The right of social insurance as constitutional right and as an important right arising from labor relations

An overview of the framework of social insurance in Albania

Mirela Selita, MSc, Phd Candidate
Head of Legal Directorate and Central Appeal Committee
of Social Insurance Institute, Albania

Abstract

Social insurance is part of social security which consists as well as of social assistance and services, health services and health care insurance. Everyone has the right for social insurance when retired or in case of incapacity of work under a certain system established by a law. The right of social insurance is part of labor rights.

In Albania the mandatory social insurance scheme is based on the pay-as-you-earn principle, on the awareness of the individual about the risks in social field in its future and in the principle of agreement between generations. This is a scheme financed out of contributions from the employers, the employed persons and self-employed. The benefits are provided in case of sickness, maternity, old-age, disability, loss of breadwinner, employment accidents/occupational diseases and unemployment.

Keywords: social insurance, pensions, sickness, unemployment, maternity, employment injuries

Introduction

At the end of century XIX, when German Chancellor Bismarck set up the PAYG social insurance system in Germany, the governments of other European countries used this experience to establish such systems in their countries. Albania as well, under the monarchy of King Zog, followed the same direction, setting up the contributive state pension's schemes for civil servants and military forces[1]. The oldest legal act on social insurance in Albania dated 15.02.1923, pensions for military forces, as well as the act "On Civil Pensions", no. 129, date 28.10.1927. But the establishment of the pure social insurance system dates back to August 1947, and comprised two schemes for employees of the state sector, act no. 4171, date 13.09.1966 and for agricultural cooperative members, act no. 4976, date 29.06.1972.

Changes that occurred in the national economic and politic system starting 1991, had an impact upon social insurance system. The reform of the social insurance as part of

[1] Prof.Asoc.Dr.Merita (Vaso) Xhumari, "Pension Trajectories in Western Balkans, Three case studies: Albania, Macedonia and Kosovo 1990-2010", "Pegi" Printing- House, Tirana 2011, ISBN 978-9928-124-24-1, page 33

social protection[2], aimed to be in line with the requirements of a market economy. The reform started with the law no. 7703, date 11.05.1993 on social insurance, which entered in force on 1 October 1993.

The right for social insurance as a constitutional right

In article 59 of the Constitution of the Republic of Albania, "the social objectives", is declared that the State within the constitutional competencies and the probable means as well as in the fulfillment of private initiatives and responsibilities, aims to higher possible standards of health, physical and mental; social care and services of elderly, orphan and invalids; medical rehabilitation, special education and integration in the community, of disabled persons.

The right of social insurance is part of chapter IV of the Constitution, "the economic, social and cultural rights and freedoms", articles from 49 to 58.

Article 52 of the Constitution of the Republic of Albania foreseen that everyone has the right of social insurance when retired or in case of incapacity of work under a certain system established by a law. Everyone, when is unemployed for any reasons independent on individual will and when there is no living means, has the right of need under the conditions foreseen by law. The Constitution refers to the law of the Parlament, this is the legal reserve.[3]

The Constitutional Court of Republic of Albania, in its decision no.41, date 16.11.2007, for the case related with a kind a benefit not derived from social insurance rights, underlined : "... that is why the conditions of delivering of that kind of benefit as well as the changes of such conditions, are not to be equal with the right of pensions as a fundamental right foreseen by article 52 of the Constitution".[4]

The right for social insurance as part of labor rights

Social insurance in Albania are closed linked with the labor relationships. The social insurance right is an important part of the rights in the work place. In the Labor Code of the Republic of Albania there are lot of articles dealing with the social insurance rights arising from the labor relationship.[5] Those rights relates to preventing the labor

[2] Prof.Ju.Dr.Igor Tomes, "The Social Insurance Law", Tirana 1998. Prof.Ju.Dr.Igor Tomes, was the Consular for the Albanian Government, from the World Bank Project "Development of social protection schemes", starting the year 1992.

[3] Prof. Aurela Anastasi "The constitutional law", Tirana, 2004, "Pegi" Printing- House, ISBN 99927-941-1-9, page 67

[4] Prof.Dr.Xhezair Zaganjori - Dr.Arta Vorpsi - MA.Denar Biba "Constitutional Principles and Fundamental Rights in the Jurisprudence of Constitutional Court", "Adelprint" Printing- House, Tirana 2012, ISBN 978-99956-32-28-1, page 179

[5] Labor Code of the Republic of Albania articles 39, 101, 104, 105, 105/a, 106, 107, 117, 123/2, 130, 131, 147, 197/8, Law nr.7961, date 12.07.1995 - Official Bulletin no.16/1995 amended by Law no.8085, date 13.03.1996 - Official Bulletin no.6/1996; Law no.9125, date 29.07.2003- Official Bulletin no.72/2003; Law no.10 053, date 29.12.2008 - Official Bulletin no.205/2008 - Centre for Official Publications of the Republic of Albania, web site www.qpz.gov.al

accidents & professional deseases, special protection rules for women during before and after the child birth[6], etc.

Social insurance protects all the employees in case of earnings reduction due to temporary incapacity caused by sickness, maternity, employment accidents/ professional diseases, unemployment and due to old age and survivorship. Social Insurance provides compulsory protection to all economically active persons in case of income reduction due to maternity, old-age, disability and loss of breadwinner.

Entitlement to social security, already mentioned in the labour clauses of the Treaty of Versailles of 28 June 1919, including the Constitution of International Labour Organization and in the Declaration of Philadelphia of 10 May 1944, concerning the aims and objectives of the ILO, became a human right with the United Nations Universal Declaration of Human Rights of 10 December 1948 and the International Covenant on Economic, Social and Cultural Rights of 16 December 1966.[7]

The social insurance in Albania

The legislation

Social insurance in Albania is regulated by acts of the Parliament, which are supported by sub legal acts of the Government or of the Administrative Councils.

Administrative Council are tripartite bodies Representatives of government, trade unions and employer`s organizations.[8]

The Social Insurance Law was approved by the Parlament on 11 May 1993 and is in force since 1 October 1993, this law is amended during the years.[9]

The principles

Social insurance (sigurimet shoqerore[10]) in Albania is mandatory scheme, based on the pay-as-you-earn principle, on the awareness of the individual about the risks in social field in its future and in the principle of agreement between generations. This is a scheme financed out of contributions from the employers, the employed persons

[6] Prof.Kudret Çela "The labour law", Tirana, 2003, "Ilar"Printing- House, ISBN 99927-855-3-5, page 208

[7] "Social Security as a human right. The protection afforded by the European Convention on Human Rights", Council of Europe, 2007, ISBN 978-92-871-6261-8, printed at the Council of Europe, page 5

[8] International Labour Office, Social Security Governance: A practical Guide for Board Members of Social Security Institutions in Central and Eastern Europe, Budapest 2005, ISBN 92-2-117857-9 (print), ISBN 92-2-117858-7 (web pdf) www.ilo.org/publns, page 14

[9] Law no.7703, date 11.05.1993 "On Social Insurance in the Republic of Albania", amended by law no.7932, date 17.5.1995; law no.8286, date 16.2.1998; law no.8392, date 2.9.1998, law no.8575, date 3.2.2000; law no.8776, date 26.4.2001; law no.8852, date 27.12.2001; law no.8889, date 25.4.2002; law no.9058, date 20.3.2003, law no.9114, date 24.7.2003, law no.9377, date 21.4.2005, law no.9498, date 3.4.2006; law no.9600, date 27.7.2006; law no.9708, date 5.4.2007, law no.9768, date 9.7.2007, law no.10070, date 5.2.2009, law no.10447, date 14.7.2011

[10] "Sigurimet shoqërore" is the translation in Albanian language of the term "social insurance"

and self-employed. Payment of benefits in cash is guaranteed at least for an amount that covers a minimum subsistence living standard, to be determined by Council of Ministers. Coverage starts on the date the protected person has legally commenced the economic activity and finishes on the date economic activity ends. In order to be entitled to benefits each individual has to contribute to the specific branch. The insurance period includes all periods for which contributions are paid and during which a benefit was awarded by social insurance. The contributions are collected by tax force[11]. The benefits are paid by the post offices and by banks.

Old age, survivor's, incapacity at work, unemployment fund is financed by the contributions of employer's employees and self employed persons as well as contributions from the state budget in respect of persons, who cannot pay contributions, especially the citizens serving compulsory military service etc. Payment of social insurance contributions enjoys a priority in comparison with fiscal liabilities and arrears. Social insurance benefits are tax-free. Social insurance fund is independent of the state budget, but the state guarantees the solvency of the fund.

The management

Social insurance scheme is managed by the Social Insurance Institute (SII)[12] which is an autonomous public institution[13]. SII is responsible for administration of sickness, maternity, professional disease/accident at work, old age, invalidity and survivor's insurance branches. The supreme executive body is Administrative Council, a tripartite body with the representative of Government-trade unions-employer's organizations. The SII administration is based on central office, regional offices and local agencies.

The contributions

The employer is obliged to pay contributions for the employee to the sickness, maternity unemployment, labour accident, pensions and health insurance fund. Contributions shall be shared by employee and employer and shall be calculated based on monthly wage, having as minimal and maximal wage that defined by the Council of Ministers upon which social insurance contributions are paid. Employer contribution`s part for sickness, maternity and pensions is 13, 8 % of payroll (gross), and employee part is 9.5 % of payroll (gross). For employment accidents/occupational diseases and unemployment insurance branches only employer is obliged to pay contributions

[11] Law no. 9136, date 1.9.2003 "On the collection of the compulsory social and health insurance contributions", as amended, Summary of the Albanian Social Insurance Legislation, Centre for Official Publications of the Republic of Albania, Tirana 2010, ISBN 978-9928-01-006-3, web site www.qpz.gov.al, page 45

[12] Council of Ministers Decision no.249, date 05.06.1992, Summary of the Albanian Social Insurance Legislation, Centre for Official Publications of the Republic of Albania, Tirana 2010, ISBN 978-9928-01-006-3, web site www.qpz.gov.al, page 212

[13] Article 71 of the Law no.7703, date 11.05.1993 "On Social Insurance in the Republic of Albania", Summary of the Albanian Social Insurance Legislation, Centre for Official Publications of the Republic of Albania, Tirana 2010, ISBN 978-9928-01-006-3, web site www.qpz.gov.al, page 13

respectively 0.3 % and 0.9 % of the payroll. The self-employed or employer are obliged to pay contributions for maternity, pension and health insurance fund. They are responsible to pay by themselves the contributions to the tax office.

The procedures for paying the contributions are regulated by the decision of Ministry of Finance.

Employer will pay fines if the contributions are not paid within the time terms. Penalties will be paid for not registering the economic activity, for delayed registration of a new economic activity, for delayed submission of the documents required, as well as in case the documents submitted by the employer comprise defaulted contribution-related figures aiming reduction of contribution amount. Penalties are to be paid in case an employer has deducted social insurance contributions from employed person's wage, but has not paid it and if the employer does not keep the records in conformity with the procedures determined. Each person obliged to pay contributions have the right to appeal the estimation of additional contribution of interests and penalties. The employer and the self employer may appeal in written to the tax authorities.

The Social Insurance Branches

Old-age pensions branch. There are three kinds of old age pension, which are full pension, partial pension and reduced pension[14].

To get a full old age pension is required a minimum period of membership of 35 years of insurance and legal retirement age is 65 years old for men and 60 for women. The contributory requirements workers are divided in three different categories and the pace of the transition differs according to the category the worker belongs to. During a transitional period the age of retirement is increased gradually up to 65 years for men and 60 for women.

Partial pension is given when insured person has less than 35 years, but more than 15 years of insurance and she or he has reached respectively 60 and 65 years old.

A reduced old-age pension is provided when the insured persons have acquired not less than 35 years of insurance and reached age 62 for men and 57 for women.

The monthly old-age pension is composed of a basic amount and an increment. The basic pension amount provides at least a minimum living standard, annually indexed with regard to price index development of selected commodities. The increment is 1% per year of insurance times average assessment basis the insured persons achieved through contributions. Council of Ministers indexes each year the individual assessment basis, with regard to the development of the average paid contributions in that year. The maximum amount of pension is twice the basic amount or 75% of

[14] Articles 30-34 of the Social Insurance Law no.7703, date 11.3.1993, as amended

net average wages of three successive years in the 10 last years of insured persons' employment; whichever is less. The average net wage of three successive years in the last 10 years of employment of the insured person shall be annually indexed according to the indexations rules of the assessment basis. The assessment basis for pension calculation purpose is the total of contributory wages with the insurance period. Every year, as of 1st of January, the annual individual assessment basis shall be indexed with the coefficient resulting from the ratio of the average contribution of the insured person in the last calendar year to the same indicator in the previous year. This coefficient is determined by Ministers' Council decision. An increment of 0.34 % of the full pension is given for each month of continuation in employment paying social insurance contribution or in case the pensioner suspends the pension, and continues in employment paying contributions. This increment is calculated on the basis of the resulting pension amount including all the increases and indexation during the interruption period.

The partial pension amount shall be calculated as a portion of the full pension. This pension shall be calculated by dividing the multiplication of full old-age pension amount and achieved years of insurance, by 35.

The reduced pension is a portion of the full pension, and remains as such during the entire benefit period. The reduction coefficient of the full old-age pension is 0.6 % per month.

*Survivor`s pensions branch*. Survivor`s pension is a benefit given to those persons who are dependent upon the deceased person who was or would have been entitled to an old-age or disability pension[15]. Surviving spouse is an entitled person if she is caring for a dependent child of deceased person, up to 8 years old; or she is disabled; or she is 50 years old and widower if he is caring for a dependent child of deceased, up to 8 years old or he is disabled or he is 60 years old. The widow and widower shall lose their right to a survivor's pension on marriage. Orphans shall be eligible to a survivor's pension, provided they were dependent upon the deceased and are under 18 years of age, or 25 years, if studying or disabled, prior to the above mentioned ages. Orphans having lost one parent shall be entitled to a portion of the pension the deceased person had or would have had. It shall be 25% for each of them. If there are no other survivors, the survivor`s pension shall be 50%. Orphans having lost both parents shall receive an orphan's pension in respect of each of them. The widow/widower that becomes disabled later than 10 years of spouse death has no right to be entitled to survivors' pension. Other beneficiaries are parents, grandparents and grandchildren they get 25 %. The parents, grandparents and step parents are entitled persons if they shared the same household with the deceased for at least one year before the death have not other persons liable to take care on them, and have reached age 65, or are disabled.

[15] Articles 40-42 of the Social Insurance Law no.7703, date 11.3.1993, as amended

Grandchildren, will get pension if they were dependent upon the deceased and shared the household with him, in such case they shall be treated as orphans. Death grant is another benefit in the survivor`s insurance branch. Death grant shall be awarded to the insured person or pensioner in case of death of a dependent member of his family. It shall be awarded also to the survivor of the deceased insured person, who looked after him and paid the funeral expenses. This is a lump sum benefit equal to one month's basic old-age pension.

Sickness cash benefits. When an insured person is medically certified as being temporarily incapable to work because of general diseases, he/she are entitled to a sickness cash benefit[16]. They do get the benefit if the temporarily incapable occurred within 30 days of compulsory insurance termination. The benefit is not provided if the employed person was dismissed for criminal act, according to a Court Decision. The benefit period start on the 15th day of medical certification of such incapacity and shall last for not more than 6 months from the beginning of the payment. It may be exceptionally prolonged up to another 3 months, provided a Medical Experts Committee certifies that the insured person concerned shall recover in that period and be not eligible to a disability pension. When an insured person is entitled to a partial disability pension, the cash temporary incapacity of work benefit shall be provided of 3 months from the starting of payment partial disability pension. The duration of payment of cash sickness benefit for seasonal and temporary workers who have been employed at least 3 months in the last 12 months, shall be up to 75 days. The amount of sickness cash benefit is 70% of the daily average of the annual assessment basis of the last calendar year, if the insured person has up to 10 insurance years, and 80%, if the insured person has got more than 10 years of insurance. For the period the beneficiary is hospitalized provided he does not support any dependent, the sickness benefit is 50% of the daily average of the annual assessment basis of the last calendar year. The annual assessment basis for calculation of sickness cash benefits is the total annual wage in respect of which contributions were paid. Benefits in case of sickness, for periods up to the first 14 days, or nursing a dependent child, is a liability of the employer, foreseen in the Labor Code. Sickness allowance awarded to compensate job place changing or reduction of working hours, is another cash benefit. In that case a decision of Medical Expert Committee is to be taken. The period of compensation can`t be more than 3 months within one year from the date the disease, due to which the employment was changed, began. The amount of compensation is equal to the difference between the previous and present wages and cannot exceed 50% of daily average of the assessment basis of last calendar year.

[16] Articles 20-25 of the Social Insurance Law no.7703, date 11.3.1993, as amended

Maternity cash benefits. In case of maternity the following cash benefits are awarded: the maternity benefits, the maternity allowance, due to employment change and birth grant.[17]

The maternity benefit is paid to the insured woman with regard to pregnancy and childbirth provided she has acquired 12 months of insurance in respect of each contingency. The contingency where the woman has met the conditions of entitlement to a new maternity benefit shall be exempted from this rule. Period of benefit is 365 calendar days, including a minimum of 35 days prior to and 42 days after childbirth. If during the pregnancy are more than one child, the benefit period is 390 calendar days, including a minimum of 60 days prior to and 42 days after child birth.The rate of maternity benefit is 80% of daily average of the annual assessment basis of last calendar year, for the period prior to birth and for 150 calendar days, and after the birth 50% of daily average of the annual assessment basis of last calendar year for the rest of period. The amount of maternity benefit for economically active women is equal to the base flat-rate old-age pension. When a child of up to one year of age is adopted, the adoptive mother, having not less than 12 months of insurance, will benefit from the day the adoption occurred, but not prior the 42nd day of childbirth, subject to a maximum of 330 days from baby delivery. The minimum period of benefit, for the adoptive mother is 28 days. When a child is adopted during the maternity leave, the real mother will benefit until the day the adoption occurred, but not less than 42 days after childbirth. The maternity allowance benefit is to reimburse loss of wage because of employment change for reasons of pregnancy, in conformity with a decision of Medical Experts Committee, if the contributions are paid at least 1 year, prior to being eligible to benefit. The amount is equal to the difference between the previous and at present wages, subject to a maximum of 50% of daily average of annual assessment basis of last calendar year. Birth grant is lump sum given once to mother or father of a new-born child, provided one of them has contributed for one year prior to the childbirth. Mother shall have priority in eligibility, if insured. The amount is ½ of basic wage declare by the Council of Ministers Decision.

Unemployment insurance branch.[18] The insured person shall be entitled to an employment benefit, provided he has contributed to social insurance for at least 12 months for each benefit contingency; it is certified by the responsible labor office that: they are unemployed job-seekers, available to get employed, provided they are offered a paid and appropriate job; accept to be qualified or re-qualified. The unemployment benefit shall be flat rate of an amount to provide at least for a minimum living standard, annually indexed by the decision of the Council of Ministers, with regard to price index development of selected commodities. The beneficiary with dependent children, of

[17] Articles 26-29 of the Social Insurance Law no.7703, date 11.3.1993, as amended

[18] Articles 53-55 of the Social Insurance Law no.7703, date 11.3.1993, as amended

up to 15 years of age, shall receive a flat-rate family supplement, payable in respect of each dependent child, at the level of 5% of the unemployment benefit, but not more than 30%. If one of parents is employed or entitled to a full pension, such supplement should be reduced by 50%. Unemployment benefit shall be paid up to 12 months as determined under Ministers' Council decision

The persons, who are attending training and retraining courses, are entitled to unemployment benefit, if they are not paid for this period. The payment of benefit should not exceed 6 months beyond 1 year of unemployment benefit. This right is also enjoyed by insured persons under maternity benefit and full disability pension.

Employment office of the district is responsible to administer the requests for unemployment benefits.

Invalidity pensions branch. Cash benefits in case of invalidity are: full invalidity pension, partial invalidity pension, reduced invalidity pension, allowance for helplessness and supplements for dependent children. Full disability pension is provided if a minimum insurance period is acquired, and if the person is disable to any economic activity, or has suffered severe mutilations and physical defaults (including the blind). Disability is defined by a MEC by a decision describing the causes of disability, starting date and grade of working disability loss. The minimum insurance period to qualify for a disability pension is half the period that disability age of person exceeds 20 years of age. The amount of disability pension is composed of a basic pension and a pension increment, and calculated in the same manner as the old-age pension. The basic amount provide at least a minimum living standard, indexed with regard to price index development, together with the indexation of old-age pensions. The increment, awarded to employed persons, shall be 1% per year of insurance times average assessment basis the insured persons achieved through contributions. Each year the individual assessment basis, with regard to the development of average paid contributions in that year is indexed, the coefficient is declared by a Council of Ministers Decision. Total pension amount is up to maximum of twice the basic pension or 80% of last year's net average wage, whichever is less. The average net wage of the last year shall be annually indexed in conformity with the indexation rules for the assessment basis. A person in condition of a full disability, but has not completed the minimum insurance period, is eligible for a reduced disability pension equal to the ratio between the insurance period completed and the insurance period defined for a full disability pension. The calculation formula for the reduced invalidity pension is the amount of full invalidity pension multiply with the coefficient derived by ratio of the individual insurance period with the required insurance period for a full invalidity pension. Partial disability pension is provided when a minimum insurance period is acquired and if the person is disabled to perform last employment, but may work under special working conditions. The scale of disability and the special work conditions are to be determined by MEC. The

partial disability pension shall be 50% of full disability pension. It shall be calculated in the same manner as a full disability pension.

The disability pensions shall not be calculated taking into account an assessment basis which is lower than the previous one. Once eligibility for a disability pension is in place, the pension amount shall be considered a minimum limit for the purpose of calculating any other pension under social insurance law. The family supplement for every dependent child up to 18 years of age or 25 years if he/she attends the university or they are disabled. The amount is equal to 5 % of basic pension, but subject to a maximum of 30%. Allowance for helplessness is provided if the beneficiary of an invalidity pension becomes physically or mentally helpless and needs constant care of another person. The need of constant care is to be determined by the Medical Committee, responsible on work ability definition. This allowance equals 15% of the assessment basis. A disability pension will be suspended during the period the pensioner refuses to visit the competent medical expert committee. It shall also be suspended when he/she refuses to participate in training/retraining course, which aim to reduce his incapacity for work. A person receiving a disability pension can opt for an old age pension, if more favorable, once he reaches the retirement age. The two pensions cannot be cumulated.

Employment injuries/occupational diseases.[19] If a person suffers an employment accident/occupational disease, regardless the work stage can be entitled to benefit additional medical care and rehabilitation necessary to recover lost abilities; benefit in case of incapacity, compensation for reasonable damages & benefit in case of death. If the capacity to work is loosed, the benefits provided are: Benefit in respect of temporary incapacity, if the employment accident/occupational disease, is certified by a competent medical expert committee. The amount of benefit is equal to 100 % of average daily wage for last three years, payable for a benefit period of up to 12 months. Benefit in respect of permanent working disability, incurring at least 67 % of working capacity lost, as it's certified by a special medical committee. The amount is equal to 80% of average wage for last three years, subject to a minimum living standard level, to be established by Council of Ministers. If the person needs to be continuously looked after by another person under the decision of the Medical Commission for determination of the capacity to work (MC), an increment of 15% of the assessment basis is given. If the person has children under his/her dependence who are at the age up to 18 years of age or 25 years if he/she is attending the university or they are disabled, a family increment for each child of 5 % of the basic pension amount, but not exceeding 30 % is to be given. Benefit in respect of partial permanent disability to work, incurring at least 33% of loss of working capacity, certified by a special medical committee. The amount is equal to a portion of the 80% of average wage of last three

[19] Articles 35-39 of the Social Insurance Law no.7703, date 11.3.1993, as amended

years, depending upon the degree of the working capacity lost, but not less than 50%. Benefit in respect of minor permanent incapacity of less than 33%, but more than 10%, certified by a special medical commission, is a lump sum paid at once. Full compensation (level to be determined by Social Insurance Fund) of material damages occurred to the person relating the employment accident/occupational disease. Full reimbursement (level to be determined by Social Insurance Fund) of the person who furnished the funeral expenses of the person who died due to an employment injury. -Survivors' pension, the eligible persons and the % of survivor`s pension for each dependant persons, are the same as in normal death.

The right to appeal

Appeals against social insurance decisions have the following procedures. First level of appeals is in the regional appeal offices, second level is in the central office of Social Insurance Institute at the high central commission. Unfavorably resolved appeals shall definitely be settled in tribunals. There is Regional Appealing Committee for each of the 12 Regional Offices of SII and one Central Appealing Committee for the Central Office of SII. The following points comprise the competences of the appealing committees to accept the request to appeal, to cancel the request to appeal and turn it back to be revised, to turn down the request to appeal. Appeals consider the circumstances of each case.

The right to address the court is a universal basic human right. It is worth mentioning that along with the right to address the court, of the same importance is the right to a fair trial, which is a constitutional guarantee as well. A fair trial shall mean that the court respects all legal procedures, the trial is fair and meets reasonable deadlines, as well as the court is independent and impartial. The process must be a public one, because the interests of the parties are also public interests, and this represents another guarantee for the parties. Both parties must be given the opportunity to clarify respective issues, no favoritism, no discrimination, and both parties be equally treated[20]. The item of court`s jurisprudence related the social insurance rights, might be subject for another paper in the future.

Conclusions

The right to social insurance is a constitutional right and falls into the category of economic and social rights of the Constitution. The role of the state in terms of social insurance schemes which are mandatory and monitored, what makes up as well the relationship of social insurance to the concept of the welfare state.

[20] Prof. Aurela Anastasi "The constitutional law", Tirana, 2004, "Pegi" Printing- House, ISBN 99927-941-1-9, page 107

The right to social insurance is an important part of the corpus of rights arising from employment relations. Thus, by working and paying contributions an individual takes responsibilities for the future risks, since a part of his income from work are saved for insurance.

Bibliography

1. Summary of the Albanian Social Insurance Legislation, Centre for Official Publications of the Republic of Albania, Tirana 2010, ISBN 978-9928-01-006-3, web site www.qpz.gov.al
2. Labor Code of the Republic of Albania -Law nr.7961, date 12.07.1995 - Official Bulletin no.16/1995; amended by Law no.8085, date 13.03.1996 - Official Bulletin no.6/1996; Law no.9125, date 29.07.2003- Official Bulletin no.72/2003; Law no.10 053, date 29.12.2008 - Official Bulletin no.205/2008 - Centre for Official Publications of the Republic of Albania, web site www.qpz.gov.al
3. Prof. Aurela Anastasi "The constitutional law", "Pegi" Printing- House, Tirana, 2004, ISBN 99927-941-1-9
4. Prof.Asoc.Dr.Merita (Vaso) Xhumari "The process and institutions of social policy", "The University Book`s House", Tirana 2003, ISBN 99927-0-241-9
5. International Labour Office, Social Security Governance: A practical Guide for Board Members of Social Security Institutions in Central and Eastern Europe, Budapest 2005, ISBN 92-2-117857-9 (print), ISBN 92-2-117858-7 (web pdf) www.ilo.org/publns
6. International Labour Office, Collection of Pension Contributions: Trends, Issues, and Problems in Central and Eastern Europe, Budapest, 2004, ISBN 92-2-116262-1 (print), ISBN 92-2-116263-X (web pdf) www.ilo.org/publns
7. Prof.Asoc.Dr.Merita (Vaso) Xhumari, "Pension Trajectories in Western Balkans, Three case studies: Albania, Macedonia and Kosovo 1990-2010", "Pegi" Printing-House, Tirana 2011, ISBN 978-9928-124-24-1
8. Prof.Dr.Xhezair Zaganjori - Dr.Arta Vorpsi - MA.Denar Biba "Constitutional Principles and Fundamental Rights in the Jurisprudence of Constitutional Court", "Adelprint" Printing- House, Tirana 2012, ISBN 978-99956-32-28-1
9. Prof.Kudret Çela "The labour law", "Ilar"Printing- House, Tirana, 2003, ISBN 99927-855-3-5