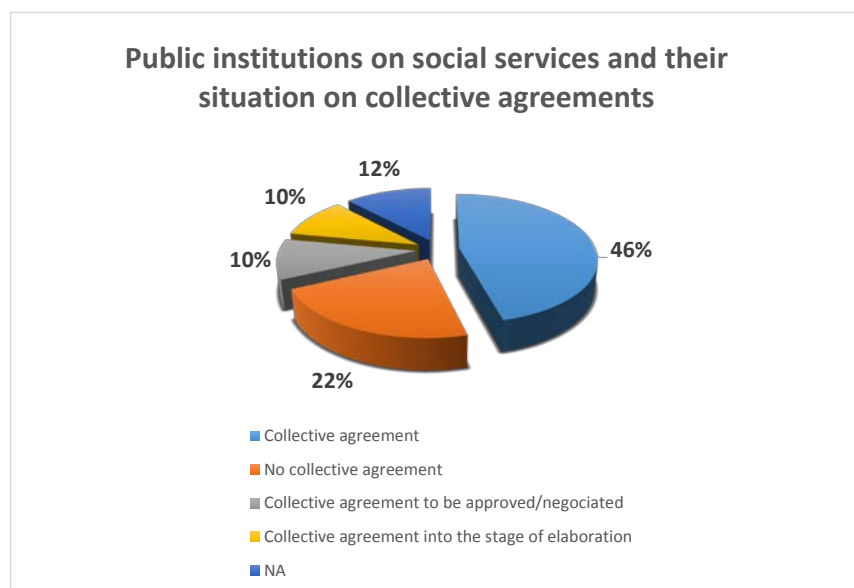


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5. Analysis of collective bargaining and social dialogue arrangements in Romania

From the point of view of the frequency of collective bargaining, only 46% of the public social services providers have declared that their employers are covered by collective agreements. Those contracts are signed between employers, trade unions and/or representatives of the employees¹⁶.

Table 8: Distribution of collective agreements in public social services



¹⁶ According to the Labor Code (article 221), when an employer has more than 20 employees but there is no representative trade union established at, interests of the employees may be represented by a person mandated by the vote of at least half of the total number of employees in the respective unit.



«Country-Case Study: **ROMANIA** »

Project PESSIS 2 "Promoting Employers' Social Services Organisations in Social Dialogue"
Agreement number: VS/2015/0339

Only 7% of the public social services providers at county level declared that all employees are covered by collective agreements, and for 15% of the public social service providers, more than half of the employees are part of collective agreements.

Currently, the main negotiation level is bargaining at a company level. Sectorial collective bargaining is allowed, but in the sector of social services there are no representative employers' organizations. But collective bargaining is mandatory for companies with more than 21 employees. Also, the high representativeness criteria imposed by the law, of half + 1, makes the situation very difficult. Moreover, although law no. 62/2011 on social dialogue stipulates that in order to achieve the purpose for which they are established trade unions have the right to use specific means such as negotiations, conciliation, mediation, arbitration, petition, protest picket, march, rally and demonstration or strike, laws on labor restrict this rights, as protesters must be in 50% + 1 formula.

Analysing the collective agreements of the public social services, we have observed that all stated the idea of aiming to establish rights and obligations of the employer and employees work in the sector social and the specific work conditions. Also, it sustains that another scope of the collective agreement is to promote and guarantee fair labour relations, such as to ensure social protection of employees, conflicts elimination or labour strikes prevent. What is important to notice is that it only guarantees the minimal standards on rights and obligations on: the conclusion, performance, modification, suspension and closure of individual employment contract; working conditions and labour protection; working time and rest time; training; rights of trade unions and their representatives; rights and obligations of employees.

Most of the collective agreements are signed for 2 years with the possibility of one year of extension (if it is not renegotiated within 30 before its expiry), between the employer and a trade union/representatives of employees. Although the contracts were signed in the presence of a trade union, some collective agreements consulted by IPP presented atypical and unfavourable conditions for the employees. As example, most of the collective agreements had annexes with the amount of sanitary material social workers from public institutions are entitled to (e.g. 75 grams of soap/month, 2 hygienic paper rolls/month, 250 ml. of disinfectant/month).

In the Researcher's opinion, some provision from the collective agreements consulted are not meant to improve the working conditions but, on the contrary, they are conflicting with the privacy of workers. To be more precisely, under the promise of free and complete medical tests, employers can test their employees for HIV, HBV and HCV, if the occupational medical doctor decides to. If the employee refuses to have the tests, his or



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Project PESSIS 2 "Promoting Employers' Social Services Organisations in Social Dialogue"
Agreement number: VS/2015/0339

her refusal is considered disciplinary offense and is sanctioned according to internal regulations. Another problem found in the collective agreements consists in professional training, as university studies does not constitute instruction. This is related to the small rate of social assistants with social university studies – only 30% of those working in public services of social assistance¹⁷, compared to 43% of those who were trained in the social sciences, here including: sociology, psychology, pedagogy, psycho-pedagogy, law/legal sciences, public administration, economics, political science and communication sciences. Studies in other fields were found at 8% of employees. Also, another interesting statistic refers to the qualifications of the social assistants - 17% graduated high school, 2% have completed post-secondary schools, while 81% have higher education.

On the other side, the collective agreement of the General Directories for Social Assistance and Childcare also include positive specifications. As example, the employer is obliged to provide free and complete medical examination at the employee request, at least once a year. Likewise, trade unions negotiated for incentives: hours worked on weekend and holidays are paid double, hours at night get 25% more money and those who work in three laps benefit of a 15% wage increase. As well, collective agreements mention of 20% increase for activity in isolated centres, 15% for working in conditions of high mental tension, 15% for the period they foster at least 2 children, 25% for each child with a disability/HIV/AIDS took in foster care, 50% for those working in neuropsychological rehabilitation centres for recovery and/centre for people with neuropsychiatric disorders and 75% for those working in very dangerous conditions. The problems that appears here is that, by some collective agreements, no matter the incentives a social worker fits for, he/she can only get 30% of his/hers base salary.

Other collective agreements include workers compensation for firing (between 0 - 3 years seniority - 3 gross monthly salaries, between 3 and 5 years: 5 monthly gross salaries, between 5 and 10 years: 10 monthly gross wages , over 15 years: 30 gross salaries), holiday vouchers (with a value ranging from 2 and 6 minimum wages, namely 2.100 RON /471 euro and 6.300 RON/1.413 euro), social vouchers for food purchase (10 RON/2,24 euro for a working day), nursery school vouchers (if the mother is not entitled to maternity leave or child indemnify (equivalent to 200 RON/44.68 euro).

As stated in the beginning of this chapter, working time is also a *sine qua non* condition in a collective agreement. All collective agreements consulted by IPP mention the normal 8 working hours, with 32 overtime hours/month, compensated either by paid free time in the

¹⁷ http://www.cnasr.ro/imag/files_1/38139820856615c1ad83f2.pdf



«Country-Case Study: **ROMANIA** »

Project PESSIS 2 "Promoting Employers' Social Services Organisations in Social Dialogue"
Agreement number: VS/2015/0339

next 60 days, either by additional payment to the wage. In reality, working time is one of the biggest problems of the system, as interviewed stakeholders said for IPP, as extra-hours is a regular practice and overtime is not paid.

On specific demands, social workers have claimed through trade unions a paid day off on their birthdays. Also, additional leaves are mentioned, in a maximum amount of 6 days/year, if the social worker works in harmful conditions. Therewith, in the collective agreements is mentioned the possibility to take leave on the same period with husband/wife if they both work for the same public institution on social services.

From the collective work contracts of the General Directories of Social Assistance and Childcare, one agreement, from the General Directorate of Social Assistance of Bucharest, drew our attention, as those who negotiated it actually asked for more advantages. To exemplify, employees who work at computer benefit every two years of goggles or a subsidy of 200 lei (45 euros) to buy it. Moreover, this social workers benefit from three additional days of holiday leave. Another stipulation is that employees who carry out public relations benefit from free immunization (employees can refuse it). Simultaneously, employees receive a social aid in amount of 150 lei (33 euros) on Easter, Christmas, and 1st June for child and persons under care, and for women employees on 8th March. Even more, each child of employees receive a gift pack (with school supplies, toys, candy), within sponsorships and donations. Last, but not least, employees benefit from free nursery for their kids in the proximity.

~~In the field of~~ In annexes (which can variate in number from 1 to 6), almost all General Directorates offered the materials and equipment table. But one General Directorate felt the need to bring under regulation the sexual harassment inside it's units.



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6. A qualitative overview on the effectiveness of social dialogue in the social services sector in Romania

Collective agreements also cover the rights and responsibilities of trade unions. To be more accurate, we reviewed the articles on them and we have highlighted the most relevant items: 4 free days/month for leaders of trade unions, 2 free days/month for vice presidents and 1 day/month for general secretaries, as to apply the provisions of collective agreement and to develop social dialogue; employees engaged in the collective agreement pay 0.4-1% of gross salary as a common fund for the trade union, as to the prepare and conduct collective bargaining, social dialogue, and other purposes of the social workers. We must emphasize here that only a few collective agreements consulted actually mention the notion of "social dialogue" and its necessity.

And since we mentioned of "social dialogue", through comparison of declarations of the stakeholders (trade unions versus authorities), we can easily see how social partners choses to blame each other – trade unions and workers from the sector of social services believe that the problems are caused by the lack of interest shown by authorities, by the inaccuracies of law and its interpretation, by "the miming of social dialogue".

On the other hand, authorities consider that Romania has an integrated system of institutionalized social dialogue that is organized functionally, with a high degree of adaptation to economic and social realities of the moment at all levels, both in the tripartite and bipartite social dialogue. Therefore, the vulnerabilities of the social dialogue in Romania are caused by a certain dynamics of development of partnership. "In this regard note the relative absence of consistency in the way of structuring the trade union organizations, leading to a major difficulty in sectoral collective bargaining, since, especially on the employer, employers' organizations are established at this level, to meet legal requirements (...) and the absence of a body of specialized negotiators in the social partner structures"¹⁸ is one of the explanations given by the Ministry of Labor, Family, Social Protection and Elderly.

In order to cross-check the quantitative information presented upper, IPP realized several interviews with key stakeholders from social services sector. We talked to leaders of trade unions representing, mostly, social workers from childcare field, people with disabilities

¹⁸ Coord. Pop Liviu, *European Social Dialogue, "Legal information guide on European Dialogue"*, for Ministry of Labor, Family and Social Protection, 2012, pp. 20-21



«Country-Case Study: **ROMANIA** »

Project PESSIS 2 "Promoting Employers' Social Services Organisations in Social Dialogue"
Agreement number: VS/2015/0339

and elderly. The number of social workers represented by the trade unions who took part to this research varied from 200 to 12.000.

~~Asked what do they understand through social services, half of them opted for the definition stated in the section 28 of the Government Decision no. 1260/2011 on labor sectors established under Law no. 62/2011¹⁹, where social assistance is characterized as "Residential care and social assistance with accommodation", "Activities of retirement homes and homes for persons unable to care for themselves", "Other social work activities with accommodation", "Social work activities without accommodation", "Social work activities without accommodation for the elderly and for persons unable to care for themselves", "Other social work activities without accommodation". The other half of the respondents said that social services are a form of active support for families and communities in difficulty.~~

On the matter of social dialogue, 25% of the interviewed stakeholders did not answered the question "In your opinion, what does the social dialogue imply?", but said why social dialogue is not working in ~~the their~~ their field: Committees of the Ministry and Prefectures are not functional and, further, the social dialogue is "mimed"; laws are problematic, impose criteria that cannot be fulfilled easily and are not known/accomplished by the authorities. For example, there is no obligation for County Council into financing social workers, although they are "employees" of the local authorities.

On the other side, those who responded to the question said social dialogue is a voluntary process through which social partners inform, consult and negotiate in order to establish agreements on issues of common interest. Another leader of trade union said that by social dialogue he understands relevant meetings with useful effects or a discussion on all subjects of interest to social partners. But when asked to evaluate the level at which social dialogue performs in the social services sector in Romania on a scale from 1 to 5 (where 1 was absent and 5 was very good), the average mark was 2.

In order to find out how would trade union see a functional communication in social services sector, leaders were asked to propose 3 measures that would improve, from their point of view, the status of social dialogue. The most important solutions proposed were: regular meetings with federations in the sector; negotiation and signing of a sector-wide collective agreement; seriousness and responsibility from the authorities, as well as awareness on the problems of the sector; new legislation; Economic and Social

¹⁹ ~~<http://lege5.ro/Gratuit/gi4dkmjsga/hotararea-nr-1260-2011-privind-sectoarele-de-activitate-stabilite-conform-legii-nr-62-2011>~~



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«Country-Case Study: **ROMANIA** »

Project PESSIS 2 "Promoting Employers' Social Services Organisations in Social Dialogue"
Agreement number: VS/2015/0339

Committees to be moved at Counties Councils; motivation of people to participate in social dialogue (as was customary in the years before law no. 62/2011).

What would trade unions like to solve by dint of social dialogue? Of course, better working conditions. The claims that leaders of trade unions are transmitted most frequently by employees in the social services sector, at national level, regard small wages, no bonuses receiving, working and rest time. If we go more profoundly, we will see that 100% of the interviewed mentioned income as the major problems of the system.

For all of claims, it seems that the laws on employment and social sector bear responsibility, as 50% of the responded argued that legislation is not uniform. One of the most common problem mentioned was the difference between maternal assistant and personal assistant. On one hand, personal assistants blame maternal assistants for getting money to become foster parent and to raise the children, while a disabled person (and his assistant) get a much ~~more~~ smaller account. On the other hand, maternal assistants say they work around the clock. The same explanation is valid for personal assistants also, as here we note down that one of the main flaws of the system is that it does not take into consideration the realities of the work of these type of employees in the social services sector – a legislation that basically says that a person with absolutely no independent/self-support could be taken care of exclusively during 8 working hours.

-Another legal issue that was communicated to us during interviews was the reference to personal assistant and professional personal assistant – it is only a difference regarding income, as the work is the same. The list of deficiencies on legal matters culminate with a substantial problem, as Ministry of Labor, Family, Social Protection and Elderly, alongside Ministry of Health, cannot be considered employers.

7. Future prospects of social dialogue in the social services sector

Trade unions try to be active in social dialogue and have made requirements for streamlining the relation between management and labor. Among them we can enumerate: representativeness to fall to 30% in order to negotiate collective agreements, better payment (or at least the one established through the collective agreement), periodic meetings between the involved parties in the social services sector.

Of course it comes to negotiation of the collective agreement at sector level, yet representativeness is again an obstacle for employers and employees at the same time. On one hand, in order to be social partners within the framework of the sector social dialogue, representative trade union federations should have at least 7% of the total

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«Country-Case Study: **ROMANIA** »

Project PESSIS 2 "Promoting Employers' Social Services Organisations in Social Dialogue"
Agreement number: VS/2015/0339

number of employees of the respective sector (according to Law no. 62/2011). At the same time, employer organizations federations representative at sector level must include at least 10% of the number of employees from the respective sector. On the other hand, in order to negotiate and approve a collective agreement, the same law stipulates that the respective document shall be registered if only both the trade union and the employer's organizations represent, each, more than half of the total number of employers from the respective sector, according to the information from the National Institute of Statistics. In case the representativeness condition isn't met, the agreement is registered not as a collective one, but as a contract at the level of group of entities.

Another matter in discussion is the contribution that is automatically retained from the person's salary (0,4 to 1% of the gross salary per month) for the trade union, an amount which is abusively/illegally appropriated by the trade union, as the Law on Social Dialogue stipulates that "no person cannot be contained to adhere or not, to withdraw or not from a trade union". The reason for collecting these amounts is stipulated in the collective agreements consulted by the Researcher under titles such as "contracting parties agree that employees covered by the collective agreement, others than the members of the trade union, to pay a contribution for the negotiations of the collective negotiations"

The situation is fairly problematic moreover when we correlate the main concern of employees (level of payment) with the salary/revenues of trade union leaders. In Romania, there are persons who are payed with 3.000 – 3.500 euro monthly, while the average salary in social assistance is approx. 460 euro²⁰. Paradoxically, the record honoraria of 7.500 euro/month belongs to a leader of a federation of trade unions representing interests of social workers.

Above all, the main problem when considering the future prospective of social dialogue is, according to the Ministry of Labor, Family Social Protection and Elderly – "in the absence of a historical culture of social dialogue, its fundamental elements are not valorized by partners". Precisely, the 3 fundamental elements of an effective social dialogue – identification of a common interest, parties expression of will and good – faith – are merely inexistent simultaneously in practice. A reality partially explained through the fact that restructuring of social dialogue happened after 2000.

²⁰

<http://www.digi24.ro/Stiri/Digi24/Actualitate/Social/Romania+sindicala+Liderii+care+castiga+si+pana+la+7+500+de+euro+>



8. The case for EU level Social dialogue in the social services sector

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Even though article 50 from the Law on Social Dialogue stipulates that "trade unions can affiliate to other internal and international organizations, according to their bylaws", such actions are not known at the level of social services sector. To add an example, Romania has only one trade union part of the European Confederation of Independent Trade Unions (CESI), but this is not relevant to the present research.

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The Ministry of Labor, Family, Social Protection and Elderly has elaborated a study (quoted hereby) on social dialogue at European level, with a particular attention on the functioning of these systems, on the historic evolution and best practices, yet without any specific direction for institutionalizing any of these at national level.

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9. Conclusions and recommendations

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The social dialogue system in social services sector must first find its legislative coordinates to ensure all employees in the field the right to be represented at trade union level. This must be open and flexible in order to adapt to socio-economic realities - including a vast range of types of employment in the social services sector and also cultural specificities. This last remark makes sense in the context in which Romanian employees are sometimes afraid to speak for their rights for not losing their job.



10. Bibliographical References

Dima Gabriela (coord.), *Social services in Romania. The role of social economy actors*, for Institute of Social Economy, Bucharest, 2013;

Guga Ștefan and Constantin Camelia, *Analysis of the new legislation, adopted in 2011, on social dialogue impact*, Swiss-Romanian Cooperation Programme, Bucharest, 2015;

Lambru Mihaela (coord.), *Analysis report regarding social services contraction, in national and European context*, for UNICEF Romania, Bucharest, 2015;

Lazăr Florin (coord.), *Social Assistance without social assistants*, Tritonic, Bucharest, 2015;

Lazăr Florin (coord.), *The profile of social assistants from Romania*, Editura de Vest, Timișoara, 2015;

Ministry of Labor, Family, Social Protection and Elderly, *Activity report. Social protection and elderly. Family. Labor*, Bucharest, 2015;

Ministry of Labor, Family, Social Protection and Elderly, *Annual Report on Social Dialogue for 2014*, Bucharest, 2015;

Ministry of Labor, Family, Social Protection and Elderly and National Authority for Disabled Persons, *Statistic data, 31 December 2015*, Bucharest, 2016;

Ministry of Labor, Family, Social Protection and Elderly, *Employment, mobility, unemployment and social protection of unemployed people*, Bucharest, 2016;

Ministry of Labor, Family, Social Protection and Elderly, *National Strategy on Social Inclusion and Poverty Reduction 2015- 2020*, 2015;

Ministry of Labor, Family, Social Protection and Elderly, *Working Conditions by first 9 months of 2015*, Bucharest, 2015;

Ministry of Labor, Family, Social Protection and Elderly, *Working Conditions by 2015*, Bucharest, 2016;



«Country-Case Study: **ROMANIA**»

Project PESSIS 2 "Promoting Employers' Social Services Organisations in Social Dialogue"
Agreement number: VS/2015/0339

Ministry for Social Dialogue, *National Strategy for Social Dialogue*, 2015;

National Authority for Disabled Persons, *Staff for adults assistance in centers, by types of unities and staff, data base ASS115A*, for National Institute of Statistics, 2015;

Pop Liviu Marian (coord.), *European Social Dialogue. Legal information guide on european dialogue*, for Ministry of Labor, Family, Social Protection and Elderly and Romanian Government, Bucharest, 2012;

Stoiciu Victoria, *Annual Review of Labour Relations and Social Dialogue Romania*, Friedrich-Ebert-Stiftung, Bratislava, 2016;

Government Decision no. 1260/2011 on labor sectors established under Law no. 62/2011 ;

Government Decision no. 187/2007 on informing and consulting employees in European companies ;

Government Decision no. 188/2007 on informing and consulting employees in the European cooperative societies ;

Government Emergency Ordinance no. 28/2009 regulating certain social protection measures (sectoral committees) ;

Government Ordinance no. 1826 from 22 December 2005 approving the National Strategy for Social Services Development ;

Government Ordinance no. 68 from 28 August 2003 regarding social services;

Law no. 62 from 10 May 2011 on social dialogue;

Law no. 448 from 2006 regarding the protection and promotion of disabled people rights;

Law no. 248/2013, regarding the organisation and working of the Economic and Social Council ;

Law no. 467/2006 on the general framework for informing and consulting of employees ;

Law no. 217/2005 of European Enterprise Committees



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Annexes:

Questionnaire

Research goal:

This questionnaire aims to track down how is organized and structured the social dialogue between management and labor in Romania in the social services sector, focusing on the problems social workers face and their settlement. Choose the option that suits you.

Organisation Name:

A1. In which type of social services are you employed?

- ☐ child and/or family;
- ☐ persons with disabilities;
- ☐ elderly;
- ☐ victims of domestic violence;
- ☐ homeless people;
- ☐ people with various addictions (alcohol, drugs and other toxic substances , internet, gaming, etc.);
- ☐ Other (please specify)

A2. You are affiliated to a trade union-type structure? If so, for how long ?

A3. On a scale of 1 to 5 (where 1 means "not at all" and 5 means "very good"), how do you evaluate the level at which social dialogue performs in the social services sector in Romania?

- ☐ 1
- ☐ 2



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«Country-Case Study: **ROMANIA** »

Project PESSIS 2 "Promoting Employers' Social Services Organisations in Social Dialogue"
Agreement number: VS/2015/0339

- ☐ 3
- ☐ 4
- ☐ 5
- ☐ DK/NA

A4. On a scale of 1 to 5 (where 1 means "not at all" and 5 means "very good"), how do you appreciate your involvement in the social dialogue in the social services sector?

- ☐ 1
- ☐ 2
- ☐ 3
- ☐ 4
- ☐ 5
- ☐ DK/NA

A5. Mention three problems you encounter frequently as an employee in the social services sector:

A6. In your opinion, these problems can be found at:

- ☐ Local level
- ☐ Regional level
- ☐ National level
- ☐ DK/NA

A7. How do you think these problems can be addressed?

A8. You are part of a Collective Agreement?



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«Country-Case Study: **ROMANIA** »

Project PESSIS 2 "Promoting Employers' Social Services Organisations in Social Dialogue"
Agreement number: VS/2015/0339

A9. What do you think a Collective Agreement should comprise for employees in the social services sector in which you work?

Interview grid

Research goal:

This interview aims to track down how is organized and structured the social dialogue between management and labor in Romania in the social services sector, in terms of situations addressed in the union/employers organisation/organisation/federation meetings and on the coverage of this situations in the collective agreements.

Person interviewed:

Position:

Union/Employers organisation/Organisation/Federation:

Social dialogue in the union/employers organisation/organisation/ federation

A1. What do you understand by social services?

A2. In your opinion, what does the social dialogue imply?

A3. In your opinion, at what level does social dialogue performs in your union/ employers organisation/organisation/federation (bipartite, tripartite)?



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Representativeness of social services within the trade union structures / employers

A4. How many unions/associations in the social services sector are members of the union/employers organisation/organisation/federation you represent?

A5. How many people are represented by your union/employers organisation/organisation/federation?

A6. What is the share from total employment represented by this sector?

A7. Who are the beneficiaries (the disabled, children, elderly, etc.)?

Perceptions about social dialogue in social services sector

A8. When does the union/employers organisation/organisation/federation negotiates/renegotiates the collective agreement?

A9. Who are the people who negotiate the collective agreement for social services?

A10. How many employees are part in this collective agreement?

A10.1. If not everyone decided to be part to the collective agreement, what are, in your opinion, the reason for which they refused to sign?



«Country-Case Study: **ROMANIA** »

Project PESSIS 2 "Promoting Employers' Social Services Organisations in Social Dialogue"
Agreement number: VS/2015/0339

A11. What are the most frequently transmitted claims by the employees from the social services sector?

A12. But the problems you most often face in your union/employers organisation/organisation/federation?

A13. In your opinion, what are the provisions of the collective agreement that are most difficult to negotiate in social services sector?

A14. On a scale of 1 to 5 (where 1 means "not at all" and 5 means "very good"), how do you evaluate the level at which social dialogue performs in the social services sector in Romania?

- ☐ 1
- ☐ 2
- ☐ 3
- ☐ 4
- ☐ 5
- ☐ DK/NA

A15. In your opinion, what measures could be taken to improve social dialogue in the social services sector? List 3.



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