

# THE ATTORNEY AT LAW'S SOCIAL SECURITY RIGHTS WITH THE EXCEPTION OF RETIREMENT RIGHTS OF THE PAPER

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**Abstract:** *This article aims to discuss the issue of the attorney at law's social security rights, according to the legislation in this particular domain, namely the Statute of the Insurance Institution for Attorneys at Law. The paper is divided into seven sections, covering: the main regulations regarding the social security and retirement rights of the attorney at law; general information; the allowance for temporary work inability; the maternity allowance; the allowance for raising a child; death aid and the means of payment for social security allowance.*

**Key words:** *social security, rights, allowance, aid, work inability, retirement.*

## 1. Regulation

Regulations regarding the social security and retirement rights of the attorney at law are to be found in Romanian law since the beginning of the regulation of this profession.

Beginning with the Law regarding the organization of the advocate's organization in 1907, the Romanian Bar entered a time of social organization, which lasted until 1919.

The institutions created during this time were: the savings bank, the retirement and the aids granted to the attorneys and their families, the insurance institution for attorneys at law.

In 1936, the Statute of the Romanian Central Lawyers Retirement Institution was passed and that of the Aid Institutions of the Bar with the purpose of creating a

special retirement fund for lawyers and their families. In 1940, the law for the organization and functioning of the Central Lawyers Social Security Institution was passed; a law which was modified shortly after it was passed in 1940.

One of the responsibilities of this institution was to grant retirement funds to lawyers, employees, widows and descendants, in accordance with the provisions of the law [1]

According to our current law, the attorney at law has the right to retirement and other social security rights based on the provisions of the Government's Emergency Ordinance no 221/2000.

This law helped create a unique and autonomous retirement and other social security rights system, which is managed by the Romanian Attorney at Law Insurance Institution, an institution whose

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organization and functioning is regulated by the law which governs the profession of attorney at law and the statute of the Attorney at Law Insurance Institution.

The principles which govern the organization and functioning of the social security system for attorneys at law are:

- autonomy,
- solidarity,
- compulsoriness,
- contribution,
- equity,
- decentralization and
- repartition.

According to article 5 of Government's Emergency Ordinance no 221/2000, the Attorney at Law Insurance Institution has its own patrimony and budget, which is approved through a procedure regulated by law.

## **2. General information**

As concerns the right to retirement, article 6, paragraph 1 of the Government's Emergency Ordinance no 221/2000 regulates the lawyers' main categories of retirement.

Irrespective of the right to retirement, the people insured by the autonomous social security system for attorneys at law benefit, according to provisions of art. 101, first point of the Statute of the Insurance Institution for Attorneys at Law, from the following rights: an allowance for temporary inability to work caused by usual illness, work or outside of work accidents, maternity allowance and allowance for raising a child, as well as an aid for deaths occurring in the family.

According to the provisions of art. 101, point 2 of the Statute of the Insurance Institution for Attorneys at Law, these rights are given to all insured people having previously contributed for at least 12 months prior to the event, unless the person involved has income from this profession.

As for the aid for deaths, the condition of having previously contributed for 12 months is not mandatory.

## **3. The allowance for temporary work inability**

„Within the attorney at law retirement and social security system, the attorney at law who is temporarily unable to work and has no other income from this profession, benefits from an allowance for temporary work inability”.[3]

This condition is proven by a medical certificate for a period of up to 180 days within a year, the first day of this term being the first day when the condition occurred.

The temporary work inability for a period of over 90 days will be granted only based on a letter of advice by an expert physician within the social security system.

The allowance for temporary work inability is paid by the attorney at law's own social security system starting with the 16th day of the illness, except when the person is admitted to the hospital or when the person is pregnant or in case of any other medical emergencies; in all these cases, the allowance is paid from the first day when the condition occurred. [4]

As for the judicial vacation, this allowance is paid only in case the person is admitted to the hospital for serious conditions or accidents, for conditions in connection with pregnancy and for the period of time necessary for ambulatory treatment as a consequence of admittance into the hospital for the conditions stated above.

As for the quantum of this allowance and the means of payment, these will be determined by a decision of Council of the Romanian National Bar Association taking into consideration the contribution of the

attorney at law within the last 12 months and also the financial situation of the system.

#### **4. Maternity allowance**

According to article 107, point 1 of the Statute of the Insurance Institution for Attorneys at Law, women insured by this system are granted maternity allowance for a period of 126 calendar days if they don't have income from the profession.

If the child is born dead or dies while the mother is receiving this allowance, the allowance will continue to be granted throughout the entire period of 126 days.

#### **5. The allowance for raising a child**

In the category of other social security rights we include the right to a specific monthly allowance for raising a child.

This allowance is granted for the same period of time chosen by the beneficiary according to the provisions of Government's Emergency Ordinance no 111 from December 8th 2010 and is provided in all cases, until the child turns 2 years old or 3 years old if the child has a handicap. [5]

According to article 111 of the Statute of the Insurance Institution for Attorneys at Law, this allowance is granted to the biological parent, the person who adopted the child or the person to whom the child was entrusted in order to be adopted.

This allowance will no longer be paid starting with the first day of the month in which the attorney at law begins specific activity.

#### **6. Death aid**

In case the person who dies is ensured

or retired, the aid will be granted to the surviving spouse, first degree descendants or the person who pays the funeral expenses. [6]

In case of the death of a family member dependant upon an ensured person, the aid will be granted to the ensured person, on condition that he or she doesn't benefit of such an allowance in accordance with other legal provisions.

If the allowance received in accordance with other legal provision is smaller than that granted by the social security system of attorneys at law, the difference between the two will be given. Family members are:

- the spouse,
- one's own or adopted children with the age of maximum 18 years or if they are in continuance of their studies up to the age of 26 years,
- the parents of spouses.

#### **7. Means of payment of social security allowance**

The allowance and any other social security rights are paid to the beneficiary, the legal representative of the beneficiary or the person designated by the beneficiary. [7]

The allowance and other social security rights can be requested for up to 6 months, starting with the day in which the beneficiary is entitled to those rights.

The payment of the social security allowance terminates on the day following the death of the beneficiary or the day when the beneficiary no longer fulfils all legal conditions for an allowance.

When the allowance is suspended, the beneficiary must request payment, starting with the day in which the cause for suspension was terminated.

**References**

1. Stoica, C., Webster J.: *The Romanian lawyer within the European law system*. Bucharest. All Educational Publishing House, 2002. See: [1].
2. Art. 102, paragraph 1 of the Statute of the Insurance Institution for Attorneys at Law, See: [2].
3. Art. 104, paragraph 1 of the Statute of the Insurance Institution for Attorneys at Law, See: [3].
4. Art. 110, paragraph 1 of the Statute of the Insurance Institution for Attorneys at Law. See: [4].
5. Art. 113 of the Statute of the Insurance Institution for Attorneys at Law. See: [5].
6. Art.117 of the Statute of the Insurance Institution for Attorneys at Law. See: [6].