



ITINERARIUL DIALOG - ID

startup workshop

Bucharest, 03.27.2013

*Project funded by the Norwegian Financial Mechanism
2009-2014, under the Fund for Decent Work and Tripartite Dialogue*





Social dialogue in the Romanian penitentiary system

development - framework - features



Partial demilitarization of national defense structure

Law No. 188/1999 - Status of Civil Servant (section 5 - categories of civil servants eligible for special status).

Prison workers are becoming civil servants with special status in accordance with Law No. 293/2004.



Policemen are demilitarized and are becoming civil servants with special status in accordance with State Law 360/2002.

Subsequent regulations are issued in regard to the special status (secondary and tertiary legislation).

The right to unionise without the right to strike

Representativeness



- The special status allows the union association without the right to strike.
- The first trade unions structures in the penitentiary system are created.
- SNLANP - unique union with members in most of the prisons (47 units)
- The penitentiary system is considered a group of units.

2004



- Trade unionists began to work and fight for the rights of staff;
- Some discussions are initiated with the union confederations on whether and the right to start collective negotiations at group level in penitentiary institutions.

2004-2006

Representativeness

- Federation - 7% of the group or sector
- Unions - 30% of the unit, "and through membership to a representative trade union structure" (Law no. 130/1996, decision of the Constitutional Court and Supreme Court)
- Dispute between unions.

Criterion for representativeness

Negotiations and protests



- Gradual changes of the special status.
- Workers in prisons are granted the right to strike (1/3 of the work).
- SNLANP changes its name to SNLP (2007) and starts investing in actions and image.
- FSAP PUBLISIND is created (2007)

- The signing of the first collective acts negotiated with the ministry and administration
- Collective Agreement and Labor Contract (public functionary and contractual staff) become effective.
- Changes and extensions of collective acts occur in the coming years.



- Protests against the lack of transparency.
- Ministry of Justice signs the Agreement on decisional transparency. A commission is created - unions / employers

2006-2008

2008 - ...

2009

Conflicts, crisis, protests, strike

The first collective labor conflict. Ministry of Labour tries to conciliate the conflict but its attempt fails. The penitentiary system is confronted with the first strike in the country's national defense structure. Ministry of Justice accepts the claims and the strike is off.



- Romanian Government commits to the Social Dialogue Law (Law no. 62/2011).
- Regulatory framework is fully rewritten. Prison unions lose the right to strike. The history of "industrial actions" in prison is very short.

2009

2010

2011

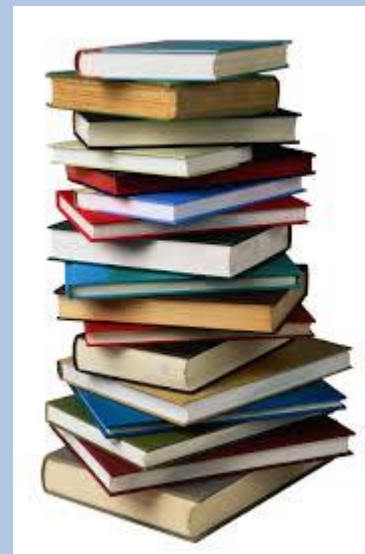
The economic crisis becomes more acute. Massive protests take place as a response to the austerity measures.

SNLP actively participates in all activities.

The second strike in prison takes place and it lasts for 24 hours.

The legal framework before the economic crisis (2010)

- Law No. 53/2003 Labour Code
- Law No. 54/2003 Unions
- Law No. 356/2001 Employers' Association
- Law No. 130/1996 Collective bargaining
- Law No. 19 / Work conflicts
- GD No 369/2009 Social Dialogue Committees (ministries, prefectures, institutions)
- Collective Labor Contract at National Level
- Status of civil servants and special statutes (for collective Agreements)



The legal framework during the economic crisis (after 2010)

Law No. 62/2011 - Social Dialogue Law

- **Apparently:**
 - ☐ synthesize and efficacy
- **In practice:**
 - ☐ eliminating collective negotiation at national level
 - ☐ criterion of representativeness - > 50%
 - ☐ blocking the negotiations at the sector level
 - ☐ reducing collective negotiation to group and prison unit level
 - ☐ penitentiaries strikes ban
 - ☐ complication of the collective conflicts



Social partners in the penitentiary system



Ministry of Justice / main credit ordinator



National Administration of Penitentiaries / secondary credit ordinator



Prison Units / tertiary (not negotiable at the prison unit level)



Representative trade union organizations

Social dialogue in the Romanian penitentiary system - FRAMEWORK-



Legislation

- Law no. 62/2011
- Collective agreement / contract at group of prison units level
- Agreement on Decision Process Transparency

Structures

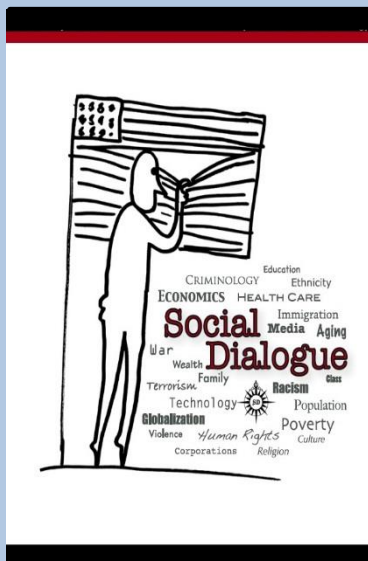
- Social dialogue committees at MoJ, MoI, MoD
- Joint Commission MoJ / NAP / Unions
- Boards of NAP and prison units
- Negotiating committees established under the authority of the Minister
- Working groups and committees

Negotiation - Consultation - Informing

Law no 62/2011:

□ **social dialogue** is the voluntary process by which social partners inform, consult and negotiate in order to establish agreements on matters of common interest;

□ **consultation** is the exchange of views within the social dialogue;



Causes:

- The economic crisis
- The austerity budget
- Blocked or cut off jobs
- International loans

Consequences:

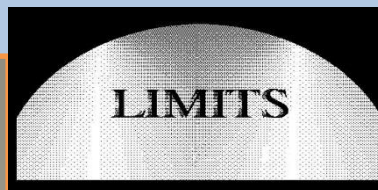
- The initiation of draft laws unfavorable to employees
- The initiators fear of bottlenecks during the consultation
- The tendency to treat the information as consultation
- The avoidance of negotiation

Simulated social dialogue becomes a permanent source of divergence and tension, therefore is to be avoided.

Employees are harmed and the situation requires forceful action, new tensions, negotiations and other divergences are being created.

The only solution remains a proper social dialogue.

Negotiation boundaries



Low No. 62/2011 (social dialogue)

❑ the negotiation or integration of clauses relating to rights in money, other than those stipulated by legislation, **is not allowed** through contracts / collective agreements concluded in the public sector

❑ public sector wage rights are established by law within precise limits which **can not be the subject of negotiations** and can not be modified by collective agreements

❑ In case wage rights are established by special laws between a minimum and a maximum limit, specific wage rights are determined through collective negotiation, but only between the legal limits

Law No 293/2004 (special status)

Collective agreement can only contain measures regarding:

- a) the establishment and use of funds intended for improvement of working conditions;
- b) work health and safety;
- c) daily work schedule;
- d) professional development;
- e) other measures than those provided by law concerning the protection of the elected governing bodies of trade unions

Implementation of collective agreements

Important aspects of negotiation:

- 15% of the total ANP budget – improvement of the existing working conditions (detention conditions by default)
- 10% of the ANP budget (own revenues) – Professional training
- 36 hours per month for union leaders paid by the employer (one leader/organization/unit)
- Different limitations for salary increases



Implementing problems, consequences:

- Insufficient budget - useless negotiations - poor working conditions – improper detention conditions
- Own revenues used for other priority expenditures - poor training - vulnerable staff – lack of efficiency

Unfair social dialogue - the fragmentation of the trade union movement

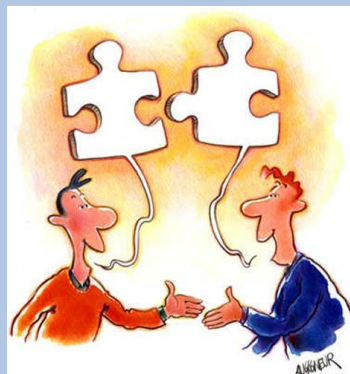
Consequences:

- The members trust is diminished
- Interest for union activities vanishes
- The power of the organisation is lost
- Communication becomes difficult – members' responsiveness
- Leaders are blamed
- Trade union movement union is getting fragmentation
- Employees lose their protection and representation
- Tense work environment – unproductive

Who wins?



Conclusions



- ***Social dialogue is a form of expression for some partners***, therefore it must be a real process, not a simulated one
- ***Negotiation is not a source of divergence*** but an instrument of evolved dialogue
- ***Unions must always find ways to maintain or reanimate social dialogue***
 - ***Real dialog cannot be unproductive***

Any questions?



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