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REVIEW ARTICLE

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APPROACHING QUIET QUITTING FROM THE LABOR LAW PERSPECTIVE: A CASE STUDY OF HUNGARIAN AND SERBIAN LEGISLATION

***Abstract*:** *The paper explores the quiet quitting phenomenon, its origin, and evolution, by applying theoretical, legal normative, and comparative methods. It particularly examines how quiet quitting can be understood through the lens of labor law, by analyzing the provisions of Hungarian and Serbian labor legislation dealing with worker's rights and duties. Quiet quitting has been considered workers' psychological response to hustle culture and always-on expectations. It is a specific self-protection mechanism in a digitalized world of work, wherein the worker fulfills only the minimum work duties, without going above and beyond the employment contract. Therefore, it is hard to argue for the employment contract breach whereas approaching from an organizational management perspective is much more adequate, while also applying the decent work approach.*

Key words: Quiet quitting, Hustle culture, Always-on culture, Labor law perspective, Employment contract breach, Hungarian legislation, Serbian legislation.

1. Introduction

Digital-based work is the industrial revolution of the modern age. New flexible forms of work are emerging every day. Platform work is one of these modern forms of work, where one of the greatest virtues is speed: the more orders a worker can take, the more orders the algorithm will send to them. This speed is also supported by digitalization, as digital-based work can be done from anywhere and anytime while tasks can be completed faster, by using electronic devices. This speed is so dominant in

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the workplace, that there is constant pressure on the worker[1] to perform, which is reflected in the concept of hustle culture, dominantly described as "a neologism for workaholism" where workers choose to work hard and with long hours, neglecting every other aspect of their lives.[2] Moreover, the always-on culture arose as a consequence of digitalization, along with the hustle culture, posing significant challenges to workers' wellbeing. Always-on culture means that there is a spontaneously established work pattern where most of the workers are expected to be always "on", *i.e.*, including after working hours, while on vacation, or even when they are sick and physically unable to perform their job.

Both organizational practices can endanger work–life balance and cause serious (mental) health problems, particularly always-on availability stress or even burnout at work, while some scholars stress that always-on does not mean greater efficiency but could be a key organizational risk to the overall wellbeing of workers related to overload and job strain.[3] As a response to this new "job perceptions", *i.e.*, work cultures appeared with the digital revolution, there is a notable trend of opposite attitudes towards work, *i.e.*, "disengaging from work", which has been labelled as quiet quitting.[4] The term quiet quitting is primarily used to define the work–life phenomenon of performing the bare minimum of work tasks, avoiding extra engagement or initiatives "above and beyond" the employment contract.[5] Human resource literature identifies management's failure to respond to workers' basic needs, expressed as subjective,

1 The term "worker" is used in the paper instead of employee. In doing so, the authors emphasize that the phenomenon under study may not only take place among participants in the traditional employment relationship, but also beyond, in different forms of flexible work arrangements, such as platform workers.

2 Yuningsih, Y., Prasetya, M. D., Technology Makes Hustle Culture Still Happened in Pandemic Covid 19, in: Napitupulu, D., Sutabri, T., Abdullah, D., (eds.), 2022, *ICEBE 2021: Proceedings of the 4th International Conference of Economics, Business, and Entrepreneurship, ICEBE 2021, 7 October 2021, Lampung, Indonesia.* Lampung, European Alliance for Innovation, pp. 475–482.

3 Barber, L., Kuykendall, L., Santuzzi, A., 2023, How Managers Can Reduce "Always on" Work Stress in Teams: An Optimal Work Availability Framework, *Organizational Dynamics*, Vol. 52, No. 3, pp. 1–11.

4 The term "quiet quitting" was first introduced by Mark Boldger at an economic conference held in 2009 in the USA but became popular in 2021 with the Tang Ping movement in China and in 2022 with a short TikTok video released by Zaid Khan. Arar, T., Çetiner, N., Yurdakul, G., 2023, Quiet Quitting: Building a Comprehensive Theoretical Framework, *Journal of Academic Researches and Studies,* Vol. 15, No. 28, pp. 122–138.

5 Biregeyi, J., Hadzic, S., Landin, S., 2023, *Beyond the Pandemic: Exploring Quiet Quitting in the Remote Work Era*, Bachelor Thesis, Jönköping University International Business School.

personal perceptions of wellbeing in terms of work satisfaction, and the failure to create a cooperative and healthy relationship with workers as the main reason for the quiet quitting trend.[6] However, the legal aspects of quiet quitting have been notably lacking in the current landscape of scientific research, keeping this issue somewhere between the non-legal and legal spheres, creating fertile ground for legal pitfalls and raising the question of how to avoid them. In this regard, we will explore whether it is a harmful social trend, in terms of the dynamics of the employment relationship, whether it is worthwhile for employers to take action against it, and, if so, what employers can do to address the problem rather than sanctioning the employee.

2. Reaction to the Hustle and Always-On Work Cultures: The Quiet Quitting Phenomenon

The harmful effects of hustle culture have been highlighted by researchers. Although for some workers, hustle culture became an acceptable (work) lifestyle and part of the adopted work ethics, studies have proven the negative impact of hustle culture on productivity, particularly affecting workers' mental health by increasing burnout and retention rates.[7] To respond to the hustle culture expectations and protect their mental health and wellbeing, workers reacted by increasing mental distancing from their jobs.[8] In addition, workers, especially those from Generation Z,[9] have responded individually to the continuous hustle at work by launching on social media the idea to do the minimum work but well enough not to breach the employment contract – calling it quiet quitting. Nevertheless, recent studies have shown that this phenomenon is increasing among all age groups, not only characteristic for the Millennials generation and especially Generation Z, but also older workers, who feel disappointed by the established organizational and management work models.[10]

6 Zenger, J., Folkman, J., 2022, Quiet Quitting Is About Bad Bosses, Not Bad Employees, *Harvard Business Review*, (https://hbr.org/2022/08/quiet-quitting-is-about-bad-bosses-not-bad-employees, 21. 1. 2024).

7 Balkeran, A., 2020, *Hustle culture and the implications for our workforce*, Master Thesis, The City University of New York Faculty, Weissman School of Arts and Sciences.

8 *Ibid.*

9 Harter, J., 2023, *Is Quiet Quitting Real?*, (https://www.gallup.com/workplace/398306/quiet-quitting-real.aspx, 12. 3. 2024).

10 Mahand, T., Caldwell, C., 2023, Quiet Quitting – Causes and Opportunities, *Business and Management Research*, Vol. 12, No. 1, pp. 9–19.

Theoretically, from the standpoint of labor law scholars, quiet quitting is an idea related to fundamental labor rights protection, which could be grounded on respect for the worker's dignity and the work–life balance concept in a changed world of work. Additionally, it could be also perceived as the worker's attempt to prioritize their mental health and overall wellbeing at work, in an environment where hustle and always-on culture expectations prevail. However, quiet quitting is not actually quitting the job, and although the literature calls it quiet quitting, in our view, it is more accurate to interpret it as quiet distancing, given that it is not a process of resignation. During quiet quitting, the worker still performs their work duties but no longer subscribes to the hustle and always-on culture expectations.[11] In doing so, the worker performs the minimum level of work duties, does not work overtime voluntarily,[12] and does not look for extra opportunities to work, while the employer or even other co-workers may feel that they are no longer engaged in the work. This is a kind of distancing from the employer's expectations. While it is easy to pin this trend on the pandemic,[13] studies indicate that it had been building up far before COVID-19 struck, catalyzing long-forming movements toward gig work.[14]

Quiet quitting typically serves two purposes. The first aim of the trend is for the worker to restore the work–life balance, which hustle and always-on cultures consider irrelevant. It primarily fights against the employer's maximalist organizational and management model, as opposed to avoiding work duties in general. Secondly, a less noble form of the quiet quitting trend, for example, is when a worker, in a work environment that favors hustle and always-on cultures, engages in this behavior because the worker wants to end the employment relationship.[15] In this scenario, it is preferable for the worker to be dismissed by the employer, given the access to severance pay.[16] As a whole, regardless of its purpose, the trend can be

11 Masterson, V., 2022, *What is quiet quitting?*, (https://www.weforum.org/agenda/2022/09/tiktok-quiet-quitting-explained/, 10. 2. 2024).

12 Harter, J., 2023.

13 *Ibid.*

14 Susarla, R. M., 2022, *What's With The Millennials? Quiet Quitting, The Great Resignation, And Now, Moonlighting! Slackers Or Pioneers Of A New Era Of Work And Life?*, (https://bit.ly/3TRVVyB, 15. 1. 2024).

15 Pollack, S., 2022, *Antiwork and the Rejection of Hustle Culture: A Guide for HR Leaders*, (https://bit.ly/3JZJxYu, 15. 1. 2024).

16 In a survey, Ring Central came to the shocking conclusion that 34% of workers in Germany choose to follow the trend of quiet quitting rather than actually quitting. Kanning, U. P., 2023, *Quiet Quitting ist keine innere Kündigung*, (https://bit.ly/3ZIdB0Z, 19. 1. 2024).

harmful to the employer, as it can affect the worker's individual productivity and the efficiency of the organization as a whole, increasing employee turnover.[17] Therefore, it is important to explore the labor law dimension of quiet quitting and to offer proper legal insights into this work–life balance phenomenon.

The hustle and always-on cultures, which serve to increase production while simultaneously endangering the mental health and overall well-being of the workers, are so strongly present in the labor market that it is not enough to think only in terms of normative options open to the legislator to protect the work–life balance and the dignity of the worker, but also to allow room for grassroots efforts on the part of the individual worker. Yet, as there may be multiple negative consequences of this behavior, it is also worth examining how this persistent behavior can be assessed through the lens of labor law. Accordingly, the main research question is whether a worker is acting unlawfully by engaging in quiet quitting and whether the employer has the possibility to sanction such behavior. This is of particular importance if an employer becomes aware that the phenomenon of quiet quitting is spreading among the workers. In such a case, the employer could investigate the facts and circumstances that support this statement and whether the employee's actions are a breach of the employment contract, as this could be grounds for dismissal.

3. Assessing the Quiet Quitting Phenomenon Through the Lens of Labor Law: Case Study of Hungarian and Serbian Legislation

The worker is obliged to perform work on a permanent basis. However, in quiet quitting, workers effectively underperform, compared to their previous/regular work engagement.[18] Nevertheless, during this period, the level of performance reaches the mandatory minimum, *i.e.*, the work-

17 Pollack, S., 2022.

18 According to the decision of the Curia of Hungary (formerly Supreme Court), the employee is obliged to perform their work at sufficient level, regardless of the fact that the employee has not been informed in advance that their employment will be terminated if they fail to do so. This decision was made in a court case where the employer conducted an annual work performance evaluation on a scale from 1 to 5 and decided that employees scoring below 2 would be subject to group dismissal. This criterion was not communicated to the said employee prior to their dismissal. The employee, who scored 1.97, was subsequently dismissed. The Kuria upheld the dismissal as valid, indicating that the employee did not meet the minimum requirements. (BH 2015. 334.)

er fulfills their contractual obligation, and therefore it is hard to claim that the worker's conduct is *sensu stricto* unlawful. This question must be examined through the lens of national regulations, so the quiet quitting behavior will be explored considering the Hungarian and Serbian legal regulations. After referring to the statutory provisions of the legislative acts of Hungary and Serbia regarding workers' rights and duties, ethical principles indirectly embedded in the employment relationship concept will be examined in depth.

3.1. STATUTORY NORMS IN HUNGARIAN AND SERBIAN LABOR LEGISLATION

The Hungarian Labor Code (Labor Code) implements precise regulations regarding the employee's obligation to work. This is done by directly referring to the employee's duties and by setting out the common rules of conduct. The main obligations of the employee are outlined in Article 52 para. 1 of the Labor Code. According to this paragraph, the legislator expects the employee to perform at a level of workmanship that can be *reasonably expected*. It is crucial to understand what is meant by "reasonable care" in labor law, as this serves as a yardstick that is also the basis of the civil liability system.[19]

The Hungarian labor law consistently differentiates between categories of employees (*e.g.*, executive employees) and accordingly sets out the requirements for what is generally expected in each position, regarding performance in a given situation.[20] It seems that this obligation is not breached by the employee during quiet quitting, since the essence of quiet quitting is that the employee performs tasks at the lowest level of expected job performance, *i.e.*, the lowest level of care that can be expected in the given situation.

However, it should be noted that the performance of the obligation to work is determined not by the obliged person but by the recipient of the service, *i.e.*, the employer. The question is whether such an instruction, which is classified as an action that has the form of "unilateral power" for the employer, can impose on the employee an expectation to perform to the highest possible standard, with constant progressivity, which necessarily implies that the employee will seek to perform tasks on their own, even putting work ahead of private life, for example, by working overtime and/or being available on digital devices after working hours.

19 Bankó, Z. *et al.*, 2019, *Nagykommentár a munka törvénykönyvéről szóló 2012. évi I. törvényhez*, Budapest, Wolters Kluwer, § 6.

20 It is based mostly on the essence of the job and the position in the work hierarchy. *Ibid.,* § 6 (1).

The answer to this question is negative, since the unilateral determination of the level of performance must be based on the principle of fair or equitable assessment.[21] This means that the unilateral act must be done in a manner not to cause an unreasonable burden for the affected employee. As a standard of conduct, fair assessment is a legally stronger principle than the principle of conduct with reasonable care.[22] Hence, it can be inferred that the employer's expectation of maximum performance, which is part of the hustle and always-on cultures, cannot constitute a legitimate ground for unilateral demands for a higher level of performance if it goes beyond contractual obligations, given the limitation inherent in the principle of fair assessment.

Looking at Serbian legislation, Article 15 of the Serbian Labor Act[23] directly outlines the duties of the employee. According to these provisions, the employee: has a general duty to perform job tasks in good faith, *i.e.*, (1) to be an honest and responsible worker; (2) must respect the work organization and business interests of the employer, as well as the conditions and rules regarding the fulfillment of contractual and other obligations from the employment relationship; (3) is obligated to inform the employer about important circumstances that affect or could affect the performance of the tasks set in the employment contract; and (4) must inform the employer about any type of potential danger to life and health, and the occurrence of any material damage. Furthermore, Article 179 stipulates that the employer can terminate the employment contract if the employee, by their own fault, violates work obligations or performs their duties negligently. The Serbian Supreme Court consistently interprets negligent or poor performance of work duties as the performance of work duties in which the employee does not act according to the duties of their job description, does not comply with the instructions for work in their work unit, does not show the usual attention expected of an average employee, despite being inevitably aware of the harmful consequences of such behavior.[24] This means that the employer can terminate the employment contract for poor performance of work only if it previously determined

21 "The employer shall take the employee's interests into consideration on the basis of due and fair deliberation and the unilateral determination of the method of performance may not result in a disproportionate harm for the employee. This standard seeks to facilitate a compromise between managerial autonomy and the protection of employees." Kun, A., 2018, The Principle of 'Equitable Assessment' in Hungarian Labour Law – How to Make it Work?, *Hungarian Journal of Legal Studies*, Vol. 59. No. 1, pp. 40–57.

22 *Ibid.,* § 6 (3).

23 Labor Law, *Official Gazette of the RS*, Nos. 24/2005, 61/2005, 54/2009, 32/2013, 75/2014, 13/2017 – the Decision of the Constitutional Court, 113/2017 and 95/2018.

24 Serbian Supreme Court, Judgment of 7 February 2018, 441/2017.

work standards for the quantification of work results, which need to be set out in collective agreements or the employer's secondary regulations.[25] The Serbian Labor Act fails to regulate the basic principles of work and results quantification, which represents a specific legal loophole that significantly impacts the implementation of the provisions regarding the reasonable cause for the termination of an employment contract (poor and negligent work performance) in terms of the application of Article 179.[26] Nevertheless, international labor standards, which also apply in Serbian case law, stipulate that the employer cannot terminate the employment contract in terms of negligent or poor work performance if it previously failed to give instructions and written warning regarding work results, as well as a deadline for improving work performance, *i.e.*, for achieving the determined work results.[27]

In the interpretation of the provisions above, it can be noted that Serbian legislators points to the contractual obligations of the employee, which need to be performed in good faith, *i.e.*, with the usual/regular attention expected of an average employee, and by respecting the established work organization as well as the business interests of the employer. Regarding the quiet quitting trend, the employee who performs duties stemming from the employment contract, at an average level, and respects the work organization model cannot be sanctioned for a breach of the employment contract, particularly bearing in mind that quiet quitting has is defined as "work performance that does not go above and beyond the employment contract". Given that, the opposite – going beyond and above the duties defined by the employment contract – is the additional engagement of the employee and needs to be properly rewarded, while the worker's fundamental rights, particularly the right to health and safety in the workplace, must be protected, and their private life needs be valued according to the standards of the work–life balance concept. Otherwise, the hustle and always-on work culture patterns, as unlawful instruments, will prevail and replace the labor law standards. In this regard, the question that arises is not what the consequences of so-called quiet quitting are on the employment status of the individual, but rather how to provide institutional protection of basic labor rights in the era of digital work, hustle culture, and always-on expectation. We could go even further and ask whether employees in the digital world of

25 Kovačević, Lj., 2016, *Valjani razlozi za otkaz ugovora o radu*, Belgrade, Pravni fakultet Univerziteta u Beogradu, pp. 340–341.

26 *Ibid*.

27 Lubarda, B., 2012, *Radno pravo, Rasprava o dostojanstvu na radu i socijalnom dijalogu*, Belgrade, Pravni fakultet Univerziteta u Beogradu, p. 734.

work are subject of hustle and always-on culture exploitation. It seems that quiet quitting could be labeled as individual worker's attempt to protect their guaranteed labor rights when the system fails to adapt to the new, digital work reality.

Recent and ongoing academic debates about the future of labor law as a legal discipline are all about the reconceptualization and transformation of traditional labor law institutes in terms of the digital transition process, but there is a common view that "labor law in near future will look much like a repetition or reinforcement of its recent past, particularly in the period of welfare state crisis".[28] Having said that, workers engaging in behavior that simply aims to protect guaranteed rights, when the state and system fail to respond and transform timely, corresponds to the origins of labor law in social movements during times of profound social and economic crises and technological changes. If quiet quitting becomes a worldwide trend, as it appears to be, particularly among a younger generation of workers, it would not be grounds for enforcement of labor norms regarding unlawful behavior at work or employment contract breach, but rather would be considered as a social initiative and action calling for social movement, as an attempt to restore the worker's status on its initial grounds – the root principles of labor law seeking social justice and equality.

To summarize the above, the two examined systems approach the employee's employment obligations from slightly different perspectives. While Hungary in the context of performance expectations emphasizes reasonable care and fair assessment, protecting employees from excessive demands in the context of performance expectations, Serbia focuses on good faith and care, with employment termination possible only in accordance with predefined standards and prior warnings. In the context of quiet quitting, in the Hungarian legal context working at the lowest acceptable level does not breach the obligations, as long as it meets the reasonable care standard. In contrast, in Serbia, it is more likely that average performance is acceptable if it aligns with the contractual duties and work organization; quiet quitting is not penalized if it respects these conditions. Overall, while both Hungarian and Serbian labor laws aim to ensure fair treatment of employees, Hungarian legislation places stronger emphasis on the principle of fair assessment, whereas Serbian law focuses on predefined standards and procedural fairness in handling performance-related issues.

28 Vos, M. de, 2018, *Work 4.0 and the Future of Labour Law*, (https://ssrn.com/abstract=3217834, 22. 2. 2024).

3.2. ETHICAL ASPECTS OF THE EMPLOYMENT RELATIONSHIP CONCEPT

In addition to the legal dimension of the employment relationship (statutory and contractual rights and duties), the ethical dimension also requires examination for the full understanding of the nature of the standard employment contract. The ethical or moral dimension of the employment relationship is often neglected in legal literature, which mostly relies on legal positivist views. However, Lopes (2017) points to the moral aspects of employment relationships that are linked to the societal institutional setting at the macro level,[29] as well as the organizational (cultural) setting at the micro level. There are five moral foundations related to the employment relationship: care, fairness/reciprocity, loyalty, authority, and purity.[30] Here, we will discuss those that are common for the Hungarian and Serbian legal practices,[31] *i.e.*, cooperation that could be considered as care, work task performance in good faith or with fairness, and trust between parties (employer and employee) or loyalty.

Cooperation is essential in the employment relationship and requires the parties to behave in such a way as to actively facilitate the exercise of the rights and fulfillment of the obligations of one party, while also taking into account the interests of the other party. Based on this interpretation, the principle could even be breached by quiet quitting, but it should be noted that the breach of the duty to cooperate is always manifested in the concrete breach of specific obligations.[32] Given that quiet quitting means that the employer is experiencing the lowest level of expected performance, no specific failure to fulfill the obligations on the part of the employee can be determined. Therefore, quiet quitting cannot be considered a violation of this principle.

The principles of good faith and fairness are worth highlighting among the common standards of conduct. Based on this general fundamental

29 Lopes, H., 2018, The Moral Dimensions of the Employment Relationship: Institutional Implications, *Journal of Institutional Economics*, Vol. 14, No. 1, pp. 103–125.

30 *Ibid.*

31 In the Hungarian Labor Code, Arts. 6–8; in the Serbian Labor Act, Art. 15, para. 1 refers to the employee's obligation to perform work in good faith. The Serbian Labor Act does not provide explicit provisions on cooperation, trust, and loyalty between the parties because the issues of loyalty and trust are mainly ethical categories based on work culture. However, according to the prevailing view of Serbian labor law scholars, loyalty and trust are considered an additional obligation of both parties to an employment contract. Stojković Zlatanović, S., Sovilj, R., 2023, Dužnost lojalnosti i klauzula (anti)konkurencije u radnom i kompanijskom pravu, *Strani pravni život*, 3, p. 528.

32 Bankó, Z. *et al.*, 2019, § 6. (2).

principle, the parties to an employment relationship are expected to act in the exercise of their rights in such a way as not to cause unjustified disadvantage to the other party and taking into account the interests of the other party. At the same time, it is important to examine the elements of the principle, since referencing only conduct contrary to this principle would be a poor approach to quiet quitting: the principles are generic, and the practice in applying them is also limited, as they do not necessarily create an independently enforceable individual right or obligation.[33] The principle requirement of good faith and fairness is given concrete expression by the rule that, during the employment relationship, the employee must not engage in conduct that would jeopardize the employer's legitimate economic interests.[34] The question arises as to whether quiet quitting can be considered an act against the legitimate economic interests of the employer. If the employer cannot find any other ground, it may invoke this principle in its action against the employee, given the general and open nature of the statutory prohibition. No specific examples can be found in the legislation for this norm, thus the case law may give substance to this principle. It is, of course, possible to analyze this issue only in light of all the circumstances of the case, but the case law should be cautious in developing an interpretation of the principle like this. Indeed, if it can be established that the employment relationship of an employee who has not reached the threshold for termination, *i.e.*, who is still performing in accordance with the contract, may be terminated on the ground of a threat to the employer's legitimate economic interest merely because the employee is not performing to the highest possible standard,[35] it would push the balance of power between the parties towards an even greater divergence, leaving the employee in an even more vulnerable position regarding the stability of the legal relationship, not to mention the fact that it would run completely contrary to the legislative developments in labor law, which are striving for a work–life balance.

Finally, the employment relationship, by its very nature, is strongly linked to the existence of trust between the parties. The employer's loss of trust can be a justified ground for termination of the employment relationship, which can arise from a wide range of employee conducts, according to case law. However, apart from the varied and more ethical

33 Leszkoven, L., 2022, Becsülettel, emberséggel... A jóhiszeműség és tisztesség elve és annak „elágazásai" a kötelemszerű magatartás körében, *Gazdaság és Jog*, Vol. 2022, Nos. 9–10, pp. 5–10.

34 Bankó, Z. *et al.*, 2019, § 8.

35 What is considered a maximum performance level is another question. Court decision No. BH2015. 334. links the reasonableness of dismissal to the failure to achieve an adequate level of performance.

content of loss of confidence as a reason for termination,[36] termination on these grounds may be exercised only by a date that is close to the time when the relevant conduct was brought to the employer's notice. In Szabó's view, in the case of a longer period of continued employment, the termination can no longer be justified by loss of confidence.[37] Given that quiet quitting is essentially a lengthy process, and therefore a permanent change of attitude on the part of the employee, if the employer is aware of this behavior permanently, loss of confidence would not be a legitimate reason. In a termination claiming loss of confidence, it is important that the employer properly supports its arguments, including warnings and written documentation. For a dismissal based on loss of confidence, the employer's subjective opinion is decisive, but the conduct must also be disapproved by the general social value judgments and generally accepted social norms[38] – which, in our view, is not the case with quiet quitting.

3.3. BLURRED EXPECTATIONS: TOWARDS A NORMATIVE APPROACH TO QUIET QUITTING

Based on this analysis, there is a high degree of uncertainty in the assessment of quiet quitting behavior. The worker's attitude can probably be captured at most in the light of the general principles of conduct (moral aspects of employment relationship):[39] within the framework of the principles of good faith and fairness. This would especially be the case if the employee joined the quiet quitting trend in order to be dismissed by the employer, however, this is difficult to prove – and the burden of proof lies with the employer. The principles set out specific additional requirements,

36 Employer terminations related to loss of trust are usually based on an employee's breach of the code of ethics. Honti, B., 2021, *A munkaviszony megszüntetése: a felmondás szabályai, az azonnali hatályú felmondás, a végkielégítés és a jogellenes felmondás*, p. 14, (https://www.jogpontok.hu/download/A_munkaviszony_megszuntetese.pdf, 10. 3. 2024).

37 Bankó, Z. *et al*., 2019, § 8. Loss of confidence is not a specifically named group of reasons for dismissal, as it belongs to the group of reasons for dismissal related to the employee's conduct. Szabó, G., 2021, *Bizalomvesztés miatti munkáltatói felmondás*, (https://kocsisszabougyved.hu/bizalomvesztes-miatti-munkaltatoi-felmondas/, 5. 3. 2024).

38 In the source, the author quoted summarises Ferencz's thoughts in an interview. Barna, E., 2020, *Ki lehet-e rúgni valakit bizalomvesztésre hivatkozva?*, (https://www.hrportal.hu/hr/ki-lehet-e-rugni-valakit-bizalomvesztesre-hivatkozva-20200309.html, 8. 2. 2024).

39 Principles of labour law, general standards of conduct, are rules of principle to which judicial practice can refer when there is no specific legal norm on a given issue, such as in the case of quiet quitting. Kártyás, G., 2014, *Pontosodnak a munkajogi alapelvek,* (https://ado.hu/munkaugyek/pontosodnak-a-munkajogi-alapelvek/, 10. 2. 2024).

as it is not always enough to comply with the explicitly laid down standards of the law.[40] In our view, therefore, the requirement of good faith and fairness may at most only be breached by intentionally working at a lower intensity, but this alone is not sufficient to invoke the notice of termination with a reasonable just cause. The employer must take into account several circumstances in any sanctioning or contract termination, where the level of performance expected by the employer should be highlighted. We have found that the hustle culture with always-on expectations, and the maximalist employer attitude underpinning it, can run afoul of the fair assessment general rule when the unilateral performance determination is effective but harmful to a worker's private life.

However, under Hungarian case law an inadequate level of performance can be a legitimate basis for termination. In the precedent of this decision, the employer based its termination on a reason related to the worker's ability, as the result of their performance evaluation that did not reach the level determined by the management.[41] This requires the worker's significantly inferior performance compared to other workers and the consideration of the objective facts that support it, such as continuous performance reviews and noticeable underperformance in these reviews. However, this could be a reason for concern. The level of job performance set by the employer is currently not subject to any legal limit,[42] *e.g.*, quantifiable values, apart from the requirement of fairness, but this requirement does not affect the employer's decision on what constitutes an appropriate level of job performance and work results of the worker within the organization.

In the absence of objective limits, the employer may determine and, when appropriate, modify the level of adequacy based on the high expectations of hustle culture. Nevertheless, the economic rationality of the level of job performance cannot be tested by the Hungarian courts in a potential dispute.[43] Therefore, it is up to the employer to create a healthy working environment and to set expectations for workers, as the appropriate level cannot be challenged by the worker due to economic rationality. It is another question whether performance below a certain level of job performance within the organization goes beyond the reduction in performance due to quiet distancing/quiet quitting, especially if the employer cannot

40 Hajdu-Dudás, M., 2021, *Alapelvek funkciói a munkajogban*, (https://adozona.hu/munkajog/Alapelvek_a_munkajogban_W6B9TN, 4. 2. 2024).

41 BH2015. 334.

42 This also follows from the cited case No. BH2015. 334.

43 Dobosi, K., 2023, *Létszámleépítés és a felmondás indokolása*, (https://jogaszvilag.hu/cegvilag/letszamleepites-es-a-felmondas-indokolasa/, 20. 5. 2024).

provide concrete evidence of the worker's less effective job performance, for example using a performance review carried out by the employer, as in the case cited above.[44]

4. Addressing the Quiet Quitting Trend from the Employer's Perspective

The employer's sanctioning of quiet quitting is quite challenging since the worker continues to provide the contractual performance. The employer may not be in a position to legally terminate the employment relationship for a reasonable cause, nor is it certain that the employer intends to terminate the employment relationship. Therefore, instead of penalizing quiet quitting, it is important to think about how to solve it, which is no longer a labor law issue but far more a human resource management issue.[45] We must recognize the crucial role of the employer's management model since the work–life balance[46] is largely affected by the organizational structure, business ethics, and adopted work culture. Changing an employer's high expectation standards can be a significant approach to dealing with this phenomenon, which should be extended to the different levels of management by enhancing the employer's empathy. Abandoning the hustle culture and always-on expectations can be a step forward for the employer, while maintaining this practice critically reduces worker satisfaction. The employer can do this, for example, by limiting the time period for giving instructions and control, for example by not informing the employee of the following instructions after working hours. In addition to setting an example as an employer, it is important to develop employee recognition, including through regular personal communication, because one of the toxic beliefs instilled in employees by the hustle culture is that they're never doing enough. Furthermore, the sustainability of the employer's organization can also influence worker attitudes because if workers can identify with the employer's goals, they can more easily

44 BH2015. 334.

45 Formica, S., Sfodera, F., 2022, The Great Resignation and Quiet Quitting Paradigm Shifts: An Overview of Current Situation and Future Research Directions, *Journal of Hospitality Marketing & Management*, Vol. 31, No. 8, pp. 899–907.

46 The Work-life Balance Directive introduces legislative measures for modernizing the EU's legal and policy frameworks. Its objectives include enhancing work–life balance for parents and caregivers, promoting equitable sharing of parental leave between men and women, and addressing women's underrepresentation in the labor market. Adopted by the European Parliament in April 2019, the Directive took effect on 1 August 2019. Member States were given a three-year period to implement the required laws, regulations, and administrative measures to ensure compliance.

become involved in the employer's operations. It should be stressed that the individual relationship – trust and loyalty – between the employer and the worker is an important factor. Employers can also use additional mechanisms that can enhance the social sustainability of the company, such as providing various mental health initiatives and programs that can benefit workers' mental health and wellbeing at work. However, these mechanisms need to be carefully considered[47] because many measures may seem useful at first, but after considering them from an organizational psychology perspective, they are more likely to be harmful. For example, a measure taken by an employer, even at the initiative of the labor union, to set up a gym on its premises or to organize several after-work recreation programs for workers (so-called "after-work parties") is more likely to break the work–life balance, as it reduces the actual free time of the workers. The employer's response therefore needs to be considered in several ways, including in a deep assessment of workers' needs.

Along with changing the organizational and management practice, the employer's approach to quiet quitting, in terms of labor law, needs to include the introduction of a comprehensive integrated proactive psychosocial risks assessment model, specifically at the level of all work units. In that regard, recent debates among policymakers and academics all emphasize the necessity of promoting a risk-assessment culture in a changed world of work, while Lerouge and Trujillo Pons (2022) argue for the implementation of a specific dynamic, holistic, and adaptive workplace management assessment risk model, as a part of occupational health law approach.[48] This model needs to be supplemented by the adoption of concrete measures/instruments for the protection of workers dignity and fundamental labor rights in a digitalized work environment. One of the most highlighted instruments among EU policymakers, as well as in labor law theory and the legislation of some EU member states (France, Italy, Spain, Portugal), is the introduction and implementation of the right to disconnect concept. The European Parliament adopted the Resolution on 21 January 2021, with Recommendations to the Commission on the Right to disconnect (2021/C 456/161) aiming to improve the enforcement of current legislation regarding working time and to promote the work–life balance in the era of the digitalized world of work.

47 The managers have to recognize that there is an informal contract between the employer and the employee. Bell, R. L., Kennebrew, D., 2023, What Does Jean-Jacques Rousseau and Chester I. Barnard Have to Do With Quiet Quitting?, *American Journal of Management*, Vol. 23, No. 1, p. 7.

48 Lerouge, L., Truillo Pons, F., 2022, Contribution to the Study on the 'Right to Disconnect' from work. Are France and Spain Examples for Other Countries and EU law?, *European Labour Law Journal*, Vol. 13, No. 3, pp. 450–465.

The right to disconnect has been defined as the right of workers "to switch off work-related tools and not to respond to employers' requests outside working time, with no risk of adverse consequences, such as dismissal or other retaliatory measures".[49] Providing workers with some level of autonomy and greater control over the work–life balance, while simultaneously protecting their mental health, has been the essence of the disconnection concept. Still, there is no universally accepted viewpoint among academics regarding the very nature of the disconnection concept although the European Parliament supports the recognition of the right to disconnect as a novel fundamental right.[50] The countries that adopted the right to disconnection legislation, such as France, Italy, Spain, and Portugal, left it to the social partners to determine the content and scope of this right, making its enforcement flexible and bound to the employer's organizational practice. Thus, this new "right" seems to be still linked to the established management model and work culture at the employer level, so the difference between legal and nonlegal instruments still remains vague. Having said this, the disconnection concept and the quiet quitting phenomenon both evolved from organizational practice and work culture. Therefore, in the context of the hustle and always-on cultures, the right to disconnect could be seen as a potential policy and, consequently, a legal response to the quiet quitting trend, which represents an individual, mostly psychological reaction of an unsatisfied worker calling for organizational change.

5. Conclusion

The constant interplay between the economy and digitalization is reshaping various aspects of life, particularly work. Within this context, fulfilling work obligations has become a critical dimension, raising questions about the extent to which employers can demand constant high performance. The relentless pursuit of productivity can disrupt the employee's mental wellbeing, leading to a growing phenomenon known as quiet quitting. Quiet quitting has gained traction as an emerging work–life phenomenon, notably amplified through social media platforms such as TikTok, especially as a response to the challenges brought about by the COVID-19 pandemic. While similar collective labor actions, such as work-to-rule

49 Stojković Zlatanović, S., Škobo, M., 2024, The 'Twilight' of Health, Safety, and Well-being of Workers in the Digital Era – Shaping the Right to Disconnect, *Journal of Work Health and Safety Regulation*, February 6.

50 Pellerin, S. *et al.*, 2023, The Right to Disconnect, *Stanford Social Innovation Review*, Winter, pp. 41–45.

industrial actions, have historical roots in advocating for structural and organizational changes to improve working conditions, quiet quitting represents a more individualized response. Academic discussions on quiet quitting have predominantly approached it from the perspectives of human resource management and organizational behavior, largely neglecting its labor law implications. To address this gap, we explored the potential ramifications of quiet quitting on workers' employment status by examining Hungarian and Serbian labor legislation. Through normative and comparative methods, we scrutinized provisions concerning workers' rights and duties, along with ethical considerations within the employment relationship. Our aim was to provide valuable insights into the conceptual underpinnings of quiet quitting and its impact on workers' fundamental rights, from the perspective of labor law.

The findings reveal that, in essence, quiet quitting is the psychological response of the worker to hustle culture and always-on expectations, wherein the worker fulfills only the minimum of their work duties, without going above and beyond the employment contract. Consequently, it would not be reasonable cause for contract termination or other disciplinary sanctions, while, on the other hand, going "above and beyond" the contract without additional pay could be considered a violation of labor rights. However, in terms of Hungarian case law, employers' expectations regarding the level of job performance are an issue that is difficult to address in labor legislation, as it is based on the question of economic rationality assessment, which is beyond the jurisdiction of the court in any employment dispute. We can, therefore, argue the existence of a legal gap in the context of regulating the quiet quitting phenomenon, where the fundamental rights of the worker are pitted against the economic interests of the employer. In Serbian legislation, the labor Act, which determines the employee's obligation to perform work duties by respecting work organization practice, could be interpreted differently with respect to the established always-on and hustle cultures. However, considering the aim of labor law as a legal discipline, the work organization model needs to be grounded in decent work standards and a work–life balance concept.

The reciprocity and fair and equal contractual conditions of the parties concerned are core principles of any obligation, particularly in an employee–employer relationship, considering its unique nature of providing additional protection to the weaker party in the legal relationship. Additionally, quiet quitting in a digitalized world of work, as a specific form of mental/psychological distancing from work, is sometimes crucial for sustaining workers' mental health and wellbeing in general. Thus, it could be considered a worker's self-protection mechanism when the system and

legislators fail to respond timely to organizational change in the digital era. Having said this, addressing the quiet quitting trend requires institutional responses at the macro level through the involvement of social partners and social dialogue initiatives, as well as through the introduction of a comprehensive, integrated, and holistic risk assessment management model at the micro, *i.e.*, employer level.

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PRISTUPANJE KONCEPTU TIHOG ODUSTAJANJA IZ PERSPEKTIVE RADNOG PRAVA: STUDIJA SLUČAJA MAĐARSKOG I SRPSKOG ZAKONODAVSTVA

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APSTRAKT

U radu se primenom pravnoteorijskog, normativnog i komparativnog metoda analizira fenomen takozvanog tihog odustajanja, kao i njegov nastanak i razvoj. S tim u vezi, posebno se sagledava kako se fenomen tihog odustajanja posmatra u okvirima nauke radnog prava, a na primerima normativnih rešenja mađarskog i srpskog radnog zakonodavstva vezano za regulisanje prava i obaveza na radu. Tiho odustajanje smatra se psihološkim odgovorom pojedinca-radnika na kulturu gužve i kulturu stalne dostupnosti. Osim toga, predstavlja poseban mehanizam samozaštite u eri digitalizovanog sveta rada, gde radnik, u ovom slučaju, obavlja minimum radnih obaveza, ali sve u okvirima onih definisanih ugovorom o radu. Stoga se teško može argumentovati povreda radnih obaveza i dužnosti u smislu negativnih posledica po radnopravni status i, eventualnog, otkaza ugovora o radu od strane poslodavca.

Ključne reči: tiho odustajanje, kultura gužve, kultura stalne dostupnosti, radnopravna perspektiva, povreda ugovora o radu, mađarsko zakonodavstvo, srpsko zakonodavstvo.

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