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**Theoretical and Practical Foundations on the People with Disabilities
Labor Law in Romania**

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Abstract: Labor law is one of the most important issues of law both national and international level. In this study we will examine the area of labor law and social security labor law by profiling the study of this field in the segment of socio- professional protection and integration of people with disabilities at national level. The economic changes as well as the social changes that have occurred in our country during the last years had a significant impact over the population, especially among people with disabilities. In order to reduce the impact of economic fluctuations over the people with disabilities, the Romanian authorities complied to the international requirements and actively promotes social policies to ensure the integration of the disadvantaged people in the community and preventing the emergence of social barriers that restrict the implication of the affected people to social life. The implication of Romanian state in the socio- professional insertion of disadvantaged people can be considered a preventive form of social protection designed to avoid social initiation as well as avoiding the complete disruption of social relations between societies and people with disabilities.

Keywords: labor law; social security labor law; people with disabilities; integration; social protection

1. Introduction

In order to collect and interpret the necessary data for the preparation of the present research, we will use the “content analysis” research method, taking into account the theoretical concepts of labor law at national level as well as the legislative provisions adopted over the time in order to consolidate the people with disabilities acces on the labor market and, implicitly, their socio- professional integration in the society. Content analysis is considered to be “a set of qualitative and quantitative research techniques, both verbal and nonverbal communication for the objective description and systematic identification and description of the content of the manuscript and/ or of the attentive content, in order to draw conclusions about the individual and society communication itself, as a process of societal inter-action”. (Chelcea, 2007, p. 573) As a matter of course, we intend to make a correlation between the general law and labor law and the measures adopted by the law maker to support and develop the social inclusion of people with disabilities. Moreover, labor law has been frequently used to establish workplaces between people with disabilities and asylum seekers in order to support their social insertion as well as to eliminate all kinds of discrimination between the social classes.

This produces a particularly complex phenomena of working conditions in optimum conditions, with benefits for both the employers and the employees with disabilities. In order to achieve this objective, the Romanian state significantly contributes to socio- professional inclusion of people with

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disabilities, providing both the legal and the financial support necessary for the provision of professional activities by this social class, as we will see in this study. The social measures promoted by the Romanian authorities in view of the socio- professional insertion of people with disabilities that we will present in this paper, prove to be extremely useful for the societies, as we will observe. By means of this measure, the social and professional situation of the affected persons is improved, on the one hand, and the potential of the social policy is appreciated in the interest of the community, on the other hand. In order to achieve this objective, the Romanian state established for the first time, by Ordinance no. 14/ 2003 the National Authority for People with Disabilities (ANPD). One of the main contributions of the ANPD is the application of national strategies for the special protection of the people with disabilities, as well as approving all the necessary normative powers for the development and application of the strategy. The first protection strategy for people with disabilities was funded by the National Authority for People with Disabilities in 2003's and included in its content a national action plan for the 2003- 2006 timeframe. By means of the action plan with long- term objectives, there were proposed “reforms of the system of protection of people with disabilities, focusing on the evacuation and individualization of intervention, restructuring of residential institutions, creation of alternative services, consolidation of the parentage between public and private institutions and increasing the competencies of local authorities. The main objective of the national strategy was the creation of a continuous integrated protection and support system for people with disabilities, through the reform of the central institutions administration and the institutional reform of the field, in view of the increasing the life quality of the affected people.” (Neamțu, 2003, p. 962) The focus of the strategies development for protecting the people with disabilities has been manifested in recent years as national strategy named “A barrier- free society for people with disabilities in the period 2015- 2020”. Thus, through the adoption of this strategy, the Romanian State is obliged to mobilize all the financial, social, legislative available resources to prevent the marginalization, discrimination and violation of people with disabilities rights. As highlighted in the above, in the present, the socio- professional insertion of people with disabilities as well as the improvement of their living conditions was convinced.

In support of my assertion, the results obtained after the “A barrier- free society for people with disabilities in the period 2015- 2020” national strategy implementation highlighted the fact that “There are a million people suffering by a form of disability. Of these, between 100 and 190 million people face an important functional limitation. It is argued that the number of people with disabilities will increase in the future, among the factors that cause the global phenomena of population aging, the increase in average lifetime and the exposure of non- incurable diseases.”¹ In order to have an insight view into this issue, we mention that we had chosen to investigate this topic because we considered that society’s interest in socio- professional integration of people with disabilities is far too low to be important.

Although benefiting from additional means of protection from the Romanian state, people with disabilities are often discriminated by the members of the society who filter their medical conditions through the prism of hostile stereotypes transmitted at national and international level even during the Holocaust, German practices of pure breed conservation is a representative example in this case. Through this research we intend to highlight the lack of interest of the Romanian society regarding the socio- professional integration of disadvantaged social categories as well as highlighting the benefits

¹ The Romanian Government (2015). *Narrative Strateg A barrier- free society for people with disabilities in the period 2015- 2020*, p. 17.

that can be brought to the labor market through the provision of professional activities by persons with disabilities, as we will remark below.

2. Contents

2.1. The Notion and Object of Labor Law

The concept of work is directly related to human life, as we well know that this is defined by the authors who studied the aspects of social life as “specific human activity- manual and/or intellect- through which people use their physical and intellectual attitudes to produce the goods required by the sacrifice of their needs.” (Ștefănescu, 2000, p. 15)

Regarding this aspect, Traian Ștefănescu defines the work as follows: “Work is a life condition. A suspension, being part of the work, paralyzes the social body and the people lives, and its total cessation, even for only a week, would be a huge catastrophe, similar to what the novelists invented to describe the end of the world. Inactivity is clearly synonymous with death.” (Ștefănescu, 2012, p. 12)

We therefore see the direct correlation between work and the survival of the human species, and therefore we note the surprising importance of work in everyday people’s life. Work is perceived as a human life condition because all the goods that people use in their daily life are the result of their work.

As we can see from the definition of the work process, there are no application restrictions, so that it can be provided by any person, without discrimination: men, women, elderly people, people with disabilities, representatives of other religions or nationalities, under the conditions they certify that they are physically and/ or mentally fit for their activities. On the background, the following features of the workforce are distinguished: “- inseparable from the person providing it, unlike any commodity; - impossible to keep- the person who does not work at any time at work, can not use it later; - can not be quantitatively increased- without affecting, as a rule, the biological substance of the person concerned, it can grow in qualitative terms in the human capital situation; - numerically determined, as working people, mainly by demographic laws and not by labor demand; - quite difficult to move, from one area to another, from a country in another country, even under the current conditions of globalization. Movement of the person is difficult due to his family link, working environment, language, habits, climate, etc. from the area or the origin country.” (Ștefănescu, 2012, p. 12)

2.2. Equal Opportunities for the Employment and Avoiding Work Discrimination for People with Disabilities

Taking into account the above- mentioned labor characteristics we can conclude that the provision of professional activities is a very complex process that can be applied in many forms and fields. Moreover, any form of unjustified behavior that disadvantages a person belonging to a disadvantaged social backgrounds such as people with disabilities, different nationalities, different sexual orientation, other religion, gender, etc. constitutes a contravention and is sanctioned as such, according to the Ordinance no. 137/ 2000 on the prevention of all forms of discrimination, as follows:

“Art. 5. It is a contravention under this Ordinance that the participation in an economic activity of a person or the free choice or exercise of a profession of belonging to a certain race, nationality, ethnicity, religion, social category, respectively by beliefs, by gender or orientation sex, age or belonging to a disadvantaged category.

Art. 6. It is a contravention under this Ordinance that a person is discriminated against on grounds of belonging to a particular race, nationality, ethnic group, religion, social category or disadvantaged social category in work and social protection, except in the cases provided by law, manifested in the following areas:

- a). Conclusion, suspension, modification or termination of the employment relationship;
- b). Establishing and modifying job or salary duties;
- c). Granting other social rights than salaries;
- d). Training, retraining, reconversion and professional promotion;
- e). Application of disciplinary measures;
- f). Right to join the trade union and access to the facilities granted by it;
- g). Any other conditions of work, according to the legislation in force.

Art. 7

(1) In accordance with the present Ordinance, it is a contravention to refuse a natural or legal person to employ a person on the grounds that it belongs to a certain social category or a disadvantaged category except in the cases provided by the law.

(2) It is a contravention, according to the present Ordinance, the condition of filling a post by announcement or competition, launched by the employer or his representative, belonging to a certain social category or a disadvantaged category.

(3) The natural and legal persons with responsibilities in mediation and repartition will apply equal treatment to all those who are looking for a job, will ensure to all job seekers free and equal access to the demand and supply consultation on the job market, on advice on job opportunities and qualification and will refuse to support discriminatory demands of employees.”¹

As a result of discrimination forms suffered, the person who considers himself to be discriminated has the possibility of making a written request, accompanied by the proof of the discrimination form at the request of the local court, to restore the socio- professional status in which they were before they were victims of discrimination.

It is important to note in this situation that the request may be submitted to the court within up to three years from the date on which the act of discrimination was committed.

2.3. Labor Law and Social Security Law. Theoretical Definitions and Delimitations

“Labor legislation is made up of all the legal norms governing the relations established during the process of concluding, executing, modifying and terminating the legal relations of labor, based mainly on the individual labor contribution.

As a branch of the science of law, labor law deals with the analysis of the legal relations between employers and their employees.” (Ștefănescu, 2000, p. 28)

Labor law, as a branch of law, is a set of legal norms to sustain labor relations between employers and their employees.

¹ The Romanian Government. G.D. no. 137 of 31 August 2000 on the Prevention and Punishment of All Forms of Discrimination discrimination, Official Gazette no. 137 of January 2018, p. 3.

As consequence, labor law is in fact the right of collective labor work because legal labor reports are confirmed by the conclusion of an individual labor contribution which is the main subject of the legal norms and culminating in a collective labor contribution.

We can therefore speak about the existence of an individual right to work and the existence of collective labor law.

“The first refers to the conclusion, execution, suspension, termination and nullity of the individual labor contract, including the rights and obligations of the two parts involved in the work process, the resolution of disputes between them, the liability of one of them to another and even vocational training. Collective labor law is defined as the legal norms set governing the relations between employees or groups of employees and also between employer or groups of employers.” (Țiclea, 2015, p. 15)

Moreover, the labor law area is particularly complex, including here additional legal references such as labor protection, hygiene, professional training, trade unions and so on.

We therefore observe a correlation between the law, the collective labor contradiction and the individual labor contradiction, a correlation that governs the legal relation of labor between employer and the employees, the accent being perceived in the profile literature as “social relations ... between a person, on the one hand, and a legal person ... on the other hand, whereby the first part involved undertakes to work for the benefit of the other, and the latter undertakes to pay it and create all the necessary conditions for the performance of that work.” (Grădinaru, 2005, p. 8)

The social security right, is “that branch of the autonomous law, belonging to the public law, comprised of all legal norms regulating the social and social assistance relations”. (Țiclea, 2015, p. 6)

The two branches of law, labor law, respectively social security law, share the same preoccupation for the development and social policies support regarding the socio- professional integration of individuals and the provision of a legal framework for the development of the employment relations between the employee and the employer.

Another common point between the two branches of law is the existence and the unfolding of social security rights resulting from the quality of the employee: unemployment benefits, medical leave for temporary work incapacity, child raising allowances, etc.

The provisions of the labor law and social security apply to all Romanian citizens and altered citizens or stateless persons during their stay in Romania, as well as to the time frame in which they contribute financially to the support of the retirement funds and social insurance system.

As an exception, people who doesn't contribute to the social security system can be secured to the public system through a social insurance.

2.4. National Sources of Labor Law

Sources of labor law are common to those of social security law. Labor law refers to the specific forms through which the accent finds its expression. Expressions are a form of normative, legal norms of labor law find their correspondents in laws, ordinances of regency, decisions of the Government etc.

So, we deduce from the fact that the sources of labor law are grouped into two major categories: a). Common sources with other branches of law at general level: laws, constitutions, ordinances etc; b). Specific labor laws: professional stays, individual collective work form, organizational and operational rules, ethics codes personalized according to the public or private organization. a). Exemplified, the

first category, common sources with other branches of law, including social security law. The Constitution: It is the most important source of law at the national level, being considered the base of the Romanian State. This normative act provides procedural indications for constitutional texts, such as labor law, social security law, the right to strike participation, the health and safety right at work, and so on. Labor Code: it is considered to be the most complex source of labor law. “His importance for labor relations is different: but the autonomy of labor law as a branch of the unitary system of our law has ensured and ensured a unitary regime for the employees. Also, a number of main institutions in labor law are transposed, with their specific peculiarities in the service relations of civil servants as well as in cooperative relations.” (Țiclea, 2015, p. 42) Special laws: other laws regarding the workplaces of the citizens. The main laws we considered relevant to this research topic are: - Law no. 108/1999 on the labor inspection establishment and organization; - Law no. 210/1999 on the paternity leave; - Law no. 76/2002 on the unemployment insurance system and the employment support procedures; - Government Decision no. 1091/2006 on minimum safety and health requirements health at work, etc. Ordinances and other normative acts issued by directors and other central authorities: for the purpose of law enforcement and the stalling of technical and organizational measures. Examples of the main principles to be considered relevant to this research theme are the following:

- Order of the Labor and Social Solidarity Minister no. 64/2003 for the individual labor contract model approval; - Order of the Health Minister no. 870/2004 for the control approval on working time, organization and performance of the night guards in public health services; - Order of the Labor, Family and Social Protection Minister no. 1918/2011 for approving the procedure and the acts that employers must submit to the territorial labor inspectorate for obtaining the password, as well as the procedure regarding the transmission of the general register of employees records in electronic format.

2.5. Fundamental Principles of Labor Law

Considering the complexity of the field of labor law, we conclude that it is based on different principles that regulate the social relations of labor, principles that are grouped in two categories:

General principles extended to the level of Romanian law: the principle of law equality, the legality principle and others; - Fundamental principles, specific to labor law, which are included in the Labor Code.

In fact, these principles do not remain in the theoretical construction, being only a legal framework, but they are also used in practice to interpret labor law norms, to help resolve conflicts at work, and to analyze any possible option to establish a legal and employment perspective.

In the following, I will briefly present these principles to highlight their importance in labor law:

1) Conserving the Right to Work

The right to work is a fundamental right which, through the development of professional activities and by means of the remuneration in the past, contributes to ensure the people’s adequate lifestyles.

The limitation of the right to work, with due respect for the legal provisions and requirements, can be seen from two angles:

“- In a broad, constitutional sense, the right to work includes the freedom to choose a profession, job or occupation, work in or out of the country, social labor protection, wages, the right to collective and individual negotiations, stability in the work process; - In a narrow sense, the right to work, in the conditions of the economy market, is conceived as including mainly labor freedom and stability in work.” (Ștefănescu, 2012, p. 74)

From my point of view, the freedom to work has a bilateral meaning. This includes the right to work, as well as the right to not work, depending on the individual wishes. In the Labor Code - Law no. 53/2003, there are some representative articles that allow and offer work stability, such as an individual contract with indefinite duration, but in essence, the Romanian state does not have the potential to guarantee the stability in work for the citizens of the country. Looking at things from a different angle, I would rather consider that the Romanian state is establishing other types of legal safeguards, some of which are: - employment of disabled people to benefit from a range of economic facilities; - support for the professional training policies for people with disabilities; - the establishment of a social protection system for the unemployed, the elderly and disabled people in order to ensure equal opportunities for their inclusion on the labor market; - temporarily supporting, as the case may be, from the financial point of view of the defaulted persons; - insufficient attempts, I think, to create new jobs for disadvantaged citizens. In conclusion, I consider that the right to work is a guaranteed right in the Romanian state, given the aspects I have set out in the above.

2) Equal Treatment for all the Employees and the Employers

“Citizens rights for equality- before the law and public authorities, without privileges and without discrimination- is a constitutional principle provided by Article no. 16 of the Basic Law. Article no. 5, no. 1 alin. of the Labor Code concretises this constitutional principle in a specific way for the parts of individual and collective relationships.” (Ștefănescu, 2012, p. 74)

We also observe that the equal treatment principle has been provided for the first time by the Labor Code. I remark from here the primordial importance of the emergence of the Labor Code at national level.

From my point of view, this principle is representative for the present study, because the Labor Code is a legal action for the workplaces development, without discrimination, by people with disabilities. However, “ensuring equal treatment of employees and employers does not mean uniformity, failure to take into account particularities, specific requirements. On the contrary, the lawmaker or the person called to apply law- employee or employer- may take into account some particularities that necessarily and rationally imply a differential and reasonable treatment, acceptable in a democratic society.” (Ștefănescu, 2012, p. 74)

3) Ensuring Collective and Individual Negotiation

Through collective labor forms, labor law becomes a negotiating right. Although by the adoption of Law no. 62/2011, the social dialogue restricted the existence of a multiple number of collective labor contraries, lately constituted the basic source of collective negotiation. At this moment, the number of collective labor forms has been reduced to a single national form established at national level. Particularity, the application area for the provisions of the collective labor is restricted in the public sector, so that the professional activity of the civil servants is strictly stamped through various legal regulations (As example: the Civil Servants Statute).

4) Multilateral protection of employees

The Romanian Constitution contains an illustrative representation of the evolution of this principle. Thus, Art. No. 41 (2) of the Constitution of the country provides as follows: “Employees are entitled to social protection measures. These concern the safety and health of employees, the working

conditions of women and young people, the establishment of a minimum gross national salary, weekly rest, paid holiday, special work, training as well as other specific situations set by law.”¹

It is clear from this that any employed person benefits from the right for social protection measures. The plurality specific derives from from the labor work force, and also from the legal protection against the affected people. Moreover, the legal subordination of the employee to the employer during the individual contract of employment requires individualized protection over the one who presets the work. Of course, on the contrary, the authorities had the obligation to set specific dues for employees, not only to ensure the protection of employees.

5) Respect for good faith

Good faith was originally instituted through the Labor Code, by Article no. 8, as a labor principle and it is manifested in the form of loyalty to the conclusion of individual/ collective labor contribution as well as in the form of fidelity and cooperation between employed and employer in the professional activity of the individual, implicitly the collective labor contract. By the way, the above mentioned characteristics are based on effective information and communication between the employer and the employee. Moreover, good faith is the possibility of producing legal effects in the areas where legal rules are found to be incomplete.

6) Stimulating social training and improvement

Professional training of employees is one of the social protection measures provided by the Romanian Constitution. Moreover, I consider that this measure was necessary for the economic progress, the constant information and the demands of the labor market, which calls for a perpetual preoccupation with the workers progress, at the same place in which the industry is constantly performs.

7) Ensure the free association of employees and employers to protect their rights and promote their professional, economic and social interests

This principle allows employees and employers to associate themselves in order to defend their rights and promote their professional, economic and social interests.

8) Ensuring the right to strike

Everyone has the right to a collective association that involve a temporal activity cease. The Romanian Constitution makes a distinction between the strike and the right to union, but it does not exclude the right to collective negotiation.

2.6. Work and Employment of People with Disabilities

At the international level, we observe the implications of United Nation member states for the rehabilitation and socio- professional integration of people with disabilities on the labor market. More than enough, the member states of the organization are actively promoting equal rights for people with disabilities. In order to accomplish this goal, the United Nations adopted in New York, Law no. 221 from 11 November 2010's for the ratification of the Rights of Persons with Disabilities Convention. This Convention was signed and promulgated by Romania on 26 September 2007's. Through the present law, the parties are bound to respect human dignity as well as equal rights with primordial charity inalienable to human beings guided by the principles of human freedom and justice without any form of discrimination at the international level. In Art. No. 27 of the Law no. 221/2010 recognizes the equality of integration centers on the labor market of persons with disabilities in

¹ The Romanian Parliament. *The Romanian Constitution*, Official Gazette no. 767 of October 2003, p. 7.

relation to the non- disabled population as well as the right to ensure a means of living by providing an activity free of charge on the labor market through a working environment accessible to the disabled people. These measures are applicable both to persons with disabilities before their involve in professional activity and to persons who become disabled during the performance of their service duties in the form of work accidents. To confirm my hypothesis, the content of Law no. 221 states that “The purpose of this Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and freedoms by all persons with disabilities and to promote respect for their intrinsic dignity. Persons with disabilities include people with long- lasting physical, mental, intellectual or sensory impairments, which, in interaction with various barriers, can limit the full and effective participation of people in society on an equal basis with others.”¹

For a better understanding of this phenomena, we have outlined the main features of these types of deficiencies, while also trying to exemplify the areas in which people with disabilities can practice, according to the type of affection.

Moreover, in order to prevent social and professional marginalization of disadvantaged people, the Romanian state grants differentiated financial support, as can be seen in the table below:

Table 1. Costs with unemployment insurance budget to fund active employment measures at national level in 2016's

Effective measure	Budget execution at the end of the 2016's (lei)
Total value	195.901.063
Professional training	33.759.301
Stimulating young people to engage in the work	37.109.078
Stimulation of the unemployed before the expiration of the unemployment period	14.386.712
Stimulating labor mobility	4.168.723
Stimulating the employment of unemployed persons from defaulted categories	84.210.560
Payments for the stimulation of the students employment, according to the Law no. 76/ 2002	2.921.894
Payments for the employment stimulation of children and students according to Law no. 76/ 2007	630.564
Payments for the professional training of graduates according to Article no. 84 by Law no. 76/ 2002	698.138
Payments for interns under Law no. 335/ 2013	17.649
Payments for marginalized people	14.852.514
Active measures to combat unemployment: assistance and carrer coaching	2.192.104
Collective pre-dismissal services	952.926

**Source of the data in the table: National Employment Agency*

What we notice here is that a big part of the funds is invested in training the unemployed in order to pursue specialized professional activities according to their abilities.

A considerable part of the funds is also invested to stimulate the employment of young graduates as well as hiring people before the end of the unemployment period by giving the state various incentives to employers who select labor from these social categories. We note here that, according to the

¹ The Romanian Government, *Law no. 221/2010 on the ratification of the Convention on the Rights of Persons with Disabilities*, Official Gazette no. 446 of July 2010, p. 2.

statistics of the National Employment Agency, the state mainly encourages the employment of graduates, students and pupils, which leads us to avoid the aging population from a professional point of view. Regarding the category of disadvantaged people, referring here to people with disabilities, we note in the data in the table above that the Romanian state invests considerable sums for the employment of this category. Thus, 84,210,560 of the unemployment insurance budget is targeted for the employment of the unemployed people from disadvantaged categories, while 14,852,514 are targeted for payments to marginalized persons. Thus, the state's contribution to socio- occupational inclusion of disadvantaged categories is a preeminent element for the employment of disadvantaged people.

In view of these considerations, people with disabilities should not be discriminated, and they should have a monthly equal income rights as any other citizen. More than that, people with disabilities should also have the same rights in the educational environment as any other citizen. Moreover, for the unrestricted learning of the educational system, the legislator is obliged to provide people with an appropriate support in accordance with their needs, as well as to facilitate them unrestricted access to the higher education system. Going back to the main idea of this paper, I consider it necessary to mention the main obligations that the signatory states of Law no. 221/2010 must take for the protection and promotion of the right to work of persons with disabilities, as follows:

- “a). Prohibit discrimination based on disability on all aspects and forms of employment, including recruitment conditions, placement, employment and retention, career progression and health and safety at the workplace;
- b). Protect the rights of people with disabilities on an equal footing with others in terms of fair and favorable working conditions, including equal opportunities and equal pay for equal work, health and safety at work, harassment and conflict settlement;
- c). Ensure that people with disabilities are able to exercise their right to work and trade union rights on an equal footing with others;
- d). Allow people with disabilities to have unrestricted access to general technical and vocational guidance programs, to placement and continuing vocational training services;
- e). Promote employment opportunities and career advancement for people with disabilities on the labor market and provide assistance in seeking, obtaining and maintaining a job, including returning to work;
- f). Promote opportunities for self- employment, develop entrepreneurial spirit, develop cooperatives, and starting a business;
- g). To hire people with disabilities in the public sector;
- h). Promote the employment of people with disabilities in the private sector through appropriate policies and measures, including positive action programs, incentives and other measures;
- i). Ensure adequate adaptation to people with disabilities at work;
- j). Encourage people with disabilities to have a work experience on the free labor market;
- k). Promote vocational and professional rehabilitation, job retention and reintegration programs for people with disabilities.”¹

¹ The Romanian Government, *Law no. 221 of November 2010 on the ratification of the Convention on the Rights of Persons with Disabilities*, Official Gazette no. 446 of July 2010, p. 26.

Therefore, the signatory states of the Convention on the Rights of Persons with Disabilities promote the right of persons with different deficiencies to social protection, providing, in addition to those mentioned above, measures such as:

“a). Ensure equal access for people with disabilities to drinking water services and ensure access to affordable services, facilities and other assistance to disability related needs; b). Ensure access for people with disabilities, especially women, girls and elderly people with disabilities, to social protection and poverty alleviation programs; c). Ensure access for disabled people and their families living in poverty to financial assistance, by the authorities, for disability related expenses, including training, counseling, financial assistance and appropriate time care services; d). Ensure people with disabilities access to public housing programs; e). Ensure equal access for people with disabilities to retirement programs and related benefits.”¹

As we can see, the state not only facilitates and hampers the work of people with disabilities on the labor market, but also assures them the means of housing and subsistence for the purpose of professional breakthroughs in accordance with their abilities. In a way, people with disabilities benefit from a positive psychological safety and comfort that engages them to develop specific professional activities that ultimately contribute to easier social integration. The rules and facilities regarding the incarceration of disabled persons are stipulated in the Emergency Ordinance no. 102/1999. This ordinance stipulates that “the employment of persons with disabilities and their income shall be made in accordance with the general labor law, with the other regulations in force, as well as with the special provisions of this emergency ordinance, for the purpose of socio-professional integration of these persons.” (Țiclea, 2015, p. 442) Emergency Ordinance no. 102, however, provides a supplement to this effect, namely that “a person with a disability is also understood as the third- grade invalid, by individual employment contract is also an individual agreement on labor relations in craft cooperative organizations, and by employee is also understood a member cooperative.” (Țiclea, 2015, p. 442) Persons with disabilities can be involved in an individual employment contract, under conditions prescribed by law, by legal persons, depending on their professional abilities and the physical capacities of the intellectuals they have. Moreover, people with handicaps can carry out independent activities in the form of an authorized legal person, PFA. In this way, the disabled persons have their own contributions to the state budget. Unlike the clandestine procedure, dealing with people with disabilities is achieved by developing jobs that are protected by providing the means appropriate to the type of disability and the person employed. In some cases, the person with an inappropriate deficiency may work at home, in which case the employer is obliged to provide the necessary raw material as well as to ensure the transport of raw materials and finished products at the headquarters of the company. The employer has the right to check the way in which the homeowner’ work is carried out, according to the provisions of the individual work contract. In the workplace at home, the employer and the employee conclude an individual work contingency with additional references to the standalone form of the individual work contingency: home activity, work schedule and intervals when the assignee can make checks as well as the obligation of the assurance engagement on the insurance of raw materials. It is worth mentioning in this case that the disabled person with a disability that provides professional activity at home enjoys the same rights as all the other members of the employer- company in question. Persons with disabilities can be employed in protected facilities. These protected units are equipped with personalized accelerating means as well as additions based on the disability types of the persons in question. As far as the implementation measures for the work of

¹ The Romanian Government, *Law no. 221 of November 2010 on the ratification of the Convention on the Rights of Persons with Disabilities*, Official Gazette no. 446 of July 2010, p. 26.

the disabled persons are concerned, the protected units have the obligation to present at the beginning of each year to the regional labor inspectorates the information necessary for the functioning of the unit. Protected units may organize workplace training courses for people with disabilities in their premises in order to ensure their professional integrity. These authorization courses received from the Labor, Social Solidarity and Family Ministry, Education and Research Ministry, as well as from the Health Ministry. These allowances confirm that the working environment is suitable for people with disabilities, depending on their occupation.

Protected units have many things to do: - economic agents with different types of organization and properties and with legal personality to cover at least 30% of the total engagement of the personality with any type of disability; - secondary headquarters, sections of the economic agents are non-governmental forms of organizing, without legal personality and who have their own contingency, and in the same way at least 30% of the entirety of the person with disabilities; - the founders, the organisations to be associated by at least one person with handicap; - people with disabilities that are authorized to carry out independent activities, having the obligation of self- charging of the contributions to the state budget.

Surprisingly, in the context of the Emergency Ordinance no. 102/1999 is that the legislator imposes on the employers the obligation to accommodate persons with disabilities, but leaves them the free choice of the assistance form of this social category. More specifically, the legislator offers as a variant the possibility to purchase products or services necessary for the activity of protected companies. In any case, in one form or another, the public authorities benefit from the results of the work of people with disabilities. Given that I have previously discussed a complex series of obligations that protected establishments have in respect of disabled workers, I consider it necessary to highlight the benefits generated by the employment of people with disabilities:

“a). Exemption from the corporate income tax, provided that at least 75% of the fund obtained by way of exemption is reinvested for the purchase of technological equipment, machinery, utilities, work facilities and/ or a salary unit for the protection of protected jobs; b). Exemption from the import of raw materials, materials, semifabricated materials, utensils and components which are necessary for the production process. Their alienation within 5 years is prohibited, under the sake of retroactive payment of vama duties; c). Exemption from T.V.A, and the operations carried out in the protected units, authorized; d). Other facilities that can be attributed to the powers of the local public administration from own funds.” (Țiclea, 2015, p. 445) Private stakeholders are public institutions that do not comply with these provisions, such as the obligation to pay a stand- in equivalent to a minimum gross salary on the land multiplied by the number of jobs for people with disabilities on the road, and the obligation to create them. In order to confirm my hypothesis, I consider relevant: “Agents with at least 75 employees, as well as public authorities and institutions with at least 25 contractual positions, have the obligation to employ persons with disabilities with an individual employment contract in- at least 4% of the total number of employees, respectively of the number of contractual functions provided for in the State of Functions.” (Țiclea, 2015, p. 442)

Unlike individual work contingencies, the strides that an individual work contribution, or a person with a disability, contained in the middle gradient, should be contained, includes several different provisions: - deficient people and can be accommodated in any function available in the workshop the private society to public institutions, according to their abilities, professional training and physical capacities;

- benefits of professional training courses; - benefit of employment in the workplace and means instituted according to the disability; - benefit from a probationary period of at least 45 working days; - benefit from prepaid minimum of 30 working days, unlike the 20 working days, benefit from an ordinary employee, in the cases where the employer cancels the job occupied by the person with disabilities; - the possibility of having a working program of less than 8h, after the recommendation of the specialist physician; - can retire at the age limit, except for the pension for Grade III of invalidity. - can be given priority in the professions on which they hold, specific to the type handicap held at the socio- professional indications and recommendations of the medical expertise committee.

Persons with disabilities who want to integrate or reintegrate into work have free and unrestricted access to vocational assessment and guidance, regardless of their age. Persons with disabilities are informed of the skills they are facing and they participate actively in their selective professional activity as well as in the process of evoking and professional orientation. Dates collected during professional evacuation and professional orientation procedures are confidential and can only be used with the agreement and in the interest of those with disabilities. Although it is useful in many cases, professional orientation can not be achieved for any category of people with handicap, so the applicability is limited to: - people who have completed basic studies and meet the age required to be professionally integrated; - unemployed people; - individuals who do not have professional experience; - people in work who want professional reconversion.

Professional orientation is done with the consent of the disabled person, his or her family or legal representative.

Being a complex and durable process, the professional training of people with disabilities is done in various forms, starting from the program of qualification/ retraining, initiation in the profession, training and specialization.

As a result, in order for the process of professional integration to be carried out in optimal conditions, the Romanian state has the following obligations, stipulated by Alexandru Țiclea in its labor law treaty (2015):

- to support from a financial point view the professional orientation programs for people with disabilities;
- to create and support adequate occupations to the existing types of handicap;
- to correlate the level of professional training of persons with disabilities with the requirements and selection criteria imposed by the labor market;
- to establish the means necessary for the evacuation and professional orientation in view of selecting a job that is adequate for people with disabilities;
- to engage qualified people in the social assistance institutions in order to ensure an optimum professional orientation for people with disabilities;
- to create the necessary conditions for those with handicap to exercise in the occupied job as well as to get a job.

In order for the rights of persons with disabilities to be enforced by the legislator and the measures listed above can be achieved, the public authorities have the following obligations: “a). Promote the concept that a disabled person is an added value to society and, in particular, to the community which it belongs; b). Promote an open, inclusive and accessible work environment for people with disabilities;c). To create the conditions and services needed for the disabled person to choose the form of conversion/ retraining and work in accordance with his/ her functional potential; d). Establish and support complex services consisting of protected, licensed and protected housing units; e). To initiate

and develop forms of incentives for employers to employ and retain people with disabilities; f). Provide support for organizing a sales outlet for the work product of the disabled person; g). To diversify and support various social services, namely counseling for the disabled person and his/ her family, information for employers, assisted employment and others; h). Promote mediation services on the labor market for people with disabilities; i). To permanently build/ update the database, to highlight the supply of people with disabilities; j). Develop collaborations with the media to raise community awareness/ awareness of the potential, abilities and contribution of people with disabilities to the labor market; k). To carry out, in collaboration or partnership with legal entities, public or private, programs and projects aimed at increasing employment; it). Initiate and support awareness raising campaigns and awareness of employers on the skills of people with disabilities; m). To initiate specific programs that stimulate increased participation in the labor market and labor force among groups at high risk of social exclusion.”¹

In order to encourage the involvement of public and private institutions in the process of social integration of people with handicap, the legislator offered to employers various benefits transposed into Article no. 84 of Law 448/2006 on the protection and promotion of the rights of persons with disabilities. Thus, according to Article no. 84, employers benefit from the employment of persons with disabilities by: - deduction of the tax on the amounts invested by the assignee in the purchase of utilities and equipment used in the production process by the disabled people; - deduction of tax on travel expenses domicile at the headquarters of the asylum seeker for people with disabilities; - deduction for taxable profits and amounts invested in tradesport the raw materials and the products obtained at the home of employee with disabilities at the headquarters of the employer and vice versa; - decommitment from the unemployment insurance budget of the sums invested for training and professional training of people with disabilities; - amounts received in the form of subsidy from the State Party, according to Law no. 76/2002 to stimulate employment;

In addition to these benefits, Law no. 76/2002 on the unemployment insurance system and the stimulation of employment, provides the following benefits:

- “employers who, in relation to the number of employees, have fulfilled their obligation, according to the law, to employ people with disabilities as well as employers who do not have this legal obligation (employ fewer than 50 employees), if they employ permanent persons with disabilities and maintain their employment or service relationships at least 2 years, receive for each employed person an amount equal to the value of the social benchmark in force;

- employers who employ graduates from the the number of people with disabilities is exempt for a period of 18 months from the payment of the contribution due to the unemployment insurance budget for the assigned graduates, and they receive monthly, for this period, for each graduate:

a). An amount with the value of the social benchmark in effect at the time employment for graduates of the lower cycle of high school or arts and crafts schools;

b). An amount equal to 1.2 times the value of the Social Reference Indicator in force;

at the time of employment, for graduates of higher secondary education or post- secondary education;

c). An amount equal to 1.5 times the value of the Social Reference Indicator in force at the time of employment for graduates of higher education.

¹ The Romanian Government. *Law No. 448 of 2006 on the Protection and Promotion of the Rights of Persons with Disabilities*, Official Gazette no. 1 of 2008, p. 29.

Employers who hold graduates under these conditions are required to maintain their employment or service relationships for at least 3 years from the date of employment.”¹

I consider that the benefits to which the advocates of asylum seekers are listed above are particularly suitable for the employment of young people leaving social care centers at the age of 18.

On this occasion employers should exploit the “fresh” labor force from disadvantaged social categories, while contributing to the socio- professional integration of institutionalized young people.

Given the facilities offered by the Romanian state to employers to employ people with disabilities, I believe that this segment of the labor market is not very well- exploited. Unlike the classical occupation of the workforce, the accumulation of disabled persons brings the additional benefits to the advocates.

In other words, in a way they would not pay considerably to the state budget without getting paid in return, but would invest such sums for social purposes. Having nothing to lose, the employers could benefit from this kind of work of excellence, as well as an adage to the profit of all the unity.

More than that, companies working in the hands of people with handicaps can receive considerably subsidies from the state, provided that they remain active in the care of people for an indefinite period.

On the other hand, the employers who work in the workplace can develop an efficient division of labor. So, I think they can distribute professional activities that do not require an effort physically or mentally sustained by people with disabilities to enjoy the focus on the more complex activities of qualified staff and with wider knowledge in those areas.

3. Conclusions

Although the right to work is a very good law and legally supported law, in the context of the economy of the moment, the Romanian state does not guarantee employment for its citizens. On this background, the Constitution of Romania refers to the simple fact that the right to work can not be restricted, completions in this sense being brought by Labor Law, Labor Code and according to the researched theme, Law no. 448/2006. Of course, by involving the state in the development and supporting the optimal development of the labor markets of the disabled people, the labor market has undergone permanent modifications and additions, but practical steps are not obligatory for employers, but rather as a facility offered to the two parts concerned.

As we can see from the statistical data provided by the legislator in the media of the current years, about one in six people able to carry out professional activities at national level has a health problem. In view of medical conditions, people with disabilities often face impediments in employment, and are often exposed to the risk of socio- economic exclusion as noted in this study.

Taking into account other social problems such as low birth rates and increased mortality rates, the Romanian state must take the necessary measures to ensure equal opportunities for all persons wishing to pursue professional activities in order to avoid the aging of the active population from a professional point of view. In this respect, the Romanian state must support the adaptation of socio- professional integration processes in order to increase access to the labor market for persons with disabilities by approaching individualized services.

¹ The Romanian Government. *Law 76 of 2002 on the unemployment insurance system and the stimulation of employment*, Official Gazette no. 76 of January 2018, p. 26.

As we have noticed, individualized social services are not located in a strictly spatio- temporal way, as they are provided in social welfare institutions, in the educational environment, at home, in society, and so on. Throughout the life of disadvantaged people. For this to be possible, there must be close collaboration between the legislator, public institutions, social assistance, service providers, employers and families of disadvantaged people. Thus, the transition from the environment where disadvantaged people benefited from social assistance services to the educational environment and later to the professional environment becomes easier and discriminatory treatment can be avoided.

In conclusion, ambivalently, the state supports both parts involved in the work process, the employee and the employer, developing the following legal provisions:

“(1) Persons with disabilities may be employed in accordance with their professional training and work capacity, attested by the degree of disability qualification, issued by county evaluation commissions.

(2) The public authorities and institutions, the legal entities, public or private, having the at least 50 employees have the obligation to employ disabled people in a percentage of the one at least 4% of the total number of employees.

(3) Public authorities and institutions, legal entities, public or private, who do not employ persons with disabilities under the conditions stipulated in paragraph (2), can opt for fulfill one of the following obligations:

a) To pay monthly to the state budget an amount representing 50% of the basic salary the country’s gross minimum multiplied by the number of jobs that did not employ people with disabilities;

b) To purchase products or services made through their own activity of disabled persons employed in authorized protected units on a partnership basis in the amount equivalent to the amount due to the state budget, under the conditions stipulated in let. a).” (Ștefănescu, 2012, p. 77)

We assist in facilitating the interaction between advocates and disabilities with rehabilitation benefits. At this rate and through the sustained involvement of the Romanian state in working relations between employees and employers, we are certain that in the future we will see positive results encouraging collaboration between the state, the employer and the employees in order to bring added value as a result of working relations. On the other hand, each state is the moral obligation to implement laws and regulations for the organization of services aimed at supporting and completing the socio-professional integration of people with disabilities through the adoption of measures such as professional adaptation, specific systems and means of protection of places work, tax fictions for advocates are the developers who are concerned with the work of the workforce by people with deficiencies in order to work processes, as well as support in the founding of a family and the stalling of a dwelling.

Personally, I believe that the involvement of the state in social issues as well as the facilities it provides for the employment of disabled people should be better publicized so that the society is informed about the gravity of this process.

Moreover, we think that institutions specialized in social assistance are not enough concerned with maintaining a record of people with disabilities who are fit to work. In this respect, the development of a database containing the data of disabled persons willing to work and their status on the labor market would be useful to employers.

Regarding the direct involvement of the Romanian state, I believe that the development of partnerships and collaborations with the media would increase the awareness of the society regarding the added value that the disabled people would bring to work.

In the future, we intend to supervise and investigate the evolution and changes made by this phenomena, as well as measuring the degree of interest and involvement of society in the development of professional relationships involving disabled people.

Bibliography

- Anechițoae, C. (2013). *Social security law*. Bucharest: Pro Universitaria Publishing House.
- Chelcea, S. (2007). *Methodology of sociological research*. Bucharest: Ed. Economica.
- Chipea, O. et al (2008). *Study on how to integrate into society young people who have been institutionalized*. Oradea: f.e.
- Cojocaru, Ș. (2008). *Case Management in Child Protection*. Bucharest: Polirom.
- Dărăbuș, Ș. (2006). *Manual of procedures for the socio-professional insertion of young people leaving the child protection system*. Bucharest: Europrint Publishing House.
- Dima, L. (2012). *Labor and industrial relations in the European Union*. Bucharest: C. H. Beck.
- Dorneanu, V. (2000). *Introduction to labor law. Collective labor law*. Bucharest: Romania tomorrow Foundation Publishing House.
- Emese, F. (2006). *Protection of children's rights*. Bucharest: C.H. Beck.
- Georgescu, L. (2015). *Dreptul securității sociale*. Ediția a VI- a. Bucharest: Universul Juridic.
- Ghimpu, S. (1995). *Labor Law*. Bucharest: Ed. Sansa.
- Ghimpu, S. et al (f.a). *Social security law*. Bucharest: All Beck.
- Grădinaru, N. (2005). *Labor and social security law*. Pitesti: Economic Independence Publishing House.
- Neamțu, G. (2003). *Social Assistance Treaty*. Bucharest: Ed. Economica.
- Neamțu, G. et al (2011). *Social Assistance Treaty*. Second Edition. Bucharest: Polirom.
- Pop, L. (2005). *Social politics*. Bucharest: Ed. Economica.
- Roș, N. (2018). *Social security law*. f.l: Pro Universitaria.
- Secleanu, L. (2005). *Labor Law*. Bucharest: Universalia.
- Ștefănescu, T. (2000). *Labor Law. University course*. f. l: Luminalex.
- Ștefănescu, T. (2012). *Theoretical and Practical Theory of Labor Law*. 2nd Edition. Bucharest: Universul Juridic.
- Țiclea, A. (2015). *Treated labor law*. Bucharest: Universul Juridic.
- Țiclea, A. et Tufan, C. (2005). *Social security law*. Bucharest: Global Lex.
- Țop, D. (2013). *Labor and social security law*. Târgoviște: The bookstore.

Studied legislation:

- The Government of Romania (2006). G.D. no. 669/2006 on the approval of the National Strategy for Social Inclusion of young people leaving the child protection system. Bucharest: Official Gazette no. 479 of 2 June 2006.
- The Government of Romania (2007). *Law no. Statute of civil servants*. Bucharest: Official Gazette.
- The Government of Romania (2015). *National Strategy A barrier-free society for people with disabilities in 2015-2020*. Bucharest: Official Gazette.
- The Government of Romania (2012) Order no. 2298 / 2012. The framework procedure for the assessment of adults in order to be classified in grade and type of disability. Bucharest: Official Gazette.

The Government of Romania (1999). Emergency Ordinance no. 102/1999 on the special protection and employment of persons with disabilities. Bucharest: Official Gazette.

The Government of Romania (2000). Ordinance no. 137 of 31 August 2000 on the Prevention and Punishment of All Forms of Discrimination. Bucharest: Official Gazette.

The Government of Romania (2006). Law no. 448 of 6 December 2006 on the protection and promotion of the rights of persons with disabilities in Romania. Bucharest: Official Gazette.

The Government of Romania (2002). Law no. 76/2002 on the unemployment insurance system and the stimulation of employment. Bucharest: Official Gazette.

United Nations (2010). Law no. 221/2010 on the ratification of the Convention on the Rights of Persons with Disabilities. f.l: f.e.

The Romanian parliament (2003). The Romanian Constitution. Bucharest: Official Gazette.

Studied links:

<http://www.mmanpis.ro/evaluare-servicii-sociale/>.

<http://www.constitutiatoromaniei.ro/>.

https://ro.wikipedia.org/wiki/Abraham_Maslow.

<http://anpd.gov.ro/web/wp-content/uploads/2015/04/BULETIN-STATISTIC-ANPD-TRIM-I-2016.pdf>.

<https://www.dasiasi.ro/raport-privind-activitatea-directiei-generale-de-asistenta-sociala-si-protectia-copilului-2016---dtl-165363.html>.