

Collective bargaining practices in Eastern Europe: case study evidence from Romania

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Collective Bargaining Practices in Eastern Europe: Case Study Evidence from Romania

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Abstract

There are several studies on recent developments in collective bargaining in Eastern Europe, but there is still a debate about the extent to which collective bargaining practices resemble those in continental Western Europe. This paper aims to contribute to this debate, by examining primary data on collective bargaining practices in Romania using an actor-centred institutionalist approach. It focuses on collective bargaining in four large chemical companies. Comparisons are made to other countries in order to highlight the developments in Romanian cases. Unexpectedly, the study's findings point to an increase in state intervention in establishing the terms and conditions of employment after 1989, due to the state's new roles during the transformation process that affected job security. The study suggests a considerable increase in the influence of top managers in determining pay and working conditions, while trade unions retained the considerable influence over social benefits in large companies. The findings show continuance of certain pre-1989 practices, such as a persistence of high state intervention and a limited independence of the trade unions from the management. This paper contributes to a deeper understanding of institutional changes in the context of a shift from a centrally planned economy to a market-based economy.

Zusammenfassung

Trotz einer Vielzahl von Studien über die Entwicklungen der Tarifverhandlungen in Osteuropa in den letzten Jahren herrscht Uneinigkeit darüber, inwieweit die osteuropäischen Verhandlungspraktiken mit den westeuropäischen übereinstimmen. Dieses Papier trägt zu dieser Debatte bei, indem es die Ergebnisse empirischer Analysen von Tarifverhandlungen in Rumänien auf der theoretischen Grundlage des akteurzentrierten Institutionalismus analysiert. Die Untersuchung konzentriert sich auf vier Großunternehmen der chemischen Industrie. Es werden Vergleiche zu anderen Ländern gezogen, um die Entwicklungen in den rumänischen Fallbeispielen hervorzuheben. Unvorhergesehenerweise zeigen die Untersuchungsergebnisse, dass nach 1989 staatliche Eingriffe in der Bestimmung der Arbeitsbedingungen zugenommen haben. Dies ist auf die neuen Aufgaben des Staates zurückzuführen, die dieser während des Transformationsprozesses im Bereich der Beschäftigungssicherung übernommen hat. Die Studie zeigt einen merklichen Anstieg der Einflussnahme des Topmanagements auf Tarif- und Arbeitsbedingungen, während Gewerkschaften im Bereich der Sozialleistungen in großen Unternehmen einen weiterhin großen Einfluss ausüben. Die Ergebnisse deuten auf eine Weiterführung bestimmter Praktiken hin, die vor 1989 üblich waren, wie zum Beispiel die starke staatliche Intervention sowie die begrenzte Unabhängigkeit der Gewerkschaften vom Management. Dieses Working Paper trägt zum besseren Verständnis des institutionellen Wandels im Rahmen des Wechsels von einer Zentral- zu einer Marktwirtschaft bei.

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1 Introduction [1]

There are several studies on recent developments in collective bargaining in Eastern European countries (Janssen/Galgoczi 2004; European Commission 2004; Schulten 2005), but there is still a debate about the degree to which collective bargaining practices resemble those in continental Western Europe. This paper aims to contribute to this debate, by examining institutional continuity and change for collective bargaining in Romania after the fall of the communist regime. It focuses on the structure, the process and the outcome of collective bargaining in four large chemical companies.[2] It evaluates to what extent collective bargaining practices in Romania resemble the basic features of collective bargaining in continental Western Europe.[3] Additionally, comparisons are made to other Central and Eastern European countries (CEECs) in order to highlight and contrast the developments in Romania.

Differently from Poland and Hungary, the transformation process in Romania started from scratch in 1989, as it had one of the most centralised politico-economic systems in Eastern Europe. The unfavourable initial conditions and a gradual approach to the transformation process led to a very long economic recession. In contrast to most CEECs, Romania achieved the 1989 level of Gross Domestic Product only in 2004. The changing environment since 1989 has dramatically affected the chemical sector to which the case studies belong, resulting in a decline of about 60% in its output (OECD 1998). Thus, this study provides an insight on collective bargaining practices from a country and an industrial sector that have been under great pressure to change.

The paper is based on primary data (qualitative and quantitative) collected in Romania. A similar semi-structured interview was used to interview (one-to-one) seven officials from national (transectoral) institutions, nine officials from the chemical sector and 65 respondents at company level. At national and sectoral levels, the respondents were key informants representing the state, employers' associations and trade unions. In addition, union officials, shop stewards, human resource managers and employees from four large companies from the chemical sector were interviewed. Different from most studies, this paper provides evidence on the perception of workers on collective bargaining beside interviews with key informants.

Apart from interviews[4], a survey was conducted in the four case studies. 125

questionnaires were distributed in each company via the personnel department, which led to a very high rate of responses (over 70%).^[5] Two of the case studies, namely S1 and S2, were privatised companies and two of them, P1 and P2, were state owned enterprises (SOEs). Company S1 was profitable, while the other three were experiencing losses for several years. Each company had at least a union to which more than 85% of the labour force was affiliated. The survey findings are considered representative for each company investigated, but it is acknowledged that bias might have occurred due to the fact that the personnel department distributed the questionnaires.

Also, the validity of the findings is limited by the fact that they reflect the perception of respondents and they could not be systematically compared to previous data. The author found neither case studies concerning collective bargaining in the chemical sector in Eastern Europe nor any case study research on industrial relations in Romania. Thus, the primary data could only be compared to evidence from different sectors in other CEECs. Although the company is the most important bargaining level in Eastern Europe (Schulten 2005), case study evidence on collective bargaining practices is very scarce.

This paper utilizes the actor-centred institutionalist approach as an analytical framework. Müller-Jentsch (2004) particularized the actor-centred institutionalist approach developed by Scharf (1997) to industrial relations (IR). The author indicates that institutions ought to be the main focus of IR, but they need to be understood as an interaction between actors and institutional context (Müller-Jentsch 2004: 27). Müller-Jentsch (2004) indicates that this approach consists of three analytical layers. The first layer is the historic-constitutional analysis of actors and institutions. The historic-constitutional analysis emphasises the co-evolution of collective actors and institutions. The second and the third analytical layers identified by the author are the arena and negotiation concepts (Müller-Jentsch 2004: 31-32). The arena refers to the forum where negotiations and conflicts between the actors takes place (e.g. collective bargaining, works councils etc), whilst the negotiation deals with the process of exchange between capital and labour. The arena limits the choices of the actors, but the actors have some discretion to negotiate. The negotiation concept refers to cooperative and conflictive interactions between the actors. This paper focuses on arena and negotiations process, because a historic-constitutional analysis of actors and labour institutions in Romania was examined by other studies (Trif 2004).

In order to assess collective bargaining practices in Romania, three key features are examined, one referring to the arena and two dealing the with negotiation process. Firstly, the structural characteristics of collective bargaining are explored, in particular the perception of respondents on how the mechanism of collective bargaining was established after 1989. Secondly, the process of negotiation between parties is examined, by investigating the influence of the parties in determining selected conditions of employment. It was expected that the adoption of pluralist legislation^[6] after 1989 that allows trade unions and employers to negotiate voluntary collective agreements, would lead to a decrease of the role of the statutory legislation, while the influence of employers and trade unions would increase. Finally, the outcome of collective bargaining process in terms of substantive and procedural rules is examined. Additionally, the functions of collective bargaining for the state, employers and employees are analysed. The paper examines the structure, the process and the outcome of collective bargaining in Romania, subsequent to outlining its basic features in Eastern and Western Europe.

2 Outlining features of collective bargaining in Eastern and Western Europe

The term collective bargaining was first introduced by Sidney and Beatrice Webb during the late nineteenth century. They define it as a method whereby trade unions could maintain and improve their members' terms and conditions of employment (Webb/Webb 1920). Flanders (1965) criticized the Webbs' definition suggesting that 'joint regulations' is a more adequate term for collective bargaining, because it refers to both making and applying the rules established. Nevertheless, the term collective bargaining has continued to be used by scholars and practitioners of industrial relations. In this study, collective bargaining refers to the process of decision making between parties representing employer and employee interests involving negotiation and continuous application of the agreed set of rules to govern the substantive and procedural terms of employment relationship (Windmuller et al 1987: 3). In line with other studies on the topic, the term collective bargaining is also used to refer to the mechanism for setting the terms and conditions of employment before 1989 in CEECs (Hethy 1991; Lado 2002), although there were significant differences in its functions as compared to those in Western Europe (see Table 1).

Table 1 Basic features of collective bargaining in Eastern and Western Europe

Collective bargaining		Centrally planned economy	Market economy (continental Western Europe)	CEECs after 1989
Structure	Legislative framework	Statutory legislation (coercive)	Voluntary mechanism, but certain statutory legislation	Elements of voluntary mechanism, but heavily regulated by legislation
	Coverage	Lack of genuine bargaining	> 65% in most countries (Schulten 2005)	< 40% in most countries (Schulten 2005)
	Level/Type	To a reduced degree at company level	Sectoral/ multi-employer predominant	Company/ Single-employer bargaining predominant
Process	Parties	– Trade union – State	– Trade union – Employers' association or individual employer	– Trade union – Individual employer usually
	Power relations	Trade unions subordinated to the (party-)state	Employers generally stronger than unions	Private employers by far stronger than unions
	Type of relations	Co-operation (no right to strike) ^a	Co-operative and adversarial (right to strike)	Co-operative and adversarial (right to strike)
Outcomes	For the state	Legitimacy	Increase efficiency and social peace	Legitimacy, social peace
	For employers	Not applicable (it was the state)	Increase labour productivity, conflict resolution	Legitimacy, conflict resolution
	For employees	Certain distributive function (substantive rules)	Voice and distributive (substantive and procedural rules)	Predominantly voice (substantive rules)

a Except Poland after 1982 and to certain extent in Hungary since the 1970s (Hethy 1991: 134–135).

Despite large variation in collective bargaining mechanisms across countries, there are some basic common characteristics specific to a politico-economic system or region. Table 1 outlines the main common features of collective bargaining in a centrally planned economy and a market-based economy. During the communist period, collective bargaining was not an essential mechanism for setting the terms and conditions of employment. Generally, the state

determined wages directly by setting for instance, wage scales and wage funds for enterprises, or indirectly by regulations based on the central plan (Hethy 1991: 135). Moreover, there were neither independent unions nor autonomous employers. In countries such as Hungary and Poland (where there was a degree of decentralisation) limited collective bargaining at company level had taken place (Hethy 1991:130-131; Pravda/Ruble 1986), but in Romania there was no tradition of voluntary collective bargaining. Therefore, by and large, there was no real collective bargaining during the communist period in the CEECs.

In contrast, collective bargaining has been the main mechanism of establishing terms and conditions of employment in Western Europe since the Second World War (Traxler/Behrens 2002). Collective bargaining is primarily a voluntary process involving autonomous employers and trade unions aiming primarily to determine the terms and conditions of employment and to settle conflicts between the two parties (Farnham 2000: 71). However, certain procedural rules (e.g. the extension mechanism and enforcement procedure) are determined through statutory legislation to various degrees in different in western countries (Traxler/Behrens 2002).

The structure of collective bargaining also varies greatly across countries, but multi-employer bargaining is predominant in Western Europe (Schulten 2005). Employers have generally more power than unions (as they own the resources), while the relations between the two parties may vary from co-operative to adversarial (Crouch 1993). If the parties achieve a common position, the outcome of the bargaining process is a collective agreement, covering usually substantial and procedural rules. The main functions of collective bargaining in a market-based economy are to ensure social peace and to enhance efficiency for the state and employers, while for employees it provides a protective function (Traxler 1998: 207-208). Voluntary collective bargaining with similar basic features as in Western Europe was expected to emerge in CEECs after 1989, as part of the democratisation process (Lado 2002).

Published studies indicate that the establishment of collective bargaining in the CEECs after 1989 was based on the idea of free collective bargaining, but in practice there is a considerable degree of continuity from the communist period (Aro/Repo 1997; Lado 2002). Throughout the CEECs, voluntary collective bargaining was made legally possible from the beginning of the 1990s, but it is still heavily regulated (Aro/Repo 1997: 44-46; Lado 2002: 3). For instance, the legislation stipulates the representativeness criteria for the social partners and the (minimal) content of the collective agreements (Draus 2001: 22-24). Thus, in spite of major differences among CEECs, depending on the inherited legacies and the choices taken during the transformation process, these countries share important common trends.

As Table 1 shows, collective bargaining coverage is far lower in CEECs (except Slovenia which has an industrial relations system similar to that in Austria, with compulsory membership of the Chamber of Commerce for employers) than in Western Europe and single-employer bargaining prevails. The coverage of collective agreements varies in the CEECs, from below 20% in Latvia and Lithuania to 100% in Slovenia (Table 2). There are no data available for Romania, but it is likely to be closer to Slovakia, since union density is around 35% and collective agreements cover all employees from the bargaining unit. The low coverage in the CEECs is associated with the decentralized structure of collective bargaining and low level of organisation of both employees and employers (Table 2). The weak development of sectoral collective bargaining is generally explained in terms of inherited institutional legacies (e.g. strong legal intervention, trade unions based within companies and a lack of autonomy of the social actors) as well as employers' preference for single-employer bargaining (Toth 1997; Draus 2001: 24-25; Lado 2002: 6). Nevertheless,

collective bargaining coverage increased slightly in 2003 in Hungary, the Czech Republic and Slovakia (Janssen/Galgoczi 2004), which indicates that the decline trend might be reversed.

Table 2 Structural characteristics of collective bargaining and social partners in CEECs (the latest available data)

	Trade union density in per cent	Employees in firms that are members of an employers' association in per cent	Wage bargaining levels	Employees covered by a collective agreement in per cent
Bulgaria	30	na	Sector *** Company * Intersectoral*	25-30 (38 in 2003)
Czech Republic	32	33	Company*** Sector*	25-30 (35 in 2003)
Estonia	20	38	Company*** Sector*	28
Hungary	25	na	Company*** Sector*	40
Latvia	25	56	Company*** Sector*	<20
Lithuania	19	na	Company*** Sector*	10-15
Poland	25	24	Company*** Sector*	40
Romania	35	65	Company*** Sector*	Na
Slovakia	39	50	Sector*** Company*	40 (50 in 2003)
Slovenia	40	100	Intersectoral*** Sector* Company*	<100

Legend: *** = dominant level; ** = important level, * = of relatively minor importance

Source: Compiled from Funk/Lech (2004: 2); Janssen/Galgoczi (2004); Schulten (2005)

However, according to Casale (1997: 2), "collective bargaining ends all too often with a signature of a text - a collective agreement - which represents nothing more than the transposition of what has already been fixed by law". In the unstable economic and structural environment, characterised by economic recession for many years, an increase of the informal sector and unemployment, collective bargaining is not well consolidated. Collective bargaining in the CEECs appears to have a reduced effectiveness for all three actors, particularly in countries such as Romania, which had a very long period of economic recession.

3 Structural characteristics of collective bargaining in Romania

3.1 Heavy statutory regulation of the collective bargaining mechanism

In Romania, the legislation regulates the mechanism of collective bargaining to a higher degree than in other CEECs (Clarke/Cremers/Janssen 2003). The law allows only a single collective agreement to be negotiated at national, sectoral and company levels, which should cover all employees from the bargaining unit. The law also stipulates the requirements which should be fulfilled by the parties to be allowed to negotiate the single collective agreement at a particular level. Additionally, it indicates the minimal scope of a collective agreement and the fact that provisions included in collective agreements at lower levels have to be similar or

more favourable for employees than those agreed at higher levels. Thus, company collective agreement is very likely to be the most important, while the legislation ensures a minimum coherence between different levels.

Interviewees revealed that the legislative framework for the collective bargaining mechanism was negotiated between the government and trade unions. Both parties have achieved certain advantages. For the government, the establishment of (more or less) free collective bargaining was part of the democratisation process that enhanced their legitimacy. For (representative) trade unions, it guaranteed that each employer (in companies with more than 21 employees) or representative employers' association is obliged to negotiate with them. However, the legal provision that all employees in the bargaining unit should be covered by the collective agreement could discourage employees from joining a union. In order to avoid free riding in the chemical sector, the social partners have agreed that employers would deduct 1% of the wages of all employees. The fees collected from union members are given to the unions, while those collected from non-members constitute a fund managed by both trade unions and employer' representatives, to support the collective bargaining process. Therefore, the mechanism of collective bargaining appears to be in favour of trade unions, but in practice individual employers (or top managers) are often in a stronger position, as will be shown in Section 4.1.

The centre-right government elected in 2004 in Romania has tried to change the Labour Code of 2003. The government proposal was in line with employers call for more flexibility and less rights for employees. Trade unions have been fighting against these changes, and the legislation was only slightly changed in 2005. For instance, it allows employers and employees representatives to establish the overtime at company level (this used to be stipulated in the Labour Code). In spite of the major constrains during the shift from centrally planned economies to market based economies, the developments in Romania show that unions and employers have certain influence on the establishment of labour institutions.

3.2 Decentralized collective bargaining

National, sectoral and company collective agreements cover employees in the four companies investigated. In conformity with the legislation, collective bargaining at company level took place after a collective agreement was concluded at the chemical sector level, which was signed subsequent to the national collective agreement. Trade union officials interviewed indicated that national and sectoral agreements are minimal frameworks, while generally collective bargaining at company level sets the actual terms and conditions of employment. In three (out of the four) companies examined respondents revealed that the company is the most important level where terms and conditions of employment are established. In company P1, interviewees indicated that since 1997 the collective agreement of the Petrom holding group is the most important, as managers have very limited decision making power at company level. Therefore, evidence confirmed previous studies in the CEECs (Aro/Repo 1997: 147; Draus 2001; Lado 2002: 2) that the strategic level where terms and conditions of employment are established is usually the company (or holding group) level.

A decentralized structure of collective bargaining is very common in CEECs, due to both old and new circumstances (Aro/Repo 1997; Pollert 2000: 186). On the one hand, the inherited legacies, particularly the existence of company unions alongside a weak development of employers' associations, frequently made company collective bargaining the only option available (Lado 2002). Moreover, in Romania a single collective agreement that covers all employees seems to be a continuation of the pre-1989 era ideology, which did not tolerate

pluralism and competition. On the other hand, the policy to introduce a market-based economy along with the increase of unemployment, have strengthened employers' bargaining power. Additionally, in the ambiguous transition context, they preferred to determine the terms and conditions of employment at the company level. Furthermore, there has been an increase of single-employer bargaining even in Western Europe (Schulten 2005), to allow more flexibility at company level to adapt to changes in the economic environment. Therefore, inherited legacies along with a general economic and political environment that supports market forces resulted in a collective bargaining structure far more decentralised in the CEECs (except Slovenia) than in Western Europe.

3.3 Weak representativeness of the parties in practice

Since collective bargaining at company level sets the actual terms and conditions of employment, the bargaining process at this level is examined in detail. In each company investigated, collective bargaining takes place between a negotiation team consisting of top managers and company trade union representatives. On the employer side, the management board appoints the team responsible for collective bargaining. On the employees' side, respondents reported that shop stewards initially have meetings with all members to discuss their demands. Subsequently, union representatives gather to decide the collective bargaining proposal and the negotiation team. Apart from company S2, union officials appointed the members of the negotiating team. Thus, evidence suggests that unions make an effort to find out members' demands, but the procedure used to decide the negotiation teams on both sides is generally top-down.

In the two companies that had more than one union (S2 and P1), each (representative) trade union had their own bargaining agenda. This seems to be different than in other CEECs, where usually unions from the same bargaining unit agreed their position before negotiations with the employer (Aro/Repo 1997: 69). As the companies S2 and P1 unions had weak legitimacy, it appears that they had different proposals to justify their separate existence to their members. Besides, in company S2 all 40 trade union representatives participated to the collective bargaining round in 2001. However, a shop steward indicated that this was just a fake bargaining process, as trade unions officials had agreed with the management proposal before this 'public negotiation'. Therefore, evidence suggests a lack of trust between different unions belonging to the same bargaining unit as well as between different layers in union hierarchies in Romania.

A precondition for collective bargaining is the existence of independent parties whose members are willing to delegate authority to the representative organisations (Farnham 2000: 71). In three out of the four companies investigated, respondents have doubts about the degree of independence of the unions from the management. Their suspicions are substantiated by the facts. For example, in company S2 the management provides similar facilities for officials of the two trade unions as for top managers, and pay their wages. In addition, in company P2, the leader of the union negotiation team in 2000 was part of the management negotiating team in 2001 (as he was not re-elected as a union official). These practices appear to be a heritage of the pre-1989 era, but generally, trade unions are not totally subordinated to the management and employees can change union officials, as the case of company P2 demonstrates. Nevertheless, evidence indicates that the lack of a clear line between the management and trade unions has remained in some companies as well as between their representatives at the sectoral level (which have the headquarters in the same building). Therefore, despite being formally representative[7], both unions and employers' associations appear to have weak representativeness in practice.

Evidence indicates that the authority given to the negotiating parties to make concession during the (local) bargaining process varies across companies. Trade unions could make independent decisions and alter the claims drafted in advance in all four case studies, while employer' representatives adjusted their original claims only in two cases. In the case of company P1, respondents revealed that top managers did not have the mandate to modify the decisions defined in advance, while in the case of company S2, top managers could impose their will. This evidence substantiates the findings of Aro/Repo (1997: 72) in other CEECs, by demonstrating that employer' representatives have at times sufficient bargaining power to refuse any concessions. With regard to the authority given to the trade unions, it appears that Romanian unions are closer to the Hungarian ones, having a high degree of freedom to adjust their initial claims (Aro/Repo 1997: 70). Therefore, findings suggest that trade unions adjust their initial claims more often than employers' representatives, probably because unions do not have any other choice.

Bargaining resulted in a collective agreement in each company investigated. Collective agreements were recorded in a written form and they did not seem to be approved by any body other than the negotiation team in the companies examined. In conformity with the legislation, the collective agreements were validated and registered by the appropriate district labour inspectorate and subsequently they covered all employees. Most CEECs have a written form of the collective agreement and they have to register collective agreements with a specialized state agency (Schulten 2005). However, it is not clear if this reflects a persistence of bureaucratic routines which existed during the communist period, because this practice is also found in some Western European countries (e.g. Germany and France) (Schulten 2005).

4 Collective bargaining process after 1989

4.1 The impact of the parties on terms and conditions of employment

4.1.1 The role of the state

Considering that the state established the terms and conditions of employment before 1989, it was expected that its influence on the terms and conditions of employment would decrease with progressive adoption of pluralist legislation. However, survey data presented in Table 3 indicates that the influence of statutory legislation on terms and conditions of employment increased in the opinion of 43% respondents on average in the four companies investigated, while only 12% considered that it decreased. Thus, respondents perceived that even the state has more freedom to intervene in industrial relations than before 1989 due to its new roles during the transition.

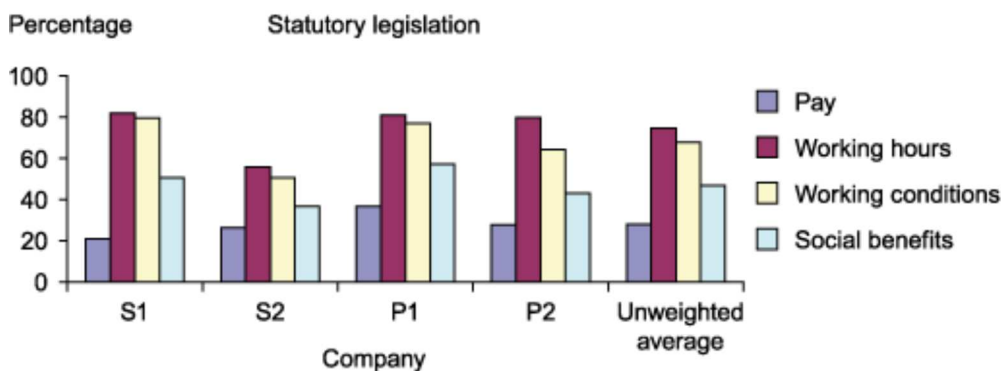
Table 3 Changes in statutory legislation influence on terms and conditions of employment after 1989 (percentage of respondents)

Company	Increased	The same	Decreased	I do not know	I did not work before 1989
S1	60.0	20.0	3.3	7.5	9.2
S2	31.0	21.2	15.0	15.9	16.8
P1	34.8	22.5	14.6	11.2	16.9
P2	45.6	17.5	15.8	13.2	7.9
Unweighted average	43.6	20.2	11.9	11.9	12.4

Nevertheless, survey data shows that less than one third of respondents consider that the state still has a high influence on pay, while more than two thirds perceive that the state has a

strong influence on working hours and working conditions (Figure 1). Accordingly, findings indicate a decrease of state intervention on pay after 1989, while its influence on working hours and working conditions remained high. Overall, respondents consider that the impact of the state on the terms and conditions of employment increased rather than decreased after 1989.

Figure 1 Percentage of respondents considering that statutory legislation has a high influence on selected terms and conditions of employment



Moreover, the largest number of respondents who indicated that the state influence increased was in the private company S1 (Table 3). It appears that almost two thirds of respondents in the company S1 consider that state influence increased, because the state had a huge impact on job security on two occasions. Firstly, in 1997, the company was almost closed down by the government as it was making huge losses. Secondly, in 2000, the state agencies managed the privatisation process which resulted in a privatisation contract that obliged the new owner to preserve the existing number of jobs for the next five years. Taking into account that between 23% and 55% of employees lost their jobs after 1989 in the four companies investigated, it is natural that employees are more concerned with job security than with the level of pay or other terms and conditions of employment.

Although the Romanian state does not always enforce financial discipline, employees consider intensely the threat of losing their jobs after 1989, when companies such as S1 temporarily stopped operating or were closed down. The lack of implementation of financial discipline occurs also in private enterprises, such as company S2, and is often connected to corruption (Dochia 2000). Findings indicate that indirect intervention of the state via (lack of) financial discipline may also have an important impact on the terms and conditions of employment. Therefore, employees' perception of the increase in the state intervention at company level after 1989 seems to be linked with an expanding state jurisdiction in other areas, such as to manage the privatisation process and to enforce financial discipline, which are closely linked with job security.

4.1.2 Employers and their representatives

There are two employers' associations in the chemical sector that have negotiated collective agreements after 1989. The largest federation, named Fepachim, concluded three sectoral collective agreements, each of them for a period of five years (1990-1996, 1996-2001 and 2001-2005), while supplementary agreements dealing particularly with pay were negotiated annually. The other employers' association, the Aperom Federation, negotiated two collective agreements for a group of enterprises (including company S1) in 1993 and 2001, while wages have been negotiated annually. The framework agreements negotiated appear to be in a

similar fashion as the five-year and annual plans that operated before 1989, suggesting that inherited legacies affected the new labour institutions.

Evidence revealed that in Romania (as in other CEECs) the role and effectiveness of the employers' associations in collective bargaining is rather modest (Deppe/Tatur 1997: 266; Toth 1997: 340). In 2001, the main difference between the sectoral collective agreement concluded for the chemical industry and the national collective agreement (which covers all industrial sectors) was an increase with 35% as compared to the national minimum wage. Nevertheless, a union official indicated that there are companies which cannot afford to pay this wage level. In these companies, the local actors 'negotiate' a lower minimum wage at company level than at the sectoral level, although this is illegal. A union representative indicated that they can sue employers who pay lower wages than those established in the sectoral agreement, but they prefer to accept lower wages in order to save the jobs of their members, which would be lost if companies go out of business. Among the four case studies, the collective agreement concluded in the company S2 included provisions below those in the sectoral agreement, according to the respondents. The fact that the sectoral agreement is not implemented in companies that have a poor financial situation indicates a weak effectiveness of collective bargaining.

The case of the public oil sector demonstrates that the state representatives dominate certain employers' associations. The national oil corporation Petrom[8], to which the company P1 belongs, is affiliated to the representative employers' association for the energy industry, named the Elpega. Nevertheless, a trade union official (who was part of the negotiation team in 2001) revealed that the Elpega is only 'on paper' the partner in collective bargaining, while in practice collective bargaining takes place between the government and trade union representatives. It appears that the state has a covert control over the oil sector, because an (uncontrolled) increase of wages is likely to influence the level of inflation. Additionally, the (public) oil sector represents a 'pace maker' for the level of wages, according to a trade union official. The Elpega appears to be an extreme case, but this evidence supports Draus' (2001: 5) findings that many employers' associations are artificial players dominated by the state representatives. Thus, evidence revealed that the independence of employers' associations from the state is questionable, particularly of those organisations consisting of top managers of the SOEs.

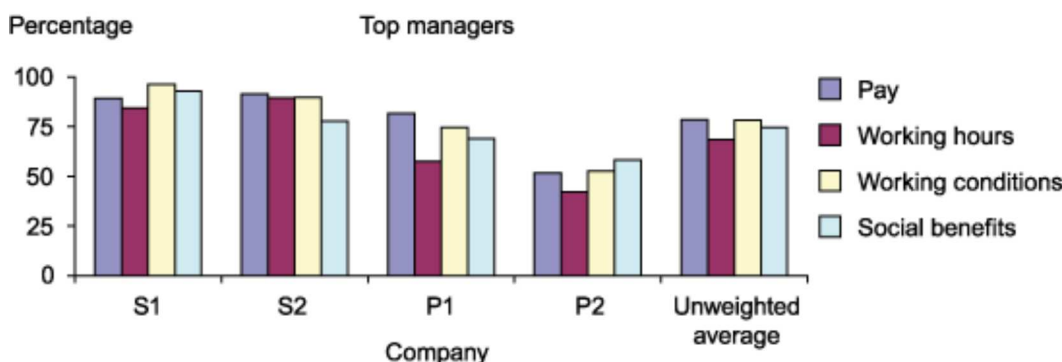
Another issue revealed during interviews was the reluctance of the members of the employers' associations to make compromises in order to achieve a common bargaining position. According to a Fepachim official, "it is more difficult to achieve an agreement among the employers' association members, than it is to negotiate with the trade unions". This is not an atypical case. A state official working with the Economic and the Social Council (the national tripartite body) indicated that generally, employers' associations are not able or not willing to have a common view either vis-à-vis trade unions or towards the state. Thus, an important obstacle in the development of voluntary collective bargaining appears to be the unwillingness of employers to delegate power to employers' associations to negotiate on their behalf.

It appears that employers delegate little power to employers' associations because they have enough authority at company level to determine the terms and conditions of employment as they desire. Table 4 indicates that the influence of the top managers increased in the opinion of 55% of the respondents on average in the four companies examined, while only 14% considered that it decreased.

Table 4 Changes in top managers influence on terms and conditions of employment after 1989 (percentage of respondents)

Company	Increased	The same	Decreased	I do not know	I did not work before 1989
S1	77.2	7.3	2.4	3.3	9.8
S2	56.1	10.5	5.3	10.5	17.5
P1	39.3	19.1	6.7	18.0	16.9
P2	45.6	17.5	22.8	6.1	7.9
Unweighted average	54.6	13.6	9.3	9.5	13.0

Additionally, more than 75% of the respondents indicated that top managers have a strong influence over specific terms and conditions of employment, such as pay and working conditions, as Figure 2 shows. Therefore, findings confirm the expectation that the influence of employers or their representatives (top managers) over terms and conditions of employment would increase with the progressive adoption of a pluralist legislation. This research substantiates other findings in CEECs which indicated that poor development of the employers' associations is associated with strong employers' influence at company level, particularly in the private sector (Lecher/Optenhogel 1995; Martin 1999; Pollert 2000: 202).

Figure 2 Percentage of respondents considering that *top managers* have a high influence on selected terms and conditions of employment

4.1.3 Trade unions

The collapse of the communist regime gave unions the opportunity to negotiate collective agreements with employers. Survey data presented in Table 5 shows that on average, more than 50% of the respondents consider that trade union influence on the terms and conditions of employment increased in the four companies investigated. Aro/Repo (1997: 160) found a similar trend in other CEECs. Their findings indicate that trade union influence on collective bargaining increased between 1992 and 1995 in more than 30% of the bargaining units investigated in five CEECs (Aro/Repo 1997: 160). A Romanian trade union representative indicated that immediately after 1989 trade unions were very strong and some of them had extreme demands, but as they got more experience, they became more realistic and constructive. In addition, the economic recession and the increase of unemployment determined a decrease of trade union power in the second half of the 1990s. Thus, the findings confirm that the influence of the trade unions on the terms and conditions of employment has increased following the adoption of the pluralist legislation in very large companies, while they indicate a decline in trade union influence during the 1990s overall.

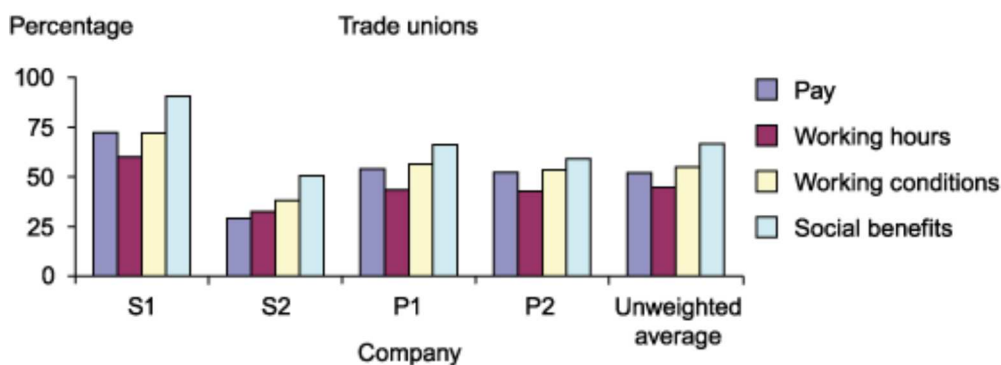
Table 5 Changes in trade unions influence on the terms and conditions of employment after 1989 (percentage of respondents)

Company	Increased	The same	Decreased	I do not know	I did not work before 1989
S1	81.3	6.5	2.4	0.8	8.9
S2	35.4	19.8	18.1	9.5	17.2
P1	56.2	11.2	11.2	4.5	16.9
P2	50.9	20.2	18.4	2.7	7.9
Unweighted average	56.0	14.4	12.5	4.4	12.7

Collective bargaining is generally the most important function of trade unions in a market economy system. Evidence in the chemical sector and the four companies examined suggests that collective bargaining has become one of their main functions after 1989. A union official of the representative federation indicated that their main function is to negotiate the collective agreement at sectoral level with the employers' association Fepachim. Nevertheless, the sectoral agreement is just a minimal framework and it is sometimes not implemented. Thus, it is unlikely to have an important effect on the terms and conditions of employment at company level.

Figure 3 indicates that on average, more than 50% of respondents consider that trade unions have a high influence on specific terms and conditions of employment. Their highest impact is on social benefits, followed closely by working conditions and pay. It appears that the influence of trade unions on pay increased, but in line with Vickerstaff/Thirkell's (2000) findings, the case studies evidence revealed that despite changes in the companies' environment, both private companies and SOEs still have a social role.

Figure 3 Percentage of respondents considering that trade unions have a high influence on selected terms and conditions of employment



The largest difference in trade union influence on the terms and conditions of employment is between the two private companies S1 and S2, as Figure 3 indicates. Considering that company S1 is part of a profitable and growing corporation, while the holding group to which company S2 belongs has serious financial difficulties, it appears that the financial situation of the company has an important impact on trade union influence. Respondents from company S2 indicated that trade union influence decreased after 1997, when the company profits were declining. Findings suggest that trade union power is more associated with the economic situation of the company than with the ownership.

Nevertheless, other factors may affect the influence of trade unions, particularly the commitment of the union leaders to protect workers interests. Respondents revealed that the employer pays trade union leaders in the company S2 and they have similar facilities with the

top managers. As a result, they are not enthusiastic to protect employees' interests, considering that they may lose the benefits provided by the employer. Furthermore, the fact that company S2 was privatised six years earlier than company S1 may indicate that privatisation has induced a decrease of trade union power. Therefore, evidence in the four companies investigated suggests that the financial situation of the company has an important effect on trade union power, while it is not clear if privatisation causes a decline in trade union influence as some studies suggest (Pollert 1999).

4.2 The key bargaining issues: wages and social benefits

Company collective agreements include substantive and procedural issues. Interviewees revealed that the main issues negotiated were wages, social benefits, working conditions, job security, working hours, holiday, facilities for trade union activities and disciplinary and grievances procedures. All provisions are based on the conditions stipulated in the sectoral collective agreement. Respondents indicated that wages and social benefits were the most common issues on which compromises were made, substantiating the survey of Aro/Repo (1997: 71) in other CEECs. Therefore, the findings demonstrate that the scope of collective bargaining has been extended, but it appears that there is a degree of continuity from the pre-1989 era, as social benefits continue to be among the most important issues negotiated.

In Romania, working hours are heavily regulated by the Labour Code. It stipulates that generally, employees should work eight hours per day and 40 hours per week (Codul Muncii 1999: 48). The law also establishes maximum working hours, which are nine hours per day and 48 hours per week (Codul Muncii 1999: 48-52). Working hours have been an issue in all companies investigated, but generally, employees did not request a reduction of working hours, as could have been expected. On the contrary, they asked management to provide sufficient raw materials to work continuously to receive their full wage. Trade union officials indicated that it has been very difficult to negotiate the terms and conditions of employment in a context where companies had to stop (temporarily) operating due to a shortage of raw materials. Therefore, in the transition context with a poor living standard and problems with supply and demand chains, the findings suggest that employees request employers to ensure sufficient work for the working time stipulated in the legislation, not a reduction of working time as happens in Western Europe.

As the legislation leaves little room to modify working time, wages are the main issue on which compromises can be made. In all four companies, the wage was negotiated during collective bargaining. Remuneration clauses referred in principle to the basic wage based on qualification[9], bonuses for special conditions and individual bonuses based on seniority rights (up to 25% of the basic wage) (Contractul colectiv de munca - Ramura chimie si petrochimie 2001-2005 2001: 10-11). In addition, in companies S2 and P2 there were collective or individual bonuses related to the performance. In the petrochemical complexes S1 and P1, where production is primarily dependent on technology and the quality of the raw materials, it was a time-based wage system. Therefore, the wage structure has changed to a certain extent (being linked to collective or individual performance when possible), but qualifications, seniority rights and working conditions are still important criteria in establishing remuneration, as it was before 1989.

A major issue during the communist period was the fact that managers could not motivate employees due to low wages and small wage differentials (Hethy 1991: 136). Evidence suggests that this problem still exists in the three (out of the four) companies investigated. Apart from company S1, employees' wages barely cover the cost of living. Furthermore, managers have the authority to penalise workers, but not to reward them. A line manager

said "I can only sanction employees, but I cannot give them any bonus. As a result, I use less strict sanctions. In addition, the wage is so low that I think their family would not have enough money for the basic needs, so often I do not penalize them at all". However, those with disciplinary problems were the first made redundant in all companies and the threat of losing the job is very real for most employees. Therefore, like before 1989, it is generally very difficult to motivate employees, since wages are very low, but job insecurity is likely to make employees work harder as those with poor performance can be easily made redundant.

Survey data revealed that the top management and unions are the main actors that determine wages. In each company more than 80% of respondents consider that top managers have a high influence on wages (Figure 2), while around half of respondents indicate that on average trade unions have a strong influence on wages (Figure 3) in the four companies. Only one third of respondents reported that the state has an important influence over wages (Figure 1). This indicates that state influence in determining wages has decreased a great deal, as the state had a predominant influence in determining wages before 1989 (Hethy 1991: 135). Consequently, as in Western Europe, the findings indicate that collective bargaining is the main mechanism that sets the wage in large companies with a unionised labour force, with employers having a higher influence on wages than the other two parties. Despite disparity in the power between capital and labour, collective bargaining does take place in unionised companies.

Social benefits are another key issue negotiated in the companies investigated. The collective agreement in each company included clauses regarding subsidies for around 50% of the price of holiday tickets, premiums for Easter and Christmas, and food vouchers. Medical services are provided in all four companies and in two of them the facilities have been improved since 1989. In addition, company P1 had a leisure complex for employees. Nevertheless, all companies stopped providing flats for employees, but two of them still had hostels where employees could get a room for a cheap rent (S1 and S2). Therefore, empirical data indicates that very large companies continue to provide substantial social benefits.

As in the case of wages, survey data indicate that top managers have the highest influence in determining social benefits (Figure 2), but they are followed closely by trade unions (Figure 3). It appears that management and employees had a common interest in providing certain social benefits at company level. According to a human resource manager, in the context of a low living standard, a lunch meal is likely to improve the labour productivity. In addition, the legislation supports the supply of food vouchers by the employer, exempting them from taxation (Law No. 142/1998). Also, health services with staff specialized in dealing with company-specific illnesses were likely to reduce absenteeism, as there are frequent accidents in the production sections. A blue-collar worker said that "almost everybody had a work accident. I inhaled ammonium in 1991 and I was burned with hot water 1993". In addition, health services in Romania are theoretically free of charge, but in practice it is very common to give a large 'compensation' in order to have an adequate treatment. Consequently, employers' representatives and trade unions considered that in the existing environment, providing social services at company level is likely to have benefits for both parties.

The persistence of social benefits distributed by the company was found in other CEECs (Aro/Repo 1997; Vickerstaff/Thrikell 2000). For instance, Aro/Repo (1997: 141) found that health services existed in more than 70% of the units investigated in Slovakia, the Czech Republic and Bulgaria. Nevertheless, social benefits found in the four companies investigated are likely to be more extensive than the average in Romania, as these companies are very large and almost totally unionised. Therefore, empirical data in Romania substantiate other studies in CEECs, indicating that large enterprises have maintained their social role in guaranteeing a minimum social protection in the unstable and unpredictable

environment, with the state failing to provide a safety net.

4.3 Collective disputes at company level

Although industrial action due to collective bargaining issues at company level is relatively rare in Romania (Martin 1999; Trif/Koch 2004), there have been collective disputes in the companies investigated. In company P2, no agreement was reached after two months of negotiations in 2001, because the management did not want to conclude the agreement, according to a trade union official. The trade union informed the Ministry of Industry that they had a conflict of interests and a week later the management signed the collective agreement. Therefore, collective agreements are generally concluded through dialogue and compromise between trade unions and employers' representatives, but mediation or arbitration are used when necessary, as in Western European countries.

Also, there was a collective dispute in company S2 in 2001 because wages and bonuses stipulated in the collective agreement were not paid on time. It started with a legal demonstration (a march) organized by the trade unions, but subsequently the majority of employees refused to start working until they had a response to their demands. Interviewees indicated that trade unions were not involved in the strike [10]. After three days of the strike and a three-day lockout, almost nothing was achieved by the employees, while the employer did not suffer major losses since there was a shortage of raw materials at that time. Finally, wages and bonuses were given to employees, but later than stipulated in the collective agreement. The strike and the lock-out in the private company S2 represent an atypical case, which took place in a context where employees were used to working discontinuously due to lack of raw materials.

The majority of the interviewees, including trade union representatives, considered that a strike should be used only in extreme cases (e.g. against closing down the company), while all the other issues should be solved through dialogue. The opinions of respondents regarding the use of strike action might be linked to the pre-1989 unitarist culture, but it may also be due to the problems of survival of companies during transition and the high uncertainty regarding their jobs. In addition, stopping the chemical installations which are supposed to work continuously is generally a lengthy process, but to make them work again at the specified parameters is a long and difficult process. In contrast to Western Europe, evidence suggests that the (potential) use of strike to improve terms and conditions of employment is generally not supported by employees, but it may be different in other sectors.

5 The outcomes of collective bargaining

It appears that the minimal frameworks agreed at national and sectoral levels along with decentralized collective bargaining rarely result in positive outcomes for the three parties. For the state, sectoral collective agreements did not ensure an increase of efficiency in the chemical sector, as companies which did not implement even the minimal terms and conditions of employment are neither forced by the state nor by trade unions to go out of business. The impact of collective bargaining on social peace is not clear, as the number of strikes has generally been decreasing during the 1990s, while the coverage of collective agreements has also been diminishing in most CEECs (Schulten 2005). For employers in three companies investigated, it did not result in a profitable business, although it is possible that it contributed to an increase in labour productivity and conflict resolution. For employees, collective bargaining has given them a voice in establishing the terms and conditions of employment, but in the three non-profitable companies they have low wages

and high job insecurity. Nevertheless, the employees' situation may be even worse without collective bargaining and trade union representation.

Furthermore, in company S1 virtually all respondents were content with their terms and conditions of employment, while the company had considerable profits. A blue-collar worker revealed that their wages are around five times higher than the average wage in Romania. Additionally, the collective agreement ensures job security, individual health insurance as well as the improvement of medical services and work conditions. Taking into account that a positive outcome for capital and labour was found in the company where there has been the strongest union, it could be considered that the findings substantiate Crouch's (1993) expectation that a balanced power relationship between capital and labour is likely to result in benefits for both parties.

Nevertheless, the evidence suggests that is not enough to have a strong trade union to get a positive outcome in the exchange between labour and capital. In company S1, both parties have had a negative outcome during the 1990s when the company experienced huge losses, despite having a strong independent union. The company has become profitable and could afford to pay high wages only after an employer who had the resources to make it profitable bought it. Also, the strategy of the new managerial team was to achieve a committed labour force by providing high wages and training as well as involving employees collectively and individually in the organisational changes. In the other three companies, the outcome of the exchange between capital and labour was negative for both parties, as they were not profitable for several years, while employees had low wages^[11] and high job insecurity. Despite over 85% union density, top managers had a far stronger influence than the trade unions on wages in these three companies. Therefore, the evidence suggests that the company context and the management approach to employment relations have an important effect on the outcome of collective bargaining at company level.

6 Conclusions

This study evaluates change and continuity in collective bargaining practices in Romania after 1989. The main difference as compared to the pre-1989 era is the decentralisation of collective bargaining, reflected in the larger scope for establishing the terms and conditions of employment at company level and more authority delegated to both parties, trade unions and top managers. In addition, the use of the strike as a (potential) power resource for the unions is a new phenomenon. Nonetheless, there is a persistence of high state intervention and the unitarist culture from the pre-1989 period. Additionally, the unclear boundaries between employers' and employees' representatives indicate that features of collective bargaining in Romania are different from those in Western Europe. Collective bargaining in Romania was built on the existing structures and practices, which led to a continuance of the pre-1989 features.

The main contribution of this paper is to provide primary data on collective bargaining practices after the fall of the communist regime, in the typical type of companies that operated before 1989 in Romania. The study aimed to verify if the adoption of pluralist legislation would lead to a decrease of the state intervention in establishing the terms and conditions of employment, while the influence of the employers and trade unions would increase. The findings confirmed that the influence of the top managers and trade unions in setting the terms and conditions of employment increased, while the state intervention on pay decreased. Nevertheless, respondents in the large companies investigated perceived an increase in the state intervention at company level after 1989, due to the expanding of state jurisdiction in areas such as to manage the privatisation process and to enforce financial

discipline, which are closely linked with job security.

Collective bargaining in Romania does not appear to be similar to any particular country, although findings in other CEECs revealed several comparable changes and continuities. In contrast to most CEECs, in Romania employers are obliged to initiate collective bargaining process in all companies with more than 21 employees and there is an extension mechanism at each level. Also, the perception of an increase of the state's influence on the terms of conditions of employment after 1989 was not found in other CEECs. Differences in collective bargaining among countries are likely to be determined to a certain extent by the dissimilarities in the legislation, the national inherited legacies and the progress with the economic reforms (Aro/Repo 1997; Clarke/Cremers/Janssen 2003).

However, differences among the companies investigated cannot be explained in terms of legislation or inherited legacies. The case of company S1 shows that the trade union and the top management played a crucial role in establishing a collective bargaining mechanism that resulted in a positive outcome for both parties. In a context where institutions are not well consolidated, the local power holders have a degree of choice, as the differences between the four case studies indicate. The findings suggest that collective bargaining varies across countries and companies, being dependent on the co-evolution between the specific context and the choices of power-holders.

This paper contributes to a deeper understanding of institutional change in the context of a shift from a centrally planned to a market-based economy. It appears that the historical legacies and the previous institutional setting have had an important role during the transition process (Clarke/Cremers/Janssen 2003; Pollert 1999), not least because the new actors have been rather weak and they have been experiencing reduced legitimacy. Nonetheless, considering the limited empirical data and the fact that labour institutions are still in flux, further research is needed to have a comprehensive and conclusive answer to the debate of convergence versus divergence in collective bargaining practices in Romania in comparison to other CEECs and to continental Western Europe.

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Endnotes

1

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2

Each company has more than 1000 employees. Large companies were chosen because they were more likely to have labour institutions (e.g. trade unions and collective bargaining). Also, they reveal the transformation of the typical type of company which existed before 1989. Additionally, large companies still cover almost half of the labour force, although they account for only 0.5% of the total number of active companies in Romania (UniCredit Romania 2005).

3

These are used as a benchmark, because a return to Western European values and practices has been the aim (or at least the political discourse) across Eastern Europe since 1989.

4

18 interviews were carried out in company S1, 16 in companies S2 and P1, and 15 in P2.

5

The numbers of responses were: 123 in company S1, 119 in S2, 89 in P1 and 117 in P2.

6

It refers to formal recognition of the divergent interests of labour and capital (e.g. the right to strike).

7

They fulfil the representativeness criteria stipulated by law.

8

This corporation was privatised in 2004. It was bought by OMV Aktiengesellschaft (Austria).

9

The minimum difference in the basic salary between an unskilled worker and a skilled worker is 1:1.2, while between a worker and an employee with higher education is 1:1.5 (Contractul colectiv de munca - Ramura chimie si petrochimie 2001-2005 2001:10).

10

Union officials stayed inside of the company headquarters as required by the management.


11

For instance, in the company P2, wages are less than 100 Euro (2,100,000 ROL in 2001) per month for blue-collar workers, which according to a respondent do not cover the cost of daily food and transport to the company.

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