



Centre de Recherche Politique d'Abidjan



Abidjan, March 10, 2017

ACTIVITY'S REPORT

PANEL ON TRADE UNION CLAIMS AND SOCIAL STABILITY IN CÔTE D'IVOIRE

Location: Hôtel Belle Côte

Date: Wednesday 22 February, 2017

With the participation of



The Panel on « *TRADE UNION CLAIMS AND SOCIAL STABILITY IN COTE D'IVOIRE* », was held in Abidjan (Côte d'Ivoire), precisely at the Hôtel Belle Côte, on Wednesday, February 22, 2017.

This Report will focus on the three essential phases that formed the backbone of the panel. First, the phase of speeches (1); second, the phase of the communications of the panellists (2) and third, the phase of exchanges (3).

The main objective was to promote a trade union practice guaranteeing social stability in Côte d'Ivoire, in a context where trade union demands are at the forefront of Ivorian news.

It is worth mentioning that this Panel was organized by the “CENTRE DE RECHERCHE POLITIQUE D'ABIDJAN (CRPA)” in partnership with the FRIEDRICH EBERT STIFTUNG (FES).

The panel brought together a variety of participants. First, there are government structures, all of which have sent representatives to mark their presence on the panel; as it happens:

- The Prime Minister, represented by Mr. Alphonse SORO, Adviser to the Prime Minister in charge of Employment and Social Dialogue;
- The Ministry of Public Service and Modernization of the Administration,
- The Ministry of National Education, Technical Education and Vocational Training
- The Ministry of Women, Child Welfare and Solidarity
- The Directorate of the Observatory of Solidarity and Social Cohesion (OSCS)
- The Social Dialogue Council (CNDS)

Moreover, the presence of the Ambassador of the Republic of the State of Israel in Côte d'Ivoire, His Excellency Eli BEN-TURA, should be emphasized.

Finally, trade unionist as well as civil society organizations, academics and students have also honoured their presence.

1) The phase of speeches

Speakers:

- Mr. Karamoko DIAKITE, FES Programs and Training Officer
- Dr FLAN Moquet César, Director of CRPA
- Mr. Alphonse SORO, Advisor to the Prime Minister in charge of Employment and Social Dialogue

The activity started at 15:38 with a series of speeches. Three interventions marked this phase. Firstly, the speech of the Representative of the FES Foundation, Mr. KARAMOKO DIAKITE, in charge of Programs and Training of the Foundation (1.1); secondly, the address of the Director of CRPA, Dr. FLAN Moquet César (1.2); and thirdly, the speech delivered by the Prime Minister's representative, Mr. Alphonse SORO, advisor to the Prime Minister in charge of Employment and Social Dialogue (1.3).

1.1) The speech of the representative of Friedrich-Ebert-Stiftung (FES)

Mr. Karamoko DIAKITE began his speech by addressing his traditional greetings to the authorities present and to all the participants. He reaffirms the relevance of the Panel's theme, which, according to him, will enable us to know how trade union claims could guarantee social stability. After welcoming the panellists, Mr. KARAMOKO thanked the guests for making the trip before pointing out that the presence of the Prime Minister's representative on this panel had finally convinced them of the relevance of this topic. He ends his remarks by the famous quote from the German Chancellor Friedrich Ebert «Democracy needs Democrats. » Quote that has become a motto of the Foundation.

1.2) The Speech of the Director of “Centre de Recherche Politique d’Abidjan (CRPA)”

Dr. FLAN Moquet César opens his speech by thanking the partner (the FES Foundation), for which he underlines the considerable contribution made by the foundation and expresses the wish to continue the partnership with the foundation. He then recalled the role of the CRPA, which he defined essentially as a laboratory of ideas and a decision-making tool before assessing the context of proposing the panel's theme. Côte d'Ivoire had not yet experienced the recent turmoil when this theme was proposed, says Dr. FLAN. But it is a profound observation of political life and an anticipatory vision that led to its retention, says the speaker. Thus, drawing inspiration from David EASTON's systemic approach, the speaker unveiled the objective of this panel, which is to highlight the factors explaining the dysfunction and make proposals for sustainable social stability. Finally, the Director of CRPA ended his remarks by

thanking the panellists, the Prime Minister's Counsellor, the Ambassador of Israel to Côte d'Ivoire, and the various Ministries represented.

1.3) The speech of the Prime Minister Representative

As for Mr. Alphonse SORO, he began his speech at 15:50, beginning by excusing the absence of Prime Minister to this important panel. Indeed, despite his desire to be one of the participants, unfortunately, his busy schedule prevented him from doing so. However, he reassured that the Prime Minister was very interested in the activities and research of the CRPA. He also points out that the Friedrich Ebert Foundation has a good press with the government for its activities in Côte d'Ivoire. For Alphonse SORO, the panel's theme is an opportunity because it is inspired by the Ivorian current events marked by the demands of the military, the crumbling of the social front, the involvement of civil servants, and to the public's concern about the impact of these actions on social stability in Côte d'Ivoire. The speaker emphasized that social dialogue was the cornerstone of the Prime Minister's policy and designates the appointment of the adviser to the Prime Minister in charge of Social Dialogue as a strong message addressed to social actors. Finally, he finishes his speech by clarifying all the legitimacy of the topic and affirms his interest in the conclusions of the work.

2) The Panellists' Communication Phase

The main theme of the panel was divided into 4 sub-themes giving rise to communications. Clearly, sub-theme 1 entitled «*Modes and procedures of trade union claims*», (2.1) was addressed by Marie-Laurence Didier ZEZE, a lawyer. Sub-theme 2 entitled «*The Practice of the Strike in Côte d'Ivoire: History, Challenges and Prospects* » (2.2), has the merit of being addressed both by Dr Johnson KOUASSI, President of the National Coordination of University Teachers and researchers (CNEC) and by Mr. Edouard LADOUYOU, Director of Human Resources of the General Confederation of Enterprises of Côte d'Ivoire (CGECI). Sub-theme 3 «*Conciliation in case of strike*» (2.3) was presented by Mrs. Perpétue AMON, Director of Labour Regulation at the Ministry of Labour and Social Affairs. Finally, sub-theme 4 entitled «*What trade unionism in Côte d'Ivoire in the current context of globalization?* » (2.4) was analysed by Dr. FLAN Moquet César, Political Scientist and Director of CRPA.

2.1) Communication sub-theme 1: Modes and Procedures of trade union claims

After first shedding light on the notion of « claims » and then recalled that the issue of trade union claims is inseparable from that of « work » or « worker », to which she provides definitive clarification and finally takes a brief look at the history of trade unionism at the universal, African and Côte d'Ivoire levels. The presentation of 21 minutes of Mrs. Marie Laurence Didier ZEZE is articulated in two points. On the one hand, it describes the various forms of trade union claims or demands. On the other hand, it dwells on the procedure of certain modes, namely, the strike and the legal action.

Concerning the various modes of union claims or demands, the panellist noted five main modes provided by the law. These are *communication within the company, negotiation, strike, demonstration and finally legal action*. The communication within the company can be done for example through displays including tracks, watchwords. She builds her argument on the union delegate who is to be appointed. As such, the panellist recalls that only authorized and recognized trade union organizations can compete for this position. In addition, the union delegate has important tasks that enable him or her to intervene effectively in this mode of union claims or demands. Alongside communication, there is negotiation which represents a dialogue between social actors and leads to mutual concessions. If the negotiation is not successful, then another way of claim is the strike. Mrs. ZEZE recalled that the strike is a traditional mode of action and confers the right to disobey, the right to revolt, the right to resistance and is recognized both constitutionally and internationally. Finally, for her, it should be the last resort “ultima ratio” in terms of union claims or demands. Like the strike, demonstration and legal action are other forms of union claims or demands described by the panellist. The manifestation consists in meeting on the public road to make its claims. This differs from festive events on the public highway. The legal action involves bringing the matter before the courts.

From the second point of his speech, Mrs. ZEZE insisted on the procedure both for strikes and for legal proceedings. For greater clarity, she dissociates the strike from the private and public sectors. In the private sector, the procedure is governed by the Labour Code. The intervener discloses conditions such as lawfulness, in other words, strikes must not be unlawful. Secondly, the use of a strike must be preceded by a notice given in writing to the competent authority by the union delegate or the employees. It must also be preceded by negotiation.

Moreover, the panellist indicates that the employee benefits from protection in the case of strike. For example, it cannot legitimately be dismissed for striking or for discriminatory measures. On the other hand, it is perfectly legal to have a deduction from his salary for the time he went on strike. As for the strike in the public sector, the panellist states that it is governed by a 1992 strike law and stresses the specificity of the right of the Administration to require the compulsory labour of civil servants in certain sectors and certain circumstances. Regarding legal action, ZEZE advocates that trade unions should increasingly use it to protect the rights of their members.

She draws the cotton on her speech by maintaining the idea that there is a strong positive right to protect workers in Côte d'Ivoire and insisted on dialogue as an effective means of managing crises.

2.2) Communications sub-theme 2: the practice of the strike in Côte d'Ivoire: history, challenges and prospects

Panellists:

- Dr Johnson KOUASSI, Representative of the National Coordination of University Teachers and Researchers of Côte d'Ivoire (CNEC)
- Mr. Edouard LADOUYOU, Director of Human Resources of the Confederation of Enterprises of Côte d'Ivoire (CEGCI)

This sub-theme is enriched by two analytical perspectives. It is first read by a trade unionist (2.2.1) and then by a representative of the employers (2.2.1). It was therefore necessary to join the two points of view in order to arrive at an objective and balanced analysis.

2.2.1) The look or perception of the trade unionist

Dr. Johnson KOUASSI began his presentation at exactly 16:39. Within 20 minutes, his paper faithfully follows the canvas erected for the sub-theme. But it remains much broader insofar as it focuses on the issue of trade unionism. As such, the panellist attempts to give a historical reminder of trade unionism in a first stage, and subsequently, to try to give some insights into the issues and prospects of trade unionism in Côte d'Ivoire.

With regard to the history of trade unionism, he pointed out that this concept was born historically in the second half of the 19th century, during the class struggle. Raising the

distinction to be made between workers' unions and those of other cooperation, such as students or pupils, Dr. JOHNSON argues that these are international conventions which have stimulated trade unionism in Côte d'Ivoire. In his analysis, he was of the opinion that Côte d'Ivoire was inspired by the African mould that had its roots after the Second World War with the French penal code. But at this stage, trade union rights are weak. It is at the Brazzaville Conference that certain additional rights were granted to trade unions. However, an important date must be retained in the history of trade unionism in Côte d'Ivoire. It is 10 July 1959, even before independence, which marks the Congress of the first Union, namely, the National Union of Workers of Côte d'Ivoire (UNTCI). After the independence of Côte d'Ivoire, it was a large trade union unit centred on the General Union of Workers of Côte d'Ivoire (UGTCI). Very quickly, this trade union centre will have connections with the PDCI-RDA and will be an instrument in its service, according to the panellist. The 1990s were a major turning point for trade unionism in Côte d'Ivoire with the birth of other trade union centres such as "Dignité", the Federation of Autonomous Trade Unions of Cote d'Ivoire (FESACI), which today are five in number. Finally, the panellist emphasizes that, some trade unions remain close to certain political parties up till now.

As for the issues and prospects of trade unionism in Côte d'Ivoire, Dr. Johnson KOUASSI raises the issue of protecting the rights of union members, making important reports, communicating the rights and duties of union members, and to negotiate minor and major interests. The prospects are diverse and concerning freedom of association, which must always be guaranteed. For example, discriminatory decisions, unfair dismissals, imprisonment and intimidation of trade union members must be stopped. The sense of honour and responsibility of trade unionists, in particular by demarcating politics and the political and trade union culture of the holders of political power, is in line with the perspectives, from the point of view of the panellist.

2.2.2) The look or perception of the Patronage or employers

Mr. Edouard LADOUYOU made his communication in 20 minutes as well. After laying down the essentially legal bases of trade unionism in Côte d'Ivoire on an introductory basis, he dwells fundamentally on the contribution of employers to the question of the practice of the strike in Côte d'Ivoire. This attitude is adopted with a view to avoiding repeating the ideas of his predecessor on the same sub-theme.

The panellist wished to clarify that the Patronage was originally organized within the framework of the “Union Patronale de Côte d'Ivoire (UPCI)”. It later became the CNPI, which has been since 2005 the General Confederation of Enterprises of Côte d'Ivoire (CGECI). He recalled that the freedom to form trade unions was guaranteed in Côte d'Ivoire, and took the time to cite a plethora of international legal instruments within the framework of the ILO (International Labour Organization) which supervised and guaranteed trade unionism and the trade union claims in Côte d'Ivoire. He cited the Right to Organize and Collective Bargaining Convention, 1949 (No. 98).

For the panellist, one observation is clear. There is less strike in the private sector than in the public sector. This allows him to discuss CGECI's contribution to the practice of strike action. It is a mechanism for preventing strikes and conflicts between employer and employee. This mechanism revolves around the Permanent Consultation Committee set up by the CGECI with the trade union centres. This mechanism may, for example, involve an employer who behaves in an irregular manner. Similarly, this mechanism has made it possible to obtain agreements between the social partners. He cited, among other things, the amendment of the provision on technical unemployment in the Labour Code. For this reason, at least one-third of his salary must be remitted to the employee who has been laid off for a specified period. In addition, in 2008, an agreement on the transport premium was concluded through this mechanism and raised it to 25,000 FCA. In addition, agreements on general and categorical SMIG have been concluded. It is therefore in view of this reality that the speaker maintains that permanent social dialogue is essential for the effective management of trade union demands. In this regard, he welcomed the establishment of the National Council for Social Dialogue (CNDS), for which he hoped that the financial and legal resources would be strengthened. He also proposes that employers should take account of their commitment to the world of work. It is for strong social partners, i.e. partners who know the economic environment and motivate their decisions.

2.3) Communication sub-theme 3: conciliation in the event of strike

The intervention of Mrs. Perpétue AMON begins by making guidelines on the concept of an employment contract and its constituent elements. The panellist also emphasizes, still on an introductory basis, the different types of conflicts, namely, individual conflicts and collective conflicts. Her 20-minute presentation was to present the conciliation procedure which she

considered to be a means of resolving the strike. Thus, the intervener emphasizes on three stages of conciliation. First, the preparation of conciliation, then its development and finally its results.

The preparatory phase of conciliation is a decisive step which must be the subject of great attention. The conciliator, who may be the inspector of labour and social laws or the Prefect in certain cases, must have all the information. He must find the place of conciliation and know the procedure as well as the people who will intervene.

As for the phase of the conciliation process, it is *stricto-sensu* conciliation. At this level, the incoming conciliator proceeds to salute the social partners, opens the meeting, proposes a working method, summarizes the situation and classifies the claims raised by each party according to their nature (right and equity). Finally, the conciliator opens the discussion. Certain precautions must be taken at this stage, specifies the panellist. It is best to start with the legal issues before addressing the issues of equity. And if possible have several sessions.

The final stage of conciliation concerns the outcome of conciliation. Two situations are possible. On the one hand, the success of conciliation. In this respect, an agreement is entered into by the three parties (the State through the conciliator, the employer and the employees). A Minutes of Conciliation shall be drawn up by the conciliator. If the conciliation fails, the conciliator informs the parties of the existing legal procedures and establishes a non-conciliation report. The parties may resort to mediation, arbitration or compulsory arbitration. If they do, they are bound to respect the decisions of the mediator or the arbitrator.

The panellist concluded his presentation by recalling the essential role of the Administration in the resolution of delicate situations between employers and employees.

2.4) Communication sub-theme 4:

What trade unionism in Côte d'Ivoire in the current context of globalization?

The director of the CRPA takes a political scientist look at the issue of trade unionism in Côte d'Ivoire. The intervention of the panellist is first of all a question of showing the conditions for a good industrial relationship before proposing neo-corporatism as a model of trade unionism to which Côte d'Ivoire can subscribe in this global context that characterized by competition.

On the first axis of his intervention, the conditions he addresses are addressed both to the trade unions and the employers. Indeed, for the trade unions, the intervener insists on the

observance of the law by the latter. He also argues that they must take into account all the interests involved in banning violence as a mode of claims. Finally, he proposed that trade unions to be industrial development actors. As for the employers, whether they be in the public sector (the Administration) or the private sector, they must also act in a respectful manner. The political scientist appealed for the collapse of the "iron curtain" between bosses and employees in order to facilitate the employers' access to the employees. Finally, he criticizes the policy of "rotting" which is a political tactic consisting of letting the problems rot until the other party finally capitulates.

Concerning the second axis of his intervention, the Panellist underlines the merits of neo-corporatism. He first tried to distinguish it from that which prevailed in the totalitarian states of the interwar period, before specifying that it is the model of neo-corporatism as experienced in the Scandinavian States or in Austria. For him, this model of corporatism would establish a permanent framework of dialogue between the social actors and would lead to effective anticipation of the crises.

3) The phase of exchanges

The exchange lasted about thirty minutes and took the form of a dialogue between the panellists and the audience. It consisted of a collection of the interventions (question or contribution) of the audience at the end of which the answer of the panellists is given. Two waves of audience interventions furnished the phase of exchanges.

3.1) The first wave of intervention

During this wave of audience intervention, four interventions were recorded, which are those of two students and those of two lecturers.

The students were each having a question. The first wanted the panellist who had dealt with sub-theme one on "*modes and procedures of the trade union demand or claim*" to revert to the right of the Administration to require the compulsory labour of certain workers in the event of a strike. To this concern, Mrs. ZEZE called for this, stresses that the strike must not handicap the State. She gave the example of the health sector for which she considers the case where all midwives decide to go on strike. The dramatic situation that may result may justify the exercise of this right by the Administration. However, she states that this right is not exercised arbitrarily,

and is legally regulated. The second lecturer also addressed his concern to Mrs. ZEZE. He wished to know how to determine whether the aim of the strike was political or professional. To this question, the panellist remains cautious and recognizes the delicacy of appreciation, in so far as the characters can intermingle. That is why it is a case-by-case assessment that will have to be made and the following questions: what are the reasons for the strike? Why now the strike? If the political aspect is primary, then the purpose of the strike is called political, but if the political aspect is incidental, then the purpose of the strike can be described as professional.

The intervention of the lecturers in this first wave of audience responses consisted for some, a series of questions and for the other, a contribution. The questions raised are the following: Are student unions taken into account by the law? The question was addressed to Mrs. ZEZE. She replied in the affirmative. Next question is how to avoid intra-union opposition? It was addressed to Dr KOUASSI. The latter considers that the law could serve as a means of avoiding this situation. For him, the union legally recognized should be the only interlocutor. Moreover, he questioned whether the weakness of the strike in the private sector was not really due to the fear of the employees? Mr. LADOUYOU, the addressee of the question, maintained his position. He reaffirms that fear is not the factor. He believes that the strike in general (including public and private sector) is due to the absence of negotiation, consultation and implementation of the agreements, in the absence of social dialogue. Finally, the speaker addressed a concern to Dr. FLAN, in which he wished to know whether the neo-corporatism did not take into account the National Council for Social Dialogue (CNDS). The panellist replies that this concept transcends it and evokes the case of Austria where he emphasizes the centralized character of trade unionism. The contribution of the other lecturers has reversed the policy of "rotting" and argues that the demands of civil servants are not intended to undermine social stability. The strong involvement of the participants required a second wave of audience intervention.

3.2) The second wave of intervention

This last wave of intervention is also marked by questions and contributions.

The contribution of the representative of the CNDS, Mr. Falley TIMITÉ, who welcomed the panellists and the CRPA, is noteworthy. He also hoped that the social partners would appropriate the mechanism of the CNDS. He concluded his contribution by calling for the

training of workers and trade unionists and reminded that strikes were not to be carried out without the spirit of negotiation.

The next intervention consisted of a question raised by a student. She wondered whether the law framed the abusive behaviour of employers against strikers. Mrs Didier ZEZE answers in the affirmative while specifying that there is, however, no specific provision in the Labour Code. This would be an interpretation of the provision which requires legitimate grounds for dismissal. Since the right to strike is legitimate, it would be illegitimate, for example, to dismiss an employee for exercising that right.

In addition, the intervention that followed made contributions. In this respect, the speaker bounced back on the communication made by Mrs ZEZE. For him, the five modes of claims chosen by the panellist do not embrace his point of view. He considers that the manifestation and communication are rather some supports of trade union demands or claims and not the modes strictly speaking. Similarly, the same speaker point out that the student unions were not trade unions within the translation of positive Ivorian law and were governed by the 1960 Law on Associations.

Finally, the last speaker raised concerns about the call for respect for the law. For him, the strike mechanism in the public service is obsolete and vividly speaking, it does not favour workers to go on strike. Since the law is not good, according to his words, must we respect it? To this concern, the panellists reassure him by specifying that the regulation of the right to strike of civil servants in no way prevents the exercise of this right. On the understanding that once the negotiations have failed, officials can go on strike, obviously after the notice period has been observed.

Reported by Tano Bénié Kassim ACKA

CRPA, (Translated by Daniel Denis Adesina)