

**THE WARS VETERANS FOR THE ATTENTION OF  
THE PEOPLE'S ADVOCATE INSTITUTION**

*The present paper aims to highlight certain aspects resulted from the People's Advocate Institution activity in protection the rights of the veterans. Preliminary explanations on the war veterans in Romania together with some information on the public authorities involved in protecting the rights of the war veterans and the war veterans' rights established by the Romanian legislation are envisaged. A comprehensive presentation is also made on the involvement of the People's Advocate Institution for solving several veterans' issues.*

**Key words: veterans, People's Advocate, complaints, special report, tax exemptions,**

**1. Preliminary explanations on the war veterans in Romania**

The Romanian legislation establishes the **veteran status** for the persons who participated in the first or second World War in the Romanian army and were in one of the following situations:

- a)** have served in military units - subunits, large units or headquarters - at various level, were part of logistics formations, as provided in the Army's nomenclature;
- b)** acted in special units of the inner zone to defuse projectiles and to remove the mines up to December 31, 1946;
- c)** were commanders or commanders of military guards or members of military commissions for inspection and reception in enterprises supplying war material, under the Army's nomenclature;
- d)** fought on the national territory temporarily occupied by the enemy, against it, in established units or formations, recognized as such by the General Staff;
- e)** have been part of military justice, military police, gendarmerie, the fire units and military police companies from the Ministry of Interior, which acted in the area of operations or were in established units and formations and acted during wartime in the periods shown in the Army's nomenclature;
- f)** became **disabled veterans**;
- g)** were **prisoners of war**.

Are **also considered veterans**, people who attended the First and the Second World War, as follows:

- a)** Romanian citizens in any territory that voluntarily enlisted and fought in the armies of the United Nations;
- b)** residents of the Romanian provinces, temporarily occupied during the period 1940-1945, which were incorporated or compulsorily conscripted and fought in the armies of other states if they retained or regained the Romanian citizenship and residence in Romania;

c) persons of German nationality who were assigned in the German army units, if they have retained or regained the Romanian citizenship and residence in Romania.

**The disabled veteran of war** is that person who suffered during the war a disability certified by a medical lawfully act.

**The prisoner of war** is:

a) the person captured by the enemy during the war operations, whether combatant or non-combatant, and the equivalent of this under international conventions to which Romania is a party;

b) the person who, after the cessation of the hostilities on August 23, 1944, was disarmed by Soviet or German troops, or even not disarmed, was interned in prison camps;

c) the student of the military officers school, sent to study in Germany, and the soldier who attended a specialization in this country, considered prisoners of war by German authorities on August 23, 1944.

**The war widow** is the surviving spouse of the man deceased on the front, in captivity or as a result of wounds or diseases contacted on the front or in captivity.

The status of war veteran is determined by the **military centers**.

Also, soldiers who participated at least 4 months in military actions outside the Romanian territory, or took part in actions to counter the terrorist acts on the national territory, including air police and naval interventions are conferred with the honorary title of “**Military Veteran**”, and in case of civilian staff, with the title of “**Veteran**” by the order of the Minister of Defence.

## 2. Legal regulations on the veterans

The main legal provisions in force, applicable to war veterans can be found in:

➤ Law no. 49/1991 regarding the granting of the allowances and bonuses for the invalids, veterans and war widows, with subsequent amendments.

➤ Law no. 44/1994 on the war veterans and certain rights of invalids and war widows, with subsequent amendments.

➤ Law no. 49/1999 regarding the I.O.V.R. pensions (pensions for disabled, orphans, war widows), with subsequent amendments.

➤ Government Emergency Ordinance no. 82/2006 on the recognition of military merits to the personnel engaged in military actions.

➤ Order of the Minister of Transport, Construction and Tourism and of the Minister of Public Finance no. 266/312/2005 approving the Instructions on printing and reimbursement of the free travel special tickets issued under Law no. 44/1994 with subsequent amendments.

➤ Order no. M.127/2008 of the Minister of Defence for approval the establishing of the veteran status by the Ministry of Defence, with subsequent amendments.

## 3. The war veterans' rights established by the Romanian legislation

In order to ensure the social protection of war veterans, the legislature has regulated differently rights for veterans and war widows, through the Law no. 49/1991 regarding the granting of allowances and bonuses to the invalids, veterans and war widows, with subsequent amendments, and the Law no. 44/1994 on the veterans and certain rights of the invalids and war widows, republished, with subsequent amendments.

**I. The main rights of the veterans are:**

1. to consider as *years of service* – to be taken into account *when establishing the retirement benefit* – the time spent in war, the period of captivity, hospitalization and medical leaves, due to injuries;
2. *certain benefits and a monthly increment*, according to the period of time spent in war;
3. a *monthly annuity* for those who were awarded orders and medals for their deeds of arms;
4. *to appropriate land* to those veterans who were awarded orders and medals for their deeds of arms. War veterans who, because of the scarcity of land in areas where they reside or in other localities, could not be given land under the law, will be *compensated with an amount representing the value of the land on which they were entitled under the law*;
5. *free of charge transport* for a certain number of railway, road or river travellers; free of charge public transport in towns;
6. *priority at the distribution and rental of lodgings* from the State Dwelling Fund; the right to buy from the State Dwelling Fund the lodgings they live in on the basis of lease agreements;
7. *exemption from local taxes and dues*, as well as from the payment of tax corresponding to arable lands up to 5 ha;
8. *free health care* in all medical civil or military state institutions and *free medicines* both during the patient treatment and hospitalization;
9. *tickets for free treatment* in health resorts.

**The war invalids**, in addition, have the right to obtain free of charge prosthesis under the framework agreement adopted in accordance with Law no. 95/2006 on the healthcare reform. However, based on medical recommendations, veterans whose health damaged because of the circumstances involving the front are also entitled to free prosthesis.

**II. The main rights of the widows of war:**

1. the *IOVR pension*, besides the social security pension;
2. *certain benefits*, according to the period of time spent in the war by the deceased husband;
3. *free of charge transport* for a certain number of railway, road or river travellers;
4. *priority at the distribution and rental of lodgings* from the State Dwelling Fund; *the right to buy* from the State Dwelling Fund the lodgings they live in on the basis of lease agreements;
5. *exemption from local taxes and dues*, as well as from the payment of tax corresponding to arable lands up to 5 ha;
6. *free health care* in all medical civil or military state institutions and providing free medicines both patient treatment and during hospitalization;
7. *tickets for free treatment* in health resorts.

**4. Public authorities involved in protecting the rights of the war veterans**

For the implementation of the laws on the rights of war veterans and war widows, Law no. 44/1994 establishes responsibilities to be borne by several **public authorities**: Ministry of National Defence, Ministry of Administration and Interior, Ministry of Labour, Family and Social Protection, Ministry of Transport, National House of Pensions and Other Social Insurance Rights and territorial retirement offices, county health insurance offices, local councils, county councils.

### **5. The involvement of the People's Advocate Institution for solving the veterans' issues**

During the years 2009 and 2010, the veterans have addressed the People's Advocate institution and its regional offices by petitions, pointing out issues on the:

- refusal of local authorities to grant exemption from tax for arable land areas up to 5 ha;
- refusal of local authorities to provide the allotment of 500 m<sup>2</sup> for building a house in the domicile area or of 1 ha-5 ha of arable land;
- refusal of compensation by an amount representing the value of the land on which they were entitled under the law, in the cases of those veterans who, because of the scarcity of the land in areas where they reside or in other localities, could not be given land under the law;
- local authorities refusal to grant exemption from tax on arable lands up to 5 ha for all categories of agricultural lands;
- refusal of providing free treatment tickets to a minimum of 4% of the total number of war veterans;
- failure to resolve requests for purchase of lodgings from the State Dwelling Fund, that veterans hold as tenants;
- the big costs of rent;
- refusal of hospital units to provide medical assistance to war veterans, arguing the overcrowding.

The most part of the petitions of the war veterans, war widows registered with the People's Advocate Institution concerned the refusal of local governments to provide the tax exemptions. Thus, the veterans claimed that the local government authorities refused to grant exemption from taxes for arable land area up to 5 hectares, on the grounds that, under Article 284 paragraph (7) of the Tax Code, the exempt from tax is granted only to the land used for the residence.

Following the analysis of the provisions of the Tax Code, on the one hand and of the Law no.44/1994 on the veterans, on the other hand, the Ombudsman institution found that the requests of the war veterans were well founded, and in order to clarify those issues, he **asked the concerned municipalities and local councils**, to take legal measures for providing the tax exemption for arable lands up to 5 hectares, as the veterans were entitled to this under the Law no. 44/1994. In cases where the seized public authority did not provide any reply, the **Ombudsman addressed the superior authority** (prefect). Some local government authorities have adopted the ombudsman's opinion and granted the appropriate exemptions, while others have not acted accordingly.

In all the cases, the Ombudsman institution **informed** the petitioners on the result of the steps taken to resolve the complaints and communicated the necessary information on the legal ways to establish their rights.

We give below some **examples of cases handled** by the Ombudsman institution:

➤ The petitioner, a veteran of war, appealed to the Ombudsman institution claiming the refusal of City Hall Sângeorgiu de Pădure, Mures county, to grant the exemption from the tax on an agricultural land of 0.5824 hectares.

For the clarification of the seized aspects, the Ombudsman institution requested information from the government authority concerned. Following the steps taken by the Ombudsman institution, the public local administration authority informed the Ombudsman that starting with January 1, 2008, the petitioner has been exempted from the tax on agricultural land. Also we were informed that until the above date, the petitioner was required to pay taxes for that area of agricultural land. From the amount of 146.59 lei paid in advance, only the tax of 100.09 lei due was until December 31, 2007, had been held, while the rest of 46.50 lei had been returned to the complainant as unlawful payment.

➤ The petitioner, a war widow, appealed to the Ombudsman institution in connection with the refusal of City Council's Deva - Public service for taxes to grant the tax exemption for a land area of 0.47 ha of agricultural land. As a result of steps taken by the Ombudsman institution, the public authority informed the Ombudsman on the exemption from tax on the land area of 0.47 hectares owned by the petitioner.

Beyond the involvement of the People's Advocate institution to address specific complaints received from the war veterans, we note a general approach to the problems this social category is facing, by drafting a report. We refer here to the "**Special Report on the observance of the rights of war veterans, war widows and un-remarried widows of war veterans**", forwarded by the People's Advocate to the Romanian Parliament and other public authorities<sup>1</sup>. The report contains recommendations and concrete proposals for improving the legislation and the activity for the protection of war veterans' rights, especially as they are at a respectable age (the average age is of 87 years), having a reduced capacity to defend their interests. Mainly, these recommendations were related to:

**I.** The amendment of art. 284 paragraph (1), paragraph (3) and paragraph (7) from Law No. 571/2003 on the Fiscal Code, covering subsequent amendments and supplements, in the sense of the introduction of the provision corresponding to the granting of exemption from tax corresponding to arable fields with the surface of up to 5 ha for the war veterans, war widows and un-remarried widows of war veterans in compliance with the special legal provisions, namely art. 16 letter e) from the Law No. 44/1994, republished, covering subsequent amendments and supplements.

**II.** The conduction of some controls at national level related to the assignment of property to the war veterans decorated on the battlefield, as well as the implementation of some measures in order to grant this right to the applicants, by a public authority with specific competences to defend the rights of war veterans.

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<sup>1</sup> Special Report on the rights of war veterans, war widows and unmarried widows of war veterans, has been submitted to the Presidents of both Houses of Parliament, Prime - Minister, Minister of Labour, Family and Social Welfare, Minister of Finance, Minister of Administration and Interior, President of National House of Pensions and Other Social Insurance Rights, president of the Association of Veterans in Romania.

**III.** The insurance of an adequate legal frame for granting the free medication and prosthesis for individuals entitled.

**IV.** The observance of the right to insure, on priority criteria, dwellings from the state locative fund by the local councils.

**V.** Measures to insure the right of the war veterans and war widows to purchase the dwellings assigned from the state locative fund.

In this regard, we note that the Romanian Government adopted the Decision no. 662/2009 on the organization and functioning of the Veterans' Assistance Department within the Ministry of National Defence. Thus, within the Ministry of National Defence, the **Department for veterans' assistance** has been established, as the authority entrusted with the responsibility of coordination at national level, the issue of veterans, invalids and war widows.

Also is to mention here that the ombudsman proposal for amending the law applicable to war veterans **was considered by the Romanian Parliament**, which recently adopted the Law no.24/2010 for amending and supplementing the article 284 of the Law no. 571/2003 regarding the Fiscal Code. The above mentioned laws provide that the exemption from local taxes and the appropriate tax for arable land, meadows and forests, up to 5 ha area, apply for veterans, war widows and veterans' widows war which have not remarried.

Hence, the recent legislative changes remove any possibility of misinterpretation of the right of the war veterans and widows to be exempted from the tax on the agricultural land payment.

Undoubtedly, there are still some difficulties in achieving all the rights of the war veterans, and therefore it remains with the public authorities with responsibilities in this area to have a receptive attitude in order to avoid cases of maladministration. We note that in the Foreword to the 2009 Activity Report, the Ombudsman, *prof. Dr. Ioan Muraru* stressed that "Beside the Ombudsman involvement to address concerns addressed in specific petitions, some actions to protect the rights of the population have been performed by the Ombudsman office, mainly when the individual petitions in the same area were in a large number. We refer to the special reports of the Ombudsman, where the Parliament, at least in the parliamentary committees would be useful to restart the debates. We consider in particular, the special reports on the public pension system, health care, disabled children and youth rights, the rights of the war veterans, war widows and un-remarried widows of veterans submitted to Parliament, containing judicious proposals and solutions on difficult legal issues."

## **Bibliography**

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- Order no. M.127/2008 of the Minister of Defence for approval the establishing of the veteran status by the Ministry of Defence, with subsequent amendments, published in the Official Gazette, Part I, no. 14 of January 8, 2009.

### **Ombudsman reports**

- The People's Advocate Special Report on the rights of war veterans, war widows and unmarried widows of war veterans, submitted to the Presidents of both Houses of Parliament, Prime - Minister, Minister of Labour, Family and Social Welfare, Minister of Finance, Minister of Administration and Interior, President of National House of Pensions and Other Social Insurance Rights, president of the Association of Veterans in Romania by the Ombudsman letter no. 3521/6 April 2009
- Activity Report for the year 2009 of the People's Advocate institution, forwarded to the Parliament by the Ombudsman letters no. 686/687/27 January 2010.