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EMPLOYMENT LAW AND HUMAN RESOURCE MANAGEMENT - NECESSITY OF OCCUPATION OF HUMAN RESOURCE EXPERT-

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Abstract

Without denying the interdisciplinary nature of the science of human resources (general) management, inherent in modern science, we support the idea that it cannot exist outside of labour law.

Moreover, as far as we are concerned, human resources management is integrated into labour law.

For the purpose of reinforcing this statement, under this small study, we bring sufficient and relevant arguments, which we consider that are meant to constructively unify the opinions and maybe egos of the various specialists in law, economics, management, psychology, sociology, ergonomics, demography etc. Moreover, all of them are approaching this issue more or less from this perspective.

We should not forget that, usually when employement (social) relationship is being damaged, labor legal conflicts arise. In conclusion, as jobs organizers perceive these aspects they will only recruit in terms of quality, both specialists in labour law/legislation as well as specialists in human resources management, psychology etc. or persons who have complementary, interdisciplinary skills.

Ideally, though not impossiblly it would be to introduce in the classification of Occupations from Romania a new integrative occupation, namely the one of human resources expert. However, it would be difficult for a person to meet all requirements and thus our proposal is to be proclaimed as a real challenge in this field.

Keywords:

labor law, human resources management, employment relationships, legal employment relationships, expert in labor law, human resources expert .

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1. Employment relationships and legal employment relationships

Employment relationships are, to a large extent, regulated *by legal norms,* taking the shape of legal employment relationships, which are the object of labour law. But, obviously, not any aspect related to labour law can be regulated, thus, what cannot be subjected to the legal norm, remains under the sphere of human resources management, psychology, sociology, ergonomics, demography, occupational medicine, etc. (A. Ştefănescu, (2014), : 109), that it is rightfully claimed (P. Burloiu, (1997), : 44-45) that human resources are an interdisciplinary field.

In conclusion, we consider that the employment (social) relationships represent *genre* for legal employment relationships. Indeed, the legal reality is part of social reality. So, from the perspective of the subordinate work, "*human resources*" concept concerns all employees, who are parties into employment relationships/individual legal employment relationships along with their employers. (A. Ştefănescu, (2014), : 110).

2. Human resource management-functional and operational component of the application of labour legislation

The ratio of the labor law and other disciplines which are specific to the field of human resources is illustrated, for example, by the National agency of civil servants in the compendium of best practices "Human resources manual"[2]: „Human resources management as part of the public management system represents the functional and operational component for the application of legislation in the field of public administration ".

Paraphrasing and extending it towards the private sector, we can say that *human resources management is part of the management and it represents the functional and operational component of the implementation of labour legislation*, of course, the latter being in close liaison with the social security legislation (from the perspective of legal employment relationships).

Are the reasons for which it has been argued that (A. Ştefănescu, (2012), : 25) the activity of management/human resources management, "in both the public and private sectors, is a predominantly legal and specialized one, so it can be seen as a part of legal activity."

[2] It can be seen on the website of the Agency (http://www.anfp.gov.ro:81/docs/manual_management_rersurse_umane.pdf).

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3. Preparation/management of "personnel's employment records documents"-legislation and management

In the field of human resources there are used the concept of "*human resources management*" and also the one of "*management of human resources*", the main difference consisting (in synthetic presentation) in the fact that the first refers to the *management activities* and the second one to *the execution activities,* idea which is also highlighted under the above-mentioned Manual (A. Ştefănescu, (2012), : 17-23).

Execution activities are closely related to labour law, but also the management should oversee them, in their application, which at its turn is being constrained in its decisions; the art is to find, obviously, harmony, so that human resources system becomes functional.

Under occupational standards specific to the field of human resources, approved by the National authority for Qualifications, we note that reference is made to the competences (common for occupations of inspector/ human resources referent, human resources analyst) for drafting/managing „*personnel's employment records documents*"[3] and we distinguish (A. Ştefănescu, (2014), : 113) their division into:

- legal acts related to individual labour law:
    - individual employment contracts,
    - addenda amending individual employment contracts (consensual individual legal acts);
    - consensual individual legal acts related to the suspention or termination of individual employment contracts;
    - individual decisions related to the amendment, suspention, termination of individual employment contracts and
- documents related to inherent employment records documents:
    - personnel's files;
    - certificates related to seniority, salary, other types of required certificates in the field of employment relationships;
    - professional assessment forms;
    - required documents within the Organization;
    - time-sheets, attendance records;
    - centralizing statistics documents and situations (summaries of sick leaves, medical leaves, leaves

[3] To be seen also http://www.anc.edu.ro/uploads/SO/Referent.ResurseUmane.pdf

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without pay, training leaves, statistics situations regarding the structure of the staff).

Also, General electronic record of employees (REVISAL) is also *a document* (register type) for employees' record.

The connection between the components of the analyzed system consists in the fact that (A. Ştefănescu, (2015):

- either inherent record documents shall be drawn up on the basis of legal acts (for example, a certificate of work experience shall be drawn up on the basis of the individual labour contract and legal acts related to the amendment, suspension or their unilateral/consensual termination;
- either inherent record documents are being used for the execution of the individual employment contract (i.e. payment of salary shall be made on the basis of time-sheet and attendance record);
- under REVISAL must be registered items stipulated under the employment contract which is amended or suspended, or the termination of the contract, operations that are transposed in various legal acts (decisions, addenda to the individual employment contract);
- under the personnel's file must be contained all the documents related to the employment records of an employee etc.

Therefore, in order to correctly draw up a specific *document related to employment record of an employee* it should be known the legal regime *applicable to that* legal relationship of employment (L. Georgescu, A. Ştefănescu, (2012): 20-23), but also the situation to which in fact that document referrs to.

Occupational standard of *expert in labor law*[4] also refers to the competences of *drafting/certifying of documents specific to labour and social security legislation*, that is, it mainly, refers to the first category of the listed documents of employment records, but they will be transposed in tasks that come along with high-quality criteria. In addition, experts in labor law have other competences similar to highly qualified specialists, such as:

- the application of national, European and international labour law and social security law;
- reconciliation of conflicting situations;
- disciplinary investigation of irregularities;
- specialized consultancy related to labour and social security legislation;

[4] To see also details on http://www.anc.edu.ro/uploads/SO/expert%20legislatia%20muncii_00.pdf

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- representing employers in relations with the authorities in the field of labour law and social security.

With regard to the their "application" towards the management of resources -as a functional and operational component for the implementation of labour legislation -it is relevant the component related to *developing of strategies, policies and procedures necessary for the application of labour and social security legislation.*

4. Necessity of a new occupation - human resource expert -

The quality of human resources, as well as that of their management/employment relationships management (from the management psychological and sociological point of view) depends their properly deployment.

Of course, rules which can be formulated in this respect are, for the most part, likely to be incorporated into legal acts or they may be contained in various policies, strategies, human resource procedures.

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Ideally, though not impossibly it would be to introduce in the classification of Occupations from Romania a new integrative occupation, namely the one of *human resources expert.*

However, it would be difficult for a person to meet all requirements and thus our proposal is to be proclaimed as a real challenge in this field.

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