

Considerations Regarding Professional Training

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Abstract:

Professional training is a learning process that implies accumulating knowledge, refining competences, concepts, rules or changing attitudes and behaviors in order to improve people's performances both at the work place and in their day to day lives. Gaining knowledge and competences through life is a fundamental condition for individual and professional development, for the growth of the adaptation and employment capacity. Within this material there will be approached aspects referring to the presentation of the present legal and institutional environment of professional training in Romania; also it will treat some aspects referring to the stimulation and protection of this activity.

Keywords: *professional training, professional education, initial training, continuous training.*

The Definition of the Concept of Professional Training

Professional training is the activity performed by a person before employment in order to gain the general and specialty knowledge in order to have a profession. The professional training is regarded as a continuous process that is objectively determined by the progress of society, the continuous development of science and modern technique.

Professional training is defined as a systematic training in order to raise people's capacity to take social functions on the labor market, in other words it covers every range of education and qualification activities. [1,379]

In the professional training domain there are utilized a series of terms such as: permanent education, continuous and initial training, training which must be based definition.

Thus, the Romanian Institute of Standardization has elaborated the National Standard Project in the domain of professional training according to which:

- Professional education is a concept according to which education is regarded as a long term project that begins at birth and continues throughout life.
- Professional training is a component of permanent education that regards the participation of a person to professional training activities throughout life. It is composed of initial and continuous training.
- Initial training is the professional training of a person as pupil, apprentice or student.

□ Continuous training is that professional formation of a person after the termination of initial training so after the beginning of that person's active life. It has the purpose the adaptation of the person to the changes in technology and labor conditions, favoring social promotion through access to different levels of culture and professional qualification and contributes to the cultural, economical and social development.

Professional Training of Employees

According to the legal provisions of the domain [2, art. 189] they are realized through the following methods:

- participation to the classes organized by the employer or by professional training services in the country or abroad;
- stages of professional adaptation to the requests of the workplace and the post;
- stages of practice and specialization in the country or abroad;
- apprenticeship organized at the workplace;
- individual training;
- other methods of training agreed between the employee and the employer.

The legislations gives the employer the obligation to ensure employees periodic access to professional training either by initiating and financially supporting the employee to follow a training program or by the agreement he gives to the employee's request to follow, in a certain period of the work time, such a program. [2, art. 190]

Professional training is made by levels of training and specializations taking into account the needs of the employers, the requests of the posts that the employees have and the promotion possibilities or employment. [3,296]

The participants to the professional training programs cannot be obligated to attend other activities than those provided in the training program. The providers of professional training who organize the programs finalized by certificates of qualification recognized at a national level, close professional training agreements with the participants. The professional training agreements are registered at the committees who license the providers of professional training at a county level or in Bucharest, named licensing committees.

The licensing committees have the purpose to license the professional training providers, to give consultations to the professional training providers as well as to

monitors the activity of the professional training providers and in certain situations to notice the violations of the law made by them and to withdraw their license.

The license can be withdrawn by the licensing committee if the programs for which the professional training provider has been licensed are not respected or if, repeatedly, the results of the evaluation tests are not satisfying. In these situations the professional training providers whose license has been withdrawn can request a new license only after a year from the date of the withdrawal.

Professional training of adults is financed by the employers' funds, the budget of the unemployment allowance fund, as well as by donations and sponsors.

In the period they participate to the professional training programs financed by employers, the employees receive salary rights established by the individual labor agreement for the normal working program. If these programs are developed in another city than the one of the employee's workplace the employers must pay the traveling expenses in order for the employee to participate to the professional training programs. Professional training is present in searching for competitiveness, in the apparition of new labor organizations or new methods of managing the work force in the fight against exclusion, in social cohesion. It must conciliate the democratic and economic demands of the social market and life.

Individual Professional Training

Individual professional training is established by the employer in agreement with the employee concerned taking into account the criteria of the annual plan of professional training and the conditions of activity performance at the workplace. [4,334]

The professional training programs must include:

- duration;
- the objective expressed by the professional competence that is to be acquired;
- the qualification of the trainers;
- the methods of transmitting knowledge and of training practical skills;
- training program;
- necessary equipment and materials;
- Evaluation procedure.

In what concerns the choice of the concrete method of professional training, the rights and obligations of the parts regarding its development, duration and any other aspects referring to professional training there is provided that these are the object of an additional act to the individual labor agreement.

Professional training can be made either for unemployed or employed people. In the first case the person who wishes to follow a professional training program ending with a certificate of qualification or graduation recognized at a national level closes a professional training agreement with the provider of professional training.

Employees can follow professional training programs at the initiative of the employer but with the employees' consent. In this case there is closed an additional act to the individual labor agreement in which there are provided clauses that have incidence over the closed labor agreement. Not respecting the obligations of the additional act by the fault of the employer gives the employee the right to compensation based on the contractual responsibility.

The conditions of professional training can be the object of certain clauses of the individual labor agreement from the moment of its closure. In this situation the additional act mentioned above is no longer necessary except for the case when the employee and the employer agree to modify the initial provisions referring to professional training.

Expenses Related to Professional Training

Referring to the expenses caused by the participation of the employee to a professional training program initiated by the employer, the legislation [2, art. 194, align. 2] regulates two hypothesis:

- if the participation implies taking the employee out of the activity for a period that does not overcome 25% of the daily duration of the normal working time the person will benefit, for the whole duration of professional training, from the whole salary of the post with all the inseminations, increases and additions;
- if the participation implies taking the employee out of activity for a longer period than 25% of the daily duration of the normal working time the person will benefit from the basic salary and, where appropriate, from the long service allowance. [1, 406]

A third hypothesis provided by law [2, art 194, align. 3] states that if the participation to the professional training stage implies the complete taking of the employee out of the

activity the individual labor contract is suspended and the person benefits from an allowance paid by the employer provided, where appropriate, in the applicable collective labor agreement or individual labor agreement.

If the employer has the initiative then he is the one who pays all professional training expenses. Likewise, the employee cannot be obligated to participate to classes or stages of professional training if he did not agree to it in the individual labor agreement.

When the employee is completely taken out of activity, due to the fact that he no longer performs the labor he was hired for, the individual labor agreement is suspended and the employee receives an allowance paid by the employer. [5,315]

The Labor Code regulates the situation when, after graduating the professional training class initiated by the employer, the employee resigns. In this case the employer no longer benefits from the activity of the employee whose professional training he has initiated and has paid for, given the needs of the certain unit. In order for the employee to not make such a drastic move, the Labor Code establishes that the employees that have benefited from a professional training course longer than 60 days, taking them out of activity for a period of more than 25% of the normal daily working time or with complete taking out of the activity, they cannot terminate the individual labor agreement for a period of at least 3 years from the graduation of the professional training courses. If the employee does not respect these obligations he has to pay all the expenses of professional training, proportional to the period when he was not working of the period established by the additional act to the individual labor agreement.

The duration of the employee's obligation to work in favor of the employer after graduating the course as well as other aspects regarding the employee's obligations after professional training is established by both the employer and the employee through the additional act or through the individual labor agreement.

The employee does not have the obligation to refund the expenses of the employer if during the class or the stage of professional training he has been taken out of his daily program for a period that has not overcome 25% of the normal working time or if the stage lasted up to 60 days even if he resigns before meeting the term of 3 years. [6,274]

The finality of the refund clause of the individual labor agreement or of the additional act is not preventing the employee of his right to resign and neither is the excessive limitation of this right by establishing an exaggerated or disproportionate refund in the case he does not respect the agreed term.

At the same time the period in which the employee has agreed to work for the employer after graduating the class or stage of professional training is not similar to a clause of guaranteeing the workplace, the individual labor agreement being able to terminate through the agreement of the parts, through the dismissal act emitted by the employer or through law termination. The refunding clause is a counterpart to the commitment taken by the employer to ensure on his expense a certain professional training that benefits the employee.[3, 300]

Professional Training Leave

If the employee follows professional training at the initiative of the employer there is no issue of leave because the stage or class of professional training is included in the work program, including the necessary time for theoretical preparation and taking examinations throughout or at the end of the certain period.

Also, there is no issue of professional training leave when the participation to the stage or class of professional training initiated by the employer implies completely taking the employee out of the activity. The situation is similar when a person closes a professional qualification agreement where the person is obligated to follow the professional training organized by the employer as well as in the case of professional adaptation agreement.

Unpaid Leave

It is granted by the employer at the request of the employee that follows a professional training by his initiative. The request must be addressed to the employer with at least a month before the exercise of the leave and must include the date of the beginning of the stage, the domain and duration as well as the professional training institution. Based on this data the employer can check if the employee intends to follow professional training. The employer can reject the unpaid leave request of the employee only if the next conditions are met:

- he has obtained the agreement of his union;

□ The absence of the employee would seriously prejudice the development of the activity.

The unpaid leave for professional training requested by the employee can be utilized and divided within a calendar year for taking the graduation exams of some forms of education or for taking the exams for graduating to the next year within the superior education institutions.

During the unpaid leave for professional training the employee benefits from all the rights appropriate for his work time except the salary.

Paid leave for Professional Training

This is a right of the employee if he is in one of the following situations:

□ is at the age of maximum 25 and in a calendar year the employer had not ensured the employee's participation to professional training on the employer's expense;

□ Is over 25 and within 2 consecutive calendar year the employer had not ensured the employee's participation to professional training on the employer's expense

The duration of the leave in these situations is of 10 working days. The leave allowance is calculated in the same way as the allowance for vacation.

The employee can follow any form of professional training even if it is not necessary at his work place. Moreover, the legal texts do not impose a certain general work seniority or at the employer when the employee presents to him the request for unpaid leave for professional training. Also, the legal provisions state that the duration of the professional training leave cannot be deduced from the duration of the annual leave. [2, art. 153]

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