

Social Security Coordination In European Union

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ABSTRACT:

The current article deal Social Security Coordination in the European area which is different in the each member states legislation. The article takes a look The European Union Social Security policy, kind of the social security and concept of Social Security Policy.

Açar sözlər: sosial hüquqlar, Avropa sosial təhlükəsizlik siyasəti, sosial təminatın növləri, Avropa vətəndaşlarının sosial hüquqları, üzv dövlətlər arasındakı fərqlər.

XÜLASƏ:

Bu məqalə Avropa ərazisində Sosial Müdafiə Koordinasiyası barədə məlumat verir. Məqalədə Avropa Birliyinin İctimai Təhlükəsizlik siyasəti, ictimai təhlükəsizlik və Sosial Təhlükəsizlik Siyasəti konsepsiyası nəzərdən keçirilir.

Ключевые слова: социальные права, европейская политика социального обеспечения, виды социальной защиты, социальные права европейских граждан, различия между государствами-членами.

РЕЗЮМЕ:

В этой статье представлена информация о координации социальной защиты в Европе. В статье рассматривается

Концепция политики в области социального обеспечения Европейского Союза, социального обеспечения и социальной политики.

1. Introduction

The concept of social security is vague and the idea of social rights as human rights is highly controversial. So, it is worthwhile to outline the origin of the concept of social security. In doing this, it is necessary to illustrate its overall importance in the framework of a post-World War II reconstruction of Europe and the world. During this era the idea of social human rights also gained enormous momentum; it brought about the international turn in the development of human rights. Social security has many facets. It matters in a social context as a means to transfer income and to give access to medical, educational and rehabilitative services in order to re-integrate its recipients into the labour market. Due to its costs, social security is also of outstanding economic importance. So, it is a central, constant and controversial matter of politics in each state and it contributes substantially to big government. Just as it drives and deepens social justice, it also raises profound questions on social philosophy.

This guide concerns all mobile people, that is people who move between member states of the European Union (EU) for work, study, retirement or even on a short holiday. It is about how their social security rights go with them as they move. The purpose is to provide easily understandable information about rights and obligations in the field of social security in situations concerning two or more states. The national social security schemes vary consid-

erably from one member state to another, and the EU provisions on social security coordination, although constantly evolving, are not intended to harmonize them. The purpose of these provisions is merely to prevent citizens from losing part or all of their social security rights when moving from one member state to another. (2)

The EU provisions on social security coordination do not replace national social security systems with a single European one. Such harmonization is not possible. Because the social security systems of the member states are the result of long-standing traditions deeply rooted in national culture and preferences. Rather than harmonizing the national social security systems, the EU provisions provide for their coordination. Every member state is free to decide who is to be insured under its legislation, which benefits are granted and under what conditions, how these benefits are calculated and what contributions should be paid. The coordination provisions establish common rules and principles which have to be observed by all national authorities, social security institutions, courts and tribunals when applying national laws. (2)

2. Kind of Social Security policy

European Union provisions on social security coordination have existed for the past 50 years, the rules constantly adapting to social and juridical developments. New Regulations (EC) No 883/2004 and 987/2009, or 'modernized EU social security coordination', are built on this valuable experience: they simplify and enhance the EU law, improving the rights of the persons concerned. Citizens are at the heart of the 'modernized coordination' and the new regulations place a special emphasis on the member states' duties towards them. Accordingly, member states must provide active assistance and information and meet concrete objectives of efficiency, rapid delivery and accessibility. In return, citizens must inform the institutions as soon as possible of any changes in their personal or family status affecting their rights to benefits. To back-up this 'good administration' objective, the new rules require data to be exchanged electronically between institutions. This will be done through the so called EESSI system (Electronic Exchange of Social Security Information) which will net-

work the over 50 000 national institutions. (4)

The EU provisions on social security coordination apply to national legislation on:

- sickness benefits maternity and equivalent paternity benefits
- accidents at work occupational diseases
- invalidity benefits
- old-age pensions
- survivors' benefits
- death grants
- unemployment benefits
- family benefits
- pre-retirement benefits.

This means that you can always have recourse to the coordination provisions when they are necessary for your entitlement to one of these benefits. These provisions do not apply, however, to the following areas:

- social and medical assistance: these are benefits which are normally means tested and not linked to any of the categories mentioned above;
- benefits granted to victims of war and military actions or their consequences, to victims of crime, assassination or terrorist acts, to victims of damages occasioned by agents of the state in the course of their duties, or to victims who have suffered a disadvantage for political or religious reasons or for reasons of descent. (4)

3. Concept of Social Security Policy

Social security benefits should deepen social justice. This concept, however, is controversial and difficult to grasp. Social justice has to safeguard human dignity, equality and individual freedom. Human dignity is based on the insight Hannah Arendt described when analyzing totalitarian governance that each individual has a right to have human rights stemming from the dignity of each human being. So, human dignity is not a human right itself, but represents the overall justification for human rights. Universal human rights are to underpin the dignity of each human being. Thus, all human beings as created equal are to be respected and as to this are to be treated as equals – despite their enormous differences in reality. The principle of equality of rights neither denies the differences between human beings as to their characteristics, virtues, talents, performances and achievements, nor emphasizes equal results in social life. To the contrary, the market is built upon differences between the participants, be-

cause only differences allow the exchange of goods and services on the market. But upon the equality of rights of each one each functioning market is built, aid gives open access to each one without hindrance due to personal characteristics. But such market-driven social life is based on competition and this brings about different results for the participants in the market due to their differences in abilities and thrift, chances and efforts. (1) So, despite the fact that equality of rights is a precondition of the market, its outcome is not equally allotted to the various human beings, but there are remarkable differences due to circumstances within or beyond the individual control of the competitors. Not all differences are unjustified. To the contrary, some of them are to be regarded as fair, such as the remuneration for ambition and devotion, talent and good luck, a high level of education or a special ability. The welfare state does not wipe out these differences, but quite to the contrary, it profits from them, as each productive society is based upon diversity of people and means to draw economic advantages from the different outcomes of different people. The welfare state is not keen on making everybody or everything alike and the society a homogeneous one. Therefore, the ideal of the welfare state is equality, established on the basis of diversity among human beings, which are entitled by the basic human rights to develop themselves as free individuals. In a welfare state legal equality is not enough to safeguard material or social equality. This formal equality is the backbone of the market: but human life is not a race! Competition and struggling for survival are neither the only, nor the ultimate, targets of social life, they are not more than a technical means to draw social profit from human diversity and differences. So, the welfare state embeds social competition into a social structure of human solidarity. This is done in order to cope with human diversity which stems from differences which are beyond individual control: good or bad health, committed or disinterested parents, stimulating or boring education, good luck or pity – no human being is just the product of her- or himself, but at the same time everyone's life depends on certain social conditions that cannot be influenced by the individual. The welfare state copes with the challenge of diversity among human beings due to conditions beyond their control, as they

are supposed to work and in such activity are exposed to risks embedded in the working life of each individual: sickness, work accident, professional diseases, invalidity, unemployment, old age, death of the spouse or parent. As these risks are not adequately, if at all, covered by the market, it is up to society to make social security become an effective instrument of risk management. Social security strengthens the freedom of the individual, whenever independent life is jeopardized by social risks. Social justice is the aim of social security benefits, which organize social solidarity. They are based upon the market, but safeguard human dignity also to those who are – through no fault of their own – unable to organize a living in human dignity. Social benefits emerge from social rights. The idea of social justice is translated into 'stake-holding'. (1)

All human rights have to establish freedom within a society. Therefore, they never define spheres of natural freedom. Human rights are not about human nature, but about human society! As they are part of the law, they have to play a leading role within the law! It is, hence, a misconception of human rights to conceive them as a part of natural law. All human rights have a societal strand. They became an issue in history, only if social conditions were met, when the freedom of the individual became a subject of dispute within society. The freedom of belief became a controversy in society under reformation when different confessions emerged. The freedom of expression is only important under the assumption of a public sphere, based on unhindered communication and exchanges of different views. For an individual isolated from the rest of society, there is no audience. So to this person, the freedom of expression is without any importance. The right to marriage requires a partner: if there is no one to marry, the right would be without any importance. If so, human rights are addressed to the members of the human species not as human beings, but as members of the human society of women and men which organizes their joint living based on market exchanges in a democratic political order framed by a comprehensive welfare state.

The conditions for social rights are to be created by acts of legislation. The first and most

fundamental prerequisite is to make social rights feasible; this requires the establishment of institutions to administer and police social rights by acts of legislation. A series of requirements stem from these circumstances, which must be respected in order to adapt the right to the needs of the beneficiaries. The stakeholders – trade unions, employers’ organizations and non-governmental organizations – should be integrated in the legislation to give them a voice. The debate on social legislation should be profound and accompanied by a public discourse in order to make the public and the beneficiaries aware of the rights to be enacted. Additionally, social rights depend on a plethora of social and institutional conditions, also to be established by law. The right to work is bound to a whole range of potential employers and a public system of placement, a policy directed towards full employment – with many instruments on training, assistance and, if necessary, public employment and labour legislation. (3) The same is true for the rights to decent housing or health care. All these human rights are to be built on the organizational capacity of the state, to regulate the labour market, housing and health care.

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