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# Legislation Regarding the Responsibility of the Employees of the Romanian Orthodox Church, Depending on Their Work Duties, during the Communist Regime (1948-1989)

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## Abstract

The Romanian Orthodox Church has always run under the auspices of the civil legislation, having the chance of staying legal even during the communist period. In this context of the 50 years of communism, even though at parameters low from missionary point of view, the liturgical act was not discontinued and it kept its conscience of spiritual identity. With these coordinates, the Church legislation acknowledged the legislative framework suggested by the State in order to ensure optimal administrative operation. The administrative rigours required by the civil legislation also had beneficial effects that the young generation is also capable of understanding nowadays, given the administrative rigour in the European Community Area. This study aims to review an important period from administrative point of view and also to express the need of undertaking an articulate and coherent Church administration.

## Keywords

Legislation, liability, decrees, socialism, communism, labour, non-clerical staff

Right after the new legislative frameworks and Church regulations were adopted in 1948, the State aimed at correlating them with the civil and criminal legislation. This is reasoned by the increasing evolution of the socialist society, which entailed the empowerment and statement of innovation ideas of the individual, according to the coordinates of the communist state. All coordinates of social development required to be approached, as well as the total adhesion of the people to meet the objectives of social evolution.

Moreover, in the context of planning a multilaterally developed socialist society, the objectives laws of social development needed to be implemented, that is the actual participation of large masses of “*labour men*” in completing the famous plan of social development. This approach implied however the existence of a complex legislative framework, which would provide an efficient settlement to society’s various problems. Therefore, socialist legality consisted of strictly complying with laws and other normative papers issued by all state bodies<sup>1</sup>. The principle of socialist legality, as an expression of the obligation of all citizens to comply with the laws, was the premises of developing the socialist state. The latter undertook to comply with the fundamental rights and freedoms of citizens. Therefore, “*labour men*”, regardless of their area of activity, both at the workplace, and outside the workplace, had to give absolute priority to laws by strict compliance with order and work discipline.

This was the general context in which Church workers were also requested to make a contribution, by also complying with state laws and Church specific laws. As stated above, the specific law that regulated how religions were organised and operated during the communist period was the Decree no. 177/1948 on the general regime of religious cults in the Socialist Republic of Romania. This framework law enables the development of the principle provisions in the Constitution and how religions, known by the State, would carry their activity out in order to meet the religious needs of the worshippers.

This framework law was also a source for various special Church laws that completed from organisational and functional point of view the entire activity of the Romanian Orthodox Church. It needs to be reminded the Memorandum on the organisation and functioning of the Romanian

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<sup>1</sup> *Course on the professional training of staff in the economic and financial activity and administration*, edited by the Romanian Orthodox Church, 1989, pp. 3-105.

### *Legislation Regarding the Responsibility of the Employees...*

Orthodox Church, which became a normative act by the recognition and approval by Decree no. 233/1949. Under this normative act or framework law, the Holy Synod subsequently approved several regulations: The Procedure Regulations of disciplinary courts and trial courts of the Romanian Orthodox Church, the Regulation for the administration of Church fortune, the Regulation for appointing and transferring the clergy from parishes, the Regulation for selecting, functioning and dissolving deliberative and executive bodies of the Romanian Patriarchate, the Regulation on the organisation of monastic life and administrative and disciplinary functioning of monasteries. All these regulations had the approval of higher fora and the confirmation of the state authority, by the Department of Religious Affairs.

This preamble was drafted to provide a legislative, historic and motivational context for the following aspects related to the *liability of the employees*.

Taking into account the status of “*labour man*”, of which the clergy and non-clergy staff made no exception, employed in the functioning structure of the Romanian Orthodox Church, the employees with responsibilities in “work” within the Church aligned to the legal and canonical liability procedures. This liability had several shapes, depending on the case: *material, disciplinary, administrative or criminal*. Once employed in a unit, any person would bear the burden of a set of rights and duties. All these focused on the legal labour report, being complementary to the rights and duties of every citizen. Given that the employees participated in certain religious specific activities, they needed to undertake contravention, criminal or civil liability. If the actions committed during the performance of the activity prejudiced social values defended by legal norms, their authors would be held criminally liable (for crimes), contraveniently (for committed contraventions) and civilly (for illicit facts via which they committed patrimony related prejudices). These possible liabilities would impact both the clergy staff and the non-clergy staff, between which there would be a clear distinction.

As far as *disciplinary liability* is concerned, this occurs when an employee wrongfully commits a misdemeanour for work-related duties, as well as behavioural rules. This type of liability occurs only when the breach of duties is a result of the law, the interior regulations, disciplinary statute, individual employment contract or orders received during the performance

of work-related activities. There are also other essential items that enable disciplinary liability: the status of employee under an employment agreement, the existence of illicit crimes, wrongfully committing a crime, a bad result and the causal link between facts and result.

For the discipline problems of the secular staff employed by the Romanian Orthodox Church the following normative acts were issued: Law 1/1970 on labour discipline organisation and Law 10/1970 (Labour Code). The provisions of article 13(1) of Law 1/1970 and, respectively, of article 100(1) of Labour Code stipulate that the illicit crime committed under disciplinary aspect consists of breaching work duties, including of those resulting from behavioural rules. *Work related duty* is the complex of duties of every person, under the employment agreement, of the legal provisions and decisions made at the unit level, in order to achieve the order required to conduct the work process under good conditions<sup>2</sup>. The above-mentioned article in the Law on work discipline (article 13(1) of Law 1/1970) stipulates:

“The wrongful breach by employees is sanctioned as follows: reprimand, warning, withdrawal of one or more gradations or retribution stages for 1-3 months or, for people classified as basic, its reduction by 5-10% for the same period of time; reduction of retribution and of the management indemnity for 1-3 months by 5-10%; downgrading of position or category - within the same profession”.

It was envisaged of course that the Romanian Orthodox Church had its own jurisdictional system (The Procedural Regulation on disciplinary courts and trial courts of the Romanian Orthodox Church), enshrined by Decree 7/1950. Article 1 of the Regulations stipulates

“all members of the clergy and monks, regardless of the occupations and positions they fulfil as priests and monks within the Romanian Orthodox Church are subject to the provisions of the Regulation, as well as singers and altar boys, who would be guilty of either of the crimes listed under *articles 2 and 3.*”

Under such conditions, the nature of the sanctions applied to the clergy staff (temporary and final sanctions) was known, as well as the bodies responsible with their application (kiriarios and disciplinary and trial

<sup>2</sup> Law 1 of 26 March 1970 *on work organisation and discipline in state socialist units* published in the Official Journal no. 27 of 27 March 1970.

### *Legislation Regarding the Responsibility of the Employees...*

courts), but the system of sanctions did not apply to the secular staff, who was subject to the labour legislation in force in socialist units, namely Law 1/1970 and Law 10/1970 (Labour Code).

When a disciplinary liability is associated to a material one, the latter cannot be used to for settlement under the Regulation of disciplinary courts of the Romanian Orthodox Church, because the recovery of money prejudices does not fall within the competences of this court. Given that we refer to patrimony related tests, regulated by laws of general applicability, their settlement was under the strict competence of the courts, pursuant to the above-mentioned laws.

*The administrative or contravention liability*<sup>3</sup> envisages the application of administrative sanctions, mainly contraventional, when certain legal provisions are infringed. During the socialist period, contraventions were sanctioned via the legal framework accounting for the provisions of Law 32/1967<sup>4</sup>. Pursuant to article 1 of this law, the contravention is a crime committed wrongfully, which is a social danger lower than a crime and as such it is sanctioned by laws, decrees or normative acts of the competent bodies. Article 10 stipulates that “the act provided by law or any other normative law as a contravention is sanctioned even if it is committed non-intentionally, except when the normative act stipulates otherwise”. The normative acts provided by Law 32/1968 could be issued by county, municipal and town People Councils, which could establish and sanction contraventions. The contraventional sanctions were: warning, fine and fortune seizure, applicable for natural persons who committed the crime.

Pursuant to article 16 of Law 32/1968, the contravention was recorded in a minutes concluded between the people listed in the normative act that establishes and sanctions the contravention. In religious units, contraventions on financial discipline are notified and sanctions were applied by the head accountant and accounting reviser of the Eparchial Centre. In addition, the right to control and apply sanctions was also held by the Department of Religious Affairs via its bodies of financial control. Another competent body in finding contraventions and applying sanctions

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<sup>3</sup> *Article 11* Decision of the Council of Ministers no. 1885 of 28 December 1970 *on the organisation and operation of accounting, duties and liabilities of the manager of the financial and accounting department.*

<sup>4</sup> Law 32 on 12 November 1968 *on establishing and sanctioning contraventions*, published in the Official Journal no. 148 of 14 November 1968.

could be the Ministry of Finances, via its financial administrations, financial units and financial services mainly when legal rules on taxes, fees and insurance premiums were breached. The deadline provided by law to remedy the discrepancies found by the finding body was 60 days, during which new sanctions could be applied for similar acts or misdemeanours. The appeal (complaint) related to the minutes could be made within 15 days following its date of communication. By registering the complaint, the execution was suspended.

In addition to the general legal framework, the legislator drafted an entire set of normative acts that stand for the special legal framework in terms of religion. For a more coherent and precise emphasis, here are the special normative acts applicable to religions:

**I. HCM (Decision of the Council of Ministers) no. 68/1970 -** Contraventions related to the legal rules on financial discipline and legal rules on taxes, fees and insurance premiums by law<sup>5</sup>.

Article 1 - Contraventions to legal rules on financial discipline:

- a) “changing the destination of the funds, established by approved budget of revenues and expenses - fine of RON 400 to RON 800;
- b) wrongful erroneous reporting of how budget provisions were met –fine of RON 400 to RON 800;
- c) expenses above the level approved by budget –fine of RON 100 to RON 400;
- d) non-compliance with the deadlines provided by legal rules on paying the amounts due to the state budget or inaccurate non-determination of the amounts to be paid –fine of RON 200 to RON 500;
- e) presenting to the credit cooperative or CEC documents for payments in cash that contain wrongfully erroneous data –fine of RON 200 to RON 500;
- f) erroneously drafting supporting documents of the economic and financial operations or the non-registration of all items required for the accurate determination of the wrongful operation, as well as the lack of drafting these documents within deadlines –fine of RON 100 to RON 400;

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<sup>5</sup> Decision of the Council of Ministers no. 68 of 5 February 1970 *on establishing and sanctioning the contraventions to legal rules on financial discipline, taxes, fees and insurance premiums by law*, published in the OFFICIAL JOURNAL no. 6 of 13 February 1970.

*Legislation Regarding the Responsibility of the Employees...*

- g) not making accounting registrations within the deadlines provided and in accordance with legal provisions in force –fine of RON 100 to RON 400;
- h) non-compliance with the deadlines provided for submitting to the archpriestship the budget of revenues and exemptions, the budget execution and the situations of material means –fine of RON 100 to RON 400; non-compliance with the deadlines established for checking, analysing and summarising the budget of revenues and expenses, budget executions and the situations of the materials means received from subordinated priestships and the deadlines set for their submission to the eparchy centre –fine of RON 100 to RON 400;
- i) non-performance within deadlines of the mandatory provisions as a result of the control performed by the financial control bodies, as well as of the measures adopted as a result of the check-ups performed by the internal financial control or wrongful communication of erroneous data in relation to their performance - fine of RON 300 to RON 600;
- j) not meeting the legal duty of making available or of releasing to the financial bodies the documents and data required to exercise the financial control –fine of RON 300 to RON 600;
- k) non-withholding from the rights due to the employees the amounts chargeable due by them or non-remission depending on the destination of the amounts withheld – fine of RON 300 to RON 600;
- l) handover - reception of inventory without compliance with the legal requirements –fine of RON 400 to RON 800;
- m) not performing the inventories within deadline and under the legal requirements or not registering the exceptions or surpluses – fine of RON 400 to RON 800;
- n) refusal to sign, under the law, the control documents drafted by financial control, as well as to give written explanations on request to these bodies – fine of RON 300 to RON 600;
- o) not keeping an up-to-date register of payments received and made by cash accounts or the erroneous recording of inaccurate data – fine of RON 100 to RON 400;”<sup>6</sup>

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<sup>6</sup> Decision of the Council of Ministers no. 68 of 5 February 1970 *on establishing and sanctioning the contraventions to legal rules on financial discipline, taxes, fees and*

Article 6 - Contraventions to legal rules that regulate taxes:

- p) “not declaring, on the occasion of the tax returns, agricultural revenue sources –fineof RON 50 to RON 200;
- q) not declaring taxable revenues, goods subject to taxes and not submitting on time the tax return statements: inaccurate recording of revenues –fineof RON 100 to RON 300;
- r) refusal to notify, at the request of the financial bodies, the data and information concerning the compliance with the legal duties on taxes or wrongful notification of erroneous data and information – fineof RON 400 to RON 1000;
- s) non calculation in legal amount, non-withholding or non-payment within deadline of the tax due by withholding and payment –fineof RON 400 to RON 1000;
- t) preventing the control to be carried out by competent bodies in relation to the application of legal rules that regulate taxes –fineof RON 400 to RON 1000<sup>7</sup>.”

## II. Law 9/1974 - Contraventions to rules on preventive financial control<sup>8</sup>

Article 43

- u) “drafting and presenting for preventive financial control documents which record operations without legal grounds – fineof RON 1000 to RON 5000;
- v) recording in accounting books of documents on operations that, according to law, are subject to preventive financial control, without them bearing the control visa of the rightful persons and the approval of the competent bodies – fineof RON 1000 to RON 5000;
- w) endorsement for wrongful preventive financial control, of the documents that contain operations in breach of the regulations in force – fineof RON 1000 to RON 5000;

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*insurance premiums by law*, published in the OFFICIAL JOURNAL no. 6 of 13 February 1970.

<sup>7</sup> Decision of the Council of Ministers no. 68 of 5 February 1970 *on establishing and sanctioning the contraventions to legal rules on financial discipline, taxes, fees and insurance premiums by law*, published in the OFFICIAL JOURNAL no. 6 of 13 February 1970.

<sup>8</sup> Law 9 on 29 March 1974 *on preventive financial control*, published in the Official Journal no. 53 of 5 April 1974.

*Legislation Regarding the Responsibility of the Employees...*

- x) refusal of the preventive financial control visa for legal operations – fine of RON 1000 to RON 5000;
- y) non-delivery of the administrative acts provided under article 2(b) – fine of RON 1000 to RON 5000;
- z) not notifying competent bodies by the manager of the department responsible for finances and accounting, namely the head accountant, for cases provided under articles 17 and 22 of this law - fine of RON 1000 to RON 5000;
- aa) signature by heads of departments or by their substitutes of the documents concerning the movement of the material values within the unit in breach of legal provisions - fine of RON 1000 to RON 5000;
- ab) approval of the operations which, according to law, require the preventive financial control visa, without this visa being obtained in advance – fine of RON 1000 to RON 5000;
- ac) carrying out operations which, by law, are subject to preventive financial control, without for the documents that record such operations to carry the visa granted by the person with financial and accounting duties and the approval of the place of worship - fine of RON 1000 to RON 5000<sup>9</sup>.”

**III. Decision of the Council of Ministers no. 1533/1973 - Contraventions regarding special forms<sup>10</sup>**

Article 7 - Not justification of special forms received for management or use, as well as incorrect highlighting is a contravention - fine of RON 200 to RON 800.

**IV. Law no. 9/1980 – Investment Law<sup>11</sup>**

Article 108 - Contraventions on the investment activity.

**V. Decree no. 244/1978,<sup>12</sup> on precious metals and precious rocks - fee of RON 1000 to RON 5000;**

<sup>9</sup> Law 9 on 29 March 1974 *on preventive financial control*, published in the Official Journal no. 53 of 5 April 1974.

<sup>10</sup> Decision of the Council of Ministers no. 1533/1973 *on special forms*, published in the Official Journal no. 189 on 2 December 1973.

<sup>11</sup> Law 9 on 18 December 1980 *on investments*, published in the Official Journal no. 109 of 23 December 1980.

<sup>12</sup> Decree no. 244 on 10 July 1978 *on precious metals and precious rocks*, published in the Official Journal no. 63 of 15 July 1978.

**VI. Decree no. 144/1958<sup>13</sup> and no. 545/1958<sup>14</sup>**, on construction discipline.

**VII. Law no. 58/1974<sup>15</sup>** on the systematisation of territory and urban and rural localities.

All the legal regulations mentioned above on finding and sanctioning contraventions apply both the clergy staff and to the non-clergy staff.

The criteria related to the organisational requirements on the financial and accounting activity in the units of the Romanian Orthodox Church were established by instructions included in letter 388/1981 of the Department of Religious Affairs. These instructions focused on: the budget of revenues and expenses, organisation and management of accounting, financial and cash discipline, financing and accounting verifications, control of management of material and cash means, as well as the defence of integrity of public wealth in religious units. All these instructions were a legal framework to settle economic and financial problems of the religious units.

*Material liability* refers to the obligation of the employee to remedy the prejudice caused to the unit on their own fault and in relation to the work carried out. The law regulating material liability was Law no. 10/1972 (Labour Code) under articles 102-111.<sup>16</sup>

The prescription deadline for finding a prejudice was provided under article 108(1) of the Labour Code, as the 3rd year following the date of the prejudice. Another prescription provided under the normative act concerns the cases where the amounts or the value of the goods and services undue need to be repaid. This prescription deadline is one year following the

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<sup>13</sup> Decree no. 144 of 29 March 1958 *on the regulation of the release of building, repair and dismantling authorisations, as well as those related to the transfers and distributions of lands with or without constructions*, published in the Official Journal no. 15 of 29 March 1958.

<sup>14</sup> Decree no. 545 of 26 December 1958 *on regulating the location of constructions, as well as of passing under state ownership the land and constructions required to carry out works or state-interest actions*, published in the Official Journal no. 41 on 30 December 1958.

<sup>15</sup> Law no. 58 of 29 October 1974 *on the systematisation of urban and rural territory and localities*, published in the Brochure of the Great National Assembly no. 135 of 1 November 1974.

<sup>16</sup> Article 15 of Law 1 of 26 March 1970 *on work organisation and discipline in state socialist units* published in the Official Journal no. 27 of 27 March 1970.

### *Legislation Regarding the Responsibility of the Employees...*

reception date of amounts and goods or when the beneficiary benefitted from under services.

The imputation order was issued within 60 days at most following the notification of the damage, by the body responsible to issue the decision. This was based on a reasoned motivation and included the deadline within which it could be challenged, as well as the competent bodies in its settlement. The obligation for payment included in the imputation decision as enforceable was notified within 15 days, and following the expiration of this deadline, the prejudice would be imputed to the party guilty of not taking the imputation measure. In labour law, material responsibility is based on the principle of individual material liability, namely liability for the illicit crime.

The last paragraph of article 109 of Labour Code regulates subsidiary material liability, namely the liability of recovering the damage from a person other than the one who committed the material prejudice. This aspect is analysed in detail under Law no. 22/1969 on employing managers, establishing warranties and liability in relation to the management of the goods of the socialist organisations<sup>17</sup>.

Pursuant to article 30 of this law, if the value of the damage is not covered by the direct author, the employee is jointly and severally liable for:

- “The employment or transfer of a person as manager or his/her inferior, without the written consent of the other managers;
- The non-replacement or late replacement of the managers or of their inferiors although they had been warned in writing about their incompatibility;
- Not taking the measures required to establish and cover the potential damages;
- Not carrying out inventories within deadlines and according to law;
- Non-performance of any work-related duty, if, by its non-compliance, the damage could have been avoided.”

In addition, any person who deems the imputation was not legally grounded or in breach of law, pursuant to article 110 of Labour Code, they

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<sup>17</sup> Law no. 22 of 18 November 1969 *on the employment of managers, establishment of warranties and liability in relation to the management of the goods of economic agents, public authorities or institutions* published in the Official Journal no. 132 of 18 November 1969.

could file an appeal with the judicial territorial competent bodies. This appeal could have been filed within 30 days following the notification of the imputation decision. Both in the *Memorandum on the organisation and functioning of the Romanian Orthodox Church* and in the *Regulations on the management of Church fortune*, material liability would find a proper regulation.

Therefore, pursuant to these normative acts, the members who managed the Church wealth were responsible for the damages brought to these fortunes, either by bad faith or by negligence or ineffectiveness (article 61(1) of the *Regulation on the management of Church fortune*). Equally, material liability did not exclude criminal liability, and the release from administration was not an exemption from liability for the damages that were found at a later time. (article 61(2) of *Regulation on the management of Church fortune*)

The control of management documents was carried out by the economic adviser, dean, superior, priest, head of department with financing and accounting duties and accounting reviser. They were jointly and severally responsible for the prejudices brought to the Church fortune, to the extent where they did not impact the control to which they were subject to, or they carried it out superficially. (article 62 of *Regulation on the management of Church fortune*)

Pursuant to article 63 of the same regulation, the rules on material liability in labour law also applied to the staff employed in religious units with management activity.

Article 64(2) of *Regulation on the management of Church fortune* stipulated that the clergy staff responsible for injuring the Church fortune was mandatorily suspended and sent to Church courts, and that non-clergy staff would be removed from their position.

*Criminal liability* consists of measures of restraint taken against a person guilty of committing a crime by breaching work-related duties. Crimes under the Criminal Code can be commissive and ommissive. For instance, commissive crimes: embezzlement, destruction of public goods, taking a bribe, unlawful taking, abuse and ommissive crimes: work refusal, neglect, etc.<sup>18</sup>. Article 3 of the Procedure Regulations of disciplinary courts lists the crimes, a part of them (theft, usury, beatings, homicide) can be

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<sup>18</sup> *Articles 15-18 of Law 1 of 26 March 1970 on work organisation and discipline in state socialist units* published in the Official Journal no. 27 of 27 March 1970.

*Legislation Regarding the Responsibility of the Employees...*

sanctioned both by civil courts and by Church courts. These provisions impacted the clergy members.

If a specialised civil body, while checking religious units, found criminal acts, said body had to notify the religious unit and the corresponding bodies in the Department of Religious Affairs, in order to apply proper measures.

In the idealist socialist interpretation, all Church goods were assimilated to Labour Code, with *public wealth* and breaching this patrimony would be subject to criminal laws.

The incidence of the civil administration in the clergy discipline is also provided under article 16 of Law 1/1970, which stipulates that, if a religious unit files a criminal complaint against an employee (clergy in this case), or if it was sent to court for criminal acts incompatible with the position held, the unit management (religious units in this case) will suspend it. During the suspension, no retribution rights were paid. This situation finds its equivalent in the Church legislation, namely under article 74(1) of the Procedure Regulation.

If until now we presented at large the liability of the employees and the main types of liability, as compared to the legislation during the communist regime, we will continue by presenting the *procedural stages of the employed spiritual staff*. It is known that the activity of the Romanian Orthodox Church, even at difficult times, had a significant administrative constituent, in all its areas of activity, particularly in the economic and financial areas. In order to ensure efficiency and competitiveness, in this area, it was employed the spiritual staff of administrative staff accredited in the area. Their sanctioning could be carried out only according to legal procedural rules, stipulated under article 100 and following in the Labour Code, as well as under articles 13, 14, 18 and 19 of Law 1/1970 on work organisation and discipline. These procedural rules followed 3 important stages, equally procedural: research of misconduct; application of disciplinary measure and implementation of disciplinary sanction.<sup>19</sup>

a. Research of misconduct<sup>20</sup>

In order to start the disciplinary research, a representative of the management of the unit needs to be notified about the misconduct. The

<sup>19</sup> Article 13 of Law 1 of 26 March 1970 on work organisation and discipline in state socialist units published in the Official Journal no. 27 of 27 March 1970.

<sup>20</sup> Law 1 of 26 March 1970 on work organisation and discipline in state socialist units published in the Official Journal no. 27 of 27 March 1970.

law did not limit the framework of the notification, and the latter could be notified by any person in any type. Once the complaint is received, the religious unit can rule the investigation of the misconduct, without which the spiritual staff cannot be sanctioned. This will focus mainly on the prior research of notified acts, the hearing of the person in charge and the verification of the representations made in their defence. This procedure was stipulated under article 13(3) of Law 1/1970. This research was regularly carried out by the supervisor of the guilty party.

The person delegated for research had to summon the guilty party, to present the elements of the conviction and to audit the party about the fact he/she is accused of. The proof of the auditing consisted of drafting a statement, and if the guilty party submitted evidence to prove his/her innocence, they needed to be administered to check the legal basis of the statements for defence. Sanctioning the guilty party, without said party being heard or without checking the evidence administered by him/her, led to the annulment of the sanction, which proves the legislator understood to turn the right to defence into a condition of validity of the sanctioning act.

If the provisions of the Procedure Regulation applied for the clergy staff in question, for the non-clergy staff the legal procedure on the research of misconduct was applicable in general law.

b. Application of disciplinary sanction<sup>21</sup>

Pursuant to article 101 of Labour Code, disciplinary sanctions were established and applied by the collective management body either by the manager of the unit or by the coordinator of the labour department. The sanction would apply within maximum 30 days following the acknowledgement by the body responsible for its enforcement of committing the misconduct and could not apply later than 6 months after the date of committing the misconduct. The date of the misconduct is recorded in the investigation report, pursuant to the evidence in the file.

In order to be drafted in accordance with the procedure and become effective, the decision to sanction was to include the following essential items: the name of the guilty party, the reasons that determined the

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<sup>21</sup> Decision of the Council of Ministers no. 68 of 5 February 1970 *on establishing and sanctioning the contraventions to legal rules on financial discipline, taxes, fees and insurance premiums by law*, published in the OFFICIAL JOURNAL no. 6 of 13 February 1970.

*Legislation Regarding the Responsibility of the Employees...*

sanctioning, the underlying legal provisions, deadlines, as well as the bodies with which the adopted measure would be challenged.

The reasoning of the decision means the description of the misconduct, potential material prejudices, degree of guilt of the infringer and their personal history. The reasoning shall also include the evidence based on which all these elements have been established. Equally, the rightful reasoning of the sanctioning decision should contain the following items: texts of the Labour Code, of the Interior Regulations, of the Disciplinary Statutes or special laws; all these legal provisions had to refer to the work-related duties that had been breached by committing the misconduct and those who regulate that sanction. In addition, the sanction should contain the date of issue of the signature of the unit manager.

The decision is notified, as mentioned above, within 30 days following the date when the body responsible with its application acknowledged the misconduct, according to article 13(4) of Law 1/1970. Equally, the requirements concerning the communication of the decision had to be complied with, by registered letter, at home, with acknowledgement of receipt, under signature on the copy of the decision. The mentions of the expedition were recorded in the expedition registry and in the minutes, which could account for the basis of legal communication.

If the consequences of notifying the result would be taken into account, following its notification: there is a right for unity to proceed to enforcing the sanction and the right of the sanctioned party appears to file the appeal as well as to start the prescription term of 30 days provided under article 101 of Labour Code. An important note was the provisions of article 134(2) of Labour Code, which underlined how communication was made in all cases of terminating the employment contract.

c. Performance of sanction decision

After the decision is endorsed by the legal department of the unit, it is signed by the legal representative of the unit, it is sent to the staff department for communication purposes and to the sanctioned party, for evidence in the personal file and for implementation. Each sanction is completed according to its specificities. Therefore, for instance, the communication of the “reprimand” or of the “warning” is used by its notification to the sanctioned party and its notification in the personal file, without other measures.

Sanctions under article 100(c), (d) and (e) of Labour Code with material preponderance effect requires the adoption of temporary measures on the payrolls or of permanent payrolls if this refers to terminating the employment agreement. The appeal does not suspend the performance of disciplinary sanctions. The final settlement confirms or cancels the effect of the retroactive sanction.

The complaint settlement competence consists of:

- The person who is responsible for the hierarchy superior to the person who applied the sanction;
- The competent management forum, for the sanction applied by the unit manager;
- If the employment agreement is terminated, the court.

Except for the decisions of the court, all decisions delivered to settle the appeals stay as final. And in the case of non-clergy staff, the purpose of the sanction was to straighten, with the possibility of rehabilitation, which was regulated under article 19 of Law 1/1970. Paragraph 2 of the same law stipulates that rehabilitation can be carried out by the unit management ex-officio or, on request of the sanctioned party, provided certain requirements are met<sup>22</sup>.

In addition to these laws aimed at the legal framework of the employment of the non-clergy staff in the labour law, the incidence of Law 63/1974 needs to be highlighted, which requires the entire religious staff to highlight and preserve the cultural and national patrimony goods.

A set of duties concerning the compliance of the legislation was assigned to the priests who acted as managers of the movable and immovable church fortune.

Given that the Communist regime started a general plan to summarise the urban environments in general, the following normative decrees were issued to this end: decree no. 144/1958<sup>23</sup> and 545/1958<sup>24</sup> concerning the

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<sup>22</sup> Law 1 of 26 March 1970 *on work organisation and discipline in state socialist units* published in the Official Journal no. 27 of 27 March 1970.

<sup>23</sup> Decree no. 144 of 29 March 1958 *on the regulation of the release of building, repair and dismantling authorisations, as well as those related to the transfers and distributions of lands with or without constructions*, published in the Official Journal no. 15 of 29 March 1958.

<sup>24</sup> Decree no. 545 of 26 December 1958 *on regulating the location of constructions, as well as of passing under state ownership the land and constructions required to carry out works or state-interest actions*, published in the Official Journal no. 41 on 30 December 1958.

*Legislation Regarding the Responsibility of the Employees...*

legal rules in constructions; Law no. 58/1974<sup>25</sup> and no. 59/1974<sup>26</sup> on summarising territory and land funds.

Drafting this study consists of expressing a coherent legislation in a disciplinary area aimed at the non-clergy staff as well, who many times holds a major administrative responsibility, especially with Eparchy Centres and dean centres. The Church moral rules were the conduct of this staff but the litigious status required the adoption of a piece of legislation in a general normative framework, religious, without canonical implications for all Church members. The practice reveals however that, until proven otherwise, in litigious cases, any administrative unit can use normative acts for settling the labour conflict.

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<sup>25</sup> Law no. 58 of 29 October 1974 *on the systematisation of urban and rural territory and localities*, published in the Official Journal no. 135 of 1 November 1974.

<sup>26</sup> Law 59 on 29 October 1974 *on funciary funds*, published in the Official Journal no. 138 of 5 November 1974.