

SOME CONSIDERATIONS ON GENDER GAP IN EMPLOYEES PROFESSIONAL TRAINING

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Abstract

The issue of gender gap within workplace dynamics is an ongoing and significant concern that is addressed by both European Union and national legislation and policies. This article delves into the various legal frameworks that have been established to ensure continuous professional development for all employees, aiming to bridge the gap in opportunities and treatment between genders. It also scrutinises the mechanisms in place for combating discrimination based on sex, a persistent challenge in labor relations. Moreover, the paper goes beyond merely outlining the legal stipulations, venturing into an analysis of how these regulations are enacted in the workplace. By exploring both the theory behind the laws and their practical outcomes, the article sheds light on the effectiveness of current strategies and the areas that require further attention to achieve true gender equality in the workplace.

Keywords: training, gender, gender gap, employment, labor law, statistics.

1. Introduction

The gender gap in the workplace is a multifaceted issue that has persisted despite advances in gender equality. Persistent earnings and pay gaps between men and women exist across various sectors and occupations, not fully explained by differences in qualifications or work patterns¹. Moreover, the gender composition of occupations, especially in national labor markets, significantly influences the authority gap, with men benefiting more in terms of workplace authority². This gap is not solely due to personal attributes or employment settings but is influenced by broader societal and organisational factors³. Thus, the gender gap is influenced by cultural norms, particularly around childbirth and parenting, which disproportionately affect women's career opportunities and earnings⁴. Continuous development and training are essential for personal career growth and organisational success. They provide employees with new skills and knowledge, keeping them relevant in a rapidly changing work environment. However, despite the clear benefits, there exists a notable gender gap in who accesses these opportunities. Research shows that men are more likely to receive on-the-job training and participate in professional development courses than women. This discrepancy can be attributed to various factors, including unconscious bias, organisational culture, and the different roles men and women traditionally occupy in the workplace⁵. The gender gap in training is also influenced by the societal expectations and roles assigned to men and women. Women are more likely to take career breaks or work part-time to manage family responsibilities, which can lead to fewer opportunities for professional development. Furthermore, women may not be encouraged or feel confident enough to pursue training opportunities due to a lack of role models or mentors in leadership positions⁶.

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¹ See H. Lips, *The Gender Pay Gap: Challenging the Rationalizations. Perceived Equity, Discrimination, and the Limits of Human Capital Models*, in *Sex Roles*, no. 68, 2012, p. 169-185, <https://doi.org/10.1007/s11199-012-0165-z>; B. Petrongolo, *The gender gap in employment and wages*, in *Nature Human Behaviour* no. 3, 2019, p. 316-318, <https://doi.org/10.1038/s41562-019-0558-x>.

² See M.L. Huffman, Ph. N. Cohen, *Occupational Segregation and the Gender Gap in Workplace Authority: National Versus Local Labor Markets*, in *Sociological Forum* no. 19, 2004, p. 121-147, <https://doi.org/10.1023/B:SOFO.0000019650.97510.DE>.

³ See E.O. Wright, J. Baxter and G. Birkelund, *The Gender Gap in Workplace Authority: A Cross-National Study*, in *American Sociological Review* no. 60, 1995, p. 407-435, <https://doi.org/10.2307/2096422>.

⁴ See J. Li, *Analysis of Relationships between Cultural Gender Norms and Gender Gap*, in *Lecture Notes in Education Psychology and Public Media*, 2023, <https://doi.org/10.54254/2753-7048/5/20220477>.

⁵ See A. Chandra, *Gender Gap in Skill Development*, in *Gender Issues in Technical and Vocational Education Programs*, 2019, <https://doi.org/10.4018/978-1-5225-8443-8.CH001>.

⁶ See M. Olsson, S. Martiny, *Does Exposure to Counterstereotypical Role Models Influence Girls' and Women's Gender Stereotypes and Career Choices? A Review of Social Psychological Research*, in *Frontiers in Psychology*, no. 9, 2018, <https://doi.org/10.3389/fpsyg.2018.02264>; J. Kerpelman, P.L. Schvaneveldt, *Young Adults' Anticipated Identity Importance of Career, Marital, and Parental Roles: Comparisons of Men and Women with Different Role Balance Orientations*, in *Sex Roles*, no. 41, 1999, p. 189-217, <https://doi.org/10.1023/A:1018802228288>.

The article endeavors to present the manner in which various facets of the gender disparity phenomenon within the professional sphere, particularly influencing professional development, have been tackled through legislative policies at both regional and national strata. Furthermore, following an examination of the regulatory framework provided by the Labor Code concerning professional training, this study presents and scrutinises statistical data pertinent to professional training. Additionally, it delves into nuances associated with the gender disparity in professional training, that may arise from an analysis of the statistical data.

2. Contents

The gender disparity dimensions illustrated by empirical research have been assimilated by political entities and subsequently translated into actionable measures at both regional and state levels. These actions, informed by rigorous scientific investigation, aim to rectify gender imbalances and foster equality, marking a significant step toward harmonising theoretical knowledge with policy execution. In alignment with its foundational principles, EU has enacted a range of strategies to mitigate the gender gap within professional environments, underscoring its commitment to gender equality as a central tenet, a fundamental right⁷, and a key principle of the European Pillar of Social Rights.

In the Gender Equality Strategy 2020-2025⁸, the European Commission delineated enhancing workers' work-life balance as a pivotal approach to ameliorating the gender disparities prevalent in the labor market. It emphasised the necessity for both parents to adopt a sense of responsibility and entitlement concerning familial care duties. To this end, the Work-Life Balance Directive⁹ was introduced, establishing minimum benchmarks for family leave and adaptable working conditions for employees, while advocating for a more equitable distribution of caregiving responsibilities between parents. This directive represents a significant stride towards fostering an environment where gender equality is reflected not only in professional settings but also in the domestic sphere, reinforcing the EU's commitment to creating a more balanced and inclusive society.

The European Pillar of Social Rights enshrines the right to education, training, and lifelong learning as its first principle. This aligns with the ambitious headline target set forth in the Action Plan of the European Pillar of Social Rights¹⁰, which stipulates that by 2030, 60% of all adults should engage in training annually, underscoring a commitment to fostering continuous professional and personal development across the EU. This initiative reflects a strategic vision aimed at enhancing the skills and competencies of the European workforce, thereby contributing to the overall growth and competitiveness of the region in the global landscape.

At the national level, Romania has transposed the provisions of the Work-Life Balance Directive into its Labor Code, instituting a gamut of stipulations that support a judicious equilibrium between one's personal and professional realms. Notably, statistical evidence underscores that women's professional progression is disproportionately hindered by domestic responsibilities and caregiving roles. Hence, these legal frameworks are pivotal in advancing workplace equality measures.

Thus, to adapt the work schedule to the demands of personal life, art. 118 provides that the employer can establish individualised work schedules for all employees, including those who are on caregiver leave, with their agreement or at their request, which can be limited in duration. Individualised work schedules imply a flexible mode of organising work time, defined by law as the possibility for employees to adapt their work schedule, including through the use of remote work, flexible work schedules, individualised work schedules, or part-time work schedules. Should an employer demur the establishment of a personalised schedule, they are required to furnish a substantiated written declination within five business days post-receipt of the request. The Labor Code abstains from delineating the maximum duration for which an individualised schedule may be solicited or the specific conditions under which such a request may be made, affording both employer and employee the latitude to determine these parameters, albeit this latitude could potentially precipitate legal disputes. The provisions of the law remain general, para. (6) of art. 118 stipulating that when the individualised work schedule has a limited duration, the employee has the right to return to the initial work schedule at the end of the agreed period. The employee has the right to return to the initial schedule before the end of the agreed period, in the case of changing circumstances that led to the establishment of the individualised schedule.

⁷ See art. 2 and 3(3) TEU, art. 8, 10, 19 and 157 TFEU and art. 21 and 23 of the EU Charter of Fundamental Rights.

⁸ European Commission, A Union of Equality: Gender Equality Strategy 2020-2025, COM(2020) 152 final, Brussels, 05.03.2020.

⁹ Directive (EU) 2019/1158 on work-life balance for parents and carers.

¹⁰ Available at: <https://op.europa.eu/webpub/empl/european-pillar-of-social-rights/en/>, last time consulted on 20.03.2024.

Another measure established by law regards the right of employees responsible for children up to 11 years of age to elect to perform their duties from home or under a teleworking arrangement for four days per month, barring scenarios where the nature or specifics of the work preclude such modalities.

For those situations where an employee needs to provide care or personal support to a relative or a person living in the same household, the employee may benefit from caregiver leave. The law also regulates the scenario where the employee is required to be absent from work in unforeseen situations, caused by a family emergency due to illness or accident, which necessitates the immediate presence of the employee. Absence from work cannot exceed 10 working days in a calendar year, and the hours missed must be made up, with the method of recovery being agreed upon by both parties.

The legal infrastructure, crafted through the incorporation of European directives, is designed to equip employees with essential legal mechanisms to seamlessly navigate their dual responsibilities as both professionals and family caretakers. This initiative is aimed at fostering a harmonious work-life equilibrium, which is anticipated to yield significant benefits for women's career advancement. By addressing and mitigating one of the most formidable obstacles - deeply ingrained cultural norms and responsibilities, particularly those associated with childbirth and child-rearing - this framework sets the stage for a more inclusive and supportive professional environment for women.

Within the framework of professional development, the Labor Code imposes a duty on employers to facilitate access to professional training programs for all employees at minimum intervals: biennially for organisations with at least 21 employees and triennially for those with fewer than 21 employees, as stipulated in art. 194. Moreover, legal entities employing more than 20 individuals are obligated to annually devise and execute professional training plans, following consultations with either the trade union or employee representatives, as applicable. Consequently, the developed professional training plan is integrated as an annex to the collective labor agreement at the organisational level, ensuring that employees are duly informed about the plan's specifics.

For a holistic comprehension of the professional training landscape, a more extensive examination is essential, particularly through the lens of statistical data. The practical application of the Labor Code's directives would impact approximately 52.3 thousand enterprises and their associated workforce. Yet, the actual scenario in 2020 reveals that among these 52.3 thousand enterprises, constituting the statistical study's reference population, a mere 17.5% engaged in offering continuous professional training to their employees. This represents a decrease from the year 2015 when 26.7% of enterprises had implemented such initiatives. It follows that in 2020, a significant majority, over 80% of enterprises, neglected to provide ongoing professional training, perpetuating a troubling decline: 82.5% in 2020 compared to 73.3% in 2015, 75.9% in 2010, and 59.7% in 2005, did not offer any form of employee training¹¹.

In another vein, ensuring the professional training of employees goes beyond a mere legal obligation, as professional training can be a crucial aspect of a company's Corporate Social Responsibility (CSR) strategy, contributing to employee development and job satisfaction¹². Therefore, priority should be given firstly to increasing the number of employers who provide adult professional training, and secondly, to genuinely ensuring equal access to these opportunities, including on the basis of gender. The study by the National Institute of Statistics mentioned earlier notes that for the 43.2 thousand enterprises (82.5%) that did not offer any form of training to their employees, the most frequently cited reason was „the current level of qualifications, skills, and competencies of the employees met the needs of the enterprise”. However, such an approach overlooks the objectives of professional training, as listed in art. 192 of the Labor Code, which encompasses a wide range of situations, such as adapting the employee to job requirements; obtaining a professional qualification; updating knowledge and skills specific to the job and workplace; improving professional training for the main occupation; acquiring advanced knowledge, methods, and procedures necessary for carrying out professional activities; promotion at work and career development. Additionally, professional training aims at career conversion due to socioeconomic restructuring or preventing unemployment risks.

In this rather negative context of implementing legal provisions regarding professional training, statistical data on women's access to professional training seem to lead to more optimistic conclusions regarding gender

¹¹ See National Institute of Statistics, *Caracteristici ale formării profesionale în întreprinderile din România în anul 2020*, 2022, p. 23.

¹² See S. Valentine, G.M. Fleischman, *Ethics Programs, Perceived Corporate Social Responsibility and Job Satisfaction*, in *Journal of Business Ethics* no. 77, 2007, p. 159-172, <https://doi.org/10.1007/S10551-006-9306-Z>.

balance in the workplace. Indeed, as the data from the National Institute of Statistics shows, in 2020, the overall participation rate of women in continuous professional training courses was slightly higher compared to men (18.6% for women, compared to 16.5% for men)¹³.

However, optimism must be tempered as, from the correlation of statistical data, it emerges that although more women than men have benefited from professional training courses, the situation of employed women, considered as a distinct category, is precarious. They have had extremely limited access to professional skill development, with the situation deteriorating compared to previous years.

Furthermore, data on access to professional training should be correlated with those related to the gender employment gap and the situation concerning the education level of graduates. According to Eurostat data¹⁴, the gender employment gap in Romania is around 19% (19.3 in 2020, 20.1 in 2021, 18.6 in 2022, 19.1 in 2023), compared to the EU average of around 10% (11.1 in 2020, 10.9 in 2021, 10.7 in 2022, 10.3 in 2023), with significantly more men entering the workforce than women¹⁵. Regarding the situation of educational graduates, at the university level, the 2015-2023 statistics from the National Institute of Statistics¹⁶ show a 20 percentage point gap in favor of women, while at the high school level the percentage is around 10 point.

It follows that although a much larger number of women are high school and university graduates, a significant shift in percentage occurs in favor of men upon entering professional life. Among women who choose to become employed, very few are involved in continuous professional training programs with their employer, with the 20% gap in favor of women observed at graduation levels narrowing to 2% when it comes to professional training.

One primary reason that could be cited to explain this situation is the substantial role women play in child-rearing and household management. While not dismissing the validity of this explanation, it should be noted that art. 193 of the Labor Code provides a wide range of forms in which professional training can take place. Employees can participate in courses organised either by the employer or by domestic or international professional training service providers. There are also provisions for internships, either for professional adaptation to the job and workplace requirements or for practice and specialisation at home and abroad. Training can either focus on a specific theme dedicated to a group of employees or be customised to the needs of a particular employee. Moreover, the law allows the parties to agree on any other forms of training, which can take into account the special situation of a woman whose involvement in extraprofessional life might, at a certain point, be more significant. It remains to be seen whether the recent legislative changes generated by the transposition of the Work-Life Balance Directive provisions will bring improvements in employees' participation in professional training, in general, and women's participation, in particular.

Another reason that could be invoked to explain the low participation of women in professional training might be related to possible gender-based discrimination perpetrated by the employer. In favor of this reasoning, one could argue that statistical data demonstrates a significantly higher interest of women in formal education programs (there are 20% more female graduates of higher education), while among female employees the gap is significantly smaller. We are reserved in accepting this reasoning without reservations, as long as there is no specific analysis of the case law of the courts and of the NCCD which would indicate a generalised practice of employers discriminating based on gender in terms of access to professional training.

However, it must be pointed out that the issue of discrimination in access to professional training exists in the aforementioned jurisprudence, with the petitioners being female individuals, even though the invoked criterion is not gender related. In this context, we note that, in accordance with the provisions of art. 3 letter a) of GO no. 137/2000 on preventing and punishing all forms of discrimination¹⁷, the provisions of the normative act apply to all natural or legal persons, public or private, as well as public institutions with responsibilities regarding employment conditions, criteria and conditions for recruitment, selection and promotion, access to all

¹³ See National Institute of Statistics, *op. cit.*, p. 26.

¹⁴ See Eurostat, *Gender employment gap*, available at: https://ec.europa.eu/eurostat/databrowser/view/tesem060/default/table?lang=en&category=tepsr.tepsr_eo.tepsr_eo_hi, last time consulted on 20.03.2024.

¹⁵ See Gh.D. Isbăsoiu, D. Volosevici, A. Grigorescu, *Social Challenges of the Green Transition: A Focus on the Employment Gender Gap in Romania*, in *Entrepreneurship and Development for a Green Resilient Economy*, p. 131-163, Emerald Publishing Limited, 2024, doi:10.1108/978-1-83797-088-920241005.

¹⁶ See *Caiete statistice privind învățământul superior*, INS, 2015-2023, in *Raport privind starea învățământului superior din România 2022-2023*, Ministry of Education, Bucharest, December 2023.

¹⁷ Published in the Official Gazette of Romania no. 166/07.03.2014.

forms and levels of guidance, training, and professional development. Art. 7 states that it constitutes an offense to discriminate against a person because they belong to a certain race, nationality, ethnicity, religion, social category, or a disadvantaged category, respectively due to beliefs, age, gender or sexual orientation in a labor and social protection relationship, except for cases provided by law, manifested regarding training, improvement, retraining, and professional promotion.

Thus, for example, through dec. no. 464/06.07.2016¹⁸, the Directorial College of the NCCD decided that it constitutes discrimination for an employer to refuse a female employee's access to professional training courses, the invoked criterion being, however, the employee's beliefs. In other cases¹⁹, where the petitioners were also female employees who claimed limited or blocked access to professional training, the Council decided that there is no discrimination. An in-depth analysis of the NCCD decisions could lead to a clearer picture of the issue of discrimination in professional training and, consequently, to the identification and implementation of appropriate tools to combat discrimination.

Another action that could contribute to clarifying the situation regarding access to professional training would be to obtain statistical data related to the mode of access to training programs, considering that art. 196 para. 1 of the Labor Code stipulates that participation in professional training can occur at the initiative of either the employer or the employee. It could thus be analysed to what extent female employees take the initiative to continue professional training, in any of the forms provided by law, and how many of their applications have been legitimately or abusively rejected by the employer.

It should be mentioned that, according to the wording of art. 199 of the Labor Code, the employer's approval is only necessary when the professional training involves taking the employee out of their work activity. In this latter case, the employer must review the employee's request together with the union and decide within 15 days of receiving the request. The employer will also decide on the conditions under which they will allow the employee to participate in the training, including whether they will cover all or part of the cost incurred by it. According to art. 77 para. (4) letter p) of the Fiscal Code, expenses incurred by employers for the professional training and improvement of employees, training related to the activity performed by the respective individuals for the employer, are not taxable in terms of income tax. Similarly, these expenses are not included in the base for calculating social insurance or health insurance contributions. This fiscal framework is intended to foster the professional development of employees and to promote the assumption by employers of the responsibility to cover the expenses incurred by such training.

3. Conclusions

Without any intention of exhausting the subject, the article has presented a transdisciplinary examination of the issue of access to professional training, suggesting the alignment of legal provisions with the actual situation as indicated by statistical data. From this simple exercise, it first emerged that although the legal framework allows for the selection of forms of professional training closely aligned with the actual circumstances of each employer and employee or group of employees, the number of enterprises and employees utilising professional training mechanisms is exceedingly low. Secondly, through the analysis of various categories of statistical data, a new interpretation was proposed regarding a potential limitation on women's access to professional training. Finally, the article underscores the necessity of collecting new categories of data related to professional training, data that would enable a broader analysis of the gender gap issue in professional training.

Any section of this article could be expanded into a more extensive research endeavor, which we propose should maintain a transdisciplinary nature, as a mere analysis of legal provisions lacks the capacity to rigorously identify the barriers to access in professional training.

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¹⁹ See NCCD, dec. no. 720/2016, available at <https://www.ncnd.ro/wp-content/uploads/2020/12/Hotarare-720-16.pdf>, last time consulted on 20.03.2024; dec. no 320/2016, available at <https://www.ncnd.ro/wp-content/uploads/2020/12/hotarare-320-16.pdf>, last time consulted on 20.03.2024.

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