



# ASOCIAȚIA GREFIERILOR DIN ROMÂNIA

Giurgiu, Str. Negru Vodă, Bl. 33, Sc. B, apt. 30, Et. 4, jud. Giurgiu  
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Telefon: 0764.191.592; 0736.332.230

Nr. 3/AGR/2020

Bucharest, January 2020

To

## The EUROPEAN UNION OF RECHTSPFLEGER AND COURT CLERKS

- In attention of President Vivien Whyte -

Dear Mr. President,

The Association of Romanian Court Clerks is a professional association of the specialized auxiliary personnel, constituted on a national level and it comprises more than 5000 members, out of the total of 8000 *court clerks, statistical clerks, documentarist clerks, archivist clerks and registration clerks* in the courts and the adjoining prosecutors' offices.

Our professional category - the specialized auxiliary personnel in courts and prosecutors' offices (the clerks), is nowadays in a comedown of its image and professional identity because of the governors who do not deal seriously with the problems we are facing.

In this regard, we would like to inform you that for more than 10 years we have been fighting for remuneration rights, as a result of the incorrect calculation of salaries. It happened either because of the non-application of successive remuneration laws or because of their non-uniform application. For more than 16 years, we have been trying to develop a new status of the profession of clerk according to the European model. We considered the legislative changes made to the Civil and Criminal Procedure Codes, which have transferred a range of responsibilities from magistrates to clerks, as well as the elaboration of new internal regulations that also encumbered the clerks' activity by introducing new responsibilities.

Moreover, our professional category has 36 employers, and there is no central body to manage the career of the clerk in respect of remuneration and profession. Meanwhile, the attitude of the Ministry of Justice, as main authorizing credit officer and the one that should be the mediator between the professional and trade union organizations established at level of profession and the employers to solve the problems, is based on passivity, incoherence and lack of any vision and measures meant to solve these problems.

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In December 2019, the current Romanian government, lacking political capital and wishing to win the electorate, chose to initiate several drafts of legal acts aimed at repealing the provisions that regulate the right to public service pension, including the clerks'. In their opinion, this pension is considered a "special" pension and they invoke the fact that pensions must be granted exclusively based on of the principle of contributivity.

Starting from the exposition of reasons that led to the draft laws, we find that, by promoting them, their initiators seek the restoration of equality in the relationship with the state - by repealing the special pensions and returning to the principle of contributivity - based on the rule according to which equal pensions should exist with equal contributions. However, they don't take into account the systems of prohibitions and incompatibilities imposed by law.

At the same time, we find that the projects create a discriminatory situation by maintaining only two exceptions to this rule, namely the state military pensions and the magistrates' pensions and the settlement of a different calculation system, even if this system sets a limit.

We also want to draw attention to the fact that these projects do not comply with the norms of legislative technique imposed by provisions of Art. 31 Law No. 24/2000, as the Legislative Council also noticed in its negative notification, raising issues of legality and unconstitutionality.

Also, the Plenum of the Superior Council of Magistracy notified a similar legislative proposal negatively, considering that such a regulation would be a setback of the regulation in the field of service pensions, which, together with the negative consequences of material nature that such a measure would have upon this category of personnel, the need to ensure a predictability of the normative framework must also be considered.

The Council reasoned that the right to the public service pension of the auxiliary personnel was regulated by Law No. 567 in 2004; subsequently, the regulations were eliminated by Law No. 119 in 2010, and the public service pension of the specialized auxiliary staff became a pension within the meaning of Law No. 19/2000, while Law No. 263/2010 stipulated the repeal of the articles regarding the right to public service pension, so that, in 2015, the service pensions were reintroduced by provisions of Art. 1 of Law No. 130/2015.

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In this normative context, it is obvious that a new elimination of the public service pension would flagrantly contravene the principle of predictability of the normative framework.

Such a legislative change is likely to affect the safety of the activity carried out in the justice system, by reaching the social guarantees assigned to the justice personnel, without which the activity of the "judicial authority" cannot be organized and carried out.

On 18. and 20. December 2019, protests took place throughout the country. More than 6000 clerks from Romanian courts and prosecutors' offices stopped their activity for two hours, during the voting of these legislative initiatives in the Plenum of the Chamber of Deputies, and we managed to obtain a postponing of their call into question until the new parliamentary session, in February 2020.

As two election tours will take place in 2020 - local and parliamentary -, the topic was restated on the "agenda" of the governors, who announced their intention to vote the "elimination" of the public service pensions in an extraordinary session of the Parliament, to be held on January 28, 2020.

Moreover, the Romanian judiciary system has been in a continuous siege lately, using the entire mass media to incite the society to hatred against the budgetary system and to induce the idea that, by eliminating the public service pensions, the life conditions in Romania will improve overnight.

We would have preferred to find out about the intention of eliminating special pensions not from the press, but from the decision-makers, as part of real and effective discussions based on social dialogue, but it seems that the Romanian governors want, by any means, to win the electoral sympathy of a mass of misinformed or wrongly informed people, telling them that these actions help the state budget. In fact, eliminating this right can have negative consequences precisely among those who do not know what this is all about.

Although we tried to explain why these pensions were granted to us and why it is necessary to maintain them, both in the debates of the commissions, by means of official documents in the correspondence carried out, and through the media, it seems that the only option the Romanian politicians have left available to us is to interrupt out activity in courts and prosecutors' offices, at national level, and our trade union organizations have already started the procedures in this regard.

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**Given the role of the organization presided by you within the European Union and the relationships you have with the specialized institutions in the member countries, we respectfully ask you to help us solve this problem by issuing an official point of view to the decision-makers in Romania (Government, Parliament and President) regarding the maintenance of the right to the public service pension for clerks in courts and the adjoining prosecutor's offices.**

Regarding the right to public service pension of the clerks in Romania, we would like to give the following specifications:

- the clerks' public service pension is an occupational pension, as defined in the European area and was granted during Romania's period of pre-accession to the European Union, as a compensation for the strict system of prohibitions and incompatibilities established by Art. 77 of Law No. 567/2004 regarding the status of our professional category;
- the profession of a clerk is incompatible with any other public or private function, except for the didactic functions, the clerks being forbidden to carry out other income-generating activities, so the salary is their only source of income, unlike other professional categories;
- the clerks' public service pension consists of two components: one is based on contributivity, and the other represents a compensation granted by the Romanian State for the restrictions imposed by law to our professional category;
- the right to the clerks' public service pension is double conditioned, unlike other professional categories, on one hand by reaching the age of 60, and on the other hand by a minimum of 25 years of activity in the system;
- the life expectancy of the clerks is 58 years, very low in comparison with other professional categories, and this is due to the professional diseases that appeared during the exercise of the profession (disorders of the locomotor system and of the spine, vision disorders due to the exclusive work in front of computers, skin disorders caused by bacteria and mold, respiratory system disorders - asthma developed due to dust on the files, cancer of various types, etc.);

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- according to the official data of the Romanian National House of Public Pensions, in 2019, 1800 persons are beneficiaries of the public service pension within our professional category, decreasing by 14 persons as compared to 2018 (1814 beneficiaries), so we can say that we are "eliminated" naturally...

Moreover, we want to inform you that the staff of the justice system rejuvenates by the day, and the recruitment of the clerks takes place mainly through the National School of Clerks, based on a national competition, where the competition level is very high and a condition of participation is to be licensed in Law. Thus, we consider that the Romanian judiciary system is reformed by recruiting young and well-trained professional clerks to contribute to the execution of a justice act, with the highest degree of professionalism.

But those who decide to pursue the career of a clerk make their choice also for the predictability of a future that used to comprise public service pensions, which now seem to be questioned. Thus, the repeal of the public service pension will lead to the de-professionalization of our category and will determine the graduates of Law faculties to pursue other judiciary careers.

As far as you consider it appropriate to meet the representatives of our professional organization, we request that the invitation and response be communicated to us at the e-mail address [associatiagrefierilor@yahoo.com](mailto:associatiagrefierilor@yahoo.com).

**Hoping for a fruitful collaboration in the future, we assure you of our full consideration,**

**PREȘEDINTE,  
NICOLETA DENISA DÎNDĂREANU**

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