



LEGISLATION REVIEW AND POLICY RECOMMENDATION FOR WORK-BASED LEARNING

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ABSTRACT

The purpose of this paper is to review the legislation framework in the field of work-based learning (WBL), conducted in six European countries: Romania, Poland, Portugal, Germany, Bulgaria and Cyprus. The scope is to identify the policies and the legal framework set, or lack of such, in the field of WBL. A comparative analysis between formal regulations is done. Finally, policy recommendations for performing of evidence-based policy in the field of WBL are formulated: specific legislation for WBL, quality assurance of WBL programmes, incentives for employers participating in WBL programmes.

Key words: work-based learning; legislation framework; Industry 4.0; quality assurance

1. Introduction

Web-based-learning has the potential to become an indispensable part of learning by extending traditional in-class teacher-led education [1]. Web-based-learning is becoming an integral part of learning and there is a lot of research in the field and European projects developing training materials and pedagogical tools in the field. One of it is “Work-based training approach in the field of Industry 4.0 for competitive European Industry”- iNduce 4.0 - project no: 2017-1-RO01-KA202-037222, which is an Erasmus+ project, promoted by a consortium of organizations from 6 EU countries: Romania, Poland, Portugal, Germany, Bulgaria and Cyprus which aimed at promoting work-based learning (WBL) on the topic of Industry 4.0,

with special attention to apprenticeship training, by involving social partners, companies and Vocational Education and Training (VET) providers [2].

The main aim of this research is to provide recommendations for evidence-based policy in the field of WBL. It set the basis for elaboration of the iNduce 4.0 training course and the iNduce 4.0 Practical methodology for WBL in accordance with the target groups’ needs: current employees, managers, heads of departments in SMEs.

2. Method

The purpose of this paper is to describe and analyse the findings by the review of legislation framework in the field of WBL, conducted in the 6 European

countries providing a state-of-the-art analysis on the requirements for WBL which consist of the following:

- Review of legislation framework in the field of WBL, apprenticeship in partner countries and comparative analysis between formal regulations;
- Policy recommendations section for performing of evidence-based policy in the field of WBL.

The review of legislation on national level seeks to identify the policies and the legal framework set (or lack of such) in the field of WBL in partner countries and thus define policy recommendations in the field of WBL.

The review was conducted by each partner according to a common template. It is focused only on legislation regulations in the field of WBL topics with the following topics as subjects of research:

- *General overview of WBL in the national legislation:*
 - How is WBL embedded in the national legislation? Is there specific legislation in the field of WBL in your country or is WBL regulated as cross-section subject?

Who is responsible for setting legislation in regard to WBL in your country (National, regional or local level)? Is the legislation the same in the whole country?

- *Legislation for participating in WBL:*
 - Are there specific legal requirements that companies need to meet in order to participate in WBL initiatives (e.g. dual education programmes)?

Is there a specific public register where interested parties can check authorized companies to participate WBL?

- *Labour legislation and WBL:*
 - Is there a specific labour legislation dealing with the apprenticeship, internships, other WBL initiatives (e.g. maximum working time, flexible working hours, minimum salary, etc...)? If yes, how does it differ from the standard labour legislation?

- Are companies who participate in WBL initiatives subject of more regular audits from labour monitoring institutions?

- *Tax legislation and WBL:*
 - Are there specific tax laws in favour of companies engaged in WBL initiatives, dual education? If yes, which one (e.g. Special tax reductions in cases of employing certain numbers of students or other)?

- *Subsidies and grant legislation with regard to WBL:*
 - Does the funding and grant legislation directly address WBL/dual education initiatives? If yes, how (e.g. special funds or grants for certification, investments in education and trainings of head or staff to be mentors/ trainers?).

-Are there any positive or negative incentives in the legislation promoting participation in WBL initiatives? If yes, which one?

3. WBL in partner countries

In Romania, WBL is embedded in the national legislation as a cross-section subject [3]. The general legal framework is set at a national level provided by The Law of National Education no.1/2011 with its further amendments and completions for this is the same for the whole country.

Given that no mention is made, we can conclude that in Romania there are no specific legal requirements for companies to participate in WBL initiatives. All enterprises can engage into apprenticeship contracts provided that they have the necessary facilities and they provide the local Labour Directorates of the Ministry of Labour and Social Justice with proof that they have a specifically designed training programme for the occupation for which they wish to organize apprenticeship.

In Romania there is a different legislation regulating apprenticeship and internship.

Apprenticeship is organised for persons that want to work and to obtain a qualification (young that dropped out from school, unemployed, long-term unemployed, adults). It is not considered as part of Initial Vocational Education and Training (IVET) and there is a special law on apprenticeship. According to the Apprenticeship Law, work-based apprenticeship is regarded as a special and distinct form of vocational training combining employment with vocational training provided by the employer. The apprenticeship conditions are settled through apprenticeship contracts, which have been defined as a special type of labour contracts with determined duration involving both work as well as vocational training at the workplace. The contract as such cannot be longer than three years or shorter than six months, in accordance with the level of qualification to be provided.

According to the Apprenticeship Law and to its application norms, those entitled to apprenticeship are the individuals over 16 year old, provided that they had no prior qualification in the trade for which they demand entering into an apprenticeship contract. The apprentice is considered a full time employee and is entitled to all associated rights (minimum salary, working time regulations). The apprentice also has to benefit from theoretical training which is to be provided inside the working hours.

The work-based apprenticeship programme is organised only for qualifications for which there are occupational standards / professional training standards and occupations included in the Romanian Classification of Occupations.

The minimum duration of the apprenticeship training is equal to the duration provided by regulations on the adult training qualification courses. The necessary time for the theoretical training of the apprentice is included in the regular working hours. The monthly salary provided by the apprenticeship

contract is at least equal to the national gross minimum salary. The working programme is 8 working hours/day, 40 hours/week. For people younger than 18, the working programme is 6 working hours/day, 30 hours/week.

The Ministry of Labour and Social Justice, through the local Employment Agencies is monitoring and controlling the activity of the authorised training providers delivering work-based apprenticeship programmes.

Internship in Romania is understood as a practice within companies of pupils and/or students, according to the present legislation (Law 258/2007). According to the law, practice of pupils/students is organised by the training provider based on a contract concluded with a practice partner who is a company or any other legal person that carries out an activity in correlation with the specialization for which pupils/students are trained. Practical work can be done weekly or cumulatively at the end of a certain period of theory, as provided by the curriculum for the training course. Internship in this form is usually not remunerated except for the situation provided by the law, when during the practice period the practice partner decides to hire the practitioner based on a fixed-term individual labour contract, according to the Labour Code, and negotiating the remuneration.

In Romania there are no specific tax laws in favour of companies engaged in WBL initiatives and no special tax reductions, however all costs for the companies involved in the work-based learning of IVET learners such as fees, equipment, materials, travel, accommodation, meals, etc. are tax-deductible (deductible expenses for determining the tax result) according to the relevant legislation on education and the Fiscal Code.

- WBL in Poland

In Poland WBL is regulated as part of the vocational education which is regulated by the Act on the Education System as well as the Regulation of the Minister of National Education of 23 December 2011 on the classification of professions for vocational education and the Regulation of the Minister of National Education of 7 February 2012 on the core curriculum of vocational education (as amended) [4]. VET is based on two types of school: basic vocational schools (BVS) and technical upper secondary schools. The practical part of vocational education can be performed as work-based learning (in school workshops, continuing education centres and practical training centres or with an employer) or as an on-the-job training (which is mandatory for vocational upper secondary and post-secondary programmes and lasts from 4 to 12 weeks, depending on the type of job performed) [5].

There is specific labour legislation dealing with the apprenticeship, internships or other WBL initiatives.

Under current legislation practical classes can be held with employers on the principles of the dual education system, based on two types of contracts: employment contract for vocational training, concluded between the juvenile and the employer; a contract of apprenticeship concluded between the school principal and the host employer of students on apprenticeship [6].

In the dual system in Poland during their practical training students attending vocational schools have the status of a juvenile worker. Therefore there is a special type of practical training which is juvenile employment for the purpose of vocational training for young people between 16-17 years of age with lower secondary education.

In Poland, just like in Romania, there is lack of financial incentives for companies or VET providers to accept students for practical classes. Though employers who provide practical training to students from vocational schools can receive some support like refund of trainers' salaries, refund of the extra salary paid to instructors, refund of the cost of work clothes and necessary protection measures, training allowance, and refund of the bonus for work placement supervisors.

Since 2014, employers are given also the opportunity to use the National Training Fund, which is part of the Labour Fund to finance training for their employees and in some cases funding can cover up to 100 % of the costs.

- WBL in Germany

In Germany, the majority of all training is structured by a dual training system (WBL) [7]. In total, there are about 330 dual training programmes that can be completed full-time or part-time. Dual training lasts between two and three and a half years and is assigned to ISCED Level 354.

In contrast to purely school-based training, dual training consists of two places of learning. The predominant part, practical training, takes place in the training company and school-based training takes place in a vocational school. The vocational school is financed by the state, imparts specialist and general educational skills and is the responsibility of the federal states. There is also the possibility of completing dual training with an external provider with internships in a company.

The practical training is the responsibility of the training company, whereby the trainers must be qualified through the trainer aptitude examination or the master craftsman's certificate. All vocational qualifications acquired through the dual training system are classified in the German Qualifications Framework (Deutscher Qualifikationsrahmen, DQR). Due to the shared responsibility, a high level of commitment and a clear division of tasks between industry, trade unions, the federal government and the federal states are required.

Dual training, and thus the responsibility of the individual institutions, is anchored in law in the Vocational Training Act (Bundesbildungsgesetz, BbiG) and in the Crafts Code (Handwerksordnung, HwO). In addition, there are training regulations for each type of training, which define the training framework plan, the examination regulations, the duration of the training and when which training content must be taught. The Youth Employment Protection Act (Jugendarbeitsschutzgesetz, ArbSchG) applies to underage trainees in the dual training system.

Depending on the sector, each training company is assigned to a chamber which supervises the training and records training contracts. The trade unions in the respective occupational sector also play a major role, as they work with employers to further develop occupational profiles and stand up for the rights of trainees, as well as regulating the conditions of dual training. In addition, collective agreements are concluded between the trade unions and the employers, which also apply to dual training relationships. In companies in which there is a work council/staff council, it is possible to elect a youth and trainee representation (Jugendarbeitsschutzgesetz, JAV). It has a say in the design of the dual training system and is regarded as the point of contact for trainees. The Federal Institute for Vocational Education and Training (Bundesinstitut für berufliche Bildung, BIBB) issues recommendations for dual training, conducts research and participates in the development of new dual training occupations.

However, school-based training is not impractical either. Its structure is very similar to that of dual vocational training, since practical elements lasting several weeks are generally involved, for example in the form of internships, and in some cases a year of recognition has to be completed in the workplace (e.g. as an educator).

After the dual training there is the possibility to complete a master craftsman (1.5-4 years) or to change into an academic career (e.g. Bachelor programs incl. WBL) (3-4 years). WBL is integrated in every training level.

Oriented towards the dual training system, there are also dual courses of study in which a high degree of practical relevance is integrated. They are offered either by companies themselves or by universities and have different models. In many non-dual degree programmes, there is the possibility of having an internship credited or is even obligatory.

There are no specific tax incentives for companies that participate in WBL initiatives, dual training. And there is no specific public register listing the companies participating in dual training.

- WBL in Portugal

In Portugal there is no specific legislation single-handedly regulating WBL. It is regulated as cross-

section subject as part of other legislations. For example in 2007 alongside the creation of the National Qualifications System (SNQ) six VET – dual education programmes were established and each of them have its own legislation/regulation, where WBL is addressed [8].

Other WBL initiatives that are not under the SNQ scope, including state-funded and non-state-funded internships, are also regulated independently.

The responsible institution for setting all aforementioned legislation is The Constitutional Government and the legislation is the same in the whole country.

In Portugal for state-funded initiatives companies should be law-abiding and meet the legal requirements linked to their activity and in terms to registration, accounting, taxes. In this case the Institute for Employment and Vocational Training has the responsibility to ensure the company is in compliance with the law. Otherwise no specific legal requirements have to be met and there is no public register for companies authorized to participate in WBL initiatives.

Nevertheless, it should be noted that for the VET – dual education programmes it is, typically, up to the VET provider to form a partnership with companies which host learners during WBL. The VET providers also need to maintain its certification and are, thus, audited frequently. During the audit, it is assessed the criteria used to select the companies as well as the pedagogic methods that feature mechanisms for monitoring and evaluation of the WBL activities. But there is no evidence that companies who participate in WBL initiatives are subject to more regular audits from labour monitoring institutions.

There is no specific labour legislation dealing with the apprenticeship, internships, and other WBL initiatives. Common rules for WBL initiatives is that a contract between all parties involved must always be signed, where it should be acknowledged that learners have the right to receive meal and transport subsidies, and work insurance afforded by the company. The remaining contract aspects, including maximum working time and working schedule, are the same as the applicable for the generality of the company's employees, which are regulated by the standard labour legislation. The internship contract, generally, has a term of 9 months, except for companies of national economic strategic interest and for trainees' in certain social situations (refugees, ex-convicts, etc).

In Portugal also there are no specific tax laws in favour of companies engaged in WBL – dual education initiatives. Both the company and the trainee are subject to the applicable tax law, as if the trainee was a regular employee.

There is funding and grant legislation under the European Social Fund (ESF) which directly addresses WBL initiatives. Companies involved in internships

programmes are also entitled to a financial contribution from Institute of Employment and Training (IEFP). 65% of the trainee's monthly allowance is funded, which can be increased to 80% if it is a non-profit organization, a company with national economic strategic interest status or a company with less than 10 employees that's applying for the first time. If the trainee belongs to certain social groups (refugees, ex-convicts, etc), another 15% is added to the former value. Companies that hire trainees within 20 days after the internship is over, will be awarded a grant of twice as much the monthly allowance agreed on the contract.

- WBL in Bulgaria

Training through work (dual education in Bulgaria) is a relatively new opportunity that has been formally introduced into the VET system in Bulgaria in 2015 and is regulated as a cross-section subject by the VET act and the Labour Code and by specific legislation - Ordinance № 1 of 8 September 2015 on the terms and conditions of conducting training through work (dual training) [9].

Dual education (WBL) as part of VET in Bulgaria is governed by the same institutions that are responsible for VET. There are different responsible institutions at all levels – national, regional and local [10].

Companies who want to participate in WBL initiatives in cooperation with VET schools need to have special permission from the General Labour Inspectorate Executive Agency to employ individuals below 18 years old. The permission is given after the General Labour Inspectorate Executive Agency inspects the working facilities and grants permission only if the work environment is deemed in compliance with all Occupational Safety and Health standards.

There is no specific legislation dealing with the apprenticeship, internships, and other WBL initiatives. Relations between the employer and the student are formalized in a contract that should be in accordance with the Labour Code. A specific requirement for the dual training is that the employment contract shall be concluded at the latest two weeks before the start of the school year in which the training will be commenced. Last amendments in the Labour Code intend to support the work-based form of learning (dual) as a type of apprenticeship where:

(a) labour contracts for training during work define the forms, place and duration of the training, the compensation which the parties owe when failing to fulfil their obligations and other issues related to training provision;

(b) dual training lasts 1-3 years for regular VET learners;

(c) work-based learning for employees that is not regulated by the VET act lasts six months or less;

(d) after a successful completion of an employee's training, an employer has to offer and an employee has to accept a permanent job; this is not the case for VET learners in dual training.

In Bulgaria there is no specific public register where companies participating in dual training are signed.

There are no tax incentives for employers participating in WBL initiatives, projects, etc. What is more, a paradox turns out to be the fact that since employers has to conclude a labour contract with students from VET schools they need to pay mandatory health insurance for each of the students in the company and at the same time the state pays health insurance for the same student, which results in double taxation.

There is no specific grant legislation addressing WBL/ dual training. Companies in Bulgaria can count on various initiatives aimed at promoting WBL in Bulgaria such as project DOMINO - "Swiss support for the introduction of dual track principles in the Bulgarian vocational education system" [11] and Erasmus+ programme.

- WBL in Cyprus

In Cyprus there is no specific legislation in the field of WBL. All the activities regarding the provision of continuing vocational education and training are legalized by the Council of Ministers or by legislation adopted by the House of Representatives. The main bodies responsible for formulating and implementing policy for the initial vocational education and training are the Ministry of Education and Culture (MoEC), the Ministry of Labour and Social Insurance (MLWSI), the Human Resource Development Authority (HRDA) and public higher education institutions. Additionally work based learning is partially governed by the Law on Equal Treatment of Men and Women in Employment and Vocational Education Law of 2002 (Law 205 (I) / 2002), along with its amendments [12].

Every organisation in Cyprus has the right to participate in WBL training programs, with no limitation on participation, type of business or type of training. Every employer has the ability to organize and implement, at his / her own cost, any training he / she considers to contribute to the development of his / her workforce [13].

The Human Resource Development Authority of Cyprus (HRDA), every six months, approves a number of training programs exclusively for employees and also internships for new entrants to the labour market which are supported by the Government of Cyprus through financing employers. Interns may or may not be salaried, depending on the organisation that is sponsoring the placement. Usually, interns receive a nominal payment, which vary depending on the employer.

If the training is an initiative of a company and is organized and implemented exclusively by the

company, then there is no additional audit of the specified audits that are or would be carried out in this company.

If a company participates in vocational training programs through Human Resource Development Authority of Cyprus (HRDA) and collaborating VETs, then the Human Resource Development Authority of Cyprus is responsible for quality assurance within the implementation of the programs it adopts [14].

In Cyprus, in order to give companies incentives to participate in WBL initiatives, all human resource development expenditure is deducted from taxation, just like other production costs. In this way, it is estimated that the state accounts for about 20-25% of the total cost of human resources development, while the remainder is covered by private funds. On the other hand, employers must contribute every month the percentage of 1% on the salary of each employee in the Human Resource Development Fund.

4. Results from the legislation review

Results from the legislation review show that situations in all partner countries are very similar. It turns out that WBL is regulated mainly as a cross-section subject and specific legislation in that field is rare. Romania proves to be the only country with a special law on apprenticeship and in Bulgaria dual training/ WBL is regulated both by specific legislation and as a cross-section subject.

In most partner countries there are no public registers for companies authorized to participate in WBL initiatives which comes as a normal consequence of the fact that every company can participate in WBL initiatives and no specific requirements should be met. In Germany as the most experienced country in the consortium in dual education all companies (VETs, SMEs or large enterprises) which would like to participate in the dual vocational training programme have to meet the legal requirements and have to be registered at either of the chambers or at the Regional Administrative Authority. And in Bulgaria alone a special permission is needed for companies to employ individuals under 18 though there is no register where such companies are listed.

Country results show that there is no practice such as to imply specific tax laws in favour of companies engaged in WBL initiatives and no special tax reductions. The incentives that employers receive to provide practical learning to students include tax-deduction or reimbursement of costs such as fees, equipment, materials, travel, accommodation, meals. Other funding options are available under European funds or other programmes.

5. Conclusion

Based on the findings of the legislation review the following recommendations for performing of

evidence-based policy in the field of WBL can be made:

1) To introduce specific legislation concerning WBL initiatives defining terms and conditions for organizing and participating in WBL initiatives.

2) To set specific requirements for companies wishing to participate in WBL initiatives in order to assure quality of dual training – for instance to have a specific program that should be approved, to have an appointed employee to take care of the trainees and support them, etc.

3) To establish public registers for companies that are entitled to provide dual training. This way the process of finding a company and forming partnership between the VET provider and companies which host learners during WBL will be facilitated.

4) To implement a quality assurance system including monitoring and evaluation mechanisms for assuring and improving the quality of the WBL programmes.

5) To introduce some formal incentives for employers participating in WBL initiatives in order to additionally motivate them and encourage increasing participation rates in these programmes.

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