Law Flexibilization and Changes in Romanian Capitalism

***Abstract**: In the this paper I will analyze the 2011 flexibilization of labor law and trade union law/social dialogue law in Romania. The theoretical framework used is the varieties of capitalism approach related to flexibilization. The analysis will focus on 5 types of flexibilization: I. numerical flexibility; II. salary flexibility; III. organizational flexibility; IV. labor time flexibility (Cato & Stoller, 2004, 34; Atkinson, 1984; Barbieri, 2009, 621) and V. social dialogue flexibilization. The documents I will compare are a) The Labor Law from 2003 and The Labor Law from 2011 and b) The Collective Bargaining Law from 1996, changed into The Social Dialogue Law in 2011. For comparing the labor laws from 2003 and 2011 I analyze the same articles corresponding with every flexibilization type and identify if there existed any changes. For the second pair of laws (the collective bargaining law and the social dialogue law) I mostly analyze the articles related with collective bargaining and the role of social dialogue institutions. The main idea is to identify if there were any changes in the model of market economy after the flexibilization of the labor law and trade union/ social dialogue law.*

***Keywords**: flexibilization, varieties of capitalism, labor law, social dialogue law, Romanian market economy.*

1. Introduction

Since 2008, Europe has faced two big crises: the financial crisis that started in 2008 in the United States of America, and the crisis of public indebtedness that started in the Eurozone in 2010 (Rubery, 2015, 728). Basically, these two moments have brought about great changes in Europe, both in the European Union and its member states. For example, at the European Union level has been created a new macroeconomic governance regime (that includes rules and institutions to coordinate member states) via the Euro Plus Pact, the Stability and Growth Pact, the Fiscal Compact and a 'Six-pack' of EU regulations (Lombardo, 2017). At the member states level, austerity measures like changing the labor law in Spain (Lombardo, 2017) and cutting social spending in Italy (Kazeprov & Ranci, 2017, 95) were applied.

States like Greece, Spain, Portugal, Ireland, Italy were hit hard by the indebtedness crisis and they did some changes in the way they spend the public money. Sometimes, the changes in the way they spend the public money means domestication of the gender regime in Spain (Lombardo, 2017) or even cutting from social spending in Italy (Kazeprov & Ranci, 2017), but the changes were focused in many cases on labor market as well. If the changes of labor laws were radically different, there is a possibility to change the way capitalism is functioning.

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States from eastern Europe, such as Romania, Bulgaria and the Baltic countries (Latvia, Lithuania, Estonia) were not really hit hard by the crisis, but still their governments imposed austerity measures (Blyth, 2013). One of the countries that has adopted the toughest austerity measures is Romania. In 2011, the government decided to cut salaries, to cut public spendings and also to dramatically change the labor laws (Trif, 2013). Regarding the change of labor laws, Romanian scholars opinions are divided, some of them are arguing that the effect of changing the labor laws was positive for some trade unions (in the public health sector) (Adascalitei & Muntean, 2014), others are arguing that the effects were devastating for all trade unions (Trif, 2013).

In Romania, the crisis started out of nowhere in 2010, after the presidential elections had taken place (December 2009). Traian Băsescu won the elections and he became president of Romania for the second time (in a row). He made publicly that Romania was in crisis and state that the Romanian state need austerity measures. The president and the prime minister used to be members in the same political party so they collaborated for implementing the austerity measures. They imposed salary cuts and social insurances cuts (Pirvoiu, 2010), finally they started to change the main laws (e.g. labor law) in favor of investors.

The Romanian labor law had a very powerful corporatist influence before the crisis. The corporatist influence came into the Romanian legislation via the French labor law. In 2003, Romanian lawyers used the French law as a model of writing the first Romanian labor law. But in 2011, the government decided to change the law 53/2003 (The Labor Law) and 130/1996 (The Collective Bargaining Law) after a lobby campaign done by The Foreign Investors Council. From 2011, the law 53/2003 lost a significant element from the corporatist heritage, and the law 130/2996 was simply abolished and replaced by another law without any corporatist influences.

The following paper is structure on 4 chapters, I. Introduction divided in 2 sub-chapters (Research Question, Hypothesis and Methodology); II. Theoretical Framework; III. Legal Framework; IV. Conclusions. In the first chapter (introduction) I am going to describe the international and the Romanian political context, then I am going to state the research question and hypothesis, finally I am going to describe the methodology used in my research.

1.1. Research Question and Hypothesis

The main question in this context is: what has changed in Romanian capitalism after the flexibilization of the labor law in 2011? Thus, to clarify the main question, and for a deeper understanding of the situation and its changes, I came up with two sub-questions as follows: a) What are the concrete changes in the labor legislation texts (social dialogue law and labor law)?; b) How these reforms change Romanian capitalism?

1.2. Hypothesis

In this sub-chapter I am going to describe the context of this research and paper, then I am going to point a specificity of the Romanian capitalism and finally I will present my hypothesis.

> The recession was also used as a pretext by the centre-right government to reform the industrial relations system. The so-called Social Dialogue Act was passed unilaterally by the government without being debated in parliament and without involving the social partners. (Trif, 2013, 236).

Some Romanian scholars argue that Romanian capitalism turn into an authoritarian neoliberalism system (Trif, 2013, 236) which is regulated into the directions of avoiding social dialogue by making the trade unions and workers to obey the state and the employers. The goal of this type of regulations it is to attract the foreign investors/capital. In this context social peace looks like it is done with the help of physical power/coercion.

The Romanian capitalism seen from Bohle and Greskovits (2012) perspective is poorly regulated by the weak Romanian state and the trade unions are neglected. I would say that the legal framework before 2010 had corporatist influence (like I already said via French labor law), but since then, they change the law in order to avoid the social dialogue. So, we couldn't say is poorly regulated, because the regulations were there before, the law makers know what is going on and they decided not to give so much power to the social dialogue institutions. They just change some articles from Social Dialogue Act in order to make it more friendly to the investors.

The working idea looks like the labor laws were flexibilized in favour of employers and investors (in some key points) and as a consequence, Romanian capitalism has changed into a free market economy not poorly regulated, but which not imply social partners into a dialogue, open to welcoming foreign capital (more than before), more dependent on foreign capital market.

1.3. Methodology

In this sub-chapter I am going to describe the way I did the research and what I will take into account from my research in the next chapters.

The purpose of this paper is to analyze the labor legislation before and after the 2011 flexibilization and then to analyze if those changes affect are related with the Romanian capitalism. The research method will be document analysis and I am going to analyze the labor law and the trade union law. For both of them I am going to analyze both versions of a law (before and after 2011).

For the labor law I analyze in comparison the law 53/2003 (the version before 2011) and the law 53/2003 (the version modified in 2011). For the trade union law I analyze in comparison the law 130/1996 (the collective bargaining law), which is the version before 2011, with the social dialogue law (law 62/2011) the version which is use now since 2011. The collective bargaining law was abolished in 2011 and the lawmakers voted the social dialogue law. I found all versions of both laws on internet via www.lege5.ro .

The analysis is focus on 5 directions of flexibility: numerical flexibility; salary flexibility; organizational flexibility; labor time flexibility (Cato & Stoller, 2004, 34; Atkinson, 1984; Barbieri, 2009, 621) and social dialogue flexibility. All five directions will focus on flexibility of the labor laws in favor of employers in comparison with the previous legislative framework. I am going to describe in the theoretical chapter every type of flexibility. The first four directions of flexibility (numerical flexibility, salary flexibility, organizational flexibility and working time flexibility) are related with the labor law. In contrast, the social dialogue flexibility is related with the social dialogue laws (the collective bargaining law and the social dialogue law) and it includes: the role of social dialogue institutions and the collective bargaining (when this means the way collective bargaining is reached).

2. Theoretical framework

In this chapter I am going to set the theoretical framework for the further analysis. First of all, I am going to present the varieties of capitalism (VoC) approach, then I am going to argue for the importance of the legal framework of the VoC approach. Finally I will describe the theoretical framework for flexibilization.

2.1. Varieties of Capitalism

In order to identify and to understand the differences and similarities across the Western democracies and economies the social scientists developed several approaches, but two of them are the most important. The welfare state centered approach, developed in the 90s and the actor-centered approach or Varieties of Capitalism (VoC) approach which have been developed in 2000's (Hamann & Kelly, 2008, 131).

The Welfare State approach is based on The Three Worlds of Welfare Capitalism by Esping-Andersen (1990). He identify 3 types of welfare capitalism: liberal, conservative and social-democratic. This distinction is based on cross-class coalitions and working class mobilization (Hamann & Kelly, 2008, 131; Esping-Andersen, 1990, 31).

The VoC approach is actor centered, so this theory is centered on the actors, as firms, producer groups and governments (Hall & Soskice, 2001, 6). This approach is based on neocorporatist literature and it offers an answer to the way institutions are functioning in the framework of neoliberal capitalism (Arpad, 2015, 82).

Basically, the VoC approach identifies two types of market economies: liberal market economies (LME) and coordinated market economies (CME). This differentiation is based on: industrial relations, vocational training and education, corporate governance, interfirm relations, relationship with employees (Hall & Soskice, 2001; Hassel, 2015). Moreover, other types of market economies have been developed; for instance dependent market economy, which is specific in the Eastern European area. Mostly, this type of market economies is defining the market economy from ex-communist countries and, also, the dependence of foreign capital. In the following paragraphs I am going to describe briefly these three types of market economy.

„In *coordinated market economies*, firms depend more heavily on non-market relationships to coordinate their endeavors with other actors and to construct their core competencies" (Hall & Soskice, 2001, 8). Basically, the firms cooperate with each other in order to achieve their goals, also the relations between workers or trade unions and their employers are friendly and they are not literally struggling but cooperating and negotiating. The countries that can be included in this type of market economy are: Denmark, Sweden, Austria, Finland, Germany, South Korea, Belgium, The Netherlands, Switzerland (Hall & Gingerich, 2009, 454; Hall & Soskice, 2001).

Liberal market economies define a type of capitalism based on hierarchies at the firm level and competitive market arrangements at inter-firm level (Hall & Soskice, 2001, 8). „Market relationships are characterized by the arm's-length exchange of goods or services in a context of competition and formal contracting" (Hall & Soskice, 2001, 8). Therefore, the relations between firms are based just on economic relations with no desire of cooperation, basically their relations are regulated by demand and supply. Some examples of LME: USA, Great Britain, Australia, Canada, New Zealand, Ireland (Hall & Gingerich, 2009, 454; Hall & Soskice, 2001).

Dependent market economy is a type of capitalism specific in Easter European countries (Ban, 2014, 219; Nolke & Vliegenhard, 2009; Bohle & Greskovits, 2012) but, I would say not only. Low paid workforce and laws in favor of employers in the context of the nonexistence of local investors and poverty. Basically this type of market economy looks like an assembly line for big companies. In the global capitalism, the role of dependent market economies is to assemble the products, and based on it, the investment in research are useless (Nolke & Vliegenhard, 2009). In order for a market economy to be attractive for the foreign capital it has to: 1. move the fiscal burden from the capital to workers and consumers; 2. eliminate or diminish the powers of institutions that could create too high costs for capital and production; 3. tightening access to unemployment benefits and social services (Ban, 2014, 217).

2.2. Varieties of Capitalism and the legal framework

The legal framework is essential to understand the way capitalism is functioning (in every country, not only in Romania). For example for the varieties of capitalism approach the legal framework is essential, but is the unnamed component of the theory.

> This varieties of capitalism approach to the political economy is actor centered, which is to say we see the political economy as a terrain populated by multiple actors, each of whom seeks to advance his interests in a rational way in strategic interaction with others (Scharpf 1997a). The relevant actors may be individuals, firms, producer groups, or governments (Hall & Soskice, 2001, 6)

The VoC is an actor centered approach, but the framework which creates the specific types of interaction between actors (firms, producer groups, governments or even trade unions) is the legal framework. Coordinated market economies (CME) function in this way because the legislation regulate the interaction between actors, the same as in liberal market economies (LME), the market economy is liberal because the legal framework allow actors to have a different way to interact than in CME. In other words, I would say that the legal framework is the most important factor in defining the different types of market economy. In order to support my point of view, I would give you the example of working councils in Germany, they exist because the legislation stipulate it and regulate their way of functioning, otherwise, if the legislation would not regulate the working councils they would never exist. Another example is related with social dialogue institutions, and the starting point is The Romanian labor law. The social dialogue institutions (before 2011) were important and the employers could avoid the participation in those councils very hard (national level, sectoral level etc.) because the legislation allowed them to be part of social dialogue institutions. But after 2011 flexibilization, they could avoid the participation in social dialogue institutions and except the collective bargaining at the firm level none is obligatory for so called social partners (Trif, 2013). The point is, the legal framework is very important for the interactions between actors; actually it creates the interactions and the context in which interactions are made.

As a counter argument to my point of view one can say that for varieties of capitalism the labor legislation is not the only thing important, and is true. Hassel (2015), Hall & Soskice (2001), Hamann & Kelly (2008), and others scholars say that for VoC approach are important the following sphere: industrial relations, vocational training and education, corporate governance, interfirm relations, relationship with employees. But, for all of these fields the nation-

al legislation is very important because it can design the interactions between actors. If the actors are encouraged to collaborate with each other, the competition feeling would be weakened. At least for 2 out of 5 important fields for VoC the labor legislation is important because it design the interactions between firms and employees (or employees organizations). So, I would say that the labor legislation (when it means labor laws and social dialogue laws) is very important for VoC approach because it design the interactions between social partners and sometimes even the interactions between firms.

2.3. The Flexibilization

The labor markets and the market economies are very different from a state to another, and, as in other domains, they are different because of legislation (but not only). Every state pick up a strategy in order to develop its market economy and labor market. Romania as a European Union member state is bound to creating flexible labor market in accordance with work place security (Albu, Caraiani & Iordan, 2012, 48). But the security part of the flexicurity concept never came, so the Romanian government only did a flexibilization of the labor market.

The flexibilization in the international relations language means the hegemony of North American model (Fernandez & Otis, 2007, 64), and in Marxist language means imperialism. Therefore, the flexibilization, in the VoC context, is moving the market economy from the previous place towards a more liberal model of the market economy.

The flexibilization of labor market means the existence of legislative stipulations that grant relaxed conditions and a set of obligations to the employers, lower than the previous legislative framework. Those legislative stipulations can regard: the working time, the payment of the employees, the possibility to change the economic activity, the duration of the contract and, also, the collective bargaining and trade unionism conditions.

In order to analyze the labor law situation, this analysis is going to be focus on five types of flexibilization: numerical flexibility; salary flexibility; organizational flexibility; labor time flexibility (Cato & Stoller, 2004, 34; Atkinson, 1984; Barbieri, 2009, 621); and social dialogue flexibility.

> Numerical flexibility is aimed mainly at weakening measures based on contracts of indefinite duration and adapting to the labor needs of enterprises faced with long- or short-term changes in demand or technologies. The instruments are varied and include piecework, fixed-term contracts, and seasonal employment (Cato & Stoller, 2004, 34).

Salary flexibility is based on the understanding of salary as a mix between a fixed component and a variable one (based on productivity of the worker or based on profitability of the firm). This form of payment in general and of flexibility in our case is focus on reducing the employer's social obligations (when that means retirement benefits, insurance, etc.) (Cato & Stoller, 2004, 34).

Organizational flexibility is related to the ability of a firm to use new organizational techniques to increase its productivity or even to respond in a flexible way to the uncertain situations. For example, job rotation, work teams, retraining and even outsourcing of work (Cato & Stoller, 2004, 34).

Labor-time flexibility includes the setting of normal or maximum numbers of hours (on a weekly, monthly, or annualized basis), the tallying of discontinuous (interrupted) work, and the

determination of overtime, weekend, and night wage rates, as well as how vacation time is handled. (Cato & Stoller, 2004, 34)

Social dialogue flexibility is related with the lowering the importance of the collective bargaining, lowering the importance of the social dialogue institutions and the role of trade unions. For instance, if the collective bargaining was obligatory for the national level and after the flexibilization of the social dialogue law the collective bargaining is mandatory only at the firm level, this is flexibilization and correlated with changing the statute of social dialogue institutions to be only consultative (basically to have no power – also this mean that the role of the trade unions is weakened), it means that is social dialogue flexibility.

3. The legal framework

In the following chapter I am going to compare the labor law adopted in 2003 (Law 53/2003) and its modified version republished on 18 May 2011 on four levels (labor-time flexibility, organizational flexibility, salary flexibility and numerical flexibility). Also, I am going to compare the collective bargaining law (law 130/1996) and its equivalent after 2011, the social dialogue law (law 62/2011) on social dialogue flexibility which includes collective bargaining flexibility and social dialogue institutions flexibility.

3.1. Numerical flexibility

Numerical flexibility means the measures that weakened the indefinite period contract. This aspect of flexibility refers to the existence and frequency of fixed-term contracts and seasonal employment (Cato & Stoller, 2004, 34, Atkinson, 1984, Barbieri, 2009, 621). Transposed into legislation, these regulations signify a decrease in the number of contracts for indefinite period, as well as an increased control of employers over employees behavior.

In both laws (53/2003 and its version republished in 2011), title II, chapter 1 defines the individual contract (indefinite period) and determines the conditions under which it can be concluded. Article 10 defines the conditions of the individual contract and article 11 refers to the clauses it may have. Article 12 stipulates that: „any individual contract is concluded for an indefinite period and paragraph 2 states that there may also be exceptions from article 1".

In this context, the individual fixed-term contract should be an exception in both legislations. In order to understand the conditions under which individual fixed-term contracts can be concluded, I propose an analysis of article 81 of Law 53/2003 and article 83 of its version republished in 2011. The numbering of articles differs because some other articles have been added in 2011.

The situations in which the fixed-term contract was accepted in the 2003s legislation were:

A) the replacement of an employee in the event of suspension of his/her employment contract, except in the case when the employee participating in a strike;

B) the temporary increase of the employer's activity;

C) the development of seasonal activities;

D) when it is concluded under certain legal provisions emitted with the purpose of temporarily favoring certain categories of persons without employment;

E) in other cases expressly stipulated by special laws.

In 2011 were added the following points:

F) hiring a person who, within 5 years from the date of employment, fulfills the retirement conditions for the age limit;

G) occupying an eligible position within trade unions, employers organizations or non-governmental organizations during the term of office;

H) employing pensioners who, under the law, can accumulate the salary pension;

And the last point was completed with:

I) in other cases expressly provided by special laws or for carrying out works, projects or programs.

Thus, the first 3 points added cannot explicitly provide a very high number of fixed-term contracts. However, the completion with the last point (H) allows for the conclusion of individual fixed-term contracts for a large number of sectors of activity.

Moreover, another major difference between the two labor laws is the maximum number (in a row) of fixed-term contracts and the maximum duration for which they can be concluded. According to Law 53/2003, article 82, the individual employment contract can only be concluded for a maximum of 18 months, and article 80 (3) mentions that the maximum number of fixed-term contracts concluded consecutively is 2. The legislation adopted in 2011 stipulates in article 82 (4) that a maximum of 3 consecutive fixed-term contracts may be concluded. Article 84 (1) states that the first contract cannot be concluded for a period longer than 36 months, and the following 2, in accordance with article 82 (5), cannot be longer (each) than 12 months. Basically, under the 2011 legislation, the fixed-term individual contract is no longer an exceptional case, but by article 83 (H) it can become a rule. From the point of view of the number of months for which a fixed term contract can be concluded, it is 60. In other words, an employer may have for 5 consecutive years in a job only employee with an individual contract for a determined period.

We can say that at this level, the labor law was highly flexibilized, there is a big difference in favor of employers between the labor law from 2003 and its version from 2011.

3.2. Salary flexibility

The salary flexibility refers to how is paid the work. Basically, wages include two components; the first one is fixed, while the second is based on employee productivity (Cato & Stoller, 2004, 34).

According to article 154 (53/2003), paragraph 1, respectively article 159 (according to the version republished in 2011), paragraph 1: "Salary is the payment of the work done by the employee on the basis of the individual labor contract". And "The salary includes basic salary, allowances, bonuses, and other [special – my note] bonuses" (Art. 155, 53/2003, 160, 345/2011). Forcibly, because wages bonuses cannot be banned, a way to pay employees and employees for their performance is legitimate. In this situation, the performance is obligatory to reach a goal imposed by the company. Performance can also be translated into overwork programmed but unpaid (paid only via bonuses), all in order to reach the target.

Regarding salary flexibility, the labor law does not clearly state what the conditions are in this situation, but by accepting other salary supplements/ bonuses, flexibility is allowed. Performance spores are allowed as long as the basic salary is legally granted according to a cer-

tain number of hours worked between the employee and the employer. This kind of flexibility also existed in the labor code before 2011 and the current one.

3.3. Organizational flexibility

Both labor laws stipulates that professional reconversion can be triggered by socio-economic restructuring (345/2011, article 192, paragraph 1, letter d; 53/2003, article 188, paragraph 1, letter d). It is also noted that training can be made to adapt the employee to the job requirements (53/2003, article 189, paragraph 1, letter b, 345/2011, article 193, paragraph 1, letter b).

The employees can conclude contracts for professional qualification if they have minimum the age of 16, who have not acquired a qualification or have acquired a qualification that does not allow them to maintain the job at that employer (53/2003, Article 199, paragraph 2, 345 / 2011, Article 202, paragraph 2).

In other words, the employer have the flexibility to change his / her economic activity and employees and employees can apply for retraining, but it is legal as well, for the employer to fire those who do not correspond professionally at the job they are employed (53/2003, article 61, letter d; 345/2011, article 61, letter d). Regarding the organizational flexibility, the labor legislation before 2011 was already showing an increased level of flexibility to the employer, but the security afforded to employees and employees was at a minimum level. In conclusion, a certain degree of organizational flexibility is still in place before 2011, and this level has not been the subject flexibilization.

3.4. Labor time flexibility

The flexibility of labor time involves the determining of maximum number of labor hours, the number of discontinuous labor hours and even setting the way in which vacation leave is provided (Cato & Stoller, 2004, 34).

The articles 112 (345/2011)/109 (53/2003) guarantee that the working time is 40 hours per week and 8 hours per day. The articles 114 (345/2011) and 111 (53/2003), which provide the framework for overwork, set that an individual cannot work more than 8 hours overwork per week, basically an employee cannot overcome 48 working hours/ week, and not more than 4 months. But, in 2011 the lawmakers add 2 paragraphs to the article 114 (345/2011). They specify that overwork can achieve 48 hours per week for a year for some special working sectors (but the sectors are not specified, they stipulate that the overwork for more than 4 mounts can be set only via collective bargaining – firm level). The point is they can encourage abuses via the new labor code in the overwork issue. I could say, regarding the labor time, there is a high degree of flexibility of labor law from 2011 compared to the labor code of 2003. Paragraphs 3 and 4 provide derogations over a long period from the normal application of articles 1 and 2. These derogations can only be to the detriment of employees and in favor of employers. The main problem is that such measures have been introduced without any measures in the safety of employees.

The unequal work program is regulated by articles 115 and 116 of Law 345/2011, respectively 112 and 113 of Law 53/2003. In the law adopted in 2011, no additional article or some form of flexibility has emerged. Thus, in the both laws it is stipulated that for certain sectors or work units work programs may be established for less than or over 8 hours / day. In addi-

tion, the 12-hour work program brings a 24-hour break, with the maximum number of hours worked in a week being 40 (the exceptions are regulated buy articles 114 (345/2011) and 111 (53/2003)). And "unequal working hours can only function if it is specified in the individual labor contract" (345/2011, Article 116, paragraph 2, 53/2003, Article 113, paragraph 2).

The determination of the periods during which the employees are entitled to the holidays shall be made by the end of the calendar year for the following year (53/2003, Article 143, paragraph 1, 345/2011, article 148, paragraph 1). The minimum number of days of annual leave is 20 working days (53/2003, Article 140, paragraph 1, 345/2011, Article 145, paragraph 1).

The labor time has been the subject of flexibility, as I have shown before. Practically, flexibility in working time has taken place, but not entirely, excluding the flexibility of holidays.

3.5. Social dialogue flexibility

Since 2011 there were a couple of laws which were used to regulate what the social dialogue law regulates now. There were the trade union law, the employers' law, the collective bargaining law and some other. My analysis regarding social dialogue flexibilization is focus on collective bargaining law and on the role of the social dialogue institutions.

Regarding the collective bargaining, the law 130/1996 regulated that the collective bargaining at the firm level is obligatory for all the firms with more than 21 workers (article 3, paragraph 1). The law 62/2011 stipulates that „the collective bargaining is obligatory just for firm level) (article 129, paragraph 1). Furthermore, the law 130/1996 mentions that is obligatory to have just one collective bargaining for one sector, as well for national level (article 11, paragraph 2). The law 62/2011 stipulates that for each level (firm, sectoral and national) can be just one collective bargaining (article 133, paragraph 2). In the law 62/2011 they use some tricks to avoid the compulsoriness of collective bargaining for sectoral and national level (they add the word „just" to make clear that the collective bargaining is compulsory only for firm level and nothing more, and they specify „there can be maximum one collective bargaining" instead of „there have to be maximum one" (article 11, paragraph 2, law 130/1996).

The rhetoric of the law 130/1996 was like the collective bargaining is an instrument of the trade unions to counterbalance the power of the employers. For example, the article 5 mentions some penalties for the employers if they refuse to bargain. But in both laws (130/1996 and 62/2011) the initiative to bargain belongs to employers and in the situation when they don't call for bargaining, the trade unions are allow to do it.

In this context we can say that the social dialogue flexibilization has taken place because the new legislation avoid successfully the collective bargaining at sectoral and national level and also the role of social dialogue institutions became less important and they were no longer a trade union instrument to counterbalance the employers power.

4. Conclusions

The VoC approach developed by Hall & Soskice (2001) only deals with states with a consolidated capitalist economy in the early 2000s. The subsequent evolution of policies and practices in the Central and Eastern European states (former states of The Warsaw Pact) led to the emergence of a new model of market economy, so called the dependent market economy (Ban, 2014, 219, Nolke & Vliegenhard, 2009; Bohle & Greskovits, 2012). This new model of capitalism is

dependent to foreign capital and to a flexibility of the labor market, which leads the investors to high profits (Ban, 2014, 219, Nolke & Vliegenhard, 2009; Bohle & Greskovits, 2012).

Romanian capitalism, from a type of "cocktail capitalism" (Ban, 2014, 219) evolved, through flexibilization towards a dependent market economy model. The political environment has always sought to create an attractive economy for the foreign investors via: 1. move the fiscal burden from the capital to workers and consumers; 2. eliminate or diminish the powers of institutions that could create too high costs for capital and production; 3. tightening access to unemployment benefits and social services (Ban, 2014, 217).

The law 130/1996 and the law 53/2003 were already flexible for the employers in some points, but the lawmakers create two new laws (53/2003 – modified in 2011 and 62/2011) in order to create an attractive economy for the foreign investors. Both laws from 2011 introduce a high degree of regulations whose purpose was to avoid the social dialogue institutions and the collective bargaining. The flexibilization of salary and the organizational flexibility have not taken place in 2011, this sectors were already flexible when the labor law was modified. But the legislation was highly flexibilized at labor time, numerical and social dialogue levels.

The labor law (modified in 2011) and the social dialogue law has undergone changes in favor of employers in 2011 (what we call flexibility) without being in agreement with employee security. However, the toughest changes in labor relations have been made via the law of social dialogue rather than labor code (Trif, 2015; Chivu, Ciutacu, Dimitriu and Țiclea, 2013). Basically, the legislation was flexibilzed but the market economy model have not changed that much. Even before 2011 the market economy model was a dependent market economy, so the changes have not radically change the type of market economy. Moreover, the collective bargaining has not functioning since 2010 because the employers denouncing the collective contract which use to function since 2007. Since then, no national collective contract has been signed. In this context, the flexibilization (and especially the social dialogue flexibilization) has not affect dramatically the type of market economy; moreover, the market economy was a dependent market economy before 2011, so the changes could not change the market economy.

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