

DISCIPLINARY AND CRIMINAL LIABILITY OF THE EMPLOYEE - FORM OF LEGAL LIABILITY.

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Abstract

The duration and nature of the employment contract does not have an influence on the existence of any misbehavior. Any employee with employment contract, either fixed or indefinite period, even if they are on probation, is likely to respond to disciplinary action. Also, the person who performs work under a contract of employment which proves to be invalid is obliged to obey the order and discipline of work, being unable to defend himself against disciplinary action by invoking vices in the employment contract.

Keywords: disciplinary, features disciplinary liability, labour code, criminal liability, objective side aspect, the aspect mode of sanctioning

Introduction

Labor discipline coexist in close correlation with the rights and duties of employees, and is a complex obligation of any employee, regarding all their duties as a person employed under a legal labor contract that was completed and registered at the Territorial Labor Inspectorate. Only the legal duties arising from the legal relationship of employment, based on the employment contract, are part of labor discipline.

1. Labor discipline - concept and features:

By virtue of relations of subordination, the employee must comply not only to the general job duties laid down in the legislative measures, individual employment contract, internal regulations¹, but also to the decisions made by the employer by provisions, verbal or written orders regarding to his duties. Compliance of the orders given by the employer makes the employee not liable for damage caused to the employer by executing the provision or the order received, provided that the order is not obviously illegal, and, therefore the damage is not the result of inadequate performance of the given order. Legal literature classifies the paths of the labour discipline in two categories:

1. Paths of organizational nature, preventive and stimulating: participation of the employees in organizing, directing and controlling the business units, ensuring this way the educational and preventive measures, likely to lead to respect for labor discipline; moral and also material incentives. These are the main ways of making labor discipline.

2. Paths of sanction nature (penalties) Sanctions are embedded in the very legal institution of disciplinary liability. On the other hand, their regulation is an effective way of preventing violation concerning the labor discipline, and on the other hand, the sanctions only apply if illegal acts were committed. They restore, in this case, the disciplinary order. The sanctioning side of labor discipline occupies a secondary step in terms of importance and frequency. Labor

¹ Regarding international documents that govern employment of children and young people, see Boghicevici C, Botiș N. I, Meianu B, Creț D. C, Nedelcu M, Șipoș F, *Politici de ocupare a forței de muncă*, Editura Vasile Goldiș University Press, 2010, p. 10.

discipline is the obligation of all employees to subordinate to a set of rules of conduct established under the Labor Code, other regulations at the unit level, including unit's internal rules. Inside the unit, the discipline is ensured by the employer through creating a economic, social, legal and organizational work conditions necessary for the provision of a high productivity, also by forming a conscious attitude towards labor, and by applying of rewards for diligent work as well as penalties for committing disciplinary offenses.

According to the Labour Code ²(art 40, al. 1, lit: C,D,E) the employer is entitled to the following rights :

- c). employer has the right to give binding provisions for employee subject to their legality,
- d). to exercise control over the performance of duties;
- e). to assess the disciplinary offenses committed and apply the appropriate sanction, under the law applicable, according to collective agreement and internal regulations.

The Labour Code does not legislate specifically the work discipline principle, but only set, art 39, paragraph 2, letter b) the employee's obligation to obey labor discipline. Disciplinary intervention occurs only when a person employed in an institution commits culpable deviation from service obligations, including the rules of conduct. Disciplinary liability arises as a subsidiary means of strengthening labor discipline by punishing individuals employed who do not realize their obligations under labor legal relations and that at some point violate workplace discipline.

Defining elements of disciplinary responsibility, without which there would be no cumulative existence this form of legal liability, are as follows:

- a). quality of the persons employed in the unit under a contract of employment;
- b). existence of illegal acts;
- c). committing the offence with guilt;
- d). the occurrence of a harmful result;
- e) the causal link between the act committed and the result.

A person who commits an offense must be party to a contract of employment. In the absence of an employment contract - or any legal relations existing - there can be no disciplinary liability. In accordance with Law no. 52/2011 on activities carried out by daily labourers by derogation of Law No. ³53/2003 of republished Labour Code with subsequent additions and amendments, the daily labourers may conduct occasional unqualified form of employment. The employment of the daily laborer and the beneficiary shall be determined by agreement of the parties, without making, in writing, an individual employment contract. -art.3 of law. The legislature allows the recipient the right to exercise control over the performance of labour (art. 5 para 1 letter b of the law) but the daily worker is not disciplinary liable to the beneficiary, despite the existence of an employment relationship between them, as there is no written contract of employment registered at the Territorial Labor Inspectorate. We appreciate that the recipient can hold accountable its laborers for the damage and recover damages amicably, by resorting to a mediator or by civil action in a competent court.

Higher education graduates performing internship for 6 months can be disciplinary sanctioned. Law. 335 of 10.12.2013 published in Official Gazette no. 776 of March 12, 2014 on the internship for graduates of higher education governing period of 6 months in professional debut in accordance with Art. 31 paragraph 5 of Law 53/2003, republished on code modifications and subsequent additions except for professions for which special regulations are enforced. The intern, is bound during his internship to perform labour for and under the authority of an employer, person or entity, in exchange for a remuneration referred to as salary, based on an individual labor contract and an intership contract. Internship contract end with the conclusion of the individual labor contract. The duration of the internship is 6 months, unless the law

² In accordance with Labor Code commented the V edition revised and enlarged by Alexandru Țiclea, Universul Juridic Bucharest 2014.

³ In accordance with Law No. 53/2003 - Labour Code, republished in the Monitorul Oficial al Romaniei, Part I, No. 345 of 18 May 2011, as amended and supplemented.

specifically mentions another period of internship. Internship contract is made, mandatory, in written form in Romanian. Obligation to conclude a written internship contract belongs to the employer. The rights and obligations of the parties concerning the conduct of the internship period shall be determined by the internship contract, under the law, and shall be supplemented, as appropriate, to the provisions of the applicable collective labor contract wording and the internal rules. In accordance with Art. 25 letter c of the law; to meet the tasks given by the mentor and superiors within the organizational structure where he performs the internship. And the employer has the right under Article 25 letter c; to exercise control over the fulfillment of the duties and apply appropriate sanctions misbehavior; letter d of the same article of the law.

The duration and nature of the employment contract does not have an influence on the existence of any misbehavior. Any employee with employment contract, either fixed or indefinite period, even if they are on probation, is likely to respond to disciplinary action. Also, the person who performs work under a contract of employment which proves to be invalid is obliged to obey the order and discipline of work, being unable to defend himself against disciplinary action by invoking vices in the employment contract. Persons performing domestic work, so outside the units where their employment contract mention, are not subject to the internal order of the facility, or rules that relate to workplace discipline, only when the person is within the facility premises. They do have the duty to obey to the other obligations regarding compliance with labor standards, labor quality prescriptions and labor protection. Only in case of breach of such obligations the person may be liable disciplinary.

For example, contracts of carriage, services, mandate, enterprise, although their object is, as the employment contract, the provision of an activity but not having an essential element, the person's subordination toward labor discipline in the unit operating, they do not show the characters of the employment contract and therefore holders of such contracts are not subject to disciplinary liability.

Civil servants, military personnel can not be held responsible to disciplinary liability based on the Labour Code, but only according to their sector specific regulations.

2. Accumulation of disciplinary liability with criminal liability

2.1. Disciplinary liability

The term "discipline" come from the latin word "disciplīna" meaning system, rule, moral and also training principles, school, education, training. The notion of discipline can be considered as the three main aspects:

1. discipline - all the rules and regulations established for the human community, organized in a certain structure, to carry out efficiently the conditions of a specific activity (financial discipline, sports, work, military, etc.)

2. discipline - the obligation to follow the rules or predetermined provisions.

3. discipline - a state of order achieved through an activity accordingly with a set of standards and rules of human behavior.

The obligation to obey work discipline is complex process, incorporating both service duties of the employees⁴ and those duties aimed at compliance behavior in the working environment, or in some exceptional cases, even outside the working environment.

Labor discipline is autonomous, differing from other types of discipline (financial, contractual, etc.).

In labor law there is no definition of disciplinary liability in cases where a person commits culpable disciplinary misconduct. In art. 247 of the Labour Code is stated that the employer has disciplinary powers, with the right to apply, according to the law, disciplinary sanctions to his employees upon finding that they have committed a disciplinary violation. In its Second paragraph the legislature defines *"disciplinary offense as an offense in relation to work and consisting of an act or omission, committed with guilt by the employee that he violated the*

⁴ The personnel of public authorities and institutions Editura Universitatii Aurel Vlaicu Arad, 2009 by prof. univ. dr. Micle Ioan.

law, bylaw individual employment contract or applicable collective labor contract, orders and statutory provisions of hierarchical leaders ⁵". This deviation leads to disciplinary responsibility and, therefore, disciplinary sanctions, in order to constrain and reeducate the guilty one to adopt the correct attitude towards work, preventing also the other members of the staff of the consequences of negative behavior at the working place. In cases where ignoring labor discipline is causing damage or is a violation of administrative law relations or even a worse social danger, to the appropriate disciplinary responsibility is added a material liability, administrative or even criminal, to ensure labor discipline, it is also recognized as one of the forms of legal liability.

Employee disciplinary basis is found in art. 10 of the Labour Code, the employee shall work under the authority of the employer, a legal relationship of subordination being born as an individual employment contract between the parties. The individual labor contract is an unilateral act, a will agreement between two people, under which the legal relationship of employment is created. Expressing consent to the conclusion of the contract the employee undertakes to fulfill, in time and precisely, all obligations under the law, regarding labor performance. The contract is in fact the base of disciplinary liability of the employee, establishing the nature of contractual liability. Subordination in the legal relationship of employment, are, essentially, legal basis for disciplinary liability of the employee.

A person who commits an offense must be a party in an employment contract. In lack of an employment contract - some sort of legal relations as background - there can be no disciplinary liability.

Another necessary condition for the existence of disciplinary liability is the existence of illegal acts.

Features of Disciplinary Liability

Disciplinary liability is characterized by the following features:

- 1). If⁶ disciplinary violation was committed, ascertaining its existence, disciplinary liability is based on sanctioning, and it is preventive and educational. The guilty person receives moral or material punishment according to the seriousness of the offense committed. This penalty is reflected in terms of conscience and attitude of the sanctioned as a moral constraint or as a material deprivation, likely in the future to keep him from committing other irregularities. By this, disciplinary or criminal liability resembles, and differs from material liability.
- 2). Disciplinary liability is contractual because only by signing the employment contract grants the ensurance of fulfillment by the employee of the obligation to comply with all the rules that shape labor discipline. Direct link between employment contract and disciplinary liability determines and limits its application. A person who commits an offense must be a party to a contract of employment. In the absence of an employment contract - or some legal relations existing - there can not be a disciplinary liability.

Another necessary condition for the existence of disciplinary liability is the existence of an illegal act. The act leading to the production of a result likely to jeopardize the smooth running of the business in a certain unit. Also harmful result must be the consequence of the misconduct, that will be disciplinary sanctioned, and not of other facts.

- 3). Is purely personal; the "*intuitum personae*" character of the individual labor contract makes the disciplinary liability impossible vicarious or transmission to the heirs wage.

Disciplinary liability is a form of liability independent of all other forms of legal liability.

The sole basis for disciplinary liability, necessary and sufficient condition to trigger it, is a disciplinary violation.

⁵ The work "Tratat Teoretic si practic de dreptul muncii" is the most important work of the prestigious author prof. Dr. dr. Ion Traian Stefanescu. Editura Universul Juridic Bucharest 2014.

⁶ In accordance with Labor Code commented the V edition revised and enlarged by Alexandru Ţiclea Universul Juridic Bucharest 2014, The personnel of public authorities and institutions Editura Universitatii Aurel Vlaicu Arad, 2009 by prof. univ. dr. Micle Ioan.

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For violation of labor discipline, the employer has the right to apply to the employee in accordance with art. 248 of the Labor Code, the following disciplinary sanctions:

- a). written warning
- b). demotion, for a period not exceeding 60 days;
- c). reduction in base salary for a period of 1-3 months by 5-10%;
- d). reduction in base salary and / or, where appropriate, reduction in management allowance for a period of 1-3 months by 5-10%;
- e). disciplinary termination of the individual labor contract.

If by professional statutes approved by a special law, there are subsequent sanctions, those will be applied to it.

The legislature determines that the disciplinary sanction of law shall be canceled within 12 months of the application, if the employee is not bound for another disciplinary action within that period. Cancellation of disciplinary sanctions shall be determined by the employer's decision issued in writing. According to art. 249 of the Labor Code fines are prohibited and for the same misconduct it can only be applied one penalty.

The employer shall establish a disciplinary sanction applicable to the severity of the misbehavior committed by the employee, taking into account:

- a) the circumstances in which the act was committed;
- b) the degree of fault of the employee⁷;
- c) the consequences of misbehavior;
- d) the general conduct of the employee;
- e) any subsequent disciplinary sanctions suffered by him. When applying disciplinary sanctions, the employer must take into account the seriousness of the misconduct and other objective circumstances. Consideration of previous disciplinary sanctions suffered by the employee as a criterion of individuation of sanction, is not contrary to the principle of the inadmissibility of double punishment, expressly devoted to art. 249, paragraph 2. Under penalty of nullity, no action except written warning can be ordered before conducting a preliminary disciplinary research. (1) The employer dispose the sanction issued in writing within 30 days from the date of knowledge about disciplinary irregularity, but no later than six months from the date of the deed.

Under penalty of nullity, the decision necessarily must include:

- a) description of the act constituting misconduct;
- b) must specify the provisions in personal status, bylaw individual employment contract or collective agreement applicable, infringed by the employee;
- c) the reasons why defenses stated by the employee during the disciplinary investigation or prior to the investigation were removed, or reasons why, as provided in art. 251 para. (3), research was not carried out;
- d) legal grounds under which disciplinary sanction apply;
- e) the period within which the penalty can be appealed;
- f) the competent court where the sanction may be appealed.

Sanctioning decision shall be communicated to the employee within 5 days from the date of issue and shall take effect from the date of notification.

The document must be handed personally to the employee, with receiving signature, or, in case of refusal of receipt, at the registered residence given by the employee. Sanction decision may be appealed by the employee to the competent courts within 30 days of notification.

2.2. Criminal Liability

The Law no.⁸ 187/2012 for implementation of Law no. 286/2009 the Criminal Code art.. 127 Article 261-263 of the Labour Code is repealed. Law. 53/2003 - Labour Code, republished

⁷ The personnel of public authorities and institutions Editura Universitatii Aurel Vlaicu Arad, 2009 by prof. univ. dr. Micle Ioan. "Tratat Teoretic si practic de dreptul muncii" is the most important work of the prestigious author prof. Dr. dr. Ion Traian Stefanescu, Editura Universul Juridic, Bucharest, 2014.

⁸ Law 187/2012 for the implementation of Law No. 286/2009 regarding the Romanian Criminal Code, Noul Cod

in the Official Gazette of Romania, Part I, no. 345 of 18 May 2011, as amended, provides that the following acts as criminal acts- art 264 states as follows;

1. constitutes a crime and it is punishable by imprisonment from one month to one year or a fine, the criminal act of a person, who repeatedly, establishes for employees employed under individual employment contract wages below the gross minimum wage guaranteed, provided by law.

2. The same penalty stated in para. (1) punishes consisting of unjustified refusal of a person to submit to the competent bodies of legal documents in order to prevent checks on the implementation of general and special regulations in labor relations, safety and health in later than 15 days of receipt of the second request.

(3) The penalty stated in para. (1) is punishable the offense consisting in preventing under any form of competent bodies to enter, as provided by law, the offices, premises, land and means of transport that the employer uses in his professional activity to perform checks on the implementation of general and special regulations in labor relations, safety and health.

(4) an offense and shall be punished with imprisonment from three months to two years or with fine, receiving more than 5 persons to work, whatever their nationality, without concluding an individual employment contract.

- art.265 states: Employment of a minor in violation of the legal age or the use of the minor for the provision of activities in violation of legal provisions relating to the employment of minors is a crime punishable by imprisonment from three months to two years or a fine.

(2) The penalty provided for in art. 264 para. (4) is punishable the receipt of a person working in illegally in Romania, knowing that it is a victim of human trafficking.

(3) If the work performed by persons referred to in para. (2) or in art. 264

(4) if it is likely to endanger thir life, integrity or health, the punishment shall be imprisonment from six months to three years.

(4) In case of committing any of the offenses referred to in para. (2) and (3) and Art. 264 para. (4), the court may order the application of one or more of the following additional penalties:

a) total or partial loss of the employer's right to receive benefits, aids or subsidies, including EU funding managed by the Romanian authorities for a period of up to five years;

b) prohibiting the employer's right to participate in the award of a public contract for a period of up to five years;

c) full or partial benefits recovery, aids or subsidies, including EU funding managed by the Romanian authorities granted to the employer for a period of up to 12 months before the offense;

d) temporary or permanent closure of the work centers where the offense took place, or temporary or permanent withdrawal of the license to conduct the activity in question, if this is justified by the gravity of the infringement.

(5) In case of committing any of the offenses referred⁹ to in para. (2) and (3) and Art. 264 para. (4) the employer will be required to pay a fee representing:

a) any outstanding remuneration payable to persons employed illegally. The amount of remuneration is assumed to be equal to the average gross wage in the economy, unless either the employer or the employee can prove otherwise;

b) the amount of all taxes and social security contributions that the employer would have paid if the person were legally employed, including default interest and relevant administrative fines;

c) the costs determined by the transfer of the due payments to the person illegally employed, in the country he returned to wilful or by law.

Penal.

⁹ Noul Cod Penal, In accordance with Labor Code commented the V edition revised and enlarged by Alexandru Țiclea Universul Juridic Bucharest 2014, The personnel of public authorities and institutions Editura Universitatii Aurel Vlaicu Arad, 2009, by prof. univ. dr. Micle Ioan.

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(6) In case of committing any of the offenses referred to in para. (2) and (3) and Art. 264 para. (4) by a subcontractor, both the main contractor and any intermediate subcontractor, where they knew that the employing subcontractor employed foreigners who are staying illegally, may be required by the court, jointly with the employer or in place of contractor or subcontractor employer whose employer is a direct subcontractor to pay the sums of money mentioned in par. (5) a and c.

Art.261-263 of the Labour Code repealed by Law 187/2012 for the implementation of Law no. 286/2009 on Penal Code. These texts were taken, by the Art. 287 of Penal Code Non-recognition of judicial decisions. Legislator incriminates the failure to comply to a court order by:

- d) failure to reinstate an employee following a court order given;
- e) non-enforcement regarding payment of wages within 15 days from the date of application for execution by the claimant to the employer;
- f) failure of judicial decisions determining the payment, updating and recalculation of pensions; shall be punished with imprisonment from three months to two years or with fine. If the facts set out in point d) to g), criminal proceedings shall be initiated upon prior complaint from the injured person.

3. Differences and similarities between disciplinary and criminal liability.

Between disciplinary and criminal responsibility is an essential distinction, due to their *different source*. Criminal liability finds its source in the law, it is therefore *legal*, while disciplinary liability has its source in the contract between the parties, it is therefore *contractual*.

Between crime and misbehavior there are some similarities:

- both are forbidden acts, with anti-social consequences
- both are committed with guilt and are injuring some definite order in the society. But there are differences.

In terms of *subject*, a disciplinary offense does not only directly harm the legitimate interests of the unit, but also the interests of the entire staff of employees of which the author is a part of.

Disciplinary liability is defending a determined social order, of labor relations and unit production level, meanwhile the criminal liability defending values and relationships considered as paramount to the entire society: sovereignty, public property, the individual and his rights, independence and unity of the state, as well as the entire order.

In terms of the object, there is a *similarity* in its generic nature - defending a premade social order in a particular sphere of activity - but there is a collective *difference* consisting in the precise nature, type and relative importance of relationships protected and regarding the extent of the scope of liability.

In terms of the objective side,¹⁰ both the criminal and disciplinary liability are assumed as committing an illegal act, contrary to predetermined rules, but the facts are different regarding disciplinary and criminal liability in terms of severity, the harmfulness of its consequences, as well as the level of disturbance of the relationships within its reach. Acts of the same nature may be, depending on amount of "elements", either misconduct or crime. These "elements" are: The importance of the object to be protected in a given time, circumstances (ex: number of people, time and place of the deed), type and intensity of guilt, crime consequences, whether actually produced as well as those that would have occurred, the possibility of preventing etc. These "elements" compete to determine the different social risk, resulting in the final form of liability it engages and also the sanction dosage. Severity and social danger of the track scene is the

¹⁰ In accordance with Labor Code commented the V edition revised and enlarged by Alexandru Țiclea Universul Juridic Bucharest 2014, The personnel of public authorities and institutions Editura Universitatii Aurel Vlaicu Arad, 2009 by prof. univ. dr. Micle Ioan. The work "Tratat Teoretic si practic de dreptul muncii" is the most important work of the prestigious author prof. Dr. dr. Ion Traian Stefanescu. Editura Universul Juridic, Bucharest, 2014.

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element that best express the differences in degree of intensity and is the element that places a certain deed above or below the threshold separating the two responsibilities.

In terms of the action taken, there is a similarity in character consisting of coercive sanctions and deprivation, but also a distinction, a difference in the nature and degree of constraint and deprivation, and the purpose followed, the ways to follow and approved bodies to do the following, methods and enforcement bodies.

Overlapping criminal liability with disciplinary liability is possible if the same act committed by an employee in the workplace, affects both internal order and discipline of the unit, as well as the values of general interest to society, defended by criminal law.

Criminal liability, once triggered, causes a cessation of disciplinary and makes cumulative liability not to be achieved by parity and simultaneously, but in a subsequent report of conditioning and derivation.

The employer,¹¹ after taking note of committing an act that meets the elements of an offense by an employee, is obliged to immediately notify the criminal investigation bodies. With the introduction of the complaint, or if the employee, without a complaint from the unit, was indicted for a criminal act that makes him incompatible with his job position, forces the management to suspend him from office. In this case the suspension of the labor contract can be done unilateral by the unit. During the suspension, the employee can not exercise his powers granted by his position in the unit and will not get paid. Depending on the final solution given by the court in the criminal case it will require, as appropriate:

- either resumption of labor relations, with full payment during the suspension, or further administrative investigation;
- or termination by the unilateral act of the unit on the day the employee is convicted of an offense in connection with his work, if sentencing makes the job that he held inadequate.

The employer can not proceed to trigger disciplinary investigation and disciplinary sanction, parallel and separate from the ongoing criminal trial. Therefore, when a person is accused of committing criminal acts in connection with his work, it creates an incompatibility between the offense committed and maintaining the function of the person in that unit and, accordingly, both the execution of the employment contract as well as the exercise of disciplinary proceedings shall be suspended pending the final solution in the criminal trial. So the penal spectrum is holding the disciplinary spectrum down and also the civil spectrum. The final sentence handed down by the criminal offense of the existence of the offense, its author and guilt, are considered as primary in the process of applying disciplinary sanctions.

Where it is found that the act meets the elements of an offense in connection with the work, committed with guilt by the employee concerned, him being convicted by a final judgment, the management unit is entitled to apply later concurrently, disciplinary dissolution of the contract. But even when it commits such an act sanctioned by a final criminal conviction, the governing body of the unit is not required to terminate the employment; But is able to assess whether or not to take disciplinary action. Accumulation of the criminal sanction with the disciplinary sanction occurs in a subsequent report meaning that disciplinary liability applies only after establishing criminal liability and its consequences. If criminal proceedings ceases or is acquitted - unless the act does not exist or was not committed by the defendant, such as when the act committed by the employee is not a crime, amnesty or prescription criminalization involved - only than the competent body of the unit may start the research to determine whether or not the act constitutes misconduct. The employer can adopt one of the disciplinary sanctions provided by art. 248 of the Labour Code. When, however, the act is a serious disturbance of order within the unit, termination of contract may be enforced.

¹¹ The personnel of public authorities and institutions Editura Universitatii Aurel Vlaicu Arad, 2009 by prof. univ. dr. Micle Ioan, Boghicevici C, Botiş N. I, Meianu B, D. C. Creţ, Nedelcu M, Şipoş F, Politici de ocupare a forţei de muncă, Editura „Vasile Goldiş” University Press, 2010.

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Development and publication of this have been caused by changes to the Labour Code by Law 187/2012 for implementation of Law¹² no. 286/2009 the Criminal Code and Law puneraea 255/2013 the application of Law no. 135/2010 the Code of Criminal Procedure.

Conclusion

The disciplinary penalties are means to constraint required by law, aimed at defending the disciplinary order, responsible for developing the spirit of conscientious fulfillment of duties and compliance behavior and preventing acts of indiscipline. They are specific measures, labor law in connection with the execution of the labor contract without affecting personal rights and property celelallte of employees.

Regarding criminal responsibility art. 261-263 were repealed as from Act No. 187/2012 bags for implementing the Law no. 286/2009 on the Criminal Code Article 127 paragraph 1. These texts were taken, but by Article 287 of the Criminal Code, entitled "Failure of judgments".

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¹² Law. 53/2003 - Labour Code, republished in the Official Gazette of Romania, Part I, no. 345 of 18 May 2011, as amended and supplemented.

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New Criminal Code.