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SPECIAL REPORT

**ON THE OBSERVANCE OF THE RIGHTS OF VETERANS,
WAR VETERANS, WAR INVALIDS, WAR ORPHANS,
WIDOWS OF WAR, UNMARRIED WIDOWS OF WAR
VETERANS AND PRISONERS OF WAR**

PEOPLE'S ADVOCATE INSTITUTION



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The photos included in the Report were obtained courtesy of the Directorate for Information and Public Relations of the Ministry of National Defense, as well as from the personal archive of Mr. Eugen Dinu, counselor within the Department – Army, Justice, Police, Penitentiaries.

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The purpose of the Special Report on the observance of the rights of veterans, war veterans, war invalids, war orphans, widows of war, unmarried widows of war veterans and prisoners of war

The People's Advocate Institution aims to protect the rights and freedoms of individuals in their relations with public authorities. When the People's Advocate finds, in the course of his investigations, gaps in legislation or serious cases of corruption or non-observance of the laws of the country, he presents special reports on the findings to the Presidents of the two Chambers of Parliament or, as the case may be, to the Prime Minister of Romania, on the basis of Art. 29 (2) of the Law no. 35/1997 on the organization and functioning of the People's Advocate Institution, republished, as subsequently amended and supplemented.

Noting that the recommendations and proposals made in the Special Report on the observance of the rights of war veterans, invalids, orphans, widows of war and unmarried widows of war veterans, submitted to Parliament and the Government of Romania in 2009 were not fully implemented by the concerned public institutions, the People's Advocate Institution, through this new Special Report, aims to further highlight the problems faced by a particular category of vulnerable people – war veterans, war invalids, war widows, war orphans, widows of war veterans, and prisoners of war, to whom we owe gratitude for their acts of heroism and patriotism, without which Romania's independence, national unity and territorial integrity would not have been possible.

Thus, although improvements have been made to the legislation in the field since 2009, there are still major differences in the rights of this special category of people compared to other categories, for example, former anti-communist fighters from the December 1989 Revolution.

By Government Decision no. 662/2009 on the organization and functioning of the War Veterans Assistance Section of the Ministry of National Defense, was established the War Veterans Assistance Section (SAVR) as authority responsible for coordinating the issues related to veterans, war invalids and war widows at national level.

Chapter 1. BRIEF HISTORICAL SURVEY CONCERNING THE ESTABLISHMENT OF THE TERM OF WAR VETERAN AND THE SOCIAL PROTECTION OF WAR VETERANS, WAR INVALIDS, WAR ORPHANS AND WAR WIDOWS IN OUR COUNTRY BEFORE 1989

In the history of our country, the Organic Regulation of Moldova, which came into force on January 1, 1832, at Art. 235 of Section III "On the privileges and organization of the Militia," defines the veteran as the gendarme who served the three year or six year military service¹.

The first piece of legislation on former military combatants was promulgated by Prince Alexandru Ioan Cuza on May 24, 1860, rewarding the soldiers who participated in the fight against the Ottoman troops, which took place in Dealul Spirii, on 13 September 1848. At the same time, they were awarded the first Romanian military decoration "*For Military Virtues*", founded by the ruler².

By the High Order no. 1002 of July 6, 1865, was promulgated the *Law on Pensions and Assistance to retired sub-officers and soldiers*.

Also for the veterans of the Dealul Spirii battle, a law was passed on February 15, 1875, providing for monthly allowances of 30 lei for all lower-ranking troops.

On December 4, 1877, was adopted the *Law on the pensions of military personnel who acquired disabilities as result of war wounds, as well as the widows and orphans of these who died in battle*, which provided that officers, sub-officers, corporals and soldiers seriously and incurably injured during the war, would benefit from pension. At the same time, war orphans and children of war invalids had the right to be raised free of charge in the state educational institutions³.

On December 29, 1877, was adopted the *High Decree no. 2435 on the pensions of military personnel who acquired disabilities as result of war wounds, as well as the widows and orphans of these who died in battle*.

On May 10, 1878, was adopted the law by which the reservists who participated in the 1877-1878 campaign were exempted for life from the contribution for communications.

In March 1879, a normative legal act was passed whereby the pensions of the officers wounded or infirm due to the war as well as to the descendants of these fallen on the battlefield were increased with the equivalent of 1/5 of the salary received at the time of the injury / death.

Seven years after the end of the Independence War, was established the Society of Independent Veterans whose purpose was to *build and maintain good relations between the Romanians who fought for the country's independence and provide these who needed with assistance at old age*⁴. The Society aimed to provide money, food and medicine to these in need, as well as money to orphaned children and widows of military personnel.

¹ Drăghici, L., "2015-Year War Veterans", *Document. Bulletin of the Romanian Military Archives*, no. 2 (68), 2015, p. 4.

² Pohrib, Gh., Col., Lupașcu, N., Lt. col., Petăleanu, P.V., Cpt., *The History of the Military Firefighters 1835-1935*, Bucharest, 1935, *Imprimeriile Cartea Românească* Typography, p. 133.

³ Drăghici, L., *loc. cit.*

⁴ Ganea, I., Major-General (r) dr., "Evolution in time of the associative structures of the reserve and retired military personnel of the Romanian army", *Reserve of the Romanian Army*, year XVII - no. 1 (32), May 2015.

The High Decree-Law no. 1349 of April 16, 1886, states that *military personnel and these assimilated, of any rank, who acquired disabilities during military service in peacetime, will benefit from the same pension as those whose rights derive from events of war; without the 1/5 increment, which is granted only in relation to war time.*

The status of veteran was formalized by the High Royal Decree signed by Carol I on April 29, 1902, which stated that *"the soldiers who took part in the 1877 campaign, i.e. those who were mobilized on April 29, 1877, becoming 25 years of age on April 29, 1902, are called veterans"*. In order to apply the provisions of the 1902 Decree and to defend the rights provided for by the concerned normative act, were set up in various regions of the country (Tutova, Fălcu, Galați, Romanuți, Ilfov, Tecuci, Bacău, Vaslui counties) associations of lower ranking veterans.

The High Royal Decree of 1902 provided *"that every veteran soldier should be provided with peace and occupation for the rest of his life, and shall be provided with the necessary for this purpose as an incentive for future generations."*

The Order of the Ministry of Education and Public Works no. 2350 of February 7, 1909 exempts children of war veterans from school fees, and by order of the Ministry of the Interior, rural veterans were exempt from the night watch service, as well as from taxes related to it⁵.

By the High Decree no. 1173 of February 28, 1912, the law amending the pension law was adopted and all officers and assimilated persons who participated in the War of Independence and who had been entitled to the pension between April 1, 1901 and April 1, 1910 had the right to the rectification of their pensions.

On April 21, 1912, King Carol I signed the act of promulgation of the law by which the reserve and retired officers who took part in the 1877-1878 campaign could be advanced, on the proposal of the Ministry of War, to the immediately higher rank, as a reward for serving the country.

On June 7, 1912, the Ministry of War issued an order according to which the status of veteran, inferior rank, during the war of 1877-1878, could be granted only to those who were at that time in the active units or services of the campaign army, whether or not they have passed the Danube River.

In order to help the victims of the First World War, on September 14, 1919, was issued the *Decree-Law no. 4017 on the pensions of those who took part in the "War for the Completion of the Homeland"*, which established who the beneficiaries were, the amount of their pensions and their aids, and what formalities were to be completed in order to benefit from them.

In accordance with the law on the establishment of the National Office of Invalids, Orphans and Widows of War, of 2 September 1920 and the Implementing Regulation, in each county were set up offices for the disabled, orphans and widows of war; at the same time, an "I.O.V. assistance fund" was established.

In order to regulate the situation of the missing persons on the front⁶, was adopted the *Law no. 233 of December 12, 1923, on declaring the presumed death of those missing during the war, as well as the regulation of the legal status of their patrimony and descendants.*

⁵ Bleoancă, D., *The Social Status of the Romanian Armed Forces during 1878-1914*, Bucharest, National Defense University Publishing House, 2003, p. 401.

⁶ This legislative measure was necessary to put an end to the uncertainty of the missing person's existence. The Romanian civil code at that time abolished the institution of absence and replaced it with the declaration of death system, the application of the provisions of the Civil Code being delayed *sine die*.

In 1925, the "Union of Reserve and Retirement Officers" was formed at national level, including war veteran officers. At the same time, it was approved to create the veteran officer's badge.

In 1927, by Decree-Law no. 1402 of May 15, active officers and reserve officers, participants in the First World War and decorated with the "Mihai Viteazul" Order, received lots of agricultural land or lots of land for homes, as well as some free benefits.

In 1933, on April 25th, was promulgated the law which granted to the former volunteers from the regions of Banat, Transylvania, Bucovina, Bessarabia and Macedonians who became war invalids during and because of the War for the Completion of the Homeland, as well as the widows and orphans of former volunteers dead on duty the same rights as these of the war invalids, widows and orphans of the Romanian Armed Forces⁷.

In order to regulate the situation of the missing persons on the front, was adopted the Law no. 173/1941 on declaring the presumed death of the missing⁸.

After the Communist regime was established, many war veterans did not benefit from the rights provided by law, suffering because of their participation in the battles of the in East Campaign.

*In the three years, ten months and twenty days of the Romanian army's participation in the Second World War, the country lost, on the two fronts, **794,562 soldiers, dead, injured and missing.***

On June 4, 1945, was signed the Decree-Law no. 440 regarding the granting of the status of "veteran" to the former fighters in the 1913, 1916-1919 and 1941-1945 wars, but from some rights benefited only those who fought in the West, designated as "antifascists", disappearing from the landscape of the Romanian society "the war veterans"⁹. By this decree, the conditions for receiving the honorary title of veteran were established. The title of veteran was also bestowed upon those mobilized in the service of the army in the inner area, but who were not at that time on duty. Veterans' pensions were exempt from tax, and they enjoyed six free travel tickets on C.F.R. (Romanian Railway Service) and N.F.R. (Romanian Fluvial Naval Service).

The Presidium of the Grand National Assembly of the Romanian People's Republic adopted on July 23, 1949, the Decree no. 307 on helping the veterans of the 1877 war.

In 1963, the Council of Ministers of the Romanian People's Republic adopted the Decision no. 875 of 23 October for the establishment of the National Committee of Veterans of the Anti-Fascist War, *in order to underline Romania's contribution to the struggle for the crushing of fascism and the representation of the Romanian People's Republic in its relations with the organizations of anti-fascist war veterans from other countries.* The "Veteran of the Anti-Fascist War" badge was also created to be awarded by the National Veterans' Committee to the participants in the anti-fascist war.

⁷ Drăghici, L., *loc. cit.*

⁸ Followed by Law no. 293/1944 for amending and completing the Law no. 173/1941, Law no. 598/1946 for declaring the death of a category of missing persons, Decree no. 339/1948 regarding the declaration of the presumed death of those missing on the occasion of the war, outside the interior area, which abrogated Art. 98-123 of the Romanian Civil Code regarding absence, Law no. 50/1948 regulating the succession of deceased persons in exceptional circumstances.

⁹ <http://www.veterani-ww2.ro/istoric.html>.

In 1980, the National Veterans' Committee was reorganized by uniting with the Association of Former Fighters of the Illegality, being created the Committee of Former Anti-Fascist Fighters and War Veterans.

Chapter 2. THE STATUS OF VETERAN, WAR VETERAN, WAR INVALID, WAR ORPHAN, WIDOW OF WAR, UNMARRIED WIDOW OF WAR AND PRISONER OF WAR AND THE SOCIAL PROTECTION MEASURES AS ENSHRINED IN THE LEGISLATION ADOPTED IN ROMANIA AFTER 1989

A. The status of veteran, war veteran, war invalid, war orphan, widow of war, unmarried widow of war and prisoner of war

1. Veteran status

According to Government Emergency Ordinance no. 82/2006 for the recognition of the merits of military personnel who participated in military actions and the granting of rights to them and to the survivors of the deceased, have the status of veteran as follows:

a) Army personnel who have participated for at least 4 months, uninterrupted or cumulative, at military actions, as defined in Art. 2 (b) (the missions, operations and training activities provided for in Articles 2 (1) and 3 (3) of Law 121/2011 on the participation of the armed forces in missions and operations outside the territory of the Romanian State; counteracting and limiting the effects of terrorist actions; airborne police and naval intervention as well as other high-risk missions established by order of the Minister of National Defense on the territory of the Romanian State);

b) Army personnel who have participated in military actions, irrespective of the duration of their participation, in one of the situations defined in Art. 2 (c) (invalid military personnel - the military personnel referred to in letter a), considered disabled and unfit for military service by military-medical expertise commissions following physical, and/or psychological injuries, acquired as a result of the combat actions, accidents, catastrophes and other such events occurring due to participation in military actions), (d) (invalid civilians - the civilian staff referred to in letter a), considered disabled and unfit for military service by military-medical expertise commissions following physical, and/or psychological injuries, acquired as a result of the combat actions, accidents, catastrophes and other such events occurring due to participation in military actions), (g) (wounded - the army personnel referred to in letter a) who, during combat actions, accidents, catastrophes and other such events as a result of participation in military actions, suffered bodily injuries because of which they can no longer continue to participate in those actions);

c) Army personnel who have participated in military actions, irrespective of the duration of the participation, who have acquired the conditions stipulated in Art. 2 (h) (physical conditions - diseases acquired as a result of combat actions, accidents, catastrophes and other such events as a result of participation in the military actions of the army personnel referred to in letter a),

triggering the organic and/or functional modification of the normal balance of the organism, with the potential for chronicization, as a result of which they can no longer fulfill military obligations or that can cause death) and (i) (psychiatric conditions - diseases acquired as a result of combat actions, accidents, catastrophes and other such events as a result of participation in the military activities of the army personnel referred to in letter a, with psychological and/or behavioral manifestations associated with significant suffering and with affecting socio-professional integration).

Art. 3 par. 1 of the Methodological Norms for Government Emergency Ordinance no. 82/2006, approved by the Order of the Minister of National Defense no. 88/2016, stipulates that the honorary title of veteran is conferred by order of the Chief of the General Staff, respectively by order of the General Director of the General Directorate for Defense Intelligence, for the structures under its subordination, to the army personnel who participated in the military actions, starting from 1990, on the basis of proposals submitted hierarchically by the commanders / heads of the structures that organized and / or conducted the military actions, or of the commander / chief of the structure in which the personnel are assigned, as follows:

- a) Army personnel who have participated in military actions for at least 4 months, uninterrupted or cumulative but not less than 120 days;
- b) Army personnel injured, invalid or who has acquired physical and / or psychiatric conditions as a result of participation in military actions irrespective of the duration of the participation.

According to Art. 10 par. 1 of the Government Emergency Ordinance no. 82/2006, the status of veteran is assigned to the personnel of the army who has participated, since 1990, in the missions, operations and training activities provided for in Art. 2 par. 1 and Art. 3 par. 3 of Law no. 121/2011.

Article 2 of the Methodological Norms for Government Emergency Ordinance no. 82/2006 defines missions with high risk potential on the territory of the Romanian state as those types of missions performed by the army personnel since 1990, namely:

- a) missions performed by forces in "combat service" as defined in the specific regulations on the conduct and execution of the combat service in the Romanian Armed Forces;
- b) alerting activities, exercises and trainings, practiced with combat equipment, on the ground, on / under water and in the air, with or without firing;
- c) missions performed to carry out the support functions assigned to the Ministry of National Defense according to the legislation in the field of emergency situations;
- d) testing and evaluation activities of military equipment, weapons, ammunition, explosives or other such high-risk defense products;
- e) ordered missions / activities, during which the conditions of their deployment are aggravated, so that it occurs the risk of serious consequences for the life and health of the personnel.

2. War veteran status

According to Law no. 44/1994 on war veterans, as well as some rights of invalids and widows of war, republished, with the subsequent modifications and completions, **have the status**

of war veteran the persons who participated in the first or second world war in the Romanian army, have been in one of the following situations (Articles 1 and 2):

- a) fought in military units – subunits, large units or command units – at different echelons, or were part of the logistic formations as provided in the Nomenclature of the General Staff of the Army;
- b) served in the special units in the inner area, defusing projectiles and cleaning up the territory of mines, until 31 December 1946;
- c) served as military commanders or commanders of military guards or members of the military control and reception committees in war material supply enterprises, as provided in the Nomenclature of the General Staff of the Army;
- d) fought on the national territory, temporarily occupied by the enemy, against it, in units or formations established and recognized as such by the General Staff of the Army;
- e) were part of the military justice, military police, gendarmerie, military fire brigade units and police companies within the Ministry of Interior, who acted in the operation area or were part of units or formations and acted in time of war, in the periods shown in the Nomenclature of the General Staff of the Army;
- f) become war invalids;
- g) were prisoners of war.

Are also considered war veterans those who participated in the First or Second World War as follows:

- a) Romanian citizens from any territory who voluntarily joined and fought in the ranks of the armed forces of the United Nations;
- b) the inhabitants of the Romanian provinces, temporarily occupied between 1940 – 1945, who have been conscripted or mobilized in the armies of other states, if they have retained or regained Romanian citizenship and domicile in Romania;
- c) persons of German nationality who have been compulsorily conscripted to units of the German army, if they have retained or regained Romanian citizenship and domicile in Romania.

Cannot acquire the status of war veteran the person who:

- a) has committed acts of betrayal of the country, ascertained by a final court decision;
- b) accepted to be used by the enemy as a spy or diversion agent on the territory of the country, facts ascertained by a final court decision;
- c) fought as a volunteer in foreign armies against the country;
- d) fought as a volunteer in foreign armies against the United Nations;
- e) committed acts of terror and crimes against the indigenous population from temporarily occupied territories;
- f) deserted from the Romanian army during the war;
- g) obtained the certificate of combatant or the military service book by false declarations or by fraud ascertained by a final court decision or when the decision of the reconstitution commission given under Art. 5 par. 4 has been annulled. (Article 7 (1) (d) of Law No 44/1994).

Proving that a person seeking to be recognized as a war veteran fought as a volunteer in foreign armies against the country or the United Nations or committed acts of terror and murder

against the indigenous population of the temporarily occupied territories of the enemy or deserted the Romanian army during the war rests with the competent body in establishing the status of war veteran – the Ministry of National Defense – or it is established, as the case may be, by a final judicial decision (Article 7, paragraph 2, corroborated with Article 5 of Law 44 / 1994).

The status of war veteran is established by the Ministry of National Defense on the basis of the data recorded in the military service book or, in the absence of that, on the basis of official documents issued by the bodies determined by this ministry (Article 5 of Law 44/1994), and provided for in Art. 2 of the Ministry of National Defense Regulations of 19 December 2008 on the determination of the status of war veteran by the Ministry of National Defense, as subsequently amended and supplemented:

- a) Directorate for the quality of life of the personnel, the military unit no. 02585 Bucharest;
- b) Directorate for personnel and mobilization of the General Staff, the military unit no. 02515 / B Bucharest;
- c) Historical Service of the Army, the military unit no. 02600 Bucharest;
- d) The Center for the Study and Preservation of the Historical Military Archives, the military unit no. 02405 Pitești;
- e) The zonal and county military centers as well as the military centers of the sectors of Bucharest city.

In cases where, for various reasons, those entitled do not possess the required official documents or the necessary evidence cannot be released as a result of the absence or destruction of the archives, confirmed in writing, the status of war veteran will be determined by the reconstitution committees, with witnesses, under the conditions provided by the law and the methodology established for this purpose by the Ministry of Defense (Article 5, paragraph 4).

According to the data provided to the People's Advocate by the National War Veterans' Association, in 2016, in Romania, the number of war veterans benefiting from the rights regulated by Law no. 44/1991 was 418 and in the year 2018 it was 238.

3. War invalid status

According to Art. 3 of Law no. 44/1994, the war invalid may be, as follows:

- a) the war veteran who suffered an injury during the war leading to an invalidity attested by a legal medical certificate;
- b) the war veteran who suffered an accident during the war leading to an invalidity attested by a legal medical certificate;
- c) the war veteran who suffered an injury because of the war leading to an invalidity attested by a legal medical certificate;
- d) the veteran of war suffered an accident because of the war leading to an invalidity attested by a legal medical certificate;

War invalids, irrespective of the degree of disability, shall prove their status by the classification report and the respective pension decision (Article 5 paragraph 2 of Law 44/1994).

4. War orphan status

The current legislation does not regulate the status and rights of war orphans. As noted in the previous chapter, the rights of the children of the deceased in battle were regulated since 1877, but they were excluded from our legislation after 1945.

5. Widow of war status

The widow of war is the surviving wife of the deceased on the front, in captivity as prisoners of war, or as a result of injuries or diseases contracted on the front or in captivity.

The status of war widow is established, according to Art. 9 of the Law no. 44/1994, on the basis of documents, under the conditions stipulated in the regulations elaborated by the Ministry of Labor and Social Solidarity.

From the data provided to the People's Advocate Institution by the National War Veterans' Association, in 2016, in Romania, the number of widows who benefited from the rights regulated by Law no. 44/1991 was 1222 and, in 2018, it was 888.

6. Prisoner of war status

Article 4 of the Law no. 44/1994 states that the prisoner of war status shall be granted to:

- a) the person captured by the enemy during war operations, whether he was a combatant or non-combatant, and the persons assimilated according to the international conventions to which Romania is a party;
- b) the person who, after the cease-fire on August 23, 1944, was disarmed by the Soviet or German troops, or even without being disarmed, was imprisoned in prisoner-of-war camps;
- c) the pupil of military schools of officers, sub-officers and military foremen sent to study in Germany, as well as the soldier and other military personnel sent in that country for training, considered war prisoners by the German authorities on 23 August 1944.

The prisoners of war shall prove their status on the basis of the official documents issued by the military archives, as well as by any other document issued by the Ministry of National Defense or by the body where they have been detained (Article 5 paragraph 3 of Law 44/1994).

B. Specific measures concerning veterans, war veterans, war invalids, widows of war and prisoners of war, enshrined in legislation adopted in Romania after 1989

After 1989, war veterans obtained certain rights and benefits, in particular through Law no. 49 of 29 July 1991 on the granting of allowances and increments to invalids, veterans and widows of war, with subsequent amendments and completions¹⁰ and by Law no. 44 of 1 July 1994 on war veterans and certain rights of invalids and widows of war, republished, with subsequent amendments and completions.

The Government of Romania also adopted the Decision no. 1065 of October 5, 1990, concerning the gratuities and discounts for travel by means of rail and road transport granted to war invalids and veterans, disabled pensioners as a result of their participation in the Revolution of December 1989, war widows and widows of those who died in the revolution¹¹.

¹⁰ By Emergency Ordinance no. 103/2018, published in the Official Gazette no. 1028 of December 3, 2018, was amended the Law no. 49/1991.

¹¹ Repealed on 7 July 1994 by Art. 24, paragraph 3 of Chapter 3 of Law 44/1994.

Also in 1990, the Romanian Government adopted the Decision no. 1161 of 1 November¹² on the duties, organization and functioning of the State Secretariat for Persons with Disabilities, which had among its main tasks the organization of the unitary system of information on the economic, medical, social, professional and family issues specific to war invalids, war orphans, war widows, war veterans, and the severely mutilated by war.

By Government Decision no. 233 of March 29, 1991 amending and supplementing Article 1 of the Government Decision no. 1065 of October 5, 1990, war invalids having various degrees of invalidity, the severely mutilated and war veterans decorated with the orders or medals "Mihai Viteazul", "Star of Romania", "Crown of Romania", "Military Virtue", "Aeronautics Virtue", "Courage and Faith", "Sanitary Merit", "War Cross", "Faithful Service with Swords" and "Maritime Virtue" as well as the pensioner war widows shall be granted the right to 12 free roundtrip railway tickets, in the course of a calendar year; the other war veterans shall be granted a discount of 50% for 6 roundtrips per year. Also for all the categories provided by this normative act were introduced gratuities on the urban means of public transport (subway, bus, trolleybus, tram).

According to Art. 14 of the Law no. 44/1994, war veterans who have not been decorated with orders, medals or war crosses provided in Art. 13 par. 1 (a) and b) but to whom has been awarded the Medal "World War II Commemorative Cross, 1941-1945" shall receive a monthly income equal to 90% of the rank salary of a second lieutenant.

Law no. 48 of 30 May 1995 on the proclamation of the Heroes Day restored a tradition born in 1920, when, by Decree no. 1913 of April 26, it was decided that the Day of Heroes be celebrated each year, at the same time as the Orthodox Christian Feast of the Ascension.

By Government Decision no. 900 of September 13, 2001 on the organization and establishment of the powers of the General Secretariat of the Government, repealed by Art. 12 of GD no. 747/2003, was established the Office for War Veterans Problems – OPVR, structure led by a state secretary, coordinating at national level the policies and programs in the field. OPVR operated within the General Secretariat of the Government until March 2005 when it was terminated. According to Art. 12 of the Government Decision no. 157 of 3 March 2005 for the organization and functioning of the General Secretariat of the Government, repealed by Art. 11 of GD no. 405/2007, the specific problem of war veterans was later transferred to the Ministry of National Defense, being *de facto* taken over by the Service of Professional Reconversion, Veteran Support and Career After Military Service, subordinated to the Department of Human Resources Management of the Ministry of National Defense (currently, the Department for Relations with the Parliament and Quality of Life of Staff).

In 2004, the National War Veterans Association was recognized as being of public utility¹³.

For the recognition of the merits of military personnel who participated in military actions, the Government of Romania, due to the lack of legal norms and in the context of the return in the country of those who have acquired disabilities as a result of the military actions in which they participated in the theater of operations in Afghanistan, adopted an ordinance,

¹² Repealed on 9 January 1998 by Art. 9 of the Decision 939/1997.

¹³ Government Decision no. 458 of April 1, 2004 on the recognition of the National War Veterans Association as being of public utility.

subsequently amended and supplemented¹⁴, by which the army personnel who have participated for at least 4 months, continuously or cumulatively, in military actions, as defined in Art. 2 (b) shall be awarded the honorary title of "Veteran". Army personnel participating in military actions in one of the situations defined in Art. 2 (c), (d) and (g), as well as to those who have acquired the conditions stipulated in Art. 2 (h) and (i) shall be awarded the honorary title of "Veteran", irrespective of the duration of their participation.

By Law no. 41 of March 13, 2009 for the approval of Government Emergency Ordinance no. 71/2008 on the modification and completion of Government Emergency Ordinance no. 82/2006 for the recognition of the merits of military personnel participating in military actions (Article I, point 3), it was decided that the Honorary Titles of "Military Veteran" and "Veteran" be granted, by Government Decision, upon the proposal of the Minister of National Defense, also to the staff who, during the mission, have shown exemplary acts of courage and devotion, irrespective of the length of their participation, based on the events recorded in the combat log / daily order on the unit.

For the first time, by Government Decision no. 1222 of October 10, 2007, was established the "War Veterans Day" to be celebrated on April 29, the day when King Carol I signed the Royal Decree, by which the title of "war veteran" officially recognized for the first time.

By Government Decision no. 662 of June 3, 2009, was created, within the Ministry of National Defense, an authority in charge of coordination at national level of the issue of veterans, invalids and widows of war: the War Veterans Assistance Section - SAVR.

On October 22, 2014, through Law no. 150 amending and supplementing the Emergency Ordinance no. 82/2006 for the recognition of the merits of military personnel participating in military actions and granting certain rights to them and to the survivors of the deceased, was established the "Veteran's Day" as recognition of the merits of the veterans in defending the interests of Romania, an event which is celebrated by the Ministry of National Defense, on November 11. This day was chosen to commemorate the entry into force, on November 11, 1918, of the ceasefire between the Entente Powers and Germany, which led to the end of the First World War. At the same time, for the Romanian Army, the significance of this day is related to the fact that on November 11, 2003, died on duty in the theater of operations in Afghanistan the first serviceman, second lieutenant (post-mortem), Iosif Silviu Fogorași, after an attack on the amphibious armored personnel carrier in which he was traveling.

C. The recognized rights of veterans, invalids, orphans and widows of war and the public authorities involved in their social protection

The Ministry of Labor and Social Justice, in accordance with the provisions of Law no. 49/1991 on the granting of allowances and increments to invalids, veterans and widows of war, provides, from its own budgetary funds, the allowances of the war invalids as well as the IOVR pensions granted to the invalids and these injured in war. This ministry, **together with the Ministry of National Defense**, also provides gratuity of road, rail and river transport and, **together with the Ministry of National Defense and the Ministry of Internal Affairs**, takes

¹⁴ Government Emergency Ordinance no. 82 of October 25, 2006 for the recognition of the merits of military personnel participating in military actions and the granting of rights to them and to the survivors of the deceased.

steps to build, equip and administer care and assistance centers for war veterans, invalids and widows who have no family.

County Health Insurance Houses, respectively that of Bucharest Municipality, in accordance with the provisions of **Government Ordinance no. 16/1997** on the granting of aids for the purchase of medical devices intended for correction and recovery of organic or functional deficiencies or the correction of physical deficiencies, provide war veterans, invalids and widows with aid for the procurement of medical devices under Art. 8 of GEO no. 16/1997.

Also, the **County Health Insurance Houses, respectively that of Bucharest Municipality**, fulfil some duties in common with other authorities. Thus, along with the **Ministry of National Defense**, they provide free medical assistance to all state military or civilian medical institutions, as well as free medicines for outpatient treatment and hospitalization. Together with the **Territorial Pension Houses**, they distribute free treatment tickets to spa balneary resorts, with the necessary funds being provided from the state social insurance budget and from the National Health Insurance Fund.

The local councils have the following tasks:

- distribution and rental of dwellings from the state housing fund;
- making proposals for granting ownership of agricultural land lots or land lots for homes, or compensations, with an amount representing the value of the land to which the veterans were entitled under the law, the title of ownership being released, based on Law no. 44/1994, by the **county councils**;
- free of charge on public transport in the urban area (subway, tram, trolleybus, bus);
- granting exemption from the payment of local taxes and fees, as well as from paying the tax for arable land with an area of up to 5 ha;
- free of charge 4 cubic meters of firewood or equivalent of coal for the severely mutilated by war, living in rural and urban areas, who use such fuel;
- providing facilities for purchasing gas bottles.

Chapter 3. THE EVOLUTION OF THE LEGISLATIVE FRAMEWORK ON THE SOCIAL PROTECTION OF THE VETERANS, WAR VETERANS, WAR INVALIDS, WAR ORPHANS, WIDOWS OF WAR, UNMARRIED WIDOWS OF WAR VETERANS AND WAR PRISONERS

A. Relevant normative legal acts

- ▶ Law no. 49 of July 29, 1991 on the granting of allowances and increments to invalids, veterans and widows of war, with subsequent amendments and completions.
- ▶ Law no. 44 of July 1, 1994 on war veterans, as well as some rights of invalids and widows of war, republished, with subsequent amendments and completions.
- ▶ Law no. 49 of March 31, 1999 regarding the I.O.V.R. Pensions, updated, with the subsequent modifications and completions.
- ▶ Social assistance law no. 292 of December 20, 2011, as subsequently amended and supplemented.
- ▶ Government Ordinance no. 16 of August 15, 1997 on the granting of aid for the purchase of medical devices intended to correct and recover organic or functional deficiencies or to correct physical deficiencies.
- ▶ Government Emergency Ordinance no. 170 of November 4, 1999 on the free provision of medical care, medicines and prostheses for certain categories of persons provided for in special laws, as amended and supplemented.
- ▶ Government Emergency Ordinance no. 82 of October 25, 2006 for the recognition of the merits of military personnel participating in military actions and the granting of rights to them and to the survivors of the deceased, as subsequently amended and supplemented.
- ▶ Government Emergency Ordinance no. 103 of November 29, 2018 for the amendment of Art. 1 of the Law no. 49/1991 on granting allowances and increments to invalids, veterans and widows of war.
- ▶ Government Decision no. 580 of July 31, 1995 on the expenditures that are reimbursed by the Ministry of Finance directly to the Ministry of Transport as a result of applying the provisions of Art. 23 of Law no. 44/1994 on war veterans, as well as some rights of war invalids and war widows.
- ▶ Government Decision no. 164 of March 11, 2015, declaring 2015 the “Year of War Veterans”.
- ▶ Government Decision no. 951 of December 9, 2015, on determining the amount of the annual aid to cover part of the cost of rent, electricity and heat for domestic needs to war veterans and widows of war, as well as these who suffered accidents during war outside the ordered service.
- ▶ Order of the Minister of National Defense no. M.34 of April 27, 2015, on honorary advancement in rank of war veterans, on May 9 – with the occasion of the United Nations Coalition Victory Day in the Second World War.
- ▶ Order of the Minister of National Defense no. M.117 of October 4, 2016 for the approval of the Regulation on the organization and administration of military cemeteries.

B. Government Emergency Ordinance no. 103/2018 published in the Official Gazette no. 1028 of December 3, 2018, amended the Law no. 49/1991

in the sense of increasing the allowances for war invalids, war veterans and unmarried war widows, as follows:

a) war invalids:

- 1500 lei a month, for the severely mutilated and the first degree of disability invalids;
- 1000 lei a month, for those in the second degree of disability invalids;
- 900 lei monthly, for the third degree of disability invalids;

b) war veterans:

- 600 lei a month.

c) the widows of war, if they have not remarried:

- 600 lei a month

C. Relevant provisions to the status of war veteran, war invalid, war widow and veteran

Law no. 44/1994 on war veterans as well as some rights of war invalids and widows, republished on the basis of Art. II of Law no. 167/2002, published in the Official Gazette of Romania, Part I, no. 254 of April 16, 2002, giving the texts a new numbering, ***specify that the status of war veteran is granted to the persons who participated in World War I or World War II in the ranks of the Romanian army and were in one of the following situations:***

- a) fought in military units – subunits, large units or command units – at different echelons, or were part of the logistic formations as provided in the Nomenclature of the General Staff of the Army;
- b) served in the special units in the inner area, defusing projectiles and cleaning up the territory of mines, until 31 December 1946;
- c) served as military commanders or commanders of military guards or members of the military control and reception committees in war material supply enterprises, as provided in the Nomenclature of the General Staff of the Army;
- d) fought on the national territory, temporarily occupied by the enemy, against it, in units or formations established and recognized as such by the General Staff of the Army;
- e) were part of the military justice, military police, gendarmerie, military fire brigade units and police companies within the Ministry of Interior, who acted in the operation area or were part of units or formations and acted in time of war, in the periods shown in the Nomenclature of the General Staff of the Army;
- f) become war invalids;
- g) were prisoners of war.

Emergency Ordinance no. 12 of March 23, 2004 for completing the Law no. 44/1994 regarding the war veterans, as well as some rights of invalids and widows of war, published in the Official Gazette, Part I, no. 278 of March 30, 2004, stipulates that the monthly allowance stipulated in Art. 13 and Art. 14 shall be calculated, as the case may be, according to the level of the minimum salary of a second lieutenant of the Ministry of National Defense, established according to the law. Following some litigations or by right, the veterans of the Ministry of the Interior received the allowance calculated according to the rank and function, which didn't

happen in the case of the veterans of the Ministry of National Defense. The level of the minimum salary of a second lieutenant is regulated by Law no. 138/1999 on the salary and other rights of the military personnel from the public institutions of national defense, public order and national security, as well as the granting of salary rights to the civilian personnel of these institutions, with subsequent amendments and completions.

Until March 1, 2004, the rank and function salary of a second lieutenant, in relation to which the monthly allowance for war veterans was set, had the same value in both the national defense system and the other military systems.

Law no. 138/1999 was completed by Government Emergency Ordinance no. 12/2004, increasing the hierarchy coefficient for the active personnel of the Ministry of National Defense. As a consequence, the rank and function salary of a second lieutenant in this system has also increased. As a result, at present, there are two different amounts for the rank and function salary of a second lieutenant, one for the Ministry of National Defense and one for the other military systems.

As such, as of 1 March 2004, the date from which the Government Emergency Ordinance no. 12/2004 enters into force, only the war veterans from the system of the Ministry of National Defense would benefit from the new amount of the monthly allowance, which would imply the discriminatory application of the provisions of Law no. 44/1994, republished, as it is mentioned in the Emergency Ordinance Substantiation Note no. 12 of March 23, 2004. In addition to the monthly allowances and tax benefits, war veterans also benefit from a monthly allowance for decorations, with a value of 1.3 – 1.75 of the rank and function salary of a second lieutenant. War veterans claim that this provision does not apply in practice. Art. 14¹ of the Law no. 44/1994, introduced by Government Emergency Ordinance no. 12/2004, provides for the method of calculating the monthly allowance starting from March 2004, because, until that date, the rank and function salary of a second lieutenant, in relation to which the allowances were established, according to Art. 13 and Art. 14 of the law, had the same value, both in the national defense system and in the other military systems.

As far as the jurisprudence in the matter is concerned, some courts have held that the provisions of Art. 13 and 14 of Law no. 44/1994, republished, establish four categories of war veterans, depending on the orders and medals they have been awarded with, granting distinct rights for each category and that by introducing Art. 14¹ through the Government Emergency Ordinance no. 12/2004 the method of calculating the monthly allowance wasn't modified, but that these legal provisions were completed in the sense that, when determining the amount of the allowance received by the war veterans, shall be considered, as the case may be, the minimum rank salary and/or minimum function salary of a second lieutenant of the Ministry of National Defense, regardless of the public or military system of social insurance.

Ascertaining the existence of a non-unitary judicial practice, by Decision no. 45/2008 on the examination of the appeal in the interest of the law declared by the Prosecutor General of the Prosecutor's Office attached to the High Court of Cassation and Justice regarding the interpretation and application of the provisions of Art. 14¹, in relation to the provisions of Art. 13 and 14 of Law no. 44/1994 on war veterans, as well as some rights of war invalids and widows of war, republished, as supplemented by Government Emergency Ordinance no. 12/2004, approved by Law no. 210/2004, concerning the recalculation of the

allowance of war veterans who have been awarded orders and medals for acts committed on the battlefield, starting with March 2004, **has held that the aforesaid jurisprudence is the fair one; thus, by the above-mentioned decision the appeal in the interest of the law declared by the Prosecutor General of the Prosecutor's Office attached to the High Court of Cassation and Justice was admitted and it was established that the provisions of art. 14¹, in relation to the provisions of Art. 13 and 14 of Law no. 44/1994 on war veterans, as well as some rights of war invalids and widows of war, republished, as supplemented by Government Emergency Ordinance no. 12/2004, approved by Law no. 210/2004, shall be interpreted as meaning that the monthly allowance is calculated according to the provisions of Art. 13 and 14 of the Law, in relation to the rank and/or function salary of a second lieutenant from the Ministry of National Defense.**

Although the High Court of Cassation and Justice, in the exercise of its legal duties, dealt with issues concerning the non-unitary interpretation and application of the aforementioned rules, in fact, **the subjects of these provisions continue to manifest their dissatisfaction with regard to the manner of applying the aforementioned normative act.**

Under these circumstances, recognizing the veterans' grievances to be legitimate, the People's Advocate Institution considers it appropriate to resolve this issue by way of a legislative amendment.

Law no. 227/2015 on the Fiscal Code provides that war veterans, war widows and unmarried widows of war veterans who have participated in military actions outside the country are exempt from the tax on buildings, land and means of transport, in their ownership or co-ownership, with the mentions provided in Art. 456 par. 1 (r) and par. 5 (a), Art. 464 par. 1 (r) and par. 5 (a), Art. 469 par. 1, (a) and par. 5.

War veterans are exempt from health insurance contributions.

In addition to tax benefits and monthly allowances, war veterans and invalids also benefit from other rights: an increment of 20 lei monthly for the first year of participation in the war, plus 5 lei for each month of war exceeding one calendar year, a monthly allowance for the decorated ones, with a value of 1.3 – 1.75 of the rank and function salary of a second lieutenant.

By petition no. 93 of August 29, 2016 addressed to the People's Advocate by the National Veterans Association, Constanta branch, the petitioners consider that the Ministry of the Internal Affairs and the Ministry of National Defense were obliged, starting from 2004, to implement the legal provisions, given that the Emergency Ordinance Substantiation Note no. 12/2004 provided that the amounts of the allowances were borne by the state budget, irrespective of the status they had at the time of the concentration or demobilization. In fact, the petitioners complain that their rights are not recognized and they are denied the application of the legal provisions. They call for equal treatment for all veterans of war.

At the hearings held in Constanta, the petitioners expressed their dissatisfaction with the fact that the Military Virtue Medal, acquired in the front, was not recognized, although the High Decree no. 2968 of September 26, 1916 stipulated that the medal could be granted only to the inferior ranks, thus becoming equivalent to the "Mihai Viteazu" Order for the higher ranks. The distinction continued to be granted both during the 1930-1940s and during the Second World War.

At the request of the Constanta Local Council, the Ministry of National Defense, through the Military Unit 02416, stated, in Note no. 837 / 16.11.94, that the orders and medals awarded for the battle actions on the battlefield, according to which certain rights are provided under Law no. 44/1994, are stipulated in the Royal Decree no. 7 of June 30, 1932, establishing, in principle, the categories and merits of service for which war decorations could be granted.

The "Military Virtue" Medal is awarded to inferior ranks for outstanding merits in battle. The medal was established by Decree no. 2968 of September 26, 1916, in class I and class II being equivalent to the "Mihai Viteazu" order for higher ranks. On May 8, 1943, was established the "Military Virtue" Order, but because the war had ended, it was no longer granted for exceptional merits in battle, as originally foreseen.

According to ***Government Emergency Ordinance no. 82 of October 25, 2006 for the recognition of the merits of military personnel participating in military actions and the granting of rights to them and to the survivors of the deceased***, to the military personnel participating in military actions may be granted, according to the law, decorations, military and civil distinctions and honorary titles (Article 3); to army personnel who have participated for at least 4 months, uninterrupted or cumulative, in military actions as defined in Art. 2 (b) ¹⁵ is awarded the honorary title of "Veteran" (Article 4, paragraph 1); to army personnel participating in military actions in one of the situations defined in Art. 2 (c), d) and g) ¹⁶, as well as to those who have acquired the medical conditions stipulated in Art. 2 (h) and (i) ¹⁷ shall be awarded the honorary title of "Veteran", irrespective of the duration of the participation. The honorary title provided in paragraph 1 and 2 shall be granted by to the order of the Minister of National Defense.

Veterans who do not fall within one of the situations defined in Art. 2 (c), (d) or (g) or who have not acquired the medical conditions stipulated in Art. 2 (h) or (i) shall be granted, in addition to the rights provided in Art. 3 and 4, the following:

- a) the rights provided by Art. 81 paragraph 1 (f)-(i) ¹⁸, to those who have been awarded the honorary title of "Veteran" by Government Decision for acts of courage and devotion during their participation in military actions;
- b) the rights provided by Art. 81 paragraph 1 (f), g) and (i), to those who have been awarded decorations from the national decoration system of Romania for merits during their participation in military actions;
- c) the rights provided by Art. 81 paragraph 1 (f) and (g) those who have participated in military actions for at least 2 years, consecutive or cumulatively, and have at that time achieved

¹⁵ Military actions - the missions, operations and training activities provided for in Art. 2 par. 1 and Art. 3 of Law no. 121/2011.

¹⁶ Invalid military personnel, invalid and injured civilians.

¹⁷ Physical conditions and mental disorders

¹⁸ Army personnel in one of the situations provided in Art. 2 (c), (d) and (g), as well as those who have acquired physical conditions, enjoy the following rights:

f) exemption from the payment of monthly fees for the public broadcasting service;

g) exemption from the payment of standard monthly subscriptions in telephony networks;

h) 12 free internal round trips by rail or 12 free internal round trips by public means of road transport or 12 free internal round trips on river, at choice, in a calendar year;

i) free of charge on local surface and underground public transport.

at least "very good" ratings in the service appreciation, respectively maximum score in the annual evaluation (Article 8¹ paragraph 3).

The rights provided under Art. 8¹ paragraph 3¹⁹ also apply to the veterans transferred to other institutions of defense, public order and national security. The conditions for granting these rights shall be determined by order of the Minister of National Defense (Article 81, paragraph 4).

Army personnel provided in Art. 2 (c) and (d), as well as those who have acquired the medical conditions stipulated in Art. 2 (h) and (i) and who, following the participation in military actions, were classified in a degree of disability, also benefits from the granting of a monthly invalidity allowance as follows:

- a) for grade I disability, two minimum rank and function salaries, corresponding to the rank of second lieutenant or, where appropriate, two gross average wages;
- b) for degree II invalidity, 1,5 minimum rank and function salaries, corresponding to the rank of second lieutenant or, where appropriate, 1,5 gross average wages;
- c) for grade III disability, one minimum rank and function salary, corresponding to the rank of second lieutenant or, where appropriate, one gross average wage.

Army personnel provided in Art. 2 (c) and (d) classified in the first degree of invalidity shall benefit from a monthly allowance for the accompanying person, equal to gross average salary (Article 8² paragraph 1¹).

Civilian personnel are compensated for the cases of invalidity or death cases which occurred during and due to military actions under the conditions laid down by law for soldiers. The assessment of the work capacity, in order to determine the degree of disability, is made by the physician specialist in the medical expertise of labor capacity (Article 8² paragraph 3).

D. Special regulations on seniority pensions and disability pensions of veterans, war veterans, war invalids and war widows:

We mention *ab initio* that the People's Advocate Institution will prepare a Special Report on Military Pensions and the Situation of Military and Civilian Staff that was restructured on the basis of the Army's Restructuring Program, in order to join NATO.

1. War veterans, war invalids and widows of war, according to the Law no. 44/1994

► The time of veterans' participation to war, as well as periods of captivity, hospitalization and medical leave due to wounds suffered in war or captivity, are considered seniority in work or service, when calculating the pension, regardless of the theater of operations which they fought (Article 10 of Law 44/1994).

¹⁹ Veterans who do not fall within one of the situations defined in Art. 2 (c), (d) or (g) or who have not acquired the medical conditions stipulated in Art. 2 (h) or (i) shall be granted, in addition to the rights provided in Art. 3 and 4, the following:

- a) the rights stipulated in paragraph 1 (f)-(i) to those who have been awarded the honorary title of "Veteran" by Government Decision for acts of courage and devotion during their participation in military actions;
- b) the rights stipulated in paragraph 1 (f), (g) and (i), to those who have been awarded decorations from the national decoration system of Romania for merit during their participation in military actions;
- c) the rights stipulated in paragraph 1 (f) and (g) those who have participated in military actions for at least two continuous or cumulative years, and have at that time achieved at least "very good" ratings in the service appreciation, respectively the maximum score in the annual evaluation.

- ▶ War widow who is entitled to the I.O.V.R. pension in accordance with the law, receives, besides this pension, the social security pension (Article 11 paragraph 1 of Law 44/1994).
- ▶ The surviving spouse of the war veteran, who has not remarried, receives half of the war veteran's allowance and half of the monthly allowance provided for in Art. 13 and 14, as well as half of the number of free travel tickets to which the deceased spouse should have been entitled, according to law. (Article 11 paragraph 2 of Law 44/1994).
- ▶ The widows of war veterans who have not remarried will receive 100% of the war veteran's allowance if their spouses were not decorated, prior to their death, with orders or medals of war or with "the commemorative cross of the World War I 1941-1945" medal (Article 11 paragraph 3 of Law 44/1994).
- ▶ War veterans benefit from monthly allowances and increments, proportional to the time they fought in the war. The same rights are also granted to war widows who have not remarried, except for the monthly increment (Article 12 (1) and (2) of Law 44/1994).

2. Veterans, according to Government Emergency Ordinance no. 82/2006

- Army personnel provided in Art. 2 (c) and (d) of Government Emergency Ordinance no. 82/2006 may cumulate the invalidity allowance with the pension or the salary / wage earned, if they are employed, or with the additional income obtained through lucrative activities (Article 82 paragraph 4 of GEO No. 82/2006).
- Army personnel wounded in military actions as well as those who have acquired other physical or mental conditions as a result of participation in military actions shall receive, in addition to the other rights established by the law, a monthly allowance in the amount of two minimum rank and function salaries, corresponding to the rank of second lieutenant or, as the case may be, two gross average wages (Article 83 paragraph 1 of GEO No. 82/2006).
- The allowance is granted from the date of the injury, diagnosis of the physical or psychological conditions acquired as a result of combat, accidents, catastrophes and other such events occurring as a result of participation in military actions, until the date of establishing the medical-military situation or medical situation, as the case may be. (Article 83 paragraph 2 of GEO No. 82/2006).

The allowance is established as follows:

- for military cadres, in relation to rank and function salary, to the minimum, corresponding to the rank of second lieutenant, and if the amount is lower than gross average wage, the latter shall be taken into account;
- for professional soldiers and civilian staff, in relation to gross average wage (Article 84 paragraph 1 letter a, b).
- The survivors of army personnel who died as a result of participation in military actions shall benefit, inter alia (Article 85 paragraph 1 letter a-e, h, j, k of Government Emergency Ordinance no. 82/2006) of:
 - aid and compensations in the amounts provided by the legislation in force;
 - a monthly allowance equal to the gross basic salary which the deceased had, according to the legislation in force at the time of the occurrence of the event which caused the death, for the survivors of the army's personnel participant in military actions that earn less than 35% of the

gross average wage, irrespective of their number, and if the amount is lower than the gross average wage, the allowance is equal to the gross average wage used to substantiate the social insurance state budget;

- renting and buying, with priority, houses from the social housing fund of the public administration;
- the use of labor-capacity restoration centers, sanatoriums, garrison homes, military clubs and other recreational and sports facilities, under the conditions laid down for army personnel;
- providing free of charge burial places in military and civilian cemeteries;
- transfer or enrollment of children, on request, without examination in pre-university or university military education institutions, as appropriate, subject to legal conditions, based on the results obtained in civilian educational institutions, on aptitude tests and rules approved by order of the Minister of National Defense;
- granting of scholarships by the Ministry of National Defense for the children of deceased persons, for study in civilian education institutions, under the conditions established by order of the Minister of Defense;
- hiring the surviving spouse and children of the military personnel who died in military action, in the army or in civil public institutions under the conditions provided by the legislation in force;
- the children of the deceased army personnel and those of veterans who are in one of the situations referred to in Art. 2 (c), d) and (g), as well as of the person who has acquired the medical conditions referred to in Art. 2 (h) and (i) have priority at the nurseries and kindergartens of the public system.

If there are no offspring and the deceased was the sole supporter of his parents, they will benefit from half of the allowance established according to the provisions of par. 1 (b) (Article 8⁵ paragraph 2 of Government Emergency Ordinance No. 82/2006).

The payment of the monthly allowance provided in par. 1 (b) and par. 2 shall cease in the following situations (Article 8⁵ paragraph 3 of Government Emergency Ordinance No. 82/2006):

- b) from the date when the beneficiary / beneficiaries start earning more than 35% of the gross average wage;
- c) in case of death of the beneficiary / beneficiaries (s);
- d) from the date of remarriage of the surviving spouse;
- e) for children who have reached the age of 18 or if they continue their studies in a form of education organized according to the law, until their graduation, without exceeding the age of 26 years.

The provisions of par. 3 (d) do not apply to children during the period of disability of any degree, if it occurred during the period in which they benefited from the allowance stipulated in par. 1 (b) (Article 8⁵ paragraph 4 of Government Emergency Ordinance No. 82/2006).

The amount of the allowance provided in par. 1 (b) based on the gross basic salary shall be updated whenever the gross basic salary increases, according to the military rank and function of the army's personnel at the time of death or, as the case may be, according to the gross average wage provided in the Social Insurance State Budget Law (Article 8⁵ paragraph 5 of Government Emergency Ordinance No. 82/2006).

- The army personnel who, on the medical examination carried out upon the return from the mission or after the return, but not more than one year, is diagnosed with physical conditions for which the causal connection with the participation in military actions is established, under the conditions of the present Emergency Ordinance, shall enjoy the rights provided for in Art. 8¹ paragraph 1 of Government Emergency Ordinance no. 82/2006 (Article 8⁶ paragraph 1 of G.E.O. no. 82/2006).
- The army personnel who, on the medical examination carried out upon the return from the mission or after the return, but not more than one year, is diagnosed with psychiatric conditions for which the causal connection with the participation in military actions is established, under the conditions of the present Emergency Ordinance, shall enjoy the rights provided for in Art. 81 paragraph 1 (a)-(d) and (f)-(i) of G.E.O. no. 82/2006 (Article 86, paragraph 2).
- The army personnel provided in Art. 8⁶ par. 1 and 2 of Government Emergency Ordinance no. 82/2006 shall benefit from the allowance provided in Art. 8³ par. 1, starting from the date of diagnosis of the physical or psychological conditions for which the causal link was established with their participation in military actions, until the date of establishing the medical-military situation or medical situation, as the case may be (Article 86, paragraph 3).

E. Financial and social benefits granted:

1. War veterans, war invalids and widows of war, according to the Law no. 44/1994

- In cases where one and the same person falls both in the category of war veteran and in that of former political prisoner or deported person, including prisoner of war in the former USSR, taken after August 23, 1944 or, although declared before that date, has been taken after the date of the armistice, that person shall benefit cumulatively from the money entitlements for each status, according to the periods in which he person had the status, provided that the periods are distinct (Article 12 paragraph 3 of Law 44/1994). This person may not cumulate the other rights than the money entitlements, but will have the right to opt for the most advantageous or, as the case may be, to obtain those which are not provided for by this law but are recognized by law for the other category or the other categories in which the person falls (Article 12 (4)).
- According to Law no. 44/1994, war veterans who have been awarded orders and medals for battle actions on the battlefield shall enjoy the following rights if they have not received them by other laws from the date of their decoration to the present and prove with legal documents the required right:
 - a) those decorated with the Mihai Viteazul Order or the Air Virtue with Swords, the Knight class:
 - shall receive a lot of 5 ha of agricultural land, from the reserve created according to the Land Fund Law no. 18/1991, republished, with the subsequent modifications and completions, in the locality of residence or a 500 m² lot for house construction in the municipality, town or commune in which the decorated person is domiciled;
 - those decorated with the Mihai Viteazul Order, shall benefit from a monthly allowance equivalent to 1.75 of the basic salary of a second lieutenant, which is composed of the minimum rank salary and minimum function salary;
 - those decorated with Order or the Air Virtue with Swords, the Knight class, shall receive a monthly allowance equivalent to 1.75 of the basic salary of a second lieutenant;

b) those decorated with the “Order of the Star of Romania with Swords and Military Virtue Ribbon” or the “Order of the Star of Romania with Swords”, the “Order of the Aeronautical Virtue with Swords”, the “Order of the Crown of Romania with Swords and Military Virtue Ribbon” the “Order of the Crown of Romania with Swords”, or the “Order of the Cross of Queen Mary”, Military Virtue of War Medal, Maritime Virtue Medal, Aeronautical Virtue Medal or Aeronautical Medal, Faithful Service with Swords Medal, Manhood and Faith Medal with Swords, Faithful Service Cross with Swords, Sanitary Merit Cross; as well as Soldier Virtue Medal, only if it was awarded for battle actions on the battlefields of the First or the Second World War or for special services to the army in time of war, in accordance with the provisions of Art. 1:

- shall receive 500 m² lot for house construction in the municipality, town or commune in which they have their domicile; or, if this is not possible, 1 ha of arable land outside of built-up areas.

- Those decorated with the orders or medals referred to in letter b) benefit from a monthly allowance equivalent to 1.3 salaries of a second lieutenant. War veterans who, due to land shortages in their localities or in other localities, could not be given land, will be compensated, according to the law, by an amount of money representing the equivalent of the value of the land to which they were entitled under the law. (Article 13 of Law No 44/1994)

► War veterans who are not decorated with orders, medals or war crosses provided in Art. 13 par. 1 (a) and (b) of the Law no. 44/1994, but to whom the "World War II Commemorative Cross, 1941-1945 Medal" was awarded, shall receive a monthly allowance equal to 90% of the rank salary of a second lieutenant (Article 14). Starting March 2004, the monthly allowance stipulated in Art. 13 and 14 of Law no. 44/1994 shall be calculated, as the case may be, according to the level of the minimum rank salary and the function salary of a second lieutenant within Ministry of National Defense established according to the law (Article 14¹).

► War veterans and widows have priority in the distribution and rental of dwellings from the State Housing Fund (Article 16, paragraph 1, letter c, sentence I of Law 44/1994). Moreover, public institutions are authorized to sell the dwellings from the state fund that they have in their administration, upon request, to war veterans and war widows who live there under rent contract. The dwellings rented to the war veterans and widows, from the public property of the state and for which their purchase was requested, shall be transferred to the private property of the state, by a Government Decision, according to the law (Article 16, paragraph 1, letter c, sentences II, III of Law 44/1994);

► War veterans and war widows have priority in receiving credits for the construction or purchase of housing on advantageous terms (Article 16 paragraph 1 letter d of Law 44/1994);

► War veterans and widows shall benefit from annual aid to cover part of the cost of rent, electricity and heat – liquid or solid fuel or natural gas, as the case may be – for household needs, the amount of which will be determined, according to the evolution of prices, by Government Decision, on the basis of the proposals of the war veterans' associations. The annual aid will be provided by the bodies responsible for the payment of war veterans' benefits from the funds made available for this purpose from the state budget (Article 16, paragraph 1, letter g, of Law 44/1994);

- ▶ War veterans and widows can get credit for purchasing a car and the invalids and the people with locomotor system diseases also benefit from the reimbursement of its maintenance costs;
- ▶ War veterans and widows are granted 50% discounts on the cost of entrance tickets to all shows and 5% of the total seats at national holidays will be reserved for them (Article 16 (1) (m) of Law 44 / 1994);
- ▶ War veterans and widows have free access to cultural and sports events organized by the Ministry of National Defense and the Ministry of Internal Affairs; (Article 16 (1) (n) of Law 44/1994);
- ▶ War veterans and widows have access to the National Military Circle, garrison military circles, cultural homes, garrison homes, restaurants and public buildings belonging to the Ministry of National Defense and the Ministry of Interior, as well as to their recreational places under the same conditions as active cadres (Article 16 (1) (o));
- ▶ War veterans may receive honorific advancements of the rank on the occasion of May 9th, Victory Day, according to the annual proposals to be made by the war veterans' associations, in compliance with the criteria set by the Ministry of National Defense or the Ministry of Internal Affairs, as the case may be (Article 15 paragraph 1 of Law 44/1994).
- ▶ War veterans have the right to wear the military uniform under the conditions established by the Ministry of National Defense and the Ministry of the Interior (Article 15 paragraph 2 of Law 44/1994).

2. Veterans, according to Government Emergency Ordinance no. 82/2006

- The family of the army personnel provided in Art. 2 (a) from G.E.O. no. 82/2006, classified in the first, second or third degree of invalidity benefit, on request, of the following rights (Article 8⁸ paragraph 1):
 - a) the transfer or enrollment of children without examination in pre-university or university military education institutions, as the case may be, subject to legal conditions, on the basis of the results obtained in civilian educational institutions, the aptitude tests and the rules approved by order of the Minister of National Defense;
 - b) the granting by the Ministry of National Defense of the scholarships for children, during the studies in the civil education institutions, under the conditions established by order of the Minister of National Defense;
 - c) the appointment of the spouse and / or children in military positions under the conditions established by order of the Minister of National Defense;
 - d) hiring or appointment, as the case may be, of the spouse and / or children in civilian positions within the Ministry of National Defense or in civil public institutions, under the conditions provided by the legislation in force.
- The Ministry of National Defense can establish social assistance centers, according to the law, for the invalid personnel of the army, stipulated in Art. 2 (c) and (d) of G.E.O. no. 82/2006, whose organization and functioning are regulated by norms approved by order of the Minister of National Defense (Article 89, paragraph 1). The centers referred to in paragraph 1 can be organized and can operate independently or under the subordination or coordination of

other social assistance centers, set up according to the law, within the framework of the Ministry of National Defense. (Article 89, paragraph 2).

➤ Army personnel provided in Art. 2 (a) and their families may benefit from family support measures, carried out at institutional level and on the basis of volunteering, under the conditions laid down by order of the Minister of National Defense (Article 10 (3)).

➤ Invalids, wounded persons, those who have acquired physical illness and the descendants of the deceased army personnel may be invited to participate in festive or commemorative actions organized by the Ministry of National Defense. In the actions provided for in Art. 6 par. 1 of G.E.O. no. 82/2006 may also be invited the parents of military personnel who died in military actions, as well as the first-degree invalid attendant, with accommodation free of charge, in the accommodation spaces of the Ministry of National Defense, within a maximum limit of two days, and the reimbursement transport expenses (round trip) from home, is done under the conditions established by order of the Minister of National Defense (Article 6, paragraph 3).

➤ Army personnel provided in Art. 2 (c), (d) and (g) of G.E.O. no. 82/2006, the persons who have acquired physical conditions, as well as the persons who are classified as unfit or fit under certain limits for the military service due to causes related to the participation in military actions, shall be maintained, hired or re-hired, as the case may be, under the conditions stipulated in the Government Emergency Ordinance no. 82/2006, upon request, in the Ministry of Defense, in military or civilian positions established by order of the Minister of National Defense. The maintaining, assignment or reassignment to military or civilian positions shall be done by order of the Minister of National Defense, on the basis of the proposal of the commander of the unit / detachment, hierarchically submitted, the conclusions of the special commissions established by order of the Chief of the General Staff, who will examine the conditions under which the events took place, the opinion of the medical-military expertise commissions, the occupational medicine physician and the physician specialist in labor capacity expertise, as the case may be (Article 7, paragraphs 1 and 2).

➤ Disabled veterans who have been retired directly, may benefit from re-appointment to military or civilian positions upon request, by order of the Minister of National Defense, observing the provisions of Art. 7 par. 2 of G.E.O. no. 82/2006 (Article 7, paragraph 3).

F. Benefits in the field of health

1. War veterans, war invalids and widows of war, according to the Law no. 44/1994

► Free treatment tickets for war veterans and war widows to spa balneary resorts, based on the regulations set by the Ministry of National Defense, the Ministry of Interior, the Ministry of Labor and Social Solidarity and the Ministry of Health and Family, for at least of 4% of the total number veterans, war widows and widows of war veterans; the cost of the tickets provided by the Ministry of Labor and Social Solidarity, for at least 3% of the number of veterans, war widows and widows of war veterans, is covered by the social insurance state budget and distributed through the territorial pension houses, and the cost of the tickets provided by the Ministry of Health and Family, for at least 1% of the number of veterans, war widows and widows of war veterans, are covered by the Social Health Insurance Fund and distributed through the County Health Insurance Houses. Of the total number of free tickets received by war veterans'

associations, 10% will be allocated to war widows and widows of war veterans who have not remarried (Article 16 paragraph 1 letter k of Law 44 / 1994).

► War widows suffering from medical conditions can benefit, upon request and under the law, from admission to care and assistance centers and other social care establishments which will be established (Article 17, paragraph 1, of Law 44/1994).

2. Veterans, according to Government Emergency Ordinance no. 82/2006

➤ Army personnel provided in Art. 2 (c) and d) of G.E.O. no. 82/2006, classified in the first degree of invalidity, benefits, on the basis of the recovery programs drawn up according to the norms approved by the order of the Minister of National Defense, from the application of the following rights (Article 8² paragraph 4¹):

- a) the choice of the treatment center / recovery center;
- b) regular counseling and information on the possibilities of treatment and recovery in specialized centers;
- c) periodical meetings of psychological recovery and psychological assistance;
- d) participation in social activities.

➤ Free medical assistance in military or public medical institutions and provision of free medicines both for ambulatory treatment and during hospitalization under the conditions laid down for army personnel (Article 16, paragraph 1, letter j of Law 44/1994 and Article 8⁵ (1) (f) of G.E.O. No. 82/2006).

➤ Orthoses, prostheses, orthopedic medical products and other medical products and devices, free of charge, as well as repairing and replacing them whenever needed, at the recommendation of a specialist physician.

➤ Psychological assistance, provided free of charge, by the structures of the Ministry of National Defense (Article 8⁵ paragraph 1 letter g of G.E.O. No. 82/2006).

➤ Treatment in the country or abroad, if the diseases cannot be treated in the country, with the costs of the treatment and the expenses related thereto borne from the budget of the Ministry of National Defense.

➤ Free recovery treatment in specialized medical institutions (Article 8¹ paragraph 1 letter b of G.E.O. No. 82/2006).

➤ Assistance for professional reorientation and reintegration for third degree invalids (Article 8¹ letter c of G.E.O. No. 82/2006).

G. Benefits in the field of transportation and information and communication facilities provided to army personnel in one of the situations referred to in Art. 2 (c), (d) and (g), as well as those who have acquired physical disabilities

1. War veterans, war invalids and widows of war, according to the Law no. 44/1994

► The severely mutilated, war invalids, as well as war veterans decorated with war orders and medals are entitled to 12 free of charge round trips or 24 one way trips during a calendar year to the first class on the railway, on a train of any rank (Article 16, paragraph 1, letter a, sentence I of Law 44/1994).

► The war veterans decorated with the Medal “Commemorative Cross of the World War II, 1941-1945”, these without decorations, as well as the war widows, are entitled, during a

calendar year, to 6 free round trips, or to 12 one way trips on the railway, with any train of any rank. The generals, officers and other war veterans decorated with the Medal “Commemorative Cross of the World War II, 1941-1945” travel at the first class, and these without decorations and the war widows in the second class (Article 16 paragraph 1, second sentence, of Law 44/1994).

► War veterans and war widows who live in the countryside are entitled, during a calendar year, to 12 round trips free of charge on domestic the means of transport, on road, by rail or by river, at their choice. (Article 16, paragraph 1, letter a, sentence III, of Law 44/1994).

► War veterans and war widows benefit from gratuity on local surface and underground local public transport (Article 16 paragraph 1 letter b of Law 44/1994).

2. Veterans, according to Government Emergency Ordinance no. 82/2006

➤ Exempt from the payment of monthly fees for the public broadcasting service (Article 81, paragraph 1, letter f, of G.E.O. No. 82/2006).

➤ Exemption from the payment of the standard monthly subscription for the telephone networks (Article 81 paragraph 1 letter g of G.E.O. No. 82/2006).

➤ 12 free round trips by rail or 12 free round trips by means of public road transport or 12 free round trips on the river, at choice, in a calendar year (Article 8¹ paragraph 1 letter h of G.E.O. No. 82/2006).

➤ Gratuity on local surface and underground public transportation (Article 8¹ paragraph 1 letter i).

➤ Army personnel in the situation stipulated in Art. 2 (i) (psychiatric illnesses - diseases acquired as a result of fighting, accidents, catastrophes and other such events due to the participation in military action of the army personnel referred to in letter a), with psychological and / or behavioral manifestations associated with significant suffering and affecting the socio-professional integration) benefit from the rights provided by paragraph 1 (a)-(d) and (f)-(i) (Article 8¹, paragraph 1¹).

➤ free round trips to the medical institutions in the country, to the events where they are invited by the Ministry of National Defense or other institutions, as well as to other activities necessary for the physical and mental recovery or for solving some administrative problems involving their presence (Article 8¹ (2) (a)).

➤ free accommodation in the premises under the administration of the Ministry of National Defense. (Article 8¹ (2) (b)).

➤ during the treatment abroad provided for in par. 1 (a) of the G.E.O. no. 82/2006, the personnel of the army and their attendants shall enjoy the rights established for the personnel sent on a temporary mission abroad, the expenses being borne from the budget of the Ministry of National Defense (Article 8¹, paragraph 2¹).

➤ The staff of the army sent to treatment abroad can be visited by the spouse or first degree relatives, 5 days after the hospitalization and 5 days for every month of hospitalization, with the expenses borne from the budget of the Ministry of National Defense under the conditions set for the personnel sent in temporary missions abroad (Article 8¹, paragraph 2²).

➤ The staff participating in missions and operations outside the territory of the Romanian State, evacuated for medical reasons from the theaters of operations and admitted to hospitals

abroad and their attendants from theaters of operations shall benefit from the daily allowances established for the respective mission or operation until the date foreseen for completion of the mission, and after this date they will benefit from the rights provided in par. 2¹ (Article 8¹, paragraph 2³).

Chapter 4. THE REGULATION OF WAR VETERANS' RIGHTS IN THE CENTRAL AND EASTERN EUROPEAN STATES

A. Introduction

At the 18th meeting of the Standing Committee on European Affairs, held in Nicosia (5-10 October 2002), a presentation was made on *"The Veterans Movement in Central and Eastern Europe, Achievements and Dilemmas"*, discussing the current state of the war veterans' movement in this part of Europe, covering a wide range of issues such as the formal and legal status of the movement, the general characteristics of existing organizations, the social and economic position of the movement, as well as its work on national and international forums.

The Standing Committee on European Affairs adopted, in Nicosia, the Special Recommendation no. 2, on assistance to war veterans in Central and Eastern Europe, which compelled the Secretary-General of the World Veterans Federation to appeal to the Governments of these states to adopt legal provisions on war veterans.

The report on the work of the Central and Eastern Europe Working Group, presented at the 24th Congress of the World Veterans Federation in Johannesburg in 2003 addressed, inter alia, the results of the implementation of the above-mentioned recommendation.

The General Assembly of the World Veterans Federation (WVF), at its 24th meeting in Johannesburg (1-5 December 2003), adopted the *Declaration on the Rights of War Veterans and Victims of War*, which was subsequently presented by the Secretary-General of the WVF as a written statement addressed to the United Nations Commission on Human Rights (60th session). Point 6 of the aforementioned Declaration states: The World Federation of Veterans (...) *calls upon United Nations Member States to take measures providing for:*

- *improvement and updating of legislation concerning war veterans and victims of war;*
- *social security, medical care and other relevant benefits;*
- *alleviation of hardships of psycho-social consequences of war and integration of war veterans and victims of war into society;*
- *adequate care for former personnel of peace keeping and similar operations, before, during and after the mission.*

According to a report by the **Central and Eastern Europe Working Group coordinated by Prof. Michał Chilczuk**, President of the Central and Eastern Europe Working Group in Zagreb, held on 19-24 October 2004, a review of the presentation of the official and legislative documents of each country allows us to synthesize some observations.

B. General observations

The Governments of all 12 Central and Eastern European countries that form the Working Group of the WVF Standing Committee on European Affairs admit that all citizens living in their territories who have taken part in war or military conflicts, in the broadest meaning of the word, both in their territories and abroad, or suffered the consequences of such activities, or repressions from resistance movements, war and post-war, etc., are entitled to a special status of rights and benefits from the State .

With the exception of Estonia, all 11 other countries have special legislation dedicated to war invalids, war veterans and war victims, injured people and even those who have been subjected to post-war repression. In Estonia, two paragraphs (§ 24 and § 28) of the State Insurance Law provide for granting special benefits to persons who have suffered as a result of activities for the independence of the country during the Second World War.

In the official normative acts on war veterans and war victims in four countries: Estonia, Latvia, Lithuania and Hungary, unlike the other eight countries, the *veteran* or *war veteran* status does not exist. These documents refer to the statuses of war invalid, participant in war and in resistance movement, participant in national revolt, injured person / victim or person who suffered political repression.

To date, the legislation of three Baltic States (Estonia, Latvia and Lithuania) distinguishes between the rights and benefits of participants in military activities on the part of the German Army on the one hand, and the rights and benefits of former Soviet Army soldiers participating in World War II and in the war in Afghanistan, on the other hand, to the detriment of the latter.

The legislation on war veterans of states whose armies fought on the German side during the Second World War (Bulgaria, Hungary, Romania and Slovakia) does not include any clear provision that former soldiers of these armies are considered war veterans.

The legislation of none of the 12 countries provides any formal obstacles to the registration of non-governmental organizations whose names include the words "*veteran*" or "*combatant*".

In most countries, the legislation on war veterans is not stable and undergoes frequent changes, depending on economic and political conditions. For example, before the Lithuanian Parliament is pending the governmental normative project on former Soviet Army soldiers during the Second World War and the Afghanistan War (1979-1989), and before the Polish legislature is pending the draft amendment to some provisions regarding the withdrawal of certain rights previously granted to some war veterans groups and the granting of the *veteran* status to soldiers participating in UN peacekeeping missions and similar operations.

With the exception of Hungary, in the other countries, there are institutions dealing with war veterans and war victims, at the level of the central state administration.

The definition of the term "*veteran*" in the legislation of most countries is general, and does not refer to veteran activity as such, but to "*the struggle for the independent existence of a state*", although there are examples of specific and concrete parameters introduced in these definitions (Czech Republic and Slovakia).

Chapter 6. SOME PROBLEMS IDENTIFIED IN THE CASES ENCOUNTERED BY THE PEOPLE'S ADVOCATE INSTITUTION REGARDING THE PROBLEMS OF VETERANS, INVALIDS, ORPHANS AND WIDOWS OF WAR

The People's Advocate Institution is a public authority autonomous and independent from any other public authority, whose purpose is to protect the rights and freedoms of individuals in their relations with public authorities.

One of the concerns of the People's Advocate Institution is to defend and respect the rights of veterans, invalids and widows of war, in view of the numerous complaints addressed to the institutions with duties in the field by this category of persons.

Thus, the petitions formulated over time criticize inaccuracies or violations of the rights provided by the laws in force, as follows:

- the invalidity pension, first degree is 409 lei and second degree is 325 lei, much lower than the pension of these injured in the revolution or in theaters of operations outside the borders of the country and derisory in the current economic dynamics;
- the allowances for front and the allowances for orders were increased, but the allowances of the widows of the war veterans remained only at the amount of 92 lei per month not being increased;
- the surviving wife of the beneficiaries of agricultural pensions, in the amount of 350 – 400 lei, who didn't remarry, benefits from half of the husband's rights, "if she does not receive any other income", this regulation establishing a condition to granting a right (**Article 11 of Law no. 44/1994 on war veterans, as well as certain rights of invalids and widows of war, republished, with subsequent modifications and completions**);
- according to Art. 16 (a) of **Law 44/1994, republished, as amended and completed, war veterans and war widows also benefit from the following rights:**
 - *12 free round trips, or 24 simple trips during a calendar year, first class on the railway, train of any rank, for the severely mutilated, war invalids, and war veterans decorated with orders and medals of war.*
 - *war veterans decorated with the Medal "Commemorative Cross of the World War II, 1941-1945", these without decorations, as well as the war widows, are entitled, during a calendar year, to 6 free round trips, or to 12 one way trips on the railway, with any train of any rank. The generals, officers and other war veterans decorated with the Medal "Commemorative Cross of the World War II, 1941-1945" travel at the first class, and these without decorations and the war widows in the second class*

War veterans and war widows who live in the countryside are entitled, during a calendar year, to 12 round trips free of charge on domestic the means of transport, on road, by rail or by river, at their choice.

Thus, the different categories of war veterans and war widows benefit distinctly from free travel tickets (train, on road or naval), but, in addition to the cumbersome mechanism of granting them, there were also created discriminatory situations, as follows:

- war veterans, which form the majority, benefit of free second class train tickets, and former fighters against Communists, political prisoners and deportees receive first class train tickets;
- Only war veterans and war widows in the countryside are entitled to 12 free round trips on the means of transport, on road, by rail or by river, at their choice, during a calendar year.

Moreover, due to difficulties in the reimbursement of the cost of travel tickets by the Ministry of Transport to the county councils, road transporters refuse to transport war veterans and war widows. Travel tickets are distributed with difficulty, with annual delays ranging from one month to a quarter, and war veterans are deprived of the right to travel during this period.

Art. 16 (j) of Law 44/1994, republished, as subsequently amended and supplemented, states that war veterans and war widows also benefit from free medical assistance in all military or civilian state medical institutions and the provision of free medicines both in outpatient treatment, and during hospitalization. In practice, this regulation is not applicable, given the Romanian medical system that operates in a defective way.

There were reported situations in which, according to the provisions of the new Fiscal Code, confusions were created, even abuses regarding the levying of taxes on buildings and land owned by war veterans; the provisions of Law no. 44/1994 *on war veterans, as well as some rights of invalids and widows of war*, in Art. 16 (e), stipulated that war veterans and war widows also benefit from the *"exemption from payment of local taxes and fees, as well as from the payment of the corresponding tax for arable lands of up to 5 hectares"*, **which was abrogated by Art. 502, par. 1, point 3 of Title XI of the new Fiscal Code - Law no. 227/2015.**

Chapter 7. CONCLUSIONS AND RECOMMENDATION

After 1989, the legislator was concerned with establishing rules for reparations for the sufferings of this particularly vulnerable category of people – veterans, war veterans, war invalids, war orphans, war widows, widows of war veterans and prisoners of war, to whom we owe our gratitude for their acts of heroism and patriotism.

In this respect, regulations have been adopted on:

- ▶ **granting allowances and increments;**
- ▶ **I.O.V.R . pensions;**
- ▶ **granting aid for the procurement of medical devices intended to correct and recover organic or functional deficiencies or to remedy physical deficiencies;**
- ▶ **free of charge, health care, medicines and prostheses;**
- ▶ **determining the amount of annual aid for covering part of the cost of rent, electricity and heat for household purposes.**

Relevant in this matter are the provisions of **Law no. 44 of 1 July 1994** on war veterans, and some rights of invalids and widows of war, republished, as subsequently amended and supplemented, **Law no. 49 of 29 July 1991** on the granting of allowances and increments to invalids, veterans and widows of war, as subsequently amended and supplemented, **Law no. 49 of 31 March 1999** on the I.O.V.R. pensions, updated, as subsequently amended and supplemented and **Government Emergency Ordinance no. 82 of 25 October 2006** for the recognition of the merits of military personnel participating in military actions and the granting of rights to them and to the survivors of the deceased, as subsequently amended and supplemented.

It is noteworthy that although, through several special laws, a number of rights have been established for war veterans, war invalids, war widows, war orphans, widows of war veterans and prisoners of war, over time these rights have been conditioned, diminished or canceled, by various normative acts (for example, war veterans and war widows also benefit from free medical assistance in all military or civilian state medical institutions and the provision of free medicines both in outpatient treatment, and during hospitalization, **but in practice, this regulation is not applicable, given the Romanian medical system that operates in a defective way**).

At the same time, **some of these injustices or "amputations" have been removed, partly or even totally, by some normative acts, especially in recent years, and the allowances have been increased** (see Government Emergency Ordinance No. 103/2018).

In order to achieve a uniform status for war veterans and combatants in theaters of operations and to grant rights comparable to those recognized to those who fought in the Revolution of December 1989 and to veterans from other European countries – in the opinion of the People's Advocate Institution – it is necessary to adopt the following measures:

9.1 Proposals regarding the legislation in the field

Taking into account the findings of the People's Advocate during the preparation of this special report and the fact that the **establishment of certain rights and the granting of**

allowances for the social category dealt with in the present Special Report, under Art. 61 of the Constitution of Romania – *the Parliament is the supreme representative body of the Romanian people and the sole legislator of the country* - we consider it appropriate that **the legislator should consider the creation of an adequate legislative framework meant to ensure the effective observance of the rights and freedoms stipulated in the Romanian Constitution, the decisions of the Constitutional Court and the international documents for this category of persons.**

We believe that **there is a need for a clear, accurate, appropriate and proportionate legislation on the allowances of war veterans, war invalids, war orphans, war widows and widows of war veterans (even through a Government Emergency Ordinance) so that different interpretations and applications in practice can be avoided.** The Parliament and the Government can opt to adopt any legislative solution which would lead to the avoidance of any unclear situation or unfair interpretation and uneven implementation.

In subsidiary, we consider it necessary to amend the legal provisions regarding the free treatment tickets granted to war veterans, war invalids, war orphans, war widows and widows of war veterans in spa balneary resorts, by introducing a *provision stating that each war veteran, war invalid, war orphan, war widow or widow of a war veteran benefits from a free ticket per year for treatment, without this right being subject to other conditions.*

We also consider it opportune:

1. The issuance of an emergency ordinance amending Art. 1 of the Law no. 49/1991 regarding the granting of allowances and increments to war invalids, veterans and widows of war veterans, in order to update the allowances granted to the persons directly concerned by Law no. 49/1991 and bring them to the level of these granted to beneficiaries of Government Emergency Ordinance no. 82/2006, as follows:

Invalid pensioners, veterans and widows are granted an allowance as follows:

(a) for the severely mutilated, 2.5 minimum rank and function salaries, corresponding to the rank of second lieutenant, or, where appropriate, 2.5 average gross salaries;

b) for the first degree of disability, 2 minimum rank and function salaries, corresponding to the rank of second lieutenant, or, where appropriate, 2 average gross salaries;

c) for the second degree of disability, 1.5 minimum rank and function salaries, corresponding to the rank of second lieutenant, or, where appropriate, 1.5 average gross salaries;

d) for the third degree of disability, 1 minimum rank and function salary, corresponding to the rank of second lieutenant, or, where appropriate, 1 average gross salary;

2. Modification of Art. 16 (a) of Law 44/1994 to ensure that all war veterans, war invalids and war widows benefit from free first class train tickets, as do the 1989 Revolution fighters, political prisoners and deportees;

3. The legal regulation of the status of war orphans;

4. Completing Art. 33 and Art. 34 of Law no. 165/2013 regarding the measures for completing the process of restitution, in kind or equivalent, of the buildings abusively taken over during the communist regime in Romania, for the purpose of prioritizing the requests formulated by the beneficiaries of Law no. 44/1994 and the priority settlement of the files

in which decisions have been made regarding the proposal for compensation / compensatory measures for the beneficiaries of Law no. 44/1994.

5. The front allowance of the war veterans and invalids should be reconsidered and lifted to the level of that granted to the fighters of the December 1989 Revolution;

6. Granting a monthly reparation allowance equal to that granted to the fighters of the December 1989 Revolution;

7. Priority in providing housing from the available social housing stock in the home town, if they did not own another dwelling before, and setting the rent at the minimum provided by law, under the same conditions as those provided by the Law no. 341/2004;

8. Free access of children to nurseries and kindergartens subordinated to local public administrations, as well as free of charge provision of school supplies;

9. Free of charge access to all medicines, through the family physician;

10. Exemption from the payment of all local taxes and fees;

11. For veterans, the purchase or rental with priority, from the state fund of a commercial space or an adequate space of the provision of services, with a useful floor area of up to 100 m², also in undivided co-ownership, or the lease or rent with priority, without auction, of a land area of up to 100 m² in the public domain for the construction of a commercial space an adequate space of the provision of services;

12. Granting a monthly allowance for war orphans and for persons who are in the care of war invalids and war victims aged over 60;

13. For veterans, the exemption from taxes and fees for one automatic transmission vehicle and motorcycle owned by them or co-owned with the spouse, as well as tax exemption for the registration of a single automatic transmission vehicle.

9.2 Proposals to improve the performance of local and central public administration:

1. Improve the procedures for granting war veterans and widows free treatment tickets at spa balneary resorts, so as they effectively benefit of this right.

2. Observance by the authorities (central or local) of the legal provisions in the matter.

3. Supplementing the funds granted to the Recovery and Rehabilitation Center for the Veterans from the theaters of operations in Aninoasa commune - Dâmbovița County, at the former Hospital Dealu Monastery.

Traducere autorizată: Andrei Plaveț, consilier

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