New Aspects Regarding the Labour Jurisdiction

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Abstract: The existence of two degrees of jurisdiction, the use of a single way of attack, the recourse, and the suppressing of the attack path of the appeal in the matter of labour conflicts, does not constitute unconstitutional dispositions. They have as finality only the assurance of the rapidity in solving such conflicts, without breaching the constitutional disposition according to which no law can restrict access to justice. I've tried to find the new regulation in this domain very important for those who practice labour law. In the Romanian legislation, the enforcement of the court decisions in the matter of labour conflicts is viewed by the lawmaker with great care, in certain cases the non-execution of a court decision being considered a felony. We think this article is a small step in the disclosure of the problem raised by the labour jurisdiction.

Keywords: work litigation; mediation; employees; enforcement

1. Introduction

Labour jurisdiction has as object the solving of the labour conflicts with respect to the conclusion, execution, modification, suspension and cease of individual or, as the case may be, collective employment contracts, as well as of the petitions regarding the legal relations between the social partners, established by the Labour Code. (art. 266 of the Labour Code).

The term *jurisdiction* has its origin in the Latin language, respectively *iurisdictio*, which meant the stating (asserting) of the law. *Lato sensu*, the notion of jurisdiction comprises both the modality of solving litigations and the entirety of bodies performing it, their competence and the procedure (Ştefănescu, 2010).

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The relevant provisions on the matter are represented by:

- art. 231, 232 and 266-275 of the Labour Code;
- art.1 letters o) and p), 208-216 of Law no. 62/2011 of the social dialogue;
- Law no. 192/2006 regarding mediation and the organizing of the profession of mediator (published in the Official Gazette no. 831 of May 22nd, 2006, with the subsequent modifications and completions);
- dispositions from the Civil Procedure Code regarding the material competence of Tribunals and the competence of the Appeals Courts to judge recourses against the decisions of the first court;
- other dispositions from the Civil Procedure Code which, according to art. 275 of the Labour Code, constitute the common law on the matter.

From the perspective of the regulations in effect, there are the following principles specific to labour jurisdiction, as follows:

- the notification of the labour jurisdiction bodies is performed by the interested party;
- the work litigations do not presuppose the payment of fees by the person seeking justice, thus facilitating access to the courts of law;
- the work litigation must be settled, insofar as possible, amiably, including before the court of law;
- the work litigation is judged rapidly (here must also be included the application of a final court decision).

According to art. 267 of the Labour Code, the following categories of natural or legal persons can be parties to the work conflict:

- **employees**, as well as any other person holder of a right or of an obligation on the grounds of the labour legislation or deriving from the content of the collective employment contracts (agreements); it must be noted that even former employees have the standing as party in the individual labour conflicts in which are brought before court rights derived from previous work relations.
- **employers**, natural and/or legal persons, temporary employment agencies, users, authorities or public institutions, as well as any other person benefitting from a form of labour performed in the conditions of the Labour Code;

- **trade unions and owners' associations**; according to art. 28 of Law no. 62/2011, the trade union organizations have active standing for the defense of the rights of their members, which derive from the labour legislation, from the statutes of public servants, from collective employment contracts and individual employment contracts, as well as from the agreements regarding the work relations of public servants (para. 1); still, the petition cannot be introduced or continued by the trade union organization, if the person in question opposes or waives the trial, expressly (para. 2); it is noted that the law established the obligation of an **express mandate** from the trade union members, in order for it to be able to formulate the action in justice; according to art. 1 letter u) of Law no. 62/2011, by trade union organization are understood both the trade union and the trade union federation or confederation, and, hence, they can also hold the active standing; at the same time, the trade union organization formulates the action in justice not in the organization's own name, but in the name of their members, on the basis of the written proxy from them (art. 28 para. 2).
- **other natural or legal persons** who have this vocation on the grounds of special laws or of the Civil Procedure Code; ***the employee's heirs*** may have this active standing in the following situations:

a. when the employer must compensate the deceased employee for the material damages it caused him/her (art. 253 para. 1 of the Labour Code);

b. in case of the refund obligation, when the deceased employee collected from the employer an undue amount, his/her heirs can be obligated to return the equivalent value;

Third parties can participate to a labour conflict in certain situations established by the Civil Procedure Code, but only by considering the specific of the legal work relationship.

The prosecutor, according to art. 45 para. 3 of the Civil Procedure Code, "*may submit conclusions in any civil trial, in any stage therefore, if he/she considers it necessary for the defense of the order of law, of the rights and liberties of the citizens*". Therefore, he/she may participate to the solving of the work conflict in his/her position as official subject of the civil trial.

The territorial labour inspectorate may, on the grounds of art. 23 para. 2 of the Labour Code, notify the competent court in order to diminish the effects of the

non-competition clause which was abusively regulated (absolutely forbidding the exercise of the profession by the employee).

The litis consortium (trial co-participation) is not regulated by the labour legislation. Still, according to art. 216 of Law no. 62/2011, the provisions in the labour legislation will be completed by the dispositions of the Civil Procedure Code. Thus, according to art. 47 of the Civil Procedure Code, "several persons can be together plaintiffs or respondents if the object of the trial is a common right or obligation or if their rights or obligations have the same cause". Moreover, art.164 of the Civil Procedure Code indicated that several cases which have the same parties, whose objects have a close relation, can be tried together (Ţiclea, 2011).

Therefore, both the active and the passive trial co-participation are possible. Thus, several employees can request the court, as plaintiffs, the ordering of the employer to the payment of a certain salary bonus (established in the collective or individual employment contract) or several employees may hold the position of respondents in a labour litigation, being called by the employer, as plaintiff, to be patrimonially liable for the damage caused.

2. Rules for Solving Labour Conflicts by the Courts of Law

2.1. Court Notification

It occurs by means of a petition called **contestation**, being formulated by the interested party (plaintiff).

The Civil Procedure Code establishes that "*any petition addressed to the courts of law must be made in writing and must comprise the indication of the court, the parties' surnames and first names, their domicile or residence or, as the case may be, their name and headquarters, the surnames and first names, domicile or residence of their representatives, if the case, the object of the petition and the signature. Also, the petition will comprise, if necessary, the identification data of the communication means used by the parties, such as the phone number, fax number, electronic mail address or others as such*."

Moreover, according to art. 270 of the Labour Code, all labour litigations are exempt from the stamp fee.

2.2. The Panel for Solving Labour Conflicts in the First Court

The panel for solving in the first court the cases regarding labour and social security conflicts is constituted by one judge and two judicial assistants. The judicial assistants, although they participate to the deliberations, cannot vote, but their opinion is recorded in the decision, and the separate opinion is motivated.

The European Court of Human Rights showed that the ”participation of persons specialized in different fields of activity, together with the professional magistrates, in solving certain categories of litigations, does not contravene the principle of independence and impartiality of the court, established in art.6 of the Convention for the protection of human rights and fundamental liberties”.

The judicial assistants are regulated by Law no. 304/2004 regarding the judicial organization, as well as by Government Decision no. 616/2005 regarding the conditions, the procedure for the selection and proposal by the Economic and Social Council of the candidates for appointment as judicial assistants by the minister of justice. The judicial assistants are appointed to office for a period of 5 years. In order to be appointed, they must cumulatively fulfill a series of conditions, respectively:

- To hold the Romanian citizenship, to have their domicile in Romania and full exercise capacity;
- To hold a bachelor degree in law;
- To have work seniority of at least 5 years;
- To not have a criminal record, a fiscal record, and to enjoy a good reputation;
- To know the Romanian language;
- To be apt from the medical and psychological point of view for the exercise of the position (art. 110 of Law no. 304/2004).

At the same time, the judicial assistants enjoy stability (art. 111 para. 1) and their statute is similar to that of the magistrates (art. 111 para. 2).

Because of their consultative role, in the specialty doctrine was also expressed the opinion according to which the judicial assistants should be removed. We consider that the waiver of tripartitism, of judicial assistants in solving the labour litigations could be an error which, on the one hand, would breach the international recommendations in the matter and, on the other hand, would be contrary to the

positive experience gained in this matter by several European Union states (France, Germany, Great Britain, Belgium or Switzerland) (Țiclea, 2011).

2.3. The Terms for Notifying the Court

The terms for notifying the court are regulated by art. 268 of the Labour Code, as well as by art. 211 of Law no. 62/2011 of social dialogue.

Thus, according to art. 268 of the Labour Code, the petitions can be formulated:

a. within 30 calendar days since the date when the employer's unilateral decision regarding the conclusion, execution, modification, suspension or termination of the individual employment contract was communicated;
b. within 30 calendar days since the date when the decision for disciplinary sanctioning was communicated;
c. within 3 years since the date when the right to action was created, in the situation when the object of the individual labour conflict consists in the payment of salary rights not granted or of compensations to the employee, as well as in case of the employee's patrimonial liability towards the employer;
d. throughout the contract existence, in case of requesting the establishment of the nullity of an individual or collective employment contract or of clauses thereof;
e. within 6 months since the date when the right to action was created, in case of non-execution of the collective employment contract or of clauses thereof;
f. in all situations, other than those mentioned, the term is of 3 years since the date when the right was created.

According to art. 211 of Law no. 62/2011, the petitions can be formulated by those whose rights have been breached, as follows:

a. the unilateral measures of execution, modification, suspension or termination of the individual employment contract, including payment commitments for certain amounts of money, can be contested within 45 calendar days from the date when the interested party was informed of the measure ordered;

b. the establishment of the nullity of an individual employment contract can be requested by the parties throughout the entire period when the respective contract is applied;

c. the payment of compensations for damages caused and the refund of amounts that made the object of undue payments can be requested within 3 years since the date of the damage occurrence.

From the analysis of the two legal text, a series of non-correlations and non-concordances are noticed, which we shall emphasize hereinafter. Thus:

a. first of all, while art. 268 para.1 letter a) of the Labour Code also refers to conflicts derived from the conclusion of the individual employment contract, art. 211 letter a) of Law no. 62/2011 does not specify this category of conflicts;

b. the text in art. 211 of Law no. 62/2011 also refers to the "payment commitments for certain amounts of money", thus expanding the regulation area; the text in art. 268 of the Labour Code makes no reference in this sense; the lawmaker targeted through this regulation the situation of the military personnel, indicated in G.D. no. 121/1998 regarding the material liability of military personnel. Thus, the term established in art. 30 of Government Ordinance no. 121/1998 which regulated the possibility to contest the payment commitment within 30 days from the date of signing, was replaced with the term regulated by art. 211 letter a) of Law no. 62/2011, respectively within 45 days. We disagree with the opinion according to which the "payment commitments for certain amounts of money" also refer to "the notes for establishing and evaluating the damage", its recovery "through the parties' agreement", possibility regulated by art. 253 para. 3 of the Labour Code (because of the reason presented above).

c. the terms for notifying the court differ: 30 calendar days (according to art. 268 para.1 letters a) and b) of the Labour Code) and 45 calendar days (according to art. 211 letter a) of Law no. 62/2011). Regarding these two regulations which stirred controversies, we consider that general applicability must belong to the term of 45 days for all situations established by law (including regarding the conclusion of the individual employment contract), while in case of contesting the decisions of disciplinary sanctioning the term of 30 days should be observed (special term regulated by law) (Popescu, 2011).

d. in what concerns the term of 3 years in case of the patrimonial liability is noted the fact that: in the Labour Code, it starts running from the "date when the right was created" (art. 268 para. 1 letter c) and para. 2), while in Law no. 62/2011 it runs from the "date of the damage occurrence" (art. 211 letter c). We join the opinion formulated in the specialty doctrine and we consider that, given the fact that the text in Law no. 62/2011 is the most recent and has a character obviously favourable to the employees, it is the one that applies;

e. according to art.211 letter b) of Law no. 62/2011, the cases of nullity which persist throughout the existence of the individual employment contract, which

have not been covered in the meantime (according to art. 57 para. 3 of the Labour Code), justify the invoking of nullity at any time, by either party; this disposition is completed with the one established by art. 268 para.1 letter d) of the Labour Code which also refers to the "establishment of the nullity of a collective employment contract or of clauses thereof". Moreover, it was established that the dispositions of art. 268 para. 1 letter d) of the Labour Code "*are grounded on the principle according to which the establishment of the nullity or the annulment of existing acts can be requested. In the situation when an individual or collective employment contract does no longer exist, its clauses do not exist either, and the petition for establishing their nullity no longer has an object. However, it is possible that the legal effects of certain contractual clauses to continue or to occur after the end of the contracts' existence. In such situation the respective legal effects can be contested in court, if they are contrary to the rights, liberties or legitimate interests of the person*";

f. regarding the term of 6 months established by art. 268 para. 1 letter e) of the Labour Code is noted the fact that it targets the non-execution of the collective employment contract or of clauses thereof, regardless of their nature. In this context, to this problematic, there may be two completely opposed interpretations (but correct, in our opinion), as follows:

   - on the one hand, we can appreciate in the sense in which to the clauses that refer to salary rights (for example, bonuses) exclusively established in the collective employment contract is applied the term of 6 months (and not that of 3 years, applicable when speaking of salary rights resulted from the individual employment contract);
   - and, on the other hand, it can also be interpreted in the sense in which, in this case, is applied the text of art. 211 of Law no. 62/2011, which implicitly abrogates art. 268 para. 1 letter e) such as, even in the situation when speaking of certain salary rights which are exclusively regulated through a collective employment contract, the term is that of 3 years;

g. according to art. 268 para. 2 of the Labour Code, in other situations than those previously debated, "the term is of 3 years since the creation of the right". In this sense, we can exemplify with the employer's patrimonial liability for the damages caused to the victims of labour accidents.

2.4. The Procedure for Solving Labour Conflicts

According to art. 271 para. 1 of the Labour Code, corroborated with art. 212 of Law no. 62/2011, the petitions referring to the solving of labour conflicts are tried in expedite regime.

The trial terms cannot exceed 10 days (art. 212 para. 2 of Law no. 62/2011), while the term for handing subpoenas was established at minimum 5 days before the case trial (art. 213 of Law no. 62/2011).

The court of law has the obligation to inform the parties ”regarding the possibility and the advantages of using mediation and must direct them to resort to this method for solving the conflicts between them” (art. 6 of Law no. 192/2006 regarding mediation and the organization of the mediator profession). In the situation when the parties resort to mediation, the trial is suspended for a period of maximum 3 months.

In the situation when mediation is refused, the employer will have to submit its defenses until the first day of the trial (art. 272 of the Labour Code). It is noted that in case of labour conflicts, the burden of evidence is reverted; it does not fall on the plaintiff (employee), but on the employer.

Art. 273 of the Labour Code establishes that „the administration of evidence is performed with the observance of the expedite regime, the court being entitled to decline from the benefit of the evidence allowed the party that delays its administration without justification”. The decline from the benefit of the evidence can be done from case to case, by the court of law, considering both the complexity of the case and the possibilities the parties have for the procurement and administration of the evidence (Ştefănescu, 2010).

With respect to the dispositions of art. 271-274 of the Labour Code, the Constitutional Court also stated that the ”respective provisions are norms that establish a special, derogatory procedure, regarding the trial terms and the modality of administering evidence in case of trying petitions regarding labour conflicts. The procedure rules established by these dispositions apply equitably both to the employers and to the employees, without favouring one category or another.”

The reconvention petition is allowed in the labour conflicts, if it meets the condition of the indissoluble connection with the main petition (art. 119 of the Civil Procedure Code), and it is submitted, at the latest, during the first trial day.

The court of law may decide, even if there are no express provisions in this sense in the labour legislation, the separation or the connection of cases on the basis of common law provisions. Thus, according to art.165 of the Civil Procedure Code, relating to the separation: "*in any stage of the trial the related matters can be separated if the court considers that only one of them is in condition to be tried*"; and according to art. 164 of the Civil Procedure Code, relating to the connection: "*the parties will be able to request the joining of several matters pending before the same court or before different courts, of the same rank, in which there are the same parties or even together with other parties and whose object and matter have between them a close connection. The joining can be performed by the judge even if the parties have not requested it*" (Ţop, 2012).

2.5. The Decisions of the Court of Law

Considering the expedite character which should be attached to the solving of labour litigations, the sentence must be rendered in the day when the debates finished, and, exceptionally, in special situation, the giving of the sentence can be delayed with 2 days, at most.

According to art. 258 para.1 of the Civil Procedure Code, the decision text is drafted as soon as the majority of the trial panel is convened and it is signed by the judges. The absence of the signatures on the decision text brings forth the nullity of the decision.

In what concerns the character of the decisions of the first court, there is the following difference between the dispositions of the Labour Code and those of the Social Dialogue Law. Thus, according to art. 274 of the Labour Code, the decisions "are final and rightfully with execution power", while, according to art. 214 of Law no. 62/2011, "the decisions of the first court are final". At the same time, according to art. 215 of Law no. 62/2011 in the matter of the labour conflicts there is only one way of attack, the recourse; hence, logically, it is derived that all sentences of the tribunals (first courts) are final and, therefore, the text of art. 214 of Law no. 62/2011 has no reason for being. Certainly, by means of the text of art. 214 of Law no. 62/2011, the lawmaker wished to abrogate the provision in art. 274 of the Labour Code, such as the final decisions to not be rightfully with execution power. Even if it were so, the decisions given by the first court continue to be final and rightfully with execution power in this matter, because art. 278 of the Civil Procedure Code (which represents common law in the matter and which comes to

complete the special provision) establishes the fact that: "*the decisions of the first court are rightfully with execution power when they have as object: 1. the payment of salaries or other rights derived from the labour legal relations, as well as of the amounts die, according to the law, to the unemployed persons; 2. compensations for work accidents*".

It is obvious that this solution targets the employees' interest to be able to put into execution a final decision, although there is a risk that the employee is ordered to return everything gained in the first court, after the trying of the recourse. Therefore, in order to avoid such situation, in practice will be applied the dispositions of art. 280 corroborated with art. 403 of the Civil Procedure Code, and the suspensions of putting into execution of the first court decision will be requested (by the employer), until the trying of the recourse, in exchange for the payment of a bond (by the employer) whose amount will be set by the court (Voiculescu, 2011).

2.6. The Recourse

According to art. 215 of Law no. 62/2011, the sentences given by the first courts in the labour conflicts can be attacked solely with recourse, within 10 days since the date of communicating the decision (according to Decision no. 53/2001 of the Constitutional Court, it was established that "the existence of two degrees of jurisdiction, the use of a single way of attack, the recourse, and the suppressing of the attack path of the appeal in the matter of labour conflicts, does not constitute unconstitutional dispositions. They have as finality only the assurance of the rapidity in solving such conflicts, without breaching the constitutional disposition according to which no law can restrict access to justice" (published in the Official Gazette no. 152 of March 28th, 2001). Moreover, through Decision no. 509/2010 it is stated: "*except for the right to a double degree of jurisdiction in criminal matters, neither the Constitution, nor an international legal instrument establish how many degrees of jurisdiction must be provided in order to settle the different litigations, the ways of attack which can be exercised against the court orders or the procedural conditions for exercising them.*"- published in the Official Gazette no. 343 of May 25th, 2010.

The calculation of the recourse term is done on free days, without taking into account the first day when the term started running, or the one when the term ended (art. 101 para. 1 of the Civil Procedure Code).

The recourse motivation must occur within the same term of 10 days. In the contrary case, the court will reject the recourse as being late formulated or motivated, expect for the case when a reason occurred, beyond the will of the recurring party (art. 306 of the Civil Procedure Code). Given the fact that in the labour litigations (conflicts) there is only one way of attack, the recourse, the modification or the cassation of the decision can be requested both for the reasons established by art. 304 of the Civil Procedure Code and for any other reason targeting the legality or the grounds (art. 304^1 of the Civil Procedure Code).

According to art.302 of the Civil Procedure Code, the recourse petition must comprise, under the sanction of nullity, the following:

- name, domicile or residence of the parties or, for legal persons, their name and headquarters, as well as, as the case may be, the registration number with the trade register or the registration number with the register of legal persons, the single registration code or, as the case may be, the fiscal code, and the bank account. If the party submitting the recourse lives abroad, he/she will also indicate the domicile chosen in Romania, where all communications regarding the trial will be sent;
- indication of the decision contested;
- reasons of illegality on which the recourse is based and their development or, as the case may be, the mention that the reasons will be submitted in a separate memorandum;
- signature.

There must be noted the fact that the indication of another decision cannot constitute a simple material error, but the non-observance of an obligatory legal disposition which brings forth the nullity of the recourse.

Finally, the petition must be signed by its author. Exceptionally, in case it is not signed, according to art. 133 para. 2 of the Civil Procedure Code, "*the absence of the signature can, still, be fulfilled throughout the trial. If the respondent invokes the absence of the signature, the plaintiff will have to sign, at the latest, on the first following trial date, and when present in court, in the very session during which the nullity was invoked*". The non-fulfillment of this obligation will bring forth the sanction of the nullity of the recourse petition. In case it is a matter of an employer – legal person, the petition must be signed by its legal representative.

In all cases, the attorney who assisted the party or represented it can do, even without a proxy, any kind of acts for preserving the rights subjected to a term and

which would be lost through their non-exercise in due time (art. 69 para. 2 of the Civil Procedure Code).

3. Conclusion

Still, the Constitutional Court decided that art. 302^1 para.1 letter a) of the Civil Procedure Code breaches the provisions of the Constitution because: ”most of the elements established in the text of law attacked, namely the parties' domicile or residence or, for legal persons, their name and headquarters, as well as, as the case may be, the registration number with the trade register or the registration number with the register of legal persons, the single registration code or, as the case may be, the fiscal code, and the bank account, as well as, if the recurring party is living abroad, the domicile chosen in Romania, where all communications regarding the trial will be sent, can be found, in their entirety, in the documents of the file in which the decision that makes the object of the attack way was given, that they are not indispensible for the identification of that decision and that they are not mentioned in the text of the decision contested. On the other hand, in the system of the Civil Procedure Code, the recourse is conceived as an extraordinary way of attack, or, in other words, as a last level of jurisdiction in which the parties in litigation can defend their subjective rights, removing the effects of the decisions given in the conditions of the cases of unlawfulness established by art. 304 of the Civil Procedure Code. Or, the establishment of the sanction of nullity for not fulfilling these form requirements in the very text of the recourse petition, without any possibility to remedy the omission, takes away from the recurring party, without a reasonable justification, the possibility to express, by means of the recourse, his/her/its grounded claims regarding the erroneous manner, possibly abusive, in which the litigation to which he/she/it is party was settled, through the decision contested.”

The court will judge the recourse according to the rules established by the Civil Procedure Code, thus being able to admit, reject, annul or establish the recourse superannuation (art. 312 para. 1 of the Civil Procedure Code).

According to art. 312 para. 2 of the Civil Procedure Code, ”in case of admission of the recourse, the decision can be modified or quashed, in full or in part”. At the same time:

- "in case of cassation, the appeal courts and the tribunals will retry the matter on the merits, either on the term when the recourse was admitted, situation in which a single decision is given, or on a different date, set for this purpose" (para. 4);
- "still, in case the court whose decision is contested settled the trial without entering the search of the case merits or the trial was performed in the absence of the party that was not correctly subpoenaed, both at the evidence administration and in the debate of the merits, the recourse court, after quashing, sends the case for retrial to the court that rendered the quashed decision, or to another court of the same rank" (para. 5);
- "the quashing with sending can be ordered only once during the trial, for the case in which the court whose decision is contested settled the case without entering the search of the case merits, for the case in which the trial was performed in the absence of the party that was not correctly subpoenaed, both at the evidence administration and in the debate of the merits, respectively for the case of quashing for lack of competence" (para. 6^1).

Although, in general, according to art. 305 of the Civil Procedure Code, "in the recourse court no new evidence can be submitted, except for documents, which can be submitted until the conclusion of the debates", "in case of retrial after quashing, with withholding or sending, any evidence established by law is admissible" (art. 315 para. 3 of the Civil Procedure Code).

In the situation in which the first court sentence if quashed at recourse and it had been executed, the execution will be reverted.

According to art. 404 of the Civil Procedure Code, "*in cases in which the execution title or the forced execution itself are cancelled, the interested party is entitled to the reverse of the execution, by re-establishing the situation prior to it*"; and art. 404^2 indicates that "*in case the court of law quashed the execution title or the execution papers, at the petition of the interested party, it will order, through the same decision, with respect to the re-establishing of the situation prior to the execution*".

In conclusion, neither the Labour Code not Law no. 62/2011 refers to the possibility of the parties to a labour conflict to resort to an extraordinary way of attack. Therefore, there are applicable, on this matter, as common law, the dispositions of the Civil Procedure Code. Thus, the court decisions given in solving

labour conflicts will be possible to be attacked, if the legal conditions are fulfilled, by means of: contestation in annulment (art. 317-321 of the Civil Procedure Code); decision review (art. 322-328 of the Civil Procedure Code);

The enforcement of the court decisions is an integral part of what represents, according to art. 6 para.1 of the European Convention for Human Rights, ”the right to an equitable trial”, right which would be illusory if the final and/or irrevocable court order could not be enforced. Thus, in the Romanian legislation, the enforcement of the court decisions in the matter of labour conflicts is viewed by the lawmaker with great care, in certain cases the non-execution of a court decision being considered a felony, respectively:

- The non-execution of a final court order regarding the payment of salaries 15 days since the date of the execution petition addressed to the employer by the interested party is punished with prison from 3 to 6 months or with a fine (art. 261 of the Labour Code);
- The non-execution of a final court order regarding the reintegration to work of an employee is punished with prison from 6 months to 1 year or with a fine (art. 262 of the Labour Code).

4. References

Athanasiu, A. & Dima, L. (2005). *Dreptul muncii/Labour Law.* Bucharest: C.H. Beck.

Popescu, Radu (2011). *Dreptul muncii/Labour law*. Bucharest: Universul Juridic.

Ştefănescu, I. Traian (2010). *Tratat de dreptul muncii*/*Treaty of Labour Law*. Bucharest: Universul Juridic.

Ţiclea, Alexandru (2011). *Tratat de dreptul muncii/Treaty of Labour Law*. Bucharest: Universul Juridic.

Ţop, Dan (2012). *Dreptul muncii*/*Labour Law*. Bucharest: Bibliotheca.

Voiculescu, Nicolae (2011). *Legislation Law*. Bucharest: Perfect.