

## THE RIGHT TO HAPPINESS AT WORK: THE PERSPECTIVE OF THE ROMANIAN LEGISLATION

Radu Răzvan POPESCU<sup>1</sup>

Isabela Delia POPA<sup>2</sup>

### ABSTRACT

*The paper aims to outline that, despite the lack of specific regulation addressing the right to happiness at work under the Romanian legislation, there is an indissoluble connection between happiness, well-being and respect of human dignity that defines the working environment in Romania and employees' productivity at work, thus transposing happiness at work into a set of social values that need to benefit from proper legal protection. A recent study carried out in Romania reveals that happiness at work is not linked to low-paid jobs or poorly-equipped working environments, but mainly to the level of content of workers with respect to their person and to the opportunity to develop their career. What guarantees does the Romanian legislation offer to this extent?*

*Keywords: happiness at work, salary, dignity, professional training, Romania.*

### I. Introduction

The right to happiness, either at work or in any other social environment, does not have a correlative regulation in the Romanian legislation. No normative act contains references to a potential right to happiness, while the Romanian courts of law (including the Romanian Constitutional Court) have never considered this aspect within their reasoning.

Without stressing on the psychological meanings of the concept of „happiness”, for the purpose of this paper «happiness at work» shall be interpreted as referring to

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<sup>1</sup> Associated Professor, PhD, The National University of Political Studies and Public Administration (SNSPA), Bucharest, Romania. Attorney-at-law, Bucharest Bar, Romania. E-mail: radupopescu77@yahoo.com

<sup>2</sup> Collaborator Assistant Professor, The National University of Political Studies and Public Administration (SNSPA), Bucharest, Romania. PhD candidate, Faculty of Law of the University of Bucharest, Bucharest, Romania. Attorney-at-law, Bucharest Bar, Romania. E-mail: isabela.popa@idplegal.com

satisfaction at work and employees' personal and professional fulfilment. Particularly, the paper aims to outline that, despite the lack of specific regulation addressing the right to happiness at work under the Romanian legislation, there is an indissoluble connection between happiness, well-being and respect of human dignity that defines the working environment in Romania and employees' productiveness at work, thus transposing happiness at work into a set of social values that should benefit – as a matter of principle - from proper legal protection.

The question is whether the existing Romanian legislative framework does offer any guarantees to employees with respect to their well-being at work.

## II. The current trend on the Romanian market in terms of happiness at work

The statistics drawn up by the Romanian National Institute of Statistics reveal that, on 1 January 2017, there were 22,223,000 inhabitants in Romania<sup>3</sup>. In terms of existing workforce, with reference to the same date, the Ministry of Labour and Social Justice from Romania reported that there were 4,781,400 employees working in Romania<sup>4</sup>, while the net average salary earning was amounting to RON 2,300 (*i.e.*, approximately EUR 512)<sup>5</sup>. However, as concerns the level of satisfaction at work of employees in Romania, there is no aggregate data collected and publicly released by national authorities.

A private survey conducted early in 2017 by eJobs<sup>6</sup>, an online recruitment platform that enables employers and employees to post and view job offers respectively, aimed to determine the index of happiness at work among 128,000 respondents (employees working in Romania). The survey was entitled „Happy@job” and focused on 5 pillars: passion, honesty, balance, impact and development.

The results of the survey revealed the following:

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<sup>3</sup> According to the press release of the Romanian National Institute of Statistics no. 101 dated 26 April 2017, available at the website address: [http://www.insse.ro/cms/sites/default/files/com\\_presa/com\\_pdf/popdom1ian2017r\\_0.pdf](http://www.insse.ro/cms/sites/default/files/com_presa/com_pdf/popdom1ian2017r_0.pdf), last accessed on 01 May 2017. The statistic was drawn-up based on the declared domicile of the Romanian inhabitants.

<sup>4</sup> According to the data collected and publicly released by the Romanian Ministry of Labour and Social Justice, available at the website address: [http://www.mmuncii.ro/j33/images/Date\\_lunare/Salariati\\_01\\_17.xls](http://www.mmuncii.ro/j33/images/Date_lunare/Salariati_01_17.xls), last accessed on 01 May 2017.

<sup>5</sup> According to the data collected and publicly released by the Romanian Ministry of Labour and Social Justice, available at the website address: <http://www.mmuncii.ro/j33/index.php/ro/transparenta/statistici/date-statistic>, last accessed on 01 May 2017.

<sup>6</sup> The results of the survey are available at the following website address: [https://www.ejobs.ro/happy/happy\\_index.php](https://www.ejobs.ro/happy/happy_index.php), last accessed on 01 May 2017.



69% are passionate about their job

57% feel they benefit from honesty at work

63% consider that their private and professional life is in balance

70% have the feeling that their work has impact

46% consider that they have the possibility to develop at their current workplace

Part of the respondents are unsatisfied with their professional life, while others declare that they are very happy at work, as follows:

- 26% are very happy with all aspects concerning their professional life;
- 40% of the respondents who benefit from balance between professional life and personal life would like to have a major impact through their work;
- 17% have an average level of content with respect to their current job;
- 45% of the respondents, who do not feel that their work is of impact, are of view that, however, they benefit from honesty/transparency at their workplace;
- 33% of the respondents who do not feel that their work is of impact are still passionate about their daily work;
- 45% of the respondents who feel that they do not have the opportunity to professionally develop declare that they are, however, passionate about the professional environment where they carry their work;
- 6% are unhappy in all aspects of their professional life;
- 50% of the respondents who feel that there is no room and no opportunity for professional development want to have impact through their work.

The main conclusion of the survey conducted was that 61% of the respondents are satisfied at work.

Analysing the data above, one may assess that the milestones of dissatisfaction (unhappiness) at work are the following: (i) *lack of impact of the work carried*, and (ii) *no opportunity/few opportunities for professional development*. It is unclear whether these are objective barriers to happiness at work, or whether these are generated in the context of the given working environment, by superiors, co-workers and/or company policy.

Apart from the survey mentioned above, despite the lack of statistical data, we assess that unhappiness/dissatisfaction at work is also generated by the following:

*Low payment of work* – during the last years, the national trade unions have dedicated tremendous efforts to determine the increase of the minimum wage (with impact on all sectors of the Romanian economy). Also, for more than 15 months, the national trade unions have debated and negotiated with the Romanian Government the adoption of the Unitary Pay Law, aimed to address the increasing wage imbalances across sectors, that have persisted for years according to activities, regions, ownership type and size of enterprises (process which is ongoing).

*„Toxic” working environment* – there are thousands of labour litigations initiated in front of the Romanian courts of law, mainly deriving either from abuses at work (moral harassment claims, discrimination claims, illegal disciplinary sanctions, lack of payment of overtime etc.) or from dismissals.

Under the given context, the matter of interest for this paper is to analyse and determine if the existing Romanian labour legislation is well-constructed and sufficient in order to un-impede the achievement of happiness at work. Specifically, it is to be analysed whether the Romanian legislation in force provides guarantees of happiness to work (even in absence of an explicit regulation of such concept) and whether the issues that employees confront with are a matter of implementation of legislation (at the level of employer), a matter of resilience at company level towards the existing legislative framework, or a matter of lack of education of the employees with respect to their rights and the conditions under which such rights could be effectively exerted. It is, thus, self-understood that happiness at work could only be achieved by putting in common the efforts of employees and employers, based on a favourable legislative framework.

### **III. Main rights of Romanian employees – correspondence with happiness at work**

As stated above, happiness at work is not provided under the Romanian law as a right of employees. Note is to be made that, as opposed to other European legislations, the Romanian existing legislative framework is particularly protective with employees, granting a level of protection superior to that granted to employers.

The Labour Code of Romania<sup>7</sup> provides that employees have a total number of 14 (fourteen) main rights<sup>8</sup>, out of which (i) the right to be remunerated for the work

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<sup>7</sup> Law no. 53/2003 on the Labour Code, Official Gazette of Romania Part I, no. 345 dated 18/05/2011 (republished), as further amended and completed (hereinafter the „Labour Code of Romania”).

<sup>8</sup> According to Article 39 of the Labour Code of Romania, employees have the following main rights:

- a. the right to be remunerated for the work performed;
- b. the right to daily and weekly rest;
- c. the right to annual leave;
- d. the right to equality of opportunities and treatment;
- e. the right to dignity;

carried out, (ii) the right to dignity, and (iii) the right of access to professional training.

### *III.1. Right to be remunerated for the work carried out*

The gross minimum wage in Romania is in amount of RON 1,450 (*i.e.*, approximately EUR 323), representing the lowest monthly remuneration that employers are allowed, under the law, to pay to their employees. The amount of the minimum wage increased every year, due to the pressure exerted by the national trade unions. However, at EU level, Romania is providing the second lowest minimum wage, right after Bulgaria<sup>9</sup>. According to a study conducted by the Romanian National Scientific Research Institute for Labour and Social Protection<sup>10</sup>, pursuant to the data existing with the general electronic employees' registry, in October 2016, more than 1,550,000 employees in Romania (representing approximately 32.5% of the employed workforce in Romania) were remunerated with the minimum wage. From our point of view, this factual situation may generate the following main effects: firstly, the said employees will most probably remain trapped in low- or minimum wage- positions; secondly, it is less probable that the work carried out by such employees could have the expected (desired) impact.

As a general principle, the salary is the «hygienic» element of the working life of any employee, considering that work is carried out in consideration of the salary payment to be performed by the employer. In terms of happiness, neither the minimum monthly gross wage of RON 1,450 (*i.e.*, approximately EUR 323), nor the national average monthly gross wage of RON 2,300 (*i.e.*, approximately 512) could be presumed to bring satisfaction related to work to any employee. In fact, the low level of remuneration determined Romanian workers to emigrate to other EU and

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- f. the right to labour safety and health;
  - g. the right of access to professional training;
  - h. the right to information and consultation;
  - i. the right to take part in the process of determining and ameliorating working conditions and working environment;
  - j. the right to protection in case of dismissal;
  - k. the right to individual and collective bargaining;
  - l. the right to take part to collective actions;
  - m. the right to form or to adhere to a trade union;
  - n. any other rights prescribed by the law or by the applicable collective labour bargaining agreements.

<sup>9</sup> Karel Fric, *Statutory minimum wages in the EU 2017*, available at the website address: <https://www.eurofound.europa.eu/observatories/eurwork/articles/statutory-minimum-wages-in-the-eu-2017>, last accessed on 01 May 2017.

<sup>10</sup> Romanian National Scientific Research Institute for Labour and Social Protection, *Project: Conducting a study regarding the minimum gross wage guaranteed for payment by evaluating the economic and social effects on its application, the identification and evaluation of the aspects that influences it, determining the aspects that have significant impact (negative/positive) on the socio-economic environment, determining the controlling measures of such and the measures to adjust the negative effects*, available at the website address: [http://www.mmuncii.ro/j33/images/Documente/Transparenta/2016/Studiu\\_salariu\\_minim\\_proiect.pdf](http://www.mmuncii.ro/j33/images/Documente/Transparenta/2016/Studiu_salariu_minim_proiect.pdf), last accessed on 01 May 2017.

non-EU countries, being expected that Romania will lose 5 million inhabitants until the year 2050 in this context.

### *III.2. Right to dignity*

Any breach of the right to dignity of an employee would severely affect well-being at work and the degree of satisfaction with respect to professional life. This conclusion derives from the outstanding number and type of litigations initiated by employees/former employees against employers every year in Romania.

A survey carried out by the Romanian National Institute of Statistics in 2013<sup>11</sup> in the field of health and safety at work revealed that more than 255,000 employees reported at that point in time exposure to factors affecting only mental health, such as harassment or emotional violence, physical violence or threats of physical violence, pressure to deliver work at short notice, being overloaded with multiple or simultaneous tasks. As a direct consequence, moral harassment<sup>12</sup> claims brought to court in Romania increased substantially in the last years.

Human dignity, likewise the right to happiness, is the basis of human rights. In the context of working relations, it encompasses the need of every individual to be treated with respect, to be fairly appreciated from professional perspective and to be part of a non-intimidating, non-hostile and non-degrading or non-humiliating working environment. From this standpoint, the right to dignity implies the recognition at the workplace of the impact that the work carried has and the added-value such brings at company level. The Romanian legislation grants proper protection to the right to dignity at work, both at constitutional level and at normative level<sup>13</sup>.

The „Happy@job” survey analysed above outlines that happiness at work is not linked to low-paid jobs or poorly-equipped working environments, but to self-content and peer-appreciation. From this perspective, both the right to dignity and the right to happiness appear to be founded on the principle of equality between individuals. It is, thus, undeniable that the right to dignity is inter-dependent to the right to happiness at work and the proper observance of the first would lead to a higher level of satisfaction in terms of work.

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<sup>11</sup> Romanian National Institute of Statistics, *Accidents at work and work-related health problems survey, second quarter 2013*, INS, Bucharest, published on 12 December 2013.

<sup>12</sup> Under the Romanian legislation, „psychological harassment” is defined as „any inappropriate behaviour that takes place in a certain period of time, repetitively and systematically, and which implies a physical, oral or written behaviour, gestures or other international acts and which may affect the personality, the dignity or the physical integrity of a person” (Article I item 3 of Law no. 229/2015 for the amendment and completion of Law no. 202/2002 on equal opportunities between women and men, Official Gazette of Romania Part I, no. 749 dated 07/10/2015).

<sup>13</sup> The right to dignity is regulated under Article 6 para. (1) and Article 39 para. (1) letter e) of the Labour Code of Romania, as well as under Article 1 para. (3) of the Romanian Constitution.

### *III.3. Right of access to professional training*

In a permanently-changing working environment, both at national and global level, the need of every employee of professional training is more intense as ever. Professional training is conceived to enable employees to keep up with the developments incurred at work (and, thus, to maintain the position held within the organisation), to promote to other/higher positions and/or to professionally reconvert to another profession.

The Romanian legislation in force is clear and employee protective in this concern. Essentially, it provides that employers have the legal obligation to ensure the professional training (and development) of employees, at least every two years or three years, depending on the number of workers employed, all costs incurred being undertaken by employers<sup>14</sup>. Thus, employers' obligation converts into employees' right. Undoubtedly, the obligation to provide training to employees is the sole responsibility of the employer and is not subject to any prior request by the employees to receive such training. Otherwise saying, it is for employers to provide relevant pieces of evidence confirming the duly fulfilment of the obligation to provide professional training.

In the light of the above, the existing legislative framework in Romania does protect and rightful configure satisfaction of employees at the workplace by enabling professional development opportunities for employees.

## **IV. Conclusions**

Despite the lack of a legislative specific approach with respect to employees' right to happiness, employees' well-being at work is projected under the Romanian legislation under various rights that converge to the same effect. The level of monthly remuneration, by reference to the legally prescribed gross minimum wage, does not have the potential to ensure a reasonable level of satisfaction at the workplace. Placed second after Bulgaria, Romania is still characterised by low-paid workforce.

Happiness at work is not linked to low-paid jobs or poorly-equipped working environments, but relies on other elements that could ensure employees' personal and professional fulfilment. Specifically, the degree of satisfaction increases proportionally with the extent to which the right to dignity and the right of access to professional training are properly observed at company level.

Therefore, it is not the existing legislative framework that could be able to impede happiness at work for employees, but other causes, such as: the implementation of legislation (at the level of employer), the resilience at company level towards the existing legislative framework, or a matter of lack of education of the employees with respect to their rights and the conditions under which such rights could be effectively exerted.

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<sup>14</sup> The Labour Code of Romania dedicates several articles to professional training (especially Articles 194 - 200 thereof).