

SOCIAL POLICIES TO STIMULATE SOCIAL INCLUSION OF DISINSTITUTIONALIZED YOUTH IN THE ROMANIAN LABOR LAW SYSTEM

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Abstract: This paper aims to present social policies to stimulate social inclusion through employment of disinstitutionalized youth in the existing Romanian legal system in two main dimensions, namely: a first dimension that is designed to increase the employment opportunities for persons seeking a job and a second dimension that seeks to ensure the stimulation of employers(entrepreneurs) to hire this vulnerable group. The doctrine analysis and of the governing legislation, and also the conclusions of a focus group organized with specialists involved in this process have allowed at the end of the study the formulation of proposals for *lege ferenda*, to guide the legislator to perfecting the referred social policies, in particular to their application with real benefits to ensure social inclusion through employment of this socially vulnerable group.

Keywords: social policy, disinstitutionalized youth, social inclusion, active measures;

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1. Introduction

The term *social policy* designates "activities/actions carried out by/through the state (strategies, programs, projects, institutions, actions, legislation) whose purpose is to promote/influence the welfare of the individual, family and community in a society and welfare of society as a whole" (Pop, 2002: 598).

According to Law no. 292/2011 for Social Work, article 6 letter p, *the vulnerable group* designates "individuals or families who are at risk of losing their capacity to meet the needs of daily living because of disease, disability, poverty, addiction to drugs or alcohol or other situations that lead to economic and social vulnerability".

At the same time, the stipulations of Article 5 pct.IV³ of Law no. 76/2002 regarding the unemployment insurance system and the stimulation of employment expressly include *disinstitutionalized youth* in the category of young people at risk of social exclusion, as a vulnerable group, for which there were developed a number of social policies designed to promote/affect welfare .

The phrase youth at risk of social exclusion, in the mentioned rules, understand the term as *the individual aged 16-26 years, who fulfills the requirements of Section IV (where the term unemployed is defined), the individual registers at the agency for employment of the jurisdiction he resides or, where appropriate, the jurisdiction of the residence and falls into one of the following categories:* the individual is in the child protection system or comes from this system; the individual has disabilities; the individual has no family or whose family can't ensure support; the individual has dependent children; the individual has executed one or more imprisonment; the individual is a victim of trafficking.

We believe that the analysis of legislation that stimulates social inclusion through labor of disinstitutionalized youth, in this case the rules of law contained in Law no. 76/2002 on the unemployment insurance system and stimulating employment, in Law no.

116/2002 on combating social exclusion, in Law no. 335/2013 regarding the internship for university graduates, and also Law. 279/2005 regarding apprenticeship at work, republished, must be preceded by general principles governing this matter.

These principles are found in both, the Labour Code and the Law. 292/2011 of Social Work, and are: the right to work and freedom of work (Article 3 Paragraph 1 of the Labour Code), equal treatment and non-discrimination (Article 5, Paragraph 1 of the Labour Code), social protection of employees (Athanasiu et al, 2007: 17,18) the principle of consensus and good faith (Article 8 Paragraph 1 of the Labour Code), the principle of social solidarity (Article 5 Letter a of Law no. 292/2011), the principle of activation (Article 5 Letter m of Law no. 292/2011).

2. Policies to stimulate social inclusion through labor of disinstitutionalized youth by increasing employment opportunities for people looking for a job

This category of social policies include, primarily, *active measures to increase employment opportunities for persons seeking employment, subjected to the dispositions of Article 53 of Law no. 76/2002 on the unemployment insurance system and stimulation of employment*, namely:

- *Information and counseling* which is a set of services offered to people looking for a job, services free of charge, as follows: providing them with information on the labor market and the evolution on occupations; assessment and self-assessment of personality for vocational guidance; the development of the ability and self confidence of people looking for a job, in order to enable them to make decisions regarding their career; training methods and techniques in finding a job (presentation at interview, compiling a CV). (Article 58 of the Law no.76 / 2002).
- *Mediation of labor* means services of linking employers with people looking for a job in order to determine employment.

County agencies for employment are required to identify vacancies and make them known to the individual who is looking for a job. Participation to mediation services is mandatory for the unemployed receiving unemployment benefits.

In pursuit of measures to boost employment, employment agencies are required to prepare for each person looking for a job, *the individual mediation plan*.

- *Professional Training*.

Individuals seeking employment can participate in training programs to ensure their growth and diversification of professional skills in order to ensure mobility and labor market reintegration.

The training programs provide, by law, initiation, qualification, training and specialization of individuals looking for a job, they are offered the possibility of acquiring specific theoretical and practical knowledge of new jobs that increases their chances of employment. (Article 63 Paragraph 2 of Law no.76 / 2002)

Forms through which the training is done are: courses, internships and specialization, and other forms according to the law.

Access to training programs is through the work of professional information and counseling or mediation (Ticlea, Georgescu, 2013: 121).

Vocational training programs for individuals seeking work is organized distinctly on levels of training and specialization, as well as categories and groups. (Article 64 of the Law no.76/2002)

- *Assessment and certification of professional skills in other ways than formal*

In order to certify professional skills acquired in other ways than formal, individuals referred to in Article 66 Paragraph (1) registered at employment agencies can receive, free of charge, service evaluation and certification of vocational skills acquired in other ways

than formal, whose funding is provided from the unemployment insurance budget, *one time for each period when the individual is looking for a job.*

They can enter, free of charge, in the assessment and certification of vocational skills acquired in other ways than formal, only individuals who obtain professional competence assessor recommendation. People who do not get the recommendation referred to above and decide to enter the evaluation process itself with competent units for which they have not obtained this recommendation, support the equivalent of this. (Article 70¹ Paragraph 3, 4 of Law no.76/2002)

- *Advice and assistance to start an independent activity or starting a new business*

This service is provided to individuals who are seeking employment, at their request, in the *form of legal, financial or investment advice.* Services may be given by both, the county Agencies for Employment and other private companies, professional organizations, foundations and specialized associations, with whom the agencies have contracts under the law. (Article 71 paragraph 1 of the Law no.76/2002)

- *Completing the wages of employees*

Thus, according to the law, individuals who have been established the right to unemployment benefits, after the termination of employment relationships and are hired and working normal hours, and therefore because of employment, it ceases to pay unemployment benefits, they benefit until the end of the period for which they were entitled to unemployment benefits for a monthly amount, given by the unemployment insurance budget, representing 30% of the unemployment benefit, determined and, if necessary, updated in accordance with the law (Article 72 paragraph 1 from the Law no.76 / 2002).

Individuals who don't benefit from these dispositions: persons who are hired by employers who they were in employment relationships in the last 2 years and those for which the payment of unemployment benefit has been suspended pursuant to art. 45 paragraph 1 letter c and subsequently, following a change in the individual employment contract duration, the paying of unemployment benefits ceases pursuant to Art. 44 letter a.

The persons referred to in the preceding paragraph receive this amount, and when, in the period for which they are entitled to unemployment benefits, the employment relationship is terminated with their first employer and fits, full working hours, within 30 days at another employer.

At the same time, graduates of higher educational institutions and special schools graduates, aged 16 or over, registered at employment agencies, if they engage in full-time for more than 12 months, they benefit, from the unemployment insurance budget, for a premium equal to the framing reference social indicator in force on classification (art.73¹ par. (1) of Law no. 76/2002 with subsequent amendments).

Graduates who were entitled to unemployment benefit established and engage in during the period of the incentive, with full hours of work benefit, from the unemployment insurance budget, an amount equal to the unemployment benefits to which they were entitled, under law until the end of the period of it, if they didn't get hired.

These rights are granted to graduates who retain employment relationships for a period of at least 12 months of employment.

Who don't benefit from these dispositions (Art. 73¹ paragraph 5): graduates who after graduation had employment relationships; graduates who are hired by employers who were in employment relationships in the last 2 years; graduates who at the time of the request are in a form of education; graduates of educational institutions to which employers are required by law to have employment; graduates for which the unemployment benefit payment was suspended pursuant to Art. 45 para. (1) letter c) and latter, as a result of changing individual labor contract duration, the payment for unemployment benefits ceases pursuant to Art. 44 letter. a).

People who benefit from employment incentive equal to the first social reference indicator in force on classification referred to in paragraph (1) have the right to maintain the premium granted and where, in the 12 months of employment, the employment relationship is terminated to their first employer and falls, within 30 days, to another employer, given that employment at the second employer is performed under the same conditions, i.e. full-time for more than 12 months.

- *Stimulation of labor mobility*

For people receiving unemployment benefits (including young people) who are employed at a distance greater than 50 km of residence, the law provides for a first employment which is equal to twice the value of the social reference indicator in force on the date of grant. (Article 74)

For people who have found a job in another town and as a result, *moving house/changing house*, the law provides for them to benefit from a *first installation*, equal to seven times the reference social indicator, in force on the date of installation.

If their (the people above mentioned) *employment relationship terminates before reaching a minimum of 12 months, they are required to repay the amounts received.*

First employment and first installation called mobility incentives are granted on request, including long-term unemployed registered at employment agencies, who do not receive unemployment benefits.

First of employment does not stack with the first installation.

The mobility incentive is for people who employ for a period of *at least 12 months.*

Also, following the amendment and completion of the Law no.76/2002 by Law no. 250/2013, *the enactment mentioned includes express dispositions, specific (special) on promoting labor market participation of young people at risk of social marginalization.*

Article 93¹ of the enactment expressly lists the ways to ensure the promotion of labor market participation of young people at risk of social exclusion, including disinstitutionalized youth, namely, social custom accompaniment; outreach and advocacy of young people at risk of social exclusion among employers; subsidized jobs.

Among these measures, the first two categories are designed to provide increased employment opportunities for persons seeking employment.

- *The customized social accompaniment* is performed by the National Agency for Employment through territorial employment agencies under a solidarity contract, and is a set of services that are granted free for young people at risk for social marginalization and consist of: information and counseling; labor mediation; work placement with an employer whose offer of employment has been selected as suitable for the training they have and other conditions contained in the registration dossier as a person looking for a job, at an agency for employment. (Article 93² paragraph 1)

The solidarity contract referred to in paragraph (1) shall be concluded between the Agency for Employment and the young individual for a period of up to 3 years, but no less than a year, given that, at the signing of the solidarity contract, the age of the young individual is under 26.

- *Information and promoting the interests of young people at risk of social exclusion among employers*

Under the provisions of art.93³ of the Law no.76/2002, information activities and promotion of the interests of young people at risk of social exclusion among employers in the labor market integration of these individuals, aims to: promote awareness and the law among regional actors, local and social partners; dissemination of information on the benefits of employment for these individuals; direct interaction with employers who have vacancies; identifying insertion employers.

3. Policies to stimulate social inclusion through labor of disinstitutionalized youth by stimulating employment for employers

This category of measures primarily includes those contained in the text of the Law no. 76/2002 in respect of:

- *Subsidized employment*

Stimulating employers to hire the unemployed is achieved primarily through subsidized employment. The main condition set by the law in this regard is the employment of categories of unemployed that the law mentions for an indefinite period, individual employment contract can be in any form permitted by law, noting facilities granted in proportion to the actual time worked (Oprea , 2012: 36).

The grant is a monthly amount granted for a period of 12 months for each graduate employed by the employer for an indefinite time (Article 80, Law 76/2002).

If they employ on indefinite time, graduates among people with disabilities, employers receive for each employee for a period of 18 months, the amounts provided above, according to each individual's education (Article 80 paragraph 2). Employers are exempted same period of paid contributions to the unemployment insurance budget, related to the graduates employed.

During the 18 months, graduates can pursue a form of training organized by the employer, under the law and the expenses will be borne, at the request of the employer, by the unemployment insurance budget.

Employers who hire graduates in the specified conditions are required to maintain employment relationships or their service at least 18 months after their conclusion.

In the doctrine (Oprea, 2012:43) the following idea was expressed: that the employee shall repay aswell the benefits received and if termination of employment or service occurred earlier than 12 months: following the execution of a sentence of imprisonment; due to the prohibition to practice a profession or function, as a safety or additional penalty; as a result of disciplinary dismissal; following the resignation; following dismissal in case the employee is in custody for a period exceeding 30 days; by law, the official was dismissed from public office.

In case of professional inadequacy, physical and/or mental inaptitude of the employee, the employer and the employee will not refund the amounts received.

Employers who employ, according to the law, unemployed individuals whom, within 5 years from the date of employment, meet the law, the conditions for requiring partial early retirement or for the granting of old-age pension, if they don't meet the requirements to ask for the partial early retirement, benefit monthly, on employment, until the conditions in question are met, an amount equal to the reference social indicator in force, given the unemployment insurance budget.

Employers who employ, for an indefinite period, unemployed aged over 45 or unemployed single parent of single parent families, receive monthly over a period of 12 months, for each person employed in these categories, an amount equal to value of the social reference indicator in force, with the obligation to maintain employment or service relationship for at least 18 months.

The facilities listed, except the exemption from contribution to the unemployment insurance budget, owed by the employer for those individuals, employers benefit in relation to the number of employees, fulfilled their obligation, under the law, to give employment to people with disabilities, and employers who do not have this legal obligation, whether they employ disabled people for indetermined duration and keep them for employment for at least 2 years.

Employers who terminate employment relationships within 18 months, are required to repay, in full, to employment agencies the amounts for each person who ceased employment relationship previous to the 18 months period, plus interest reference to the

National Bank of Romania in force on the date of termination of employment, if it was terminated for the reasons referred to in art. 83 para. (2). Also, in such a situation, employers can no longer benefit from a new grant from the unemployment insurance budget for a period of 2 years from the date of termination of employment (Article 85 ^ 1 of Law no. 76 / 2002).

- *Providing loans on favorable terms to create new jobs;*

To create new jobs through the establishment or development of small and medium enterprises, cooperative units, individual enterprises, family businesses and independent activities carried out by authorized persons may be granted from the unemployment insurance budget, loans on favorable terms.

Loans are granted based on the feasibility projects, proportional to the number of jobs to be created, for a period of up to 3 years, for investment, including a grace period not exceeding 6 months or a year to ensure production, with an interest rate of 50% of the reference rate of the National Bank of Romania.

Individuals who benefit credits, under the law, with the same interest rate those aged up to 30 years old, who have student status for the first time and attend classes full time at a state or private institution of higher education, authorized or accredited under the law.

These loans are granted to students who set up or develop, individually or together with other students who meet the requirements of the law, small and medium enterprises, cooperative units, individual enterprises, family businesses or pursuing an economic activity as authorized person.

The beneficiaries of granted loans under the above mentioned conditions must satisfy the *following conditions* (Article 86 paragraph 7): to have more than 249 employees and/or cooperative members with employment relationships; core business is carried out in production, services or tourism; at least 60% of the new jobs created by the establishment or development of small and medium enterprises or cooperative units to have employed staff from among unemployed registered at employment agencies; staff employed activity is maintained for at least 3 years; jobs considered in granting loans are not vacancies resulting from the termination of employment of employees in the 12 months prior to the conclusion of the credit agreement.

- *Granting of facilities*

Employers who employ people from unemployed category for a period of at least 6 months, *pay unemployment insurance budget by 2.5% less*. "Reducing contribution is given as of the next fiscal year, for a period of 6 months, and it is to reduce the amount due, monthly, by 0.5% for each percentage of the share of the new hired staff, as provided in paragraph 1, the average number of staff employed under individual contract of employment, in that year." (Article 93 paragraph 2 of Law no. 76/2002).

Also, the Romanian legislator adopted in 2013 a special regulation which provides subsidized employment for higher education graduates. Thus, under article 28 of Law no. 335/2013 regarding the internship for university graduates, employers who enter into a internship contract in terms of the enactment mentioned, receive monthly at their request, from the unemployment insurance budget, during the contract period, for that trainee internship, an amount equal to 1.5 times the social indicator references of unemployment insurance and employment stimulation, from the funds allocated for this purpose. The amount mentioned is not given to employers from public institutions and authorities, it is granted only to private sector employers (Moarcăș Costea, 2013:107).

It is given to employers proportional to the actual time worked by the trainee and the employer can not receive double funding for the same person.

But if after the completion of the internship contract, the employer ceases the individual employment contract of the person concerned, the employer can not benefit anymore for the same post, another measure to stimulate employment, provided by law.

At the same time, this category also includes policies subsidizing employment for individuals employed under a contract of apprenticeship in the workplace.

The rule of law which includes such a provision in its content is Law. 279/2005 regarding apprenticeship at work, republished.

Thus, under Article 4, paragraph 1 of the enactment of the dispositions mentioned, the apprenticeship contract work is an individual contract of employment of a particular type, fixed-term ended, under which a person, called apprentice undertakes to prepare professional and work for and under the authority of a legal or natural person, called employer who undertakes to ensure the salary and the conditions necessary for training.

An employer who enters into a contract of apprenticeship in the workplace, can receive monthly, on request, from the unemployment insurance budget, during the contract of apprenticeship, for that disciple, an amount equal to 60% of the social reference indicator from the unemployment insurance and stimulation of employment (Article 15 paragraph 1), which is granted in proportion to the actual time worked as an apprentice, and for the period of annual leave of the disciple.

Who won't benefit from this disposition: employers who prior to the signing of the contract of apprenticeship in the workplace, have had with the person another apprenticeship contract work signed (Article 16).

Employers who benefit from those facilities are required to maintain their employment relationship during apprenticeship contract.

If the disciple does not get the second time the certificate of competence, adequate of all professional occupations of those specific professional skills or qualifications, in accordance with standard employment or training standard, the employer is obliged to return the whole proceeds, to the county employment agencies or the one in Bucharest, received from the unemployment insurance for that disciple, plus the reference rate of the National Bank of Romania in force on the date of the second decision of the Commission assessment, issued according to the law (Article 18 paragraph 2).

Also, if the contract of apprenticeship employment is terminated before the date specified in the contract, the employer is obliged to reimburse the county agency for employment, respectively the one in Bucharest, proceeds from the unemployment insurance for that apprentice plus the reference rate of the National Bank of Romania in force on the date of termination of the contract of apprenticeship, if its termination has occurred for the following reasons: following the agreement of the parties, the date agreed upon by them; following the finding of nullity of the individual labor contract, the date on which the invalidity has been established by agreement or by final judgment (termination of contract); by dismissal for reasons not related to the employee.

For these amounts returned, the employer has the right of recourse against the disciple who maliciously or negligently failed to fulfill its obligation under Art. 14 letter b), namely to participate in the evaluation process and to make all necessary efforts to obtain the certificate of professional competence (Article 18 paragraph 4).

As mentioned above, following the amendment and completion of the Law no.76 / 2002 by Law no. 250/2013, the enactment mentioned includes express dispositions, specific (special) on promoting labor market participation of young people at risk of social marginalization of the final measure, it is intended to stimulate insertion employers which conclude in solidarity constructs.

Thus, they receive monthly, from the unemployment insurance budget for each person in this category, an amount equal to the basic salary set at the individual's

employment, but not more than twice the reference of the social indicator, in force at the time of employment until the expiry of the solidarity contract (Art. 93⁴ para 1).

Employers who terminate the employment contracts of young people at risk of social marginalization, before the end of the period of the solidarity contract, for the reasons set out in art. 83 para. (2) a) are obliged to repay in full, territorial Employment Agencies proceeds from the unemployment insurance budget for every young person at risk of marginalization for which the employment relationship is terminated before that date, plus the interest rate referenced by National Bank of Romania, in force on the date of termination of service.

To receive the aforementioned amount, legal dispositions set out a number of conditions, namely:

- employment is made as provided by Law no. 53/2003, republished, with subsequent amendments, i.e. the Labour Code, under an individual contract of employment for a fixed period, until the expiry of the contract of solidarity, or an individual employment contract of indefinite duration;
- the job that is young individual is placed in is a vacancy, which was communicated to the territorial Employment Agency;
- other conditions are met as prescribed by law, established according to Article 95, for granting this amount.

Also, if at the expiry of the period for which the solidarity contract was concluded, the insertion employer maintains employment relationship with the young individual who was hired in terms of Article 93⁴, then they benefit monthly, under the law, for this person, from the unemployment insurance budget, a sum amounting in 50% of unemployment benefits, due under the law, that the young man would have received if the employment relationship should have been ended at that date for reasons not attributable to the person. The amount referred to in Paragraph (1) An employer shall receive during the contract, but not more than 2 years. (Article 93⁶ of Law no.76/2002)

4. Conclusions and *lege ferenda* proposals

In conclusion, we note that in the Romanian legal system there are a number of legal dispositions, some general, set as active measures addressed to individuals seeking employment and also for employers, more specifically intended for young people at risk of social marginalization, category in which disinstitutionalized youth are included.

As shown in the presentation, we structured the identified social policies in two dimensions, namely: a first dimension refers to measures designed to increase employment opportunities for people looking for a job and a second dimension that refers to measures aimed at stimulating employment for employers. Noting that the largest share of returns comes from the second dimension, the legislator grants important measures addressed to employers, however we believe that it is necessary to consider whether they are aware of the existing dispositions, if they use them and which would be grounds for not accessing these opportunities that exist.

Based on the existing legal dispositions and in accordance with the proposals resulting from a focus group organized with specialists who are involved in the process of social inclusion of disinstitutionalized youth, we consider as a necessary legislative intervention in this area for:

- Adopting legislation to encourage employers through various financial measures (subsidies, tax exemptions, etc.);

- Regulation of the obligation for employers to hire a certain number of young people from the disinstitutionalized youth category, similar to the dispositions in Article 78 Paragraph (2) of Law no. 448/2006 on the protection and promotion of rights for disabled persons, namely:

"The authorities and public institutions, legal persons, public or private, with at least 50 employees are obliged to employ disabled individuals (people from the disinstitutionalized youth category) at a rate of at least 4% of the total number of employees"

If, however, this requirement is not met, the authorities and public institutions, legal persons, public or private can choose to fulfill one of the following two requirements (according to Article 78 Paragraph (3) :

- To pay, monthly, to the state budget an amount representing 50% of the gross minimum wage in the country, multiplied by the number of jobs they have not hired people with disabilities;
- To purchase products or services from authorized protected units, based on partnership, in an amount equivalent to the amount owed to the state budget as provided in subparagraph a). "

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