



SSE-MOVE

Social Security on the Move: Promoting coordination on the transferability of welfare benefit within a cluster of EU social security institutes



Project co-funded by the European Union, DG Employment, social affairs and inclusion

Template for the Country Report

The country report corresponds to the final step of the first phase of the SSE-MOVE project *Building the evidence basis: background and data analysis*.

The aim of the Country Report is to identify and analyse - on the basis of information collected by each partner through the State of the Art Report and the Self assessment grid - the **obstacles to the free movement of workers and citizens** that might derive from the different social security arrangements in partner countries. In identifying such obstacles two aspects shall be taken into account:

- the obstacles of procedural nature which limit (notwithstanding the provisions of the Regulation 883/2004) the portability of welfare benefits from one country to another one
- The characteristics (in particular, in terms of eligibility and insurance requirements) of social security systems which could harm the mobility of workers.

1. Characteristics of the national social security system (4 pages maximum)

This section is a summary of the information collected in the State of the Art Report evidencing strengths and weakness of the system, as concerns the following issues:

- Old-age pensions and early retirement pensions

Source: National House of Pensions

Pensions are the most important social insurance benefit, given within the public system. Any type of pension is granted at the entitled person's request, to the proxy appointed trustee, to the guardian or custodian. The retirement application, along with the documents which prove the accomplished conditions, shall be submitted to the territorial house of pensions in charge with the insurant's home.

Source – Ministry of Labour

To obtain a retirement pension, two conditions must be full field:

- The standard retirement age
- The achievement of the minimum contribution

Thus, according to the Art.53 of Law nr.263/2010, regarding the unitary system of public pensions, the standard age for retirement is 63 for women and 65 for men. Achieving these ages will be fulfilled through a gradual increase.

In other words, between January 2011 and December 2014, the complete contribution period for women will rise from 28 years to 30, and for men, from 33 years to 35. At the end of this period, the gradual increase of the completed contribution period is being continued only for women, from 30 years to 35, until 2030.

RETIREMENT AGE REDUCTION FOR PERSONS WHO EVOLVED IN PARTICULAR AND/OR SPECIAL WORK. (GROUP I AND/OR II)



Under the new legislation governing the unitary public pensions system, people who have been operating in particular, special, or other work conditions, benefit of retirement age reduction, under the complete contribution period.

In the case of persons who have made contribution periods in special work conditions, the reduction of the standard retirement age is between 1 and 8 years, depending on the number of years worked in these conditions. The minimum contribution period for granting the reduced retirement, in these special conditions, is 6 years.

Likewise, the standard retirement age is also being deducted in the case of people who have evolved in special work conditions, namely:

- a) In mines, for the personnel who works underground for at least 50 % of the normal work month.
- b) Research activities, exploration, mining or nuclear raw materials processing, areas I and II of radiation exposure.
- c) National defence activities, public order and national security, provided by the classified legislation, issued by the entry into operation of the actual law.
- d) In civil aviation, for the crew set out in the first Annex.
- e) Activities and units, specified in the 2 and 3 Annexes of the law.
- f) Artistic activities, performed in the professions that appear in the nr 4 Annex
But also for people who work in the national defence domain, public order and national security and other work conditions (different or special)

In this situation, the reduction of the retirement age is between 1 and 13 years, according to the achieved contribution period, in these work conditions. The minimum reduction is 1 year and it applies to persons who achieved the contribution period, under special conditions or other work conditions, of minimum 2 years (table nr 2 of the Law)

The reduction of the retirement age operates under the conditions of a complete contribution, required by law, for persons who worked in jobs assigned to special conditions, such as those provided in the 30 Art.

NOTE

People who worked on national defence, public order and national security and other work conditions (different and special), benefit of retirement age deduction if they achieve the minimum contribution period, required by Law (nr 5 Annex), in addition to the complete contribution

Reductions in the standard age retirement, and those under different legislation can be accumulated without a more than 13 years total deduction.

In these conditions, the deducted retirement ages can't be less than 50 years for women and 52 for men and, 45 years for people who worked in national defence, public order and social national security.

EXCEPTIONS!

I Persons who have worked at least 20 years in mines, in the underground for at least 50 % of the normal work month, benefit a 20 years deduction from the standard age retirement. The standard retirement age can't be less than 45 years.

II People, who had a minimum of 20 years of contribution in the following jobs, benefit a 15 years deduction from the standard retirement age:

1. Dancer (ballet)
2. Dancer
3. Acrobat
4. Juggler
5. Clown



6. Circus rider
7. Wild animal trainer
8. Opera and operetta lead singer
9. Wind instruments player
10. Stunt

The standard retirement age can't be less than 50 years

However, in the case of ballet dancers and acrobats, the retirement age can't be less than 40 years for women and 45 for men.

III. People who carried out research activities, exploration, mining or nuclear raw materials processing, areas I and II of radiation exposure and completed a contribution period of at least 15 years in the first radiation exposure area or at least 17 years in the second area, benefit of a retirement pension, regardless the age.

The complete contribution period is:

- 22 years and 6 months for those who have developed in area I of radiation exposure
- 25 years and 6 months for those who have developed in the second area of radiation exposure.

SUBMISSION OF APPLICATION, PENSION GRANTING

The retirement application, together with documents proving the fulfilment of the required conditions for retirement shall be submitted when the conditions are full field.

The pension is granted at the entitled person's request, to the guardian or custodian, to the person entrusted with the minor or has the minor in foster care, as appropriate. Application may be made personal or through a proxy appointed trustee.

The retirement application is submitted to the territorial house of pensions in charge with the person's home. In the case of persons from the MAN, MAI or SRI domains, the application shall be submitted to the competent district house of pensions, according to the last job.

The retirement application may be withdrawn by the person who submitted, until the retirement decision. The retirement decision can be cancelled at the request of the titular, within 30 days of notification.

The pensions are due after meeting the conditions and are provided from the day of submission. Pension payment is made, at the option of the pensioner, by money order, in a current account or a credit card account, with the established conditions between the National House of Pensions and the Romanian Post, and between the National House of Pensions and banks. Banks list is found on the site, at the Pensions domain, the last article.

CUMULATIVE PENSION AND WAGES

In the public pensions system, the age limit pension can be accumulated, under the law, with revenues for which insurance is mandatory. Although, with the exception inserted by the Law nr 239/2009, the age limit pension can be accumulated with wage income derived from activities in the public sector, only if the pension's net level is lower than the average gross salary, used at the substantiation of the State social insurance.

For the year 2011, the level of this earning is 2022 lei.

The net pension means the quantum resulting after the deducting, by law, the health insurance contribution and the income tax, where appropriate.

If this disallowed by law situation occurs, the person has the obligation to choose, within 15 days of the occurrence – for one or the other source of income, in order to avoid undue pension collection. In these conditions, payment of the pension is suspended and the formalities and the documents needed in this procedure are the ones provided in the



Instructions for the application of Act nr 329/2009. (See the Ministry of Labour Order nr 1730/2009, posted on the site, at the Public Pensions Legislation domain, Other Normative Acts category)

- Survivor pensions

Source: Ministry of Labour

The Act nr 341/2004 – The gratitude law, to the heroes, martyrs and fighters who have contributed to the victory of the Romanian Revolution of December 1989, and to those who gave their lives or suffered because of the anti-worker communist rebellion, from Brasov, in November 1987.

Beneficiaries:

The next categories benefit the rights provided by the Act nr 341/2004, as amended and supplemented:

a) Hero-Martyr of the Romanian Revolution of December 1989 - awarded to those who sacrificed themselves in the fight for the Romanian Revolution of December 1989 or died in this connection;

b) Fighter for the victory of the Revolution of December 1989:

- Injured Fighter – awarded to those who had been injured in the fights for victory at the Revolution of December 1989, or in this connection.
- Detained fighter – awarded to those who had been detained by the repression forces, following their participation at the actions of the Revolution's victory
- Outstanding fighter- awarded to those who, between 14-25 December 1989, have mobilized and led groups or crowds of people, built and maintained barricades against the communism's repressive forces, have occupied and defended vital positions for the resistance of the totalitarian regime, until the dictator's trial, in places where they fought for the victory of Revolution of December 1989, and to those who had proven actions against the regime and the communist signs, between 14-22 December 1989.

C) Romanian Revolution of December 1989 participant – honorary

d) The descendents of the hero-martyr:

- a. The surviving spouse of the deceased, if not remarried
- b. Each of the parents of the deceased
- c. Each of the children of the deceased

e) Following the entry into force, starting from 15.02.2008, the Government Emergency Decree nr 6/2008, for amending and supplementing The gratitude law, to the heroes, martyrs and fighters who have contributed to the victory of the Romanian Revolution of December 1989 nr 341/2004, the following categories benefit of the rights provided by this law:

1. The person who suffered because of the anti-labour rebellion from Brasov, in November 1987, and who had been in one of these following situations:

- a. Had a house arrest
 - b. Has been moved to another location
 - c. Has been deported
2. The spouse of the person who suffered because of the anti labour rebellion from Brasov in November 1987.
 3. The descendents of the persons who died because of the labour rebellion from Brasov in November 1987:
 - a. The surviving spouse
 - b. The children



c. The deceased's parents

Proving the beneficiary quality:

The proof of enrolment in one of the situations described above is made at the request of the person, with official documents, issued by competent bodies.

The titles referred to in points a, b and c, are given, through a decree of the President, proposed by the State Secretariat for Revolutionaries' Problems of December 1989, with the advice of the parliamentary committee, constituted for the law enforcement of the Act Nr 341/2004.

The demonstrative certificates which, between 1990-1997 have been issued by the Commission for the implementation of the Act nr 42/1990 and the Commission for honouring and supporting the heroes from the Revolution of December 1989 will change at the request of the titular, after verification by the State Secretariat for Revolutionaries' Problems of December 1989.

The hero-martyr certificates shall be issued and granted at the proposal of the State Secretariat for Revolutionaries' Problems of December 1989, with the advice of the Parliamentary Commission of the Revolutionaries of December 1989.

Finding the beneficiary quality of the GED nr 6/2008, for amending and supplementing The gratitude law, to the heroes, martyrs and fighters who have contributed to the victory of the Romanian Revolution of December 1989 nr 341/2004, shall be done by the local departments of labour and social protection, respectively Bucharest, based on the official documents, issued by the competent bodies and prior advice opinion of "15ft of November 1987 Association"

Rights:

People who have obtained the titles mentioned above are entitled to a monthly repair allowance, based on the multipliers which will be applied on the average gross wage, grounding the social security insurances and approved by the state social insurance budget law, for the year for which payment is made, as follows:

- a) Hero-martyr descendent
 - 2020 lei – the surviving spouse of the deceased, if not remarried. (1,10)
 - 918 lei – each of the deceased' parents (0,50)
 - 2020 – Each of the deceased's children, until full age or graduation, without crossing the age of 26, regardless of who he is dependent on. (1, 10)
- b) Injured fighter:
 - 3672 lei – the greatly mutilated (2,00)
 - 3213 lei – persons in the first degree on disability. (1,75)
 - 2754 lei – persons in the second degree of disability (1,50)
 - 2295 lei – persons in the third degree of disability (1,25)
 - 2020 lei – persons not classified in disability (1,10)
- c) Detained fighter
 - 2020 lei (1,10)
- d) Fighter remarked because of remarkable acts
 - 2020 lei (1,10)
- e) Caring allowance for the greatly mutilated and the persons in the first degree of disability:
 - 918 lei (0,50)
- f) Monthly allowance, added to the age limit pension



- 1102 lei (0,60)

The gross average salary used at the calculation of the repair allowance and the monthly allowance, added to the age limit pension – 1836 lei (Social Security Budget Law, nr 12/2010.)

The persons who have obtained the title of Fighter for the Victory of the Revolution of December 1989, respectively the Descendants of a hero-martyr also benefit, along with the monthly repair allowance, the following rights:

- Priority in securing available housing fund, in their home locality, if they don't own another house, until the assigned day.
- A minimum rent for the house funded by the state, if they have a monthly income that is less than the average gross wage.
- Priority for renting or purchase, without auction, from the state, of a commercial space or corresponding service providing, with a surface area of up to 100 square meters, including entirety or leasing, or priority for renting, from the public domain, without auction, of a ground surface area up to 100 square meters, to build a shop or to provide services, with a no estrangement clause of 10 years, from the acquisition date.
- Providing free prosthesis, orthotics, and wheelchairs for the disabled, who have totally or partially lost their working capacity.
- Free access for children, to nurseries and kinder gardens in subordination of the local governments, as well as free school supplies, if the monthly income is lower than the average gross wage.
- Providing a subvention equal to 50 % of the interest of a bank loan of up to 20.000 Euros, contracted for the purchase or construction of housing, in the home town, if they didn't own or don't own a property, as well as the possibility of granting contracted credits, with the calculated income, under this law.
- Assigning, if possible, as a property, with a no estrangement clause of ten years from the date of acquisition of a 10.000 square meters of land outside the localities and 500 square meters of land within the build up area – the latter for the purpose of housing, if he doesn't have other housing.
- Assigning a final resting place, without payment
- Free access of the persons mentioned at points b) and d) to treatments and medicine in hospitals, clinics, treatment foundations and spas of the Romanian institutions.
- Free access to drugs, through a family doctor
- Free urban public transport, and, annually, 12 free travels by train, first class, round trip, with all the passenger train categories; annually, 12 free round trip travels to the county city, with public transport for the people who live in rural areas. Within the limit of the 12 free travels, family member's can also travel. Also, the grade I disabled pensioner's companion or the companion of the greatly mutilated, can benefit of these bonuses,
- Exemption from paying taxes and duties for a house and the afferent terrain, for hycomat cars and mototricycle, as well as tax exemption for the import of a single hycomat car or free allocation of a appropriate self transportation, corresponding to the international standards for the greatly mutilated and the persons referred to at b) point 1, with a degree of locomotive disability.
- A 5 year less retiring age
- Exemption for paying taxes for radio and television public services, for those with monthly incomes less than the average gross salary, used to substantiate the state social insurance budget and approved by the social insurance budget law.



Required documents:

- Compensation allowance application
- Copy of the new certificate type (certified for compliance)
- Copy of the card (certified for compliance)
- Copy of the identity card
- Evidence issued by the S.S.P.R., showing the document's application date, which stood at the basis of the conversion certificate
- Affidavit, under the penalty of the provisions of art 292 of the Criminal Code, showing that there is no income, or, affidavit showing the level of the average gross salary, in the case of the Fighter Remarked with Remarkable Acts.

Other necessary documents to establish the rights:

- Birth certificate
- Marriage certificate
- Affidavit of the surviving spouse that he didn't remarried
- The pension coupon
- Decision of work capacity, regarding the assignment on a disability degree, if any
- Decision of old age pension, as appropriate
- Certificate for an employment in a handicapped category, as appropriate
- Certificate to confirm that a form of education is being followed, according to the law (in the case of children aged 18 years)

- Disability benefits

According to the Act nr 448/2006 for the protection and promotion of the disabled person's rights, republished and the GD nr 1665/2008 regarding the update of the social performance quantum, provided at art nr 58, paragraph 4 of Act nr 448/2006.

The following benefit of monthly allowance, regardless of the incomes:

- An amount of 202 lei for an adult with severe disability
- An amount of 166 lei for adults with accentuated handicap

The personal complementary monthly budget, regardless of the incomes:

- An amount of 91 lei for adults with severe disability
- An amount of 68 lei, for adults with accentuated handicap
- An amount of 33.5 lei for a medium disabled adult

Documents needed

- Application
- Copy of the document certifying the degree of disability (currently valid)
- Copy of the identity card

- Unemployment benefits

Source: The National Employment Agency

The unemployed person is the one who fulfills the following conditions

- Is looking for a job since 16 years old or over and until the retirement conditions
- Health and physical and mental capacities make him able to work;
- There is no job, no income or fulfils incomes from authorized activities, which are lower than the reference social indicator of unemployment insurance and stimulate employment in force, of 500 RON;



- is available to start work the next period, if they will find a job.
- registered unemployed – the person who meets the conditions listed above and is recorded at the employment agency in whose jurisdiction he resides or, where appropriate, to another employment service provider, which operates under the terms of law, in order to obtain a job.

The unemployment benefit is being given to the unemployed according to the contribution period, as follows:

- a) 6 months, for those with a contribution period of at least one year
- b) 9 months, for those with a contribution period of at least 5 years
- c) 12 months, for those with a contribution period bigger than 10 years.

The amount of the unemployment benefit is monthly and differently given, depending on the length of employment.

For fractions of a month the unemployment benefit is calculated in proportion to the number of calendar days in a month

The amount of the unemployment benefit is granted according to the contribution period as follows:

- 75% of the social indicator reference, on the date of calculation, for people with a contribution period of at least one year ;
- The amount provided above, plus an amount calculated by applying the average gross monthly basic salary for the last 12 months of contribution period, of a percentage rates differenced according to length of employment.

The differenced percentage rates according to the contribution period, mentioned above, are:

- a) 3%, for a contribution period of at least 3 years
- b) 5%, for a contribution period of at least 5 years
- c) 7% for those with a contribution period of at least 10 years
- d) 10%, for a contribution period of at least 20 years

For the people who have been insured under a contract of unemployment insurance, to determine the amount calculated by applying a percentage, depending on the contribution period, the monthly income, declared in the unemployment insurance contract will be considered.

- Family benefits

Source: The Ministry of Labour.

In the application of the Law 277/2010, on family allowance and support, to ensure the best conditions for the start of the application process, approval and payment of family benefit, Wednesday, January 19, 2011, the Government approved the Decision no. 38/19.01.2011 for approving the methodological norms for applying Law no. 277/2010 on family support allowance, published in the Official Monitor, no. 56/21.01.2011, Part I

The following can benefit from family support allowance

1. Families whose members are Romanian citizens, living in Romania
2. Families and single persons who are not Romanian citizens, if they find themselves in one of the following situations:

- a) Are citizens of an EU Member State, EEA nationals, Swiss Confederation or other countries, in the period in which they have the domicile or, if applicable, residence in Romania, under the law
- b) Are foreign nationals or stateless persons, who have been granted protection?
- c) Stateless persons who have their domicile or, if applicable, residence in Romania, under the law.

The Family support allowance is granted based on income and number of children in the family.



The maximum income to be granted a family support allowance is 370 lei / person. Social benefits in cash or in kind are supported by financial redistribution measures and include: family allowance, social and special benefits to families or individuals, depending on their needs and income.

Family allowances are granted to families with children and mainly consider birth, education and support

Social benefits are benefits provided in cash and in kind, to persons or families whose incomes are insufficient for their needs

People with physical, sensory, psychiatric or mental disabilities, benefit from special support.

LIST OF BENEFITS

Family support allowance

Children allowance

Allowance for newborn babies

Additional allowance

Support allowance for single-parent family

Monthly food allowance due for adults and children infected with HIV or AIDS

Financial rights for the blind

Social Assistance for the elderly

Means for house heating

Financial aid to households with low incomes, who use natural gas for heating

National Solidarity Fund

Finances for the construction, repair, modernization, of facilities and institutions of social welfare, social and medical

Financial Aid and Emergency Aid

Helping people with very serious health problems, for medical treatment and surgery abroad

Subsidies for associations and foundations

Refundable aid for refugees

- Maternity and paternity benefits

The Emergency Ordinance, nr 124 of 27 December 2011, published in Official Monitor on December 30, brings some changes that apply to the provisions of the two decrees, 148/2005 and 111/2010, which regulate parental allowances

The Amendment to the Ordinance 124/2011: The main change is that since 2012, to maintain the rights provided by GEO 124/2011, beneficiaries are required to pay their legal obligations to the local budget for the owned property, according to Law no. 571/2003, as amended and supplemented.

Based on the summary table, mayors check if beneficiaries have paid the previous year payment obligations, to the local budget and elaborate the summary with the people who did not meet this condition, which they carry to the local agencies until January 31 of each year. Failure to pay the legal obligations to the local budgets leads to a five months abeyance of the rights period, under the Ordinance 124/2011, starting with the related rights of February.

Payment of legal obligations to the local budget will lead to resumption of duty, starting with the month following the month in which the obligation has been paid, including for the rights due in the suspension period.



- Sickness benefits

The Sick leave is governed by Ordinance No. 158/2005

The Temporary disability leave is defined as the time the employee is in a state of temporary work inability and proves this with a medical certificate issued under the law, by competent medical authorities

During the temporary disability leave, the employee does not receive a salary, but is granted a sickness benefit, throughout its duration

The Temporary disability leave is also known as medical leave, and also, the sick leave.

The Due allowance for the sick leave shall be mandatory granted and it's not subject to prior approval of the employer. Being entitled to sick leave is a right granted by law.

Temporary disability leave can't be confused with physical or mental incapacity - it is ascertained by a physician in occupational medicine - and can't be confused with the inability to work - which can lead to retirement due to illness

All employees benefit of sick leaves which, in the last 12 months preceding the month in which sick leave is granted, had a minimum contribution period of one month.

- Minimum resources (means-tested) benefits

Law no. 416/2001, regarding guaranteed minimum income, consolidated in 2009 Families and single persons, Romanian citizens, are entitled to a guaranteed minimum income, as a form of social assistance

The Guaranteed minimum income is provided by monthly social aid, as provided by law. Establishment of minimum income is based on the principle of social solidarity, in a national social policy.

- Pensions private schemes

The Private pension system, Pillar II of Romania is a system of "hybrid defined contribution ". According to the classification of the Organization for Economic Cooperation and Development (OECD) and World Bank, the system of "defined contribution" is characterized that, upon accession, voluntary or as the effect of the obligation stipulated in the law, only the contribution value in system is known, with no promise or guaranteed results on the benefits, meaning the final amount of the guaranteed value, used to obtain a private pension. In Romania, the system is hybrid because it has provided an absolute guarantee, namely the diminished amount of paid contributions, by transfer penalties and legal fees.

By comparison, countries like the Baltic's, Hungary, Russia or Mexico, do not impose any guarantees, regarding the performance of Pillar II funds. Romania, Slovakia and the Czech Republic, for Pillar III are the only countries where legislation on private pension system provides an absolute guarantee of the amount of net contributions. Also, Romania is one of the few countries that require actuarial reserves of the pension administrators. The two laws which underlie the private pension system in Romania are: Law no. 204/2006 on optional pensions, with subsequent amendments and Law.411/2004 on private pension funds, republished, with subsequent amendments.

4. Enforcement of the EC Regulation 883/2004 and 987/2009 (3 pages maximum)

This section provides an overall assessment of the status of enforcement of Regulations (EC) 883/2004 and 987/2009 on the basis of the information collected through the Self-



assessment grid and will list the most relevant procedural changes introduced by the Regulations (such as in terms of communication and exchange of data, application procedures, calculation of benefits, and aggregation of periods).

Source: The Ministry Of Labour

Major changes to the Regulation (EC) no. 883/2004 and its implementing Regulation no. 987/2009 on pensions

As of January 1, 2007, Romania's EU accession, Romania applies the EU provisions on social security regulations.

In relations between Member States the provisions of Regulations (EEC) no. 1408/71 and 574/72, have been applied, until April 30, 2010, replaced as of May 1, 2010, by Regulation (EC) no. 883/2004 of the European Parliament and the Council of 29 April 2004 on social security systems and Regulation (EC) no. 987/2009 of the European Parliament and Council of 16 September 2009, laying down the procedure for implementing Regulation (EC) no. 883/2004.

In relation to Member States of the European Economic Area and Switzerland, the provisions of Regulations (EEC) no. 1408/71 and 574/7 2 are currently applied.

The legal setting

As of May 1, 2010, in the coordination of social security systems, Romania will apply the provisions of Regulation (EC) no. 883/2004 of Parliament and Council, as amended by Regulation (EC) no. 988/2009 and the implementation of Regulation no. 987/2009. The new regulations will apply in Romania's relations with the 26 Member States of the EU, old regulations provisions, Regulations (EEC) no. 1408/71 and 574/72 are still in force, in relations with the European Economic Area and Switzerland.

According to Decision no.H1 of the Administrative Commission for the Coordination of Social Security, on the transition from the Regulations (EEC) no. 1408/71 and no. 574/72 to Regulations (EC) no. 883/2004 and no. 987/2009, applications submitted before the entry into force of new regulations continue to be governed by the law applicable to them at the time of their introduction, and the provisions of these regulations apply only to applications filed after the entry into force.

According to Decision no.E1 of the Administrative Commission for the Coordination of Social Security Systems, covering the period of transition, to settle the claims for pension rights being submitted under Regulation (EEC) no. 1408/71, the information exchange is based on procedures included in Regulation (EEC) no. 1408/71 and Regulation (EEC) no. 574/72, including the use of related forms of series E 200.

The Transition

Regarding the pensions, the exchange of information between the institutions involved will be done through electronic data exchange. During the transition period, over the next two years, after the entry into force of new regulations, Romania will continue to use E forms, until the entry of a specialized electronic application for structured electronic documents (SED).

In all cases, in the transition period, any institution accepts relevant information, contained in



any document issued by another institution, even if it is based on a format, content or stale structure. In Romania, the necessary documents, for establishing pension rights are those provided in the rules for applying Law no. 19/2000 on public pension and social insurance, as amended, approved by The Ministry of Labour and Social Solidarity, 340/2001, as amended and supplemented.

Inter-institutional collaboration, general principles and inform applicants of benefits

Under the new regulations a stronger emphasis on more effective cooperation between social security institutions is being put

Persons covered by the new regulations should receive a response from the competent institution, in good time

All social security institutions of the Member States must make a special effort to assist the insured, in order to avoid penalizing those who have not submitted the application or failed to provide certain information to the institution responsible for processing the application, in accordance with rules and procedures set of new regulations.

A special role is played by informing people who are beneficiaries of future pension benefits, on the rights and obligations, especially in regard to certain administrative proceedings (the possibility to withdraw its application, for granting pension rights from a Member State, when this action would result in a less favorable economical situation). An Important innovation, brought by the new European regulations on the coordination of social security systems, is the introduction of the assimilation of benefits, income, facts or events

According to Regulation no. 883/2004, if the benefits of social security benefits or other income are producing some legal effects, the provisions are applicable, if the person is receiving similar benefits or income, in another Member State. If certain facts or events have legal effects, similar facts or events that took place in another Member State are considered

The principle of assimilation should not interfere with the summation of the insurance periods, the periods completed in other Member States will be considered only by the application of that principle.

Features of the new regulations

There where no significant changes in Regulation (EC) no. 883/2004, in the regulation of pension benefits, the granting of benefits being made with the same basic principles of Regulations 1408/71 and 574/72 (equal treatment, summation of insurance periods for granting benefits, maintenance of rights in course of acquisition and pro-rata temporis of pensions, export benefits). Community grant pension rights will be under the same conditions, in the manner provided under the provisions of Regulations. 1408/71 and 574/72.

Regarding the recalculation of the rights, the institution that pays a benefit automatically makes a new account, when it's informed that the beneficiary meets the conditions, for granting benefits, under the legislation of another Member State. However, there is no other calculation made in case of the periods completed under the



legislation of other Member States have already been considered for the benefit and any other period of insurance, after their initial benefit, was not acquired

However, if some additional conditions apply, (in addition to completion of insurance periods), like the age required for the benefit or a change in the number of children to be taken into consideration, automatically new calculation must be done

The Parental benefit period has a distinct approach, which refers to any period which is considered under the pension legislation of a Member State or which explicitly supplements a pension, because a person has raised a child, regardless of the method used to calculate these periods and whether they are accumulated during child-raising or retroactively recognized. The granting of the community pension, the applicant provides all available relevant information and documents, relating to periods of insurance (institutions, identification numbers), the employment (employers) or independent activity (nature and place of work) and residence (address) that could be carried out under other legislation, and the duration these periods.

In case the applicant requests the postponement of the retirement benefits, under the legislation of one or more Member States, it needs to specify in its request, in accordance with which legislation is he requiring a postponement .
To allow the applicant to exercise this right knowingly, the institutions concerned, upon request, forward all information available, so that he can assess the consequences of concurrent or successive benefits that he may require.

If an applicant withdraws an application for benefits, under the legislation of a Member State, that withdrawal is not considered a concurrent withdrawal of claims for benefits, under the legislation of other Member States

Each institution shall notify the applicant of the decision, in accordance with applicable law. Each decision shall specify the offenses and periods they can be introduced.

If the applicant, following the receipt of the summary, that his rights have been negatively affected by the interaction of the decisions taken by the institutions concerned, the applicant is entitled to a review of the decisions, by the institutions concerned, in the legal provided time.

– Time limits run from the date of the summary receipt

- The applicant is notified about the review, in writing.

Any institution which establishes, while investigating a claim for benefits, that the claimant is entitled to an independent benefit (to a national pension), under the applicable legislation, pays this benefit without delay.

This payment is considered provisional, if the amount can be influenced by the outcome of the claim investigation .

If, from available information, it is clear that the applicant may be granted a community pension, by a institution, that institution makes a payment in advance, the amount of which is as close to the amount which will probably be paid under the Basic Regulation .

Each institution is required to pay provisional benefits or advance payment, shall immediately inform the applicant, specifically drawing attention to the provisional nature of this measure and any rights of recourse to legal offence, in accordance with its legislation.

Death grants

In the case of death grants, the same provisions as in Regulations 1408/71 and 574/72 apply.



5. Limitations to the free mobility of workers (10 pages max)

This section represents the core of the country report and is structured according to the following sub-paragraphs:

- 5.1 procedural limits to the portability of social security benefits (i.e. due to partial enforcement of the Regulation 883/2004) vs. economic constraints (i.e. incentives/disincentives to workers' mobility due to different entitlement and generosity of benefits across countries)
- 5.2 Interrelation of public with private social security schemes. To this aim, a particular focus will concern rights to private pension benefits which, as known, are yet not fully guaranteed by an extensive EU regulation. In particular, limits in the access to pension benefits deriving from waiting periods (i.e. minimum contributions requirements necessary before claiming for benefits) and vesting periods (i.e. periods of time necessary before a contributor is capable of exercising full rights on his/her assets).
- 5.3 Quality of available information. To this aim availability of sufficient and clear information on the websites of social security institutes in partner countries, the availability of informative leaflets addressed to customers, and so on will be examined and assessed. Such analysis will be carried out separately for each category (and sub-category) of welfare benefits. This task will be carried out mainly in the perspective of workers (and their relatives) moving from Czech Republic, Hungary, Poland and Romania to Italy, and the other way round.

In terms of the special rules, applicable in international detach, the innovations are:
a) If the case of employees

- Setting a maximum initial detach of 24 months (to the limit of 12 months, established under the old regulations)
- The institution extended detach has been eliminated;
- Incorporating more aspects from the European Court of Justice, already included in the Instructions for the application in the public pension and social security, and other benefit rights of the Council Regulation no. 1408/71/EEC, on the application of social security schemes to employed persons, independent workers and their families, moving within the Community, adopted on 14 June 1971 and Council Regulation no. 574/72/CEE, establishing detailed rules for applying Council Regulation no. 1408/71/EEC, on the application of social security schemes to employed persons, independent workers and their families, moving within the Community, adopted on March 21, 1972, approved by CNPAS's President Decision nr 112/01.04.2009, published in the Official Monitor, no. 355/27.05.2009, amended by CNPAS's President Decision 135/04.12.2009, published in Official Monitor, no. 913/24.12.2009;



Clarification of terms and expressions :

i. The phrase "normally engaging work in a Member State" is based on an employer who must conduct significant activities (substantial), normally based in a Member State. In this aspect, certain criteria is considered: the place where the employer is registered, the number of administrative staff from sending State (Member State in which the employee is detached from by his employer or the independent worker, moving in another Member State to carrying out a specific activity) and the employment (the Member State where the employed / independent worker has a temporary activity as a detached worker, on self-interest), the place where employees are recruited, where the most contracts are being made and the applicable law contracts, both with their employees and customers, the number of executed contracts, both in the sending State and the State of employment, the turnover in the two states (for reference and employment), the establishment of the company in the sending state.

l.i In the case of people recruited for detach, the condition that the person concerned to be a subject of the legislation of the Member State of establishment of his employer, for at least one month, immediately before the start of detach has been imposed .

l.i.i. authorizing a new detach period can only be done after a period of two months from the end of the previous maximum detach period.

b) In case of independent workers-

- Setting a maximum initial detach of 24 months (from the 12 months limit, set under the old regulations);

- The institution for detach extension has been

- Clarification of terms and expressions:

i. "The one who is usually self -employed" is based on an independent worker who habitually carries on significant activities in the Member State of establishment. In this respect, following criteria is considered: state employment offices, tax and VAT in the State of employment, registration at the chamber of commerce or in other professional bodies and having a professional card.

Likewise, to prove that they normally operate individually, in the territory in which he is registered, a self-employed person must have practiced at least 2 consecutive calendar months in that State, prior to detach,

i.i. The independent worker must carry out a "similar activity" in the Member States involved and this term is clarified: in order to conduct a "similar" independent activity, the actual nature of that activity is taken into account, rather than classifying an activity as employed or independent.

When carrying out professional activities in two or more states:

c.1. Being employed in two or more States refers to the situation of employed persons who:



- Simultaneously exercise a separate activity in one or more Member States, regardless of duration or nature of such activities, while maintaining an activity in another Member State;

Determining the timing of the work is crucial, establishing whether the activity is:

- Permanent, with an ad – hoc character or temporary .
- He continuously pursues alternative activities, except for small ones, in two or more Member States, regardless of frequency and regularity of the alternation.

The person who is habitually employed in two or more Member States shall submit to :

C.1.1. Legislation of the residence, where they perform a substantial part of the activity in a Member State or whether it depends on several undertakings or several employers whose office or place of business is located in different Member States;

To determine if the employer carries out a significant part of its activities in a Member State, the next shall be considered: working time and / or wages to detached workers .

C.1.2. It is subject to the legislation of the Member State in which the office or place of business enterprise is being situated, or employer whose employee is, if the person does not carry out a substantial part of its activities, in the Member State of residence.

C.1.3. a person who acts as an employed person in two or more Member States, for an outside the EU established employer, and if the person resides in a Member State without pursuing substantial activity there, that person will be subject to the legislation of the Member State of residence.

C.2. Being Self-employed in two or more states, refers to a person engaged simultaneously or alternately in one or more separate independent activities, whatsoever, in two or more Member States.

C.2.1. The person who normally pursues an independent business in two or more states, is governed by the laws of the Member State of residence, when exercising a substantial part of its activities in that Member State ;

Determining the timing of the work is crucial, establishing whether is permanent, with a ad - hoc character or temporary .

"Significant independent activity" means that a significant proportion of all self-employed person's activities are conducted in that State, without necessarily being necessarily the most important activities.

In order to assess significant self-employment activities the following criteria is being considered: turnover, working time, number of services, income

It is considered that a person has significant activities in a state if at least 25% of the above criteria are met .

C.2.2. the person who normally pursues an independent business, in two or more states, is governed by the laws of the Member State which is located in the focus of its activities, if not residing in one of the Member States in which he is carrying out some substantial business.



"The focus" of the activities of a self employed person is determined by taking account of all aspects of that person's professional activities, including: the fixed and permanent place in which he operates habitual nature or duration of activities, number of services provided, and the intention of the concerned person, as reflected in all circumstances.

In determining the applicable law, the competent institutions are considering the estimated situation of the next 12 months

c) A person employed as a clerk in a Member State and is employed and self-employed in one or more Member States is a subject of the legislation of the Member State of which the administration is committed.

d) In the case of European Communities staff, the term of contract staff is used, and the right to choice is maintained

e) For the personnel employed in diplomatic missions or consular offices, domestic staff of the officials of such missions, there is no possibility of choice on the law applicable to them, being treated according to general principles.

f) In relation with Member States of the European Economic Area and Switzerland the provisions of Regulations (EEC) no. 1408/71 and no. 574/72 will apply

g) The beneficiaries of pensions granted under the laws of one or more Member States and residing in another Member State, may be exempted, at their request, of the application of the law of the residence, provided they are not subject to the laws of that State due to their activity as an employed or self employed.

6. Conclusions

Romania's EU accession has meant, on one hand, that a series of strict and new economical and social rules needed to be adopted, which profoundly interfered with social security system and, on the other hand, implementation in practice of these regulations. This fact decisively was passed on social policies, on the way in which Romania had and should identify strategies, in order to address the issue of social security, in relation to standards committees.

On the other hand, the Romanian government has strengthened the ability to take and develop institutional capacities and administrations, in relation to the community acquis, but the consolidation and strengthening process and especially the development of structures, must be strengthened and accelerated.

No doubt, in the social domain, especially in social security, clear progress has been achieved, both in the legislation domain and development of institutional structures, but this process should on one hand, continue, and on the other hand, the pace of adaptation to new realities should definitely be accelerated

Although the Romanian welfare system is not particularly attractive, especially in relation to the amount of benefits, we can say that a modern system is being built up. Major social risks are covered, even if, we emphasize, the amount of benefits is not up to a similar level, to that of most EU member states.



From the analysis of Romanian social security settlements, the Romanian legislation is largely in line with the Community norms
Romania is, from a legal perspective, prepared to apply the Community regulations.

Likewise, the efforts to develop the administrative capacity will continue to be developed. Even if positive developments have been registered, things should not stagnate at this level.