Some considerations on internship as a means of access to the labor market of the graduates of higher education institutions

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Abstract: From the discussions we had with the graduates of George Bacovia University, Bacău concerning their employment, it repeatedly resulted that the frequent obstacles they are faced with in the interviews had with employers are those related to the experience in the field. In fact, such conditions can be also observed from the multitude of job offers made by employers, in which the first requirement is the expertise in the field. In this context, the internship could play an essential role in increasing the access of young people on the labor market, because they could make the transition from the theoretical knowledge, gained through education, to the skills and competencies necessary in the workplace, thereby enhancing the chances of young people to find a job. In a working document of the Services of the Commission of the European Union [1] it is stated that the unemployment rate among young people (aged between 15 and 24 years of age) experienced a dramatic increase: starting in 2008, the total number of unemployed young people in the EU has increased by 1 million, and currently, in the EU-27, there are 5.2 million young people under 25 years of age who cannot find a job. In this context, internships (as a way to make the transition from theoretical knowledge, gained through education, to the skills and competencies necessary in the workplace) could play a key role in increasing the access of young people on the labor market.

Keywords: internship; trainee; contract; mentor; youth; unemployment benefits; employer.

Introduction

Currently, of the total population of the European Union, the youth represents 1/5, which means more than 100 million people. They face a number of challenges related to the quality of education and training systems as well as the factors of economic and social nature which influence the access to the labor market. The unemployment rate among young Europeans, those aged between 15-24 years old, has experienced an impressive growth and is standing at 21%. As of 2008, the total number of unemployed young people under 25 years of age has risen from one million to five million in 2014 [2].

In our country, at the end of the November 2014, in the records of the National Employment Agency there were 81,008 unemployed under the age of 25 of which 19,542, meaning 24.12% of the total unemployed under 25 years were receiving unemployment benefits for over 6 months [3].

From the discussions we had with the graduates of George Bacovia University, Bacău concerning their employment, it repeatedly resulted that the frequent obstacles they are faced with in the interviews had with employers are those related to the experience in the field. In fact, such conditions can be also observed from the multitude of job offers made by employers, in which the first requirement is the expertise in the field. In this context, the traineeship could play an essential role in increasing the access of young people on the labor market, because they could make the transition from the theoretical knowledge, gained through education, to the skills and competencies necessary in the workplace, thereby enhancing the chances of young people to find a job.

In the rows below I will present some of the steps undertaken by the competent forums at the European as well as domestic level concerning the regulation of traineeship, as a method of insertion of young people licensed in higher education, on the labor market, so as to substantially reduce unemployment among them, as well as cases of undeclared work (“black work”).

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I. The European and domestic premises which determined the regulation of traineeship for graduates from institutions of higher education

A. The European Plan

The strategy, “Europe 2020 for a smart, sustainable and favorable growth to inclusion” [4] was launched by the European Commission in March 2010. The document set a number of seven priority areas that can become engines of economic and employment growth including the iconic initiative, “Youth on the move”. Youth on the move [5], part of the new Europe 2020 strategy proposes 28 key actions aimed at increasing the relevance of education and vocational training in relation to the needs of young people and to encourage more of them to take advantage of the grants of the European Union to study or to form themselves in a different country. This will increase the capacity of young people to get a job and will facilitate the access to the labor market.

Currently, many young people leave school early, and too little fallow a higher education, which negatively affects the future of Europe's core competency. “Youth on the move” will have a major role in achieving the main objectives of the Europe 2020 strategy, namely reducing from 15% to 10% the proportion of people who leave school early and increase the proportion of young people with tertiary or equivalent education, from 31% to at least 40% by 2020. It is expected that the actions of the “Youth in motion” will also help the member states to achieve the main objective of the European Union, an employment rate of 75% over the next 10 years, by ensuring that young people have the necessary skills for future workplaces.

By 2020, according to Commission studies, 35% of new jobs will require high level qualifications and 50% will require mid-level qualification.

In a working document of the Services of the Commission of the European Union [6] it is stated that the unemployment rate among young people (aged between 15 and 24 years of age) experienced a dramatic increase: starting in 2008, the total number of unemployed young people in the EU has increased by 1 million, and currently, in the EU-27, there are 5.2 million young people under 25 years of age who cannot find a job. In this context, traineeships (as a way to make the transition from theoretical knowledge, gained through education, to the skills and competencies necessary in the workplace) could play a key role in increasing the access of young people on the labor market.

However, in some cases traineeships fail to fulfill the role envisaged: in recent years there have been concerns about the quality of training. For example, the organizations "Génération Précaire" [7] in France and "Generation Praktikum" [8] in Austria have expressed serious concerns about the possibility of abusive use of traineeships as a cheap or free source of work by employers, and in many cases the latter fail to provide a first step towards a decent and sustainable employment. This may, in turn, create a vicious circle of poor working conditions and insecurity. In some member states, young people have developed initiatives to improve the transparency of traineeships [9].

In 2010, the European Parliament adopted an own-initiative report regarding "promoting youth access to the labor market and enhancing the status of trainees, traineeships and apprenticeships" [10] and invited the Commission to propose a European Charter of quality internships, to provide statistics on traineeships and to draw up a comparative study on the different systems of traineeships available in the member states.

Relatively recently, the European Youth Forum has presented a proposal for a European Charter of internships [11], based on an online consultation of young people. The results of the consultation indicate that, in many countries the size of learning during internships has been declining because the trainees are required to undertake tasks that do not contribute to the development of their professional development.

The Commission recognized the need to address these concerns. In response, the initiative for the Europe 2020 strategy "Youth on the move" [12], has announced the intention of the Commission to propose a framework for quality internships which will include their transnational dimension, the role of the social partners and issues related to corporate social responsibility. In accordance with this commitment, the member states, in the conclusions of the Council from June, 2011 on employment among young people, invited the Commission to provide guidance on the conditions favorable to high quality internships by means of a quality framework for internships [13].

In view of the further deterioration of access of young people on the labor market, the Commission launched in December 2011 the "Youth Opportunities Initiative" [14]. One of the main actions of the initiative relates to the encouragement of the Member States to use more effectively the European Social
Fund, among others, for supporting the programs of apprenticeship programs, as it has already happened in some countries. Youth opportunities initiative also confirms the previous commitments of the Commission to present a quality framework for internships in 2012.

On the basis of the above, and taking into account the fact that the provision of quality training requires the involvement of all relevant actors, primarily businesses, as well as national authorities, social partners and representatives of the youth and trainees, DG Employment, Social Affairs and inclusion has drawn up this position document for consultation of all interested parties. The objective was to achieve a consensus necessary for the common recognition of a quality framework for internships in the form of a recommendation of the Council, which was to be adopted by the end of 2012, as stated in the Commission communication "towards a recovery generator of jobs" [15].

The work document of the Commissions defines the traineeship as a professional practice which includes an academic component (as part of their study program or not) which is limited in time. The aim of such training is to help the trainee's transition between education and employment through the provision of practical experience, of the knowledge and competencies that complement its theoretical education. This definition was necessary because it was found that there is confusion between the terms: internship, apprenticeship and professional practice.

Youth opportunities initiative focuses mainly on traineeships which are part of the higher education programs, as well as on traineeships (postgraduate in general) that involve only the intern and the employer.

Regarding the regulation and organization of the internships in the Member States, following a Commission study, it was found that a large number of Member States do not have regulations which explicitly address internships, or they are very limited, even included in other category of legislation, particularly legislation relating to education and training [16]. In the member states which have specific legislation, the common characteristics defining internships are: general educational objective; practical learning component; their temporary nature.

In general, the internships integrated in the educational programs (higher) are better regulated. The internships offered occasionally by employers to young people after graduation, on a voluntary basis, tend to be less regulated.

In the member states where there are formal measures in place, the norms which ensure the internships’ quality relate mainly to: remuneration; social security; access to training and the quality of training; professional experience of trainees; the risk of replacing the regular staff.

In the case of certain professions, for which internship is a part of the mandatory professional training (usually health care/nursing, law, education, architecture/engineering), the regulations are developed in almost all member states by professional associations. However, even these rules, do not always provide a guarantee of the quality of training. For example, Italy has a very good regulated framework for free professions, but in practice the way the internships are conducted is very different than the legal provisions.

In terms of access to internships/the internships’ availability throughout the European Union an increased emphasis is put on internships and practical experience at the workplace as a key instrument that helps the young unemployed or young graduates in the transition to a job [17].

In the Southern and Eastern Europe, these systems are often (at least partially) supported by the European Social Fund. Many of them are aimed at boosting support through subsidies given to employers, through the payment of social security contributions or by awarding compensation and benefits directly to trainees.

In general, there is a strong tendency towards the integration of internships and practical training activities in the compulsory or optional curriculum. In the case of these types of internships, monitoring and assuring quality are often secured through educational institutions the clear teaching objectives are motivated. However, there is a shortage of internships as a result of the weak links between the educational systems, the labor market and difficulties encountered by SMEs in the mobilization of internal resources for administrating and guiding the trainees. On the other hand, in some countries, employers are concerned about the fact that the education system is not able to provide the necessary professional competence [18]. This clearly highlights the need to strengthen partnerships between enterprises and educational institutions, in order to increase the number of internships which are part of the curriculum.

Internships abroad are a specific form of training. The Euro-barometer Youth on the move (2011) show that transnational learning helps young people adapt to the requirements of the labor market in the EU and to know better these requirements, winning not only linguistic competences, professional expertise and specific training, but also "social and communication skills" such as teamwork, self-confidence and
adaptability, which are considered essential for the success of the transition between education and employment.

The reference criteria of the European Union for the mobility with an educational purpose [19], lays down ambitious goals such as those that at least 20 % of higher education graduates and 6% of graduates of education and professional initial training should benefit from a period of study or training abroad (including internships) by 2020. This objective will be achieved not only by means of program of the European Union, but it will need strong support from the member states' actions. It is essential to ensure a good quality of these internships, providing relevant learning opportunities.

As it emerges from a recent study commissioned by the Commission [20] actions designed to facilitate the launching of transnational mobility of trainees are necessary. The priorities identified in the study refer to the need for greater clarification of the contextual differences, legal and regulatory between member states which affect the transnational internships, improving the access to information and the introduction of more specific requirements and criteria for the general organization of internships abroad.

With regard to the quality of internships, questionable practices are reported in all member states, with slight differences depending on the type of regulatory regime. The main concerns in all the member states refer to: small remuneration, insufficient protection as well as relatively poor terms and conditions; the lack of a high-quality educational content; use of trainees to perform routine activities; the replacement of ordinary employees with the trainees.

In some countries, matters relating to internships are linked to more general concerns about the risk for young people to enter into the vicious cycle of a precarious and unstable employment [21]. Also, questionable practices seem to be mainly generated by the precarious position of young people in the labor market, which allows employers to "take advantage" of those who are experiencing difficulties in obtaining a job. This is especially the case in countries and sectors where there are a large number of young people who are looking for a job.

One of the most worrying aspects in terms of internships is the lack of a proper social protection (most often the interns receive health insurance alone, in some cases and insurance against occupational/accidents risks). It should be noted, however, that internships that are part of the programs financed by Governments compels increasingly more often the employers to pay the social insurance contributions of trainees, either in whole or in part through subsidies [22].

Interns generally receive contracts of internship in writing, but the characteristics of these contracts (and, hence, the rights) vary greatly from one country to another and from one sector to another. Furthermore, there is no common definition of what is "adequate" remuneration. The lack of remuneration or small offsets, as well as the possibility of exploitation represents general interests, especially in the case of internships on the free market and to those within the mandatory training programs.

The risk of ordinary employees being replaced by trainees is higher in member states with high unemployment and/or adverse conditions on the labor market for young people [23]. The use of interns as free labor force represents a phenomenon that is becoming more common in other countries, where young people must do several internships before finding a suitable job.

Finally, the use of trainees abusively is more common when monitoring and clear targets related to internship are missing.

In addition, statistics show that there are significant differences in pay between women and men in the case of internships, with a higher proportion of women in unpaid or poorly paid traineeships.

Awareness of the problems concerning the quality of internships and any abuse is increasing in the European Union and there are some attempts to implement certain quality frameworks to address these matters [24].

In the past two decades, the internships have become an important point of entry into the labor market for young people. Although it is more and more a standard feature of labor markets, their spread was simultaneously accompanied by concerns related to teaching content and working conditions.

A recent Euro-barometer survey on the quality of training [25] shows that internships are spread as follows: about half of respondents (46%) have completed an internship, and a large proportion of them have carried out several internships. The survey also indicates that 35% of training providers do not offer a written agreement of internship, and 23 % of interns are offered the possibility to renew the traineeship instead of being properly recruited. The survey also shows that only 9% of the internships are carried out abroad.

A study on internships in all the EU member states has been published by the Commission in July 2012. It recommended that the training courses should provide more guarantees in terms of quality and prospects for young people and to better satisfy the requirements of the labor market [26]. A quality frame at
the European Union level, developed in collaboration with governmental representatives, social partners, youth organizations and all other relevant interested parties, could contribute to a large extent to increase the quality of training in the European Union. Promoting good quality training shall contribute to achieving the objectives of the Europe 2020 strategy with regard to facilitating the smooth transitions on the labor market and promoting and facilitating the geographical mobility of young people.

The results of the study and the best practices existing in the Member States have led to the conclusion that the elements that can be taken into account for the elaboration of such a framework are:

1. The conclusion of an internship agreement. Both the study regarding “A comprehensive overview of internships in the member states” and the European Youth Forum's questionnaire, reported that for a large part of internships (25% of those who responded to the survey of the European Youth Forum) an agreement between the intern and the host organization is not concluded. This creates a situation in which the trainee is not defended by law, while the host organization does not know precisely the contribution that a candidate would bring. The internship agreement should be the basis of all internships and should include educational and professional objectives, duration and, where applicable, the amount of remuneration/compensation. These requirements are already implemented through the professional training agreement and the commitment regarding quality used in the Erasmus and Leonardo da Vinci programs, which are based on the principles of the European Charter of quality for mobility [27].

2. Defining the professional and educational objectives, guidance and orientation. The internships with well-defined professional and educational objectives have bigger chances to contain useful teaching elements that will help the candidate to find a job after completion. In addition to the need to clearly define the professional and educational objectives of internship, for each hosted trainee it should be appointed a personal mentor from within the host organization. The mentor should monitor the progress of the trainee and to explain the procedures and general working techniques. The mentor should also provide the intern with feedback on its performance in the form of an interim and final evaluation.

3. The adequate recognition of internship. The practice of member states shows that internships often end without a corresponding certificate attesting the knowledge, skills and competences acquired during the internship. For these reasons, it is recommended that, after the end of the internship, the intern should receive a certificate stating the duration and the educational content of the training, the tasks done, as well as the knowledge, skills and competences acquired. To record the knowledge and skills acquired in another country, the Euro pass Mobility document could be considered as an appropriate tool [28].

4. Reasonable duration. The study highlighted that in the Member States the replacement of the ordinary employees with interns is growing. Therefore, in order to reduce this trend, it is important that the training period is clearly established, so that they may fulfill the role of an instrument enabling an easier transition for young people on the labor market. Depending on the type of traineeship (part of an education/training program or internships after graduation) a period of three or six months of internship is considered adequate, except for some specific occupations such as lawyers, teachers or doctors.

5. Social protection and adequate remuneration of trainees. One of the most serious problems noted by the study is that often the interns do not receive adequate social protection in the country of internship (in particular, general health insurance and accident insurance). A quality internship does not necessarily have to be paid. In the course of their studies, the unpaid internships might be adequate, provided that the trainee is entitled to social security. In such cases, reimbursement or aid in kind is recommended (e.g. travel, board and lodging). The remuneration is generally recommended for the internships made after graduation because the trainee already has a degree of professional qualification and no longer benefits from the student status. Also, unpaid or underpaid internships lead to situations where persons who do not have the necessary assistance (families/financial etc.) are thus deprived of gaining experience in the workplace.

6. Transparency of information regarding rights and obligations. The rights and obligations of the employer, trainee and, if appropriate, the educational institution must be transparent and clear for all parties. Updated information on the legal provisions and other measures at the European and national level should be easily obtained in a comparable format for all parties involved in the organization of internships or those that benefit from internships. The difficulty of having access to reliable and complete information regarding these provisions in all member states is one of the main obstacles to the organization of transnational internships.

In Brussels, on September 17, 2014, the members of the European Parliament evaluated alongside the Commission and the Council the progress of the two key programs of the initiative on employment among young people, “The youth guarantee” and “The initiative on employment among young people” concluding that the labor market for young people from Greece, Spain and Croatia has not changed significantly in the past few months; one of two young people is unemployed in those countries and the
situation at the European Union level is not much better: the unemployment rate among young people is about 23%.

Youth guarantee, which was approved by the European Parliament in January 2013, proposes that young people aged up to 25 years of age receive an offer of continuing education, apprenticeship courses or internships at four months after graduation. In this respect, in Brussels a number of 18 pilot projects for the transition between school and work were presented.

The program Initiative on employment among young people aims at supporting European Union regions where the unemployment rate among young people is more than 25%. The Commission has already adopted programs for young people who are not employed and do not follow any educational program or training in France and Italy. Poland, Portugal and the United Kingdom have submitted their own programs, [29].

B. The internal plan

In our country, at the end of November 2014, in the records of the National Agency for employment there were registered 81,008 unemployed persons under the age of 25 of which unemployed for over 6 months 19,542, meaning 24.12% of the total unemployed persons under 25 years [30].

Starting from the demands arising from the European Union's concerns for the generalization of internships for all graduates of higher education, Romania aims to adapt legislation to the requirements of the European Union in terms of internships for graduates by facilitating young people's transition from education to the labor market, with a focus on: a) promotion of access for young people with a higher education degree to the job market towards a decent and sustainable job, adequate to the completed studies; b) good work conditions and consolidation of professional training; c) regulating the minimum conditions characterizing an internship as being qualitative as well as: define the objectives of vocational training; reasonable duration; social protection and adequate remuneration; farm rights and obligations for all parties concerned through contractual agreements involving enterprises and public employment services; d) reducing unemployment among young graduates of higher education; e) demand a qualified and qualitative workforce, depending on the requirements of employers; g) improving the content of vocational graduates; h) facilitate the updating of the instruments used in the labor market - occupational standards - to meet the employers demands; i) harnessing with maximum efficiency of EU funds such as the European Social Fund type to facilitate young people's transition from education to the labor market and to reduce labor market segmentation.

The problem with following an internship in our country has found its regulation, with special character, only in certain areas. By way of example we present below some of these areas, thus:

a. in the field of law, according to article 18-19 of law No. 51/1995 [31], republished, at the beginning of the profession, the lawyer must compulsorily carry out an internship of professional training with the duration of 2 years, during which he has the quality of the trainee lawyer. The activity of a trainee lawyer will be guided only by permanent lawyers with an experience of at least 6 years in this quality and who enjoys a spotless professional reputation. During the internship, with the agreement of the guiding lawyer, the trainee lawyers can take master classes, which are taken into account in the assessment of the initial training. The internship shall be suspended in the event of motivated lack of profession or in the event of termination of the professional guidance without the fault of the trainee lawyer. The period of internship carried out previously counts for the completion of the internship. After completing the internship the trainee lawyer will sustain a professional certification exam and if he is rejected three times, he will be excluded from the profession. Conditions of internship, rights and obligations of the trainee lawyer, of the guiding lawyer, as well as of the bar towards them are governed by the Status of the legal profession [32].

b. The legal regime of the traineeship in the case of the magistrates is governed by art. 21-30 of Law No. 303/2004 on the Status of Magistrates [33] according to which the trainee judges and prosecutors are appointed by the Superior Council of Magistracy, based on their average grade obtained by summation of the three averages at the end of each year of study and graduation exam of the National Institute of Magistracy. Trainee judges and prosecutors enjoy stability and the training period is 1 year. During the internship period, the judges and prosecutors are required to continue the professional training under the auspices of a judge or Prosecutor, appointed by the President of the Court of Justice or, where appropriate, by the chief prosecutor of the Prosecutor's Office attached to the court. The management of courts and prosecutors' offices shall be obliged to provide all the conditions for the smooth operation of the internship. The judge or prosecutor who is responsible for the coordination of the trainee judges or, where appropriate, of the trainee prosecutors has to draw up quarterly an individual assessment report regarding the appropriation of the practical knowledge
specific to the activity of a judge or Prosecutor. In order to present to the capacity exam, the last individual evaluation report includes the advisory opinion to the President of the Court of appeal or of the general prosecutor’s Office attached to the court. After the internship ends, the trainee judges and prosecutors are required to be present at the capacity examination. If the trainee judge or the Prosecutor is dismissed from the capacity examination, he is obliged to be present at the next session. The unjustified absence from the capacity examination or rejection of the candidate from two sessions attracts the loss of the trainee judge or Prosecutor quality. In this situation, the trainee judge or Prosecutor is obliged to return the scholarship auditor of justice and school fees incurred for its professional training. The person who, for duly justified reasons, could not be present at the examination capacity can sustain this exam if from the completion of the internship up to the date fixed for the examination have not passed more than two years. The capacity examination of trainee judges and prosecutors is organized annually by the Superior Council of Magistracy, through the National Institute of Magistracy and consists in the verification of the theoretical and practical knowledge through written and oral evidence. The candidates who are declared admitted to the capacity examination shall have the right, in the order of averages, to choose their posts, within 15 days from their publication in the Official Gazette of Romania, third part. The Superior Council of Magistracy proposes a post, ex officio, for the candidate who has not exercised his right to choose one within the term given. Refusal to accept the proposal is considered resignation. When the averages are equal, priority in choosing the post has, in the following order, the candidate who works at the Court or Prosecutor for which he has opted for, or the one that has greater seniority in magistracy.

c. According to the provisions of articles 10 to 30 of law No. 123/2006 concerning the Status of the probation staff [34], the internship represents the period prior to finalizing as Counselor of probation and it has as a purpose the early professional training in the exercise of the function and is effectively and legally binding. During the internship the trainee probation counselor shall exercise all the attributes provided by law, having the following obligations: a) to deepen theoretical knowledge in the field of probation and protection of crime victims – notions of criminal law and criminal procedure, criminology, methodology of probation and victim protection, mental health and crime, the problem of addiction, the institutional cooperation and institutional development, developmental psychology, applied sociology, social informatics; b) to develop basic skills needed for the work of probation and victim protection. The activity of a trainee probation officer is guided by the head of the service where he operates or by a person designated by him, who has a minimum of 3 years experience in the field. After completing the training, the debutant probation counselors are required to sustain the professional certification exam, which compulsory consists of a written test with theoretical character and a written test with practical character. The debutant probation counselors declared admitted to the professional certification exam are appointed to a post of probation counselor level III. The unjustified absence of the debutant probation counselors to the professional certification exam at the first session after completing the internship or his rejection to two sessions attracts dismissal.

d. The internship in the case of trainee public servants, is governed by law No. 188/1999 on Status of the public servants [35], according to which the period of the internship aims at checking the professional skills in carrying out the duties and responsibilities of a public function, the practical training of the debutant public servants, as well as the knowledge of the specifics of public administration and its requirements. The duration of internship is differentiated according to ranking classes. For the public servants running in class I the duration is of 12 months, 8 months for those in class II and 6 months for those in class III [36]. At the end of the internship, on the basis of the outcome of the evaluation, the debutant public servant will be: a) named definitive public servant of execution in the class appropriate to the completed studies, at the professional level of assistant; b) released from public office, if he obtained in the assessment work the qualifier "inappropriately", in which case the period of internship does not constitute required experience for the occupation of a public function [37].

e. The training period for physicians, dentist practitioners and pharmacists is of one year and is regulated by Government Ordinance no. 18/2009 [38] and the Rules of organization and internship for the licensed graduates of the faculties of medicine, dentistry and pharmacy, approved through the order of the Minister of health and family no. 846/2001 [39].

f. Finally, we must mention that internship is also regulated for some employees, who do not have higher education, by way of exception, in the case of the community health mediators who serve a certain Romani population. In accordance with Article 7 paragraph 7 and 13 of the Technical rules on the Organization, functioning and financing of the activity of health mediators approved by the Order No. 61/2002 of the Minister of health [40], health mediators make a three-month practical training at the workplace, then they can receive (or not) a certificate of health mediator [41].
II. Internship - a way to facilitate the access of young licenced people on the labor market

In the field of labor legal relations, regulated by the labor law, the issue of training graduates of institutions of higher education was introduced for the first time in art. 31, paragraph 5 of the Labor code [42] as amended by law No. 40/2011 [43], and established that: “For graduates of higher education institutions, the first 6 months after the debut in the profession is considered period of internship. Exceptions make those professions in which internship is regulated by special laws. At the end of the internship, the employer must issue a certificate, which is endorsed by the Labor Inspectorate in whose territorial competence radius it has its headquarters”.

The method of internship is regulated by special law, respectively Law No. 335/2013 regarding the internship for graduates of higher education [44] and by Government decision No. 473 of June 4, 2014 approving the methodological norms for the application of the provisions of law No. 335/2013 regarding the internship for graduates of higher education [45].

The doctrine [46] showed that the above regulations, together with those contained in article 31, paragraph 5 of the Labor code, which make a generic reference to internship, form the common law rules of this institution of internship under the labor legislation in Romania, including the types of internships regulated by some special laws.

We note that, as it is shown in the specialty literature [47], in terms of systematization of the regulation, as well as of the rules of legislative technique, the placement of the issues of the graduates of higher education training in the article 31 of the Labor code, is flawed because the trial period and the internship are fundamentally different.

Also, we highlight the fact that trial period and internship represent two different concepts and they should not be mingled together, whereas the nature and their purpose are totally different. Thus, while, according to article 1, paragraph 2 of law No. 335/2013, “The purpose of the internship is to ensure the transition of higher education graduates from the education system to the labor market, to strengthen the competencies and professional skills in order to adapt to the practical demands and requirements of the job and for a quicker integration into employment, as well as to acquire experience and seniority in the workplace and, where applicable, in the specialty field”, trial period is a practical way to verify the skills of all categories of employees after the conclusion of the individual contract of employment [48].

From the things presented above it follows that internship can be defined as the period which ensures the transition of graduates of higher education, from the education system to the labor market, enhancing the competencies and professional skills in order to adapt to the practical demands and requirements of the job and for a quicker integration into employment, as well as the acquisition of experience and seniority at the workplace or in specialty [49].

According to the provisions contained in article 2, letter f) of law No. 335/2013, the period of internship is the period of time between the date of the employment and the date of completion of internship which ends with the issuing of a certificate/attestation signed/certified by the employer.

The period of internship is carried out on the basis of a program of activities approved by the employer, upon the proposal of the department’s leader in which the trainee operates [50] and includes: a) the objectives and quantifiable performance indicators on which the assessment is carried out; b) planning the activities that are to be carried out, depending on the level of competences and practical skills targeted to be acquired during the internship.

Trainee concludes with the employer a individual labor contract for the period of the internship but, at the same time he concludes a contract for internship [51], which is an annex to the individual labor contract, a accessory contract, whose fate depends on that of the first. We can say that from the point of view of the legal nature the internship contract can be classified as an accessory contract, with a fixed-term, named, commutative and bilateral, with successive execution, concluded in written form. The legal relationship which arises with its conclusion will be one of subordination of trainee to employer, as any employee [52]. Under the internship contact the two sides, the trainee and the employer shall acquire and assume a number of rights and obligations.

Thus, according to article 23 of Law No. 335/2013, the trainee has the following rights: a) to benefit from the coordination and support from their mentor; b) he should benefit from a program of activities corresponding to his post, whose level of difficulty and complexity should grow gradually over the period of the internship; c) benefit from objective assessment; d) to have assured the time required for his individual preparation, in order to enhance his skills and acquire the necessary practical skills for the practice of the
occupation; e) the employer should provide the access to the sources of information useful for his improvement and strengthening of knowledge; f) to participate to the forms of professional training organized for trainees; g) to receive the evaluation report and certificate/attestation of completion of internship; h) to appeal the assessment report of the Evaluation Committee, if it is the case. The trainee’s duties are the ones laid down in article 25 of Law No. 335/2013, respectively: a) to professionally prepare for the field in which he is performing the internship; b) to organize its own records of the activities he carries out; c) to comply with the tasks given by the mentor and the head of the superior organizational structure where he performs the internship; d) to consult his mentor when completing the works assigned by the head of the division; e) to respect the confidentiality in all aspects of the work carried out, in accordance with the rules laid down by the employer; f) to do not exercise during the period of internship, activities which constitute unfair competition to the employer; g) to participate in the evaluation process.

According to article 24 of the same normative act, the employer’s rights are: a) to establish for the trainee, through the intern job description, duties of execution in the field in which he is performing the internship; b) to capitalize the theoretical and practical knowledge of the trainee in the work process; c) to exercise control over how the corresponding job duties are completed; d) to apply the sanctions corresponding to disciplinary deviations. The employer's obligations are those regulated by article 26 of Law No. 335/2013, namely: a) to designate a mentor to coordinate and assist the trainee in order to attain the objectives and performance indicators established in the ongoing program of internship; b) to establish to the trainee a program of activities in the field he is executing the internship; c) to ensure proper - logistical, technological and technical – necessary in order to capitalize the theoretical and practical knowledge received by the trainee during the internship; d) to evaluate the trainee's knowledge at the end of the internship; e) to issue to the trainee a certificate/attestation stating the period during which he performed an activity under internship contract, the competences and practical skills gained and other mentions; f) to do not use the trainee to undertake other activities than those specified in the contract.

Of course, it should be noted that the rights and obligations regarding the internship, stipulated in the internship contract shall be filled in, depending on the given situation with the provisions of the Labor Code, in the collective labor agreement applicable to the employer, as well as with the ones established in the internal regulations [53].

In accordance with the provisions of article 18 of law No. 335/2013, the basic monthly salary of the intern, established in the individual labor contract, is the one negotiated between the parties, for a schedule of eight hours a day or 40 hours per week, according to the law, which is supplemented by the provisions of the applicable collective labor contract.

The provisions above shall require some clarification, namely:
- salary negotiation will not be possible if the internship is carried in an authority or a public institution where salaries are established by law;
- in the case of internship the duration of work time excludes the possibility of its implementation part-time, covered by art. 103 of the Labor Code, as in the case of part-time labor contract [54].

In the case of suspension of the individual labor contract, in accordance with the law, the suspension of the internship period will occur. Also, the period of traineeship shall be suspended when the trainee is in on sick leave for a period exceeding 30 days [55].

It should be noted that, according to art. 50, letter b) of the Labor code, the suspension of the individual labor contract for temporary incapacity of work starts from the date the suspension cause has arisen and in the case of the trainee, the suspension will take effect after 30 days from the date of the medical leave.

We appreciate that such an unequal regulation of the suspension of the individual labor contract and respectively, the internship one, in the case of medical leave, is not justified, it being likely to defeat the principle accessorium sequitur principalem. It is logical that when an individual labor contract of a trainee is suspended his internship contract will also be suspended. It is a natural consequence of the rule established in the above adagio.

The duration of the suspension of the individual labor contract and that of medical leave longer than 30 days, shall not be taken into account when calculating the period of internship.

With the cessation of the reasons which have led to the suspension of the individual labor contract, the trainee continues its work until he covers the full duration of the 6 months [56].

When the internship contract will be terminated for reasons not attributable to the trainee, he will be able to continue carrying out the period of internship, if, within 60 days, he will find another employer and concludes with him an internship contract for the period of time remained uncompleted [57].

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The correlation analysis of article 22 of law no. 335/2013 on ways of termination of the internship contract together with the labor code ones lead to some details, namely:

a) the rightful termination of the individual labor contract, and the implicitly the internship contract, can take place in the cases provided for in article 56, paragraph 1, letters a-j) of the Labor code, except for the situations which, during internship, cannot produce effects, such as those found at letter c), as follows: - at the date of completion of the cumulative conditions of age and minimum standard of contribution for retirement; at the date of notification of the pension decision in the case of the invalidity pension, partial early retirement, early retirement, pension for age limit with the reduction of the standard retirement age; letter i), such as: - at the expiry date of the individual labor contract; letter j) - withdrawal of approval of parents or legal representatives, in the case of salaried workers aged between 15 and 16 years old.

b) termination with the agreement of the parties, at the date agreed upon by them, will take place under the conditions laid down in article 55, letter b) of the Labor code;

c) by the unilateral will of one of the parties, in the cases and conditions strictly prescribed by law, respectively article 61, letters a)-d), article 65 and article 81 of the Labor code.

We should note that, according to art. 22 of Law No. 335/2013, when the internship agreement will be terminated for reasons not attributable to the trainee, (for example, the case provided for in article 65 paragraph 1 of the Labor code), he will be able to continue carrying out the period of internship, if, within 60 days, he will find another employer and conclude with him an internship contract for the remaining period.

In the specialty literature [58] an opinion was expressed according to which, although the internship is mandatory there is no legal prohibition for an employee to resign during his internship (opinion which I sustain since the resignation is an act of unilateral will of the employee and no one may be compelled to perform work against his wish, otherwise bringing grave prejudice to the principle of freedom of labor, governed by art. 41 paragraph 1 of the Constitution and article 3, paragraphs 2-3 of the Labor code). According to the author's opinion, his resignation may aim: - only the internship contract, in which case the employment contract may still be maintained, but with the modifications laid down with the agreement of the parties (in this situation the higher education graduate does not finish the internship period); - both contracts, the internship and the work one, - only the individual labor contract, in which case the internship contract is terminated as an accessory of the other.

The trainee who benefited from professional training financed by the employer will be liable for the payment of all expenses incurred as a result of this, proportional to the period he did not work of the period established in the additional act of the individual labor contract, in the event that he does not fulfill the obligation of not having the initiative to cease the individual labor contract through resignation [59].

To the above situations, the situation envisaged by article 20 paragraph 1) of the Law No. 355/2013 is added, according to which: "at the end of the period of internship, when the evaluation has been completed without promoting him, the individual labor contract may be terminated exclusively by means of a written notice, without notice, at the initiative of any of the parties, without the necessity of its motivation".

The trainee's work is conducted under an effective and concrete coordination and is exercised by the employer via a mentor that is defined in article 2, letter d) as being the person designated by the employer who coordinates the trainee during the internship and participates in the evaluation activity. On the proposal of the chief of the department in which the trainee operates, the mentor is appointed by the employer from the qualified employees with a professional experience of at least 2 years in the field in which the internship is going to be carried out in [60].

According to the legal provisions [61], the quality of mentor cannot be fulfilled by the employee who was sanctioned with one of the penalties provided for in article 248, paragraph 1, letters b)-d) of Law No. 53/2003, republished, with the subsequent amendments and additions, and the disciplinary sanction has not been cancelled in accordance with article 248 paragraph 3 of the Labor code [62].

A mentor can coordinate and monitor at the same time, no more than 3 trainees.

The coordination of the activity of mentor is included in his regular work program.

The mentor's obligations [63] are: a) coordinates the activity of the trainee during the internship; b) proposes ways of solving of the works assigned to the trainee; c) oversees the performance of the duties corresponding to the post occupied by the trainee; d) is a member of the evaluation commission.

In case of the termination/modification of the individual labor contract of the mentor that has an impact on the effective internship or of the disciplinary sanction of the mentor with one of the sanctions referred to in article 248, letters b-d) of the Labor code, the mentor is required to make a report on the internship period covered by the trainee to that point. The report submitted in such conditions shall be
submitted to the chief of the department in which the trainee operates and will be taken into consideration by the final evaluation committee of the trainee.

In the situations outlined above (where termination/modification of the individual labor contract or disciplinary sanction of mentor) the employer, on the proposal from the chief of the compartment in which the trainee operates, shall name another mentor in compliance with the criteria and requirements established by law.

10 working days before the end of the traineeship, the trainee shall establish the internship report which will include a description of activities undertaken by him during the period of internship and will be considered by the evaluation committee, in its final assessment. The trainee shall submit the internship report to the chief of the department in which he operates [64].

The Evaluation Commission (whose members are appointed by decision by the employer and of which the chief of the department in which the trainee operates is a member [65]) will be prepare, with 5 working days before the end of the internship, an evaluation report which shall comprise the following elements: a) a description of the work carried out by the trainee; b) the degree of achievement of objectives and performance indicators established by the program of activities and carried out during the internship; c) the competences and skills that the trainee has acquired, the fulfillment of the duties corresponding to the post occupied and clauses of the internship contract; d) conduct and the degree of involvement of the trainee during the adaptation period; e) conclusions on the conduct of internship period; f) other indications [66].

In the case the trainee passes the evaluation he will receive a certificate signed by the employer, in which case the period of internship is considered specialty seniority [67] and the individual labor contract of the trainee shall be consolidated and continue to run without further formality.

If the trainee does not pass the evaluation he will receive a certificate acknowledging only the completion of the traineeship [68] and, per a contrario, in comparison with the promotion situation, in such a situation the internship period will no longer be recognized as specialty seniority (in the workplace). Of course that, in such a case, the employer will be able to decide to continue the activity with the former trainee under the individual labor contract, with the modifications which are imposed, determined by the actual qualifications of the employee who has not passed the final assessment [69]. Whether the maintenance of the individual labor contract is not possible or is not longer desired by the employer, he may order the termination of the individual labor contract exclusively through written notification, without notice and without any motivation [70].

The employer has the obligation to issue to the trainee a certificate/attestation of internship completion within 5 days of the completion of the traineeship which will be signed by the territorial employment inspectorate in whose radius the employer is established [71].

With the completion of the Evaluation Committee’s report for the internship period, it shall be brought to the attention of the trainee. If the trainee does not passes the exam he may challenge the assessment report to the legal representative of the employer, no later than the working day following the date he found out the result. The employer is obliged to settle the appeal not later than the last day of the internship. The trainee, dissatisfied with the resolution of the contestation, may apply to the competent court in matters of labor conflicts, within 30 days after receipt of the reply to the contestation notice [72].

From the above precisions it can be concluded that the other conflicts between trainees and employers, such as those relating to the interests with economic, professional or social character, as well as those relating to the rights arising from the labor relations of the trainees during the internship (as are the conflicts concerning the conclusion, execution, amendment, suspension and termination of contracts) are labor conflicts [73] falling within the regulated categories of article 1, letters n) and p) of Law No. 62/2011 of the social dialogue [74].

With regard to the financing of internship, the employers who enter into a contract of internship, receive monthly, upon request, from the unemployment insurance budget, during the period of the internship contract, for the trainee, an amount equal to 1.5 times the reference social indicator value of unemployment insurance and stimulation of employment in force provided for by the Law no. 76/2002 on the unemployment insurance system and employment stimulation [75], within the limits of the funds assigned for this destination.

The monthly amount for each trainee is awarded to the employers proportionally to the actual time worked by them.

The amounts referred to above shall not be granted: - when the employment relationships are suspended; - employers as institutions and public authorities [76].
From the interpretation *per a contrario* of the provisions of article 28, paragraph 5 of Law No. 335/2013, it follows that an employer who receives the amount referred to above is obliged to maintain the employment of trainees during the internship contract because where, after the end of the contract period, at the initiative of the employer, the individual labor contract shall also cease and the employer can no longer benefit for the same post from another incentive measure prescribed by law [77].

**Conclusions and Proposals**

The study on the two normative acts adopted by the Romanian State, namely Law No. 355/2013 for the conduct of internship for graduates of higher education and Government decision No. 473/2014 on the approval of the Methodological Norms for the application of the provisions of law No. 335/2013 for the conduct of internship for graduates of higher education, point out that in the drafting of these were taken into account the proposals made in the various documents of the European Union, the Romanian legislature accurately translating them into our legislation.

With all the good measures, laid down in those two regulations, they will remain without echo among the beneficiaries if no organizational action will be taken for their immediate and correct implementation, under the direct supervision and control of the labor Inspection.

Also, we appreciate that it is imperative to achieve State-wide strategies on the short and medium term to stimulate employers, both from the private sector as well as from the public one, by using with maximum efficiency the European Social Fund as well as through the allocation from the state budget of the amounts required to support the expenditure necessary to internships. To this end, I propose a framework accord signed between the Government, represented by the Ministry of labor, family, social protection and senior citizens, Education and research ministry, and Employers’ associations from Romania as well as the representatives of the student and youth organizations, by enhancing their social responsibility, relating to the *insurance and guarantee* of the jobs of the future graduates of higher education.

The normative acts itself may incur in the future some changes for a greater efficiency in their application, for the purposes of eliminating bureaucracy. In this respect, I suggest as an eventual amendment of law no. 335/2013, to consider regulating the *internship contract as a distinct variety of the individual labor contract with fixed-period* and with reference and necessary additions according to provisions of the Labor code, of the applicable collective contract (agreement) and the intern rules of procedure for the other rights and obligations that are not expressly covered in the special law. In the case of promotion of the evaluation, the two sides will conclude an individual labor contract for an indefinite or fixed period, depending on negotiations between the two sides, according to the qualification acquired through higher education supplemented by practical skills acquired during the internship. This way it would reduce the bureaucracy resulting from the current rules, which oblige the two sides to conclude two individual labor contracts, one with a legal act nature, of labor law, principal, and another with the status of accessory legal act.

Moreover, such an approach to the legal nature of the internship contract, as the one presented above, would be likely to eliminate any discrepancy that may arise with respect to the legal differentiated treatment of the suspension of the individual labor contract of the trainee in the event of incapacity for work, from the moment of its appearance (according to the provisions of the Labor code) and of the suspension of the internship contract in a similar situation, only after the passage of 30 days of sick leave (as regulated through law No. 335/2013).

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According to article 2, letter a) of law No. 335/2013, the trainee is the debutant in the profession, employed with individual labor contract, except those who prove that they have deployed, according to the law, professional activities in the same field, prior to graduation;
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Art. 21 of law No. 335/2013;
See articles 10 to 13 of the Methodological norms for the application of the provisions of law No. 335/2013 on the conduct of traineeship for graduates of higher education;
Article 6 of law No. 335/2013;
According to article 248 paragraph 1 of the Labor code the sanctions in question refer to: b) demotion from function, with the wage corresponding to the position of demotion for a period not exceeding 60 days; c) the base salary reduction for a period of 1-3 months with 5-10%; d) reduction of base salary and/or, where appropriate, and of management allowance for a period of 1-3 months 5-10%;
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Article 28, paragraph 3 and paragraph 6 of the law No. 335/2013;
The aspects regarding internship funding are covered by art. 27-29 of law No. 335/2013 and art. 28-38 of The methodological norms;