

LEGISLATIVE ASPECTS OF SOCIAL ASSISTANCE IN ROMANIA

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Abstract: The article contains general considerations and concepts regarding the social protection. The social politic objectives are approached to assure the effective exertion of the rights and the levels of the social assistance. The aptness of the system of social assistance at the requests of developing a democratic regime imposes the redefinition of the social assistance concept. In conclusion, the social protection actions aim more domains in which there are necessary collective efforts such as: health, education and training, culture, rest and recreation conditions, socio-political medium, in a word the social living conditions.

Cuvinte cheie: protecție socială, România, drepturi

Rezumat: Articolul cuprinde considerații generale și concepte privind protecția socială. Sunt abordate obiectivele politicilor sociale pentru a asigura exercitarea efectivă a drepturilor precum și nivelele asistenței sociale. Adecvarea sistemului de asistență socială la cerințele dezvoltării unui regim democratic impune redefinirea conceptului asistenței sociale. În concluzie, acțiunile de protecție socială vizează mai multe domenii în care sunt necesare eforturi colective, respectiv: sănătatea, instruirea și educația, cultura, condițiile de odihnă și recreere, mediul social-politic, într-un cuvânt, condițiile sociale de trai.

SCIENTIFIC ARTICLE OF BIBLIOGRAPHIC SYNTHESIS

In a democracy, social protection is a fundamental element of state policy due to the fact that implementation is done for preventing, restricting or eliminating the consequences of events considered "social risks" to the living standards of the population.

With roots in antiquity, which included protective elements in Roman law, the appearance of the first significant forms of social assistance were observed in the 13th and 14th centuries, when monasteries were built around places of social assistance for the poor, the elderly and the sick.

The first forms of social protection appeared in the early 19th century and were related to social security measures. These social protection elements were added at this time to the social assistance elements and both were named referred to "social security". This term was first used in U.S. when the government created institutions with the adoption of the Social Security Act of 1935, which included rules on risk prevention for old age, death, disability and unemployment.

The concept of social protection was first introduced in the United States by John Kenneth Galbraith and set policy to protect disadvantaged populations through measures aimed at aligning these categories to a decent living. He believed that the most urgent measure is "to provide rights to those who can not find a job to have a guaranteed income or alternative.

As part of international law, International Labour Organization adopted in 1952 (Convention. 102) the term "social security including social security as complementary elements and social assistance.

Currently, social protection activities cover several areas where collective efforts are needed, namely: health;

training and education; culture; conditions for rest and recreation; social and political environment, in a word, the social conditions of living.

Need, content and role of Welfare and Social Security

Social protection is designed to ensure a basic standard of living for all people, regardless of the means available to them. There are several categories of persons requiring social protection: the unemployed; the disabled; children and youths; and any additional situations requiring social protection (in case of death, incapacity for work, occupational disease).

Specific conditions and different situations that need to be covered are as modalities of social protection are different. Such programs are differentiated based on assumptions for social security, to cover personal needs due to temporary or permanent loss of work capacity or where worker protection at work - environment, working conditions - needs to be transferred to production costs and whose satisfaction is included in the product.

Social welfare reform objectives include the material claimed in the state be such that it can be substantiated and ensure the achievement of restoring or maintaining equilibrium between public and private, between protection and self, between needs and resources, between development present human generation and future generations.

Diversity and amount of the benefits and social services are subject to the state economy, the financial resources of that time, and the need to build the administrative framework for implementation, especially as regards staff training and computerization activities.

Social protection programs, administered by the state, are funded on the principle of division, compensation,

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intergenerational resources from contributions, and taxes based on the principle of collective responsibility.

Romania has adopted the objective of social policies that ensure effective exercise of rights and the following principles:

- any person should be able to earn a living by work freely chosen;
- all workers are entitled to fair working conditions;
- all employees have the right to safe and healthy working;
- all workers are entitled to an equitable remuneration that ensures them and their families a level of life satisfaction;
- all workers and employers have the right to associate freely under national or international association for economic and social interests;
- all workers and employers have the right to bargain collectively;
- children and adolescents have the right to social protection against physical and moral hazards to which they are exposed;
- workers in case of maternity, and other business, if necessary, are entitled to special protection at work;
- everyone has the right to appropriate professional guidance to help them choose a profession according to his personal skills and their interests;
- everyone has the right to appropriate training;
- everyone has the right to benefit from any measures which would allow them to enjoy the highest attainable standard of health they can achieve;
- all workers and family members are entitled to social security entitlement;
- any person without adequate resources has the right to social and medical assistance;
- everyone is entitled to receive social welfare services;
- any person is entitled to invalid and social training, regardless of its origin and nature of disability;
- the family, as the fundamental unit of society, is entitled to social protection, legal and economic nature of ensuring full development;
- mothers and children, regardless of marriage and the family situation, are entitled to adequate social and economic protection;
- citizens of either Contracting Party shall be entitled to exercise on the territory of another Party any gainful occupation on an equal footing with nationals of the latter, subject to limitations based on or through economic or social reasons;
- migrant workers of one Contracting Party and their families are entitled to protection and assistance within any other Contracting Party.

The structure of social protection in Romania is complicated due to the mixture of different schemes addressing the same social risk, financial and organizational arrangements, sometimes inappropriate, of institutional tasks and responsibilities which overlap and are unclear.

Romanian social protection schemes operate on the principle of social insurance, non-contributory schemes financed from the state budget, social assistance schemes and schemes based on funding from state budget subsidies for free goods and services or at low cost for certain categories of people.

Social welfare covers several areas where collective efforts are needed, namely: health; training and education; culture; conditions for rest and recreation; social and political environment, in a word, the social conditions of living. To these are added, the material conditions of living (housing and living environment, employment and working conditions, income and

consumption), family life, and respect for social order and law.

In Romania, since December 1989, the transition from planned economy to market economy has required a reconsideration of social protection.

The Constitution enshrines the use and concept of social protection. Thus the state is obliged to ensure economic development and social protection of nature to ensure citizens a decent living.

Citizens are entitled to pensions, paid maternity leave, health care in health centers, unemployment benefits, disability pensions, survivors' pensions and other forms of social assistance provided by law.

Currently, social assistance is defined differently than usual. Dimitrie Gusti said that she "left the track of mere sentimentality, generous and good intentions to walk in an orderly social and ethical action and duly justified, with the sole purpose of serving company books and not by theory but by finding the truth in the midst of the difficult social conflicts of life."

Failure of reforms initiated during the transition period led to a deep crisis in all spheres of social life. Consequently, much worsened living standards of the population are growing poverty, unemployment, proliferating social ills, revived crime, frequent cases of family abandonment, child delinquents, vagrancy, decreased birth rates and increased mortality. In these circumstances, Romanian society must establish a system of social protection to ensure support and protection of persons and groups that have no material resources, social and moral, and are no longer able to obtain the necessary means in their efforts for a decent life.

A major component of social protection, social assistance is a way of implementing operational support programs across multiple and specialized social services for those temporarily in need.

Social assistance is based on a system of values, principles and moral standards requiring a professional code of ethics. The whole social scientific technique, as refined as it is, is devoid of real efficiency and does not always match the themes of the lessons of Christian charity, so called charity.

The social assistance component is a non-contributory social protection system and represents all the institutions and measures that the State, public authorities of local government and civil society and ensures the prevention, restriction or removal of temporary or permanent effects of situations that can generate the social marginalization or exclusion of individuals.

The main objective of social assistance is to protect persons who, because of economic reasons, physical, psychological or social deficiencies, are unable to provide social needs or to develop their own capabilities and skills for active participation in society.

Adequacy of social support system development requirements of a democratic regime must define the concept of social assistance, as identification of objectives, mission and related institutional measures. It is a health benefit but carried out with state money and other institutions, and is addressed to those in poverty. Social insurance contributions are made by those who work, being by nature a preventive measure, to ensure citizens a certain measure of independence. The social assistance system is based on the following principle: the state budget funds or private funds (obtained from individuals or the community) are designed to support people in difficulty depending on their needs. Therefore, in this case, the benefit is based on the needs of the principle of solidarity and not dependent on any previous personal contribution, as with social security.

Social assistance deals with issues at different levels:

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- individual level - economic assistance, psychological, moral for those who need such as the unemployed, those addicted to drugs or alcohol, the problems of integration at work, victims of abuse of any kind;
- interpersonal and group level - family therapy, the couple, groups of marginalized people;
- community level - ethnic conflict resolution, individual and collective energies to mobilize the necessary resources to restore their normal integration.

Through the combination of methods, intervention, action strategies, programs and special measures, social assistance provides direct support, effective for those individuals and groups who, for some reason, can not provide themselves, as this legislation does, income, economic resources and sufficient supplies, health care, pension social, physical or moral needs, or are in relation to their needs.

Legislative issues regarding social assistance in Romania

A public pension system and other social insurance work rights are provided, in Romania, in accordance with Law no. 19 of March 17, 2000, updated in 2010.

Under the general provisions of this law:

"Article 1. Right to social security is guaranteed by the state and must be exercised in accordance with this law, the public pension system and other social insurance rights, the public system.

Article 2. The public system is organized and operates with the basic principles:

- a) the principle of unity, whereby the state organizes and guarantees the public system based on the same rules of law;
- b) the principle of equality, providing all participants in the public system, taxpayers and beneficiaries, non-discriminatory treatment in respect of rights and obligations under the law;
- c) principle of social solidarity, participants in the public system that assumes reciprocal obligations and enjoy rights to prevent, restrict or remove social risks under the law;
- d) the principle of compulsory, that individuals and legal entities by law are required to participate in the public system, social security benefits is correlated with exercise obligations;
- e) the principle of contribution, under which social security funds are based on contributions from individuals and legal persons participating in the public system, social security benefits are due under the social security contributions paid;
- f) the principle of distribution, made on which funds are redistributed to the public system payment obligations under the law;
- g) the principle of autonomy, based on independent management of the public system, according to law."

Under this law it was established the National House of Pensions and Other Social Insurance Rights, which is subordinated to her county retirement homes in each city, county, according to Art. 3 (1) and (2) of this Act.

According to "Art 4. - (1) In the public system are provided in this law, individuals, hereafter insured, (2) The insured may be Romanian citizens, foreign citizens or stateless persons, who, under the law, domicile or residence in Romania (3) The insured are obliged to pay social security contributions and are entitled to social security benefits under this law."

Chapter IV of this law deals with pensions, as well as types of social insurance.

According to Art. 40. "The public system of pensions shall be granted the following categories:

- a) old-age pension,

- b) early retirement,
- c) partial early retirement
- d) invalidity pension;
- e) survivor's benefit."

Social assistance is the main mechanism by which society intervenes to prevent, limit or eliminate the adverse effects of events occurring on people or vulnerable groups without their will or are little affected by them.

The main objective of social protection is the reduction or even elimination of the consequences of environmental risks and living standards of some segments of the population.

In substantiation and promotion of social policy are considered the following principles:

- human dignity;
- elimination of all forms of discrimination in all social protection policy;
- promotion of social partnership as a means of control and efficiency of all measures and social policy;
- flexibility, social protection measures that adapt to the real needs of groups and individuals;
- guidance and policy objectives and measures of social protection towards capacity, mobilization and participation of all social forces to boost growth, labour is the primary source of wealth and individual freedom, the most stable source of health economy;
- gradual decentralization of social protection and with it the engagement in social welfare activities of traders, local government units, the government institution and NGOs, charitable societies and individuals, through contributions, financial and social implications of their in an adequate legal framework.

According to Art. 53, paragraph (1) of Section 4, of Chapter IV of the Law 19/2000, updated in 2010: "There are entitled to disability pension policyholders who have lost all or at least half of the work capacity because:

- a) accidents, according to law;
- b) occupational diseases and tuberculosis;
- c) common diseases and accidents unrelated to work."

Because this class represents the highest risk population in impaired quality of life, it requires attention from the authorities and decision-makers.

Businesses and institutions are obliged to provide employees the necessary conditions for the smooth conduct of business and must take measures to protect labor and to remove and prevent the causes that may lead to reduction or loss of their jobs.

Invalidity pension is granted to employees who have lost all or at least half of the work capacity of the following causes: accidents; occupational diseases; and, common diseases and injuries unrelated to work.

In relation to loss of work capacity, there are 3 degrees of disability:

- I grade disability is when an individual has completely lost the ability to work and needs constant supervision and care from another person;
- II grade disability is when an individual has completely or mostly lost their work capacity, the disabled person serves himself, having no need care from another person;
- III grade disability when losing at least half of the work capacity and the disabled can provide the same work, but with a reduced schedule or other work easier.

Recruitment of persons of the III degree of disability is made by an expert medical commission, taking into account the following basic criteria: the nature, seriousness, circumstances and course of the disease, the possibility of recovery of work capacity,

evidence which might lead to worsening business continuation.

Disability pensioners must undergo medical checks, according to the disease at intervals of 6-12 months, until they reach the standard retirement age. After each check, the Social Security expert issues a new decision, which shall, as appropriate, maintain the same degree of disability, recommend employment in another degree of disability, or terminate disability retirement due to regaining the ability to work.

There are not subjects to medical review of disability retirees who:

- have an irreversible disability that affects work capacity;
- have reached the age required by law to obtain a pension for work and retirement;
- are younger than five years up to the standard retirement age and have achieved complete contribution.

For I and II grade disability, pension is determined in relation to seniority, the percentage of tariff wage and other labor income on pension establishment, on a differentiated salary cuts and labor groups. Pension employed persons, whose seniority is less than 5 years and have lost all or most work capacity due to an accident, illness or other diseases contracted while being employed, are determined in fixed amounts differentiated on the degree of disability.

At the standard age for work necessary to obtain pension for work and for old age, invalidity pension recipient can choose the most advantageous of retirement.

The state has an obligation to provide protection against deterioration of quality of life, and this support forms a set of measures designed to work specifically on preserving not only scaled quantitative indicators, but also qualitative quality of life.

This protection is especially required during the transition period, when the danger of deteriorating living standards push the whole population, but particularly the disadvantaged population groups, by the existence of some degree of disability.

This requires the efforts and support from the decident state and forums in meeting the desire by adding those factors to supplement their dignified and civilized living.

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