

# THE EMPLOYEE'S RESPONSIBILITY AND LIABILITY IN ROMANIAN ORGANIZATIONS. MANAGERIAL AND LEGAL APPROACH

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## Abstract

*Deep social and economic changes, as well as changes in communication technologies that have taken place over the last decades have resulted into radical alterations in the design of organizational forms.*

*Starting from the assumption that the employee has the duty to fulfil professionally all the responsibilities in the job description; equally appropriate can be to tackle particular aspects of Human Resources managerial practice, such as the fact that positions (and their corresponding job descriptions) can be subject to controversies as there is always an "unwritten" part which makes the difference between the employer's expectations and the employee's expectation. From the point of view of the employer and organization, the position is the main tool to allocate tasks (duties) and roles to employees. The possibility of the employer's abuses emerges, by including, in job descriptions, among other "responsibilities and tasks", the cliché: the holder of this position shall fulfill all tasks given by his/her hierarchical boss.*

*The job description explains what and how tasks / responsibilities shall be fulfilled, and each of the main responsibilities included is associated to one or several tasks. We are hereby emphasizing the employee's duty to fulfill the task listed in the job description but we see as justified the fear that overload may become an additional stress source with inevitable consequences.*

*A well structured and detailed job description is a proof of rigorous and organized management. The fact that some organizations' job descriptions do not define clearly the responsibilities and standards required from the holder of that position may become a problem.*

**Keywords:** responsibility, liability, employee, authority, organization

**JEL Classification:** K31

## 1. Introduction (economic and social contexts)

We are witnessing a re-considering of the relations between employees and organizations today, and Goleman<sup>2</sup> said about this: "Job insecurity on the labour market - called euphemistically *flexibility* by economists – is a deeply troubling fact. And it is part of the wave that innondates most major economies of the developed world, whether in Europe, Asia or in the Americas... Jobs seem not to be guaranteed any longer anywhere. Times are gloomy for workers".

Barnard apud Vlăsceanu<sup>3</sup> states that members of organizations significantly contribute, in exchange of benefits or incentives, to achieving specific organizational goals as they are the major resource, and at the same time, by performing labour processes, they are implementing organizational policies. People are not only major resources in achieving goals, configuring structures, using technologies, and developing strategies to achieve efficiency and to cope with the environment, they are not mere employees, they actually represent the organization. Their working behaviour results from their personal characteristics, actions and interactions, and from principles based on which organizational and managerial methods are designed.

## 2. Terminology

The "duty" theme has been present since the Ancient philosophy, especially in papers that are difficult to understand for most of us; we find this theme under various labels from Socrates to Aristotle and Kant, the latter being seen entirely as the philosopher of duty and a major reference in the field. I shall not make attempts that exceed my abilities to give definitions and I shall turn to

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<sup>2</sup> Daniel Goleman, *Inteligența emoțională, cheia succesului în viață* (1998), Bucharest, Allfa Publishing House, 2004, p.10

<sup>3</sup> Mihaela Vlăsceanu, *Organizații și comportament organizațional*, Iași, Polirom Publishing House, 2003, p. 233.

dictionaries<sup>4</sup> according to which the term *duty* originates in the Latin word *debitorius* and refers to *the legal or moral obligation to do something, a duty; out of duty, out of obligation, because it must; to be smb's duty; smb's obligation...*

Latto sensu, duty means the obligation imposed on or taken towards somebody, either material (money, things) or spiritual (moral duty, legal duty, administrative duty etc). Things become more complex when we refer to the *sense of duty* because *a well done job* reflects the sense of duty and because it starts with the duty towards oneself, one's family, profession and one's nation.

The term "responsibility" originates in the Latin word *respondeo, -ere* that means to respond, to correspond; to match; to equal; to reward; and it has been traditionally associated with the law. The law - with its main role to discipline human behavior in society - has a preventive role due to its norms. Legal thinking rejected the term "responsibility" at the beginning as it was considered to exclusively belong to morals. In time, legal thinking developed and has been accepted, so that liability and responsibility are seen as an indissoluble whole.

To keep in mind that responsibility implies a relation between the individual and the collectivity, and liability implies mainly a relation between the authority of a collectivity and the individual. The individual accepts this relation as something imposed from outside; and responsibility as something from inside, voluntary, with an interest<sup>5</sup>.

The institution of liability exceeds the law field, as it is an institution belonging to society<sup>6</sup>. The issue of liability is raised in all human activities; most human actions are susceptible to generate a form of liability<sup>7</sup>, since the individual does not act in a random space that is passive and neutral but in a social context, where the parameters of his action are given value<sup>8</sup>. The field of social liability is large and it includes moral, political and legal liabilities<sup>9</sup>, and others.

### 3. Responsibility and Liability from Legal and Managerial Approach

From the legal perspective, liability is regulated by law, it has either legal or normative character, and it is closely related to the holder of the legal obligation, that is it has a subjective character.<sup>10</sup>

Responsibility pre-exists before liability and it is assessed under the law, in the sense that its provisions should foster the feeling of responsibility.

From the managerial perspective, responsibility - a concept that is closely connected to authority - is the obligation to fulfill an allocated task in the best manner possible. By accepting the tasks and receiving the authority needed to fulfill these tasks, an employee takes one's responsibility. Which should be seen as a mutual obligation between individual and organization. Each employee invests knowledge, time, and experience as a member of an organization and he/she expects to be rewarded for that. In its turn, the organization invests in the employee and it expects profitable acts from him/her. The profitable bilateral relation can be damaged if one party fails in exercising its responsibility to meet the needs of the other party.

In an organizational context, liability is the obligation to be accountable in front of the hierarchical boss for all actions done or for failures. Every individual shall receive the reward (acknowledgement) or sanction (rebuking), according to his/her actions. People shall be liable for fulfilling their roles according to pre-established rules. Thus, the company managers shall be liable

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<sup>4</sup> *Dicționar Enciclopedic* (1999), Kishinev, Cartier Publishing House, 2nd ed., 2000, p.239 <http://www.dexonline.ro/definitie/datorie>.

<sup>5</sup> Nicolae Popa, *Prelegeri de sociologie juridică*, Faculty of Law - University of Bucharest, 1983, p.209.

<sup>6</sup> See Mircea Costin, *O încercare de definire a noțiunii răspunderii juridice* in *Revista română de drept* no 1/1970, p.75.

<sup>7</sup> *Ibidem*, p.75.

<sup>8</sup> Pavel Apostol, *Norma etică și activitate normată*, Scientific Publishing House, Bucharest, 1968, p.52.

<sup>9</sup> We take into account for instance the criminal liability of the crime perpetrator, as well as the civil liability whose characteristic is that it re-establishes the balance affected by the prejudice and re-positions the victim, at the perpetrator's expense, in the position in which he/she would have been if the damaging act hadn't taken place - see Philippe Malaurie, Laurent Aynes, Philippe Stoffel-Munck, *Droit civil: les obligations*, 3rd ed., Defrenois, 2007, p.10.

<sup>10</sup> Popa N., Eremia M.C-tin., Cristea Simona (2005), *Teoria generala a dreptului*, Bucharest, All Beck Publishing House, p. 288

for fulfilling their goals, the doctors shall be liable to give appropriate treatment to their patients, lawyers shall be liable for defending their clients.

If we correlate Toffler's statement according to which "at present, work-related relevant knowledge is changing so fast that more and more knowledge is needed both at one's workplace and beyond it", with the fact that an organization's performance and success are ensured by combining competences, abilities, talents, knowledge, or, in other words, the human capital quality, it results that *one of the employees' duties* is to update their knowledge and abilities, so that they should be ready for the intricate changes, transformations and challenges, and should focus on training, development and refresher courses (courses, workshops, on-site training, assistance from more experienced peers, feedback meetings with clients, personal development programs etc).

Authority, responsibility and liability must be correlated according to the parity principle. Responsibility and liability for one's work shall not be either too high or too low as against the delegated authority. Parity cannot be strictly mathematical, but it should be sufficiently correlated so that it should not create, as it happens in many cases, the situation where one is liable for tasks for which he/she has no authority.

#### 4. Definition and forms of legal liability

Every law branch covers a specific liability form (civil liability, criminal liability, administrative liability, labour law liability, and the Parliament's constitutional liability).

Irrespective of the forms of liability, there are some shared principles, applicable to all of them:

- Principle of liability lawfulness (according to this principle, liability shall be referred to only if stipulated by law)
- Principle of personal liability
- Principle of liability in case of guilt
- Principle of presumption of innocence
- Principle of proportionality of the sanction in relation to the action.

Two major ideas can be added to these principles: principle of the humanism of liability and principle of prevention through liability.

Specific forms of legal liability have been defined in every law branch. Labour law has: disciplinary liability, patrimonial liability, offender's liability, criminal liability, in the sense of sanctioning offences and crimes, under the labour law.

Judicial law and practice include clarifications regarding the circumstances under which an individual can be held liable, the nature and the coverage of the sanctions susceptible to be enforced on the guilty person, the principles and the limits within which liability shall operate<sup>11</sup>.

Legal liability arises when certain behaviour does not comply with the legal norm and it is considered to be negative<sup>12</sup>. A comprehensive definition can be the following: legal liability is the set of rights and corresponding obligations that, under the law, arise as a result of committing an illicit act and that make up the framework of achieving the constraint imposed by the state, by enforcing legal sanctions, in order to ensure stability of social relations and to advise the members of the society about compliance with the rule of law<sup>13</sup>.

The individual labour contract – source of legal labour relations is by definition a will agreement, a legal act that is subject to the rules stipulated in the labour law, with no specific own rules, and the civil law norms and civil procedural law shall apply. Such an example is art.1350 in the Civil Code which starts with the express regulation regarding the obligation of executing the contract as a new recognition of the principle of *pacta sunt servanda* stipulated under art.1270

<sup>11</sup> Mircea N. Costin, *cited work*, p.18

<sup>12</sup> Dan Țop, *Tratat de dreptul muncii*, Wolters Kluwer Publishing House, Bucharest., 2008, p.460. See also Mircea N. Costin, *cited work*, p.33; Gheorghe Gilesco, *Importanța structurii normelor juridice pentru analiza lor asupra relațiilor sociale*, Annals of the University of Bucharest, no 13-14, 1960, p.14.

<sup>13</sup> Mircea Costin, *O încercare...*, *cited work*, p.83.

para.1 in the Civil Code. Consequently, the individual labour contract, once concluded, has the force of a law between the contracting parties. As expressed in the doctrine<sup>14</sup>, the principle of the compulsory force of the contract is the main element of the legal construction that entails the mechanism of civil liability, in case on failure to fulfill the obligations. Under the provisions of Art.1350 para.2 in the Civil Code, contractual liability is the form of legal liability that implies a legal relation implying the obligation to compensate for the prejudice caused by failure to fulfill or by partially fulfilling of the contractual obligations. Another view<sup>15</sup> is that contractual liability is the contracting debtor's obligation to compensate for the prejudice caused to the creditor because of his/her action, and is represented by the lato sensu illicit performance of work owed under the contract concluded with the creditor.

Under Art. 253 and Art. 254 in the Labour Code, both the employers and the employees shall be held liable under the norms and principles of contractual civil liability for the prejudice caused to the other party that is part of the legal labour relation; however, to note that this liability is not purely civil but a variety and its specifics are determined by the characteristics of the legal labour relations<sup>16</sup>. Consequently, the acts that cause prejudice and have been committed by employers or employees during their exercising of the legal labour relations shall entail the legal liability of the perpetrator; the common law in this field is represented by the civil liability, completed however with the provisions of the labour law covering the patrimonial liability, and material liability – under the form of specific liability<sup>17</sup>. We remain in the field of civil law if the act causing prejudice has no connection with the exercising of the legal labour relations or has the elements of a crime, in which case liability shall be a civil tort liability<sup>18</sup>.

Patrimonial liability, as contractual civil liability, gravitates around the idea of re-establishing the infringed civil subjective right. To refer to patrimonial liability requires pre-existence of an individual labour contract. Another specific element of the patrimonial liability is represented by the impossibility to include, in the individual labour contract, clauses that aggravate the employees' liability, under art.38 in the Labour Code, which stipulates, under sanction of nullity, that employees shall not be able to give up their rights that are recognized under the law. It is however perfectly possible to negotiate clauses to diminish the employee's liability. On the other hand, we have the employer for whom it is possible to aggravate the contractual liability, as stated in the doctrine<sup>19</sup>, not to limit or exclude it.

The individual labour contract generates legal effects only for the contracting parties, not for third parties. Hence the conclusion that contractual liability can be invoked only by the employer and by the employee, and third parties can only invoke civil delictual liability<sup>20</sup> to repair prejudice suffered as a result of non-execution or inappropriate execution of an individual labour contract. The order needed to carry out the labour process is usually achieved through conformity that is through adopting, either willingly or for fear of punishment, of the behavior required from the parties in an individual labour contract. There are some cases in the legal practice where one of the parties, culpably violates the behavioural norms that the law, the internal regulations, the individual

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<sup>14</sup> Flavius-Antoniou Baias (coord.), Eugen Chelaru, Rodica Constantinovici, Ioan Macovei, *Noul Cod civil. Comentariu pe articole. 1st ed. Reviewed.* C.H.Beck Publishing House, Bucharest, 2012, p.1404.

<sup>15</sup> Liviu Pop, Ionuț-Florin Popa, Stelian Ion Vidu, *Tratat elementar de drept civil. Obligațiile*, Universul Juridic Publishing House, Bucharest, 2012, p.390.

<sup>16</sup> See Ion Traian Ștefănescu, *Tratat teoretic și practic de drept al muncii*, 2dn ed., reviewed and completed. Universul Juridic Publishing House, Bucharest, 2012, p.772. For the opinion according to which the prejudice owed to the employer as a result of illicit actions foster purely civil legal relations, not labour law relations, see Marian Nicolae, *Tratat de prescripție extintivă*, Universul Juridic Publishing House, Bucharest, 2010, p.1159. For the opinion according to which patrimonial liability is a separate form of legal liability, typical of employees, just like disciplinary liability, see Alexandru Țiclea, *Tratat de dreptul muncii Legislație. Doctrină. Jurisprudență*, 7<sup>th</sup> ed., reviewed and completed, Universul Juridic Publishing House, Bucharest, 2013, p.862.

<sup>17</sup> Ion Traian Ștefănescu, *Tratat teoretic și practic de drept al muncii*, Universul Juridic Publishing House, Bucharest, 2010, p.704, nota nr.1.

<sup>18</sup> See Alexandru Țiclea, *Tratat de dreptul muncii. Legislație. Doctrină. Jurisprudență*, 2<sup>nd</sup> ed., reviewed and completed, Universul Juridic Publishing House, Bucharest, 2013, p.863.

<sup>19</sup> Ion Traian Ștefănescu, *Tratat....., cited work* p.773.

<sup>20</sup> See Constantin Stătescu, Corneliu Bîrsan, *cited work*, p.134.

labour contracts or the collective labour contracts applicable, or the unwritten local laws impose, thus causing prejudice to the other party. In this case we have a conversion of the conformity legal relation into a liability related to prejudice which is, in its turn, a constraint legal relation<sup>21</sup> including the victim's right to have its prejudice repaired and the correlative obligation incumbent on the tortfeasor.

Liability that makes the object of the labour law implies, on the one hand, the pre-existence of a legal relation originated in the conclusion of an individual labour contract and on the other hand, the culpable perpetrating, by one of the contracting parties (which the obligation of good-willed execution of the contract that was incumbent on him/her) of a prejudice-causing act – as a necessary and sufficient reason to legally justify liability. To note that liability for prejudice is a basic institution without which labour law cannot exist, although the numbers of special provisions that make it up is rather scarce.

In the case of disciplinary liability, the act committed (disciplinary breach) is a low social threat, and sanctions can have a moral nature (rebuking, warning) or financial (salary cut over a period of time with a given percentage).

## 5. On the position and on the job description

**5.1. The position** is defined in the specialized literature as “a set of functions that are similar in terms of tasks and responsibilities”<sup>22</sup>. In the Romanian specialized literature<sup>23</sup> the position is usually defined as the set of goals, tasks, authority and responsibility incumbent on a person on a permanent basis in an organization, implying a certain level of educational and professional qualification. It results from the definition that the position implies the following components: *goals, tasks, authority, and responsibilities*.

**Goals** – qualitative and quantitative definitions of the goals considered when the position is created and justifying the logic of its creation; goals shall be fulfilled through tasks.

**Task** – the smallest labour unit incumbent on an operational agent (employee). It is a clearly formulated action, oriented towards achievement of a clear goal. The remit includes the set of identical tasks needed to achieve a part of the activity. The remit implies a certain responsibility regarding the fulfilling of tasks by a deadline and at high quality standards, and requires authority and appropriate skills (knowledge and expertise).

**Authority** is another component of the position expressing the limits within which the holder of the position is entitled to act in order to achieve individual goals and to fulfill one's remit. *Formal authority* is given to the holder of the position, and it is formalized through regulations, norms, procedures, methodological instructions, internal documents, and management decisions, representing therefore the *formalized power* that give the holder of the position the right to order task-fulfilling or to make changes in the organizational behavior. The holder of the position shall have the *professional competence and authority* expressed by his/her education and expertise which acquire recognition of merits and of the personal contribution to task-fulfilment.

**Responsibility** is that component of the position that materializes the behavioural side of the remit and represents the obligation of the holder of the position to fulfill his/her tasks and remit arising from the individual goals of the position. The responsibility is materialized in the attitude of the holder of the position towards or the nature of his/her personal involvement in the manner of task-fulfilment and remit-fulfilment. *Responsibility shall be correlated with the position's tasks and authority*, thus avoiding *undersizing* – reflected in diminished interest and diminished effort to appropriately fulfill the allocated tasks and to appropriately use one's skills, and *oversizing* – reflected in either inhibition of the position's holder, or in earning rewards that do not reflect the

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<sup>21</sup> See Mircea N. Costin, *cited work*, p.29.

<sup>22</sup> Peretti, J.M., *Ressources humaines* (1994), Paris, Edition Vuibert-Gestions, 2001, pp. 50-51.

<sup>23</sup> Aurel Manolescu, *Managementul resurselor umane* (1998), 3<sup>rd</sup> ed., Bucharest, Economica Publishing House, 2001, pp.158-161; Mathis R.L., Nica P.C., Rusu C. (coord.), *Managementul resurselor umane*, Bucharest, Economica Publishing House, 1997, p. 60.

efforts made and the results obtained. The designing of the position therefore shall take into account a dynamic balance between the goals of the position on the one hand and its responsibilities on the other hand.

**5.2. Job description** is a short expression of the information collected during the analysis of the position, it is a written document identifying, defining and describing the position in terms of tasks, responsibilities, work conditions and specifications. Two kinds of job descriptions are used in the Human Resources practice: *specific* and *general*.

**Specific job descriptions** include detailed tasks and responsibilities incumbent on the holder of the position, focused on detailed work planning and on work monitoring; they are mainly used by bureaucratic organizations, where the frontiers between functions and hierarchical levels are clearly established.

**General job description**, emerged lately in the managerial practice, is appropriate for plain organizational structures, and includes overall obligations and responsibilities; it can be used for a large range of similar positions from various departments of the organization.

Although there is no standard format, the job description includes information divided into sections, and regarding: identification of the position, tasks and responsibilities of the employee, work relations, work standards (performance), work conditions, minimal specifications and qualifications.

**Identification information:** title of the position, department, information source for position assessment, who has designed and checked the job description, date of position assessment, date of job description check.

**Summary of the position:** a short list of tasks and responsibilities, and the place of the position in the organizational chart.

**Relations of the position:** connections of the holder of that position with other employees both inside and outside the organization.

**Tasks and responsibilities of the position:** this section explains what, how and why to do for that particular position: usually, some of the main responsibilities are listed, each associated with one or several tasks.

The limits within which holders of the positions can act in order to fulfill individual goals make up the formal *competence or authority* associated with that position; formal competence establishes the means to be used by the holders of the positions to fulfill tasks. The range of activities at all hierarchical levels in an organization is determined through rules and norms translated into regulations and codes that stipulate the employees' desirable behaviours, under sanction.

This is the section implying *an obvious sense of duty*, for which things can be done either "flimsily" or "with a sense of liability"; this is the difference between clear genuine involvement of the employee to achieve performance, and the effort to fulfill the tasks stipulated in the job description only to avoid losing one's job. The issue of the employee's *duty-fulfilment* implies both aspects regarding to manner of duty-fulfilment and managerial, psychological and legal aspects regarding the reasons of duty-fulfilment. As an *extension* of the duty, the *organizational civil behaviour* is an informal, voluntary behavior meant to increase organizational efficiency, but the performance-assessing formal system does not take it into account and does not reward it. One form of organisational civic behavior is *dutifulness towards work* (punctuality, task-completion by deadlines and economies of scale), as well as *cooperation*, availability towards colleagues, and willingness to help and assist. How does work satisfaction contribute to the organizational civic behaviour? The key is *correctness*<sup>24</sup>, both distributive (regarding salary), and procedural correctness from the boss.

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<sup>24</sup> Organ, D. W., & Konovsky, M., *Cognitive versus affective determinants of organizational citizenship behavior* (1989) apud Gary Johns, *Comportament Organizational* (1996), Bucharest, Economica Publishing House, 1998, p. 140.

Occasional tasks may often emerge – which facilitates the allocating of additional tasks; depending on needs arising during the activity, which leads to the likelihood of abuses by employers in the job descriptions, such as the cliché: *the holder of this position shall fulfill all tasks allocated by the hierarchical boss*.

We rely however on the good will of both parties and plead in favour of the need of the employee's acceptance, because, by making efforts to adjust itself to the "fluidity" of the economic conditions, the company itself is subject to constraints. Uncertainty and turbulence of the economic environment where "the new business type in which *any-job-matters*, permanent dramatic changes, technological innovation, global competition and investors' pressure are forces that increase mutations; another fact is that organizations increasingly shrink as a result of restructuring waves, and the employees kept will receive more responsibilities and become more and more exposed".

Overload on employees can become dangerous and experts in workplace stress state<sup>25</sup> : "professional life and social life are the major sources of daily stress. Professional stress is definitely just one disease of civilization; professional stress has become a serious problem of our times, jeopardizing not only individuals' physical and mental health but also organizations and governments".

The latest organisational mutations are described by Goleman as follows<sup>26</sup>: "The rules of labour are changing. We are judged according to new standards, not only by our intelligence or our professional competence, but also by our behavior. The new criterion sees intellectual skills and technical know-how as taken for granted in our professional performance of work, and focuses more and more on personal traits, such as initiative, empathy, adjustability and persuasion. It is not temporary vanity or a managerial recipe; research has revealed the personal traits that make up the ingredients of an excellent performance of work... At times when services are no longer ensured, when the *job* concept itself is replaced with *portable skills*, these skills increase the chances to be hired; irrespective of the label, what matters is the manner to be intelligent but in case of older workers who were raised during meritocracy with ideas that professionalism and technical abilities are the winning ticket, the *new thinking can come as a shock*. Personality traits such as mobility, resistance, flexibility, spontaneity, initiative, and adaptability are increasingly appreciated". Both managers and employees must learn what are these and, as Brâncuși said "*things are not difficult to do, what is difficult is to put ourselves in the state of doing them...*"

**Performance standards:** some job descriptions include a section listing standards that shall be met by the holder of that position for each responsibility. Establishing standards is never easy, especially in the new context<sup>27</sup>. Concrete and clear expressions lead to better results.

**Authority:** includes the limits of decision-taking, direct monitoring of other staff and budget limitations (for instance, the holder of that position has the authority to approve procurement requests that do not exceed the amount of ..., to give employees permission to be absent from work or to accept justification for absence, to enforce disciplinary measure upon employees, to recommend salary increase, to make interviews and to recruit new employees).

**Specifications:** list the employee's characteristics (traits and experience), needed to fulfill the position's responsibilities and tasks, and they are different for skilled and unskilled workers; thus, in case of skilled workers, the following characteristics are of interest: experience in a specific activity and quality of the relevant training, in case of unskilled workers, the following characteristics may be taken into account: physical traits, personality, sensorial abilities. *Specialized techniques and*

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<sup>25</sup> Jean-Benjamin Stora, *Stresul* (1991, 1997), Bucharest, Meridiane Publishing House, 1999, p.17; Horia Pitariu, Delia Vîrgă, *Stresul ocupațional*, in *Manual de tehnici și metode în psihologia muncii și organizațională*, coord.Zoltán Bogáthy, Iași, Polirom Publishing House, 2007, pp.235-252.

<sup>26</sup> Daniel Goleman, *Inteligența emoțională, cheia succesului în viață* (1998), Bucharest, Allfa Publishing House, 2004, pp.2-4.

<sup>27</sup> The unions' concerns regarding the facilitated employees' dismissal as a result of the Law no 40/2011 for the modification and completion of the Law no 53/2003 – *Labour Code* published in the Romanian Official Gazette, Part I, no 225, of 31 January 2011, in force starting with 01 May 2011. Employers refer to the need to *make more flexible labour relations* and of course a more flexible attitude is needed and this implies a formalized reflection in the job description, in terms of conditions to hire and dismiss, but we should preserve an acceptable flexibility, not a paradoxical one. If standards are set too high, the employees may fear that they may be *out of the game* if they do not comply.

*procedures* are used to define the job descriptions. Job descriptions list characteristics related to efficient task-fulfillment, in order to avoid discrimination upon hiring or in performance assessment (e.g. a PC operator may be trained in programming, a skill that is not needed to achieve performance on the PC operator position, so such a characteristic should not be included in the job description).

From the perspective of the Human Resources Management, people are not only recruited and selected to fill in vacancies, but also for their defining role in the respective organization. In the course of time, the phrase “right man at right place” has been an element in the development of the candidate-selection process, starting from the assumption that there is one best worker for each position; to apply this principle means to know each position’s requirements and demands, so that we could have a comparative basis for the employee’s possibilities, abilities and psychological, as well as social and professional characteristics.

## 6. Conclusions

As revealed by this material, the goals of the balance between organization and employee are loyalty, dedication and motivation. Far from being pessimistic, we however express our fear that currently, when labour market conditions are so harsh for workers, the fast pace of change and the employee’s misunderstanding/impossibility to accept change have affected loyalty, which should be the strongest pillar of the balance between organization and employee. This relation is defined by the labour contract; however, under such fluid circumstances, where each party has the right to use new opportunities, the terms of this relation are more and more difficult to comply with by both parties; companies can no longer guarantee all jobs, and by reciprocity, employees no longer feel obliged to be loyal; consequently, each employee has a choice to make, either to adjust oneself to / and work in new conditions (and because of pressure, uncertainty, and restructuring, to accept more responsibilities) or to be ready to leave one’s job.

Ron H. Bradnam<sup>28</sup> finds that “an efficient organizational strategy cannot exist as separate from the world, and neither the managers can have a useful contribution without employees – nor the opposite. Each party has to make a significant contribution in terms of skills, knowledge and enthusiasm. Their mutual dependency will become more important and their ability to cooperate and solve problems together will be a priority. Increased involvement in genuine understanding and mutual appreciation is needed”. Drucker<sup>29</sup> apud Bradnam emphasized in 1973 that “organization creators shall learn that healthy structures require a hierarchical decisional and authority structure as well as the ability to organize operational teams, collectives and individuals to work on a permanent or temporary basis”.

Given the fact that many employers want a labour market where professional relations should be balanced and allow keeping the high-performance employees and economic prosperity, we need an appropriate Romanian legislation to ensure these, and employees should accept that, on short term, in their immediate space, their own interest is connected to the existence of the organization/company, and their effort to meet the employer’s needs can be seen as an object of *duty*. For those who believe in performance, the new Labour Code seems to act as a tool to recover the gap between productivity and competitiveness.

The job description shall equally be a performance-measuring tool and an employee-protection tool; dismissals can take place only for non-compliance with performance criteria stipulated in the agreement by mutual consent when the contractual relation began, in order to avoid the employer’s abuses.

After analyzing all these aspects, we can conclude that, up to a certain moment, duty is a way to express the employee’s obligation to fulfill tasks at high standards. Could position-designing

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<sup>28</sup> Ron H. Bradnam, *Strategii organizaționale pentru viitor*, chap.2 in *Manual Gower de Management*, coord. Dennis Lock, (1983, 1988, 1992), Bucharest, CODECS Publishing House, 2001, p.11-13.

<sup>29</sup> *Ibidem*, p.17.

improve professional life and work satisfaction? Maybe Yes. The specialized literature<sup>30</sup> states that, ideally, a well-defined position shall be like a whole, including description of identifiable tasks, significant for the holder of that particular position, in which case duty can be “read” as a task that is worth fulfilling with all efforts; to note that it’s advisable to allow the holder of that position the “freedom” to take decisions needed to perform the activity within the limits imposed by the organization.

### Bibliography

1. Bradnam Ron H., *Strategii organizaționale pentru viitor*, in *Manual Gower de Management*, coord. Dennis Lock, (1983, 1988, 1992), Bucharest, CODECS Publishing House, 2001.
2. Filliozat Isabelle, *Inteligența inimii – bazele gramaticii emoționale* (1997), Bucharest, Cosmos Publishing House, 2006.
3. Goleman Daniel, *Inteligența emoțională, cheia succesului în viață* (1998), București, Allfa Publishing House, 2004.
4. Goleman Daniel, *Inteligența emoțională* (1995), ediția a II-a, Bucharest, Curtea Veche Publishing House, 2005.
5. Goleman Daniel, Mckee Annie, Boyatzis Richard, *inteligenta emoțională în leadership*, (2002), București, Curtea Veche Publishing House, 2007.
6. Johns Gary, *Comportament organizațional* (1996), Bucharest, Economica Publishing House, 1998.
7. Lipovetsky Gilles, *Amurgul datoriei* (1992), București, editura Babel, 1996.
8. Manolescu Aurel, *Managementul resurselor umane* (1998), 3rd edition, Bucharest, Economica Publishing House, 2001.
9. Pitariu Horia, Virgă Delia, *Stresul ocupațional, în manual de tehnici și metode în psihologia muncii și organizațională*, coord. Zoltan Bogáthy, Iași, Polirom Publishing House, 2007.
10. Pop Liviu, Popa I. Fl., Vidu Stelian Ion, *Tratat elementar de drept civil. Obligațiile*, Universul Juridic Publishing House, Bucharest, 2012.
11. Popa Nicolae., Eremia M.C-tin., Cristea Simona, *Teoria generala a dreptului*, Bucharest, All Beck Publishing House, 2005.
12. Stora Jean-Benjamin, *Stresul* (1991, 1997), Bucharest, Meridiane Publishing House, 1999.
13. Ștefănescu Traian. I, *Tratat teoretic și practic de drept al muncii*, (2012), second edition., reviewed and completed, Universul Juridic Publishing House, Bucharest.
14. Toffler Alvin, *Șocul viitorului* (1970), Bucharest, Politica Publishing House - colecția idei contemporane, 1973.
15. Toffler Alvin și Heidi, *A crea o nouă civilizație: politica în al treilea val* (1995), Bucharest, Antet Publishing House, 1995.
16. Toffler Alvin și Heidi, *Revolutionary wealth – avuția în mișcare* (2006), Bucharest, Antet XX Press Publishing House, 2006.
17. Țiclea Aurel., *Tratat de dreptul muncii. Legislație. Doctrină. Jurisprudență*, (2013) second editon, reviewed and completed, Universul Juridic Publishing House, Bucharest.
18. Ursachi Ioan, *Management*, Bucharest, Academy of Economic Studies Publishing House, 2007.
19. Vlăsceanu Mihaela, *Organizații și comportament organizațional*, Iași, Polirom Publishing House, 2003.
20. *Clasici ai literaturii motivaționale* (1983): Russel H. Conwell, *Hectare de diamante*; William George Jordan, *Măiestria stăpânirii de sine*, James Allen, *După cum gândește omul*, Bucharest, Curtea Veche Publishing House, 2003.
21. *Management competitiv* - Center for Open Distance Education Romania, vol.4, Bucharest, CODECS Publishing House, 1995.
22. *Dicționar Enciclopedic* (1999), Cartier Publishing House, Chișinău, second editon, 2000.
23. *Labour Code*, published in The Romanian Official Gazette, Part I, no 225 / 31 January 2011, in force starting with 1st May 2011

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<sup>30</sup> *Management competitiv* - Center for Open Distance Education Romania, vol.4, Bucharest, CODECS Publishing House, 1995, p. 24, 30.