

# THE EUROPEAN COMMUNITY PRIORITY - THE SOCIAL POLICY

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**Abstract:** *At the level of European Union, starting from the necessity of insurance economic growth, social community law gradually developed, benefitting by sinuous construction, extremely complex, being continuously transformed. Familiarization with the model of social community law prescribed by European Union represents not only a forward step in the process of harmonization with community law, but also an alignment in settlement of European Union, which finally establishes the modernization of the whole domestic law system.*

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## 1. GENERAL CONSIDERATIONS

In 1993, Romania signed the European Agreement establishing an association between Romania, on one hand, the European Communities and their Member States, on the other hand, ratified by Law no. 20 / 1993, and currently it constitutes the legal basis for relations with the European Union, representing a crucial step in achieving integration of Romania into the European Union.

By ratifying this treaty, Romania has engaged in a complex process, manifested in the political, economic and legal area which has as a final aim “*to respect the state law rules of and human rights, including minority rights, to practice a multiparty system based on free elections and democracy and ensure economic liberalization in order to establish a market economy*” (Vrânceanu, 2003).

Achieving these goals requires radical changes in the Romanian legal system in such a manner as to become compatible with Community law and implicitly with the regulations of the Member States. The obligation of the legislation harmonization with Community law is laid down verbatim in article 69 - 70 of Chapter III (“The harmonization of laws”), and it is an important condition for Romania’s economic integration into the Community and there are set initially key

areas, areas which, in the negotiated procedures, started in February 2000 with the European Commission, were detailed and developed, Romania assuming the obligation to take over the *acquis communautaire* into force on January 1, 2000, and for some areas, on January 1, 2001 (Marcu, 2001).

## **2. COMMON REGULATORY DOMAINS**

In March 2002, in the document prepared by the Secretary-General of the Council of Europe, entitled "Council of Europe contribution to EU enlargement process", were listed the main legal areas addressed by the Council of Europe, harmonized with the *acquis communautaire*, as present in legal documents, in resolutions and recommendations, and programs established jointly by the Council of Europe and European Commission.

The important convergent point between Community law and the legislation of the Council of Europe is in human rights domain, included in the Community law, especially in Title I of the Maastricht Treaty and the Council of Europe conventions, notably the Convention on Human Rights and fundamental Freedoms, signed in Rome in 1950, plus additional protocols. This still represents the most important document prepared by the Council of Europe, and it is a reference point in any legal system and it constitutes the cornerstone for all other legal arrangement of this organization (Vrânceanu, 2003).

The text of the Convention reaffirms the essential rights enshrined in the Universal Declaration of Human Rights in 1948 and established a new international mechanism, a very democratic and original protection, meaning that any individual from the Member States may address directly to the Strasbourg Court (Protocol No. 11 - Vienna 1993).

In line with the Convention, since 1990, the European Council urged all States applying for membership, to organize their institutions in accordance with basic principles of the democratic state, attached to political pluralism, fundamental freedoms and minorities respect.

The most important rights protected by the reports elaborated by the Council of Europe and, of the European Union are: the right to life, to integrity and dignity, minority rights, social rights.

## **3. SOCIAL POLICY (EUROPEAN SOCIAL AREA)**

Similarly to fundamental rights and freedoms, the Community social policy is characterized by the identity of fundamental principles such as: right to employment, equal opportunities and prohibition of discrimination, employment protection and social protection; areas where there is a

high Convergence between the regulations developed by the two European structures. (To note that in this field are also operating the regulations developed by the International Labor Organization, which develops, in principle, the same objectives).

The social domain exceeds the issues related to labor law, expanding on social policies and correlative domains.

European social space issue has been considered mainly in France, after taking office, as president of this country, by F. Mitterrand.

In the constituent treaties of the Communities the social policy concerned only the intervention of the European Social Fund (created in 1960) in two directions: *according financial aid* for countries that needed it for retraining, assistance for unemployed people to re-classify and *according some competences* to the Communities to ensure social progress, which in fact limited to raising Communities to take steps in this area, without being able to compel them in any way. Communities had regulatory jurisdiction only in health and social security of migrant workers

Given this situation, the Council adopted on January 21, 1972 (following the principles established by the Meeting in Paris in 1972) the first program of social action. He had the following objectives: reducing unemployment in whole or at a low rate, increased participation of social partners in EEC decisions and business management, improving living and working conditions.

Adoption of the Single European Act, of the Community Charter of Fundamental Social Rights of Workers (December 1989) and the Maastricht Treaty were the successive steps that have developed in the field of social regulation and allowed the development of European social space.

At the adopting of the Maastricht Treaty some opposite trends occurred regarding extending Community competence in the social field, among which France wanted this and Britain opposed this trend. The annex protocol for this field is signed by only 11 states. They should be applied by way of directives, minimum requirements that must be applied gradually in domestic social policy. Britain does not take part in the meetings discussing these issues (Mazilu, 2001).

At EU level, based on the need for economic development, Community social law developed gradually, benefiting from a more complex and sinuous design, which was growing.

Aware that any economic development is not possible without providing a proper legal system, EU states have passed in the treaties drafted after 1990, the principles of social justice at least as complex as the law of the Council of Europe, to which it makes initial reference, so that that the Community social law to set up a separate legal matter (Popescu, 2004).

The legal basis for the definition and implementation of Community social policy is reflected in the disposition of the Treaty establishing the European Community, on the free

movement of persons (Articles 39-42) and right of establishment (Article 43 - 48) in the single market context.

Social reform benchmarks prescribed by EU regulations intended (Popescu, 2004):

- a. social welfare reform by passing from the program with universal eligibility to programs targeted to specific population groups;
- b. pension reform, taking into account:
  - Restore equity between generations;
  - Restore the financial balance of the public pension system;
  - Expanding the current system PAYG reformed with types of capitalized pension funds, for the integrated system to be sustainable in financial terms; the system to preserve the real value of contributions and the level of contracted income replacement; pension funds to help improve capital to support growth;
- c. employment policy and unemployment protection by shifting emphasis from passive measures to active ones;
- d. harmonization of labor legislation with EU rules on labor relations and labor protection rules;
- e. Combating poverty, the main instrument used being the social welfare;
- f. Continue the reform of child protection institutions by allocating adequate financial and human resources for the functioning of public institutions in the field and support partnerships with NGOs, with emphasis on strengthening family support for family reintegration activities, placement specific assistance centers, facilitate adoptions or foster care.

Currently it is considered that the EU already has a structured social policy, contained in a number of objectives and regulations concerning labor and social security.

In the development of EU's social policy a key role is held, today, by the Social Development Agenda adopted by the Lisbon European Council, this launched very precise objectives in the social plan, the most important being the achieving of an average employment occupancy index of 70% by 2010, which includes a target of 60% of jobs occupied by women, abundant and competitive bid of jobs and the achievement of a high level of social cohesion.

Lisbon Agenda states, once again, the indissoluble link created between the European Union's economic progress and social progress, achieving a rebalancing of the two essential components - economic policy and social policy that is unthinkable without the further development of the European Union (Popescu, 2004).

After the European Council of March 2004 EU's social policy has followed new development lines, as:

- Support the urgent need to accelerate economic growth and creating more jobs and better quality;
- Improving labor productivity as a significant indicator in the assessment of stable economic growth;
- Continuous improvement of labor quality by focusing the concerns and economic resources in the directions of ensuring workplace safety, training and personnel qualification.

From this perspective, we have to point out EU's desire to continue the effort of investment in human capital, to ensure a better implementation and implication of cutting-edge technologies, particularly in services, to stimulate research and development infrastructure.

In relation with the evolutions registered in the conception of the European Union, regarding the social policy, in theory has circulated the idea of a Community social contract that essentially would be a strong commitment for a maximum use of labor, high social protection as a factor of stability and social solidarity, an adequate protection of workers' rights, inclusive by ensuring full gender equality and by eliminating social discrimination and by promoting an active and constant dialogue between social partners at all levels, from business level to EU decision-making bodies.

Effectiveness of such a work variant will be revealed in time by checking the degree of involvement of social partners in implementing the strong terms of the so-called Community social contract.

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