

PERSPECTIVES ON NEGOCIATION TECHNIQUES IN ROMANIAN PUBLIC ADMINISTRATION. THE CASE OF THE UNIONS IN THE CHAMBER OF DEPUTIES

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Abstract

This paper aims to analyze how negotiation is approached in public administration, whether two or more parties are involved. The parties involved often prefer to resolve the dispute by common agreement, without open confrontation, to discontinue contact or to call on a higher body to resolve the dispute. Thus, negotiation takes place when there is no plan to resolve the dispute, or when the parties decide to act on their own, opting for their own solutions. As for the outcome of the negotiations, they are directly proportional to the skills and qualities of the negotiators, as the character traits of the parties involved contribute to creating a favorable or unfavorable space for negotiation. Both the approach and the strategies applied by the negotiators have a strong influence on the conduct of the negotiation. The goals of the parties involved are achieved when the emotional needs of those involved are taken into account during the negotiation. The main need of the participating parties is to be heard and understood and to validate their point of view. Whether the parties have lost, financially, professionally or morally, as well as in terms of optimism, hope and positivity, all these aspects require a delicate approach. This accumulation of feelings and emotions are the elements that underlie the approach to the problem by each person.

Keywords: *negotiation; conflict; communication; perception; objectives.*

Theoretical framework

Negotiation is a process of amicably resolving conflicts, disputes, identifying and examining the components available to produce the desired outcome by the parties involved. We could say that 'the negotiator is closer to the image of a hero from a western movie' (Rojot, 1991).

William I. Zartman, a well-known negotiation theorist, defines the transaction resulting from a negotiation as 'a result-oriented decision of the parties (which cannot be less than two) based on their interaction, which involves closeness, in the sense of complementarity and the transformation of their own values, with the ultimate goal of finding a solution resulting from this interdependence' (Zartman, 1977: 102). Negotiation is present in our daily lives, in our daily activities, being a fundamental process in interpersonal relationships. It is an important subject of study in psychology, political science, communication, economics, law and sociology.

According to various studies (Lewicki, 1992; Rubin and Brown, 1975) we can identify the following common features of situations involving the negotiation process: there are two or more parties involved; there is a conflict of interest between two or more participants; the participating parties consider the negotiation process to be much more advantageous than a simple agreement between the parties, in which each party receives only what the opposing party is willing to offer; open confrontation, to interrupt contact or to call on a higher body to resolve the conflict. Thus, the negotiation process takes place when there is no plan to resolve the dispute, or when the parties decide to act on their own, opting for their own solutions.

The expectations of the parties involved in the negotiation process are both to offer and to receive, and during the discussions, the parties can change their requirements and beliefs. Although the parties initially strongly support their point of view and want the other party to give in, they can change their approach and attitude, becoming open to negotiation. Productive negotiation is about achieving the goals of all parties involved, without accepting compromises on their part.

Intangible factors are an important aspect of the negotiation process, namely, the beliefs and values of the participants in the negotiation play an important role in its conduct. These factors underlie the psycho-sociological aspects that directly or indirectly influence the parties during the negotiation, for example: the understanding of the participating parties during the negotiation; meeting the needs of the participating parties; finding or creating optimal solutions in the negotiation process; the correctness of the negotiation process.

Albin (2001:1) states that 'negotiation is a common decision in which the parties, with initially opposing and conflicting positions, reach a mutual, beneficial and satisfactory agreement. This includes the merits of dialogue and communication in resolving the dispute, as well as the exchange of concessions and the tactical use of competition.' The negotiation process is a process of influence and persuasion, as there are countless tactics to influence opposing parties, either in a cooperative way with positive results from collaboration or in a coercive way that can jeopardize good collaboration between the parties. Negotiation is also a decision-making process, an action-oriented process that needs to be implemented. During the negotiation, the procedures involved lead the parties to agree on solutions, with an exchange between both tangible elements (material goods) and intangible elements (trust, respect, commitment).

According to Lax and Sebenius (1986) and the studies on the negotiation process contained in the book 'Manager as Negotiator', the differences between the parties regarding the approach, personal character, opinions, interests and more, could be seen as advantages, values. Conflict can be defined as 'a disagreement or strong opposition to interests, ideas, etc.' and includes 'a perception of interests and beliefs about the aspirations of the parties that cannot be resolved simultaneously' (Pruitt&Rubin 1986:4).

Negotiation techniques

In Kennedy's view 'people should never negotiate under fear and at the same time people should not be afraid to negotiate' (Kennedy, 1998:29). Negotiation is the process used when the parties involved want to reach a common understanding, with a favorable outcome for both parties. The conduct of the negotiation is influenced by factors such as: the personality of the parties involved, their attitude, the approach to the problem and how to solve it, the ability to communicate and last but not least, the type of strategy applied.

The strategy can be considered as an action plan that directs the approach and attitude of the participants towards achieving the desired objectives. The three components of the strategy are the following:

a. Objectives - a key element in setting the strategy. They must be realistic in order to be able to achieve them.

b. The vision - this aspect must be general, providing an overview on the approached problem and the possible solutions.

c. The techniques. They represent the means that can be used favorably in order to reach the established objectives.

Conflict occurs when two or more parties consider their interests to be incompatible, express hostile attitudes, or take action that affects the ability of the other party/ parties to pursue their own interests (Popoviciu&Stoica, 2007:4).

The negotiation strategies are as follows:

A. Domination. The domination strategy is an authoritarian and sometimes aggressive approach of the negotiator, applying less ethical methods, seeking to satisfy their own interests, without regard to partners. He sees negotiation strictly as a competition, considering that in the end there can be only one winner. This type of strategy is not based on creating an open space for negotiation, with favorable results for all parties involved, but on convincing the negotiator that he cannot be victorious without losing the opponent. Thus, the negotiator is willing to apply all the methods he has, namely manipulation, alliances, position to intimidate his partner, thus feeling in control during the negotiation.

B. Surrender. This type of strategy is characterized by the negotiator's attitude of avoiding commitment, culminating in leaving the negotiation. Totally opposed to the strategy of domination, the strategy of surrender is manifested by submission and weakness to the forces of the opponent, putting in the foreground the interests of the other parties to his detriment. When there is pressure from partners in a tense environment, the negotiator tends to become passive and give up the 'fight' for their own interests. He becomes willing to accept concessions for the benefit of his partners, without wanting to get anything in return.

C. Avoidance. It occurs when the negotiator is not willing to apply either the strategy of domination (being active, confident in his own strength and applying all possible methods of defeating the partner), or that of surrender (when he considers himself defeated, becoming passive and accepting concessions in favor of the opponent). This strategy takes place when the negotiator is not willing to participate in the negotiation, to support his point of view with solid arguments and to do everything possible to win and achieve his set goals.

Withdrawing takes place even before the start of the negotiation, because the negotiator avoids participating in the negotiation, declaring himself defeated from the very beginning. The parties do not benefit from this avoidance behavior because the conflict is not resolved, as the negotiator who adopts this strategy shirks from his duties neither consider himself defeated, nor does he cooperate so that the problem could be resolved.

D. Cooperation. This strategy is characterized by the desire to understand the partner and to communicate in order to achieve not only their own objectives, but also those of the other parties involved. Cooperation is one of the most beneficial approaches, because the focus is not only on oneself, but on solving the problem and the conflict in a favorable way for all partners. The implementation of the cooperation strategy also helps not only to resolve the conflict, but also to create and maintain a good interpersonal relationship. When acting in the interest of all those involved, there is no concept of adversaries, so both a space open to communication and a beneficial relationship are created.

E. Compromise. According to studies, compromise is the most used strategy in negotiations, because the negotiator is not emotionally involved, being neither at the level of the domination strategy, nor at the level of the surrender strategy. The negotiator relies on the compromise strategy to achieve a satisfactory outcome for all parties involved. When using the compromise strategy, both parties involved achieve a minimum result, a low profit and the maintenance of an interpersonal relationship. According to Ștefan Prutianu (2007), from the compromise perspective, 'the whole negotiation process is a series of concessions and compromises that the negotiators offer or accept.'

Types of negotiation

Traditionally, negotiation is considered a position-based activity, as it is of paramount importance how we position ourselves towards the problem and its solution. Over the years, the outcome of negotiation has been seen as a win-win, in which all parties involved achieved their own goals, but, depending on each particular situation, the best option in resolving the dispute might be that when one is able to see beyond one's own interests.

When we look at the problem as a whole and not just from a personal perspective, we may reach an agreement that is beneficial to all parties involved, without anybody losing

anything. Thus, depending on the position of the participants in the negotiation, two types of negotiation exist, namely: distributive negotiation and integrative negotiation. According to studies, distributive negotiation includes elements such as a win-lose result and contradictory dispute, while integrative negotiation is considered a type of negotiation favoring cooperation, with a win-win outcome and an open approach to communication and problem solving.

Thus, the major types of negotiation currently used are:

A. Distributive negotiation, win-lose type

B. Integrative negotiation, win-win type

C. Principled negotiation, win-win type (problem solving is based on principles and the common interests of the parties involved)

D. Interest-based negotiation, win-win type (negotiating to achieve the interests of the participants, but always taking into account the general social interest)

Distributive Negotiation

This type of negotiation envisages a win-lose outcome, in which each party wants to win at the expense of the others. Negotiation is seen as a competition in which only one winner can emerge and in which the participants see themselves as opponents. The outcome of the negotiation will be determined by the balance of power, i.e., the strength and abilities of the parties (Ciurel, 2014:25).

Distributive negotiation, also known as tough bargaining, tends to take an extreme position. It is sometimes called the distribution of a fixed stake because there is a limited number of things with a fixed value shared between the parties involved. In order to reach a realistic result, it is advisable to find out from the opponent what he is willing to say and what he is willing to give up, subsequently the parties being able to suggest alternatives and be open to concessions.

Integrative Negotiation

According to negotiator Leigh Thompson of Northwestern University, integrative negotiation can be described as both a process and a result of negotiation. The parties

involved seek to integrate their interests and therefore produce negotiated results that go beyond what is normally achieved through distributive negotiations.

With regard to integrative negotiation, the parties involved shall cooperate with a view to achieving maximum results by integrating their own interests and reaching a consensus in favor of all. At the same time, in integrative negotiation the goal is twofold, namely it is equally important to create and maintain communication and cooperation for personal goals and interests, as well as in the interest of partners. Therefore, the result of the integrative negotiation is a win-win type, but in terms of gain, it is obtained by working and cooperating so that all parties get what they want, but at the same time it involves giving up the less important aspects.

Principled Negotiation

The best-known resolution, *Getting to Yes*, first published in 1981 by Roger Fisher and William Ury, introduces basic negotiation as an approach to interest-based negotiation. The book proposes the observance of the following five fundamental principles in negotiation: (a) separates people from the problem; (b) negotiates interest, not positions; (c) offers options for mutual gain; (d) insists on objective decision criteria; (e) know the best alternative to a negotiated agreement.

Case study on negotiation in Romanian Public Administration - The negotiating activity of the Civil Servants' Union and the Employees' Union (the Chamber of Deputies)

The Romanian Chamber of Deputies is organized in accordance with its own Rules of Procedure. The internal structures of the Chamber consist of: the Permanent Bureau, parliamentary groups and parliamentary committees. The services of the Chamber of Deputies ensure the organizational, material conditions and the specialized assistance for the preparation and development of the parliamentary activity at its headquarters and in the electoral constituencies. Two categories of staff work in the services structures of the Chamber of Deputies: parliamentary civil servants and contract staff. Contract staff carry out specific management, administrative, investment, maintenance, repair and service activities.

The status of parliamentary civil servants within the specialized structures of the Romanian Parliament is regulated by Law no. 7 of January 11, 2006, updated, and the application of the norms regarding the application of the provisions of the law are established by the Internal Regulation of the parliamentary civil servants from the Services of the Chamber of Deputies.

As a result, parliamentary civil servants and contract staff have the rights and obligations provided by law and the specific regulations adopted by the Chamber of Deputies and, as the case may be, by the Chamber of Deputies and the Senate in a joint sitting. The rights of each category of staff are supported, promoted and defended by the trade union of each one, namely: the Union of Employees of the Chamber of Deputies (the Employees' Union) and the Union of Civil Servants of the Chamber of Deputies (Civil Servants' Union).

Both the Employees' Union and Civil Servants' Union aim to respect and negotiate the rights of employees. The Employees' Union was established on July 3, 2006, and according to its bylaws, the Executive Bureau of the union consists of 1 president, 5 vice presidents and 2 secretaries. In this sense, the Executive Bureau of the Employees' Union acts to maintain the social dialogue between employees and the employer, the General Secretariat of the Chamber of Deputies, in order to obtain a favorable position for this institution's employees.

The establishment of the Civil Servants' Union was decided on April 12, 2007 within the General Assembly of the founding members, having its headquarters in the Palace of the Romanian Parliament. Regarding the negotiation process, according to art. 27 trade union organizations have the right to use in performing their activities instruments such as: negotiation, dispute resolution procedures through mediation, conciliation, arbitration, demonstration, protest, all under the conditions provided by law.

Thus, regarding the settlement and negotiation on resolving various issues, the Civil Servants' Union undertakes activities such as: discussions with the Presidents of the two Chambers of Parliament, the Chamber of Deputies and the Senate, discussions with the Secretaries General of the Chamber, discussions with members of the Permanent Bureaus, participation in the meetings of the Joint Permanent Bureaus, discussions with the Leaders of the Parliamentary Groups. There are also meetings with the directors of the departments of the Chamber of Deputies, working and information meetings and informal discussions with the deputies, senators and directors within the structure of the Chamber of Deputies.

Equally, the Employees' Union supports, promotes and negotiates with the decision-making parties matters related to the elimination of aspects that may lead to the creation of salary advantages, equal treatment regarding access to professional career, for the other category of staff in the Chamber of Deputies.

Negotiation and motivation of the Employees' Union of the Chamber of Deputies with the management of the Chamber of Deputies regarding the amendment of art.5 paragraph 4 of Law 7/2006, according to which “the provisions of the law do not equally apply to the contract staff in the structures of the Parliament.”

An explanatory memorandum on these issues was presented by the Employees' Union to the Secretary General of the Chamber of Deputies. The request was justified by the interest in reaching a balance between the various categories of staff: parliamentary civil servants (counsellors, experts, consultants, clerks, chiefs of staff), contract staff (counsellors, experts, consultants, clerks) and technical staff (drivers, workers, caretakers). The categories of operating staff within the same departments (counsellor, expert, consultant, clerk) were not provided by the law, thus clear discrimination existing between managing and operating staff. Thus, the Employees' Union considered that art. 5, para. 4 of Law 7/2006, set a precedent by which the duties of a position (that of parliamentary civil servant) were differently interpreted and assessed as compared to the duties of an counsellor, expert, consultant, clerk within the same structure of the Parliament, who similarly occupy public positions, have appropriate professional experience and extensive accumulated service so that they could successfully carry out the tasks set by the departments within the Chamber of Deputies.

The existence of differences in treatment between parliamentary civil servants (counsellors, experts, consultants, clerks, chiefs of staff) and contract staff (counsellors, experts, consultants and clerks) based on characteristics related to the nature of a professional activity or the condition of its performance, constitutes discrimination, because the contract staff are not only qualified, but have also accumulated experienced. Unfortunately, under art.5, paragraph 4, this type of staff is not permitted to apply for a

public position and can only promote professionally within technical structures, although many contract employees have a bachelor's degree in law, economics etc.

Given the urgent need for operating staff in these departments of the Chamber of Deputies, the Employees' Union argued that it was imperative to make a clear distinction between the public position, professional qualifications and accumulated service in the institution. Contract staff (counsellors, experts, consultants, clerks) deem themselves to be aggrieved by not being offered equal treatment: the provisions of Article 5, paragraph 4 of Law 7/2006, prevent them from having access to other positions available in the institution where they work.

Consequently, the Employees' Union requested the modification of the provisions of art. 5, paragraph 4, the amendment of Law 7/2006 or the corresponding application of these provisions, so that persons that have similar duties and responsibilities, the same educational qualifications, but belong to different organizational structures within the Parliament, would have the same status as a parliamentary civil servant. The request of the Employees' Union was justified by the interest in reaching a balance between the various categories of staff: parliamentary civil servants (counsellors, experts, consultants, referents, chiefs of cabinet) and contract staff (counsellors, experts, consultants, referents drivers, workers, caretakers).

Negotiating and motivating the Civil Servants' Union in the Chamber of Deputies to draft the policy for the promotion of parliamentary civil servants

During the working sessions of the committee in charge with drafting the policy for the promotion of parliamentary civil servants within the departments of the Chamber of Deputies, the Civil Servants' Union also conducted negotiations regarding the promotion policy applicable by the General Department of Human Resources and Payroll.

In one of the working / negotiating sessions attended by the members of the committee in charge with drafting the policy for the promotion of parliamentary civil servants and the members of the Civil Servants' Union, the following union proposals regarding the promotion policy to be applicable by the General Department of Human Resources and Payroll were put forward:

A. Regarding art. 2 on the principles of promoting parliamentary civil servants, the trade union proposal was to eliminate provision (f), namely *the principle of proportionality according to which no more than the limit of a maximum weight of 40% counsellors, 30% experts and 30% consultants of the total number of public offices on the payroll may be advertised as open to internal promotion competition* and to add provision (g)- *the principle of being guaranteed the right to be promoted - according to which parliamentary civil servants may be promoted based on the current policy, the privilege of the internal procedure being guaranteed.*

B. Regarding the situation of being promoted on one's own position, the policy provided that *rapid promotion was possible only once during the career of a parliamentary civil servant, after being assessed as "good" for 4 consecutive years in the case of an expert and for 6 consecutive years in case of an counsellor*, and the Union's proposal was the following: *promotion should be possible by changing the position upon being professionally assessed at least as "good" for the last 2 years in the case of an expert, and for the last 3 years in the case of a counsellor.*

C. As far as the vacant parliamentary public office available for promotion is concerned, the policy states that it refers to those public offices that became vacant following the termination of the employment contract and for the occupation of which it is necessary to organize a competition. The proposal negotiated by the Union is *to add the possibility of employment by organizing an examination, in addition to the possibility of being promoted by competition.*

D. According to the policy, the composition of the competition commission was: *a senior parliamentary civil servant who serves as the chairman of the commission, two parliamentary civil servants with management positions, a representative of the parliamentary civil servants' union and a representative of the legal department from the Chamber of Deputies or the Senate.* The proposal put forward by the Union was: a parliamentary civil servant who acts as the chairman of the commission, a parliamentary civil servant with a management position, a parliamentary civil servant with a position equivalent to that for which the competition is organized, a representative of the union of parliamentary civil servants / employees and a representative of the legal department of the Chamber of Deputies or the Senate.

E. For the grading of the candidates' papers set at the competition examinations, the policy provides for them being graded in points from 1 to 100, the minimum passing score being 70 points, both in the written test and in the interview test. The proposal of the Union was to eliminate the *phrase "both in the written test and in the interview test"*.

F. According to the policy, clerks who meet the following criteria may participate in the competition organized for promotion to parliamentary public positions:

1. having the minimum necessary accumulated service period established according to Law no. 7/2006, including subsequent amendments and additions;

2. having their professional activity assessed at least as "good" in the last 2 consecutive years;

3. complying with other specific requirements, provided in the job description (ECDL courses, foreign languages, various training and / or specialization courses).

The Union's proposal is as follows: *Clerks who meet the legal provisions of art. 24 paragraph 1 of Law 7/2006, republished, including subsequent amendments and additions, may participate in the competition organized for promotion to parliamentary public positions.*

G. Considering that a parliamentary civil servant position could be occupied by participating in an examination, the Union proposes the elimination of the criterion referring to the possibility of a civil servant's being promoted only once in his career. Moreover, the Union proposes that promotion should be possible by transforming a contract position into a parliamentary civil servant position, in compliance with the legal provisions. The transformation of the position should be done without waiting for a senior parliamentary public position to become vacant, and the requirements should include having their professional activity assessed at least as "good" in the last 2 consecutive years in the case of the expert position, and in the last 3 consecutive years in the case of the counsellor position.

H. Additionally, the Union put forward the proposal that the promotion procedure should take place within maximum 3 months from the date of submitting the bachelor's degree.

I. The competition procedures, namely the selection of files, the interview test and the issuance of administrative documents for the appointment of admitted candidates, were established in accordance with the policy in force, complying with Law no. 7/2006. In

contrast, the Union proposed that *these procedures should be organized in accordance with the Internal Regulation regarding the parliamentary civil servants from the Departments of the Chamber of Deputies, respectively the Senate.*

J. The policy states that within 60 days of the approval of the respective policy, the first promotion session by examination and / or competition will be organized, even if it takes place later than the deadline of 30 days from the date of approving the title list. The union proposes the elimination of the criterion: *even if it comes later than the deadline of 30 days from the date of approving the title list.*

Conclusions

By promoting and defending the interests and rights of the employees in the Chamber of Deputies, these negotiations took place at unit level. The union representatives initiated the negotiation procedure, considering not only the specific needs of employees, but also those of the public institution for which they work.

For the same common goal, separately and together, both Unions participated in multiple working sessions with the President of the Chamber of Deputies, the Secretary General, the members of the Permanent Bureaus, the leaders of parliamentary groups. Negotiations took place so that the objectives enumerated in the previous section of this paper could be successfully achieved for the benefit of the employees. Thus, the representatives of the Civil Servants' Union and those of the Employees' Union aimed to obtain equal opportunities for all existing professional categories in the services of the Chamber of Deputies.

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