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THE PLACE OF HUMAN RESOURCES INSPECTOR AMONG INDUSTRY-SPECIFIC OCCUPATIONS AND THE IMPORTANCE OF MASTERING LABOR LEGISLATION

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THE PLACE OF *HUMAN RESOURCES INSPECTOR* AMONG INDUSTRY-SPECIFIC OCCUPATIONS AND THE IMPORTANCE OF MASTERING LABOR LEGISLATION

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Abstract

Human resources field is a particularly complex one, that specialists with different professional background (not few in number) have to find answers to the serious problems which arise from the employment relationships. It is well-known that employment relationships are, to a large extent, regulated by legal norms, taking the form of legal employment relationships, which is the object of labor law, but obviously not any aspect related to labor law can be regulated.

Thus, what can not be sujected to the legal norm, remains in the sphere of human resources management, psychology, sociology, ergonomics, demography, occupational medicine, etc.

On the other hand, when the labor (social) relationship is being damaged, labor legal conflict arises. And from this point of view, specialists in the labor law/legislation are of course useful. At the bottom of the pyramid are to be found human resources inspectors/referents.

We envisage in this material to highlight their place in the human resources field from considering specific regulations, the Classification of occupations in Romania -C.O.R and the occupational standards, out of which the latest is the one of the expert in the labour legislation.

Keywords:

human resources inspector/referent, competences, occupational standards, expert in labor legislation, differences, regulations.

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STEFANESCU, A. (2014). THE PLACE OF HUMAN RESOURCES INSPECTOR AMONG INDUSTRY-SPECIFIC OCCUPATIONS AND THE IMPORTANCE OF MASTERING LABOR LEGISLATION. Jurnalul de Studii Juridice, Year IX, No. 3-4, December 2014, pp. 105-117.

1. Human resources field and specific occupations

Human resources field is a particularly complex one, in which perform activity, in accordance with the Classification of occupations in Romania[2] (C.O.R.):

- Various managers in the human resources field, such as those who hold the position of:
  - human resources director (code C. O. R. 112033);
  - chief of human resources department (code C. O. R. 121205);
  - chief of labor resources assessment department (code C. O. R. 121206);
  - human resources manager (code C. O. R. 121207);

- Specialists in the field of human resources and personnel (graduates of higher education), such as those who hold the position of:
  - employment and unemployment advisor (code C. O. R. 242301);
  - employment and unemployment expert (code C. O. R. 242302);
  - specialized inspector in employment and unemployment (code C. O. R. 242303);
  - expert in labor safety and occupational health (code C. O. R. 242304);
  - specialized referent in employment and unemployment (code C. O. R. 242305);
  - career guidance advisor (code C. O. R. 242306);
  - consultant in the field of employment (code C. O. R. 242307);
  - labor market analyst (code C. O. R. 242308);
  - analyst in recruitment/integration of employees (code C. O. R. 242309);
  - analyst in salaries systems (code C. O. R. 242310);
  - consultant in reconversion –mobility of staff (code C. O. R. 242311);
  - consultant regarding working conditions (code C. O. R. 242312);
  - specialist in qualifications systems (code C. O. R. 242313);
  - human resources specialist (code C. O. R. 242314);
  - vocational advisor (code C. O. R. 242315);
  - consultant in standardization (code C. O. R. 242316);
  - consultant in human resources (code C. O. R. 242317);
  - internal consultant in human resources (code C. O. R. 242318);

[2] Approved by Order of the National Institute of Statistics no. 856/2011 and Order of the Ministry of Labor Family and Social Protection no. 1832/2011 (published under the Official Romanian Gazette, Part I, no. 561 dated August 8th 2011, as subsequently amended and completed).

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- specialist in training (code C. O. R. 242319);
- specialist in recruitment (code C. O. R. 242320);
- specialist in compensation and benefits (code C. O. R. 242321);
- specialist in organizational development (code C. O. R. 242322);
- specialist in labor relationships (code C. O. R. 242323);
- personal development advisor (code C. O. R. 242324);

- Specialists in the field of administrative policies (graduates of higher education), such as those who hold the position of:
  - expert in labor legislation (code C. O. R. 242220);
  - adviser in public administration (code C. O. R. 242201);
  - expert in public administration (code C. O. R. 242202);
  - specialized inspector in the public administration (code C. O. R. 242203);
  - specialized referent in the public administration (code C. O. R. 242204);
  - consultant in the public administration (code C.O.R. 242205);
  - integrity inspector (code C.O.R. 242209);

- Specialists in the field of the environment and hygiene and occupational health (graduates of higher education), such as those who hold the position of:
  - specialist in the field of safety and occupational health (code C. O. R. 226302);
  - coordinator for safety and occupational health (code C. O. R. 226303);
  - assessor of risk and auditor in the field of safety and occupational health (code C. O. R. 226307);
  - coordinator for safety and occupational health for logistics (code C. O. R. 226308);

- Recruitment agents and subcontractors (graduates of secondary education), such as those who hold the position of :
  - *human resources inspector/referent* (code C. O. R. 333304);
  - human resources analyst (code C. O. R. 333306);
  - staff mobility technician (code C. O. R. 333307);

- Inspectors in the field of environmental protection and occupational health, assimilated (graduates of secondary education), such as those who hold the position of :

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- manager of safety and occupational health management system (code C. O. R. 325709);
- safety and occupational health management system auditor (code C. O. R. 325711);
- technician in safety and occupational health (code C. O. R. 325721);
- technician in working conditions and security (code C. O. R. 325722);
- inspector in the field of safety and occupational health (code C. O. R. 325723);
- coordinator in the field of safety and occupational health (code C. O. R. 325724) etc.

Specific occupations are also regulated by other specific norms in the human resources field, both for the private sector as well as for the public sector, in the field of labor relationships, in the field of safety and occupational health, labor market surveillance[3], social security, as in the public sector there are indications in this respect for certain positions to be found under the organization and functioning regulations or under collections of good practice, such as "human resources management manual" drawn up by the National Agency of Civil Servants (which can be viewed on the institution website).

The function/occupation according to the specification under the Classification of occupations in Romania or other normative acts represents a mandatory item to be stipulated under the individual labor contracts, according to the Labor Code[4], or for the completion of other official documents, failure to observe this obligation being sanctioned, according to the law.

The above-mentioned occupations differ in terms of the level of studies and qualifications; for the management occupations/functions, according to the Classification of occupations in Romania it is not necessary, as a rule for the private sector, a certain level of the studies, except for those

[3] For example, Law No 108/1999 for setting up and organization of Labor Inspection (republished in Official Romanian Gazette, Part I, no. 290 dated May 3rd 2012, as subsequently amended and completed), refers to the function of labor inspector, who "may be held by persons with higher education having university graduation diploma, respectively higher education and long-term diploma completed with bachelor's degree or equivalent in the fundamental fields: engineering sciences, agricultural and forestry sciences, legal sciences, economic studies or specializations in: sociology, psychology, medicine, public administration and political science" (art.16 para 4).

[4] Law no. 53/2003 – Labor Code, republished in Official Romanian Gazette, Part I, no. 345 dated May 18th 2011, as subsequently amended and completed.

STEFANESCU, A. (2014). THE PLACE OF HUMAN RESOURCES INSPECTOR AMONG INDUSTRY-SPECIFIC OCCUPATIONS AND THE IMPORTANCE OF MASTERING LABOR LEGISLATION. Jurnalul de Studii Juridice, Year IX, No. 3-4, December 2014, pp. 105-117.

functions for which there are regulations or specific requirements stipulated under the occupational standards. As far as differences of qualifications are concerned, there are regulations to be found stipulated under the normative acts or under the occupational standards.

In the field of human resources the concept of "*human resources management*" is used and also the one of "*management of human resources*", the main distinction consisting in the fact is that the first refers to the management activated and the second one to the execution activities (See also A. Ştefănescu (2012):17-23).

From the perspective of subordinated work, the concept of the "*human resources*" refers to all employees, parties in the individual legal relations/relationships along with their employers, or, as the case maybe, it refers to all persons providing available labor force, employed population and the unemployed inclusively (i.e. the active one).

Employment relationships are, to a large extent, regulated by legal norms, taking the form of legal employment relationships, which are the object of labor law. But, obviously, not any aspect related to labor law can be regulated, thus, what can not be sujected to the legal norm, remains in the sphere of human resources management, psychology, sociology, ergonomics, demography, occupational medicine, etc., that it is righfully claimed (See in this respect, for example, P. Burloiu (1997):44-45) that human resources are an interdisciplinary domain.

It is for this reason that it has been argued that the management/management of human resources, "both in the public and private sectors, is one mainly legal and dedicated and, at the same time, so that it can be regarded as a segment of the activity of legal".

The ratio between the labor law and other subjects is illustrated for example by the National Agency of Civil servants in the collection of good practices "Human resources manual"[5]: "Human resources management, as part of the system of public management, *represents the functional and operational component of the enforcement of legislation* in public administration field".

It is for this reason that it has been argued the idea according to which (See also A. Ştefănescu (2012):25) the activity of human resources management/management of human resources, "both in the public and private sectors, is one which is at the same time mainly a legal and dedicated one and, thus it can be regarded as a segment of the legal activity".

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

STEFANESCU, A. (2014). THE PLACE OF HUMAN RESOURCES INSPECTOR AMONG INDUSTRY-SPECIFIC OCCUPATIONS AND THE IMPORTANCE OF MASTERING LABOR LEGISLATION. Jurnalul de Studii Juridice, Year IX, No. 3-4, December 2014, pp. 105-117.

Of course, their good performance depends on the *quality* of human resources, as well as on the quality of their management in such relationships (from a psychological, sociological management point of view). The rules which can be formulated in this respect are, to a large extent, likely to be incorporated in legal acts or they can be stipulated in various policies, strategies, human resources procedures.

Usually, when the labor (social) relationship is damaged, labor (legal) conflicts may arise.

In conclusion, we consider that the labor (social) relationships represent *genre* for legal labor relationships.

As the organizers of jobs understand these aspects, they will recruit, in terms of quality, in positions we have referred to, both specialists in labor law/legislation, as well as in human resources management, psychology, etc., or persons who have complementary, interdisciplinary competences – it is widely recognized the fact that the members of a team need to be reinforced in order to achieve a common goal; otherwise they shall remain a simple working group, most of the time being ineffective for the employer or for individual performances.

2. Human resources industry-specific occupational standards

Few human resources industry-specific occupations shall enjoy fully descriptions under the occupational standards (which can be found on the dedicated website to the National Authority for Qualifications), such as that of:

- *human resources inspector/referent* (code C. O. R. 333304)[6] described by the following general and specific competences[7]:
  - planning of activities;
  - communication with employees;
  - the application of the legal provisions related to safety and occupational health and in the field of emergency situations;
  - issuing documents to keep records of personnel;
  - management of documents to keep records of personnel;
  - organizing staff recruitment;
  - establishment of the general register of employees;
  - drawing up of the payroll of employees;
  - management of the data base to keep record of personnel;

[6] Also see details on http://www.anc.edu.ro/uploads/SO/Referent.ResurseUmane.pdf
[7] There are also key competences.

STEFANESCU, A. (2014). THE PLACE OF HUMAN RESOURCES INSPECTOR AMONG INDUSTRY-SPECIFIC OCCUPATIONS AND THE IMPORTANCE OF MASTERING LABOR LEGISLATION. Jurnalul de Studii Juridice, Year IX, No. 3-4, December 2014, pp. 105-117.

- human resources analyst (code C.O.R. 333306)[8], described by the following competences:
  - estimating resources and expenses required for carrying out the human resources activities;
  - management system of the organization labor relationships;
  - organization and management of the data base to keep record of personnel;
  - drawing up and management of job descriptions;
  - drawing up and management of the staff motivation system;
  - appraisal and job classification;
  - drawing up and management of documents to keep record of personnel;
  - organizing staff training programs;
  - organizing staff recruitment;
  - organizing staff selection;
  - organizing the appraisal system of the human resources performances;
  - planning the need qualifications of human resources;
  - career planning and development;
  - design/redesign of the organizational structure and determining the rules of operation;
- human resources manager (code C.O.R. 121207)[9] described by the following competences:
  - advising other managers in the human resources matters;
  - coordination of the performance of human resources activities;
  - coordination of drawing up policies and human resource programs;
  - coordination of the human resources department staff;
  - drawing up the human resources strategy;
  - monitoring personnel' costs;
  - monitoring the organization system of labor relationships;
  - organization of the activity of the human resources department;
  - representation of the human resources department;
- expert in labor law (code C.O.R. 242220)[10] described by the following competences:

[8] See details on http://www.anc.edu.ro/uploads/SO/Analist%20resurse%20umane.pdf
[9] See details on http://www.anc.edu.ro/uploads/SO/Manager%20resurse%20umane.pdf
[10] See details on page:

STEFANESCU, A. (2014). THE PLACE OF HUMAN RESOURCES INSPECTOR AMONG INDUSTRY-SPECIFIC OCCUPATIONS AND THE IMPORTANCE OF MASTERING LABOR LEGISLATION. Jurnalul de Studii Juridice, Year IX, No. 3-4, December 2014, pp. 105-117.

- planning of the activities;
- communication with the participants in the labor process;
- applying the legal provisions related to safety and occupational health and in the field of emergency situations;
- application of the domestic, European and international labor law and social security legislation;
- development of strategies, policies and procedures required for the application of labor law and social security legislation;
- drawing up of documents specific to the labor law and social security legislation;
- approving documents specific to the labor law and social security legislation;
- conciliation of conflict situations;
- research of disciplinary irregularities;
- offering specialized advice related to labor law and social security legislation;
- employers' representation in relations with the authorities from the field of labor law and social security legislation.

We frequently encounter these occupations/functions in the human resources compartments. But we may also encounter other functions which are not being regulated under a specific occupational standard, such as the one of specialist in labor relationships, consultant in human resources, etc. Under the Classification of occupations in Romania there are stipulated for such functions only some clues related to the level of studies (higher education) and to the competences of the entire group of occupations to which they belong to (specialists in the field of human resources and staff), which, along with other items can deliver solutions for the achievement of specific activities.

A special responsibility in establishing specific professional competences/qualifications fall on the responsibility of the educational units from the national pre-university and university education system.

3. Legislative and regulatory aspects specific to the occupation of human resources inspector/referent

Out of the above-mentioned, it would appear that a series of industry-specific human resources competences overlap or are common,

http://www.anc.edu.ro/uploads/SO/expert%20legislatia%20muncii_00.pdf

STEFANESCU, A. (2014). THE PLACE OF HUMAN RESOURCES INSPECTOR AMONG INDUSTRY-SPECIFIC OCCUPATIONS AND THE IMPORTANCE OF MASTERING LABOR LEGISLATION. Jurnalul de Studii Juridice, Year IX, No. 3-4, December 2014, pp. 105-117.

which is questionable, as results from the Classification of occupations in Romania, from the occupational standards, from the legislation.

For example, the common competence regarding *the drawing/management of documents to keep record of staff/drafting documents which are specific to labor law and social security legislation* shall be transposed differently into the job description of *a human resources inspector* (a graduate of secondary education) as compared to the job description of *a legal adviser* or *expert in the labor legislation* (graduates of higher education). For the latter, it is possible to stipulate in details as regards the complexity of the activities depending on the type of the university studies - for bachelor's degree, master, doctorate or taking into account their category of - legal or administrative higher education studies, other higher education studies.

As regards such records of keeping record of the personnel, we notice, according to the two occupational standards – the one of *human resources inspector* and the one of *expert in labor law* – that they are to a large extent acts specific to labor law and social security legislation: "individual labor contracts, additional acts amending labor contracts, the files of personnel, individual decisions of changing of functions, promotions, sanctions, termination of activity, delegation, suspensions of individual labor contracts, etc., records on work seniority, records on salaries, other types of certifications required in connection to the field of labor relationships, professional evaluation sheets, documents requested within the organization; summarized documents and statistics reports, summaries of annual leave, medical leaves, without payment leaves, vocational training leaves, statistics reports on staff structure." This is not the only aspect which reveals the importance of the labor legislation/labor law for the human resources field.

On the other hand, these documents are related to the integrating concept of "employee" referring to[11]:

- all employees from the private sector;
- all contractual staff in the public sector;
- all civil servants (including those who enjoy the special statutes).

In what is concerned the need to understand the connection between the labor legislation/labor law and the social security legislation/law (from the point of view of drawing up/management of documents to keep record of personnel, by the human resources inspector/referent), the latter

[11] See Article 1 letter (g) of Law No. 62/2011 of social dialogue (republished in Official Romanian Gazette, Part I, no. 625 dated August 31th 2012, as subsequently amended and completed).

STEFANESCU, A. (2014). THE PLACE OF HUMAN RESOURCES INSPECTOR AMONG INDUSTRY-SPECIFIC OCCUPATIONS AND THE IMPORTANCE OF MASTERING LABOR LEGISLATION. Jurnalul de Studii Juridice, Year IX, No. 3-4, December 2014, pp. 105-117.

concerns aspects which are closely related to labor relationships. For example:

- Art. 56 para.1 letter c, thesis I of the Labor Code stipulates that at the time of cumulative completion of the conditions of standard pension age and of the compulsory minimum contribution stage for old age retirement, the existing individual labor contract of the concerned person shall be terminated de jure, which means the human resources inspector/referent must know, in addition to these provisions related to labor law, also provisions related to social security legislation, i.e. those related to the law no. 263/2010 concerning the unitary system of public pension;
- it is stipulated under the social security legislation (and not in the labor legislation), the fact that period of time for child care leave "shall constitute seniority in work and in service, as well as in specialization and shall be taken into account for the determination of rights to be granted in relation to these", etc.

Other competences which are specific to the occupation by human resources inspector/referent are also predominantly related to the application of labor law and social security legislation, as we shall show throughout the training course.

With regard to the regulations which are specific to the execution activities carried out in the field of human resources in public function system it is shown that (A. Ştefănescu (2012):19) "in order to ensure an effective management of human resources, as well as for the pursuit of the career of the civil servant, the authorities and the public institutions shall draw up the professional file for each civil servant", whose state is being regulated in detail, as well as the record of public positions and public servants.

Activities belonging to the field of public function human resources management (regulated) are also those which relate to (*Ibidem*: 23, 19-20):

- support and specialized advice offered to civil servants holding management positions regarding the application of the legislation related to human resources management, using the procedures and instruments offered by the National Agency of Civil Servants;
- ensuring the secretary commissions for the contests and solving of the appeals in the process of recruitment and promotion of civil servants (mainly by drawing up, drafting and signing along

STEFANESCU, A. (2014). THE PLACE OF HUMAN RESOURCES INSPECTOR AMONG INDUSTRY-SPECIFIC OCCUPATIONS AND THE IMPORTANCE OF MASTERING LABOR LEGISLATION. Jurnalul de Studii Juridice, Year IX, No. 3-4, December 2014, pp. 105-117.

with these committees of the entire documentation, certification for compliance with the original of the diplomas presented by candidates, considering that the bachelor's university degree obtained by a civil servant are in the field of activity of public authority or public institution when promoting in a higher class), respectively drawing up of the documentation by means of which it is ensured the collaboration with the National Agency of Civil Servants;

- completing the activities which are specific to an ethical adviser (for example, offering consultancy and assistance to public servants in the public authority or public institution with regard to compliance with the rules of conduct);
- submission of the documents required by the discipline committee as necessary to the performance of its activities;
- drawing up of programs related to the carrying out of periods of training for beginner civil servants, in collaboration with the managers of the compartments in which they are to carry out their activities;
- activities related to the application of the legislation related to the education and training of civil servants (for example the drawing up of the annual plan for vocational training, planning instrument for the development of a career in public function), ensuring advice and assistance to the civil servants in management positions for determining measures for the vocational training of public servants who are in their subordination);
- preparing the draft plan for employment, recruitment and selection, career management, member function/personnel records;
- supporting the organization of promotion processes etc.

Considering the framework of such responsibilities, we understand that in the process of identifying the daily, weekly, monthly, activities etc. and in their scheduling in terms of priorities, it will be taken into account the legal deadlines, those established by internal procedures of legal acts with legislative normative character applicable to the level of employer (the collective labor contract, Regulation on the company's organization and functioning, Company's Internal rules and regulations), considering also notions such as quality management, time management, strategic management.

STEFANESCU, A. (2014). THE PLACE OF HUMAN RESOURCES INSPECTOR AMONG INDUSTRY-SPECIFIC OCCUPATIONS AND THE IMPORTANCE OF MASTERING LABOR LEGISLATION. Jurnalul de Studii Juridice, Year IX, No. 3-4, December 2014, pp. 105-117.

Conclusions

Even if the human resources inspectors/referents are to be found at the bottom of the pyramid of specialists in labor legislation/law, they must have a more and more complex professional training background. The so-called *documents to keep record of staff* shall be drawn up by the above-mentioned specialist, but also by the legal advisor or by the expert in labor law (as already mentioned, to refer to real legal acts - individual labor contracts, additional acts amending individual labor contracts, decisions, etc.). Thus differences between the three should be very clearly defined - often, a person who is being employed as human resources inspector, paid accordingly, but with responsibilities established in his/her tasks as the ones specific to a legal advisor or expert in labor law. Or the job title is not important, but the actual situation in which the activities are being performed. Professional non-compliance, however, shall be established in relation to the function. They are reflections which, necessarily, must have as a starting point, we believe, the present material.

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STEFANESCU, A. (2014). THE PLACE OF HUMAN RESOURCES INSPECTOR AMONG INDUSTRY-SPECIFIC OCCUPATIONS AND THE IMPORTANCE OF MASTERING LABOR LEGISLATION. Jurnalul de Studii Juridice, Year IX, No. 3-4, December 2014, pp. 105-117.