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A methodical guide of „Social security law" for business managers

(Bachelor thesis)

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2. Základní zásady a principy sociálního zabezpečení
3. Koncepce sociálního zabezpečení
4. Oblasti pojištění – důchodové, nemocenské, zdravotní, státní dávky
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Herewith I declare that I worked out this Bachelor's work myself under the leadership of JUDr Přemysl Michálek and that I mentioned all used literary and professional sources in the index of literature.

Kunovice, April 2006

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Introduction

This methodical handbook is a theoretical foundation for study of law related to social security. I concentrated myself on analysis of principal conceptions and basic legal institutions. The handbook specifies the conception and subject of the social security law. I focused on the historical development of this legal line, I tried to make an analysis of the legal regulation of its individual subsystems - of health insurance and annuity insurance, social support, state welfare service, and of additional systems too. I focused on an explanation of legal realities and of legal relations as well. I am concerned with problems of financing, organisation and management in social security. Further I paid my attention to European and International aspects in the field of the law of social security.

This methodical handbook will be used for the needs of the school, for its students and teachers at teaching the subject Social Insurance Law. Economists, employees of the state administration and of the local governments as well as the wider public also can use this handbook. A part of this bachelor's work is a study material in the e-learning shape too. I hope that this methodical handbook will contribute to an easier understanding and orientation in such an important sphere as the social security without doubt is.

In the course of human life there can come on many situations that we must come up to. Next to natural and joyful events we can get to situations that are unfavourable and that frequently are unexpected. The problem can be illness, health-handicap, disability but also poverty, solitude or loss of job.

Some situation can be managed with our own forces or with the help of our relatives. We are not able to solve some problems ourselves however and we are sometimes not able to secure our

principal necessaries of life. The state aid is necessary in these cases within the frame of the implemented social policy. Another important thing is to try to achieve compatibility of our social system with the comparable systems of the European Union.

Securing of citizens in unfavourable social situations evoked by such events like for example illness, injury, disability and old age is a problem in every society and every society must deal with it and solve it. The form and level of this solution are considerably different and they depend first of all on the society itself. Every state has its social policy and develops for its functioning legal regulations and social institutions and determines the extent of financial means for its securing.

1 Right of the social security

1.1 Conception of the social security

Historical predecessors of the conception "social security" were conceptions "out relief", "social administration" and "social work". All of these conceptions are products of the state of the European society in the period from the 16th century till to the 1st World War. In the beginning the independent towns took over the poor relief by regulation of beggary and later by organizing of asylums. Step by step the state took over this care on itself and so systems of poor relief grew up and they slowly developed in contemporary systems of social welfare. The conception of poor relief is then to be understood as a system of communal and state measures how to help the poor people. With these measures the community first and the state then joined the church humanitarian charity in the period when feudalism passed to its last, market stage and the number of poor people increased rapidly.

The conception of social security has its origin only in the 20th century. This conception was and is ambivalent and it has developed in the course of history. The word "social" is of Latin origin. It has been used in various meanings. In the Czech language it was originally used in the sense of social, more exactly concerning the society (1905). The meaning of this word was later reduced to "concerning the economic weak, dependent, exploited ranks" (1932). According to the Dictionary of the Czech Language from 1948 the word social was used in three meanings after the Second World War:

1. Related to society
2. Related to improving of social situation
3. Related to financial security of an individual in the society.

Social security is a conception that was probably taken over from the Russian language. The term security /obespečenie/ is firstly used in the Program of the All-Federation Communist Party in 1919 for the indication of all-encompassing system of social relief for all employees that however was not implemented because of shortage of resources in the period of the Civil War.

Social security is a conception the content of which is sufficiently known but whose definition is difficult and historically conditioned. So far it has not been successfully defined in the professional literature. The Communist Party spread it in this country in connection with the reforms of national insurance in the years 1954 - 1964, in the period of sovietization of our society. The law that provided the old age pension schema and social welfare was so marked in 1964. The content of the term was then reduced and in this reduced form it is often used till now. Its material content has been substantially reduced in comparison with the international definition of the social security.

Social security is a set of institutions, facilities and measures through which the citizens are secured for the case of illness, motherhood, education of children, old age, disability and loss of the breadwinner. From the point of an individual the social security is a form of a social and medical assistance that supports him or her financially or naturally in certain life's situations that the society grants in certain life's situations. Lord Maynard Keynes (1883 - 1946) formulated the economical foundations of the social security. In his works - namely General Theory of Employment, Interest and Money (1936), he suggested the needed tools for measuring effects of changes in distribution of incomes on the level of the aggregated economic and social activity. On Keynes's works then a row of economist took up who elaborated models of redistribution of incomes and so put

the economic foundation of the new conception of social security. Modern after-war images came into the world during the Second World War in England. Sir William Beveridge, chairman of the Lower Chamber of the English Parliament, came in 1942 with the suggestion to form national insurance based on three fundamental principles:

1. To respect the present tradition and experience together with the requirement of a really revolutionary solution, that would not be limited to improving of the existing systems only.

2. To harmonize the system of national insurance with other principal social-political reforms.

3. The base of a modern social security is cooperation and endeavour of both the state and an individual.

Economy of social security won recognition after the Second World War in contrast with American social liberalism. The most outstanding author of the American variety was the American economist John Kenneth Galbraith, born in 1908, author of the book Society of Wealth (1967), who analysed the problems of poverty in a rich society. According to him the poverty does not have the individual and the family face only. There are poor territories and ethnic groups in the developed societies too. Galbraith's books influenced thinking of Czech economists as well.

According to Beveridge a social state must make an effort to satisfy the principal needs of a man by fighting against five principal social „evils":

1. Ignorance
2. Inactivity
3. Illness
4. Misery
5. Neglectful ness

Social security is normally realised in a social state by social and health insurance, by state supports and by social support for citizens.

It consists in:

- Compulsion of subjects to actions (obligatory insurance)
- Personal activity (support, help or services)
- Support of activities of other subjects (civil initiatives of associations, churches, individuals)

The support can be legislative, material (lending of objects, professional staff) or financial (subventions, taxes relieves). It includes both securities by rations (monetary and material) and by services. Beveridge substantially influenced by his thoughts the conception of social security after the Second World War. Under this influence the social rights of men were formulated in the General Declaration of Human Rights of United Nations (1948). Social security gained a distinct content - to ensure an adequate dignified security of social existence of man.

The conception of social security has the meaning of care e.g. a statically meaning. Therefore it is more often replaced by the conception of social screen at present. The conception of social screen that was introduced not long ago in the European Union is the last phase of the relevant development of terminology.

1.2 Categories of social security

The conception of social security mentioned above belongs to social categories. However we will focus on further categories.

Social risks are a conception for social events and occurrences that are known in the right and with which the right connects origination, change or expiration of rights

and duties by reference of which this condition can be reduced, overcome or even preceded. The main social events are: illness, injury, pregnancy and motherhood, birth of a child, invalidity, old age or death.

Social sphere means influences, interests concerning the human society, relations among people in the society.

Social policy is a conscious and purposeful activity of the state and some organizations in the social sphere. Among these further organizations we must include first of all political parties, trade union centrals, churches, private foundations and charitable associations.

Realization of social policy is then conscious and purposeful activity ensuring social certainties and optimal life and working conditions of citizens in accordance with the consensus of the society. The proper realization runs then by way of social rights.

Social rights are pivotal civil rights that are established in the Basic Document of Rights and Freedoms. They include adjustment of working-legal relations, family relations and first of all the right to protection of health, medical care, security in old age and at inability to work. In this country this right is concretised in laws, public notices and implementing regulations on social security and health insurance.

Social insurance solves situations, for which it is possible to prepare people in advance by putting off a part of money for the solution of future social situations. They can either be of short-time character as for example illness of one's own, treatment of a family member, pregnancy and motherhood etc that are solved by health insurance. Further they can be of a long-time character in various events, as for example old age, invalidity, loss of the husband or orphan hood that are solved by pension insurance. Both forms of insurance from

the point of view of their natural character - stay at hospital, seeing the doctor and providing of medicines - supplement the health insurance. This form is widely accepted in the world and it is mostly preferred.

Social support solves situations that are commonly accepted as necessary and this support is mostly characterized as a state support that is financed from the taxes - from the state budget. This support is first of all an expression of solidarity between, for example, childless families and families with children, between citizens with higher income and citizens with lower income.

Social help is mostly the last instance to solve material and social scarcity when the citizen gets into situation when it is without his forces to provide for himself and his family, when he has not got social insurance a does not fulfil the conditions for obtaining social support. Financially this sphere is solved from the state and municipal budgets however also from means of voluntary organizations and foundations.

1.3 Forms of social security

From the point of view of the position of the state and making of resources for these purposes the forms of the social security can be characterized as state, public, and voluntary supplementary insurance. In the first case the state is the bearer of the social security, the state organizes the activity, manages the system itself or through its state institutions. The state establishes the conditions how the subjects enter legal relations as well. Individuals have usually got the legal obligation to pay insurance premium that is then redistributed by the state. This system can be also characterized as obligatory state security.

In the second case the state is only a guarantee of the so-called public system. Institutions act under separate cover

from the state budget, manage separately with the assigned means even if they can get a part of these means from the state (for example payments on health insurance for children and pensioners). The state constitutes forms of this system, determines conditions, adjusts rights of citizens and employers and warrants correct operation of the system including the state warranty for the individual performance.

If the state figures only as an initiator, the matter is a voluntary additional insurance. The state makes only a legal frame for activities of various bearers of insurance and defines the basic regulations. The state can support these forms even indirectly by the form of state contributions too. However the state does not intervene into the organizing of the system and its implementation and does not warrant financial guaranties.

From the point of view of a citizen it is possible to speak about the insurance form, when the citizen participates directly on the making of insurance sources. Further you can speak about the safeguarding form when the citizen finances the system vicariously through taxes. The providing form does not require direct or indirect financing by the citizen any more, but only conditions of social need.

The above-mentioned forms are basic forms and they can mix and supplement together.

1.4 Legal regulations of social security

Social security law is in principle a separate branch of our legal order even if a unified codex does not exist up to now. It is a complex of legal norms that regulate social relations among subjects at providing material security for citizens that need help and the state recognises the situation into which the citizens have got. Social security law is a branch of the valid legal order that belongs into the sphere of the

public law though by its features it shows some characteristics of the civil law.

Only directive legal acts and directive agreements are sources of the social security law in the Czech Republic.

Subjective law of social security belongs among social laws that must be realized by the state because their fulfilment ensures together with other human rights dignity and free development of the personality of man.

From the point of view of the social security law the social rights defined here have importance, first of all:

- Right of every citizen to adequate material security in old age
- Right of every citizen to adequate material security in case of disability to work
- Right of every citizen to adequate material security in case of the loss of the bread winner
- Right of everybody who is in material need to support that is necessary for securing the basic life conditions
- Right of everybody to protection of health
- Right of the citizen to a free health care and on health facilities on the base of public insurance under the conditions fixed by the law
- Right of women to special care in pregnancy
- Right of parents who look after children to state support.

The mentioned social rights as well as other human rights are acknowledged by the Declaration of principal rights and freedoms as inalienable and indefeasible. The article 36 of the Declaration of principal human rights and freedoms warrants to everybody the chance to demand his/her right in the fixed way.

The law Nr. 582/1992 Sb. on organisation and implementation of social security, as amended by later regulations, contains the legal arrangement of the organisation and implementation of social security. This law entered into force on 1st January 1992. According to this law the social security includes:

- **Health insurance** of employees and of persons who are set on the same level with them in this insurance and health insurance of self employers.
- **Pension insurance and pension increase for helplessness** that belongs to insured persons according to the law of social security.

As the basic social security legal relations the following relations can be considered:

- Legal relations that rise from providing medical care
- Legal relations with health insurance
- Legal relations with pension insurance
- Legal relations rising from providing for pregnant women, mothers and children
- Legal relations rising from providing social support
- Legal relations rising from providing services and benefits of social care - newly - of social support

1.5 Origin and development of the social security right

Securing of citizens in unfavourable social situations caused by social events such as primarily by illness, injury, invalidity, motherhood, old age and loss of the breadwinner, is a problem of every society. Every society must be concerned with them and must solve them. However the form and

level of this solution are considerably various, they depend first of all upon the stage of the development of the society. The forms of economic activity influence not only the way and level of life of those members of the society that are working but also of those who cannot work for various reasons - whether for the reason of too high or on the contrary too law age, for the reason of illness, injury, invalidity or motherhood. The form and level of solution of social problems in the given society depend in the first place upon economic necessity and economic possibility of solution of these problems, but also upon further factors as for example upon the demographic structure of population, ethic and moral views that dominate in the society, further interest of citizens to solve these demands and at the same time upon intensity of pushing these interests forward and last but not least upon the tradition of solving social problems which is very important and determinating even from the point of view of the further development. It is necessary to mention some further factors such as the degree of development of medical science and hygienic culture of the population.

In the primitive communal system the family (tribal) community looked after their aged or ill members by leaving them in their community, i.e. in a narrower or widener family.

In the slave community the slave did not have any rights, he or she were possession of their Lord. If the Lord protected his slave and provided support to an injured or ill slave he protected in this manner in fact his possession. In the final phase of the slave community the free citizens began to make corporations whose purpose was support in illness or in the case of death.

In the Middle Ages the cooperative supporting corporations began to be organized. Their task was to support their

members who were unable to work or who were very old and to help to survived members of families. First such supporting corporations were organized among miners where miner's brotherhoods were established. Similar supporting corporations were established for some handcraft guilds step by step too as well as for journeymen brotherhoods. Miner's brotherhoods were gradually changed into special interest and social institution of miners and they were in fact some predecessor of trade union organisations.

In 1854 the obligatory establishing of brotherhood cash desks in mines was legalized and so the foundations for separate miner's social insurance were laid. This existed in Czechoslovakia till to 1948.

In the 17th century it comes to certain regulations in looking after old and ill individuals on the territory of the Czech Republic. In 1661 the patent of vagabonds and beggars was approved and this patent made it possible that communities could give the right of begging only to poor people that were unable to work.

It was first of all the church that looked after poor, ill and unable to work people till to 1785. In this year a regulation for the Bohemian Kingdom was issued that put this duty on suzerains. The share of the church in organizing and implementation of looking after poor was however very significant even after issuing this regulation. In the days of Kaiser Josef II government institutions for poor people were established according to individual parishes.

In the second half of the 18th century in the days of Maria Teresa's government an extensive reform of state administration was carried out in the Austrian Monarchy.

1.5.1 Origin and development of modern forms of social security

Origin and development of modern forms of social security come in the 19th century, which is very tight connected with the abolishment of vileinage in 1781 and with the following flood of country people to towns as well as with the development of industrial production. At that time some social problems were only partially solved. The state interlocked war veterans, their widows and orphans and civil servants, their widows and orphans. The church and the suzerain provided the basic care - normally the alms and shelter - for poor people. Later the obligation to look after poor was transferred on the communities. Benefit clubs followed the tradition of miner's brotherhoods. In some countries (namely in France and England) various forms of private insurance began to develop. On the territory of the then Austrian-Hungarian monarchy association contributory sicks began to be organized that were established on the base of guild laws.

Obligatory health insurance was enacted in Germany in 1883, the casualty insurance in 1884 and old age and disability insurance in 1889. This laws are often labelled as the Bismarck reform and they set foundation of the so called Bismarck's model of social insurance, which influenced the insurance systems in many European countries, namely in Austrian-Hungarian Monarchy very much. The obligatory social insurance was shortly after introduced for the Austrian part of the Monarchy, i.e. for the Czech countries too. Because the count Taafe was the Prime minister at that time these laws are often labelled as Taafe's reform.

Casualty Insurance Law of workers and the Health Insurance Law of workers were approved in 1888 and came into force on 1st August 1889. The health insurance that was regulated by this law was an obligatory insurance. Only insured persons

had the claim on benefits according to this law, not their dependents. Cash and material benefits from this insurance belonged only to insured persons. Insured women had the claim on a free help from the midwife or from a doctor at childbirth and at the same time claim on medicines and medical facilitations. Insured women that delivered a child had the claim on cash benefit on the level of the health benefit for the time of four weeks from the date of birth. The law on brotherhood cash desks was approved in 1889 on the base of the General Miner's Law. These laws introduced the obligatory statutory insurance. The insurance money was paid by insured persons as well as by employers. In 1907 the law on pension insurance of servants in private services and of some servants in public services was approved.

1.5.2 Development of social security systems in the period of years 1918 - 1938

Czechoslovak Republic took over legal regulations in the social sphere from the Austrian-Hungarian Monarchy and new regulations were introduced step by step.

The most significant of the new legal regulations was the law on insurance of employees for the case of illness, disability to work and old age that came into force on 1st July 1926. Approving of this law did not only help to solution of some urgent social problems but also to strengthening of democratic development in Czechoslovakia. The law regulated the very extensive problems and was changed and supplemented several times. In accordance with this law Health insurance offices provided the health insurance and the Central social insurance office with its seat in Prague provided disability to work and old age insurance. Supports in illness, in motherhood and burial allowance were provided from the health insurance.

Social insurance was as to its organisation comminuted in the period of the first republic. It was differentiated according to professional pertinence and namely civil servants were preferred. The public care of the poor people remained in existence and it was organised first of all by home communities that built various establishments like old people homes, orphanages, shelters, community kitchens and so on.

Many corporations and voluntary organisations of charity, church or purpose characters were active in the sphere of social care.

1.5.3 Development of social security systems in the period 1939 - 1945

Some changes in the sphere of social insurance were introduced in the period of occupation. Their target was to adjust our social insurance to then political, economic, social and currency conditions. Changes in the health insurance of private employees in higher services were for example done in 1941, in miner's insurance in 1943 and the health, inability-to-work and old age worker's insurance was changed in 1945. These adjustments however did not bring any significant improvements for the insured persons.

1.5.4 Development of social security system in the period 1946 - 1948

Legal regulations from the time of occupation were not recognised as a part of the Czechoslovak legal order after the Second World War. The situation in the social sphere was very complicated by the fact that the funds of social insurance were either seized by the occupants or depreciated by the war economy.

The basic principles of the after-war social legislation were contained in the Košice government program. Approving of the law Nr. 99/1948 Sb. on the national insurance was a significant turning point in the development of the social legislation in Czechoslovakia. This law was very modern for its time, progressive, it started from the model of social insurance suggested by Sir Beveridge, which was published in 1942 in England. This law enabled to develop a new unique system of national insurance, increased all benefits and in a considerable measure put on equal footing claims of workers and of other employees and for the first time extended the pension security even on self employers.

1.5.5 Development of social security in the period 1949 - 1989

Principal changes in the development of the Czechoslovak social legislation were done after 1948. Newly approved legal regulations were influenced by the Soviet example even if the Soviet social legislation rose from and developed in the situation, which was marked by Stalinism, by violent collectivisation of agriculture and by the complicated period of industrialisation i.e. in quite different conditions than in which the Czechoslovak social legislation developed. The health service was nationalized in 1950 and one year later the administration of the health insurance was transferred on the Revolutionary Trade Unions.

First reform of the social security after 1948 was realised in 1956. The law Nr. 54/1956 Sb. on health insurance of employees was approved. This law with many supplements is valid up till now. Also the law Nr. 55/1956 Sb. on social security was approved in this year. Members of manufacturing co-operations, co-operative farmers and self-employers were

insured by government regulations for the case of old age, disability to work and loss of breadwinner.

These legal regulations did not only increase the number of persons, secured by pension insurance but also the amount and number of provided benefits which led to a marked growth of costs on all branches of the social security.

The second reform of the social security system was realized in 1964. The law Nr. 101/1964 Sb. on the social security and the law Nr. 103/1964 on the social security of cooperative farmers were approved. In consequence of the poor effectiveness of the economy and not very positive economic development it came to a deterioration of the level of the old age pension schema.

Another, this time less extensive reform of social security was realized in the 1970s when the law Nr. 121/1975 Sb. on social security was approved. Protection of families was developed too and provisions supporting population should increase the number of born children and influence the population development. The government tried to achieve favourable impression at least at some shifts of population in the period of the running "normalization".

Unsuccessful economic development in the 1980s made it impossible to continue in the "soft" social policy. The Czechoslovak government began to try again to gain the population by more liberal social policy till after coming of M. Gorbačov to power in the USSR in 1985. The law 100/1988 Sb. on social security was approved, a part of which is still valid.

1.5.6 Social security after 1989

Very soon after November 1989 it was evident, that it will be necessary to come up to a principal reform of the social security system. Even if this system was in some spheres on a

good level, namely as far as securing of families with children, in other spheres - mainly in the sphere of pensions - it was behind and had a lot of deficiencies of principal character. First of all it was extraordinary demanding as to its financing, cumbrous and was not able to conform with new conditions. In some spheres it was unfair too (institute of personal pensions). For all these reasons it was decided that together with the economic reform the social reform will be realised. The key target of this reform was - similar as in other countries of Middle and Eastern Europe - the conversion from social security to social insurance.

Among the first provisions there was the abolishment of preferences in the pension system and removing of discrimination of self-employers. Further the health insurance was transferred from the administration of Trade Unions and it was organizationally unified with the pension insurance within the Czech Administration of Social Security and the regular indexation of pensions was introduced.

In the course of the social reform in the Czech Republic three principal stages can be distinguished:

- 1st stage was realized from the end of 1989 till to 1992. The concept of the protective social net was elaborated and it was fully secured by legal institutions, namely by minimum wages and living wage.

- 2nd stage started after the origin of the independent Czech Republic in 1993. Neoliberal tendencies began to exhibit in our social security system. Insurance money was introduced as a separate payment outside of the tax system. The year 1995 can be considered as a special important year because two important laws - law Nr. 155/1995 Sb. on pension insurance and law Nr. 117/1955 Sb. on the state social support were approved.

- About the beginning of the third stage of the reform development of the social security can be spoken since half of 1998 in connection with the coming of the social-democratic government to power. Significant legal regulations were novelised and the reform of the pension system has been prepared.

2 Basic principles and principles of social security

2. 1 Right to social security

Subjective right to social security belongs among social rights that the state is obliged to realise so that through their fulfilment it can secure together with other human rights dignity and free development of human being.

These rights are declared:

a) In international treaties and declarations

b) In the Constitution or in constitutional laws

Social rights are fixed in the Czech Republic in the Declaration of Basic Rights and Freedoms - head IV that is a part of the constitutional order of the Czech Republic. From the point of view of social security right the following social rights have significance first of all:

- Right of adequate material security in old age (article 30 paragraph 1)
- Right of a citizen of adequate material security in case of disability to work (article 30, paragraph 1)
- Right of a citizen of adequate material security in case of the breadwinner loss (article 30, paragraph 1)
- Right of everybody who is in material need of help that is necessary for securing of principal conditions of life (article 30, paragraph 2)
- Right of everybody of protection of health
- Right of a citizen on free health care and on health aids on the base of public insurance under conditions that are set by the law (article 31)
- Right of a women on a special care in pregnancy (article 32, paragraph 2)

- Right of parents who take care of children on the state support (article 32, paragraph 5)

The Declaration of Basic Rights and Freedoms acknowledges the mentioned social rights - as well as other human rights - as inalienable and inviolable. Their real use is warranted by article 36 of the Declaration that warrants the chance to demand his/her rights in the prescribed manner to everybody.

2.2 The basic principles

As the principal themes of discussions, the social justice and social inequity can be taken now. Social justice is the leading principle; it is a criterion of inter-human relations, principal moral and religious value of the legally consistent state and of state policy. These thoughts are understood in the legal sense - complex of legal rules and justice in social sense - distribution of means of the public wealth among citizens. These aspects mix together in policy with significant distribution and redistribution. Modern theories classify these principles in the following way:

- The principle of universality of the social security system - this principle was not accepted since the very beginning - but now the state concepts its social security for all its citizens, the personal extent of a citizen is given by the prescribed conditions.

- The principle of the state warranty - the state warrants that the minimal filling set down will be always provided without respect to the fact that the exhausted funds must be strengthened from the state budget.

- The principle of the warrant of the whole system - if there is not a single specialised organization in the state then the state is the warrant and in any case the state warrants the system - the state determines principles of the

social policy inclusive bills of laws in this sphere as well as the social doctrine.

2.3 Principles of the social policy

The starting point is the consciousness of the basic approaches in the sphere of social policy. What is and what is not equitable perceives everybody individually.

As basic principles people perceive:

- Principle of social solidarity - mutual creation and distribution of living conditions and means of individuals and social groups. This mutual support and belonging is perceived as family, nation-wide and international. In this place the quotation of T. G. Masaryk can be used, who says: "Solidarity is an ethic imperative because man is a debtor of the society and if he abandons his rights, privileges in accordance with the idea of solidarity, it is only amortization of the debt for the benefit which the society provides to the individual, also as a debt to the past generations whose goods that were heaped up by diligence are available now and there is the duty of all people to work jointly and solidary in order to augment this wealth".

- Principle of subsidiary - in fact it is providing of help. This principle starts from the premise that everybody must help himself at first, then the family and the neighbourhood can help and the state helps till in the end. Realization of this principle suggests the education of the inhabitants that they can take over personal responsibility. The role of the state is very important at education and creation of space for the personal behaviour of the citizens, but also at the verification how much the citizens take over this function. This principle enters the forefront and is bound with the so-called crisis of the social strong state.

- Principle of participation – the share of citizens on creation of this participation is variable as well as the targets of the society. Democratic society develops this participation directly in motivation among individuals. At the same time it means that citizens take part in the society and its development. It gives the chance to participate in things that immediately influence the life of the citizen: health, security in illness, old age and so on, not only at creation of resources but also at production of goods.

2.4 Function of legal regulation

Social security law is a part of the Czech legal order and therefore it performs partly the functions that are consistent with this legal order and beside of it other functions that result from its specific position. Social security law has general and special functions.

General function is inherent with the whole legal order thus also with the social security law. Concerning the special function the social security law performs even specific tasks that regulate the mentioned branch of law.

Regulating and preventive-educational functions can be included into the general function, protective, economic, psychological and stimulative functions into the special ones.

Regulatory function

Social security law determinates orders-regulations, according to which subjects can go into legal relationship of the social security as well as the way of distribution of state financial means that are necessary for the corresponding sphere of the social security.

Preventive-educational function

This function is given by the fact that the social security law determines regulations of behaviour of subjects, influences them so that they behave, as these regulations require. If it were to the contrary they could be affected by determined sanctions.

Protective function

This function limits or fully removes unfavourable situations of citizens.

Economic function

After citizens get into an oppressive economic situation that they themselves cannot solve the economic function of the social security law gets on, of course only in such cases where the law considers it necessary.

Psychological function

Social security law influences the psychic of citizens in such a way that the citizens are not in fear that they could find themselves without principal means for living, in the case of an unfavourable life situation.

Stimulative function

Social security law influences the citizen in such a direction that the citizen himself should participate in generation of means that he himself could need in the future, provided he gets into unfavourable life situation, and also for security in his old age.

3 Conception of social security

3. 1 Demands on the Conception

It is necessary to realize the new priorities of the conception of social security. A modern democratic state and its political parties can have various opinions as to the extent of solidarity. The changes of the conception will show themselves till after some years. Modern theories classify a number of approaches to the assessment of the conception of social security. Among the most important of them are ranked:

- meritorious ness - it means that providing of many benefits depends on fulfilment of conditions in the past, for example on payments of premiums
- neediness - fulfilment is bound on the condition that came on objectively out off the will of the citizen and would get him or her into material poorness, for example illness
- mutual equality - some benefits are provided to all citizens without difference how much they have contributed into the system - for example providing of medicines, stay in hospital
- equality of opportunities - every citizen has the chance to ask for the benefit under certain conditions
- efficiency - it must be taken into account that the question is the system of protection of all citizens.

When speaking about demands on the conception, minimal standards must be taken into account. These minimal standards have been made up within the frame of the European Union and further the system must be conceived as a compatible one so that it will be possible to conclude international agreements in the sphere of social security. Our existing social system is very expensive and at the same time it does not offer an easy survey. Beneficial schemes are complicated; the system

is in some cases inexact and indirect. The relief is provided too universally and generally. I will deal with these problems in the following chapters.

3.2 Financing of social security

The problem of financing is the key one and that is why extraordinary attention is paid to it. There are two principal models of financing social security. The first one has a character of state procuration and the financing proceeds through state budget. There is principally no direct connection between state budget receipts and expenditures, system is non-transparent and it accepted the paternal philosophy of embracement. Because it was not clear what part of taxes is used for social security the element of personal responsibility for the future was evaporated. As a non-transparent system it was fully scratched in this country since 1993.

The second one has character of social insurance. This financing can be on the capital principle or on the continuously financed principle.

The capital principle - capital surplus is formed in this system, contributions are piled up and it comes to formation of capital. Building the system on this principle requires higher basic capital. This system is seldom the basic system of the pension insurance, but it is administered as an additional system or as a private supplementary insurance.

The principle of continuous financing - this system is used in this country at present. It is characterized by the fact that the benefits in the given period are paid out from contributions that have been collected in this period. This method is based on the intergenerational solidarity, where the current moneymaking generations cover benefits for the

generation of their mothers and fathers as well as of citizens disabled to work.

In all systems we must think on valorisation of benefits - accommodating of benefits to the growth of living costs with their impact on the standard of living of the needed citizens.

3. 3 Financing of health service and health care

Shortly after the political revolution in November 1989 the reform of the Czech health service was started. First of all the state monopoly in providing the health care for citizens was repealed and privatisation of property and activities in health care were made possible. In the first place the amendment of the act Nr. 20/1966 Sb. on care of the people's health was approved. So the presumptions were formed for ablation of the centralistic management of the health care and for establishment of qualitative different system of providing and financing the health care. After forty-year's interruption (1952 - 1992), when health system was operated, financed and managed in this country exclusively by the state, the insurance of the health care was revived again, the General Health Insurance Company was established and later the so called employees health insurance companies began to be established on the base of a further law. Then the law of the Czech National Council Nr. 160/1992 Sb. on the health care in non-state health establishments was approved. This law defined the conditions for providing the health care by other than state subjects and the procedure for administration of licences for operating non-state health establishments by the corresponding organ of the state administration. In the end of the year 1992 the law Nr. 592/1992 Sb. on insurance premium on the general health insurance was passed. This law adjusted first of all the

amount of the insurance premium and the method of its paying. This law completed building of the insurance system not only on the expenditure but also on the income side of the budget. However the transformation process of the Czech health service has not been finished yet.

Health insurance as the way of financing the health care - conception and meaning

Health insurance remains to be the principle source in financing the health care that is provided on the territory of the Czech Republic. It is based upon the article 31 of the Declaration of Rights and Freedoms. Because majority of physical persons would not have enough financial means for their treatment and for the costs that are connected with this treatment it is necessary as a rule - the state sets the duty - that these persons must be insured on the principles of solidarity and reciprocity.

Under health insurance the way of solution of occasional social events that can happen in the future is understood - illness or injury - of physical persons. Its principle is concentration of certain volume of financial means by regular contribution to the health insurance fund and in the case of origination of the social event, the settlement of costs of this healthcare. The matter is satisfying of needs of individuals with the help of a large number of individuals who feel or have the same demand - principle of solidarity - and who are ready, or the law imposes it on them to joint for mutual solution - principle of reciprocity - of these needs.

The state of health of the population is conditioned by four mutually interlaced components of medical care. From the point of view of its content and sight they are: support and education to health, preventive care, medical care and remedial care. The level of the health care in this country

is comparable with advanced western countries though, and it is possible to say that the Czech medicine is recognized in the world. The problems are just in its financing. The costs of the healthcare are increasing constantly and they achieve multiple of the amounts that were expended in the early 1990s.

The existing system of financing the health service and care is characterized by financing from several sources, e.g. in part from means of the public health insurance, in part from other public sources - first of all from the state budget of the Republic, from budgets of regions, communities and from means of founders. Further sources of financing are means provided by church and charitable organizations and by other legal or physical persons, for example donations from sponsors, yields from lotteries and so on.

In order to achieve balance in the development of the Czech health system with the average state in other countries of the European Union it is necessary to manage better with the financial means and to increase them step-by-step. It can be supposed that in the period of economic prosperity it will be easier to gather the needed sources for the development of the health service than it was in the conditions of stagnation of economy at the end of the 1990s. It is the target that the growth of financial resources into health service should go first of all for obtaining financial means for financing of development of new methods of treatment and objectives in the section of prevention and support of public health inclusive projects for supporting health and prevention of illnesses and further on increase of resources for purchase of special health technology.

A new law on health care is being prepared. The law on health care is one of the laws that should complex replace the law Nr. 20/1966 Sb. on the care of people's health. Further laws are, eventually should be, the law on health establishment as

a public institution, law on transplantation, two laws on qualification for the health profession and the law on financing the health service. One of the basic objects is to determine in sequence on the reform of state administration which central administrative authorities administer the public service, what activities are entrusted as performance of the public service to regions and communities and what activities should the regions administer in their separate sphere of authority.

Separate law sets up the sphere of protection and support of public health. Rights and duties of physical and legal bodies in the section of protection and support of public health are object of its arrangement. Besides of it the law arranges the system of organs of protection of public health, their sphere of activity and their competence. Public service in the sphere of public health is administered by Ministry of Health, by Region Hygiene Stations, by Ministry of Defence and Ministry of Internal Affairs.

3.4 Financing of social insurance

Social insurance is defined as health and pension insurance because in accordance with the law Nr. 589/1992 Sb. on insurance premium on social security and contribution on the state policy of employment the insurance premium on social security includes insurance premium on health insurance and insurance premium on pension insurance.

Expenditures on health and pension insurance are in the Czech Republic expenditures that are covered by the state budget. That is why the insurance premium on social security is an income of the state budget. Beside of insurance premium on social security the incomes of the state budget are derived incomes too, e.g. incomes that are in principle blocked by their character with the existence of insurance premium on

social security - the question are for example penalties and surcharges to the insurance premium on social security and fines.

Within the frame of insurance premium on social security and contribution on the state policy of employment the premium on pension insurance has a special regime since 1996 since this premium is kept on a special account of the state budget and in the law on the state budget it is also mentioned as a separate entry of the state budget incomes.

3. 5 Project of a reform

Modern systems of social security can be divided into three spheres that are mutually interconnected and can be complemented in case of social events - these spheres are in the literature labelled as pillars - social insurance, state social relief and social support (care). Each of these spheres can be structured into three levels. The first system is always compulsory - fundamental and it is defined and warranted by the state. The second level is not warranted by the state any more and it depends upon whether citizens are grouped in a collective (most often in a collective of employees). The third system depends fully on the individual decision of each individual; it is based on a commercial base and has a character of an individual insurance - life, general, pension, etc.

In the pension sphere the friction point is the increasing number of retirees and the sinking number of those who contribute into the system of the continuous financing. That is why an adjustment is suggested that should introduce the second compulsory system - pension additional insurance with state contribution on the capital market.

In the sphere of the health insurance the cardinal problem is the amount of benefits; the bill that a part of the benefit

securing the employee in time of his or her illness is paid by the employer, however hit on the negative attitude of the employer's lobby.

The sphere of the state social support - in spite of the introductory enthusiasm it comes to a certain disillusion now because the operation of the system is expensive and ways how to make it cheaper are searched.

4 Insurance premium

Financing of the health insurance and of the pension insurance is regulated first of all by the law Nr. 589/1992 Sb. on insurance premium on social security and on the contribution of the state policy of employment. However many organizational and procedural provisions of this problem are included in the law Nr. 582/1991 Sb. on organization and implementation of social security. The public notice Nr. 161/1998 about forgiving of penalties by Administrations of social security must be considered as implementing regulation applied in this section.

Insurance premium on social security and contribution on the state policy of employment are the chief resources of incomes that are intended for financing the described sections.

Tributaries

With regard to the purpose of the insurance premium - in contradiction to insurance premium for the health insurance - the state does not belong to the tributaries.

The tributaries can be divided into four basic groups:

a) Employers (who are further divided into organisations and small organisations for these purposes, according to diversity of some duties)

b) Employees

c) Self employers

d) Persons who voluntarily participate in the pension insurance.

Amount of the premium

The premium amount is determined by percentage from the basis of assessment that is ascertained for the decisive period.

The basis of assessment is exactly defined circle of working incomes. The decisive period, from which the basis of

assessment is ascertained, is - at self-employers calendar year. At all other tributaries the decisive period is calendar month.

A certain deviation in the structure of items at self-employers lies in the fact that the aggregate percentages are at all groups of tributaries obligatory whereas the participation in the health insurance of the self-employers is voluntarily.

Drawings of the insurance premium - this conception can be divided into two groups - draught of insurance premium and payment of insurance premium. Under draught of insurance premium the set of rules is understood that designate who and when is obliged to draught the insurance premium whereas by payment the forms of payment are understood.

The basic rule for the employers is that they must draught the payment not only "for themselves" but for their employers too although tributaries are both groups, payers are here only employers. In the other groups of tributaries however is their position identified with the position of the tributaries.

Insurance premium is paid in the Czech currency either in the form of the cashless transfer from the bank account or in cash by postal money order.

Financing of the state social support and social care

Financing of the system of state social support runs fully from the state budget. The organization of the system is fully in hands of state organs too. Expenditures on benefits of the state social support made totally 33,7 billion CZK in 2002. The system of the state social support is as to its substance a universal system, by means of which social transfers from the state budget to all groups of inhabitants

can be realized. On benefits of the state social support no insurance premium is paid.

Concerning the system of financing the social care in the Czech Republic, the question is the multi-sources financing. On the financing of this system the state shares in the first place by means of the state budget. Besides of the state budget own resources of the regions and communities participate on financing of the social care. The citizens participate as recipients of benefits and services of the social care too as well as their dependents and non-state subjects - civil associations, foundations, churches and others.

Within the frame of social care financing of social services and financing of social care benefits can be distinguished. Concerning the social services it goes of social services in establishments, namely aged-persons homes and establishments of social care and of other services of social character.

4. 1 Health insurance

4.1.1 Basic principles of the public health insurance

The public health insurance is an important system part of the Czech health care as well as an important condition of its operation. It is a generally valid insurance on the base of which health care covered from the means of this obligatory law insurance is provided to entitled persons. The obligatory character of the public health insurance system is first of all expressed in the cogent mandatory regularization as to the reasons of beginning and expiration of the health insurance, circle of payers of the insurance premium, their rights and duties and the rights and duties of insured persons as well as of other conditions that regulate the relations in the public health care.

The health care is provided to insured persons from the health insurance and it is covered with the goal to preserve or improve their health state. Mandatory health insurance cannot be related on all health actions with reference to economic possibilities, for example on cosmetic operations performed with the goal to achieve another than a medical purpose and so on.

Public health insurance is built on the principle of social solidarity of insured persons. This system can be characterized as the solidarity of "the rich with the poor" because citizens with higher incomes contribute to health care higher insurance premiums than citizens with lower incomes and also as solidarity of "the sick with the health" because the health citizen does not draw or draws from the insurance funds only lower amounts than a sick citizen whose spending on the health care is higher.

Every physical person must be health insured with a - principle of plurality of insurance institutions - health insurance company, which he or she himself or herself chooses. At the choice of the insurance company the principle of a free choice is then applied. Insured persons are persons with permanent residence on the territory of the Czech Republic, and further persons who have not their permanent residence on the territory of the Czech Republic but they practise here at the bar for an employer having its seat on the territory of the Czech Republic. Insured persons are also citizens who fall under the regime of security in accordance with the regulation of the Board Nr. 1408/71. This principle is marked as principle of universality of the personal extend of health insurance, which means that it can be spoken of a generally valid insurance, attainable for all people that are enumerated in the law in the scope that is defined in the law.

4.1.2 Personal and material extend of the public health insurance

Personal extend of the health insurance is regulated in the legislation of individual countries differently. On the European Continent you can find regulations in some countries that fix a narrower or a wider specification of secured persons. For example in the Federal Republic of Germany the widest enumeration is mentioned, other times groups of persons are specified, for example as employers in a dependent job and persons that are on the same level, further pensioners and unemployed people.

In the Czech Republic the public health insurance is drafted so that principally every insured person is at the same time a payer of the insurance premium as far as the state has not this duty. There are that is to say some groups of insured persons for who the state pays the insurance premium. They are namely social weaker but numerous layers of population - inclusive children - specification of who is exhaustive stated in the law. For persons who are employed the payer of a part of the insurance premium - 2/3 - is their employee with exemptions that are explicitly specified in the law.

The health insurance company with which the insured person is insured is obliged to cover the health care provided to the insured person to the corresponding health establishment on the base of a contract that was made with this health establishment in the extend and under conditions that are fixed in the law on the public health insurance. In spite of the fact that the contract is made here between the insurance company and the health establishment (the matter is a two side legal act) the legal relations that originate on its base have character of trilateral relation, e.g. among insured persons, health establishment and the corresponding insurance company.

Speaking about legal relations of the public health insurance it is necessary to say in short something about these relations. Some of them are relations that originate directly from the law (ex lege) on the base of a legal event, for example birth or death of an insured person, some of them are then of contractual character (ex contractu).

4.1.3 Insurance premium on public health insurance

Insurance premium on public health insurance is a financial amount that all its payers are obliged to pay regularly for individual calendar months. Insurance premium is paid on the account of the General Health Insurance Company of the Czech Republic or on the account of another health insurance company that is engaged in the public health insurance and the insured person is insured with which.

The insured person is a payer of the insurance premium always if the state has not this duty. The circle of insured persons who are released from paying the insurance premium is defined in the law. The state pays for these persons insurance premiums by means of the state budget. These persons are first of all unprovided children; beneficiaries of pensions, women on maternity and parents leave, recipients of the parent's benefit, applicants for a job, persons receiving social care benefits and so on.

4.2 Health insurance

Health insurance is one of significant components that should ensure financial security of persons in case of a social event like for example illness, injury, pregnancy or motherhood. Health insurance is intended first of all for economic active persons and it is an insurance that has its origin directly in the law at fulfilling of defined

conditions. All its benefits are then obligatory. According to social events benefits of health insurance are classified on benefits provided:

1. for reason of an illness:

- health benefits provided at temporary disability for illness, injury and quarantine

- support at attending a member of the family provided at attending an ill member of the family and at looking after a health child up to the age of 10 years in cases that are defined in the law

2. for reason of motherhood:

- compensatory benefit in gravidity and motherhood provided to pregnant women and mothers till to the end of the ninth month after delivery if they were transferred to other work

- pecuniary relief in motherhood provided before the delivery and for reason of motherhood. Pecuniary relief belongs men too if they fulfil the defined conditions and are looking after a child.

Benefits of health insurance are pecuniary benefits and from the point of view of their providing they can be characterized as repeated benefits. They are benefits that compensate for the income in the case of social events.

Social insurance benefits belong always when the conditions decisive for their admission are fulfilled in the period when the employee participates in the health insurance or though after termination of the health insurance however still within the time when the employee is on sickness benefit or woman employee is on pecuniary relief in motherhood, or if the conditions for providing the health insurance benefits are fulfilled in the period after participation in the health insurance that means in the so called protection period.

Health Insurance Act Nr. 54/1956 Sb. as amended by further prescriptions regulates the health insurance of employees.

4.2.1 Benefits by reason of illness

Health benefit

Health benefit is a cash benefit of the health insurance compensating wages and belongs to the employee who is found temporally unable to work in his present job and who has not for this reason any counted in income from the activity for which the benefit is provided.

Health benefit is provided for calendar days. It is provided from the first calendar day of disability till to termination of disability or till to acknowledgement of invalidism or partial invalidism. The time for which the health benefit can be provided is defined by the period of one year from the beginning of disability and is called the relief time.

The relief time is counted from the first day of disability even then when the employee was found unable to work by the doctor and worked off a part of the shift. In this case he has claim on wages for the worked off part of the shift and for the rest part of the shift on health benefit. If the employee is found unable to work till after working off the whole shift the time begins to run till from the following calendar day. From this day he has claim on health benefit too and as well the relief time begins to run.

Under counted-in income the wages, salary and other incomes, which are included in the basis of assessment for assessment the insurance premium on the social security, are to be understood.

Health benefit is assessed from the daily basis of assessment by percentage. The amount of the health benefit makes 69 % of the daily basis of assessment. For the first three calendar

days of the disability the amount of the health benefit makes 25 % of the daily basis of assessment.

Support at looking after a member of the family

Support at looking after a member of the family is a cash benefit of the health insurance that belongs to the employee – a man or a woman – who cannot work because they must:

a) take care of an ill child that is younger than 10 years

b) look after a child, which is younger than 10 years for the reason that:

- the educational establishment for children in the care of which the child is or the school that the child attends were closed by order of corresponding authorities

- the child cannot be in the care of the educational establishment or cannot attend school for the ordered quarantine

- the person who in other cases looks after the child fell ill or a quarantine was ordered for him or her and that is why they cannot take care of the child.

c) look after another ill member of the family if his or her health state requires necessary attendance by another person.

The condition for providing the support at attending a member of the family is that the child or the ill member of the family live in the household with the employee. The fulfilment of this condition is not required if the problem is attendance of a child who is less than 10 years old by its parent.

The support at attending a member of the family is provided for the time of the first nine calendar days so far the need of attendance lasts.

With lonely employees who have in the lasting attendance at least one child in the age till to finishing the obligatory school attendance the support at taking care of the member of the family is provided maximally for the time of sixteen calendar days so far the need of attendance lasts.

The support at attending a member of the family is assessed in the same way as the health benefit with the difference that the facts that are found out to the day of origin of the disability are here always found out to the day of origin of the need to attend a member of the family.

Compensatory benefit in pregnancy and motherhood

Compensatory benefit in pregnancy and motherhood belongs to the woman employee who was performing work which is prohibited for pregnant women or mothers to the end of the ninth month after delivery or which threatens her pregnancy or motherhood on the base if medical opinion and the woman is therefore temporarily transferred to another job, where she has without her quilt lower income than in the existing job. Compensatory benefit in pregnancy is provided maximally till to entry into work after the maternities leave and after termination of maternities leave maximally to the end of the ninth month after delivery.

Compensatory benefit is fixed as difference of the daily basis of assessment of the woman employee found out to the day of her transfer to another job and the average of her counted in incomes falling on one calendar day in the individual calendar months after this transfer.

Pecuniary support in motherhood

Pecuniary support in motherhood is a cash benefit of the health insurance that belongs to the woman employee in the period of advanced pregnancy and after delivery in connection with looking after the born child.

The woman employee has the claim on pecuniary support in motherhood if:

- she delivered or took over the child in permanent care supplying the maternity care
- she participates in the health insurance to the day of entry the maternity leave or she is on sickness benefit or the protection period continues at the beginning of the sixth week before the expected or real day of delivery
- she has participated in the health insurance in the last two years before the delivery for 270 days at least
- she has not countable income from employment from which this benefit is provided.

All conditions must be fulfilled at the same time.

For the origin of the claim on pecuniary support in motherhood the condition is valid that the pregnancy was finished by delivery, not by abortion. As delivery such termination of pregnancy is considered from this point of view, when the birth of the child is entered into the register. In the case of abortion there is not claim on pecuniary support in motherhood.

Pecuniary support in motherhood is provided for the period of 28 weeks of maternity leave, it is from the beginning of the sixth week before the expected day of delivery, however from the eighth week before this day at the earliest.

If the woman employee spends from the maternity leave less than six weeks because the delivery came earlier than the doctor determined, pecuniary support in motherhood is

provided till to the period of 28 weeks and it is not reduced.

If however the woman employee spends from the maternity leave before the delivery less than six weeks for another reason, the pecuniary support in motherhood is provided to expiration of 22 weeks after delivery. With single parent or with woman employee who delivered two or more children the time of providing pecuniary support in motherhood is reduced to expiration of 31 weeks from the day of delivery if the time of entry to work was breached.

If the woman employee delivered two or more children at the same time the pecuniary support in motherhood is provided to her for 37 weeks. The same period is for single parents too.

The amount of the pecuniary support in motherhood makes 69 % of the daily basis of assessment for a calendar day. At determination of the daily basis of assessment the same is valid as for health benefits. Pecuniary support in motherhood is provided for calendar days.

All conditions mentioned in the law Nr. 88/1968 Sb. on extended motherhood leave, on motherhood benefits and child allowances from health insurance as amended by later regulations are valid for admission, amount and providing of pecuniary support likewise as for pecuniary support in motherhood of a woman employee.

Health insurance of self-employers

Participation of self-employers in health insurance is voluntary. Each self-employer can participate in the health insurance only once even if he or she performs more gainful activities, eventually cooperates at execution of more gainful activities.

The self-employer has from the health insurance right on health insurance and pecuniary support in motherhood if

conditions mentioned in the law are fulfilled. However the self-employers have not claim on support when looking after a member of the family and on compensatory benefit in pregnancy and motherhood.

4.3 Pension insurance

Pension insurance has a long-year tradition in the Czech Republic. Already in the days of the first Czechoslovak Republic, in the concrete in the 1920s, law regulations were approved that extended the pension insurance practically on all persons in employee's relations. This fact, e.g. participation of all economic active persons in pension insurance belongs among the basic principles even of the contemporary pension insurance system, which is based on the law Nr. 155/1995 Sb. on pension insurance.

Among other principles there is the principle of unified arrangement. For individual groups of insured persons, e.g. for employees in the working relation, persons in servicing relation, self-employers, members of cooperations and for other groups of insured persons the unified principles for claims and their calculation are valid. Characteristic feature of our pension insurance is obligatory participation in the pension insurance in case that all conditions assessed in the law are fulfilled.

Another basic principle of pension insurance are obligatory benefits, e.g. at fulfilment of the assessed conditions there is a legal claim on pension from the pension insurance. Ensuring the ward ship continues the principle of claim.

Pensions from the pension insurance are warranted by the state, because expenses on pension insurance are a part of expenditures of the state budget. The defined insurance premium is paid on the pension insurance. This insurance premium is defined from the corresponding basis of

assessment, which serves then also for fixing the basis for the calculation of pension at that one does not fully go out from the basis of assessment for fixing the insurance premium but the defined method of reduction through two limits (margins) is applied. The principle of meritorious ness is then in the pension insurance applied in a limited measure. The rate of the insurance premium on pension insurance makes 28 % from the basis of assessment; if the insured person has an employer, this employer shares on the payment of insurance premium on the pension insurance too. Self-employers pay this insurance premium themselves in the form of monthly advance payments and yearly accounting.

Principle of solidarity is applied in the pension insurance. First of all it is the principle of solidarity of insured persons with higher incomes with insured persons who have lower incomes.

A very wide circle of substitution periods of insurance is characteristic for the Czech system of pension insurance too. In the substitution periods the insured person does not pay any insurance premium on the pension insurance however in spite of this such periods are included for the purpose of pension insurance. This marked social aspect of our pension insurance, which is advantageous for insured persons showed step by step negative influence on the financial balance of the system and that is why certain modifications concerning the influence of substitution periods of insurance were approved in 1997.

A significant principle of the contemporary pension insurance is its dynamism. This dynamism is expressed first of all in updating the value of incomes of insured persons at the calculation of pensions through the coefficient of growth of the general basis of assessment.

The principle of protection of acquired rights is applied in the pension insurance too. This principle can be seen as a

rule in the temporary provisions of legal regulations and it means that the claims on benefits, which were already acquired according to prior regulations, are observed even if benefits were not conferred yet.

The basic conception - pension

The indication "pension" itself is not the most suitable. The conception of "pension" has another meaning in the economics, namely in the connection "gross national income". On the contrary, in the civil right its sense is nearer to the discussed substance. In the time of preparations of the law the signification "retired pay" was considered too because this signification had its tradition in the past too. However the continental - and Czech as well - signification won, because it expresses that the substance is a long time benefit provided in the social system as a repeated pecuniary fulfilment that serves to partial elimination of consequences of the social situation that was defined by the law.

Pensions can be classified into direct pensions and survivor pensions.

Old age pension, full disability pension and partial disability pension are classified as direct pensions whereas widow's pension, widower's pension and orphan's annuity are classified as survivor pensions.

Namely direct pensions are influenced - whether the problem are conditions of the claim on them or estimation of their amounts - by a certain time and by a certain income, another factor which has had a long year tradition in the Czech laws, e.g. classification of the job into the corresponding work category or category of functions has only a marginal and finishing function now. Indication of these factors, first of all of the latter was changed during the time. The decisive

conceptions at present are "period of insurance" and "calculation basis", the former influences the origin of the claim on pension and its amount, the latter only the amount.

The period of insurance is important first of all in the period commencing by first of January 1996 when the law on pension insurance came into force, the period of participation in the insurance is important for groups of persons that fulfil conditions stated in the same law. In case of fulfilment of these conditions we can speak about the obligatory participation in the pension insurance. Fast on the same level as the period of insurance the substitutionary period of insurance is put. However, the substitutionary period is not a discovery of the law either - before coming into force it figured in plurality indication.

Obligatory participation in the pension insurance

Groups of persons that are defined as to their groups in the law on pension insurance participate ex lego in the pension insurance first of all through their membership to the corresponding group and further under the condition that they participate in the health insurance. An exception is valid for self-employers that can participate in the health insurance voluntarily.

The period of participation in this insurance becomes the period of insurance if insurance premium was paid in the Czech Republic for this time. This condition is considered to be fulfilled in majority of cases even if the employer did not pay the insurance premium. The principle is here expressed that infringement of legal duties by one of the subjects of relations in the social security cannot be to debit of another subject namely to that subject that has not legal instruments to force the compulsory subject to fulfil this duty. Deviation from this principle is valid for

restricted circle of persons who are responsible for fulfilling of duties in the section of insurance premium.

Method of calculation of the pension benefit

This phrase is rather used in practice, the theory principally speaks about the "benefit formula", which is defined in literature - for example from the latest days[1] (see Brejcha, A., Šantrůček, V.: Pension Insurance Law. Prague: Linde, 1998, p. 129) - as a "concrete procedure at assessment of basis from which the amount of the pension benefit and the assessment of it itself under application of exact mathematics formulas are assessed".

The pension insurance law introduced in this field in comparison with earlier regulations diametric different procedures in several respects. They can be characterized with expressions "universality", "two-component" and "dynamics". Another attribute, e.g. one of the elements of solidarity, the social insurance law did not introduce another attribute because it was already in the prior systems, so it was just taken over and modified.

Under universality the uniformity of the procedure at the pension calculation is understood because it is influenced by two factors only - the total period of insurance and the basis of assessment.

Under "two component" is understood the structure of all kinds of pensions because they consist from two components - the basic assessment - which is practically uniform and is defined in the law, and percentual assessment, in which as well as according to the procedures defined also in the law - in fact the universality of the pension insurance law is realised. However in this component the individual

[1] *Brejcha, A., Šantrůček, V.* Right of the pension insurance. Praha: Linde, 1998, p. 129

contribution of each individual is included too, which represents the merit principle.

As dynamism the set of rules fixed in the law is to be understood. The value of some elements is regularly changed in accordance with these rules in dependence on the development of some parameters.

Coefficient of growth of the general basis of assessment, recounting coefficient.

The first component forms in fact the basis of the mentioned dynamism of the new pension system. It expresses the real value of the basis of assessment in the time that is the nearest to the calendar year in which the day falls from which the pension is acknowledged - the so-called year of the pension acknowledgement. The second component is a function sub-conception of the first component.

Yearly basis of assessment

This basis is a result of multiplication the sum of assessment bases for the corresponding calendar year and of the coefficient of growth of the general assessment basis that is corresponding for the adjustment of the sum of assessment bases for the corresponding calendar year i.e. effective in the year of pension acknowledgement.

Decisive period

Decisive period is a period of time in which two of the components decisive for assessment of the personal basis of assessment are ascertained i.e. the bases of assessment or more precisely their sums for the individual calendar years of the decisive period and the excluded periods.

Excluded periods

These are periods in which the insured person did not achieve incomes that were included in the basis of assessment for objective reasons recognized by the law. Including of these dead periods (periods without income) into the calculation would mean a reduction of the resulting amount. Excluded periods eliminate this result. For example the most frequent dead period is the time when the insured person was on sickness benefit.

Reduction limits

This qualification is used in practice more and more for amounts that are limits, which define what part of the personal basis of assessment will be used for assessment of the basis of assessment only in a limited measure. The reduction limits are gradually increased.

Basis of computation

Basis of computation is a result of series of computations that can be summarized in the following way:

a) The decisive period is determined.

b) The bases of assessment are ascertained in this decisive period.

c) The amounts of bases of assessment for the individual calendar years of the decisive period are then converted to yearly basis of assessment with the help of coefficients of growth of the general basis of assessment.

d) From the yearly bases of assessment the monthly average, i.e. the personal basis of assessment is calculated with the help of the conversion coefficient and with taking into account the relevant excluded periods.

e) If the amount of the personal basis of assessment exceeds the first reduction limit at least, this amount is adjusted according to rules fixed by the law on the basis of computation.

Dynamization of the paid out pension benefits

Whereas the dynamics of the calculation constituents proceeds in dependence on the development of the average wages, the dynamics of the paid out pension benefits depends first of all on the development of consumer prices - although the development of wages itself is expressed in it in a certain way too.

Since 1st July 2002 when the latest marked and complex updating of the § 657 of the Pension insurance law was approved the compulsory increase of the paid out benefits to the regular date, which is January and to an extraordinary date are distinguished. The role of the government that passes its regulation on the increase of pension benefits is preserved. The main difference between the existing and former regulation lies in that that the earlier regulation worked with estimations while the existing regulation results from reality.

Old age pension

Old age pension is the most frequent from all kinds of pension benefits. The first of fulfilments in this sphere, which can be compared with the existing conception of pension benefits, was on the present territory of the Czech Republic the so called widow normal, which was introduced already by Maria Theresa in 1771. It is possible to take it as the most important and in its way as exemplary. The costs on its granting make by far the largest item in expenditures on pension insurance and system changes are made primarily at

this kind of pension and changes for other kinds of pensions are then derived.

The purpose is included in the name of this benefit - it is a rent that should compensate a loss or limitation of the working income that are due to the age as a social event.

Old age pension can be characterized as a direct benefit and the basic benefit.

The Social insurance law includes a general definition of the origin of the claim, its duration and expiration, further it regulates conditions of the claim, conditions of the needed period of insurance and for example conditions for premature old age pensions too.

Benefits conditioned on a long-term basis by an unfavourable state of health or by ineffectiveness.

Legal regulation of the extent and form of securing citizens who have lost the capability to work for the reason of a long-term unfavourable state of health or their capability to work was markedly reduced as a result of this reality results from the article 30 of the Bill of Rights that establishes the legal right on an adequate financial security for these citizens.

Further the Pension Insurance law regulates the conception of the long-term unfavourable state of health and the conception and legal conditions for determination of invalidism as well as the conception of ineffectiveness.

The invalidism and ineffectiveness of insured persons are judged for the purposes of decision making about claims on the corresponding benefits of the pension insurance at declaratory and control medical examinations by physicians of the district administrations of the social security who are relevant according to the permanent address of the insured person.

Kinds of benefits conditioned by invalidism and ineffectiveness

As separate kinds of pensions conditioned by full or partial disability the regulation of § 4 article 1 of the Pension Insurance law considers the full disability pension and the partial disability pension. This is valid in spite of the fact that the organ of the social security that makes decision about the full disability pension is obliged to decide without a new application about the partial disability pension too, in accordance with the Regulation of § 86 article 3 of the Social Security law. This must be done if the relevant organ finds out in the course of proceedings that the applicant is only partially disabled and on the contrary. It is to be reminded here that the full invalidism of the insured person establishes even further claim on the widow/widower pension after elapsing of one year of drawing such pension after the death of the husband/wife if the origin of full invalidity of the widow/widower comes in five years after the eventual end of the former claim on the widow/widower pension at the latest.

Pension increase for ineffectiveness on the other hand is not a benefit of the pension insurance but the only remaining benefit of the pension security whose benefit scheme and benefit formulae are established by the Social Security Law. The point is a benefit that increases the provided pension from the pension insurance at fulfilment of all conditions of the claim on it. These benefits can be provided principally together with the pension, not separately.

The Pension Insurance Law regulates further the conditions when the insured person has the claim on the full disability pension and on the partial disability pension.

Survivor pensions

Survivor pensions belong historically among the oldest benefits; pensions for widows and orphans were established already by the Austrian Pension Normal in 1771. The original object of the survivor pensions was to compensate the income of the only breadwinner who was the husband/father. The object of these pensions was then the full alimentation of the surviving members of the family /wife and children/ because the gainful activity of the survived wife was not supposed at that time - even from society reasons. With the time the legal regulations went over to the partial alimentation.

The compensating function acquires more significance nowadays next to the alimentary function. The object of the survivor benefits is to compensate the difference in the standard of living of the family. The death of the husband/wife is the social event with the probate pensions in the case of widow/widower pensions, eventually the death of the parent or another person on who the child is entirely dependent as to his/her support in the case of the orphan's annuity.

With regard to the high degree of the economic activity/employment rate and the education achieved by women that were traditionally considered as socially weaker in the marital couple, it is not necessary to provide the widow's pension for the whole period of widowhood. For this reason there are distinguished:

- Unconditional claim
- Conditional claim.

The wife, mostly also husband and children are traditionally placed into the circle of entitled persons with the probate pensions. Probate pension is generally acknowledged for every entitled person separately. However the general cumulative

probate pension can be acknowledged as one only benefit for the whole probate family too.

In the Czech Republic the following pensions are provided to survivors according to the Pension Insurance:Law:

- Widow's pension
- Widower's pension
- Orphan's benefit

All these pensions are pretension benefits and are derived from the direct pension of the dead at which the dead had or would have a claim.

According to the Statistical yearbook from the sphere of work and social things 2002 the following survivor's pensions were paid in the Czech Republic at the end of the year 2002: 608 003 widow's pensions, 84 677 widower's pensions and 54 401 orphan's benefits.

The Pension Insurance Law regulates further the conditions of the claim, duration and expiration of these benefits.

Pension increase

Besides of the amount of the acknowledged pension the question of development of the real value of the pension is important over time too. From the economical point of view the increase in prices and wages means the fall of the real value of the acknowledged pensions a then the fall of the standard of living of retired people. Instrument how to preserve the real value of the acknowledged pensions is assessing or valorisation of pensions. Tendency of lagging the level of incomes of non-working retired people beyond the incomes of economic active people is general and ever lasting and therefore the pensions are assessed in various measures and in various forms in all states.

The principle to preserve the real value of pensions is at the same time a content of an even more general principle – to preserve the relation between the standard of living of old age beneficiaries and the standard of living of economic active population.

As basic forms of the pension valorisation can be mentioned:

- Occasional valorisation (ad hoc) generally at unrepeated price adjustments or with the intention to adjust the general amount of pensions in a single step.

- Semi-automatic valorisation – the basic principles of valorisation are established in the law, but their adaptation is bound on decisions of the corresponding authority and on fulfilment of certain objective conditions – for example increase in prices or in living costs by a certain per cent point.

- Automatic valorisation – the thing is a generally established mechanism of assessment in the law including the index of adaptation and of the instant of time when it is to be practised.

The occasional valorisation of pensions was used in the Czech Republic up to the end of the 1980s. The level of prices was principally stabile, pensions were increased either with a higher increase in prices of mass consumption products or in connection with passing a new social security law.

During the force of the Pension Insurance Law ten Decrees of Government were passed about pension increase up to now. The latest one is the decree of government Nr. 565/2004 Sb. on pension increase in 2005, which came into force on 1st January 2005.

One of the goals of pension increase is for example to compensate the amount of pensions acknowledged before the year 1996. The point is that pensions of "old pensioners", i.e. pensions that were acknowledged according to the

previous legal regulation were lower than pensions acknowledged in accordance with the new Social Insurance Law.

The rules for increasing pensions are set in § 67 of the Social Insurance Law.

All paid pensions are always increased without a request, i.e. automatic. The pensioners just receive a written notice about pensions increase from the payer of their pension.

4.4 State social support

The law Nr. 117/1995 Sb. introduced system of state social support. Passing of this law was another important step in realization of the transforming process in the social sphere. The state social support is a system of state benefits first of all for families with unprovided children. It is social solidarity organized by the state between childless families and families with children, between families with higher incomes and families with lower incomes. At forming the conception of the system of the state social support the following three principles were taken into consideration:

- The standard of living of citizens and families will go out first of all of earned incomes in the future.

- The social redistribution will regulate the differences in incomes in such a way that state social benefits are not compensation of family incomes but that they help to solve social situation confirmed by the state on a societal recognized level. Providing of benefits must not be of demotivating character in relation to work and at the same time it must be taken into account that the dependence of families on social incomes should be reduced.

- The standpoints of economy, purposefulness and in certain defined cases the standpoint of directness must be kept.

The state participates on covering the costs on sustenance and other principal needs of children and families and also on costs that are connected with other social situations by means of state social support benefits. The main criterion for acknowledgement of some benefits of the state social support is the income situation of the family. The costs connected with the state social support are covered by the state.[2]

The system of the state social support is formed by eight benefits. Three of them are provided in dependence on the level of the family income, others are not dependent on the height of the income of the family.

At benefits that are provided in dependence on the height of the income in the family the basic criterion for their acknowledgement is the income situation in the family and therefore they are often called as tested means.

They are:

- child allowance
- social allowance
- housing allowance.

Other allowances are provided independently on the level of the family income. They are marked as untested means.

They are:

- parental allowance
- providing allowance

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[2] *Břeská, M., Burdová, E., Vránová*l., State social support. 9th updated and supplemented impression. Olomouc: ANAG, 2004, p. 9

- foster care allowance
- birth grand
- burial allowance.

All allowances of the state social support have an obligatory character.

The tested allowances have both their advantages and disadvantages. Among the advantages there is the fact that they are provided to those, who really need them with regard to their economic and social situation. A considerable administrative and financial exigency connected with acknowledgement of these allowances can be mentioned as a disadvantage and also the coherent problem that evidencing of some facts that are decisive for the origin of the claim on the allowance is sometimes very complicated. In some cases it is namely difficult to find out the real income of the claimant. The law on the state social support regulates the system of the state social support as a complex. It contains not only the material regulation of conditions of the origin of the claim on the individual allowances, their height and payment, but also all problems of organizing and management.

This very important amending act was implemented by the act Nr. 453/2003 Sb. With its coming into force on 1st 5. 2004 it came to transfer of competencies in the sphere of the state social support on the Employment Offices – with the exception of the territory of the capital town.

In connection with the entrance of the Czech Republic into European Union it came to a change in providing the allowances of the state social support since 1st Mai 2004. That is: from this day the right of the European Union started to enjoy priority over the national right even in the state social support. The problem is how to judge the citizens of the member states of the European Union and citizens of the member state of the European economic space

and their family members in relation to some allowances in such a way as if it would go about citizens of the Czech Republic, namely with using of the corresponding legal regulation and interpretation of regulations of the European communities.

State social support belongs together with the social insurance and social aid among three forms or three pillars of the new drawn system of the social security. Establishing of these three pillars is the basis of the social reform in the Czech Republic.

Claim on the state social support allowances

For the origin of the claim on the allowances of the state social support a series of conditions fixed in the law must be fulfilled. It is namely the permanent residence on the territory of the Czech Republic and the height of the income in the so-called decisive period. For some allowances the facts that the child is not provided and how are health conditions of the child etc are decisive.

Claims on allowances of the state social support can origin only to a physical person. As a permanent residence can be thought also a residence of a foreigner on the territory of the Czech Republic if the foreigner is reported to have a residence according to special legal regulations.

For examination of the claim on an allowance provided in dependence on the height of the income, incomes are counted in the so-called decisive period.

The height of incomes that are decisive for acknowledgement of the allowance goes out of regulations on income taxes and the law on the state social support makes a direct reference on the corresponding regulation. Law on the state social support limits the circle of incomes counted into the decisive income.

4.5 Subsistence minimum

Subsistence minimum is an important institute in the sphere of the state social support. The subsistence minimum is a minimal income limit of a citizen that is defined by the law and recognized in the society. Under this limit the citizen is in the state of material stress.

Subsistence minimum consists of two amounts:

- amount that is needed to ensure sustenance (nutrition) and other principal needs of the citizen, which is graduated according to the age of the citizen and also with regard to unprovided children

- amount needed for ensuring inevitable costs for the household, which is graduated according to the number of persons living in the household, whose incomes are examined in common for these purposes.

At the new assessment of amounts of the sustenance minimum the government looks at observing their real values. The last increase of the sustenance minimum will come in force on 1st of January 2007 through the government regulation Nr. 505/2005 Sb. The amounts of the sustenance minimum for ensuring sustenance and other principal personal needs will make monthly:

- 1.750,-- CZK if the child is less than 6 years old
- 1.950,-- CZK for the child that is 6 - 10 years old
- 2.310,-- CZK for the child that is 10 - 15 years old
- 2.530,-- CZK for the unprovided child that is 15 - 26 years old
- 2.400,-- CZK for other citizens

Amounts of sustenance minimum to ensure the inevitable costs for the household will make monthly:

- 2.020,-- CZK for an individual
- 2.630,-- if there are two persons in the household
- 3.260,-- if there are 3 or 4 persons in the household
- 3.660,-- if there are 5 and more persons in the household

Institute of the sustenance minimum has a key significance equivocally in the system of the state social support:

- concerning the allowances that are provided in reference to the income the multiple of the sustenance minimum assessed in the law influences the circle of persons that will be on the sustenance benefit in the family with regard to the height of their income
- from the amounts of the sustenance minimum the height of the state social support is derived with the exception of the burial allowance that is assessed as a fix absolute amount.

The claim on the allowance of the state social support originates by fulfilling all conditions of the claim assessed in the law on the state social support.

The claim on payment of the benefit originates at fulfilling the conditions of the claim and at submitting a petition for admission of the benefit.

4.6 Social care

As a result of the growth of unemployment, poverty and social exclusion the effective aid for surpassing of oppressive situations becomes more and more needed. That is why one of the up to now marginalized spheres of the social screen - social care - becomes more and more significant.[3]

Social aid can be understood from the point of view of social policy as the last net of the social screen. It forms an

[3] *Kozlová L.*, Social services. TRITON, 2005, p. 15.

important part of the system of the social security and constitutes one of the guarantees for providing social screen to everybody.

Social aid is characterized by a high measure of individualization both at examining the existence of the claim on fulfilment and at its fulfilment itself. To achieve this target a lot of fulfilment forms are introduced in the system of the social aid - for example combination of various forms of allowances or social services that are "tailored" for the client.

Subject of juridical relations of the social care

The present Czech legal regulation of the social care traces a considerably obsolete conception that defines the authorized subjects not in accordance with their real needs but primarily in accordance with their pertinence to a certain social group.

Personal extent of the social care is delimitated in the valid legal regulation so that social care includes namely the care of

- the family and children
- citizens that are heavily health handicapped
- old citizens
- citizens who need a special aid
- citizens that are socially inadaptable.

5 Premium on social security

Premium on social security is structured into four groups:

- premium on social security and contribution on the state policy of employment rate
- public health insurance
- pension supplementary insurance with state contribution
- individual insurance.

I dealt with this theme sufficiently in the foregoing chapter that closely hangs together with the premium rate on the social security and with the public health insurance.

5. 1 Premium on pension supplementary insurance

As a supplementary pension system the pension supplementary insurance with the state contribution was introduced in the Czech Republic in 1994 by the law Nr. 42/1994 Sb. on pension supplementary insurance with the state contribution and this law entered into force on 21. March 1994.[4]

According to the law on the pension supplementary insurance is under pension supplementary insurance with the state contribution understood gathering of financial means from participants of the pension supplementary insurance and from the state that were provided in favour of the participants as well as manipulation with these means and payment of benefits of the pension supplementary insurance. Only pension funds can realize the pension supplementary insurance with the state contribution. Pension supplementary insurance is based on the civil principle it is on the relation pension fund – physical person.

[4] To the end of the first quartal 2005 there has been deposited on the pension supplementary insurence since 1994 c. 94,2 miliards CZK in the Czech Republic.

The following principles are characteristic for the pension supplementary insurance in the Czech Republic:

- voluntariness - it is based contractually on the base of a voluntary decision of a citizen and with the approval of both contracting parties

- transferability - the participant can change the pension fund any time and transfer his money means

- long-term duration - it is distinguished by a long time deposition of financial means and their estimation in certain relative long time

- security - participation of the state in the pension supplementary insurance in the form of permission and approval procedure and a permanent supervision of the state over the management and activities

- financial support of the state - the state supports pension supplementary insurance through state contributions and since 2000 through tax relief too.

With regard to the mentioned civil principle on which the pension supplementary insurance in the Czech Republic is based it can be characterized as a system belonging to the third pillar with elements of the second pillar because in a certain extent the possibility is admitted that the employer can contribute to the pension supplementary insurance that his employees negotiated with the pension funds.

The premium is generally negotiated in the contract. The minimal amount is 100,-- CZK monthly and the period of insurance is given in the insurance plan of the pension fund. The state contribution belongs to the amount of the premium.

5.2 Premium on individual insurance

The amount of premium is given in the individual contract between the insured person and the insurance company. It depends on the age and on the risk group. The rates vary case from case and they depend on the product too whether the matter is a simple insurance or a combination with capital saving. The participation in the insurance is voluntary.

6 Social policy in the countries of the European Union and of the Czech Republic - relation of the Czech right of social security to the right of the European Union

At the beginning of the 1990s there was concurrently with the economic reform also the principal reform of the whole social system started in the Czech Republic. Creation of such a social system that would correspond to the needs of the market economy and that would be concurrently in compliance with principles that are valid in European Union was the target of this transformation.[5]

First of all it is necessary to treat briefly the main principles that are recognized in the community right, because this right manages the activity of the Community. They are first of all the principle of subsidiarity and principle of proportionality. The European social right is characterized by tracing two principal directions or orientations. Harmonization is the one direction and the other direction is called convergence. This form is exercised just in the sphere of the social security. In the sphere of the social screen we meet the conception of coordination. The due screen provided in the section of social security through regulations of the community right is a presumption for the active use of the right to move freely within the frame of the whole community and to stay - in the sense of to settle - in any of the member state.

Coordination as a starting point for the regulation of relations in the sphere of social security is based in compliance with the regulation of the Council Nr. 1408/71/EEC on four main principles:

- equality of handling

[5] *Kotous, J.* Social policy in European countries. Praha: Karolinum, 2002

- exercising of the legal order of just one state
- addition of periods of insurance
- preservation of the acquired claims

Conclusion

The purpose of my Bachelor thesis was to develop a methodical handbook "Right of the Social Security", a theoretical basis for study of this subject. I tried to make it in such a way that it could be used first of all for the needs of the school, its students and teachers, but also for economists, employees of the state administration and of the local governments as well as for wider public.

The objective of the contemporary social security in the most common sense of word is the regulation of the responsibility of a citizen for his future and determination of the measure and forms of social solidarity among citizens - obligatory or voluntary transfer of means through the tax system or through sponsoring.

Social security is regulated by a lot of legal regulations relating to its particular spheres. The common theory is valid for all spheres. At interpretation of the right of social security it must be proceed from the general theory of social security to its particular lines. As a rule we go out of the international qualification of lines of social security.

In the common theory the following things are discussed:

- subject
- genesis of systems and institutions
- sources, relation to other legal lines and to other international standards
- conceptions and systems in the social security
- objections of social security - human rights
- subjects in social security
- social events and legal facts in social security
- legal relations

- organization and administration
- financing
- proceedings in the social security

I paid attention to all of these points in the particular chapters of my bachelor's work. I tried to react on legislative changes because they are very frequent in this sphere.

The future development of the social security right and of the social policy is not quite unequivocal. It is possible to go out of the actual course and of the probable development trends. It is first of all the demographic situation and the population development - aging of population and securing of acceptable conditions for young families. It is necessary to consider the behaviour and postures of considerable number of people to solution of social problems, where the posture "to rely on the state" dominates. It is necessary to respect the fact that the social policy is limited by economic sources and it must be conceived in such a way that it should not suppress the future economic development.

I tried to summarize the problems of the right of social security into a methodical handbook that would contribute to easier orientation and understanding in the sphere of social security. I have been working in the sphere of social things and health care and this work is for me a big contribution. So I hope that it will be a contribution for the other readers too.

Resumé

Securing of citizens in unfavourably social situations caused by social events as for example illness, injury, disability, motherhood, old age and loss of the breadwinner are important problems in every society. Every society must deal with them and must solve them. However the form and level of this solution are considerably different, it depends first of all on the stage of the development of the society. Forms of economic activity influence not only the way and level of life of those members of the society who work but also of those members who cannot work for various reasons - for the reason of the too law age or on the contrary of too high age, for the reason of illness, injury, disability or motherhood.

The form and level of solution of social problems in the respective society are determined first of all by economic necessity and economic possibility of solution of these problems, but also by other further factors like the demographic structure of inhabitants, ethical and moral opinions that dominate in the respective society. It is also the concern of citizens on solution of their needs and at the same time the intensity of enforcement of this concern and last but not least the tradition of solution of social problems which is very important and determinating also from the point of view of further development. There are further factors here as the stage of development of medical science and hygienic culture of the population.

The sphere of right of social security has been fast developing in the present Europe as a result of growing and quite new social problems that appear in European societies. European systems try do reform themselves and react on the changing societal situation.

It comes to many legislative changes even in the Czech Republic. The law on subsistence minimum and on subsistence

level, further on aid in the material stress and the law on social services will come into force on the 1st of January 2007. Space for the more effective aid for people who found themselves in unfavourable social situation should be created by this new legal regulation. Measure of receiving of socially weak people and the readiness to help them evidence much about the level of maturity of the civil society. Quality legal regulation of the social security can become an important turning point of the positive societal development.

In my Bachelor's work I have made effort to summarize the problems of the right of social security into a methodical handbook that should contribute to an easier orientation and understanding in the sphere of social security.

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List of the used abbreviations

ČSSZ	-	Czech Administration of Social Security
ČR	-	Czech Republic
EU	-	European Union
LZPS	-	Declaration of Basic Rights and Freedoms
MPSV	-	Ministry of Employment and Social Things
ZDP	-	Law Nr. 155/1995 Sb. on Pension Supplementary Insurance as Amended by Later Regulations