NORMATIVE DISCRIMINATION. THE CASE OF CIVIL SERVANT WAGES

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Abstract

Discrimination consists in the differentiation in the treatment of certain persons, for example leading to non-recognition of employees' rights and impairment of their fundamental freedoms. The existence of discrimination acts is analyzed through the criteria specified in the relevant regulations, with the mention that in the internal normative acts they are indefinitely provided, in order to exclude cases of unequal treatment. However, even neutral practices of employers that do not appear to lead to discrimination will be considered illegal when they produce effects similar to direct discrimination. Practically, any direct or indirect practices in the field of legal labor relations, if they aim at restricting or removing the recognition, use, or exercise of employees' rights, are considered discriminatory, compared to the criteria contained in regulations. The article analyzes the possibility of wage normative discrimination in the case of civil servants, but also as a result of employers' practices, from the point of view of the provisions of Law no. 153/2017 on the remuneration of staff paid from public funds.

Keywords: *discrimination, rights, wage, criteria, institutions.*

JEL Classification: K23, K31

1. Introduction

Discrimination in legal employment relationships entails the unequal treatment of employees, given the existence of comparable situations in terms of their duties, corresponding to the positions held.

Discrimination does not only involve cases of differentiation in relation to employees in comparable situations, but is also present in the case of applying identical treatments to persons with different responsibilities.

From the point of view of the forms of illegal treatment, we find the possibility of direct discrimination[2], which involves visible actions of differentiated treatment against employees based on criteria such as sex, age, ethnicity, race and beliefs or producing the same effect, as well as indirect discrimination, which apparently lacks this type of motivation, usually appreciated according to their subjective and less objective character. [3]

In terms of remuneration, certainly exceeding the legal provisions on discrimination, respectively proving the facts that led to the impairment of protected criteria specified in domestic and international regulations[4] can be opposed to employers by access to competent courts, and in the case of civil servants to those of administrative litigation.

The assessment of the courts will take into account in particular the lack of motivation of such differential treatments applied to employees, when employers failed to demonstrate the existence of reasonable and objective justifications expressly provided in the normative acts as non-discriminatory causes.

However, we can see that the provisions of Law no. 153/2017 on the remuneration of staff paid from public funds leads directly to the possibility of applying a differentiated treatment in terms of remuneration, without respecting the principles concerning the category of budgetary staff, respectively equality, social importance of work, ranking, predictability or transparency in establishing remuneration. Basically, the law induces wage differentiations between the categories of staff found in public institutions, respectively executive civil servants, management and contract staff.

In this sense, we can see that in the case of the decentralized public services of the Ministry

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[2] Ţiclea, A., *Tratat de dreptul muncii*, Ed. Universul Juridic, Bucharest, 2005, p. 22.

[3] Ţiclea A, *Codul muncii*, Ed. Universul Juridic, Bucharest, 2015, p. 21.

[4] Popescu Andrei, *Dreptul internațional și european al muncii*, 2nd ed., Ed. C.H. Beck, Bucharest, 2008, p. 340-341.

of Health, the wages of staff is differentiated for civil servants according to Annex VIII - Occupational Class of Budgetary Functions - Administration, and for specialized contract staff, doctors, nurses, biologists, chemists according to Annex II - Occupational Class of Health and Social Assistance Functions, with reference to the provisions of art. 11 paragraph (1) of the law, but also in accordance with the provisions of OMH no. 9/06.01.2017.[5]

2. Applicable legal framework

In the national legislation, discrimination refers to the employers' non-recognition of the provisions of Articles 5 and 6 of the Labor Code, respectively of the mentioned non-limiting criteria, both through acts of direct as well as indirect discrimination.

In the same sense, Articles 1 and 2, points e) and i) of the Government Ordinance no. 137/2000 on the prevention and sanctioning of all forms of discrimination require the recognition of the principle of equality and non-discrimination regarding the right to equal pay and fair remuneration.

On the other hand, the Government Decision no. 144/2010 on the organization and functioning of the Ministry of Health, Order no. 1078 on the approval of the organization and functioning regulation and of the organizational structure of the county and Bucharest public health directorates, Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons, regardless of race or ethnic origin, and Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment with regard to employment and occupation are normative acts in terms of non-discrimination.

Regarding the undifferentiated treatment, we also refer to the provisions of Law no. 95/2006 on healthcare reform, OMH no. 1078/2010 on the approval of the organization and functioning regulation and of the organizational structure of the county and Bucharest municipality public health directorates, as well as of the Law no. 153/2017 on the remuneration of the staff paid from public funds.

Related to the case of the deconcentrated public services of the Ministry of Health, its attributions regarding wages are found in art. 2 para. (1), art. 4 para. (2) and art. 6 paras. (1) and (6) of the OMH no. 1078 of July 27, 2010, Government Decision no. 144/2010 of February 23, 2010 on the organization and functioning of the Ministry of Health.

Pursuant to Articles 2 para. (1) and 4 para. (2) of the OMH no. 1078 of July 27, 2010, the management of the public health directorates, decentralized public services of the Ministry of Health, is performed by the steering committee comprising the executive directors, secondary authorizing officers, the main officer being the ministry. According to Article 6 paras. (1) and (6), the appointment and dismissal of the executive directors is made by the Ministry of Health, which also has responsibilities for calculating their salaries. The provisions of the former article 62 paras. (2) and (4) of Law no. 188/1999 on the status of civil servants[6] required that the respective administrative act of appointment be issued in writing by the heads of public authorities and contain the corresponding position and salary rights.

We can appreciate that, in accordance with the normative acts mentioned above, setting the wage of the executive directors of the health directorates belonged exclusively with the Ministry of Health, which was responsible for issuing the administrative act of appointment. On the other hand, calculating the basic salary of the executive directors implies the application of the first or second degree of the pay scale, an aspect specified by Law no. 153/2017, although it does not contain the objective criteria necessary in this respect. Obviously, such a situation allowed for the occurrence of differentiations in the treatment applied to employees at national level, the wage calculation procedure being not only non-unitary, but also potentially discriminatory.

Wage setting was influenced by the existence of a mandatory legal framework between the executive directors of the health departments and employees or between them and the Ministry of

[5] Issued based on the Government Emergency Ordinance (GEO) no. 20/2016 of June 8, 2016 approved with amendments and additions by Law no. 250/2016.

[6] Currently repealed by art. 597 (b) para. (2) of GEO no. 57/2019 on the Code of Administrative Procedure.

Health. In this sense, the provisions of article 3 para. (3) of Law no. 153/2017 imposed the management of the salary system by the main authorizing officers, in this case the Ministry of Health. The previously mentioned provisions are corroborated with those from Annex 2(a) (1-1) of Government Decision (G.D.) no. 144/2010 on the organization and functioning of the Ministry of Health, according to which the health departments are under the direct subordination of the ministry. In conclusion, we can see that the county health directorates, as secondary authorizing officers for their own budget, have a limited right both to appoint executive directors and to establish their remuneration, respectively in applying the provisions of Law 153/2017.

Wage discrimination obviously results when the provisions of Law no. 153/2017 would be interpreted in the sense that an executive director of such a county directorate would have the right, after passing a competition for the respective public management position, to be able to appoint himself to the respective position and also to establish his wage, on the grounds invoked by the Ministry of Health that it would not have attributions to issue an administrative act in this respect.

We mention that the Ministry of Health specified that it would not have any obligatory legal relationship with an executive director of a public health directorate and practically no form of liability towards it, in contradiction with the provisions of OMH no. 1078/2010 which stipulates the obligation of the ministry to issue such an individual administrative act. Moreover, such a mandatory legal relationship of the OMH also results from the fact that it prepares the job descriptions of the executive directors, but also the assessment reports for the evaluation of their individual professional performances.

3. Legal standing

In terms of the recognition of salary rights through the access of the prejudiced employees to the courts, the standing of parties will be held by the participants in the respective legal labor relations.

The High Court of Cassation and Justice specified by decision that the interpretation of the provisions of Article 27 paragraph (1) of Government Ordinance no. 137/2000 on the prevention and sanctioning of all forms of discrimination, has as its competent court regarding the settlement of claims for compensation, restoration of the situation prior to discrimination and annulment of the situation arising from discrimination the court or tribunal, as civil law courts , in relation to object and value. As an exception are provided the requests in which the discrimination derives from legal relations under the regulation of special laws and protected by special jurisdictions, which will be resolved by certain courts, according to the special legal provisions.

We can thus state that, when discrimination has been invoked in a labor dispute, the court competent to resolve it will be that of labor law.

Article 37 of Law no. 153/2017 indicates the initial competence of the authorizing officers to resolve any appeals, following their submission within 20 calendar days from the notification of individual administrative acts issued in terms of remuneration, with the subsequent possibility of censoring the solution in the administrative litigation courts. Although the above-mentioned special law contains its own administrative-jurisdictional procedure, according to art. 7 paragraph (1) of Law no. 554/2004 on administrative litigation, the injured person may request the revocation of the individual administrative act including with the hierarchically superior authority, within 30 days or, for good reasons, within 6 months from the date of issue. It can thus be ascertained the right of the injured persons to file prior complaints[7] either in the attention of the employing public institution or in that of the relevant ministry, in order to revoke the act of administratively illegal remuneration act.

Regarding the determination of the material jurisdiction of the courts, the health directorates cannot be qualified as having the standing of local public authorities[8], being obviously decentralized public services of the Ministry of Health, which leads to the competence of solving the tax and administrative courts, according to art. 10 para. (1) of Law no. 554/2004 of the administrative

[7] Boroi G, Stancu M., *Drept procesual civil*, Ed. Hamangiu, Bucharest, 2015, p.148.
[8] Brăila Court, Civil Section II, Administrative and Fiscal Litigation Section, Civil Judgement no. 202/2019.

litigation.

The standing of deconcentrated public services derives from the provisions of art. 12 of Law no. 95/2006 on healthcare reform, and the fact that they represent public health authorities at local level does not lead to their transformation into local public administration institutions. Basically, the claim according to which the work relations are born and exercised on the basis of the administrative act of appointment issued in written form, which also contains the salary rights, in this case being issued by the relevant ministry. Practically, within the health directorates, as decentralized public services of the Ministry of Health, the management positions are appointed based on the Order of the Minister of Health, who has the quality of employer. The appointing order of the Minister of Health is an individual administrative act and cannot be assimilated or doubled by an individual employment contract concluded within a directorate, as stated by the Ministry of Health.

As a result, the existence of certain legal relations between a health directorate and an executive director does not eliminate the passive procedural quality of the Ministry of Health in a wage dispute, which derives from the ministry's attribute to issue orders appointing and remunerating the institutions' managers.

Setting the wage of the institution heads requires the application of degrees and criteria by the main authorizing officer, in this case the central public authority, the Ministry of Health, which had to carry out the classification. If the classification had been made by the head of that institution in the territory, this meant that he could find himself in the situation of setting his own wage, given that Law no. 153/2017 does not even define certain objective criteria in this sense. On the other hand, there are no references in the law to an order of the Minister of Health in order to identify the ways of classifying health units and applying degrees, an aspect that was previously encountered in the previous law on pay.

The passive legal standing of the Ministry of Health thus flowed from the content of the appointment procedure in the public management position, which provided for the issuance of an individual administrative act, which was to include the name of the management civil servant, the position and the corresponding salary rights. Thus, according to Article 3 para. (3) of Law no. 153/2017, the management of the wage system of staff in public health units that are part of the Ministry of Health's network, and local public administration authorities is ensured by the main authorizing officer, respectively by the ministry.

Nevertheless, the Ministry of Health specified that in relation to its possible passive legal standing, the order of appointment to the management position at the level of such a directorate also contains the provision according to which the wage will be established according to the legislation in force; the service of the civil servant in the exercise of the civil service is established directly with the employing institution in which he performs his work.

However, the opinion of the Ministry of Health is also related to the fact that the object of a lawsuit for annulment of a salary decision is represented by the individual administrative act issued in this regard and not by the act of appointment to public office, which would exclude its passive legal standing. The motivation also refers to the provisions of art. 19 para. (1) of Law no. 153/2017 which requires the management of the unit to set the basic wage for management positions, with reference to the responsibilities, complexity and impact of decisions imposed by performed activities, which would eliminate its powers in this regard.

On the other hand, the Ministry of Health considers that the object of a dispute related to the annulment of a wage decision regarding the remuneration of the director of such a directorate would be related to an employment relationship, in accordance with the provisions of art. 10 of the Labor Code, given the personal and individual relationship between the parties. It can be found that such a claim is erroneous, given that a director of a directorate, a civil servant, cannot be part of an individual employment contract. Also, the clarification of the ministry on the conclusion of an employment contract between the directorate and an executive director, which would imply the non-existence of the passive legal standing of the ministry, cannot be supported. We note that the ministry also mentioned that as far as it is concerned, the legal relationship with a head of a subordinate public institution would be of public law, which would lead to the non-existence of an obligatory relationship

and responsibility towards the director.

The interpretation of the courts[9] in this regard refers to the fact that the issuer of such a decision is a directorate and not the Ministry of Health, although the appointment of a director is made by order of the Minister, considering that in this case the passive legal standing belongs only to the direction. The court agreed with the Ministry's view that the identity between a potential plaintiff and the claimant should be examined in the event of an action for annulment of a wage decision, a labor dispute involving only the direct employer. Thus, there would be no evidence of legal employment relationships with the ministry, which has no obligation to pay the remuneration of the head of a directorate. The opinion is erroneous, given that the ministry stated that the management is the only one that concluded the individual employment contract with the director, as an employer, and issued the salary decision, at which time rights and obligations arose between parties that allow the existence of passive legal standing in such a dispute specific to the legal employment relationship, given that a civil servant cannot be the holder of such an act.

The reasoning of the court related to the definition of passive legal standing as identity between the parties of a legal relationship subjected to court and to the admission of an exception of the lack of passive legal standing of the Ministry of Health, as non-issuer of the contested wage decision, thus becomes questionable.

In conclusion, the court's admission of an exception concerning the lack of passive legal standing of the Ministry of Health in such a dispute, even when the administrative act setting the wage rights was issued at the level of a directorate and not directly by the ministry, does not exclude the existence of a binding relationship between a director of the subordinate institution and the ministry.

4. Differentiated treatment

The unequal treatment regarding the calculation of remunerations thus derives from the existence of a normative discrimination within Law no. 153/2017, through which differentiations were introduced between civil servants as management, executives, and the contractual personnel. As a result, civil servants in management positions end up earning salaries below those of contract staff in the same public institution and sometimes below that of subordinate executive officials.

Subsequently, Law no. 79/2018 on the approval of the Government Emergency Ordinance no. 91/2017 for the amendment and completion of the Framework Law no. 153/2017 on the remuneration of staff paid from public funds partially rectified the situation of differential treatment, being nonetheless applicable only in the case of hospital managers and not of those in the PHD (Public Health Directorate) – the basic salary of a manager is mandatorily at least equal to that of the subordinate medical director increased by 10%, in recognition of the hierarchy principle.

On the other hand, Law no. 153/2017 on the remuneration of staff paid from public funds provides in art. 19 para. (1) and (2) the fact that in the case of management positions the basic salary is established by the head of the institution in relation to the responsibility, complexity and impact of decisions and duties, corresponding to grades I or II. Practically, grades I and II aim at a rule of general application to all public budgetary institutions, without drawing objective criteria, thus allowing their leaders to choose subjectively. The law no longer specifies that the Order of the Minister of Health establishes the criteria for classifying health units and establishing the salary level by degrees, although the Ministry of Health continues to apply Order no. 834/2011 issued in application of the former Law no. 284/2010 on payroll. Moreover, the order relates to the number of inhabitants of a county and not to the responsibility, complexity and impact of the decisions imposed by the duties of that position.

As a result, the application of Law no. 153/2017 led to situations of pay inequality within the county health directorates, given that for the position of executive director the amount of gross basic salary was reduced compared to the one they had previously, which indicates regulatory

[9] Galați Appeal Court, Administrative and Fiscal Litigation Section, Decision no. 1149/2019.

discrimination although activities, tasks and responsibilities have remained the same. In addition, the salary of a director ended up lower than that of a civil servant directly subordinate to them. For example, an executive director has a lower salary than that of an inspector with control responsibilities, contrary to the provisions of Articles 1 and 2 (e) and (i) of Ordinance no. 137/2000 on the prevention and sanctioning of all forms of discrimination recognizing the right to a fair and satisfactory remuneration, these principles being also stated[10] in Directive 2000/78/EC establishing a general framework for equal treatment[11].

The right to correlate the state's budgetary resources according to the available resources at the time does not allow employers to establish salaries without taking into account the non-discrimination provisions, given the comparable responsibilities of their own employees. However, Law no. 153/2017 contains norms that lead to the possibility of subjectively establishing salaries, depending on the particular assessments by the heads of public authorities. We are considering a normative discrimination that certainly induces a differentiated treatment, but also a possible inequality that derives from the subjective assessment by the heads of the respective public institutions, an aspect that unfortunately cannot be the object of a court interpretation.

The non-discrimination regulations are regulated in other specific normative acts in the matter, respectively in art. 27 para. (2) of G.D. no. 611/2008 on approving the norms regarding the organization and development of the civil servants' career, or in art. 6 par. (1) and (6) in OMH no. 1078/2010 on the approval of the rules of organization and operation and of the organizational structure of the county public health directorates.

Discrimination can also be analyzed from the point of view of the annulment of previously earned salary rights, because by applying the new salary rules the salaries of executive directors were unconstitutionally[12] limited compared to previous salaries, but also compared to those of their subordinates.

Although art. 19 of Law no. 153/2017 requires that the salary for management positions be determined based on the assessment of the head of the public institution on the responsibility, complexity and impact of the concerned employees' decisions, indicating grades 1 and 2, without specifying objective criteria, the possibility that employees receive solutions favorable in the court of law is practically limited. The normative discriminations cannot be the object of the courts' analysis, these being able to appreciate only in relation to the wrong application of some normative acts in a certain litigation. In this sense, the Ministry of Health appreciates an employer granting grades 1 and 2 by resorting to Order no. 834/2011, which was given in application of the previous health law, a situation that can be censored in a court case.

The application in question of Order no. 834/2011 will be related to the issues specified in Articles 1, 2 and 4, respectively:

- approves the criteria necessary for the classification of medical units and subunits, in order to set the remuneration of managers by degrees;
- repeals the Order of the Minister of Health no. 119/2010[13];
- it is applied based on the provisions of Law no. 285/2010[14].

Corroborating the above with the provisions of art. 15 para. (1) and (2) of Law no. 284/2010[15] which require the Principal Authorising Officer to set the salaries of staff with management positions considering the two grades, we can see that, although there is no legal norm by which Order no. 834/2011 has been expressly repealed, it can no longer produce legal effects.

The lack of effects will be related to the fact that it was issued for the application of the provisions of Law no. 284/2010, the previous law repealed. As a result, the Order cannot be reported

[10] Diaconu Nicoleta, *Dreptul Uniunii Europene. Partea specială. Politicile comunitare*, Ed. Lumina Lex, Bucharest, 2007, p. 266-267.
[11] Muscalu Loredana Manuela, *Discriminarea în relațiile de muncă*, Ed. Hamangiu, Bucharest, 2015, p.17.
[12] Iorgovan. A., *Tratat de drept administrativ*, Ed. All Beck, Bucharest, 2005, p. 589.
[13] Order of Ministry of Health no. 119/2010 on the approval of the Criteria for the classification of medical units and subunits on categories and for setting the salary level by grades.
[14] Law no. 285/2010 on payroll in 2011 for the staff paid from public funds.
[15] Law no. 284/2010 on unitary pay scale for the staff paid from public funds.

to the application of Law no. 153/2017, the provisions of Annex VIII, Chapter I, letter A, point 11 letter a not referring to it.

As a result, the Order cannot be reported to the application of Law no. 153/2017, as the provisions of Annex VIII, Chapter I (a), point 11 (a) are not referring to it.

We can consider that the normative discrimination determines the impairment of some rights similar to any other unequal treatment, given that the OMH no. 1078/2010 does not allow differentiations in the directors' attributions within the health system, which would allow for dissimilar salaries in terms of amount.

In addition, we may be facing an indirect form of discrimination, this time due to the right of the heads of public institutions to subjectively assess the responsibilities, complexity or impact of employee decisions in a particular position, contrary to the principles underlying Law no. 153/2017. Non-discrimination also consists in not ensuring equal wages for equal work, but also in the lack of vertical and horizontal hierarchy between fields of activity or within the same field of activity. We can see that by applying the law, the basic salary for the position of executive director has been reduced by 50% compared to the previous amount, the salaries of contract staff and the remuneration of executive civil servants have decreased, although previous responsibilities have not changed.

Last but not least, we can consider the unconstitutionality of the provisions of Law 153/2017, respectively of Article 19 para. (1) and (2) which requires that the basic salary for management positions be set by the head of that public institution, aspects contrary to the provisions of art. 15 para. (1), art. 16 para. (1) and (2), art. 41 para. (4) and art. 53 para. (1) and (2) of the Romanian Constitution.

5. Conclusions

Law no. 153/2017 on the remuneration of staff paid from public funds provides in art. 19 paragraphs (1) and (2) the fact that the basic salary for management positions is set by the head of the public institution in relation to the responsibility, complexity, responsibilities and impact of job decisions, indicating grades 1 and 2 for general application, for all public budgetary institutions, without specifying objective criteria.

As a result, each head of a county public health directorate can consider the most favorable classification for themselves, provided that the OMH no. 1078 of 27 July 2010 does not provide for differentiations between the duties of executive directors.

On the other hand, Law no. 153/2017 does not refer to the fact that directorate classification criteria are set by order of the Minister of Health or aiming to set the level of salary by degrees, practically not imposing the legal basis necessary for the application of the provisions of the law.

Last but not least, Order 1078/2010 sets differentiations between the category of civil servants and contractual medical-sanitary and auxiliary staff, unlike Law no. 153/2017 which applies as a general framework to all staff in public authorities and institutions. However, we can see that in the law, there is a differentiation in pay at the health directorates, according to Annex II for medical personnel similar to the situation of clinical units, and according to Annex VIII, different for civil servants, thus creating unjustified inequalities in pay for these categories of staff.

Failure to comply with the principles underlying Law 153/2017, namely non-discrimination, equal treatment in comparable situations, equal pay for equal value work, importance of work, ranking related to the complexity of the activity, does not allow setting the salary based on knowledge, responsibility and employee experience, the complexity or diversity of the activities performed, which would eliminate the potential discrimination resulting from the subjective assessment by the heads of the respective public institutions.

The Constitutional Court ruled in 2008[16] on the unconstitutionality of some texts of the ordinance, insofar as it follows that the courts or the National Council for Combating Discrimination have the power to annul or refuse the application of normative acts with the force of law as

[16] Decisions no. 818-821/2008, Official Monitor, part I, no. 537 from 16 July 2008; no. 997/2008, Official Monitor, part I, no. 774 from 18 November 2008; no.1325/2008, Official Monitor, part I, no. 872 from 23 December 2008.

discriminatory. Basically, it is discussed about replacing them with rules created by the court, the Court's solution being based on the principle of separation of powers in the state.

The Constitutional Court declared as unconstitutional the articles interpreted as the possibility of the courts having jurisdiction to disregard normative acts with the force of law and to extend the meaning to provisions of other such acts, motivating discrimination.

In practice[17], it has been discussed whether, after declaring some articles unconstitutional, the courts may still find discriminatory and may award compensation.

Some courts have held that yes, because the application of those normative acts is not annulled or refused and does not rule on the discriminatory nature of the law, finding only discrimination, although the High Court of Cassation and Justice ruled that it interferes with the legislature[18]. In other cases, the courts considered that they did not have the power to establish, amend and repeal legal rules and that it was forbidden to find that a normative act was discriminatory, thus not being able to remove the application of the law, which leads to the impossibility of awarding damages.

In conclusion, we can appreciate that the legislator wanted to exclude the interferences between the judiciary and the legislature, which makes it impossible for the courts to rule on a potentially discriminatory rule.

Bibliography

1. Boroi G, Stancu M., *Drept procesual civil*, Ed. Hamangiu, Bucharest, 2015.
2. Diaconu Nicoleta, *Dreptul Uniunii Europene, Partea specială, Politicile comunitare,* Ed. Lumina Lex, Bucharest, 2007.
3. Iorgovan A., *Tratat de drept administrativ*, Ed. All Beck, Bucharest, 2005.
4. Muscalu L. M., *Discriminarea în relaţiile de muncă*, Ed. Hamangiu, Bucharest, 2015.
5. Popescu Andrei, *Dreptul internațional și European al muncii,* 2nd ed., Ed. C.H. Beck, Bucharest, 2008.
6. R. Dimitriu, *Dreptul muncii. Anxietati ale prezentului*, Ed. Rentrop & Straton, Bucharest, 2016.
7. Ţiclea A, *Codul muncii*, Ed. Universul Juridic, Bucharest, 2015.
8. Ţiclea A, *Tratat de dreptul muncii*, Ed. Universul Juridic, Bucharest, 2015.

[17] R. Dimitriu, *Dreptul muncii. Anxietati ale prezentului*, Ed. Rentrop & Straton, Bucharest, 2016, p. 362-363.
[18] High Court of Cassation and Justice no. 5060/2013, http://legeaz.net/spete-contencios-inalta-curte-iccj-2013/decizia-5060-2013, consulted on 1.10.2020.