WAYS TO RESOLVE WORK CONFLICTS

CĂI DE SOLUȚIONARE A CONFLICTELOR DE MUNCĂ

R. GHERMAN[1], CARMEN DUMITRESCU[1], ANAMARIA DINCU[1], COSMINA TOADER[1]

[1]University of Agricultural Sciences and Veterinary Medicine Timişoara, Faculty of Agricultural Management, Timisoara, Romania; remusgherman71200@yahoo.com

Abstract: *A dysfunctional situation in a working group generates a conflict, the conflict process being an inherent reality existing in any organization. Official manners to handle the conflict must be preceded by a close clarification of the causes that can generate their appearance to organization level. In order not to generate intrapersonal conflicts, interpersonal and group conflicts, the power differences, status and culture must be taken in consideration starting from the recruiting moment and selection of human resources. Solving the conflicts means that all the parts implied reach freely an agreement after having clarified and evaluated the relations between them and taking in count all relevant elements of the relations. Actual general trend that can be found in Romanian legislations is that in different nature conflicts first to be tried the amiable resolution before the law court.*

Key words: *working conflict, rights' conflicts, interests' conflicts, amiable resolution ways, negotiations, intercession, arbitration, strike, syndicalism, collective working contract, internal regulation*

INTRODUCTION

On international level an obvious importance in underling resolution ways of work conflicts that is represented by the International Labour Organization (ILO) but also the surveying organs positions (ILO) that even if they are not mandatory from juridical point of view they have a certain importance, the states taking in count those aspects only when they mediate different matters and various work conflict.

As it is normal the European Union does not reprimand but encourage the alternative means to solve the problems being eloquent from this point of view the Directive 2008/52 referring to mediation in civil and commercial nature. Regarding the work conflicts there is not a principle regulation referring to amiable resolution of this conflicts category. This does not mean that these means are not referred in different European normative documents.

The state role in work conflicts regulation and in work conflicts resolution must be a major objective specially in the present on the background of the actual economic crises to avoid social conflicts beginning that can determine the diminish or even that blocking of units as also the development of cranks that form the market economy.

The conflicts inside organizations are generated by the informal communication level of employees (gossip, rumours etc.). Avoiding the crises and conflicts situations inside the organizations depends on good circulation of information and on avoiding the confusions created by the setting out the rules, the responsibilities and job objectives of the organizations.

MATERIAL AND METHOD

Work conflicts problem in Romania is different from what is happening in Great Britain for example by the fact that the reports of syndicate-patronage-govern are developing at intra-organization level and very rarely in relation with the collective agreements signed as indisputable norm.

The relations patronage-syndicates are regulated at micro level following the collective negotiations and direct implications of govern authorities in the negotiations course with the syndicates' leaders at organizational level. Britain legislative system has as target in what concerns the work conflicts to support directly the individual in the work relations context, in opposition with the work groups represented through syndicate.

The remuneration, the salary rights and the other conditions of setting out the work contracts are not any more influenced by the old confrontations syndicate-patronage-govern but by the conventional level.

In Great Britain the syndicates' leaders are named syndicate assignees that we find classified in the following categories:

- Paid respondents, employed full time by the syndicate;
- Part-time respondents elected at local level to be the filial respondents for the syndicate they are members in;
- Voluntary respondents at the jobs (workers respondents, staff respondents etc.) that are employed of the unit or the firm but they act in the name of a employed colleagues group. They general assignment is to turn into practice the syndicate action politics under the advice of its executive control.

RESULTS AND DISCUSSIONS

Syndicates leaders are well responsible for the syndicate members' interests defending against the arbitrary actions of employers and in promoting all syndicate members' interests in aspects referring to work contract conditions. The differences from the arbitrary behaviour appear also referring to organization culture to the level of syndicate organization forms. Syndicate respondents no matter if they are paid or voluntary functionaries suffer a strong influence from the dominant culture in that syndicate. The syndicates are organized in Great Britain after independent organization culture principles each syndicate setting out its own set of values. Some form of syndicate organization presents democratic manners through which they succeed to negotiate favourable to employees while others underline the importance of political lobby activities that is requested by the public debate of the problems they face with.

The preoccupation to maintain the work conflicts to micro-economic level is shown in Great Britain by the large number of intense steps that must be followed by the conflicts to be submitted to management. The mediation terms, arbitration and conciliation are almost synthetics as law interpretation in Great Britain according to what is happening in Romania. The difference appears from the existence of the two specialized institutions in managing conflicts through this step namely: The Office for Advisory, Conciliation and Arbitration and the Arbitration Central Commission that

are making decisions without juridical power but taken as mandatory for conflicts situations.

In Japan at the Honda Company they use the face to face meetings named waiguya for learning but also for conflicts management. In these sessions are abandoned the traditional concessions to the title and the status and the participants are invited to tell what the truly believe. In this organization there is the possibility to generate conflicts through the re-examination committee for other employees. In the situation that the committee consider that the dismissal of a person was not fair the person is immediately employed.

Referring to the possibility of employees interests defending in the relation with employers through lobby in some countries from Europe it is forbidden. For example in France it is forbidden the forming of some firms or groups that are supposed to defend personal interests. They consider that it is not normal that between authority and citizen to stay an organized form that is also supposed to obtain profit from this activity.

In Belgium, Luxembourg, Portugal or Greece there are not rules regarding the lobby activity. Germany, Holland and Denmark allow the lobby.

An intense lobby activity is developed in USA. Here it is considered that the national interest is not always enough to build the perfect criteria to satisfy the collective needs of sovereign people especially while the social groups develops and vary. In Romania there are not regulations regarding the access to information and transparency regulations and there no law regulations that can be applied to lobby.

In our country work conflicts regulation is made on the base of Law number 53/2003 Labour Code and Law number 168/1999 regarding labour conflicts and Law number 192/2006 regarding intercession and organization or interceder profession.

Even if Labour Code and the Law 168/1999 regarding labour conflicts resolution pretend the condition of good faith in work relations and resolution of individual conflicts through good understanding, the means and procedures that must be followed are not very clear designed. In the actual stage of regulations marked by some contradictions from laws texts and contextual the amiable resolution procedures od individual work conflicts must be established after the internal regulations according to article 258 letter d from Labour Code.

In labour legislation is presented express the procedure of rights conflicts intercession that has as object the removal of some discrimination acts in labour field. Regarding these conflicts also the Govern Ordonnance 137/2000 regarding the prevention and solving of all discrimination forms and also the Law 202/2002 regarding the changes and treatment between men and women egality appoint the possibility of solving those through amiable procedure of their intercession and for the procedural compound of this method the law refers to the by-laws from collective working contract that can be applied.

As following the recent changes of article 73 par. 2 from Labour Law number 192/2006 to extend the sphere of intercession regulation and over rights conflicts from which the parts can dispose in labour conflicts, a high attention is this preoccupation of intercession, of common right as a manner principally facultative to solve amiable the rights conflicts (individual and collective).

Even if apparent it is given satisfaction to the amiable solving principle for labour conflicts however the intercession as following the Law number 192/2006 appears as a regulation hard applicable that can not be integrated according to the present stage of labour legislation and that will be chosen by the conflict parts above par because there is a established procedure through the internal regulation or the collective working contract that if normal as that implied parts in the conflict to follow in the same time it is operating also the article 38 from Labour Code that limits the intercession possibilities.

Regarding the actual solving system of interests conflicts it have been validated by practice and it corresponds to the request of solving tries on alternative way, integrally or partially amiable in successive steps.

Referring to the representation in interests' conflicts at salaried unit level they are represented by syndicates, where the syndicates do not exist, by the salaries representatives named by those. On the other part the patronage is represented by the law representatives or their mandataries.

Interests' conflicts are assimilated to the generic term of work/labour conflicts.

According to the Law number 168/1999 on the validity time of a collective working contract the employees can not start interests' conflicts. This fact is a guarantee of the fact that for the period on which the collective working contract is signed (minimum 12 months) the syndicates or

employees mandataries can not start a work conflict being a guarantee of social peace inside the economic unit. This is only one of the reasons for which the collective work contracts signed for longer periods assure a higher degree of stability for the firms. Unfortunately, the unknowing of this article determines employees mandataries in many cases to start false work conflicts that will be placed automatically outside the law and that can lead to imputation of suffered deprivations (material or image) by the society to the employees implied in the supposed interests conflicts.

Even when there are the law premises to start an interests conflict, the syndicate or employees representatives must follow a series of steps predicted by law to have the right to start a strike.

All work conflicts, even interests' conflicts or rights' conflicts have a very clearly procedure for solving. In the interests' conflicts case the solving depends in large measure by the parts negotiation abilities, by the role played by the new strangers: peace maker, interceder or arbitrator while in the rights conflicts case the solving mode depends exclusively on law court.

CONCLUSIONS

In work conflicts hypothesis there is a fundamental argument: the general spirit of labour legislation imposes the close and permanent working between the parts of individual and collective work report, between social partners. On alternative way solving work conflicts before they get to start a strike (in interests' conflicts situation) or to appeal to law court (in the case of rights conflicts) pertain to the essence, the concept of solving this category of conflicts.

Even if the extending of regulations and alternative solving ways of litigations generally it represents a result of globalisation effects in the filed or work conflicts the regulation of solving means of those form a national attribute of each state taking in count the International Labour Organisation needs. Regarding the actual solving system of interests conflicts it have been validated by practice and it corresponds to the request of solving tries on alternative way, integrally or partially amiable in successive steps.

The law set up the amiable solving principle of work conflicts having a general character without to establish the determination criteria of its content. The general spirit of labour legislation determines the

conclusions that it is mandatary the try to solve on amiable way any work conflict. The remuneration, the salary rights and the other conditions of setting out the work contracts are not any more influenced by the old confrontations syndicate-patronage-govern but by the conventional level.

Except the solving means of interests conflicts that benefit by a detailed regulation (conciliation, intercession, arbitration) for the other types of work conflicts (rights conflicts or individual rights conflicts) the labour legislation do not content the alternative means to solve or when there are such means they are not finalised or the procedure to follow is not predicted very clearly.

In Romania from all laws texts and contracts normative that can be applied presently, the amiable methods for solving work conflicts are the Law number 168/1999 regarding work conflicts solving while for the collective rights conflicts the intercession in made according to the Law 192/2006 regarding the intercession and interceder profession. For individual rights conflicts there is the intercession in the case in which the request part consider itself discriminated on sex criteria, in the base of established procedure from collective work contract or in all the other cases according to the regulation from the Law number 192/2006.

The importance of amiable solving of work conflicts increases continuously without being foreseen diminish of its role but on the contrary the alternative solving means are in extension in all fields from all over the world. Because of the fact that work remains an essential value, the globalisation effects are visible and over the work relations and work conflicts show on individual and collective plan, the Romanian law should analyse with all attention the entire evolution of alternative means of regulation, fully or partially amiable of work conflicts, to correlate them with the requests appeared from practice, to take in count the Romanian legislation regulation and those at European Union level and those of International Labour Organisation following that on this base to make the changes that are requested to the internal work legislation.

REFERENCES

1. **N. BOUCHARD** (2006) – Rezolvarea conflictelor la serviciu, Editura Polirom, Iaşi.

2. **OLIA MARIA CORSIUC** (2010) – Soluționarea conflictelor d emuncă, Editura Luminalex, Bucureşti.
3. **RALUCA DUMITRU** (2007) – Legea privind soluționarea conflictelor de muncă. Comentarii şi explicații, Editura C.H.Beck, Bucureşti.
4. **MONICA GHEORGHE** (2010) – Căi amiabile de soluționare a conflictelor de muncă, Editura Universul Juridic, Bucureşti.
5. **I. STRĂINESCU, B. ARDELEAN** (2009) – Managementul conflictelor, Editura Didactică şi Pedagogică, Bucureşti.
6. Legea nr. 168/1999 privind soluționarea conflictelor de muncă.
7. Legea nr. 53/2003 privind Codul muncii.