LAW REGARDING THE SOCIAL ASSISTANCE OF ELDERLY

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Abstract:
Most of the times we may say that the elderly are disadvantaged in more than one way, by losing their physical strength (not always due to illness) and by having less financial resources, with which they cannot cover basic expenses (food, medicines, housekeeping). Thus, regardless of the degree to which society understands old age and its problems, it is certain that the last years of one’s life bring about the most difficult trials and crises. Assuming the status of senior citizen, willingly or unwillingly, sometimes implies drastic and frustrating changes in the elderly’s lifestyle. Being forced to go through the experience of retiring from most activities which gave meaning to life, being witness to one’s own physiological and sometimes even mental decline and, most of all, facing the imminence of death, all of these can determine an individual to make painful readjustments to his/her lifestyle.

Key words: elderly, law, social work, Romania

The protection of old persons, of their rights and liberties, was the preoccupation of certain organisms an communities of the United Nations since 1948 when, within the third Session of the General Assembly O.N.U a project of declaration regarding old persons was proposed. The problem of old persons was on the agenda of the O.N.U communities, for social problems and for human rights and simultaneously, at studying this went along the International Work Organization, the world-wide Health Organization, as well as other specialized institutions, regarding the realization of a complex report that contains the director principles of national social politics and the international actions.

In 1973, O.N.U said that an adequate social security is of most importance for old persons and that the protection of old people is an important element of any general system of social security (D. Gal, 2005). The Economic Committee recommended the governments to assure old persons enough allotments of social
security, to create sufficient institutions that provide medical care for these persons, to watch, by all means, that the persons included in the social protection service can participate by the measure of their capacity, to activities that might bring them moral satisfaction. The World-Wide Organization of Health draw the attention of member states to the necessity of elaboration of politics and programs on short and long term for old people. Also, it recommended them that when they elaborate the national politics and programs, they must take into account the international principles they adopted, so they can put together programs for well estate, health and protection of old persons, including measures that can assure them a maximum of social and economic independence, in conformity with the national needs and priorities. As well, the elaboration of measures of social security for assuring a sufficient gain for older people, discouraging attitudes, politics and discriminatory measures founded excessively on age which are practice when getting a job, as well as favoring on all means the family consolidation represented priority aspects. The World-Wide Assembly Devoted to Older Persons (Vienna 1982 launched an international action program, that assures older persons social and economical security and creates the possibility of contributing to the social an economical development from their own country.

The assembly appreciated that the number of old persons will grow spectacularly in the next 20 years, and that these persons are a precious human resource, in the economical and social field and also in transmitting the cultural patrimony. (D.Gal, 2005).

ONU, through the Economical and Social Council created special organisms for the research of people getting old. There were created for example, four Regional UNO Committees for the study of socio-economical problems related to the maturation and these are: for Asia and Pacific, for Latin America and Caribbean Islands, for Africa, for Occidental Europe.

At worldwide level, the International Plan of Action was adopted regarding maturation, which will become a guide for the elaboration of national politics, regarding the assurance of the fundamental rights of old persons, but also for the development a “society for all ages” and the final Declaration, defined three prioritary orientations of the public politics:

1. Assuring a durable development in a world that turns old demographically.
2. Promoting the health estate and decent way of life for elderly.

3. Creating a favorable environment for all ages.

Afterwards, at global level registered a slow progress in integrating the old population, especially in the countries that are developing, but also in the countries that are in transition. In August 2002 in Berlin took place the Intergovernmental European Conference, where participated members of the governments of European countries, in which there was analyzed the European context regarding the demographical promotion, the improvable of life quality for old people, the demographical maturation and the reform of the pension systems, the integration and nondiscrimination by criteria of elder age. This conference represented the beginning of adopting some commune measures regarding supporting the efforts made by the international community for the redefinition of the global frame of action and realizing the strategy based on enforcing the anterior politics. The Regional Committees ONU have an important role in putting the International Plan of Action in regional plans that will address to old persons in each signatory country.

In the plan of action, the main aspect refer to old persons and the development of the society, active participation in the society, health and well estate of elderly, assuring a supportive environment for old persons. The plan brings again in actuality the necessity of protection and promotion of human rights as a priority. The governments have to promote the positive aspects, to encourage the perception of elderly as active persons, to crate conditions so they can benefit of health, security and actively participate to the political, economical, social and cultural life, to prevent violence, abuse, to enforce the legal measures and to offer the victims mechanisms of protection and support.

The women of third age are more numerous than old men, and the situation of the women must be a priority for each social politics, so, there must be assured an equality of chances between men and women, by promoting some programmes and legislation in the domain of protecting this category of population. The measures in the field of equality of chances are assumed in the present by the Ministry of Work, Family and Equality of Chances, through the National Agency for Equality of chances between Men and Women.
It is seen though, that there isn’t much interest for representing and promoting the social rights of old persons that are profoundly disadvantaged in the actual socio- economical context. The marginalization of old person that are in a difficult financial situation, withdraws effects in socialization and in general in the manifestation of the personality leading to isolation, stigmatization and continuous depreciation of the quality of life of old person. An example of obvious brake of the equality of chances regarding old persons is underlined by the specialists in the domain from the European Community is unjustified regulated by the Law nr. 19/2000 regarding the public system of pensions. So, between men and women there are differences that are connected to the pension age and the minimum number of years regarding the contributions to the social insurance.

However, different socio-professional categories have their own regulations regarding the calculation of the amount of pension, which is what led to dissatisfaction of the great majority of pensioners. Also, taxation of pension whose amount exceeds the level of 1000 lei is a violation of the principle of equal opportunities. Of course a single national pension system in the real support of all pensioners in Romania is a goal that must be addressed by the Government. More, Law nr.250/2007 established as from 1 January 2008, in calculating pensions to take all income received by persons. Therefore appears an important gap between the pensions of retired before 1 January 2008 for which has been taken into account only the salary of employment entered into the work book and retired after that date which is taken into account the income like bonuses, incentives and various other benefits which quantum is 2-5 times higher than wage employment.

Currently, our country is faced with an imbalance between the number of employees and pensioners, in that, because, first, the policy of stimulating retired early after 1990, has grown rapidly the number of pensioners, while the number of employees turned low, especially by immigration of young people outside the country.

In this context, aging stresses a problem already felt in Romanian society: older people need medical care and personal assistance with over resources that have both themselves and the insurance system and social assistance.

In the field of social protection of population, the Council of Europe adopted on 3 May 1996, the European Social Charter, which concerns the right to health protection, social security and
healthcare and the right to receive social services. Charter was signed by Romania on 15 May 1997 and was ratified by Law no. 74/1999. According to art. 23 of the Charter, which governs the right of people to social protection, the signatory of the Charter shall undertake to promote measures to enable older people to lead an independent existence in their usual environment, as long as they want and possible action relating primarily to health care and elderly health services they need.

One of the most important government measures taken in this regard by our country in the field of social assistance consists of elderly people in developing a coherent legal framework, taking into account the European standards.

Thus the Law was adopted. 17/2000 on social assistance to elderly people. Are considered elderly, the meaning of the law, persons who have reached retirement age established by law. For the benefit of this law are elderly, according to art. 3 of the Act, in one of the following situations: there are family or not in the maintenance of a person; has no housing and no opportunity to secure living conditions through their own financial resources, does not own or produce revenue are insufficient; can not take care for themselves or require specialized care, are unable to ensure socio-medical needs due to illness or physical or mental.

Social assistance is granted at the request of elderly person concerned, the legal representative of the court, of specialized personnel from the local council, police, the organization of pensioners, recognized religious establishments in Romania or organizations which have as their object the welfare of older persons.

The right to social assistance is determined on the basis of social surveys which produce taking into consideration all the diseases that require special care, ability to take care of them and meet the requirements of normal life, living conditions, and actual or potential income considered minimum to ensure the satisfaction of current needs of life. Needs of older people who have lost partial or total autonomy, needs that can be of medical, socio-medical, psycho-affective shall be determined based on the national scale assessment of needs of elderly. National Grid needs assessment of older people was approved by GD no. 886/2000 and include criteria for employment in degrees of dependency. Dependence, according to art. 1. 3 of the GD no. 886/2000, represents the situation of a person who, following the loss of autonomy due to physical,
psychological or mental causes, requires significant support and / or care to perform basic activities of daily life. In order to cap the levels of dependency, an assessment is made of functional, sensory and psycho-affective status of the elderly person. Based on the analysis of social, economic and medical elderly person, by proposing to investigate social welfare measure justified by the facts established.

Community services that provide the basis of Law no. 17/2000 are: temporary or permanent care at home, temporary or permanent care in a home for elderly, care centers in the day. Community services that, by law, elderly people are provided at home consist of social services (mainly aiming prevention of exclusion and support social reintegration), socio-medical services (aiming aid for personal hygiene, adaptation of the dwelling to the needs of elderly persons) and medical services (in the form of consultations and home care, dental consultations, administration of medicines, provision of sanitary materials and medical devices). Organization of social and socio-medical services reverts on the local council and are provided free of charge elderly who have no income or whose income is less than 5 times the level monthly taken into account for a single person. The medical services are provided under the regulations in force on the social security health, that under law no. 95/2006 on the reform of health and the 2008 Framework Agreement within the system of health insurance for 2008, approved by HG no. 324/2008. Medicines the eligible are insured, so default the elderly are included in the list of medicines approved by Presidential Order 814/07.11.2008 CNAS. The percentage of compensation provided in the drug sublist A is 90% of the reference price, for those contained in sublist-B is 50% and for those included in sublist-C is 100%. Reference price is the lowest price unit suitable for therapeutic treatment and the same forms for each concentration.

In order to provide care at home for the elderly, local councils can hire staff for specialized care. Approval of individuals and businesses that provide services of home care is regulated by rules concerning the organization and functioning of home care and the authorization of legal entities and individuals who provide these services, approved by Order no. 318/2003. According to art. 4 of the Rules, benefits of home care the people with acute and / or chronic affections, which present a certain level of dependency and limited capacity to move to a health unit to provide ambulatory care.
recommended by physicians. Home care is conducted only on medical indication, and medical care providers are required to notify the doctor who recommended the services of the evolution of health of the patient cared for.

Caring for elderly people in homes is a measure of social assistance which is available only by way of exception. Access in an elderly home is in view of the following criteria of priority: needs permanent medical care experience, which can not be provided at home; can not take care of himself; has no legal supporters or they can not perform their duties due to health or economic status and can not perform family duties, have no home and do not make their own income. In hostels for the elderly are ensured adequate conditions for hosting and food, medical care, recovery and rehabilitation, activities of ergo therapy and spare time, social and psychological assistance. Medical services provided in the home for elderly consists of: counseling and treatment at medical office, medical institutions in the field or at the person’s bed, provision of medicines; insurance with medical consultations and dental care. Older people who have their own incomes and are in care homes as well as their legal supporters, are required to pay a monthly maintenance contribution, given by the average monthly cost of maintenance. If older people who have no income and no legal supporters, the contribution of maintenance is provided from the local or county budget, as appropriate. Situation of potential beneficiaries are assessed by a team of two social workers that come from a social service of the Local Council or welfare office of the Directorate of Labor Social Solidarity and Family (F.D.M.S.S) or in people who have total or partial loss of autonomy, by a doctor and a social worker. Care needs of the elderly person is determined on the basis of grid evaluation criteria for classification according to degrees of dependence, scale proposed by the Ministry of Labor, Social Solidarity and Family, and the Ministry of Health. The assessment can be completed with representatives of pensioners' organizations, units of worship, of non-governmental organizations. The assessment should consider the diseases that require special care, the ability of households and of the requirements of normal life, living conditions, actual or potential income and reported to the minimum considered to ensure the satisfaction of current needs of life. Based on the assessment made, a social survey shall be made that proposes to measure social support. Approval, rejection, suspension or termination of assistance is made by the Maier for
assistant services organized locally, or by the director D.M.S.S.F for assistance through NGOs, religious establishments, which were awarded grants by D.M.S.S.F.

Arrangements for the granting of social services, provided by law, fall into several categories: home care, custody, temporary or permanent care in a home care centers, day care homes, temporary protected apartments, social housing.

Homes for the elderly fall into the category of units of medical and social assistance, whose organization, functioning and financing is regulated by rules of 2 April 2003, approved by HG nr. 412/2003 and by instructions nr.1 of 28 July 2003 the application of these rules.

A special social protection measure made by the Romanian state was to subsidize from the state budget or, if necessary, from local budgets, associations and foundations that establishes and manages social units. In this aspect, the Law was adopted. 34/1998 on granting subsidies to associations and foundations with legal novels, which founded and administers the social work units. According to the 2001 Methodological Norms for applying the provisions of Law nr. 34/1998, are eligible for subsidies Romanian foundations and associations that provided by at least 12 months of social service in the organized respectively by a social unit. Social work services provided by these associations and foundations are subsidized if they meet the following conditions: are framed in the priority subsidy lines in social assistance ;shall be conducted in a suitable home or in the home of the assisted person; are also used other resources for providing welfare services.

An important provision of law nr. 17/2000, of protection of the elderly, is the art. 30 of law, that the elderly will be assisted, at his request or ex officio, as appropriate, to ending a legal act of alienation, whether or not, the assets that belong to him, in purpose of its maintenance and care by a representative of the authority ward of the local council in whose territorial range the elderly person lives.

By the law nr. 16/2000 was established the National Council of the elderly, autonomous body, advisory, of public interest with the responsibilities: support the state in implementing the recommendations of the World elderly, following application of the rules regarding the elderly and referral bodies about violations found; endorsement of acts concerning the elderly; supporting the associative organization of older people and their active
participation in social life. In the territory, there function county councils for the elderly. To solve local problems of elderly people, in each direction for work, social solidarity and family county, a person is designated to provide permanent collaboration with county councils of elderly, one of the most important acts in social protection is the Law nr. 47/2006 on the national social assistance (which after its entry into force repealed the 705/2001 law on the national system of social assistance). According to art. 4 of Law nr. 47/2006, the principles underlying the operation of the system of social assistance are: universality (according to which each person is entitled to assistance under the law), respect for human dignity (according to which each person is guaranteed the full and free development of personality); social solidarity (according to which the community participates in supporting people who can not ensure social needs), subsidiary (according to which, if the person or family can not provide the social needs, the local organizations involve its associative structures, and complementary, the state). To ensure the application of social policies in the field of the protection of population (the elderly inclusion), local councils and county councils establish and organize public social assistance services.

Needs of the elderly require a wide variety of resources and skills for people working with this category of persons or the social services offered to the elderly and their families.

A unique role has the social worker who must become and remain effective in the professional practice and professional performance of the functions based on standards of professional integrity and impartiality so that its work should be followed by a positive result. Many of the needs of support, especially social assistance community were formally covered by legislation, without coverage in reality, especially in rural areas. Lack of access to social services by elderly increases their ability to enter into the poor category. In cities, a significant number of elderly live in extreme poverty: the elderly by themselves, with little or no pension, no child support or without children, who lose their homes through deception or through accumulation of debt.

In the National Plan Anti-Poverty is estimated that the pension system is a major fiscal risk. "The pension is very low, social pressures are therefore high in this sector."

From the analysis made in scientific environment or in official organisms that can assess the current state of systems to support the elderly population is characterized by exacerbated
dysfunction, in particular due to the fact that social policies that promoted them have not provided mechanisms for support and adaptation to change.

Difficulties arising from the European and world of social protection in general and the elderly in particular, in the case of Romania, have added additional problems related to the period of economic transition, the shortcomings of the legislative framework. As regards the legislation in there have been made progress and was broadly drafted the necessary legal, which took account of European standards.

Finally, the general characteristics of the social protection system in Romania have direct relevance for social protection of elderly, the level of social protection in Romania is below the European situation of a critically important part of the population requires, further, a significant intervention from the state, particularly in improving the living conditions of social institutions.

In conclusion, we can show that all the documents prepared by international organizations (UN, WHO, Council of Europe, EU), which shows a special interest towards the phenomenon of aging and the need for social protection of older people, is an indispensable guide to develop policy for the elderly. Analysis of issues of social protection of the elderly are placed in the presence of our country as a full member in the European Union. European Social Charta, one of the major treaties of the Council of European human rights is the European reference in the field of social cohesion. Even if, in relation to legislation concerning social protection, have made considerable progress and has developed an appropriate legislative framework for social protection of older people, the biggest problem that we face remains that of putting into practice all social protection instruments created, because they are obvious disruption in the existing system of social protection for the elderly.

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