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Title: International actors and trade unions during postsocialism and after: the case of Romania

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Abstract

This article seeks to explain why, in spite having a relatively powerful labour movement at the start of the economic transformation, Romania ended up with a highly-deregulated system of industrial relations in the aftermath of the global economic crisis of 2009 and with trade unions which seem incapable to defend their interests. We trace the changing role that Romanian trade unions had in national policy making and show that the beginning of 2000s represents a critical point for the power loss sustained by organized labour. We argue that a key element for explaining labour's decline is the growing pressure exercised by various international organizations for the adoption of deregulatory labour market reforms. While during the 1990s this pressure was circumvented by successive governments which peddled back and forth between union wage pressure and fiscal austerity measures, beginning with 2000s, EU accession conditionalities coupled with a decline in the power of trade unions allowed the international deregulation agenda to be implemented without much opposition.

Keywords: trade unions, postsocialism, Romania, crisis, IMF, World Bank

Introduction

A quick look over the literature on industrial relations in Romania over the past two and a half decades leaves the reader with a puzzle: although the country has had one of the most protest-prone postsocialist labour movements in Central and Eastern Europe, it set up highly deregulated labour market institutions and a façade system of collective bargaining that minimizes the role of labour in national policy making. The puzzle becomes even more interesting if we consider that as late as 2005 Romanian trade unions could fight and win over their right to sign national collective bargaining agreements and limit the use of temporary employment contracts. Fast forward to 2011 and the situation is entirely different: unions failed to oppose significant labour market reforms introducing a very "flexible" system of employment relations and severely curtailing any influence unions could exert beyond the enterprise level. What explains these recent losses, especially in the light of unions' ostensible successes in the mid-2000s?

To answer this question, this article traces the development of industrial relations in Romania since the early 1990s and shows that labour market reform outcomes were primarily shaped both by union demands and by international actors, whose influence over the trajectory of the country's labour market reforms has been constantly growing since 2000. We build on the existing literature, which assigns a central role in explaining the trajectory of CEE industrial relations to the growing capacity of the state to control and weaken organized labour (Avdagic 2005; Varga and Freyberg-Inan 2015) or to unions' organizational traits limiting their capacity to mobilize workers and claim legitimacy in representing labour (Crowley and Ost 2001; Crowley 2004), and show that external pressures exercised by international organizations (IOs) such as the World Bank (WB), the European Union (EU) or the International Monetary Fund (IMF) either through soft or hard constraints have been a central factor that contributed to the swing towards the liberalization and flexibilization of employment relations in Romania. As we will show, IOs have been increasingly involved in promoting policies at the national level, a factor that limited the leeway that trade unions had in promoting their agenda.

The adoption of the 2003 Labour Code and the 2005 negotiations over amendments to it reveal that Romanian trade unions succeeded in negotiating and defending a labour-friendly arrangement. Although in 2005 IOs and especially the IMF sought to pressure the Romanian government to introduce more flexible work time arrangements, in the absence of hard constraints, the government ultimately budged in front of the trade unions and cancelled most of the proposed changes. However, the flexibilization of work remained a constant topic on the agenda of the Romanian governments as well as IOs. With the crisis providing an opportunity to bypass democratic politics while enhancing the policy influence of the IMF and the EU, radical deregulatory reforms were adopted despite mounting protests from the trade unions. To push for the deregulation agenda, international actors did not act alone, but in concertation with domestic allies, and in particular, employers' associations.

To substantiate our argument, we use both interview data as well as official documents and newspaper articles. We first undertook a comprehensive analysis of World Bank documents concerning the Romanian economy and labour market (including adjustment loan reports and agreements), IMF Article IV Consultations and governments' letters of intent to the Fund, EU pre-accession reports, memoranda of understanding signed between the EU and Romanian governments, as well as European Semester assessments and recommendations. On top of this, to better understand the situation for the trade unions' perspective, we conducted 20 in-depth interviews with national and sectoral trade union leaders in which we focused on the main drivers of change of collective labour relations, the concrete actors involved, as well as the actual impact various policies had on industrial relations in Romania.[1]

The paper is organized as follows. The second section discusses the surprising absence of IOs from the literature on CEE industrial relations. Compared with the welfare state literature, where the influence of IOs is a central explanatory factor for the outcomes of many reforms (pensions, healthcare or social assistance programs), with industrial relations the influence exercised by the IMF or the WB appears secondary, despite the key role these institutions had in shaping labour markets and industrial relations. The next sections discuss the transformation of industrial relations in Romania since the demise of the state socialist regime. The first phase, between 1990 and 2003, was marked by high levels of trade union militancy but also by an unstable relationship between Romanian governments and IOs, which permitted a relatively high level of union influence in national-level policy making. However, the 1992 and the 1997 economic crises limited the gains that trade unions could obtain from the government. Institutionally, industrial relations remained underdeveloped, with a Tripartite Council created as late as 1997 and remaining mostly a façade institution. The second phase, between 2003 and 2009 was marked by the economic stabilization of the country and the adoption of a labour-friendly legislation. In the aftermath of its adoption, the new Labour Code was heavily contested by both IOs and employers' associations, who perceived it to be too rigid for the Romanian economy especially in areas concerning collective bargaining rights and regulation of work contracts. Nonetheless, attempts by the government together with an international coalition of actors (IMF, WB, EU) in 2005 to liberalize the labour market were met with strong opposition from trade unions, who, for the first time after 1989, organized a common front and successfully blocked the changes. In the most recent phase, after 2009, workers suffered unprecedented losses both in terms of collective and individual rights. Although militancy seemed to be rekindled for a short period, unions could not mount a credible threat against the supporters of austerity. The paper concludes with a discussion of the already visible impact of labour market reforms passed during the recent crisis. It shows that liberalization and flexibilization have led to the proliferation of ever more precarious forms of work in a country already plagued

[1] We conducted the interviews in the first half of 2015. The documents we analysed span the last two decades and a half and particularly the period after 2000.

by poverty and insecurity. Trade union responses have remained frail and insufficient for triggering a reversal of these developments.

Examining the role of international actors in Romanian industrial relations.

The weakness of trade unions has been under a constant scrutiny in the literature on CEE industrial relations. Institutionalist analyses concluded that after 1989 organized labour was created as a weak political actor, and has remained so, with no clear horizons for revitalization. At first to blame were primarily state socialist legacies (Crowley 2004), which resulted in unions' awkward stance toward marketization, eschewing class broad-based class politics and sometimes even going against the interests of their membership. More recently, the legacies of postsocialism itself have supposedly left trade unions with few ideational or material resources in turning things around, despite a potential for selective revitalization (Crowley and Ost 2001, 2001; Ost 2009). A weak actor from the get-go, the fate of organized labour was sealed by postsocialist economic developments, boasting degrees of labour flexibility approximating the liberal market economies described in the varieties of capitalism literature (Crowley 2004; Hall and Soskice 2001). In comparison, the more actor-centred literature, which puts more emphasis on interactions between trade unions, states and employers, depicts a more complex reality, in which organized labour is not universally weak but succeeds to achieve substantial social and political gains on a local and even on a national level (e.g, Bernaciak, Duman, and Šćepanović 2011; Varga and Freyberg-Inan 2015; Adăscăliței and Guga 2015). Labour's victories depend on a variety of factors that condition the strategic interactions between trade unions, states and employers: unions' capacity to mobilize members or to eschew internal divisions and create coalitions, state attempts to divide and pacify unions, employers' lobby for labour market reforms, or pressures stemming from the economic setting. Weakness does not appear as a uniform feature of organized labour in CEE. The power of labour rather needs to be contextualized and understood in light of struggles arising from the above-mentioned interactions.

This is especially valid for Romanian industrial relations, where the power and mobilization of labour alternated between two extremes: intense mobilization combined with welfare and political gains in the 1990s and early 2000s, followed by poor mobilization and important defeats with the onset of the Great Recession in the late 2000s. The intense strike activity that marked the first post-89 decade brought trade unions at the negotiation table with successive governments and resulted in important welfare gains for workers especially in terms of privatization of enterprises, labour market flexibilization, and wages (Bush 1993; Kideckel 2001; Trif 2004). Trade unions were powerful enough to take down governments, block cities and require face to face negotiations with the prime minister (Keil and Keil 2002). To be sure, the political power of the Romanian labour movement did not necessarily mean that trade unions could have a decisive say in all questions of industrial restructuring. As Kideckel (2001) puts it, by failing to address key issues such as expanding jobs or boosting the purchasing power of workers, trade unions may have ultimately lost the war, no matter the number of battles won.

Nonetheless, the battels won by the Romanian trade unions during the first decade of the economic transformation should be assed relative to the economic context in which they operated. Confronted with two economic crises that hit the country in 1992 and 1997 governments had a limited capacity to respond to unions' wage pressures. Thus, it is not surprising that as was the case with other groups such as farmers or pensioners, workers' purchasing power declined during the first decade of the economic transformation. Furthermore, job expansion is not a proper standard by which labours' victories can be evaluated since the economic transformation entailed a significant reduction in the industrial workforce and getting the newly unemployed workers into early retirement (Adascalitei 2015). Rather, trade unions focused on job preservation in industrial sectors and avoiding plant closures or pushing for renationalization of plants(Varga 2014).

In addition to the economic context, the state itself sought to limit trade unions' room of manoeuvre, by seeking to develop better tools for managing the anger of organized labour. The first law on the Settlement of Collective Labour Disputes (Law 15/1991) adopted in February 1991 was a response to intense strike activity and sought to significantly limit trade unions' capacity to strike legally, by prohibiting strikes in specific sectors of the economy, introducing a mandatory conciliation procedure for collective labour disputes and restricting the definition of collective labour disputes to specific cases of disputes between management and workers (Bush 1993). The law failed to curb labour unrest, which, despite legal restrictions, remained considerable throughout the 1990s both at the company and the national level. As Varga and Freyberg-Inan (2015) note, the capacity of the state to prevent strikes was limited by trade union strength in key industrial sectors like steel, oil, metal, and mining. It would take almost two decades for the state to entirely pacify organized labour by breaking the power of local trade unions through privatization and mass layoffs or by selectively offering concessions to specific groups of workers (Varga and Freyberg-Inan 2015, 13–17). These strategies were accompanied by attempts at co-opting or dividing powerful local unions—for example, by creating and supporting competitor unions, as it happened with the country's largest producer of steel, Sidex Galați (Lee 2016).

State-centred explanations of trade union strength in Romania provide a dynamic account of the evolution trade union strategies by allowing for temporal and spatial variation, thus leading to a more accurate understanding of the conflicts and trade-offs that labour faced over the past two and a half decades. Furthermore, they highlight the lack of political support that the trade union agendas have had in successive Romanian governments. If the right-wing governments that took power between 1996 and 2000 and 2004 and 2012 were openly hostile to trade unions, centre-left governments ostensibly promoted labour's interests while advocating economic policies that contributed to the weakening of trade unions in the long term (Varga and Freyberg-Inan 2015). Notwithstanding such contributions, state-centred explanations overlook the fact that the Romanian state has always been a regional laggard in terms of its capacity to administer resources and implementing coherent policies. As shown in comparative political economy accounts of the region, the Romanian state usually fares very low both when it comes to institutional capacity and administrative resources, with governments lacking clear policy objectives and being blocked by high levels of political fractionalization (Bohle and Greskovits 2012; Lee 2016). Such a weak state can only be granted limited explanatory weight in understanding labour pacification (and overall labour "weakness"). Furthermore, overstressing the role of the state in devising strategies to control, divide and co-opt trade unions tends to diminish the importance on non-state actors, and especially IOs, in influencing the pace of collective bargaining and industrial relations reforms.

Some accounts of Romanian industrial relations do focus on the role played by institutions such as the EU, IMF or the WB, but the policy pressures and the array of strategies used for influencing labour market reforms remain undertheorized. For example, in a historical account of the impact of European enlargement on the Romanian industrial relations system, Trif (2008) shows that the EU did influence the pace and content of labour market reforms by imposing the adoption of a set of statutory rights in areas such as work time, gender equality, work contracts and safety regulations. She concludes that the EU has contributed to the upgrading of workers' rights in Romania by giving the still powerful trade unions the opportunity to push for labour friendly legislation. Yet, this account underplays the push for deregulatory measures that the European Commission was supporting at the time of Romania's accession. As we will show, the EU had a rather ambivalent stance toward the 2003 Labour Code: while EU representatives praised the country for adjusting its regulations concerning statutory rights to European standards, they decried the "rigidities" introduced in the labour market via limitations on the use of temporary contracts and agency work. Even more, regular EU reports on Romania's progress towards accession criticized the "centralization of the bargaining system which could prevent wages from reflecting productivity differences across regions and skill profiles" (European Commission 2003, 36). Enlargement paved the road toward "social failures" and weak trade unions rather than creating opportunities for building inclusive institutions (Meardi 2011).

Apart from the EU, whose institutional pressures gained importance with the start of accession negotiations in 1999, the WB and the IMF were instrumental for the reforms passed in the first decade of economic transformation. Given the Romanian state's low institutional capacity in implementing macroeconomic reforms, the two international financial institutions exerted considerable influence in specific areas of reform such as enterprise privatization, with direct consequences for organized labour both nationally and locally. If in the first half of the 1990s privatization was stalled by a government opting for a gradual approach, the 1996 election brought to power a cabinet whose stance on economic reforms were even more radical than those of Polish reformers who advocated "shock therapy" in the early 1990s (Ban 2016). As a result, both the IMF and the WB intervened directly in the privatization process by drawing up lists of enterprises to be sold off and getting involved in the selection of officials for the state agencies in charge with managing the privatization process (Lee 2016).

Still, the weakness of the Romanian state was a double-edged sword that impacted the effectiveness of external actors' attempts at directing the privatization process. During the 1990s the relationship between the Romanian state and IOs remained rather hectic, with governments failing to comply or ignoring loan or program conditionalities (Pop 2006; Pop-Eleches 2008). The typical behaviour of Romanian governments towards IOs was opportunistic, relying on initial compliance with program requirements followed by defection after the disbursement of the first financial resources. Consequently, none of the five stand-by agreements signed between Romania and the IMF between 1990 and 2000 was completed. Government non-compliance to program requirements combined with high levels of labour militancy created the opportunity for trade unions to gain the upper hand in negotiations with the state and win some advantages in terms of wages as well as delaying enterprise privatization in several cases. Furthermore, given that industrial relations remained weakly institutionalized, with the 1972 labour code being replaced only in 2003 and the first law regulating tripartite bargaining being passed as late as 1997, trade union requests were usually addressed in a direct manner, either through direct bipartite negotiations between government and trade unions or by imposing moratoriums on strikes (Bush 1993; Keil and Keil 2002). Through bipartite negotiations trade unions gained influence over high-level politics and had a say in governmental decisions outside formal institutions tripartite bargaining, which remained thoroughly "illusory" (Ost 2000).

The return to economic growth in the first half of the 2000s combined with the country's march toward EU accession from a market dependent status changed this situation (Ban 2013). Whereas during the 1990s compliance with IMF and WB conditionalities could be eschewed, after 2000 governments could no longer afford to do so due to commitments raised by EU accession and later by membership. This coincided with an increased radicalization of the public discourse against trade unions and the overall strengthening of conservative ideas of an imperative of labour market flexibility, the need for wage moderation as a source of competitiveness and the necessity to diminish the role of collective bargaining to mitigate labour market rigidities (Varga and Freyberg-Inan 2015; Guga and Constantin 2015). These ideas were heavily promoted by IMF, WB and the EU both before and after accession and found support with plenty of local actors, and especially with employers' associations.

Against the backdrop of a decline in unions' capacity to mobilize workers (Varga and Freyberg-Inan 2015), the Great Recession provided an opportunity to restructure industrial relations and labour market regulations. The joint EU-IMF program implemented in Romania in response to the 2009 economic crisis involved a complete overhaul of labour market regulations, to eliminate so-called "rigidities", to "increase working time flexibility and to reduce hiring and firing costs" (IMF 2010c, 27). With a government whose position on collective bargaining and labour market reforms was at times even more radical than that of IOs, it is not surprising that the changes implemented in 2011 institutionalized a deregulated system of industrial relations that envisions almost no place for organized labour in national policy making while also curtailing the power of trade unions at the sectoral and local levels (Adăscăliței and Guga 2016). Compared to the 1990s, trade unions now had to play a different game, from a much weaker position: it was not only an institutionally weak state that they had to struggle against, but a set of actors that included the state, IOs as well employers' associations whose interests were aligned around the same goal.

Trade unions during the economic transformation

During the 1990s, the Romanian industrial relations system underwent several reforms regarding the functioning of trade unions and collective bargaining agreements, even if the1972 Labour Code remained in place. Though the primary purpose of the new legislation was to tame organized labour and institutionalize a reliable system of collective labour contracts, it largely failed to do so. Regulatory loopholes and contradictions regarding the enforcement of collective labour agreements created a crisis of legitimacy and did not contribute to a decline in industrial action (Bush 1999). On the contrary, the new legislation made industrial conflict more likely by introducing low thresholds for the establishment of a trade union and meeting the standards of representativeness (only fifteen workers were required to form a trade union while representativeness could be achieved either by having one-third of the workers as members or by being affiliated with a representative federation or confederation). While the low thresholds for the establishment of unions led to fragmentation generated by competition for members and resources (Kideckel 2001), this did not happen in all sectors. In manufacturing, for example, the early 1990s witnessed the rapid bottom-up creation of powerful local trade unions, which organized in branches and were capable of mobilizing large numbers of workers while playing a crucial role at both local and national levels (Varga and Freyberg-Inan 2015).

The lack of a legitimate structure of collective bargaining made industrial restructuring a heavily contested process, with unions exercising pressure for wages and job security at the enterprise level. Although branch level collective bargaining agreements were signed as early as 1992, this did not moderate demands from local unions. Privatization and the closure of what were deemed loss-making state owned enterprises were the key issues at stake, with the government being caught between union pressure for higher wages and opposing enterprise closures and international creditors who were insisting on fast track reforms in exchange for help with financing the current account and external deficits. IMF and WB conditionalities regarding enterprise privatization had direct consequences for organized labour. First, international creditors envisioned a shock therapy type of privatization program in which large numbers of state owned enterprises would be privatized at once, which in most cases entailed labour shedding. This soon became an untenable objective as the privatization law passed by the government in the 1990 qualified the most important enterprises as strategic and thus impossible to privatize. It would take another seven years and a change in government to shift privatization plans towards the position held by the IMF and the WB. Second, loan conditionalities required the government to stop subsidizing enterprises to reduce fiscal deficits. Third, wage restraint was one of the priorities of the IMF as part of its plans to fight inflation, although, in hindsight, wage increases contributed little to the inflationary periods that Romania witnessed throughout the 1990s (Cernat 2006). Caught in between pressures from trade unions and international creditors, during the first years of the economic transformation, the government chose a partial reform path in which it alternated wage concessions to trade unions with promises to advance privatization to its international creditors.

This approach, led to a sour relationship between the Romanian government and its international creditors and attracted criticisms for the slow pace of structural reforms. In its evaluation of the state of the Romanian pre-accession reforms for the year 1999, the EU even went as far as stating that "Romania cannot be regarded as a functioning market economy and is not able to cope with competitive pressure and market forces within the union in the medium term" (European Commission 1999, 32). This evaluation ranked Romania the last amongst the accession countries and was heavily influenced by the position which the IMF had towards Romania at the time. Moreover, it was also influenced by the EU's own attempts to speed up the Romanian privatization process through its PHARE programs which met with trade union opposition while being ridden with implementation problems (Cernat 2006).

Besides hurting the relationship with international creditors, the partial reform approach adopted by governments through the 1990s, generated mistrust between trade unions at the state. Strikes and strike threats remained the key way in which trade unions could obtain concessions since collective agreements were usually not honoured by governments. Bi-lateral agreements between trade unions and the state through which unions were promising social peace in exchange for wages and job security were usually short lived. Although reforms in tripartite institutions were negotiated in 1996, and from 1997 onwards a Tripartite Economic and Social Council was formally introduced, it remained a largely illusory institution, whose limited consultative responsibilities made it to have no role in policy making. Critical issues such as privatization of state owned enterprises remained outside its scope with the state negotiating privatization targets directly with the IMF or the WB without consultation with the trade unions or by openly disregarding collective agreements.

The failure to consolidate tripartism as well as the constant oscillations between international and labour demands are both symptoms of the weakness of the Romanian state (Bohle and Greskovits 2012). However, while trade unions could take advantage of the weakness of the state during the 1990s, when they could impose their demands from a position of power, this became impossible after mid 2000s when IOs began to step up their influence in labour related issues due to the pressure stemming from the European accession negotiations. As we discuss in the next section, external pressures combined with a weakening organized labour after 2000s contributed to the marginalization of trade unions and the institutionalization of deregulated system of industrial relations.

International pressures and labour relations after 2000

The Romanian trade union movement entered the new millennium as an embattled social force. Having long fought the governmental advocates of shock therapy they had outstandingly supported just half a decade earlier, trade unions set their sights on the coming EU accession and, more importantly, for the preparations that had to be done in advance. Despite the change of government in 2000, when the Social Democratic Party came to power, the “endless” conflicts (Kideckel 2001, 99) did not subside in the early 2000s, although a clear difference became apparent in comparison to the chaotic second half of the 1990s: the multitude of seemingly random and uncoordinated protest activities were replaced with more concerted expressions of militancy, as confederations, federations, and many local trade unions jointly fought for influencing negotiations on a new Labour Code. With the extant law virtually unchanged since 1972 and becoming increasingly irrelevant during the 1990s, the overhaul of the labour legislation could no longer be postponed: a new Labour Code was mandatory if Romania was to close the Social Policy and Employment chapter in preparation for EU accession (see (European Commission 2000, 58–60, 86–89, 2001, 43, 65–67, 111, 2002, 83–87, 140).

Between 2000 and 2004, illusory corporatism peaked, as the Năstase government adopted a more cynical and paternalist stance toward unions than any of the previous governments: while forcefully pushing for privatization (Varga and Freyberg-Inan 2015, 10–11), it also favoured the signing of Social Pacts and attempted to appease organized labour to an unprecedented extent in the post-89 era. Illusoriness notwithstanding, today many union leaders still recall this as being the only period when social dialogue genuinely functioned on a national level (Guga and Constantin 2015). If this could be attributed to the illusion inherent in labour’s “integration” (Ost 2000), it also reflected a newfound, genuine form of labour strength. In contrast to the 1990s, the Romanian trade union movement could give up on more or less isolated and defensive local struggles against privatization and mount a more focused offensive over national labour policy. Pace Kideckel (2001), trade union leaders could now ponder winning the war, or at least an important part of it, despite losing increasingly many isolated battles.

The Romanian labour movement obtained its most important victory only in 2003, more than ten years after the heyday of militancy that immediately followed the revolution of 1989. The adoption of a new Labour Code was widely regarded as a huge success for labour and was the result of unions’ peaking influence on national policy. With predominantly disorganized employers and a former trade union leader serving as Minister of Labour, confederation leaders convinced the government to adopt the Code via special procedure, without parliamentary debate, which they considered potentially harmful for the contents of the law. Notwithstanding the vociferous opposition of employers' associations, this strategy worked flawlessly. And if the ability of the labour movement to come together in the pursuit of a single goal weighed heavily, so did the imperative of meeting pre-accession requirements. The urgency of the matter, which trade unions exploited to the maximum, was not an internal affair and had only to do with the government's ambition to ensure EU accession by 2007 and the Commission's demand for a labour law in sync with EU regulations.

While EU representatives pushed the Romanian government to adopt a new Labour Code, they did not impose specific restrictions regarding its content, allowing trade union confederations to use their still considerable political leverage to design a piece of legislation that fit EU requirements while at the same time being predominantly favourable to labour. This was noted in the pre-accession evaluation that followed: "The enactment of a new Labour Code in March 2003 marked a significant advancement in terms of acquis transposition (…) but also introduced separately some rigidity in the functioning of the labour market. These include restrictive conditions for fixed-term contracts, procedures for individual dismissals that are open to abuse and a centralization of the bargaining system which could prevent wages from reflecting productivity differences across regions and skill profiles" (European Commission 2003, 36). This meant that "future reforms are needed to ensure the appropriate balance between flexibility and security" (European Commission 2003, 79). Flexibility was the watchword of the period immediately following the adoption of the new Labour Code, as the IMF, the WB, and the European Commission pressured the government to change the law to increase labour market flexibility. Locally, the government attempted to comply, benefitting from boosted support from employers.

In 2002, the IMF(2003a) had warned the Romanian government not to adopt restrictive labour regulations, which did not fit with the Fund's agenda of supporting the development of the private sector in Romania and keeping labour costs in check. Just a few weeks after the new Labour Code was adopted, the IMF (IMF 2003a, 51) announced it opposed the new law and stated that discussions with the government and the World Bank were already underway to change it. Facing such pressure, the same government that had just helped trade unions obtain their most important post-89 victory backed down and committed to change the Labour Code (IMF 2003b, 2003c). The task would nonetheless be passed on to the next government, which was explicitly more right wing and had close connections to the employers' movement (see Pilat 2006, 196). In a Memorandum of Understanding with the IMF from June 2004, the new government promised a "comprehensive overhaul" of the Labour Code, "which will be agreed upon with the WB within the framework of the EU acquis, and be submitted to Parliament by end-March 2005"(IMF 2004a). In 2004, all forces were mustered in pursuing this goal. While the World Bank provided on the ground expertise and committed to empirically prove both the absolute and the relative rigidity of the Romanian labour market, the IMF and the European Commission stressed the importance of addressing the question of flexibility even beyond the Labour Code, as they questioned the relevance of Romania's "multilayered system of collective bargaining". Allegedly, collective bargaining "tended to drive up wages and benefits and remained a barrier for labour market flexibility"(European Commission 2004, 40) while "helping in preserving social peace"(IMF 2004b, 19), it was deleterious for the development of the private sector.[2]

By early 2005, tensions were mounting rapidly, as trade union confederations jointly announced they would oppose the changing of the Labour Code. Protests across the country were announced and unions threatened to go as far as a countrywide general strike. Out of the dozens of changes proposed by the new government, several were considered unacceptable by labour organizations: the favouring of temporary contracts, the introduction of non-voluntary overtime, discretionary individual and collective layoffs, the removal of obligations of informing employees on the economic situation of enterprises; in addition trade unions were no longer supposed to have a role in setting work rates, union leaders' protection from firing was to be substantially reduced. Collective bargaining was also targeted, with ongoing discussions to remove erga omnes provisions across the board. Locally, trade unions confronted an alliance between the government and employers, among whom the representatives of foreign investors were particularly vocal. IMF and EU pressure, as well as World Bank assessments of labour market rigidity, were the main arguments invoked by government representatives.[3]

Despite the months of agitation and the ostensibly far more favourable alignment of forces than ever before, the attempted flexibilization failed and trade unions in the end proclaimed victory in the negotiations of spring 2005. Only relatively minor changes were adopted, among which none of the major demands of IOs and employers, who immediately declared their disappointment with the negotiations. In its annual pre-accession report, the European Commission (2005) noted that, despite the changes, "the functioning of the labour market is still not considered flexible and continues to be hampered by the centralized wage bargaining system, the benchmark role of the minimum wage and the compulsory extension of collective agreements to non-signing parties". Given the debacle earlier that year, there was little expectation for these things to change any time soon. The World Bank (2005), for which labour flexibilization was a major objective, noted that "strong labour unions" were likely to continue to create significant problems by opposing deregulation.

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[2] For the World Bank's commitment for labour flexibility in Romania, see World Bank (2004b, 35–38, 2004a, 78, 128–29).

[3] Later that year, European Bank of Reconstruction and Development joined the group of IOs pushing for labour market deregulation. See Curierul Național (2005).

After 2005, the impending EU accession and the picking up of economic growth mitigated tensions locally as well as in the government's relationship to IOs. Reports from the European Commission no longer emphasized the need for labour market flexibility, leaving the IMF alone in stressing that "labour market flexibility has improved only marginally" and that "labour market rigidities are impediments to a business-friendly environment and Romania stands out compared with other countries, particularly on costs of hiring and firing workers" (IMF 2006, 29). Consequently, the IMF "urged the authorities to further amend labour market legislation" (IMF 2006, 29), especially in regard to collective bargaining regulations. Nonetheless, in 2007 IMF concern with labour market rigidities was less pronounced (see IMF 2007), and by 2008 first priority was passed to the "aggravating private-sector labour shortages", as mass migration abroad had produced significantly "tight labour market conditions" (IMF 2008, 4, 7). As a general principle, the IMF noted that further flexibilization of labour relations was necessary to boost the country's capacity to attract foreign direct investment (FDI), through at that time profitability was stable and labour costs remained among the lowest in Europe (IMF 2008, 3, 11).

In 2008 and the first half of 2009, as a mounting economic crisis began sweeping Europe, Romania reported strong economic growth and government representatives declared the country immune from what would soon be named the Great Recession. So immune that wages in the public sector could be boosted in anticipation of elections, in disregard of impending worries with the economic stability by now heavily dependent on external financial and commodities markets. Before officially going into recession, in late 2009, the Romanian government secured a 20 billion euro loan from the IMF (app. 13 billion), the EU (app. 5 billion), and the World Bank (app. 1 billion) in April 2009. This marked a stark rekindling of the country's relation to the IMF: between April 2009 and March 2014, Romania signed an unprecedented 16 letters of intent to the IMF, committing to substantial changes in financial, economic and social policy in exchange for the Fund's financial assistance. In addition to offering financial assistance in exchange for similar reforms, the EU opened the excessive deficit procedure for Romania in mid-2009, imposing further conditionalities on the government.[4] Labour market policies were a major component of recommendations made to and commitments made by subsequent Romanian governments in IMF Article IV Consultations and Letters of Intent, as well as EU memoranda of understanding and recommendations included in the European Semester. These included, chronologically, a major overhaul of public sector employment and wages in order to cancel out any ascendancy public sector jobs might have over private sector ones, as well as a likewise major overhaul of labour legislation concerning both individual and collective labour relations.

2010 came with one of the most brutal austerity packages in Europe, as public sector wages were cut by 25% and a freeze was imposed on public sector jobs; on top of this, the public sector wage system was streamlined and personnel cuts were

[4] For an overview of the role of the IOs during the crisis, see Delteil and Bănărescu (2013).

planned. Anti-crisis austerity was rounded off with reforms on retirement and unemployment policy, taxation, and social transfers. These measures were discussed with the IMF and the EU as explicit conditionalities and commitments (IMF 2009; European Commission 2010). If budgetary discipline was one target, the remaking of labour relations was the other. Overall, employees' bargaining power, which they had gained with the deepening pre-crisis labour shortage, was to be curtailed as much as possible. No longer was the public sector to serve as a reasonably satisfactory outlet for potential private sector employees: job and wage cuts were to ensure the broad "alignment" of the public sector with "actual labour market conditions" (IMF 2010a). If the crisis was not enough, austerity ushered in employers' dominance on the labour market, in stark contrast to the position of strength sellers of labour power had enjoyed in pre-crisis years.

As the above "anti-crisis" policy package was announced, the government was already preparing for adopting entirely new labour laws, committing to the IMF to do so by the end of the year (IMF 2010c, 2010b). With labour shortage alleviated, labour market rigidity came back on the agenda in force. Despite shortcomings and controversies (ITUC 2013), World Bank "rigidity" indicators were widely used in World Bank and IMF reports, while EU representatives and Romanian politicians constantly pointed to the deleterious impact that rigidity had on business and employment. By the end of 2010, a draft proposal for a new Labour Code was on the table, along with preliminary talks for a revamping of collective bargaining regulations. To prevent any unwanted impromptu local interference, the government committed to discuss any draft proposals with the IMF, World Bank and the EU before sending them to parliament for approval (IMF 2010d).

The adoption of a new Labour Code in March 2011 starkly resembled the course of events of the first half of 2005, when trade unions had successfully prevented the changes proposed by the Romanian government with the support of employers' associations, foreign investors' representatives, and IOs like the IMF, World Bank and the EU. The same actors allied and confronted each other in late 2010 and early 2011, fighting over a draft proposal that clearly recalled the proposed amendments of 2005 and reproduced IO recommendations and foreign investors' demands almost to the letter. This time around, however, organized labour witnessed its most severe defeat to date. Widely discussed since then (e.g. Chivu et al. 2013; Koukiadaki, Távora, and Martínez Lucio 2016) the new Labour Code included more favourable conditions for temporary and part-time contracts; it streamlined hiring and firing, relaxed overtime regulations, gave employers discretionary control over work rates, and severely diminished trade union officials' protection against firing. Along with many other changes, the new Code effectively cancelled the victories trade unions had obtained in the first half of the 2000s, which they had managed to maintain to the end of the decade. Two months after the adoption of the Labour Code, an entirely new Social Dialogue Law was passed, completely overhauling the collective bargaining system. The new law eliminated the possibility of signing national-level collective bargaining agreements and did virtually the same for sectoral level bargaining. As a general principle, moreover, it restricted employees' possibilities to effectively organize at the company level and generally curtailed trade unions' room of manoeuvre and leverage at all levels of organization. If the crisis and austerity were not enough, the new legal framework for collective bargaining wrote the losses of organized labour into law and made any reversal via labour organization and mobilization extremely difficult.[5]

The public debate and parliamentary discussions about who's role the IMF officials were so concerned with (see above) never took place, as the government decided to pass both laws via special procedure, in identical fashion to the 2003 trade union victory. It could do so relying on a very different balance of forces. Not accounting the weakening of organized labour before the crisis (see Varga and Freyberg-Inan 2015), trade unions had been severely weakened by the 2010 offensive against the public sector, which they proved unable to effectively oppose. All threats with protest and strikes failed to materialize and quickly fell moot. On the other side, the coming of dependent development starting with the mid-2000s (Nölke and Vliegenthart 2009; Ban 2013) gave foreign investors' associations ascendancy over the employers' movement and considerable leverage in addressing the government. The 2011 overhaul of Romanian labour regulations openly occurred under the banner of the domestic influence of foreign investors and external pressures from IOs. Both had the same objective: to roll back labour's previous legislative victories while making sure they had as few chances as possible of being repeated.

From the middle of 2011 onwards, the adoption of the new labour laws was constantly praised as a hugely positive change in all documents of recommendation and commitment exchanged between the Romanian government and IOs. Monitoring reports on the implementation of the new laws were made to IOs and the IMF(IMF 2012, 32) staff stressed that any "efforts to undo the progress made should be firmly resisted". By late 2012, talks of changing the legal framework was back on the table. The Social Democratic Party was back in power and had committed in front of trade union confederations to roll back at least some of the 2011 changes. Jointly commenting on a Draft Emergency Ordinance for the amendment of the Labour Code, which the Romanian government had put together, the European Commission and the IMF (2012) advised against any modifications and recommended the limiting of changes to "revisions necessary to bring the law into compliance with core ILO conventions". They also insisted on the importance of maintaining the existing practice of discussing any modifications "in depth" and in advance with the EC and the IMF. Having had no problem with the brutal manner in which the Romanian government had previously passed major pieces of legislation without public or parliamentary debate, the IMF and the EC now insisted on the "inappropriateness" of an emergency ordinance. Accordingly, they stressed, it was of "the utmost importance to go through the normal legislative process which ensures a thorough preparation and proper consultation of all social partners, including all employer organizations representative at the national level".[6] In

[5] For a detailed assessment, see Guga and Constantin (2015).

[6] This commitment was made explicit by the Romanian government in a subsequent letter to the IMF. See IMF (2013).

addition, they specified that the government should not pass more favourable provisions for national and sectoral collective bargaining, that it should continue to enforce restrictions on public sector wages regardless if it was done via limitations on collective bargaining or not, that it should maintain restrictions on labour conflicts, and that it should concede at most limited forms of protection for trade union leaders. Despite constant trade union pressure, this made the government give up on any significant modifications of the 2011 legislation. As of the end of 2012, labour law has disappeared from the agenda of all Romanian governments and political parties.

Conclusion

In Europe, the Romanian labour movement was among the hardest hit by the Great Recession and the reactions that followed (see, e.g., Koukiadaki, Tavora, and Martínez Lucio 2016). Combined, the crisis and deregulation have produced a highly decentralized system of collective bargaining, in which the national level has become largely irrelevant. With the elimination of the national collective bargaining agreement, tripartite institutions remain the only avenue of action for trade unions on the national level; their salient illusory character has nonetheless survived all attempts at "reform". Sectoral collective bargaining has likewise been practically eliminated by legal fiat, being a rather purely theoretical possibility. Multi-employer collective bargaining, which the new legislation was supposedly meant to foster, has not compensated for this and remains entirely exceptional. At the company level, trade unions in the private sector have found it increasingly difficult to meet the new criteria of eligibility for signing a collective bargaining agreement, so the vast majority of agreements are signed by so-called "employee representatives". Another innovation introduced by the new laws, these "representatives" are individuals elected by employees for the sole purpose of negotiating and signing a collective agreement. Since they do not benefit from the protection, organizational backing, or bargaining power of trade unions, their capacity of interest representation is, to say the least, doubtful. Although the public sector has remained a trade union stronghold, the measures taken in response to the Great Recession have greatly limited the power of trade unions and have effectively removed the possibility of wage bargaining. At the same time, the incidence of labour conflicts has decreased dramatically and legal strikes are virtually extinct. After 2011, what was once the most militant trade union movement in post-89 Central and Eastern Europe has been turned into one of the most peaceful and innocuous ones.

This partial dismantling of collective bargaining has been decisive in shaping the rather misfortunate trajectory of Romanian labour since 2008 to the present. The new Labour Code has allowed for a substantial proliferation of fixed-term and part-time work contracts, and Romania still retains a substantial workforce of dependent self-employed workers (see Guga 2016). Though productivity has increased substantially, labour costs have largely been kept in check, and the overall

Romanian economy has in the meantime considerably expanded its role as an assembly platform for foreign multinationals—the total value of exports reached over 41% in 2015, from less than 30% in 2008. Though economic growth has been steady and comparatively solid since 2013, income inequality has soared and the weight of employee compensation in GDP has plunged from just under 40% in 2008 to around 32% in 2015.

Starting with 2014, the minimum wage became the main issue of discussion between the government, trade unions and employers' associations. Although the monthly minimum wage has increased from 149 to 276 euros between 2009 and late 2016, this has failed to curb inequality and make the labour/capital income distribution more equitable. Boosting the minimum wage has dramatically increased the number of minimum wage earners: if in 2011 just 8,3% of full-time work contracts were with the minimum wage, by 2016 these represented almost 33% of the total number of work contracts. Although admitting inequality to be a problem and the minimum wage alone to be a rather ineffective mechanism in tackling it (IMF 2016b), the IMF has reacted to these developments by warning the Romanian government against minimum wage increases "undermining" competitiveness" (IMF 2015, 15) and has explicitly called for "excessive" increases to be "avoided" (IMF 2016a, 5).

Thus, the fate of the Romanian trade union movement has shifted dramatically especially since the advent of the economic crisis which acted as a catalyst for increasing the influence exercised by IOs over national policies. If during the first decade of the economic transformation labours' won battles were representative of local, sectoral, and national struggles after the 2000s, the scene has gradually shifted towards the international arena. IOs and their local allies gained the upper hand in pushing for an anti-labour agenda while leaving trade unions with almost no means to fight back. This has contributed to the growing political isolation of the Romanian trade unions and their marginalisation from national level policy-making. While the effects of this shift are visible in the labour market, with the position of workers becoming increasingly more precarious, there are no signs of a counter-movement from trade unions. Given the recent hard stances that IOs expressed against a possible scaling back of the 2011 reforms, it seems that there is little chance of restoring a labour friendly institutional setting.

The Romanian example is typical for the negative effects that international actors have on collective labor rights. As was the case in other countries in Central and Eastern Europe and elsewhere, external constraints have had a detrimental effect on collective bargaining laws and freedom of association rights (see Blanton, Blanton, and Peksen 2015). This is an important finding especially in light of the ambivalent positions that IOs had in recent years towards collective bargaining and labor market reforms. Although in the aftermath of the economic crisis the international rhetoric has shifted towards a more labor friendly discourse, in reality, external financial assistance has preserved its traditional approach that emphasizes growth and productivity gains at the expense of labor and social rights (see Kentikelenis, Stubbs, and King 2016).

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