

CENTRUL PENTRU DREPTURILE OMULUI DIN MOLDOVA



ЦЕНТР ПО ПРАВАМ
ЧЕЛОВЕКА В
МОЛДОВЕ

THE CENTER FOR
HUMAN RIGHTS
OF MOLDOVA



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As answer to your request, the Center for Human Rights in cooperation with Ministry of Labor, Social Protection and Family is sending the information regarding the situation of the rights of older persons in Republic of Moldova.

The policies promoted by the competent state bodies are not oriented to protect the interests of one group of persons in special. The categories which represent the objective of policies in the area of social protection are the social vulnerable categories of persons, which include the old people, in case when they are part of mentioned category.

Meanwhile, in the process of the elaboration of legal framework, the problem of exclusion of some discrimination cases of any forms and any category of persons is permanently in the sight of specialists of state bodies. The presentation of legal framework summary will confirm the nondiscrimination character of, including the old people category.

Labour area

Currently legislation is establishing only the age when the person is getting the capacity of work, without to include that one when the person is losing it. Beginning with the age of 16 –teen, all the persons get the equal right to the labor, this being a fundamental right provided by national legislation, as well as by the international treats where the Republic of Moldova is a part. Thus, the old age (in special retired age) should not be an obstacle to turning to account the person's right of labor, in the case when this person has a capacity of work which permit to continue the activity.

Because of this, the labor legislation is establishing the limits of age only with title of exception, for some categories of wage-earner and with certain conditions.

Regarding the limits existing in the public service we are mentioning that in accordance with art. 62 par. 1 d) of Law on public function and the statute of public servant - nr. 158 of 4 of July 2008, the fulfillment by the public servant of the necessary age to obtain the right to pension for limit of age determine the reason of cessation of work relations in the circumstances which are not depending of the will of parties.

Meanwhile, the art.49 par. 5 of the same Law provides that after the fulfillment of the necessary age to get the right to pension of limit of age, the public servant may be appointed, on the chief decision, for a determined period which will not outrun the term of 3 years, in the same public function, getting the pension and the salary according to the legislation.

For the wage-earners, who have not the statutes of public servants, there are not provided time limits of being in function excepting the leaders of state bodies and of the bodies with majority of state capital.

Even with them, there is possible to make agreements for a period of 2 years, for exercise other functions than that of leader of state body or body with majority of state capital. At the expired term of agreement, the parties are free to negotiate the extension of this term in the conditions of art.54 and 68 of Labor Cod (that mean until 5 years, on base of an additional agreement) or to contract a new agreement until 2 years.

Generally, the rule which provide the contraction of individual agreements until 2 years with retired persons, is applying to the persons hired in a new job after the attainment of pension age. The wage-earners who till the attainment of pension age were working on the base of individual work contract for undetermined period are able to continue the activity in the conditions of initial contract, in the case when they continued to work at the same job.

The Law on the social protection of unemployed workers nr. 102 of 13 of March 2003 is providing the measures of social protection of persons who are looking for a job, the services regarding the job hiring, the information and the professional advising, the orientation and professional formation of persons of age between 16-teen and age of pension established by Law.

In the registration and examination process of complaints regarding the job hiring and help for unemployed people, adopted by the Government Decision nr.862 of 14 of July 2003, the notion of unemployed includes the categories of persons as: persons who proceed from labor, inclusive the invalids able to work; the persons who came back on labor market after a period of interruption and the persons who are looking for a job for the first time.

In the aim to realize the provisions of national strategy regarding the policies of job places for the 2007-2015 years, as well as according with the National Plan of actions job opportunities, the National Agency drawing up annually the Plan of actions for the promotion of policies on labor market. One of the objectives of plan is “the prevention and the elimination from the labor market of any forms of discrimination, the promotion of integration of unfair people because of different causes or people liable to the social exclusion through the labor market”.

The priority activities of National Agency are:

- the implementation of the mediator activity of labor ;
- Carrying out of information services and professional advising;
- Carrying out the informative trainings with the participation of unemployed people and juridical persons;
- Carrying out the market of labor offers;
- Carrying out the forum “Labour Club” for different categories of unemployed people who can't find a job.
- Professional formation of unemployed people.

As a result of the activities carried out by the National Agency in common with its regional structures, as a result of the implementation of programs and because of modernization of informational system on labor market, the public opinion became sensitive. Also, the civil society is better informed about the situation of labor market, inclusive about the problems regarding the job opportunities for the persons on the brink of pension.

It is growing up the number of informed persons who benefited by informational services, professional advising, orientation and professional formation which permitted to get a job.

During 2010 were registered 81, 5 thousands unemployed people, 17, 7 % of them are persons between 50-56 years. The persons who got the job consists 14, 7 thousands persons, 18, 7 % of them are between 50-65 years.

The electronically sources of information www.anofm.md – official site and www.jobmarket.gov.md – the forum “Labor market” offers to external users a large spectrum of information regarding the legal framework and the management in the country. 4,3 thousands persons benefited by electronically mediation and 2,8 thousands persons benefited by phone services through the Information Centers of Labor Market opened in the on the territory of Chisinau, Balti and Cahul cities.

In was created a Hotline – “Labor Market” which contributes to the realization of one of the most important objectives of National Agency – improvement of communication with persons who are looking for a job and economical agencies who offer in a short time the information regarding the labor opportunities.

Social insurance area

The services of social insurances are offered to the persons liable to the state social insurances, based on legal framework, and their quantum depends of the contributive period and (in)direct taxations handed by the tax payer in the budget of social insurances. This principle of services granting excludes the application of any forms of discrimination based on age.

Even if at the establishment of pension right some categories of tax payers have some favors regarding the pension age, as well as regarding the pension quantum, in the system reform of social insurances is provided step by step liquidation of these favors. First legislative acts in this sense are already adopted. Meanwhile, with aim not to admit the diminution of rights of other users of this system, the expenses for these favors are supported by the State Budget.

Social assistance area

This element of social protection system is in the process of reformation for the moment, and has the aim to modify the principles of social assistance granting. Thus the categorial system of establishment of social caterings is replaced step by step by the system of services granted based on the incomes testing. This system is equally one, when financial sources are focused on the most unpropitious category of people. This principle insures a unique approach of reason of grating state assistance through the exclusion of cases when the social services can be granted to some privileged categories of citizens who have any merits, but who have not an absolute necessity of this support simultaneously with slighting of other categories of persons who, even they are poor, will be not supported on the reason that they are not assigned to the some categories.

Testing principles of incomes for the granting of some social services insure unique conditions to all claimants of social services indifferently of social category a part of which they are: families with children, persons with disabilities, old people etc. As a conclusion, such approach excludes any type of discrimination, inclusive based on age.

With the aim to confirm all mentioned above we are attaching a list of normative acts adopted in the reform process of social assistance:

- The Law on state social allowances for certain categories of citizens No.499-XIV of 14.07.1999;
- The Law on special social protection of certain categories of citizens No. 933-XIV of 14.04.2000;
- The Law on additional social protection of some categories of citizens No.121-XV of 03.05.2001;
- The Law on veterans No.190-XV of 08.05.2003;
- The Law on social assistance No.547-XV of 25.12.2003;
- The Law No.122 of 18.06.2010 on alteration and amendment the Law on social assistance No.547-XV of 25.12.2003;
- The Law on social support canteens No.81-XV of 28.02.2003;
- The Law on welfare No.133-XVI of 13.06.2008;
- The Law on social compensation during the cold season of 2010 No. 15-XVIII of 26.02.2010;
- The Law of Social Compensations No.53 of 31.03.2011;
- The Law on Social Services No.123 of 18.06.2010;
- The Government Decision No.761 of 31.07.2000 on Nominal compensations of some categories of citizens;
- The Model-Regulation regarding the functioning of social support canteens, approved by Government Decision No.1246 of 16.10.2003;

- The Government Decision No.1413 of 27.11.2003 on state nominal allocations to the state honor;
- The Regulation on the setting and payment of cash compensation instead of the tickets sanatorium treatment of war invalids, approved by the Government Decision No.868 of 28.07.2004;
- The Regulation on the setting and payment of monthly state allowances for some categories of citizens, approved by the Government Decision No.470 of 02.05.2006;
- The Regulation on the payment of the pensions established in the public system of state social insurance and state social allowances approved by the Government Decision No.929 of 15.08.2006;
- The Government Decision No. 1360 of 07.12.2007 on the approval of the program regarding the improvement of the system of social assistance for the years 2008-2010;
- The Government Decision No.1152 of 31.12.2008 on the approval of the Regulation regarding the way to ensure with free tickets to balneal - senatorial institutions and if there are no ticket to receive a cash compensation the people who have participated in liquidation of the damage from C.A.E Chernobyl and who got ill and had an actinic disease and become disabled;
- The Regulation on the procedure of establishment and payment of social aid, approved by the Government Decision No.1167 of 16.10.2008;
- The Government Decision No.1353 of 03.12.2008 regarding the approval of the Social Assistance Information System “Social Assistance”;
- The National Program for creation of an integrated system of social services during 2008 – 2012, approved by the Government Decision no.1512 of 31.12.2008;
- The Regulation on the setting and payment of the social compensation during the cold season of 2010, approved by the Government Decision No.162 of 09.03.2010;
- The Regulation on how to record and distribute tickets for the rehabilitation of older people and people with disabilities, approved by the Government Decision No.372 of 06.05.2010;
- The Regulation on the setting and payment of unique social compensation, approved by the Government Decision No.228 of 06.04.2011;
- The Model-Regulation on social welfare departments for older persons who living alone and for the citizens who are unable to work, approved by the Order of Minister of Labor and Social Protection No.16 of 22.04.1994;
- The Practice guidelines “Case management”, approved by the Order of Minister of Social Protection, Family and Child No.71 of 03.10.2008;
- The Professional supervision mechanism in social assistance, approved by Order of Minister of Social Protection, Family and Child No.99 of 31.12.2008;
- The Strategy on the development of an integrated system of continuous training for the social assistance staff (for the period 2009-2012) and the Action Plan approved by the Order of Minister of Social Protection, Family and Child No.52 of 01.06.2009;
- Framework – Regulation of the Community Social Service, approved by the Order of Minister of Social Protection, Family and Child No.54 of 10.06.2009;
- The Referral Mechanism in the Social Service System, approved by the Order of Minister of Social Protection, Family and Child No.55 of 12.06.2009;

- Guidelines for implementation of the supervision mechanism in social assistance system, approved by the Order of Minister of Social Protection, Family and Child No.015 of 10.11.2009;
- Practice Guidelines “Community Mobilization”, approved by the Order of Minister of Social Protection, Family and Child No.022 of 04.12.2009;
- Framework – Regulation regarding the territorial organization and functioning of the social assistance, approved by the Order of Minister of Social Protection, Family and Child No.024 of 08.12.2009.