



## Education Evaluation Regarding the Legislative Changes of Work Offences and Especially of Work Abuse

Cristian Macovei<sup>1</sup>, Lidia Stanciu<sup>2</sup>

**Abstract:** As in other public fields and in that of education, work offences can be committed, the most common being those of „abuse at work” and respectively “negligence at work”. There are well-known cases of violations of the legislation regarding the remuneration of teachers/violation of some of their rights or the behavior of teachers towards students (when a situation of inferiority is created for them based on race, nationality, ethnic origin, language, religion, sex, sexual orientation, etc.). These offenses are contained and provided for in the final and current form of Chapter II of Title V of the Criminal Code, entitled “Work offences”.

**Keywords:** education; assessment; education; crime; service

### 1. Introduction

A first step towards educational evaluation is the improvement of human resources management in public institutions. This fact is represented by the creation of *a plan to attract and retain people with the necessary skills* to be active in such an institution. To implement such a plan, public institutions must implement a strategy that involves recruitment, selection, integration, training, rewarding and the permanent evaluation of the performance of each individual employee to verify that the institutional objectives are achieved. These activities are one of the essential components of effective human resource management. At the same time, importance must also be given to the way in which at the level of public institution

<sup>1</sup> Assistant Professor, PhD, Danubius University of Galati, Romania, Address: 3 Galati Blvd., Galati 800654, Romania, Corresponding author: cristianmacovei@univ-danubius.ro.

<sup>2</sup> Associate Professor, PhD, Danubius University of Galati, Romania, Address: 3 Galati Blvd., Galati 800654, Romania, E-mail: lidiastanciu@univ-danubius.ro.

the human resources *plan is harmonized with its strategic plan*. In this sense, as the needs of the public institution develop, respectively the opportunities through which this can be put into practice, it is necessary to correlate these opportunities with the skills that will be needed to cover them.

## **2. Research Method**

The used research method is the legislative documentation regarding the educational evaluation as well as the approach to the legislative changes regarding service crimes, respectively abuse of service.

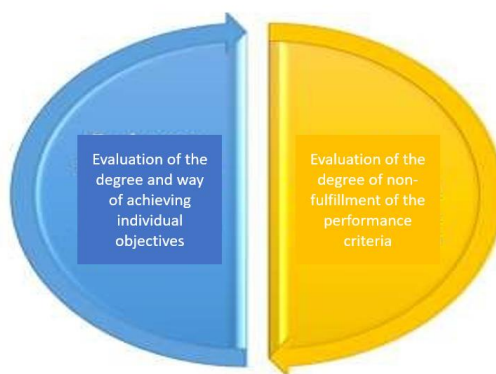
## **3. Research Study**

The research was carried out on a sample of 150 people from the state pre-university education. Recruitment, training, and rewarding programs should aim at attracting, further developing, and retaining in the institution only those who are able to possess the skills required to carry out any assignment stated in the job description. At the same time, the process of improving human resources involves *a process of training people* to perform current tasks within the public institution. The main challenge is identifying the precise type of training that the employees need. Any decision in this regard must be correlated with the motivation of the person who is involved in the training process, and for this there is a whole series of training methods and techniques plus. Another important element that must be considered when is desired to increase the performance of human resources management in public institutions in Romania refers to the establishment of *methods of identification and employment of those people who possess the skills required and necessary for the position*. This fact has as its purpose a judicious planning of human resources. Analyzing the future projects of the public institution, but also predicting the next trends, the number of people needed to put these things into practice can be estimated, establishing, at the same time, what are the skills and competencies required for each newly created position. Any new employee must be aware of the role he will play in the public institution, and for this he must know the operating regulations of such an institution, and for an adaptation as smooth as possible, it is recommended to use an integration or orientation program. Once integrated into the system, new employees must be supported in identifying and updating the knowledge, skills and attitudes required

to perform the tasks specified in the job description. As people are integrated and have activity within the institution at a level corresponding to the requirements, obviously there is a need to reward them appropriately. In this context, along with their further development, employees are increasingly aware of their belonging to the public institution and turn their attention to the additional benefits it could offer (health insurance, medical and rest leaves, pension funds). In this context, any activity that the public institution is going to conduct, depends to a very large extent on the level to which the human factor is motivated, understood and coordinated.

A high-performing human resources management within any public institution in Romania should be a factor that simultaneously contributes to *ensuring the need for personnel, professional development of employees, motivating and “conserving” human resources.*

The evaluation of individual professional performances represents the assessment of the degree to which the employee fulfills his responsibilities, in relation to the position held. The evaluation of the individual professional performances of employees in public institutions includes the following elements:

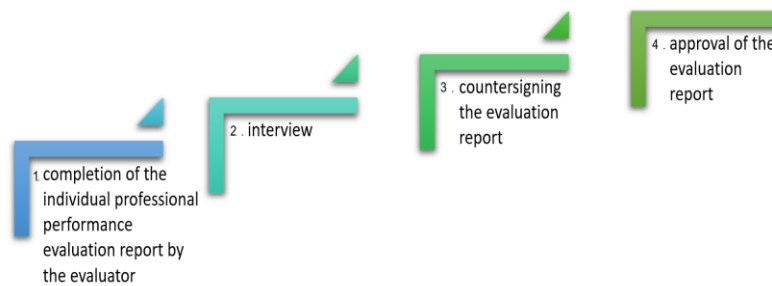


**Figure 1. Evaluation of Individual Professional Performances**

The evaluation of the individual professional performances of executive and management civil servants represents the objective assessment of the individual professional performances of public servants, by comparing the degree and manner of meeting the individual objectives and performance criteria established with the results actually obtained by the public servant during of a calendar year, and aims at correlating individual objectives, ensuring an identification system between motivational activity and staff training needs, fulfilling the duties in the job

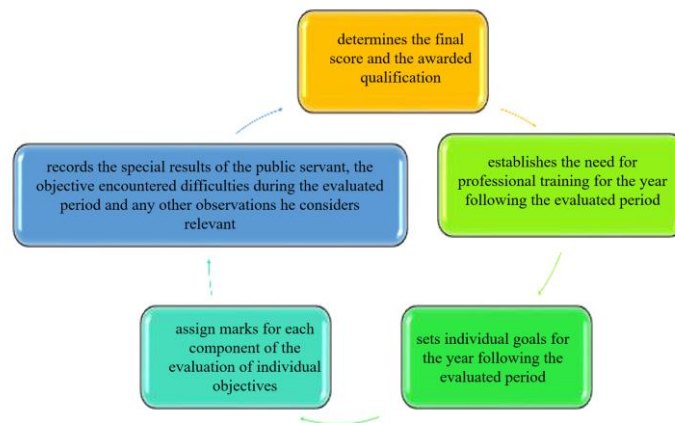
description. The evaluation of the individual professional performances of employees is important because it allows people with a management function to identify the deficiencies that have arisen and at the same time to propose measures to remedy them, on the one hand, and on the other hand, it contributes to the evaluation of the contribution of each employee to the fulfillment the objectives that the public institution has proposed accompanied by an appropriate remuneration.

The evaluation of individual professional performances is carried out in the following stages:



**Figure 2. The stages of Professional Performance Evaluation**

The individual professional performance evaluation report is a distinct document, in which the evaluator must mention the following aspects:



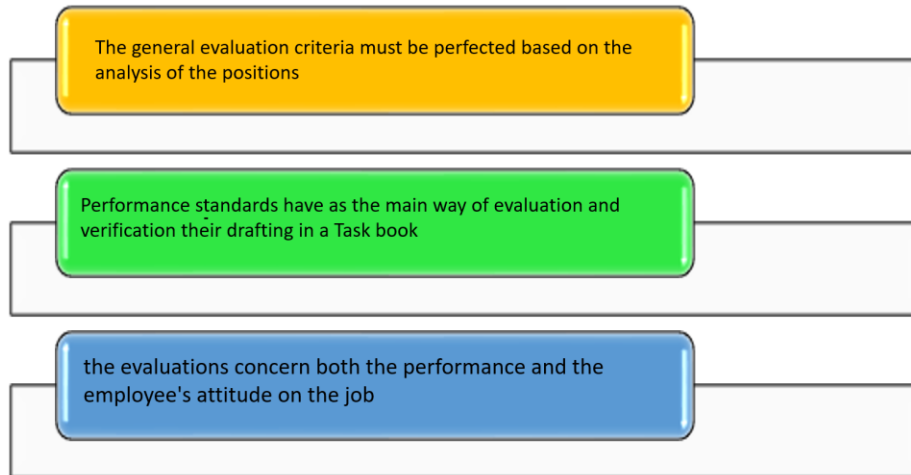
**Figure 3. The Objectives of the Individual Professional Performance Evaluation Report**

Following the assessment of individual professional performances, employees in public institutions are awarded qualifications. The awarding of qualifications is based on the final score of the evaluation of individual professional performances, as presented below:



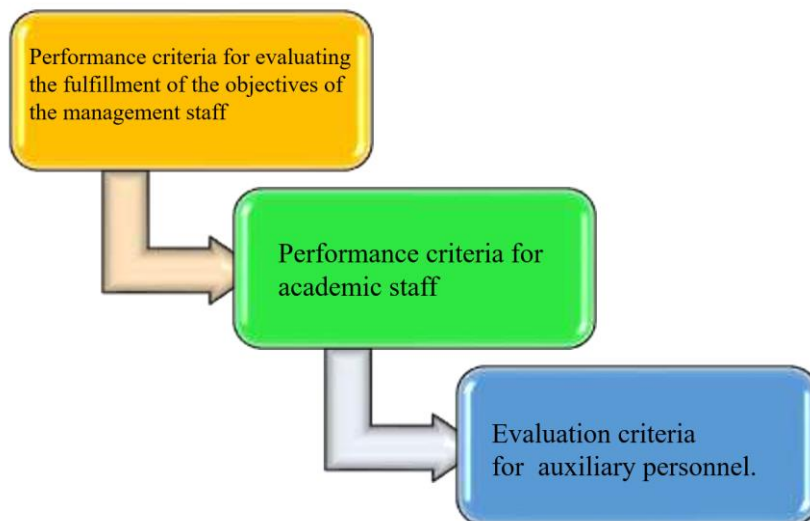
**Figure 4. The Final Score of the Evaluation of Individual Professional Performances**

An effective evaluation process within public institutions in Romania should consider the following aspects:



**Figure 5. Efficiency of the Evaluation Process**

The performance criteria used for the composition of the evaluation of the individual professional performances of civil servants are established as follows:



**Figure 6. The Evaluation of the Individual Professional Performances of Civil Servants**

#### 4. Case Studies

After researching the evaluation criteria for 150 teaching staff from the state education system, we have found that:

- staff evaluation is done annually according to the Regulations and procedures established by each unit and approved by ISJ;
- academic staff prepare annual evaluation reports.

In most countries, academic staff-evaluation and evaluation of school units have different purposes, and the results of self-evaluation are used outside the school. In the case of the individual evaluation of the teaching staff, special attention is paid to the identification of priorities in the professional development of each teacher. At the school level, principals use these results when evaluating the quality of the teaching-learning process in the educational institution. These evaluations can make a major contribution to the expansion of school improvement plans.

- teaching staff with an evaluation of maximum grade can participate in the request for High Distinction.

- we have observed 3 cases of crimes sanctioned by the law, as follows:

**1. A sports teacher from a school in the county X, he was FINALLY convicted in November 2022 for abusive behavior, the act being committed in October 2018 in that, in the presence of the teacher, he assaulted several 4th grade students during physical education class.** Thus, at the moment when the defendant was lining up the students in formation, the student (...) left the formation to talk with a colleague, in a context in which the teacher pulled the student's hand hard and knocked him to the ground, the injured person slipping on parquet for about a meter, the defendant asking him: "Why did you leave the formation, you fool?", it is stated in the decision. This evidence was corroborated with the statements of the teacher, who showed that one of the students who were assaulted was not in his place, for which the teacher took him and scolded him, causing the student to fall to the ground. "When the students were lined up near the locker with balls and other sports equipment, the defendant pushed the student with his hand (...) to step aside to open the locker and hit her on the arm with the locker door, the student being about to fall over a colleague. During the same hour, he intentionally hit the student in the head with a basketball (...) because he was sitting on the bench, the student hitting his back against the radiator. The minor injured person stated that his back hurt until he got home," the document also states

describing the teacher's actions. Also at that time, although the teacher was told by a student that he was feeling sick, he lifted him from the bench, pulling him by his blouse, and forced him to play basketball. The child started crying and requested to be sent to the doctor's office. "When the teacher intervened, the sports' teacher started shouting and spoke badly to both the teacher and the children, the student being sent to the medical office only after the intervention the teacher", it is also stated in the judgment of the court.

**2. The process of fraud at BAC (baccalaureate examination) - 2013, in several high schools in the county X, has come to an end after 7 years and 103 court terms! Based on art. 257, par. 1 Criminal Code 1968 with the application of art. 5, par. 1 of Criminal Code, condemns several defendants to sentences of 2 and 3 years in prison, respectively, for committing the crimes of influence peddling and abuse of office, conditionally suspending the execution of the penalties applied, for a duration of 4 years probationary period.** Thus, several high school teachers were convicted in a case of baccalaureate fraud from 2013, with the court ordering the cancellation of scores unfairly awarded to dozens of candidates. A criminal case that aroused a lot of interest among public opinion, in which a significant number of teachers and students were involved, specifically 20 defendants from among teaching staff and students, a case that was registered in March 2016 and which was tried for 7 years, until February 8, 2023.

**3. Several teachers from a high school in the county X were sentenced to probation in October 2019, being suspected of changing grades in the class book and not marking students' absences.** They were sentenced to one year and three months' probation for intellectual forgery in continuous form, after they entered fictitious grades in the class book and did not report all the absences of some students from the evening classes. In the same file, the secretary of the high school was also convicted, who signed an application on behalf of a student.

## 5. Conclusions

As it can be seen in the examples above, typical situations where a teacher commits the crime of abuse of office or abusive behavior, would be when the student is physically or verbally assaulted, repeatedly ignored, affecting his right to education, persecuted, treated with contempt, forced to stand, in the corner,



unjustly punished, ostracized for learning difficulties, etc. **In such situations, the principle of the best interest of the child must work**, in the sense that the child should not change his school, but the concerned teaching staff should be suspended until the situation is clarified. It is thus about **granting the presumption of truth to the child's statements**, until the abuse is clarified, and not just to the adult, as happens most of the time in Romania. Abuse, as a psychological phenomenon, exercised by an adult on a child, does not end when the abuser is no longer physically close to the child. The abusive/traumatic situation experienced by the child must be integrated into his life story. To prove the facts of abuse, the following means of evidence can be used:

- the child's statement, regardless of his age (if he has reached 10 years old, listening to the child is mandatory in all administrative or criminal cases according to art. 264 of the Civil Procedure Code)

and physical development was endangered, etc. The report can be drawn up by representatives of the guardianship authority, but also by psychologists of NGOs from accredited services.

- any **video, audio, email, post on social networks**, statements of other children, parents or other teaching staff or auxiliary staff from the school.

**On the other hand, the change in the rules applicable to teachers who have been convicted of certain intentional crimes is contained** in Law no. 184/2020 for the amendment and completion of the National Education Law no. 1/2011 appeared in the Official Monitor no. 762 (from August 20, 2020). Concretely, teachers would no longer be able to hold teaching, management, guidance, control or even research positions, until the intervention of rehabilitation, amnesty, or pardon, in the case of the convictions mentioned above. The amending normative act establishes that teachers who - from the moment of entry into force of Law no. 184/2020 – they will be criminally convicted for certain crimes, they will no longer be able to hold a teaching position, until the moment of:

- rehabilitation interventions;
- his amnesty;
- pardons.

But it will be necessary for that conviction to meet three conditions for the interdiction to be applied:

- the teacher is convicted of a crime against the person (such as, for example, assault, bodily harm, unlawful deprivation of liberty or threat);
- that offense is intentional (for example, culpable bodily harm, although crimes against the person, will not attract the above prohibition);
- the crime to be committed in circumstances related to the exercise of the profession (punching a student would be an example of a crime that fulfills the latter condition, while a punching of a person, in a bar, outside of working hours and which it is not related to the teacher's professional relationships, it would not fit).

The prohibition also applies in the case of criminal convictions upon payment of a fine, so it is no longer mandatory for the criminal process to end with a sentence of imprisonment. Since a large number of criminal acts affecting the person, as a social value, provide for the fine as the applicable punishment (and probably the most common such act that could be committed in schools, hitting, being among them), it is understandable why the ban was also extended to criminal convictions with a fine. In addition, the degree of danger of a teacher who is criminally convicted for acts of violence (within his professional relationships), which he presents to his colleagues, students and to the work environment in general, is quite high. This is valid even if, in a specific criminal trial, the committed act was punished with a criminal fine. Until this legislative change, the Education Law stipulated that convicted teachers could no longer occupy a teaching position, for a period, only in situations where the prohibition of this right was ordered by the judgment of the sentencing court. Such regulation was necessary, as there were cases when teachers who were convicted of criminal acts returned to the education system and continued to commit such acts.

Family and groups of friends are major forces in the socialization process. A third agent of socialization, often neglected, is the school. Probably no other institution has so much influence on the child's development. Democritus said: "Nature and education are similar. Indeed, education transforms man and, transforming him, gives him a second nature". With good reason, the child's entry into school can be considered a fundamental turning point in the socialization process; once the child enters school, what we called secondary socialization begins. "It is not true, notes Mendel, that humanity's greatest adventure was man's setting foot on the lunar surface; the greatest adventure, after birth, is the moment when the child steps through the school gate for the first time". Especially after graduating from primary school, the child's life is dominated by school, even outside of class. Through the

tasks they draw in the form of homework (and not only) and through the child's participation in collective activities, even extracurricular, through the way it structures the relationships between students, the school imposes itself as a force with an undeniable remarkable influence in the daily life of the child.

The school will exercise a complex and lasting education action, duration, to help the child to internalize this *social instrumentation*, meant to allow him to assert himself as a personality in three *positions*:

(a) *as an epistemic subject*, able to reach self-consciousness and the world around him (“homo sapiens”);

(b) *as an axiological subject*, a human-being able to lead himself by values (“homo valence”);

(c) *as a pragmatic subject*, (“homo faber”), able to act effectively, to transform the world and create goods (Paul Popescu- Neveanu, 1990).

The level at which someone asserts himself as a personality, in one pose or another, depends on several factors: hereditary, social, pedagogical, etc. The school must, however, offer to all students, *equal chances* of affirmation as a personality, in all these poses. Regardless of the degree of personality development in one pose or another, any human being, by the very fact that lives in the society, can receive the attribute of *personality*, to denote by this its own way of understanding the world and himself, its capacity for practical action and the values he is guided by. Its manifestations are achieved in the three positions (homo sapiens, homo valence, homo faber) which are a defining feature as a personality.

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