

RESEARCH

REPORTS

RECOMMENDATIONS

ANAMARIA NĂSTASĂ

THE CENTRAL PUBLIC ADMINISTRATION SECTOR IN ROMANIA

CHALLENGES OF ORGANISING AND COLLECTIVE BARGAINING

INSTITUTE OF
PUBLIC AFFAIRS

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Social Policy Programme

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1. Methodological preface

The current study consisted of an in-depth interview and desk research, as the research methods. One in-depth interview was conducted with a representative of a trade union federation on central public administration. The interview lasted around 50 minutes and was conducted on May 13, 2024. For the desk research, an analysis of data was carried out from administrative sources and a content analysis on websites and available collective agreements.

2. General characteristics of the sector

In Romania, central public administration is defined in the legislation as “all the activities carried out in the exercise of public authority, the organisation of the execution and enforcement of the law and the provision of public services, in order to satisfy the national/general public interests” (Codul administrativ din 03.07.2019, 2019). The entities that fall under central public administration include the government, ministries, other specialised central bodies subordinated to the government or ministries, and autonomous administrative authorities. Employees in public administration are organised into three types: civil servants, contractual employees and political appointees/public dignity positions (Thijs & Hammerschmid, 2018).

Several regulatory frameworks guide the functioning of central public administration. The most important is the Constitution of Romania. Other legislations include the Law on the Organisation of the Romanian Government and Ministries (LEGE nr. 90, 2001), the Law on Public Finances (LEGE nr. 500, 2002), the Administrative Code (Codul administrativ din 03.07.2019, 2019; ORDONANȚĂ DE URGENȚĂ nr. 57, 2019), the Law on the Civil Servants Statute (LEGE nr. 188, 1999), the Law on Free Access to Information of Public Interest (LEGE nr. 544, 2001), the Law on Decision-Making Transparency in Public Administration (LEGE nr. 52, 2003), the Law on the Remuneration of Staff Paid from Public Funds (Legea-cadru nr. 153/2017, 2017), and other laws on public procurement.

Central public administration organisations are organised both functionally and territorially. At the functional level, the main organisations are the Government of Romania and the ministries (internal affairs, national defence, foreign affairs, justice, finance, energy, transport and infrastructure,

economy, entrepreneurship and tourism, agriculture and rural development, environment, water and forests, development, public works and administration, investments and European projects, labour and social solidarity, health, education, research, innovation and digitalisation, family, youth and equal opportunities, and culture). At the territorial level, the government is represented by prefectures and deconcentrated administrative units in each of the 41 counties and the municipality of Bucharest.

As of June 2024, the ministries with the highest share of civil servants' employees in central public administration, out of a total of 82,6522 employees are: the Ministry of Education (36.6%), the Ministry of Internal Affairs (15%), health facilities financed from the Single National Fund for Social Health Insurance (9.8%), the Ministry of National Defence (8.9%), Higher Education Organisations (8.5%), institutions subsidised from the state budget and unemployment benefit budget (5.4%), the Ministry of Finance (3%), and the Ministry of Health (2.2%). At the end of 2023, the number of civil servants in Romania was 68,307 (Eurostat, 2024), placing it among countries with the highest number of civil servants (including Sweden, Greece, Portugal, Italy, Netherlands and France). Civil servants are not exclusively employed in ministries. While ministries are a significant part of central public administration, civil servants are also employed in other institutions and agencies are subordinated to specific ministries.

3. Major problems and challenges in the sector

One of the main challenges mentioned by the representative in the central public administration sector, but more prevalent among local public administration organisations, is the wage inequalities among the same type of institutions and occupations in the sector. Trade unions have been vocal about these issues, staging protests and using the mass media to draw attention to their concerns, especially the Emergency Ordinance No. 53 from 23 May 2024. Some trade unions state that the “main dissatisfaction is that some employees in subordinate institutions have higher salaries than employees in the central government” (Vasilache, 2024).

The interviewed representative of a central public administration trade union federation pointed out that a challenge is the absence of collective bargaining contracts for civil servants, unlike other institutions which can have contracts for up to 3 years. Instead, civil servants must conclude

collective labour agreements annually (Pătru, 2021). These agreements have considerably less content compared to those in private organisations.

” We talk about discrimination between civil servants and contracted staff.

Besides pay and collective contracts, the representative is concerned about workplace health and safety. Working extensively with digital technologies can impact eyesight and body posture. A recent case (Case C-392/21, 2022) on the health and safety of workers who work with display screen equipment was highlighted in the mass media. The case concluded that employers from public administration must pay for spectacles and other corrective appliances for workers who work primarily in front of screens.

4. Characteristics of social dialogue organisations in the sector

Most of the federations of trade unions in this sector include both local and central public administration employees. The most representative trade union federations in this sector by the number of employees covered are the National Federation of Administration Trade Unions (Federația Națională a Sindicatelor din Administrație) (7.51% of workers from the public administration sector), the National Alliance of Unions of Employees from Public Administration “SED LEX” (Alianța Națională a Sindicatelor Bugetarilor “SED LEX”) (6.75%), the PUBLISIND Federation (Federația PUBLISIND) (5%), and the Federation of Central and Local Public Administration Employees in Romania — Columna-Scor (Federația Salariaților Din Administrația Publică Centrală Și Locală Din România — COLUMNA-SCOR) (7.8%).

4.1. Challenges of organising employees

As mentioned by the union representative, one of the main challenges in organising employees is the lack of information among workers about the activities and goals of trade unions, as well as the potential benefits for employees.

” Many workers don’t understand the benefits of participating in a trade union. They are not aware that unions are not only for negotiating

higher wages but also for addressing workplace conflicts, preventing mistreatment [...] and managing working conditions.

Another impediment are the skills required to form trade unions. The representative adds that forming and keeping a trade union operating requires legal background training which often demotivates some individuals in starting such organisations.

Employers' involvement is another challenge in the sector. According to the representative interviewed, some employers are open and encourage their employees to join trade unions, while others oppose it. He adds that there are low levels of unionisation and few trade union structures at the level of ministries.

According to the interviewed representative, the trend is to narrow the unionisation granularly to specific central public administration niches or areas, because of the differences in activities in each category to identify social partners for social dialogue.

4.2. Good practices for organising employees

The representative stated that one factor that leads to successful practices in organising employees at the level of central public administration is the training and expertise of people involved in the trade unions. Other contributing factors include individuals with initiative and awareness among employees who understand that certain work situations, whether favourable or unfavourable, can only be resolved through a trade union. According to the representative, other good practices also encompass member acquisition and retention policies within trade union structures.

The trade unions in central public administration have taken concrete actions, such as protests, that have captured public attention and could influence awareness about the importance of union membership in protecting rights and benefits. In the past two years, there have been protests about wage cuts, austerity measures, wage inequalities among employees, and the elimination of some job vacancies (Vasilache, 2024; Redacția Digi Economic, 2024; Digi24, 2023).

4.3. Characteristics of employer representation

Identical to the social work sector, there are no employer organisations at the public administration level. Regarding social dialogue, the representative notes that some employers are open to trade unions, while some are hostile.

5. Collective bargaining and other forms of social dialogue in the sector – characteristics

The Romanian legislation makes a distinction between collective labour contracts and collective (labour) agreements. The former is compulsory for organisations (public or private) with ten or more employees hired with an individual contract. The latter is a form of negotiation specifically for civil servants working in local and central public administration. While a collective labour contract is mandatory for organisations with more than ten employees, a collective labour agreement is required when requested by one of the parties within 30 days from the date of approval of the public authority or public institution's budget (Hotărâre nr. 833, 2007). A collective agreement is concluded between the institution/public authority and the representative trade union or between the representatives of the employees and the institution (Pătru, 2021). According to the representative, organisations with a collective agreement effectively manage and negotiate labour conditions, unlike institutions without one.

Hence, collective dialogue is governed by the sector laws rather than negotiable by workers and trade unions. A collective agreement can cover aspects related to (1) the establishment and use of the intended budget for the enhancement of working conditions; (2) health and safety at work; (3) working hours; (4) training and development of employees; and (5) measures (other than those provided for by law) on the protection of those elected to the governing bodies of trade union organisations (Pătru, 2021; Codul administrativ din 03.07.2019, 2019). These aspects might already be in line with the specific legislation that regulates the activity of civil servants and public funds. According to the interviewed representative, the main constraint of collective agreements pertains to wages and duration (1 year).

Collective agreements are limited to a year and cannot include remuneration-related aspects. These imposed restrictions are in place to ensure

impartiality and neutrality in the civil servants' roles and functions. Other limitations are related to the fact that some categories of employees cannot participate or form a trade union. According to the Social Dialogue Law (LEGE nr. 62, 2024), public dignity employees such as magistrates, military personnel (the Ministry of National Defence and the Ministry of Internal Affairs), as well as personnel from the Romanian Intelligence Service, the Protection and Security Service, the Foreign Intelligence Service and the Special Telecommunications Service (units and/or sub-units subordinated or coordinated by them) may not form and/or join a trade union organisation (LEGE nr. 62, 2024).

Employees from central public administration who are not allowed to go on strike include prosecutors, judges, military personnel, and personnel with a special status from the Ministry of National Defence, the Ministry of Internal Affairs, the Ministry of Justice, and the institutions and structures under their subordination or coordination. This also includes the National Administration of Penitentiaries, the Special Telecommunications Service, personnel employed by foreign armed forces stationed on the territory of Romania, and other personnel prohibited from exercising this right by law (LEGE nr. 62, 2024).

Moreover, some categories of central public administration have the right to strike but with the condition that one-third of the normal activity of a day is maintained. The sectors conditioned by this limitation include health and social work, telecommunications, radio and public television, national energy systems, nuclear sectors, railway transport, public transport and sanitation, as well as gas, electricity, water and heat supply (LEGE nr. 62, 2024).

Collective agreements can be concluded at a sectorial level, at a group of institutions and at an organisational/unit level. In the public administration sector, as defined by the legislative system in Romania, there were two sub-sectors in 2023 with concluded collective agreements: the health sector and the pre-university education sector. According to previous research, healthcare trade unions have used mobilisation and adversarial strategies over the last ten years, while education trade unions used cooperative strategies (Adăscăliței & Muntean, 2019). The strategy in the healthcare sector proved to be more fruitful for workers, defending their interests and workplace.

As mentioned by the union representative, the current collective bargaining trends in the central public administration sector involve standardisation and austerity measures. These measures aim to minimise disparities between employees and prevent budget overruns.

” The trend is to narrow the scope of areas in which one can negotiate, to not generate financial excesses or lack of sustainability.

5.1. Content analysis of collective agreements

The largest ongoing collective agreements (still active in August 2024) in central public administration are in organisations under the Ministry of Health and Ministry of Education — to be more precise the healthcare sector and pre-university education sector. Other representative collective agreements are at the level of organisational units for the Ministry of Labour and Social Solidarity, the Prosecutor’s Office of the High Court of Cassation and Justice and subordinate units, the Ministry of Internal Affairs, State Higher Education, and the Ministry of Sport.

The collective agreement for pre-university education included details regarding the a) conclusion, performance, amendment, suspension and termination of the collective agreement; b) working time and rest time; c) pay and other wage rights; d) health and safety at work; e) individual employment contracts; f) vocational training; and g) other provisions relating to the rights and obligations of the parties. The previous collective agreement included changes regarding benefits in wages and other bonuses, flexibility of working hours and remote work in the context of the pandemic, health and safety measures at work, professional training, career development and improvements regarding social dialogue (mandatory consultation). In contrast with Romanian Labour Law and other laws applied in this sector, the collective agreement gives a detailed overview of all the aspects mentioned, offering some supplementary benefits such as flexible working hours/variable working hours, supplementary paid days off and an extended maternity adaptation period.

The collective agreement for the health sector included the a) conclusion, execution, modification, suspension and termination of the individual employment contract, according to the legislation in force; b) health and safety measures at work; c) working time and rest time; d) other measures for the

social protection of employees who are members of trade union organisations affiliated to the signatory organisations of this collective bargaining agreement and the granting of facilities to them; e) training; f) the rights of trade union organisations affiliated to trade union organisations signatory to this collective bargaining agreement; g) the obligations of employees; and h) establishing the manner of granting bonuses, in accordance with the legal provisions. In addition to the typical collective agreement and general legislation, the previous collective bargaining agreement at a sectorial level for health has brought benefits in terms of financial benefits and bonuses, especially for employees working in at-risk conditions or with a high degree of difficulty and for employees working night shifts, weekends and public holidays. The current collective agreement also details working conditions, biological risks, and burnout risks. In comparison to the Romanian Labour Law and other laws applied in this sector, the collective agreement gives a detailed overview of all the aspects mentioned and offers some benefits such as paid breaks during shifts (meal breaks during shifts), paid leave benefits (unused days off from previous years can be carried over), protection against the risk of burnout, improved safety and harassment protection (additional procedures).

At the level of organisational units for the Ministry of Labour and Social Solidarity, the collective agreement included aspects related to (1) employment relationships; (2) working time and rest time; (3) leave and leave of absence; (4) pay and other financial entitlements; (5) working conditions, safety, health and hygiene at work; (6) work discipline; (7) training; (8) other provisions relating to the rights and obligations of the parties; and (9) measures, other than those provided by law, relating to the protection of those elected to the governing bodies of trade union organisations. In addition to the laws in the sector and labour law, the collective agreement adds additional benefits for the workers: flexible working hours (including remote work), paid leave benefits, and other benefits.

At the level of organisational units for the Ministry of Internal Affairs, the collective agreement included aspects related to (1) working time and rest; (2) leave and days off; (3) individual employment contracts; (4) health and safety at work; (5) vocational training; (6) labour conflict; and (7) other protective measures other than those provided for by Articles 10 and 11 of Law no. 367/2022 on Social Dialogue, with subsequent amendments and additions for those elected in the governing bodies of trade union organisations, under

the law. The collective agreement adds, in addition to the laws in the sector and labour law, other benefits regarding supplementary paid leave days and enhancements regarding vocational training and professional development.

For organisational units under the Ministry of Sport, the collective agreement describes the following aspects: (1) termination, execution, amendment, suspension and termination of the collective agreement; (2) working conditions and labour protection; (3) pay and other wage rights; (4) working time and rest time; (5) vocational training; and (6) the rights of the trade union affiliated to the trade union organisation signatory to the collective agreement. The collective agreement adds specific benefits regarding paid leave and details regarding vocational training and professional development.

Collective agreements at the ministry level provide additional provisions for trade union members and their governing bodies compared to collective agreements in pre-university education, health, and general legislation.

5.2. Other forms of social dialogue

There are several formally instituted forms of social dialogue. One of the forms is the Health and Safety Committee, a mandatory body at a public/private organisation level for medium-sized companies or organisations (with more than 50 employees). This measure guarantees employees' involvement in developing and implementing measures/resolutions regarding health and safety at work. Several public organisations (e.g., county prefectures and ministries) have a health and safety committee, especially workplaces with higher risks for employees (health, internal affairs, defence, etc.).

Another structure for tripartite social dialogue is the National Tripartite Council for Social Dialogue. This organisational structure includes government stakeholders' representatives, leaders of national trade union federations and employer organisations, and the President of the Economic and Social Council (LEGE nr. 248, 2013). The Economic and Social Council (ESC) is an institution aimed at facilitating the social dialogue at the national level (between employers' organisations, trade unions and representatives of non-governmental associations) (LEGE nr. 248, 2013). Other forms of social dialogue include tripartite social dialogue at a sectorial (at the level of ministries/central public administration) and a local level (at the level of each county prefecture). According to the representative, decisions for the

central public administration sector are shaped by the structures mentioned for social dialogue. Moreover, the ESC has been responsible for approving legislative initiatives for central public administration.

5.3. Impact of European sectoral social dialogue

Trade unions in central public administration in Romania are affiliated with European and international trade union organisations. The National Alliance of Unions of employees from public administration “SED LEX” (Alianța Națională a Sindicatelor Bugetarilor “SED LEX”), the PUBLISIND Federation (Federația PUBLISIND), and the Federation of Central and Local Public Administration Employees in Romania — Columna-Scor (Federația Salariaților Din Administrația Publică Centrală și Locală Din România — COLUMNA-SCOR) are affiliated with organisations, such as Public Services International and the European Federation of Public Service Unions (EPSU). The interviewed representative is not aware of the impacts of international bodies on sectorial social dialogue in the country.

6. Conclusions and recommendations

Union membership was estimated to be around 26.8% in 2019 (ETUI, 2024). According to the International Labour Organization, the trade union density rate was approximately 21.4% in 2018 (ILOSTAT, 2024). Compared to other collective bargaining sectors in Romania, the central public administration sector has the highest coverage of employees in trade unions and collective bargaining agreements. This can be inferred from the collective agreements as two of the largest collective agreements concluded at the sectorial level are in pre-university education and healthcare (ETUI, 2024). One of the main challenges articulated by the representative and public discourse is related to wage inequalities among the same type of institutions and occupations in the sector.

General recommendations for improving the social dialogue in the sector include: (1) narrowing the areas of collective bargaining (some employees are both part of the central or local public administration sector and other specific sectors by industry); (2) identifying organisations and associations that can serve as employer organisations in the social dialogue in the central public administration sector; and (3) measures or policies to attract and retain employees in trade unions.

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