

METHODS OF PROTECTION OF EMPLOYEES' RIGHTS THROUGH HUMAN RESOURCES DEPARTMENT

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Abstract

The present article aims to set up how employers protect employees' rights and how the human resources department should be involved in this protection. It also aims to study the current labour legislation in Romania and will try to demonstrate if the employer follows these laws. The present research is based on a quantitative method, using the questionnaire on a sample of 109 people from the northeastern region of Moldavia, especially in Iasi. In order for people to take part in this research, they had to have worked at least once in their lives. The questionnaire consists of four parts containing questions about the employer's attitude towards their employees and their rights. Unfortunately, there are some missing answers to a few questions which disrupted the research results. But we still gathered some helpful pieces of information about how the employees are treated at their work.

Keywords: labour law, work, protection, employer, employees

Résumé

Cet article vise à établir comment les employeurs protègent les droits des employés et comment le département des ressources humaines devrait être impliqué dans cette protection. Il vise également à étudier la législation du travail actuelle en Roumanie et tentera de démontrer si l'employeur respecte ces lois. La présente recherche est basée sur une méthode quantitative, utilisant le questionnaire sur un échantillon de 109 personnes de la région nord-est de la Moldavie, en particulier à Iasi. Pour que les personnes puissent participer à cette recherche, elles doivent avoir travaillé au moins une fois dans leur vie. Le questionnaire se compose de quatre parties contenant des questions sur l'attitude de l'employeur envers ses employés et leurs droits. Malheureusement, il manque des réponses à quelques questions, ce qui a perturbé les résultats de la recherche. Mais nous avons tout de même recueilli quelques informations utiles sur la manière dont les employés sont traités sur leur lieu de travail.

Mots-clés: législation, protègent, lois, recherche, protection

Rezumat

Prezentul articol dorește să afle modul în care drepturile salariaților sunt protejate și cum este implicat departamentul de resurse umane în protecția acestor drepturi. De

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asemenea, lucrarea studiază legislația actuală a muncii din România și încearcă să arate dacă aceste drepturi sunt urmate de către angajator. Cercetarea se bazează pe o metodă cantitativă, prin folosirea chestionarului ca instrument de cercetare pe un eșantion de 109 persoane din nord-estul Moldovei, cu precădere în județul Iași. Chestionarul este format din patru părți ce conțin întrebări legate de atitudinea angajatorului față de salariat și față de drepturile acestuia. Din păcate, există câteva răspunsuri lipsă la câteva întrebări, motiv pentru care există un deraiaj în datele statistice. Cu toate acestea, am reușit să adunăm informații pertinente cu privire la modul în care salariații sunt tratați la locul de muncă, și nu numai.

Cuvinte cheie: salariat, muncă, angajator, protecție, drepturi

1. Introduction

An employee is a person who performs a remunerated activity for an employer, following an individual employment contract whose content is dictated by rules designed by labour law (Armstrong & Taylor, 2017). Once the employment contract is signed, the employee undertakes to make available to the employer his full potential of work, and the employer will obtain the wanted results for the company (Țiclea, 2010; Pupăzan, 2007). Throughout the work process, the employee must be acting through the assumed duties and established by the employer. Instead, the employer will be obliged to provide to his employee optimal and adequate working conditions, along with the corresponding remuneration. Once the contract between the employee and employer is confirmed, it occurs a legal subordination report (Medeleanu, 2013). This report confers to the employer a series of meaningful prerogatives. Therefore, he has the right to arise orders or mandatory provisions, to exercise control over the labourer's activity, but also to have disciplinary power, finding disciplinary violations, investigating them personally or through its representatives, and apply disciplinary sanctions. The employee is subordinating to the employer both legally and economically (Boxall & Purcell, 2016). From the legal point of view, the employee must complete the tasks and directions drawn by the employer due to the contract terms. From an economic point of view, the employee is receiving money that represents the fundamental way of income for them (Țiclea, 2010; Bach, 2005).

Taking into account that work associations represent the principal reason for growth and prosperity within society, the prime reason for why we should protect the rights of the employee is to secure social stability and order in the work industry. On the other hand, the immediate purpose of protecting the rights of the employees is to ensure the employees' trust in the hiring relationship with the employer. After all, this aspect has favourable implications on labour productivity, from where it benefits both the firm through the ideal use of the employee's work by increasing profit, as well as the employee, by earning an income and many other social gains. Furthermore, the protection of the employee's rights furnishes stability at the workplace, offering the worker both the guarantee of carrying out the activity in optimal conditions and safety, but also the satisfaction of personal fulfilment

through the achievement he has (Țicu, 2017). Yet, one of the essential purposes of protecting the rights of the employee is to shield the employee from possible abuses that the employer can do, taking into consideration the relationship of subordination that he has with his employer. For this reason, legal norms are imperative, which is why the employee cannot give up their privilege, in whole or in part, even if he wants to (as the article 38 from the Labour Work presents: „The employees may not waive the rights granted under the law. Any transaction designed to waive the rights granted under the law to the employees or to abridge such rights shall be void.”)

2. Legal measurements of protection

First of all, we mention the articles adopted outside the Labor Code, such as Law no. 319/2006 and it refers to occupational health and safety, Law no. 67/2006 regarding the protection of employees' rights in case of transfer of the enterprise or GEO no. 96/2004 which concerns the protection of maternity at work. Then we also mention the GEO no. 111/2010 regarding the leave and monthly child-raising allowance, where is prohibited for the employer to interrupt the termination of employment with pregnant employees, with those who have recently given birth or those who are raising a child to two years old, respectively three years old, in case of a disabled child. We also mention the laws written in the Labor Code, such as those from legal liability - the employer must inform employees regarding the content of the organisation law, or those from the patrimonial culpability (article 243, Labor Law). Otherwise, the employer is obliged to compensate the employee if he suffered material or moral damage through the fault of the employer. We can also talk about the role it plays the trade unions within a work unit. According to the law, unions have the position to promote professional, economic, and social interests, and to defend the individual and collective rights of employees. In Romania, the popularity of unions has increased due to the advantages of the syndicates that can produce, and it reached out to 52 percent of the total number of employees in Romania. It represents the result of the fact that many trade unions have obtained salary increases or a more flexible work schedule after the negotiations with the employer.²

3. The role of the human resources department in achieving the protection of employees' rights

The human resources department is responsible for anchoring a suitable labour relationship between the company and worker while being obedient to the norms provided by the Labor Code. One of the attributions that HRD has is to empower the employment contract between parties. When the contract is signed, the HRD must verify a series of legal conditions such as common conditions,

²Financial Newspaper: The union, the biggest fear of HR directors accessed on 30.05.20.

essentials and inessential conditions, substantive conditions, general conditions. „For example, when we are talking about the capacity of work - for certain professional categories - there is a condition regulated by the Labor Code article 27, paragraph one, where «a person may be hired only if he presents a certificate of health which provides the insurance that the employee can work».” (Butur, 2019). Other important attributions that HRD has - to manage the employment contract of an employee, to register employees in the Register of Employees, to draw the personal folder of the employee³. Besides, the HRD manages and processes the personal data of employees⁴, the reason why it is necessary for them also to protect this process at all costs. Just as we acknowledge from the books of human resources management, the head of the human resources department collaborates with the unit manager to develop the job description. The job description performs a legal role, and it outlines a report of the job, but it also represents a method of protection for the employee in case of a lawsuit before the court. The human resources department also is in charge of motivating, instructing, and forming brand-new employees. The department motivates the team by offering moral and financial benefits, for instance, salary increases or positive feedbacks. A critical role they have is to serve the protection of human resources from the company in front of the unit manager. The company improvement takes place through this department and the relationship between the employees is well. This department represents „the link” between the employees’ rights and their protection because they are informing the future workers at the hiring moment – and through the hiring process – all the rights they have according to Labor Work, the employment contract, the collective employment contract and internal laws of the company.

4. Research method and objectives

Everything seems like the ideal juridical world where everyone appears to respect the law, but unfortunately, we are not observing very closely at this phenomenon. The disturbing truth is that citizens are not always following the rules expressed by the law. Even the legislator is aware that there may be circumstances where the employer does not take into consideration the rights of an employee and the obligations he has undertaken following an employment contract and ends up suffering the consequences of the law. Hence, this research strives to discover how the employer respects and protects the rights of the employee. We are trying to see *if* the Romanian employer is using methods of protections on their employee, *how* the employer is using those methods, and what is the *perception* of employees about their employer’s attitude towards them. We also made a delimitation among the simple employer or a representative of the human resources

³ To be seen the article 34 from Labour Law.

⁴ According to GD nr. 905/2017 published into the Official Gazette nr. 991 from 13th december 2017.

department because the study also seeks to discover how these methods are respected and used by the department of human resources.

In the third part of this paper, we present some key features regarding the methodology of a quantitative panel study conducted in March 2020 on a sample of 109 people from the northeastern region of Moldavia.

This research has four main objectives:

Objective 1: Identifying the level of violation by the employers / human resources department when it comes to the employee's rights, under an employment contract in the organisation in which he professes;

Objective 2: Identifying what are the rights violated by the employer/HRD in the organisation in which the employee works, during an employment contract;

Objective 3: Identifying the norms of protection respected by the employer, employee, and competent units;

Objective 4: Determine the respondent's perceptions about employee's rights.

All the employees with the legal working age (16+) from the northeastern region of Romania represents the universe of research. The method used in research data collection is an online survey on a dedicated platform (Google Forms). Furthermore, we made the questionnaire dissemination through social media. The sample represents all the persons who are allowed to work, even those who have 16 years old, but with the only condition that they should have worked at least once in their lifetime.

5. Data analysis

Data analysis was carried out using SPSS ® Statistical Software. To analyse the perceptions of employees about their rights and the attitude of their managers towards them, we used descriptive statistics and some statistical tests. It was completed 109 questionnaires, of which only 76 responses will be valid from the total number of responses. The predominant gender is female, younger than 25 years old (approximately 66 percent). Broadly, although the employer respects the rights in a proportion of 43.4 percent, there is a difference of 4 points percentages compared to those who were in a position where the employer did not respect their rights (40.7 percent). We can say that there is a fine line between the observance of the employee's rights by the employer and their non-compliance. Then, the most violated rights (but only 33 respondents answered to this question) are those related to working time and rest (29 percent), those related to payments (16 percent), and those linked to rest leave (12 percent). Into the answers given by the respondents, we also found a case of undeclared work. Undeclared work represents a form of modern slavery that is not registered in REVISAL (Register of Employees) or ANOFM (The National Employment Agency) or even authorised by these institutions. The respondent could have sued the employer by collecting evidence such as working documents, witnesses, correspondence with the

employer, etc. In addition, he could have notified the Labor Inspection, an institution that you can count on for any injustice that occurs in a unit.

In the total of 76 respondents, 57 percent of them said they were bound by the employer to work over the initial work schedule, 41 percent answered that they were not paid for overtime hours they have worked, 31 percent said that the employer didn't respect the scheduling of rest leave, and the employer threatened 23 percent that they would be fired if they won't obey the orders drawn by him. Now, every employer has the accessibility to change the work schedule, but it must be mention in the company law and negotiated with the employee. Only if the employee agrees to do overtime work, only then it can be written in additional documents to the employment contract.

However, only 52 responses were given in the questionnaire section, that only refers to the human resources department:

- during the recruitment interview, 21.2 percent of them answered that nobody presented them the rights and obligations that an employee have. Regardless of the person's rank, the employer must exhibit the contractual clauses;
- 19.2 percent of the respondents said the HDR didn't present them the job description. Giving the job description at the moment of hiring is mandatory, due to the legal importance that it has;
- 17.3 percent said that the HDR didn't present them the internal regulations.
- 38 percent said that HRD did not deal with regular training and information related to the problems that employees face. That is one of the responsibilities of DRU- to recruit, integrate and train employees - but it is not taken for consideration by all departments;
- 19.2 percent answered that the HDR ignored their problems of the legal matter. One of the duties violated by the HRD. The employee must make sure that the complaints that he has about his workplace reach the management of the company, the human resources department, or the labour protection department. In case no one answers, the employee can ask for help from The National Council for Combating Discrimination, but with evidence that supports their problem and that being the ignorance of the employers.

Hypotheses 1. Although the employers do not respect all the rights of the employee, the latter will continue the legal relationship due to financial need

We applied Pearson's coefficient and Chi-Square Test between the variables we have above in hypotheses one. It results in the respecting of rights by the employer, and the need for money by the employee is no correlation, and therefore,

Table 1. *The link between respecting the rights of the employee and their need for money*

no statistical relevance.

	Value	df	Asymptotic Significance (2-sided)
Pearson Chi-Square	8.680 ^a	9	.467
Likelihood Ratio	9.665	9	.378
N of Valid Cases	75		

a. 8 cells (50.0%) have expected count less than 5. The minimum expected count is .80.

Hypotheses 2. The employees who are not informed about their rights are more likely to have their rights violated

We crossed the answer received at two dichotomous questions (*Were you informed about your rights from the individual employment contract at the time of the employment?*, respectively, *Have you ever been put in a situation where your rights at work have not been respected?*). Then we applied the Chi-Square association test, and we found that there is a link between informing employees about the rights they have at work and violating them during employment.

Table 2. *The link between misinformed employees and their violated rights*

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)	Exact Sig. (2-sided)	Exact Sig. (1-sided)
Pearson Chi-Square	21.931 ^a	1	.000		
Continuity Correction ^b	19.427	1	.000		
Likelihood Ratio	25.412	1	.000		
Fisher's Exact Test				.000	.000
Linear-by-Linear Association	21.578	1	.000		
N of Valid Cases	62				

a. 0 cells (.0%) have expected count less than 5. The minimum expected count is 9.50.

b. Computed only for a 2x2 table

Therefore, as we can see from the previous table and the data analysis, it follows that the H2 hypothesis is confirmed. Thus, employees who are not informed about their professional rights are more likely to have their rights meddled by the employer (Asymp. Syg. = 0.000, Pearson Chi-Square = 21.931, df. 1).

Table 2.1. *The link between misinformed employees and their violated rights*

Symmetric Measures

		Value	Approx. Sig.
Nominal by Nominal	Phi	-.595	.000
	Cramer's V	.595	.000
	Contingency Coefficient	.511	.000
N of Valid Cases		62	

Besides, the power of association is high (Asymp. Sig. = 0.000; V = 0.595), which strengthens the outcome that an extensive range of information could follow a lower level of infringements at work.

Hypotheses 3. The employees with little professional experience are more likely to (a) be unaware of their rights at work or (b) to have them violated.

For the analyses of H3 hypotheses, we grouped the employers who mentioned the professional experience in two categories (less than three years of work, or respectively more than three years of work).

According to the descriptive analysis of the data, employees with little work experience (less than three years of worked) are less informed about their rights by employers.

Table 3. *The link between the employees with little professional experience and their respected rights*

Ranks				
	Work experience-COD	N	Mean Rank	Sum of Ranks
RIGHTS COD	Less than 3 years	42	39.10	1642.00
	More than years	32	35.41	1133.00
	Total	74		

However, after applying the non-parametric test, it is found that the connection is not statistically significant.

Table. 3.1. *The link between the employees with little professional experience and their respected rights*

Test Statistics^a

	INFO RIGHTS COD
Mann-Whitney U	605.000
Wilcoxon W	1133.000
Z	-.892
Asymp. Sig. (2-tailed)	.372

a. Grouping Variable: Experienta-COD

Next, we considered the question. *Have you ever been put in a situation where your rights at work have not been respected?*

Table. 3.2. *The link between the employees with little professional experience and their respected rights*

Ranks				
	Work experience-COD	N	Mean Rank	Sum of Ranks
Rights respected COD	Less than 3 years	37	31.57	1168.00
	More than 3 years	27	33.78	912.00
	Total	64		

At the same time, as shown in the previous table, the employees with less than three years of work experience show a slight tendency to claim that their professional rights have been violated (Mean Rank = 31.57).

Table. 3.3. *The link between the employees with little professional experience and their respected rights*

Test Statistics^a

	RESPECTARE DREPTURI COD
Mann-Whitney U	465.000
Wilcoxon W	1168.000
Z	-.542
Asymp. Sig. (2-tailed)	.588

a. Grouping Variable: Experienta-COD

However, following the application of a non-parametric test, it is highlighted that the variable related to professional experience does not influence the observance or non-compliance of employees' rights.

Therefore, the analysis of these two hypotheses (H3a and H3b) shows that the problems related to the lack of information on workplace rights, respectively their non-observance are valid both for the categories of respondents who have low seniority (three years) and for those who have been hired for more than three years.

6. Conclusions

As a general conclusion, we can only say that most employers respect / protect the rights of employees, as well as people in the human resources department. There is still a time when your rights are not respected regardless of your work seniority. Some employers, although a small percent of them, abuse the rank they have and infringe on the rights of employees, and even worse, they do not even try to protect them. We are assuming that employees do not know their rights even though they consider they do, or they are afraid of protecting them. However, the few data we gathered about the national authorities do not help us to conclude whether or not they protect employees' rights.

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