

## **ASPECTS REGARDING REGULATION OF THE LABOR MARKET IN ROMANIA**

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### **Abstract:**

*With the following paper I plan to surprise aspects of the Romanian labor market through both a legislative and a religious perspective. Thus, the research intends to be interdisciplinary, starting from historical times and up to the post revolutionary Romania, a country affected by the global financial crisis that began in 2008, a crisis that produced repercussions in the labor market.*

**Key-words:** labor code, employee, employer.

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### **Introduction**

In order to understand regulations regarding work in any country, one must start their journey from a few ideas about the roles of religion and law in society.

This way, ones attitude towards work, as a social institution, is determined by the form of social education received from religious institutions (school being second in this direction).

Moreover, law, as an institution – pylon of any human society, no matter the size – represents a frame for people in all domains of public interest and in this circle work and juridical work relationships are fundamental.

### **Religious and legislative aspects regarding the labor market in Romania**

1. The religion of Romanian ethnic members is, in fact, Orthodoxy–predominant or national, through the status given to the National Orthodox Church<sup>1</sup>, others just being political imports (for instance, Catholicism does not appear in The Romanian Countries until the Hungarians entered the territory; neo-protestant cults – only in the XX<sup>th</sup> century etc.).

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<sup>1</sup>Undoubtedly an ample discussion, however, lacking sense in reference to historical truth.

Why is this explanation necessary?

Because after 1990, the Romanian society was profoundly impressed by the works of Max Weber, particularly a paper published in 1922, about protestant ethics. In numerous debates, orthodoxy, seen as a retrograde religion, was considered to be the root of Romanian economical problems. This is still in question today, on forums, where, anonymously, the same people frenetically post messages<sup>1</sup>.

Essential is the following: religion strongly influences the juridical norms of a state and there are states in which the fundamental law itself is inspired by the holy book of a religion<sup>2</sup> (examples being Iran, Saudi Arabia, partially Israel etc.).

2. In this sense, in order to better understand the situation of labor market and of the regulations of work relations in the Romanian state, as well as the Romanian attitude towards work, we are going to briefly present some aspects of Orthodoxy and the corresponding texts<sup>3</sup>.

Thus, the author<sup>4</sup> finds the next ideas important:

- Regarding work, The Lord Jesus Christ and the Holy Apostles adopt the view of the Old Testament, adding just a few aspects typical for Christianity, as a religion of love for people. The Old and New Testament, as deposits of the same revelation in its two states, share the same view of work, the New Testament enriching rather than contradicting the work-related wisdom of the Old Testament.  
Labor is a God-given commandment and a fundamental law of human life, existing as an entity since the beginning of Man. This is why, after the creation of humans and the making of Eden, the Genesis shows how man was placed in the garden in order to work its land, "And the Lord God took Adam and put him in the Garden of Eden to work it and keep it. And the Lord God commanded Adam, saying: Of every tree of the garden you eat. But of the tree of knowledge of good and evil you shall not eat, because the day you eat of it you will die "(Genesis, II, 15-17).
- In order to show how much the beginning of work coincides with the beginning of Man, or even that it is a part of human nature, the Genesis talks about Adam's work in the Garden of Eden even before the creation of Eve from his rib. For only after the above-given passage is the making of Eve mentioned.

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<sup>1</sup> The problem is vaster; we keep in mind the offensive carried out against Orthodoxy and, paradoxically, its cooperation with the Islam. To support this, see the weekly publication "Academia Catavencu" that has a highly anti-orthodox perspective. The magazine's motto, in use for over 15 years, is also relevant: "Our readers are smarter than theirs".

<sup>2</sup> Moreover, these references even appear in the official name of those states.

<sup>4</sup> The comments belong to pr. Prof. Dumitru Staniloaie.

<sup>5</sup> Source: <http://www.crestinortodox.ro/editoriale/invatatura-crestina-despre-munca-70075.html>

We may deduct from here a fact observable in real life, that work is a part of human nature even before a new life is created from him<sup>1</sup>.

- Labor appears as an order from God, as His first comandment. Labor does not only appear after Adam's fall into sin, as a form of punishment and as part of the sinner's condition. So it is not work that represents God's curse on Man (Gen. III, 17-19), but the hardship that is added to it, on one hand because nature is now (after the primordial sin) less fertile and on the other because Man, now lazy and selfish, feels the hardship too strongly<sup>7</sup>.
- Labor, as it is represented in the Decalogue, is defined by the same two characteristics: devine comandment and fundamental law of life. For as God comands through the Decalogue the respecting of the Sabbath similarly He comands that the other six days be working days. To not work emplies disregarding God's will.
- Labor is more than a godly comandment and a necessary condition for life in good conditions, but also the main factor that helps Man form himself and be educated towards virtue. This is the third role that the Old Testament atributes to work<sup>2</sup>.
- Pagan views upon work varied depending on their social status. Filosofers, that usually belonged to the upper classes, considered, with some exceptions, that work is inferior to study and thinking and is only apropiate for slaves. Cicero states that all works dirty the fingers. He who works for pay is unworthy of respect. However, people of the middle and lower class have another understanding of work. Because labor was their way of life, for them it was honest and dear. On a tombstone inscription, a woman prazes her man for he had worked hard for her. However, pagans lack a connection between work and religion and labor is not seen as a deist comandment. Gods do not work, they enjoy themselves; enjoyment often turns into orgy<sup>3</sup>.
- Christianity has the merit of extending the concept about work presented by the Old Testament, to all the nations that were converted to it, completing it with extra positive traits.
- Decisive for Christianity's attitude towards work is the fact that Jesus Christ was born in the family of a carpenter and was one Himself, up to the age of 30. His three years of preaching were also marked by hardship and intense labor (Lucas VIII, 23). He does not rest, „I must work”, says He repetedly (Joan V, 17)<sup>4</sup>.

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<sup>1</sup> Ibid.

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

The Holy Apostol Paul spoke to the Thesalonicians giving them a real comandment or life law regarding the duty to work. "Each make what you have to do and work with your hands, as I have commanded" (I Thess. 4, 11).

- In the second letter adressed to the Tesalonicians the comandment to work is even more accentuated. One who does not work has no purpose, is unorganised and creates hazard in society. His life is aimles and he is useles to society. In addition, he who does not work burdeons the others.
- In order to find a use for themselves and not disturb others, Apostol Paul orders them to work and then eat the fruit of their own work: „We command and we urge some like these in the name of our Lord Jesus Christ to work in peace and eat the bread earned by themselves.” (II Tes. III, 12).
- The Holy Apostol Paul states through a harsh, but just verdict, that existence is conditioned by work, reminding them once again of his previous comandment: „He who does not want to work will not eat”<sup>1</sup> (II Tes. III, 10). Using a negative form, he restates here even more firmly what had been previously said in Gen. II, 15, that only by working the garden can man taste the divine fruit, a religious duty.
- Following the Scriptures, the Holy Fathers and the clerical writers praise labor and condemn laziness. St. Joan, standing up to pagan belief, declares that inactivity is shameful and not work: „Those who work and have a profession should not be ashamed, but more likely those who spend their time in inactivity, those who use slaves and profit from unquestioning assistance.”<sup>2</sup>.

Therefore, we observe that the influence of religion, increased by the development of the Romanian community, made work into a fundamental aspect of their life.

Moreover, this idea must be analyzed through a realistic perspective and post-modernist ideas that almost completely eliminate the economic factor from history studies must be avoided.

To this end, we are going to observe how tatar invasions ocured anually for over 400 years (the last dating 1759), the Romanian countries were occupied over 40 times and the capital 33 times; it shouldn't be understood that the great vitality of the nation and the imense power to work and reconstruct the damage caused by the wars<sup>3</sup> means denying history<sup>4</sup>.

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<sup>1</sup> Over the years, the formula even appeared texts of constitutions.

<sup>2</sup> As shown, wealth is not condemned either.

<sup>3</sup> Just an example related to supplying troops: cans were only invented in the late nineteenth century, until then troops were supported by natives.

<sup>4</sup> For example, work proved to be more bitter when traditional tactics often involved setting fire to the natives' lands.

3. Work analysis is, however, related to a legislative aspect, since it may not exist without certain clear rules to underline the subordinations between employer and employee.

In addition, the political climate deeply influences the work-related legislation, this field being the second most politically-influenced field after that of tax law. This is why, the historical-teleological interpretation method for the juridical norms that have regulated work in Romania<sup>1</sup> is compulsory, and its results may become useful for understanding the situation today.

4. To begin with, we are going to underline that the regulation of labor in Romania was achieved with the help of fundamental law, of different special laws, and, starting with the 1950's, with a special law called the Work Code.

This is why, we will begin with presenting a few aspects about legislation that refers to labor, followed by an undetailed comment upon the fundamental laws prior to 1991 and a presentation of the labor codes. Last, post-revolutionary legislation will be thoroughly analysed.

5. Typical for the regulation method of labor rights is the unequal juridical position of the sides involved in a juridical work relation. It is always that the employer exercises authority over his employee, or, in other words, in a juridical work relation the employee is always subordinated to the employer. Since this distinction cannot be vanquished, the target becomes to limitate it, giving some satisfaction to that who is „juridically weaker”. Thus, in a continuous process started at the end of the XIX<sup>th</sup> century, labor law was established as law designed to protect the employees.

The most important juridical regulations about social work relations have been:

- The Sanitary Law from 1885 and the Unhealthy Industries Regulation from 1894, both mainly referring to hygiene conditions and protection of work;
- The law for organizing work fields in 1902, that regulated apprenticeship;
- The law regarding work protection for minors and women in industrial settlements and mining, in 1906, that established the minimum age required in order to work in industry;
- The Associations' Law, the law for workers' cooperatives, in 1909;
- The law for free Sundays, in 1910;
- The law for workers' insurance, in 1912, that established the obligatory nature of the insurance and managing the risk of accidents as a task of the employer;

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<sup>1</sup> As happens in any other country.

- In 1919, the International Labor Organisation was formed, Romania being one of the founding countries. The orientation of this forum towards truly protecting the employees was an impulse to create important bills in our country: the law for solving work conflicts (1920), the law for professional syndicates (1921), the law for free Sundays (1925), the law for organising inspection services (1927), the law regarding work contracts (1929), the law regarding labor jurisdiction (1933) etc.;
- During the years 1938-1944, labor legislation in our country declines, and the doctrine of the time does not permit the idea of the appearance and existence of labor law during the interbelic period, but only that of an „industrial legislation” or a „labor legislation”;
- Beginning with August 23 1944, the new social layout installed in Romania imposes its characteristics in the plan of labor law<sup>1</sup>. The bills adopted primarily concerned: professional syndicates (Law no.52/1945), salaries and savings (Law no.48/1945), protection of work (Law no. 408/1945), jurisdiction of labor (Law no. 411/1945).

It appears that there did not exist a coherent, unitary vision in this field, unlike in other activities where codification manifested itself rapidly – the Romanian state had no particular interest in the protection of the workers.

6. The first Romanian Constitution appears in 1866, but does not explicitly state the right to work. It expresses a more general obligation to help successfully accomplish the state’s tasks and it would follow that this obligation is executed through work (art. 13).

The 1918 union brings forth a new fundamental law, completed in 1923.

Again, a slighter preoccupation for social and economic rights may be remarked (in this category we include the right to work).

Here we will find a few regulations that refer to work<sup>2</sup>, in art. 21, as follows:

„Art.21. All factors of production are equally entitled to protection.

The state has the right to interfere, by law, in the relations between these factors in order to prevent economic or social conflicts.

The liberty of labor is to be defended.

The law will regulate social insurance for the workers, in case of sickness, accidents and others.”

Furthermore, we must mention a new born need to unite Romanian legislation, action completed as late as 1996<sup>1</sup>, civil law being extended over the Carpathians as late as 1943.

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<sup>1</sup> The other area with important changes is the criminal penalties, followed later by issuing monetary matters.

<sup>2</sup> Since 1919 Romania was a member of the International Labour Organisation.

This way, certain factors of the austro-hungarian legislation regarding labor subsisted until 1943 and others were applicable throughout the 1940-1946 period.

As you may see, the state takes an active stand in the labor market, protecting freedom of labor and trying to ensure a favorable social situation for the employees. Despite all this, art. 21 was not truly and realistically applicable.

Charles the 2<sup>nd</sup>'s Constitution does not contain any direct reference to labor, the style in which it is written is a voluntary one and at the time the left wing extremist communist doctrine was not appreciated in Bucharest.

7. Communism, instaled during war, is followed by the transformation of the Kingdom of Romania into a republic, and in 1948 the first Constitution is edicted, with different dispositions about labor, this time consecrating the right to work, also seen now as an obligation of every citizen. Here are a few aspects presented in the fundamental law relevant in this matter:

„Art.2. The Popular Republic of Romania was established through battle conducted by the people, starting with the working class, against fascism, and imperialism.

Art.5. In the Popular Republic of Romania, the means of production belong either to the State, as good of the entire people, or to the cooperative organisations, or to proprietaries.

Art.9. The land belongs to those who work it.

The state protects the work of the peasants. The state supports and encourages rural cooperation.

In order to stimulate the growth of agriculture, the state may create agricultural enterprises, as part of its porperty.

Art.11. When general interest calls for this, the means of production, bancks and insurance companiess, that are private property may become State property, which is a good of the people under the circumstances dictated by law.

Art.12. Labor is the main factor of the economic life of the State. It is a duty of every citizen. The state supports all those who work, in order to protect them from being exploited and in order to raise their income lifestyle.

Art.15. The state guides and plans the national economy as to developpe the country's economic strength, to ensure the people's well-being and the national independence.

Art.19. The citizens have the right to leasure. The right to leasure is assured by regulations regarding working hours, paid holidays - aording to the law,

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<sup>1</sup> By adopting L. No. 7 of 1996 on real estate advertising

organising of retirement homes, sanatoriums, clubs, parks, sports fields and settlements.

Art.21. Women and men are equal in every domain of State life, economical, social, cultural, political and private.

For equal work, women are entitled to the same salary as men.

Art.25. The state is responsible for public health through the development of sanitary services and through encouraging and supporting physical education.

The state ensures social protection and medical assistance for sickness, accidents and invalidity resulted from work, during work or while defending the country as well as for old age, both for public workers and for workers in the private sector, whose contribution and rights are settled by law.”

As you may easily see, the interest of the Romanian Communist Party for creating a social base was consistent, and, this given, the constitutional legislation played an important role.

To this end, art.2 from the fundamental law, as well as art. 9, 12 and 20 must be quoted.

**8.** On the grounds of these constitutional texts, in 1950 brings law no. 3, which consists of a first labor code.

Thus, the regulation as well as the subjects it is addressed to are found in art. 1 and 2:

„Art.1: The Labor Code sets rules for collective work contracts and the work contracts, norms for labor and salaries, time of work and rest, material responsibility and compensations, protection of work, social insurances, jurisdiction of labor as well as for any other work-related issues.

Art.2: the Labor Code applies both to the employees – workers and functionaries and to the State institutions, enterprises and economic organizations of the State, cooperative organizations as well as to those in the private sector using paid labor.”

As disclosed here, there is no difference between public positions and employees from economic enterprises (industrial or agricultural), and the area covered by the regulation is a normal one, in accordance to the principles of formal law<sup>1</sup>.

Institutions for giving notice (art.16), for detachment (art.16), and for delegation (art.17) are provided. Ministries and syndical unions must reach a consensus for production norms (art.27). Also, the code refers to product quality and spoilage (art.30 - 31).

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<sup>1</sup> Branch of law that studies of writing regulations.



The 8 hour per day work period as well as the 7 hour night shift are established through the dispositions of art. 49 and 50. In addition, the weekly rest time is regulated at 24 hours and vacations at 24 days per year (art.63).

Art.103 stated that social insurance for workers and clerks be completed through State Social Insurances, that function inside syndicates, and that organizing, leading, guiding and control of the State Social Insurances be executed by the General Labor Confederation through the State Social Insurances Council.

9. In 1952 Stalin himself lays out a new Constitution for Romania, much harsher than the previous, for not all characteristics of communism had been included in the 1948 text. We are going to present some of the dispositions, in order to better understand the frame in which many post-war generations have lived, as well as some of the consequences of these regulations.

In the introductory chapter the following are established:

„The Popular Republic of Romania is a state of the working people in the urban and rural area.

The birth of the Popular Republic of Romania is the result of the glorious victory of the Soviet Union over german fascism and of the liberation of Romania by the glorious Soviet Army, liberation that gave possibility and strength to the working people, beginning with the working class led by the Communist Party, to take down the fascist dictatorship, to destroy exploiting classes and build a state of popular democracy that fully matches the interests and aspirations of the masses in Romania.

Thus, the century-long battle of the romanian workers for freedom and national independence, the heroic battles of the working class in aliance with the working peasantry to take down the captialist regim of the landowners was historically victorious.

This Constitution enshrines the Romanian People's Republic of results achieved to date by working people, especially the working class in the creation of a socialist society in our country.

The popular democratic policy of the state is oriented towards the abolishment of exploitation of man by man and the construction of socialism.”

Through a legal and economic perspective, the key idea is the phrase "This Constitution enshrines the Romanian People's Republic of results achieved to date by working people." It is clear that further steps were being prepared towards building a new society, closer to the Marxist ideal.

We will also demonstrate the following:

"Art.1. Romanian People's Republic is a state of working people in towns and villages.

Art.2. The Romanian People's Republic source of popular power is the alliance of the working class and peasantry, the leading role belonging to the working class.

Art.3. Romanian People's Republic was born and strengthened as a result of the liberation of the country by the armed forces of the Union of Soviet Socialist Republics from the yoke of fascism and imperialist domination, as a result of landowners and capitalists loss of power at the hand of the masses of the towns and villages led by the working class, under the leadership of the Romanian Communist Party.

Art.4. Inside the Romanian People's Republic power belongs to the working people of towns and villages, which exercises it through the Grand National Assembly and People's Assemblies.

Art.6. Socio-economic foundation of the socialist party is socialist ownership of means of production which has either the form of state property (common good of the people) or co-ownership in a collectivist form (collective farm property or cooperative organizations).

The socialist party of the national economy wounds exploitation of man by man.

Art.11. Private-capitalist party in the Romanian People's Republic includes landlords' households, private businesses, small industrial enterprises based on the exploitation of wage labor.

The democratic state consistently performs the popular policy of containment and disposal of the capitalist elements."

The most important provision appears in Art.15, which states that: "In the Romanian People's Republic work is a duty and it is a matter of honor for every citizen able to work on the principle of" who does not work shall not eat". The Romanian People's Republic is accomplished on the more general principle of socialism: "From each according to his abilities, to each according to his work."

Other relevant provisions are:

"Art.16. State regime of Romanian People's Republic is the popular democratic regime, which is the power of working people".

In the chapter on citizens' rights, the first is right to work, followed by the right to rest:

"Art.77. Citizens of the Romanian People's Republic are guaranteed the right to work, ie the right to receive guaranteed work and be paid according to quantity and quality.

The right to work is guaranteed by the existence and development of the socialist party of the national economy by increasing the continuous and systematic

productive forces in Romanian People's Republic, by removing the possibility of economic crises and unemployment liquidation.

Art.78. Citizens of the Romanian People have the right to rest.

The right to rest is provided by: establishing the working day of 8 hours for workers and officials, reducing working hours for certain professions under 8:00 with difficult working conditions and sections with particularly heavy working conditions, setting annual leave paid for all workers and officials, rest homes available to the working people, sanatoriums and cultural institutions.

Art.79. Citizens of the People's Republic of Romania have the right to material security in old age, sickness or disability.

This right is guaranteed by developing broad social insurance for civil workers, at the state expense, through free medical care given to the employees and by giving access to climatic spas.

Art.86. In accordance with the interests of the working people and in order to develop political and public activity of the masses, citizens of the People's Republic of Romania are assured the right of association in public organizations, unions, cooperative unions, women's organizations, youth sports organizations, cultural, technical and scientific associations.

The most active and aware citizens of the working class and among the other strata of working people unite in the Romanian Workers' Party, the vanguard of the working people in the struggle to strengthen and develop the system of popular democracy and construct a socialist society.

Romanian Workers' Party is the driving force of the working organizations and state organs and institutions. Around it gather all the organizations functioning in the Romanian People's Republic.

**10.** After the political system was able to relax the life in the country a little bit (after 1958, especially after major events of 1964<sup>1</sup>), has adopted a new constitution in 1965, which remained in force until 1991, a new Constitution was adopted, in 1965, the basis of the Labor Code of 1972.

The Constitution of Romania:

"Art.1. Romania is a socialist republic. The Socialist Republic of Romania is the state of working people in towns and villages, sovereignty, independence and unity. Its territory is inalienable and indivisible.

Art.2. All power in Socialist Republic of Romania belongs to the people, free and master of his fate.

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<sup>1</sup> The declaration of independence of the Romanian Communist Party, the liberation of political prisoners

People's power is based on worker-peasant alliance. In close union, the working class - the ruling class in society - peasants, intellectuals, other categories of working people, irrespective of nationality, build the socialist system, paving the transition to communism.

Art.5. - Romania's national economy is a socialist economy based on socialist ownership of means of production.

In the Socialist Republic of Romania, the exploitation of man by man is forever abolished and the socialist principle of distribution is carried out by the quantity and quality of work.

Work is a duty of honor for every citizen of the country." In the text of the fundamental law, the second right of the Romanian citizens is the right to work, being relegated to second position:

"Art.18. In the Socialist Republic of Romania, citizens have the right to work. Each citizen is assured the possibility to perform, according to his preparation, an activity in the economic, administrative, social or cultural domains, paid according to its quantity and quality. Equal remuneration for equal work.

The law shall establish measures for the protection and safety of labor protection as well as special measures for the women and youth.

Art.19. Citizens of the Socialist Republic of Romania have the right to rest. Guaranteeing the right to rest is setting the maximum duration of working hours to 8 hours, a weekly rest and paid annual leave.

In sectors of hard work, hours are reduced below 8 hours without salary reduction.

Art.20. Citizens of the Socialist Republic of Romania have the right to material security of old age, illness or disability.

The right to material security for workers and civil servants is done through pensions and sickness benefits provided under the social security system and for members of cooperative organizations or other community organizations, the forms of insurance held by them. The state provides health care through its institutions. Paid maternity leave is guaranteed."

**11.** The Labor Code appears 7 years after the new Constitution, and is a real legal evolution, being replaced, however, after several amends in the period 1990-2002, in 2003, by Law no. 53/2003.

The Labor Code of 1972 sets the general labor regime in Romania, by means of its 191 articles.

Key provision of this code is contained in Art.4, and it refers to the homogenization of society: "With the development of the socialist economic basis, the introduction into production of the results of contemporary science and technology, education and cultural development in our country, there is a gradual

removal of the essential differences between physical and the intellectual life of work and between the village and the city, and a gradual homogenization of society.”

Other interesting provisions were:

Art.5. (1) Work under the conditions of socialist society, forms and develops new relations among people, collaboration, self-help and mutual respect - the principle "all for one and one for all" - actively contribute to the formation and development of human personality.

Art.6. The theft of someone else's work in any form and all other manifestations of social parasitism are prohibited as incompatible with the socialist system, the principles of socialist ethics and equity.

Art.7. Since age 16, every person of working age and not attending a school is obliged to carry up to retirement age, work useful to society, to ensure its livelihood and spiritual development.

Art.8.(2). Each member of the work team is involved in the management unit and is responsible to society, both individually and together with other members of staff for the proper management and development of part of the national wealth and is entrusted the duty to devote their full capacity, skill and labor power to the unit in which they work in the scope of operating with maximum efficiency.

Art.9.(1). Working people of the Socialist Republic of Romania are guaranteed the right to participate effectively in the management of political, economic and social development.

(2) As an expression of the deepening of socialist democracy, the activity of all units is based on work and collective leadership.

(3) Participation in management units of employed persons is ensured directly or through their representatives in general meetings, committees as well as working people conceals and other organs of collective leadership and in organized forms of collective participation to solve the problems in their units. " Amalgam of public function, its regulation and workers in industrial and agricultural enterprises is maintained.

What should be stressed in the context of any legal text analysis is the correlation between moral and legal norms, the differences always being interpreted and applied strictly, and space does not allow us to extend the analysis to such a degree, which is closer to research in a doctoral thesis.

Art.75 specified the conditions for promotion according to para. (2) stating that it takes account also of political training, organizational and leadership skills of those involved to be in such positions, as well as assessments and recommendations of the working team where they have worked.

12. The provisions of this code had to be amended by the Romanian legislator since 1990, under pressure to move to a new way of political and economic settlement of society, the appearance of unemployment, massive layoffs, etc.

Also, under the specific regulations of labor law officials are excluded, but only in 1999 with the adoption of the civil servant status. However, it is obvious that where the special law does not provide explanations, provisions of the Labor Code, the general law, will be invoked.

Provisions of the fundamental law, adopted in 1991, as amended and republished in 2003, talks about labor relations in three articles<sup>1</sup>:

"Art.41. Employment and social protection of labor

(1) The right to work can not be restricted. The choice of profession, trade or occupation, as well as workplace is free.

(2) Employees are entitled to social protection measures. These concern safety and health of employees, working conditions for women and young people, establishing a minimum gross wages, weekly rest, paid annual leave, work in special conditions or special training and other specific conditions set by law.

(3) The normal working day is, on average, up to 8 hours.

(4) On equal work, women have equal pay with men.

(5) The right to collective bargaining on employment and collective agreements binding are guaranteed.

Article 42 - Prohibition of forced labor

(1) Forced labor is prohibited.

(2) This is not forced labor:

a) activities for military duties, as well as activities replacing these, because of conscience or religious reasons;

b) the work of a sentenced person, carried out under normal conditions, during detention or conditional release;

c) Services required dealing with a calamity or any other danger, and those that are part of normal civil obligations established by law.

Art. 43 - Right to strike

(1) Employees have the right to strike to defend their professional, economic and social development.

(2) The law establishes the conditions and limits on the exercise of this right, and guarantees necessary to ensure essential services to society."

The most important changes in labor laws took place in 2003 and 2011, relating to general law, because in 2003, under a leftist government, a new labor

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<sup>1</sup> The updated text

code is adopted, which, though a step forward in terms of formality, is seen to be criticized from the start by the business environment, who noticed that certain freedoms it would find desirable (often closer to modern day slavery<sup>1</sup>) are not provided.

In fact, the change in 2011 - linked to the flexible end and especially the abolition of the individual employment contract - is a compromise between the plight of the Romanian state, which has lost a lot of economic leverage (but not all, and not those decisive, because royalty rights do not ever disappear from the state<sup>2</sup>), foreign-owned businesses that want not only to take advantage of a labor market still incorrectly structured and the continental economic situation - as countries in Europe and Asia (Eurasian) are the main trading partner.

The current labor code is a very large law containing 281 articles which regulate, as mentioned, most times, in accordance with moral Romanian society. Problematic provisions refer to detail and analysis of judicial practice in 2003 shows far less gaps of the legislator (with one exception, the situation of collective redundancies), and especially the practice, subject to the action of different vectors.

Romanian legislation has seen or knows the special laws in labor law and other related institutions (unions, labor disputes, the legal status of different professions, etc.) Joining them and other specific rules reduced in size other regulations governing the various other aspects of social life. What does not help the Romanian government and regulation of labor relations is the great discrepancy between the text and normative acts (as often) and their application in a society sick of incompetence, lack of functional illiteracy<sup>3</sup> and patience.

### **Conclusions:**

We hope that this global crisis, once completed or entered into a clearer phase - even if very hard for a number of years - will allow the Romanian society to sit in solid frames and resume performance. And it should be working better. And the one who warned us that work does not bring us use, but only shame is Nicolae Iorga – the time has come to remember the teachings of our great forefathers.

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<sup>1</sup> Workaholics are a symptom of this vision

<sup>2</sup> E. Bălan: „Instituții Administrative”, ed. C.H.Beck, Bucuresti, 2008, pages 8 and 9

<sup>3</sup> M. Văcărelu: Analphabetism in the 21<sup>st</sup> Century and its Legal Consequences at <http://proceedings.univ-danubius.ro/index.php/eirp/article/view/733>

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