Pension Reform Infringes The Constitutional Principles And The Legislation Of The European Union

IOAN CIOCHINĂ-BARBU
“George Bacovia” University, Bacau, Romania
ioan_ciochina@yahoo.com

Abstract
The sustainability of the public pension system can be achieved by increasing the number of taxpayers, and not by the leveling of the old systems of special pensions and by creating a number of new jobs by investing in areas such as agriculture (whose potential is not fully exploited) tourism, road and rail infrastructure, attracting foreign investors, attracting funds provided by the European Union, the return to the country of more than 2 millions Romanians who were forced to seek employment in other countries etc.

Also, to ensure total independence and impartiality of the judges of the Constitutional Court, we propose de lege ferenda so that they will no longer be appointed on political criteria, but to be elected by the High Court of Cassation and Justice from among judges of this court.

Keywords: pension system, reform, sustainability, financial and economic crisis.

Introduction
The economic and financial crisis, through its profound effects, has not spared even Romania. As a result of this and in accordance with arrangements established by the Loan Agreement with the International Monetary Fund, World Bank and the European Union since the summer of 2010, through a series of normative acts drastic measures of budgetary cuts were taken such as staff reductions in the budget sector and even more painful, up to 25% reduction in wages, unemployment allowances, allowances for children, increased VAT from 19% to 24%, etc..

The pension system in Romania has not been spared. It is in full reform triggered by a series of macro-economic and social factors which have made changes in both the public pension system (parametric elements, eligibility for different categories of retirement, increasing the degree of accountability and control, etc.) and in terms of its non-integrated systems.

The directions pursued to be achieved by the reform are:
Broadening the inclusion sphere of compulsory insurance - by integrating the unitary public pension system for persons belonging to specific systems (military pensions), and persons with income from liberal professions; Improving the financial sustainability of the pension system - by introducing more restrictive conditions on access to early retirement and partial disability pension; Maintaining the living standard of pensioners in payment - by correlating the buying power of retirees with the inflation rate; Ensuring fair treatment of insured persons, future retirees - by regulating the way pensions are established in direct correlation with the level of insured income for which social insurance contributions have been paid; Discouraging partial early retirement - by increasing the pension penalty coefficient; The implementation of more stringent criteria regarding the access to invalidity pension and the enhancement of subsequent controls; The increase of retirement age because of increased life expectancy of the population and the gradual equalization – until 2030 – of the complete contribution for women and men [1].

The main normative acts which were adopted during this period and which regulates matters relating to pension system reform are: Law no. 118/2010 regarding some measures
necessary to achieve budgetary balance [2], Law no. 119/2010 laying down measures on pensions [3], as well as two implementing decisions of the latter normative act, namely, Government Decision no. 735/2010 for recalculation of pensions established under the laws of the state military pensions, state pensions of police and civil servants with special status in the prison administration system, according to Law no. 119/2010 laying down measures on pensions [4] and Government Decision no. 737/2010 regarding the method of recalculation of the categories of service pension specified in Art. 1 letter c-h) of Law no. 119/2010 on protection measures in the pension field [5]. Subsequently, it was adopted the Government Emergency Ordinance no.1/2011 regarding the establishment of measures in the pension field for beneficiaries coming from the defense system, public order and national security [6]. This last normative act was drafted as a result of the irrevocable Decision no. 38 issued by the High Court of Cassation and Justice, Department of Administrative and Fiscal Litigation, in the public hearing on 7 January 2011, which noted that the methodological norms for the application of Law nr.119/2010 (regulated by Government Decision no.735/2010) are capable of creating an imbalance between the general interest and the obligation to protect citizens’ fundamental rights which produces an imminent and foreseeable loss which contravenes the European Convention on Human Rights [7].

Some of these normative acts have been challenged at the Constitutional Court, others at the High Court of Cassation and Justice on grounds of unconstitutionality or illegality or unfounded reasons, issues which will be commented on extensively in the ranks below.

The pension problem in the European Union

The main current document that proposes reformatory measures of the pension systems in the European Union is the Green Paper – Regarding the appropriate, viable and safe European pension systems [8].

According to that European legislation, with a recommendation or assurance character for now and in the future, of an adequate and sustainable pension for citizens of EU Member States is a priority for the European Union. Currently there is a constant aging population in Europe, which constitutes a major challenge. [9]. The aging population has grow faster than expected, and recent financial and economic crisis had a dramatic impact on the budgets, capital markets and businesses. Profound changes have occurred, such as a new balance between generations, the transition from pension schemes based on the distribution of funded to the pension schemes financed by capitalization and even taking more risks by individuals. Almost all Member States have tried to prepare for this phenomenon of aging, including by reforming their pension systems. The crisis has shown that more efforts need to improve efficiency and safety of pension schemes.

According to the same sources, the Member States are responsible for providing pensions and the Green Paper does not question the prerogatives of Member States on pensions or the role of social partners; it does not suggests that there is an “ideal” model of pension scheme to fit everyone. The principles of solidarity between generations and the national solidarity are essential in this regard.

The Green Paper, its initiator states [10], adopts an integrated approach, encompassing economic, social and financial aspects, recognizes the links and synergies between pension and the global strategy “Europe 2020” for smart growth, sustainable and inclusive growth. The objective regarding the income generation of adequate and sustainable pensions through the pension system reforms and the objectives of “Europe 2020” strategy complement each other. Strategy “Europe 2020” emphasizes the numerous and better qualitative jobs that are needed, as well as the positive transitions: both are essential for the workers (women and men) to accumulate pension rights. Its target of 75% in terms of employment requires the achievement of employment rates significantly higher than are now for the population with ages between 55 and 65. Addressing gaps in terms of adequacy character of pensions, which may be a significant cause of poverty among the elderly, may also contribute to the fulfillment of the poverty reduction
objectives laid down in “Europe 2020” strategy. Policies in many areas can help reduce poverty among older people and this will help, in turn, increase the appropriateness, thereby complementing the pension reforms. Other goals include reducing barriers to achieving the single market, such as increasing safety and integration degree of the internal market of financial products and facilitating mobility of all workers [11 and citizens within the EU.

In turn, pension system reforms will contribute to achieving the aims of “Europe 2020” Strategy for employment and long-term sustainability of public finances. Also, the achievement of internal market for pension products has a direct impact on the EU’s growth potential and therefore contributes directly to the goals of “Europe 2020”.

The Green Paper, starting from the analysis made in the research undertaken, made a number of priorities for the modernization of pension policy in the EU. They are:

- **Ensure the adequacy character of pensions.**

  Most pension system reforms until now have aimed at improving sustainability. We need further modernization of pension systems to cover the gaps related to adequacy. Gaps can be caused by lack of compensation credit for periods of unemployment, sickness or periods for family responsibilities as well as the lack of coverage for vulnerable groups such as workers with short-term contracts and the irregular ones or insufficient guarantees regarding the minimum pension or elderly income.

- **Ensure the sustainability of pension systems.**

  Many pension system reforms have contributed to limiting future spending growth related to public pensions, but it is necessary to take urgent further steps to give a more sustainable character to the systems, thereby contributing to long-term sustainability of public finances, particularly in countries where future higher expenses in public pensions are expected. The absence of decisive policy measures in the favor of the system’s sustainability will transfer the adjustment burden either on the future workers or on future pensioners who may not be prepared for smaller pensions than expected, as noted by the European Council [12] In this respect, the Stability and Growth Pact provides the framework for monitoring sustainability of public finances, including the pension systems [13].

- **Achieving a sustainable balance between the duration of professional and retirement life.**

  Currently, the time spent as a retiree is generally a third of adult life and this proportion will increase substantially in correlation with life expectancy [14] unless the active life increases and his citizens retire later. Less than 50% of people still working at age 60. This is contrary to the commitments undertaken by Member States of the European Council in Barcelona to increase the age at which people cease their work with five years [15]

  This situation is not compatible with the objective of the “Europe 2020” strategy to achieve an employment rate of 75% and has a negative impact on growth potential. The rapid growth of the elderly dependency ratio could be avoided to a large extent if the citizens should work harder. Otherwise, the benefit reduction and the increased contributions would be inevitable. Among the key measures that would allow older workers, women and men, to stay longer on the labor market include access for all, regardless of age, gender and ethnicity on the labor markets and training as well as providing special measures for disabled people [16].

  Prolonging active life to reflect continued progress of life expectancy has a double benefit: it provides a higher standard of living and sustainable pensions. To obtain viable and adequate pensions, it is important that workers, and very often the young, keep for a longer period
of time their jobs with wages and working time which gives them the benefit of future pension rights. The Member States are already taking steps to support the prolonging of active life [17]. Health policies designed to help citizens to age with better health status, may contribute to longer working lives, reduce pressure on pension systems and may improve viability [18] Health problems are one of the most important reasons of early retirement.

- *Removing obstacles from the way of the European Union’s mobility.*

Policies and regulations should facilitate the free movement of factors of production, especially labor and capital, to use resources effectively and to create favorable conditions to maximize revenue. Greater flexibility in employment-related mobility supports the adaptability capacity of the economy and strengthens the European social model. Exploiting the full potential of the single market would bring significant benefits to all citizens [19].

- *Strengthening the internal market for pension*

The adoption in 2003 of the directive regarding the institutions for occupational retirement provision was a major achievement. However, this Directive covers only work-related pensions by market capitalization and certain occupational schemes are excluded from its scope (for example, schemes based on balanced provisions). This directive is not a framework directive, which makes it difficult to adapt this legislation to the market developments. First experiences have shown that there are still significant barriers to cross-border activity. Barriers are often the result of differences between regulatory and legal uncertainties, such as the unclear definition of cross-border activity, a lack of harmonization of prudential regulation and the complex interaction between EU regulation and national law. [20] Free movement of capital is facilitated by the implementation by Member States of the same tax treatment for dividends and interest paid by institutions for occupational retirement provision that invest in their territory, but are established in another country in the European Economic Area (EEA).

Internal market could help to improve access to additional sources of retirement income outside pensions, such as reverse mortgages. They have also launched appeals for the creation of a regulatory framework for private pension scheme at EU level, which would coexist with the existing pension schemes in Europe [21].

- *Mobility pensions*

New impetus is needed to find a solution for all mobile workers [22]. Citizens must be able to pass easily from one job to another during their working life, on the current labor market, which has to face additional difficulties caused by financial and economic crisis, and employers should be able to recruit the right person who possesses the necessary skills. Discriminatory tax rules can be an obstacle to the mobility of pensions. Court of Justice ruled that EU law is contrary to taxing capital transfers from one pension fund to a national pension fund established in another EEA country if the transfer of pension capital between national pension funds is not taxed [23].

- *Safer and more transparent pensions, in the context of greater awareness and better information.*

Safety in regard to pensions is important in order to support adequacy. Also, macroeconomic benefits can be felt quickly, as retirees are a growing source of stable and regular consumption. However, the evolution of disparate pension systems of the Member States and the trend towards defined contribution schemes raises new strategic questions.
- **Covering EU regulatory gaps**

Given that pension systems with a single level are being replaced with ones with more levels and simple pension packages are replaced by complex ones, the current EU framework, fragmented and incomplete, could not be sufficient. In the context of strategic discussions held at international level, the question is whether current EU legislation is able to respond to the evolution of defined contribution schemes [24]. The current European legislation should be reviewed to ensure consistent regulation and supervision of the funded pension schemes (i.e., financed by a fund of assets) and their products.

- **Improving the solvency regime for pension funds.**

Minimum prudential requirements laid down in the directive regarding institutions for occupational retirement provision include solvency rules for defined-benefit schemes. The present solvency rules are identical to those that apply to life insurance. With the entry into force of the “Solvency II” in 2012, the insurance companies will be able to enjoy a three-pillar system solvency, based on risks.

- **Taking action regarding the risk of the employer’s insolvency.**

Insolvency Directive [25] provides additional protection of occupational pension rights of employees in case of their employer’s insolvency. The need to ensure further protection of supplementary occupational pensions in these cases is even more urgent today, as the economic and financial crisis will increase the number of insolvent companies.

- **Facilitate decision-making informed choices.**

Informed decisions are associated with providing adequate pensions. When individuals make decisions in terms of savings, they should be offered appropriate options. It thus highlights the opportunity to define the desirable characteristics of pensions: the absence of certain essential characteristics could not only create confusion, but also lead to inadequate pension benefits, for example, if an early withdrawal causes a reduction in savings or accumulated assets do not generate a stable income.

- **Improve governance of pension policy at EU level.**

Pension policy is a common concern for public authorities, social partners, pension sector and civil society at national and EU level. A common platform for monitoring all aspects of policy and legislation on pensions in an integrated manner and in order to bring together all interested parts could contribute to obtaining and maintaining adequate, viable and safe pensions.

**Violation aspects of constitutional principles and of the European legislation through the pension system reform of Romania**

As it results from the foregoing, the European Union doesn’t have an “ideal” model for the pension system to propose to the Member States. It is the duty of all governments to find the appropriate system for their country.

In Romania the Law nr.263/2010 was enacted regarding the unified public pension system through the government’s accountability in front of the Parliament. The main State Legislature for was not allowed to debate on articles of the normative act with such a great importance as it is the pension law. This law is a legal surrogate because its developer did nothing
but to insert in the contents of the old legislation governing the public pension system [26] a series of enactments governing “special” pensions [27].

Prior to the adoption of this legislation the Government has taken responsibility even on Law no.119/2010 regarding measures in the pensions field according to which all “special” pensions become public pensions and will be recalculated based on the algorithm established by Law no. 19/2000, in force at that time and which was entirely taken over by the new unitary public pension system law, willfully eluding the mandatory dispositions of the Constitutional Court on the special status of military pensions, officers’ pensions, staff with special status from the Prison system etc.

In this sense, by Decision no. 20 of 20 February 2000, the Constitutional Court [28] decided that magistrates’ service pension and military service pension have been established to foster stability in the formation of a career in the judiciary system as well as among the permanent military. The establishment of service pension, for military and judiciary is not a privilege, but is objectively justified. It constitutes a partial compensation of the inconveniences arising from the rigor of special statutes to which the military and the judiciary personnel are subjected to.

Thus, these special statutes, established by Parliament by law, are more severe, more restrictive, requiring from the beneficiaries obligations and prohibitions that other categories of insured persons do not have. They are prohibited from activities that could bring additional revenue to ensure they give the possibility to create effective material circumstances likely to ensure, after retirement, the maintenance of a standard of living as that was appropriated during the activity.

Special pensions have been established based on the laws adopted in the pension field on certain socio-professional categories, and are exceptions to common law. These laws apply to legal situations created, modified and extinguished under their regulations, under which the definitive legal effect have been created, being the state’s responsibility to enforce the payment of pensions in time (successive obligations).

Special pensions in payment are vested interests that can not be recalculated on the basis of a new law, can not be altered, because the law would apply retroactively. The Law no. 119/2010 and Law 263/2010 are considered to bring amendments to the legal regime of special pension, established under previous laws, leading to the violation of even the very substance of pension rights. Enlightening in this regard is the decision no. 375/2005 of the Constitutional Court [29] referring to unconstitutionality complaints of the law regarding property and justice reform as well as some accompanying measures, published in the Official Gazette no. 591 of 8 May 2005, which established that “the new regulations can not be applied retroactively, respectively, concerning the previously determined amount of pensions, but only for the future, since the entry into force”. The same decision was pronounced by the Constitutional Court Decision no. 57/2006 [30], which states: “the conditions for exercising the right to pensions and other forms of social assistance are established by law and therefore, it the is the legislature’s exclusive right to modify or amend the legislation and establish the date on which the recalculation is operated, but any new provision may be applied only from the date it entered into force, in order to respect the principle of non-retroactivity enshrined in art. 15 par. (2) of the Constitution”. Through the Decision no. 120/2007 [31], the Court held that “the operation of recalculation regards inevitably the past, because the period of contribution was made in the past, but is made only after the entry into force of the ordinance and has effects only for the future, the recalculated pension will enter into payment only from the date the decision is issued. In cases in which the recalculation results in a higher amount of pension this amount will be paid and if the new result is smaller, the previously established value will continue to be paid, without prejudice to any legally rights previously won “.

Regulations on military and police pension recalculation and the provisions of Law no.263/2010 on the unitary pension system induces the false premise that the current occupational
pensions may be recalculated as if it had been obtained on the basis of contributiveness. If by law the retired military has not contributed to the social security system, how can we invent a virtual contribution, as long as in the context of the law the military didn’t had the quality of an “insured” in the public pension system and neither that of “taxpayer”? The fact that the soldiers have never before had a record of employment should be an equally compelling argument in this regard.

Thus, as stated in Art. 3 letter q of Law no.263/2010 the concept of specialist contribution period is introduced which can be defined as the period during which a person from the system of national defense, public order and national security as well as the prison administration system was in one of the falling: 1. acted as an active military, 2. has fulfilled the military service as conscripts, short-term military, military school student / police agency school or student of an institution of educational system, national defense and national security, public order and national safety for the training of military, police and public officials with a special status in the prison administration system, except for military high school; 3. was mobilized or concentrate as a reservist, 4. was in captivity, 5. acted as a civil servant with a special status in the prison administration system 6. had the quality of a military hired on contract and / or soldier and volunteer.

As it can be seen this specialty contribution period is a virtual one because these people have not actually contributed only to a limited extent to the public pension fund, but through a legal artifice it was appreciated that it is sufficient for the beneficiary of such a training to be found in one of the above situations to be treated as the beneficiary who contributed to the pension fund.

According to the author, by this artifice, the constitutional principle of equality between public pension recipients is violates although, Law 263/2010 on the unified public pension system was declared constitutional according to the Decision no. 1612 of the Constitutional Court. [32]

Putting a sign of equality between all professional categories it is difficult to accept after they have completed their period of service, while some of them were taken of every opportunity to supplement their income, having to bear incompatibilities and total prohibitions, while other professions have benefited from the opportunity to supplement their income without having any type of incompatibilities and prohibitions.

The principle of solidarity should have as significance the fact that one who has used for a long time an employee under the conditions above mentioned, it is necessary to somehow reward the limitations which were brought to his economic and social rights, not necessarily through a larger pension than the active wage but in any case by a pension whose amount is not going to put him in difficulty to honor at least his financial obligations towards the utility suppliers and bank creditors if not their daily food and medicines.

As stated in art. 14 of the European Convention on Human Rights, the exercise of rights and freedoms recognized by this international legal instrument must be ensured without discrimination. Not every difference in treatment constitutes discrimination. The right of nondiscrimination protects individuals in similar circumstances against the application of different treatment.

In the Law no. 119/2010 and Law 263/2010 discrimination refers to the fact that the beneficiaries of the service pension had a different resolution to their situation even though the legislature claimed it as identical with the abolition of special pension. The legislature understood that during the course of legal employment or service they should establish certain responsibilities for some professional categories, prohibitions and incompatibilities, while for other professions, they were not provided.

The establishment of service pension had as a cause the fact that these persons had during their service severe incompatibilities and prohibitions so that they have been unable, through their own will and effort to increase the base of their pension rights and the state wanted to assure them a decent life after retirement.
What stood at the basis for calculating the pension was absolutely the specific legal relationship of employment.

In the recalculation of military state pensions, policemen’s pension and civil servants with special status in the prison administration system, according to Law no. 119/2010 regarding the establishment of measures on pensions and later by Law no. 263/2010 on the unified public pension system, a different regime was established in the sense that they expected a full contribution period of only 20 years while for the remaining categories of pensions, former beneficiaries of service pensions, a contribution period was provided which was calculated as the sum of the periods for which the contribution owed to the state social insurance budget by the employer and the insured. Without adequate justification a different solution has been given to an identical situation.

Discrimination therefore relates to the method of determining pension rights for some categories compared with the soldiers, policemen, civil servants with special status in the administration of prisons. On the other hand it should be taken into consideration that the contribution percentage to the pension fund was lower for military personnel (5% according to Law No. 164/2001) and yet the amount of pension rights ignores this principle and also the length of contribution taken into account.

Increasing or maintaining the amount of military pensions within the limits had previous to the recalculation according to Law 263/2010 and Law nr.119/2010 is due to: - the use of a full different contribution period, lower in favor of the military, for which it has been preserved the complete stage of contribution previously regulated on comparison to the other socio-professional categories, which previously had a full contribution period of 25 years but which has not been maintained in the new statutes; - ignoring the principle of contributiveness, respectively the lower contribution rates paid by military, police, etc..

Although Law no. 119/2010, as well as Law 263/2010 argue that the abolition of service pensions in reality institutes for military, policemen and prison staff a different method of calculation of pension rights, whose purpose is to maintain the service pension.

Or, the definition given to the term discrimination by the European Court of Human Rights in the case Abdulaziz, Cabales and Balkandali v. United Kingdom, refers to the fact that discrimination exists if “an individual or group is seen without adequate justification to be treated less well than the other”

The above definition leads to the conclusion that the state through these interventions must not commit discriminations, either in law or in fact, in the exercise of the rights enunciated by the European legal instrument.

With all that, through the Decision no. 871/2010 of the Constitutional Court, [33] referring to the objections of unconstitutionality of the law regarding protection measures on pensions, published in Official Gazette no.433 of 28 June 2010, Law 119/2010 regarding the establishment of measures on pensions and the subsequent legal acts, as well as Law no. 263/2010 were declared constitutional, however they flagrantly contravene the provisions and principles of the Constitution. The above statement is supported by the following considerations:

As stated by Law 304/2004 regarding the status of judges and prosecutors [34], the Constitutional Court is not part of the judiciary power;

Due to the way judges are appointed, the Constitutional Court can not be regarded as an independent and impartial tribunal. Even if it is shown that a constitutional judge from the ranks of a political party will seek to break all ties with its party, in reality, there will always be the suspicion and sometimes even the certainty that he will try to please in a way, the one who proposed him.

The exigency of the things stated above results from the fact that the judge must offer sufficient guarantees to remove any legitimate doubt. In this area even the appearances have a special role because, in a democratic society, the courts must inspire the confidence of individuals and, in this respect the Constitutional Court is not bound by suspicions. In this respect, we invoke
the case Grieves v. United Kingdom of Great Britain, where it was noted: "The Court recalls that in order to determine whether a tribunal can be considered independent it must be taken into account, inter alia, the manner of appointment of its members and whether the body presents an appearance of independence".

The pension system reform violates the provisions of the European Union regarding occupational schemes and constitutes a deviation from the military pension systems of the Member States of NATO and UE. Through art.196, letter b) and e) of Law No 263 / 2010 on the unified pension system, among other acts the Law no.164/2001 was abrogated, law which regarded the state military pensions, supplemented and amended, as well as Law no. 179/2004 on state pensions and other social security rights of police officers who fell under the second pillar on occupational schemes (professional) governed by European Directive no. 86/378/EEC [35], as amended by Directive. 96 / 97/EEC. [36].

In most EU and NATO member states the wages and retirement payment of the Armed Forces are governed by laws or specific and distinctive rules. So in Germany, Great Britain, USA, Turkey, South Korea, Israel, Egypt, Japan, the calculation of military pensions is regulated by a separate law or through an independent chapter, formally included in a single law, together with that of civil pensions in France, Italy, Greece, Portugal, Austria, so a special chapter in an uniform and unique law. The military base pension is determined by the amount of wages gained in the last month of work in Germany, Britain, Turkey, Italy, Greece, Austria, Japan, South Korea, Israel, or by the average wages of three or six months in France and in Egypt by the full period worked in the army, which is of 35-36 years in most countries. In France the maximum limit for active service is 25 years and the minimum is 15 years. In the majority of NATO states in order to establish the pension, at the resulted calculation base a percentage of between 75-80% of the wages value of the last 1-3-6 months is applied.

How fragmented is the public pension system is clear from the above statements.

Also, the above statements, should not give us the idea that a pension reform in Romania was not necessary, but the important thing is how this reform was made.

From the results presented so eloquently it results that the pension reform in Romania was absolutely necessary in order to meet the provisions and recommendations of the European Union but the Government has not found the best solution.

Conclusions
After reading this material a number of conclusions are required:

The sustainability of the public pension system can be achieved by increasing the number of taxpayers, and not by the leveling of the old systems of special pensions and by creating a number of new jobs by investing in areas such as agriculture (whose potential is not fully exploited) tourism, road and rail infrastructure, attracting foreign investors, attracting funds provided by the European Union, the return to the country of more than 2 millions Romanians who were forced to seek employment in other countries etc.

Along with these measures, more than ever, a fiscal relaxation is required in the sense of reducing excessive taxation of labor.

Also, to ensure total independence and impartiality of the judges of the Constitutional Court, we propose de lege ferenda so that they will no longer be appointed on political criteria, but to be elected by the High Court of Cassation and Justice from among judges of this court.

References:
[2] Published in Official Gazette no. 441 of 30 June 2010;
[3] Published in Official Gazette no. 441 of 30 June 2010;
[3] Published in Official Gazette no. 441 of 30 June 2010;
[4] Published in Official Gazette no. 527 of 28 July 2010
[5] Published in Official Gazette no. 528 of 29 July 2010
[6] Published in Official Gazette no. 81 of 31 January 2011;
[7] was adopted on 11 April 1950 by the European Council in Rome and entered into force in 09 March 1953, ratified on 20 June 1994;
[10] The report on the Green Paper entitled Towards the suitable, viable and safe European pension systems was prepared on 29 October 2010, from the initiative of the reporter Ria Oomen-Ruijten (EPP / NL) of the Commission for Employment and Social Affairs (EMPL) of the European Parliament, in a context where, on 7 July 2010, the European Commission has published this Green book. This report was adopted at the special committee on 1 of February, and the resolution of this report was adopted by the Members of the European Parliament, in the plenary meeting of 16 February 2011 with 535 votes “for” and 85 “against”, one-www.infolegal.ro/pe-a-adoptat-
[11] Including the highly mobile workers such as scientists, see the Council conclusions of 2 March;
[12] The presidency’s conclusions from 23 March 2005 COUNCIL OF THE EUROPEAN UNION 7619/1/05, REV 1, have highlighted the need to “ensure long term sustainability of public finances, promote growth and to avoid imposing excessive burdens on future generations.
[13] In connection with the Stability and Growth Pact, the Commission proposed to take into account also the implicit debt associated with aging in particular, among other factors, to reflect future risks COM (2010) 367/2;
[14] Chapter 3.2.1 of the joint interim report on pensions, see footnote 2;
[15] Presidency Conclusions from 15-16 March 2002 EUROPEAN COUNCIL SN 100/1/02 REV 1;
[16] to improve the transposition of the directive on equal treatment as regards employment is needed (2000/78/EC) and awareness of the value added of older staff. Age is the factor most often perceived as a disadvantage for a job search, see http://ec.europa.eu/public_opinion/archives/ebs/ebs_317_en.pdf;
[17] Chapter 2.1 of the joint interim report on pensions, see footnote 2;
[19] See footnote 22 for more information on the current framework of EU pension;
[22] The Monti report suggests also examining the option on the 28th supplementary pension rights regime, see A NEW STRATEGY FOR THE UNIQUE MARQUET IN THE SERVICE OF THE EUROPEAN ECONOMY AND SOCIETY, Report to European Commission President José Manuel Barroso, Mario Monti, 9 May 2010, p.58.;
[23] Commission v Belgium, Case C-522/04;
[24] Pension Market in Focus, OECD, October 2009.;
[26] Law 19/2000 on public pension and other social insurance rights, published in the Official Gazette no.140 of 1 April 2000, repealed according to art. 196, letter a of Law 263/2010;
[28] Published in the Official Gazette nr.72/2000;
[30] Decision no. 57/2006 of the Constitutional Court regarding the unconstitutionality of the provisions of art. 2. 2 and art. 3 of Government Emergency Ordinance no. 4 / 2005 for the recalculation of pensions in the public system, provided by former state social insurance system, published in the Official Gazette no. 21februarie 164 of 2006;
[31] Decision no. 120/2007 of the Constitutional Court regarding the unconstitutionality of the provisions of Government Emergency Ordinance no. 4 / 2005 for the recalculation of pensions in the public system, provided by former state social insurance system, published in the Official Gazette no. 204 of 26 March 2007;
[32] Published in the Official Gazette Nr.888 of 30 December 2010;
[34] on state judges and prosecutors, republished in Official Gazette no. 826 of 13 September 2005,