

PARTICULARITIES OF THE MANAGEMENT OF CONFLICTS IN INDUSTRIAL RELATIONS

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Abstract

We believe that labor conflict management is a crucial issue in the current socio-political reality of Romanian society, which unfortunately is not based on a culture of dialogue par excellence. So we realized this study in triple perspective: theoretical, practical and legal framework. We maintain that the industrial relations conflict management should involve a strategic level, targeting the correct choice of the goal on the one hand and a tactical level, on the other hand, which consists in the suitable settlement method. Regardless of the method chosen concrete, consider the three essential preliminary actions that could increase the chances of success, namely: the precise definition of the subject of the dispute; reducing space and increasing spectrum opportunities dispute resolution. Narrowing the field of dispute resolution and widen the spectrum of possibilities are practically in a relationship interrelation. Segregation disputed topic more items and limit divergences spectrum by identifying those specific issues that can be resolved more easily create prerequisites for the achievement of agreements on some specific issues in the dispute and ensure the transition from total war situation, the only alternative solving are victory or defeat in a dispute with a wider range of possibilities to solve, from which both sides can benefit.

Key words: industrial relations, labour disputes, the management of conflicts.

INTRODUCTION

History. In this region of Europe, changing industrial relations differ from country to country, depending on the socio-historical conditions. This led the development times and different solutions to national institutional model. Regardless of the ways, means and solutions promoted all countries in Central and Eastern Europe have built their own systems, inspired by one or more similar systems in developed countries on the continent (Government of Romania, Ministry of Labour, Family, Social Protection and Elderly, Directorate for Social Dialogue, , 2013).

In our country on conflict management institutions and structures industrial, institutional terms were not elaborated unit. The restructuring of the state sector, mainly strong economy contributed to boosting the institutional establishment of tripartite social dialogue processes. Tripartism in the 1990s was essentially bipartitism, given the dual role of the state in this dialogue both by government and by business organizations at the time, expression of the state capital, the only significant economy. Changing Labour Code

(Law no. 53/2003, 2011) and the Law on Social Dialogue (Law no. 62/2011, 2012) led to profound changes in labor relations. Lately, especially at the beginning of the global economic crisis, the trend of flexible labor relations was felt stressed (The European social dialogue, Guide for Legislative Information in European dialogue, Government of Romania, Ministry of Labour, Family, Social Protection and Elderly, Directorate for Social Dialogue, 2012).

Acquiring. The term conflict concerns all forms of intolerance and attempts to influence resulting from incompatible between individuals and within groups and organizations and is used to describe conflict situations, emotional states of individuals, states cognitive, behavioral states. Richard H. Hall said about the conflict that "it is an organizational process inherent" (Hall, 1982).

Practicing successful management requires at the outset to identify the sources of conflict and factors favoring their orientation towards reducing management performance.

Labour disputes occurring between workers and employers regarding the interests of economic, social or professional or rights

arising from employment relationships or service. Labour disputes may be collective or individual.

MATERIALS AND METHODS

In this paper we used bibliographical sources in the field and references to specific legislation.

The methodology used during the research was conceptualisation, identification of management elements applicable in conflict situations from the perspective of the central public administration at the institutional level where the conflict breaks out, with the necessary adaptation thereof. The research undertaken had a determining and experimental-formative character. Analysis – as a tool for applied research – was performed through statements and statistics made at central government level, according to government data. Good results were yielded by the use models, the study of official documents or legislation governing this area in Romania, European norms, and documents issued by various institutions, subject to transparency. Data and information gained through the application of research instruments were processed using software applications.

I combined the *theory* reflecting, in a generalised form, the ideas, objectives, elements, concepts, principles defining the area of conflict management, the *methodology* approaching the methods, procedures of knowledge, research of the field, as well as specific action, *managerial technology* – which expresses, in essence, knowing how to do a concrete action rationally, efficiently, using theory and methodology, and *practice* – adapting above-mentioned elements to actual conditions.

The research required the study of specialised literature – economic, management, legal, sociological, psycho-sociological and pedagogical – which approached the issue of staff or human resources management, conflict management, labour law, as show in bibliographic references, with a direct impact in tackling the content pursued in the paper.

The research work consisted of: documentation, the study of organisational culture, the study of legal and practical aspects

on labor legislation, the social dialogue and industrial relations legislation, mediation, statistic data processing and interpretation methods.

The involvement of the Social Dialogue Department within the Ministry of Labour, Family, Social Protection and Elderly, where I have been working for over two years, in such projects is opportune for conducting a program to develop alternative labour dispute resolutions, in order to decrease their negative effects.

RESULTS AND DISCUSSIONS

Individual labor disputes may relate to the exercise of rights or fulfillment of obligations under individual contracts and collective bargaining and in laws or other regulations; payment of compensation to cover damages caused by the failure of parts or improper fulfillment of obligations under the individual employment contract; nullity individual employment contracts or clauses thereof; finding termination of service or clauses thereof. Individual labor disputes are settled by the court of first instance. Applications for the settlement of individual labor conflicts are addressed court (tribunal) in whose jurisdiction the domicile or place of work the applicant (Ticlea, 2014).

Collective labor conflict occurs between employers and employees which aims commencement, conduct or completion of negotiations on contracts or collective agreements; employees' right to collective bargaining trigger conflicts in connection with commencement, conduct and conclude the negotiation of collective labor contracts is guaranteed by law. Collective labor conflicts may occur to defend the collective interests of economic, professional or social collective labor conflicts at the unit are represented by unions representing employees in the unit (Ticlea, 2013). At the school level are not established representative trade unions and employees have elected people to represent them in negotiations, the same people they represent and in the case of labor disputes (Law no. 62/2011, 2012). Collective labor conflict is

the main type of organizational conflict (inter-group), (Braica, 2009).

In terms of the effects they may generate conflicts as destructive or beneficial. If destructive - effects of personal and organizational resources are consumed in hostile conditions without great benefits, there is a constant state of dissatisfaction. Such conflicts can escalate and can lead to impaired strong organizations. The ability of each party to take into account the arguments of the other is reduced. Any communication between the parties is almost inexistent. On the other hand the effects are beneficial - when conflicts are recognized early and addressed properly can contribute to the process of change. In any organization, a degree of conflict is absolutely necessary, because the dynamic development of the organization to be better. Within such a conflict, the parties are able to communicate properly and sit at the negotiating table, and the results strengthen the organization (Braica, 2009).

The causes of collective conflicts. Among the most important causes that generate collective conflicts as those you listed below: a) lack of communication or miscommunication between parties. Providing sufficient information, truncated or contradictory use of methods, inadequate means and channels is generated by the inability of decision-making groups in ensuring "transparency" managerial and organizational culture; b) value system - especially ethical disagreement concerns the limits and the ways in which power should be exercised. Each party tries to enforce other, usually by force, its own set of values. One solution is for the parties involved to come to recognize and accept differences, adopting solutions that action to avoid "hot spots"; c) the existence of different purposes - not always parties agree on what should be done. Sometimes problems arise in compiling the list of priorities for other purposes can be totally different. It becomes dangerous when a party or individuals within a party have a "hidden agenda" undeclared purposes, often different from those of the organization and they follow its detriment; d) the limited amount of resources. Limiting resources can give rise to any conflict: time, money, material resources,

the human and information. Resources should not and can't be unlimited and available to all, but must seek to achieve the objectives and tasks. Often, the problem is not lack of resources but their planning and allocation; e) the ratios between different categories of staff (production/support; land/premises, underground/surface, etc.). This source of conflict is amplified amid a precarious economic situation (Tripon, 2013).

Regarding collective labor conflicts effects on relations between the conflicting parties, mutual perception of the positions are "enemy", decrease the interaction and communication between the parties, ignoring their weaknesses, and the strengths of the other party. In general the opposition group appears less worthy of respect, the hostile attitude is easier to maintain and are less chances of reconciliation (Government of Romania, Ministry of Labour, Family, Social Protection and Elderly, Directorate for Social Dialogue, 2012).

In essence, the nature of the relationship between employers and employees is influenced by values, power and environment in which they operate and the type of dispute that they are trying to solve. In our opinion, the main factors that can influence the conflict are power system and environmental values.

Power means the ability to influence others, mainly because of the position of a person or institution has the technical competence and capacity of the person or institution, and the personal characteristics of the people who interact. In short, power is a combination of position, technical competence and personality. Interactions between employers and employees are influenced not only by the power that each party possesses, but also understand how to use this power. If the power is used to dominate the other party or to impose its own point of view, inevitably conflict will manifest itself in one way or another, sooner or later.

Employees and employers can have different sets of values. If employers and employees are fundamental values opposite, the conflict can't be avoided, and the results will depend on the strength of the parties. If the employee and employer values are close or similar to, the possibility of a conflict states will still exist, but will be more than principles related

standards. Integrity, good faith and respect for values other part is helping the parties reach a consensus.

Regarding the environment, relationships between employees and employers take place in a framework that includes several factors with a key role in determining the outcome of these interactions. Environmental factors change over time, leading to changing relations between employers and employees. The most important factors in this group are: the legal, economic and technological environment, political, social and cultural. We argue that cultural norms, rules and procedures governing negotiations between the parties, the attitude of the partners in the observance of the organizational structure of an enterprise, personal behavioral factors including personality, job satisfaction, social and professional status and goals may promote or mitigate, also the appearance of conflict. Through the gradual accumulation of collective conflicts escalate tension states.

There are all the conditions triggering the tense conflict without them to be noticed. Latent conflict is determined by the consequences of previous conflict episodes. The external environment also influences him latent conflict. For example, a company is facing more stressful conditions than another in the same sector. Divergent goals or objectives do not lead to conflict as long as the differences go unnoticed.

Recognition of the state of conflict by those involved in the conflict or by others outside parties. First you get the feeling of oppression. The threats are perceived, but they are not considered sufficiently important. Once focused attention on these states, the conflict situation is felt, recognized and begins to preoccupy all those involved in the conflict. Conflict remains in a latent state; those involved by not granting them significant importance and openly unreacted. Emphasizing state of conflict lies in the accumulation of tensional state. At this stage the conflict is inevitable, but he has not yet started.

Triggering the conflict inherent conflict does become visible even to those not involved directly. Manifest conflict is expressed through forms provided for by law (Law no. 62/2011,

2012). The most common reactions are apathy, dramatic attitude outright hostility or aggression. The end of the conflict is achieved by changing the initial conditions that led to its outbreak. The way resolving conflicts manifest consequences is essential. The consequences of conflict situations become an environmental factor for the next episode conflict. If a conflict has been resolved, the parties can move toward cooperation; otherwise, the conflict increases in intensity, comprising parts or issues that were not initially concerned.

Management strategies for resolving conflicts are considering two main dimensions: the perseverance of each party involved in the conflict in imposing their own point of view and their interests and how cooperative or uncooperative is each party to the conflict in needs or interests of the other party.

Regarding managers is important that they, knowing the nature, type, causes, extent and intensity of conflicts, to identify and adopt the most appropriate strategies for resolving organizational conflicts, such as: strategy oriented bypass (avoidance) strategy accommodation oriented, competition-oriented strategy, compromise-oriented strategy, strategy-oriented collaboration.

Other conflict resolution, according to the literature would be settling, forcing.

But the most effective managers deal with conflict by confrontation, first, and then trying settlement, compromise, forcing and only eventually, retirement (Lefter et al., 2012).

According to the legislation of our country (Law no. 62/2011, 2012) collective labor conflict can be triggered only under the following circumstances: a) employer or employers' organization refuses to start negotiating a contract or collective agreement, while not having signed such a contract or Agreement or the previous one has ended; b) the employer or employers' organization does not accept claims made by employees; c) the parties do not reach an agreement on a contract or collective agreement until the date agreed to complete negotiations.

During the validity of a contract or collective agreement, but employees may not trigger collective labor conflict, this is still cause for debate between unions and the government.

Collective labor conflict at the unit is triggered only after prior registration thereof by the union representative by notifying the employer of the start collective labor conflict and written notification to the territorial labor inspectorate, to effect conciliation procedure.

Steps triggering a collective labor dispute are:

1. Preparatory phase triggering - in all premises where there is an outbreak of collective labor conflict, the union will inform the employer in writing about the situation, stating the claims of employees, their motivation and the proposed settlement. The employer is obliged to receive, register and answer such notification in writing to the union, within two working days of receiving the notification, stating the view for each of the claims made. If the employer did not respond to all claims made or answered although union disagrees with the view stated collective labor conflict can be triggered. This first phase is a preparatory includes employer's obligation to respond to the union in a notification within two working days. It is an important step because the notification content analysis, especially settlement proposals made by the union and the speed with which, after receiving the views of the employer, the union shall notify the employer about the decision to trigger collective conflict written work and notify local labor inspectorate, the reconciliation, we have a picture of determination and union expectations eyes to further conduct of the events.

2. Nuisance collective labor conflict - a collective labor conflict triggered after his registration is considered collective labor inspectorate. Collective labor conflict can't trigger as long as there is a collective agreement in force.

3. Reconciliation of collective labor conflict is a mandatory procedure for amicable settlement of a collective labor conflict, which occurs between the warring parties. It is triggered in response to a referral to conciliation, filed by the union and to the territorial labor inspectorate. The conciliation process is led by a delegate of the territorial labor inspectorate who is authorized representatives of the parties, to work towards for reconciling their positions, to reaching an agreement and to signing an accord regarding collective labor conflict. The

results of conciliation will be brought to the attention of employees by those who made the referral for conducting conciliation.

According to ILO regulations (Labour Dispute Systems, Guidelines for improved performance, Social Dialogue, Labour Law and Labour Administration Programme- ITC, Turin, Italy, 2013), but also those in our country (Law no. 62/2011, 2012), (Law no. 192/2006) after exhausting the steps above are considered forms of alternative amicable settlement of labor disputes mediation and arbitration (Book IV of L.134/2010 Code of Civil Procedure) which are voluntary procedures. Throughout the duration of a collective labor conflict, warring parties may decide by consensus to resort to mediation or arbitration. Mediation or arbitration of collective labor conflict is mandatory/compulsory if both parties jointly decided this before or during its strike. In practice, however, as a rule, to which the procedure is not used. Moreover, there is no body dedicated and specialized in labor disputes, which can call on the services and labor. Law no.62/2011 governing Social Dialogue establishing in the labor ministry official establishment of mediation and arbitration of labor disputes, but the reasoning that objective could not be operationalized so far.

Below is dynamic conciliation of labor disputes in Romania, where it shows a success rate of 50% (conflicts enclosed or semi-enclosed) as reported by labor inspectorates.

Table.1 Summary statement of collective labor conflicts in Romania during 2007 – 2014

	Year							
	2007	2008	2009	2010	2011	2012	2013	2014
Declared conflicts	85	116	93	73	35	27	22	16
Closed conflicts	35	34	33	24	11	9	10	4
Open conflicts	37	60	45	45	24	14	10	8
Partially closed conflicts	13	22	15	4	0	4	2	4

Source: ITM, Own calculation.

What we notice here is the potential alternative settlement of labor disputes. It is relevant also

individual labor conflicts and developments that affect settlement mechanisms and their prevention, where we see an increasing trend of individual labor conflicts with two distinct peaks in 2008 and 2010. While in 2008 the increase was due to individual labor conflicts of restructuring measures by employers as a result of the onset of the economic crisis (usually redundancies and wage cuts), measures challenged in court employees, growth in 2010 is the consequence of reducing the impact of legislative action wages in the budgetary measures affecting over a million employees, many of them addressing the courts to contest those measures.

According to the latest statistical data published in the Statistical Bulletin of the National Institute of Statistics of Romania in 2014, we processed the following graph for visualization of the number of complaints of labor disputes in court during 2000-2013.

The analysis of these data we can say that the effects of the global crisis are still being felt in Romania, and the measures taken by employers to reduce the effects of the crisis by restructuring jobs and reducing wages still generates a huge number of individual labor disputes. It is however difficult to predict at this time the dynamics of individual labor conflicts, as the economic situation is not yet stabilized, even if efforts are made in this regard by the government.

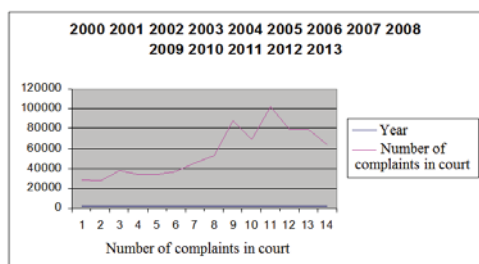


Figure 1. Evolution of the number of complaints of labor disputes in court during 2000-2013

On the other hand experience shows that there is a golden rule, namely interventions that are not supported by one or both parties that are not reinforced by expertise, friendship or third party authority (power sources thereof), can be received hostility or even hatred, whatever the motives or intentions of the third party.

The most expressive form of conflict manifests defined by fundamental law (The Romanian Constitution, 2003) is strike. The strike is any form of collective and voluntary cessation of work in a unit, when the crisis of the conflict. Strikes can be a warning, solidarity and themselves. Warning strike may not last for more than two hours when dealing with cessation of work, and must in all cases precede at least two working days strike itself. The strike can be declared solidarity to support the claims made by employees in other units in the same group or sector units. Solidarity strike can't take longer than one working day and must be announced in writing management unit at least two working days before the date of termination of operation (Law no. 62/2011, 2012).

Decision declaring the strike is taken by the trade union organizations participating in collective labor conflict with the written consent of at least half of the members of that union. The units are not representative unions organized the judgment declaring the strike is taken by employee representatives, with the written consent of at least a quarter of the employees of the unit.

In order to declare the strike under the law (Law no. 62/2011, 2012) is required to have exhausted the possibilities for resolving collective labor conflict by compulsory procedures provided by law and after the warning strike. According to the law (Law no. 62/2011, 2012) for the duration of the strike individual employment contract or the employee is suspended by law. During the suspension remain only health insurance rights. During the strike organizers continue negotiations with the management unit in order to settle claims which form the subject of collective labor conflict. During negotiations, strike organizers employer may agree with the temporary suspension of the strike. If negotiations fail, the strike will resume. It is important to emphasize however that strike organizers refuse to continue negotiations during the strike attract legal liability for damages caused to their unit.

If the strike organizers and management of the unit reach an agreement, or decide this collective labor conflict is closed and the strike

ceases. Also in the event that, after the strike, more than half of the employees who decided to declare the strike strike stated in writing, it ceases. The court may terminate the strike as illegal.

Although art.187 of Law no.62/2011 Social Dialogue states that strike organizers are the ones who determine its duration, most often strike is declared indefinitely (until the settlement of claims). Outside court ruling only on the legality of the strike, the collective labor conflict extinction can't not interfere factors outside it.

CONCLUSIONS

In principle, the conflict is defused at an early stage through negotiations conducted in good faith and responsibility, the better the chances of reaching a workable agreement. The parties found common solution able to meet their needs (not necessarily desires) will increase the respect and trust between the parties and facilitate future cooperation. To be able to solve such approach must be win-win. Escalating conflict risks at least two reasons. The first reason is the risk of losing control over even the organizers of conflict. In this case, exit from the conflict becomes difficult and may involve unanticipated costs. The second reason is the long-term effects on each side, in case of conflict that results in winners and losers. In such a situation, social tensions are not defused, but continue to accumulate, resentments and frustrations are growing and latent conflicts within the party to overcome will worsen. Future cooperation is threatened and consent "required" is unlikely to be respected (A Practical Guide to Professional Conciliation in a World of Labour Relations – draft ILO, 2015).

Communication is an extremely important element in the prevention and resolution of labor disputes. In this regard it is essential to the proper functioning of the Joint Commission employer-union organization, particularly in the area of conflict prevention. Also creating a realistic expectation horizon represents a gain. Preparation and negotiation must be skills of the committee members (understanding the issues, analysis and listening ability, reliability,

balance, anticipation, attitude, ability to negotiate, etc.). It is essential to have a firm and realistic negotiating mandate, credible partner/negotiation. Good foundation and presentations and offer credibility in the negotiation process is considered an asset. Specialists know well that identifying informal leaders negotiating partner and their approach in an informal setting, is a practice commonly used, too. Promptness and accuracy of communications to employees on the status and content of the negotiating committee's work after each meeting it is very important as the content and credibility of messages that employees send this occasion.

It is advisable to use the most appropriate channels of communication and influence employees, so that information reaches as many of them. Full understanding of the risks of a collective conflict (in case of conflict risks must be balanced between the partners).

Ideal is however resorting to alternative procedures for amicable settlement of labor disputes; identify those solutions that allow deadlock maintaining the credibility and communication partners during the course of collective labor conflict. Enhancing communication with formal and especially informal leaders of the other parties, promptness and accuracy of communications to employees about the progress of negotiations during the conflict are also particularly sensitive issues, given that the decision chain is longer if the employer.

Analyzing the phenomenon of statistical data, but also longstanding human resources and central government, I can say that although conflict management work is a critical importance in political and social reality of our society unfortunately does not is based on a culture of dialogue par excellence. Conflict management in industrial relations should include a strategic level, targeting the correct choice of lens on one hand and a tactical level, on the other hand, which consists in the suitable settlement method. Moving from culture of conflict to culture of dialogue requires including the development and promotion of alternative dispute resolution practices work. This requires is a lengthy effort that must

contribute in good faith with all stakeholders, trade unions, employers and public authorities.

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