

MINIMUM INCOME IN OLD AGE

COMPARATIVE ASPECTS AND EUROPEAN LAW QUESTIONS

THE ITALIAN CASE¹

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DO NATIONAL SOCIAL SECURITY POLICIES ADEQUATELY ADDRESS THE ISSUE OF OLD-AGE POVERTY AND SOCIAL EXCLUSION?

- Although the problem exists, for a long time little attention was paid to it because of the idea of the so-called “family welfare”.
- The system worked until progress brought growing well-being, but the precariousness of the labour market often made young people dependent on their parents even as adults.
- Nowadays, greater attention is paid to the problem, as seen in the most recent legislation.

«PREVIDENZA» OR «ASSISTENZA» [SOCIAL SECURITY OR SOCIAL ASSISTANCE]

Italian Constitution, art. 38

«Ogni cittadino inabile al lavoro e sprovvisto dei mezzi necessari per vivere ha diritto al mantenimento e all'assistenza sociale.

I lavoratori hanno diritto che siano preveduti ed assicurati mezzi adeguati alle loro esigenze di vita in caso di infortunio, malattia, invalidità e vecchiaia, disoccupazione involontaria.»

(Every citizen unable to work and without the necessary means to live has the right to maintenance and social assistance.

Workers have the right to provide and ensure adequate means for their life needs in the event of accident, illness, invalidity and old age, involuntary unemployment.)

«TRATTAMENTO DI FINE RAPPORTO»

- Those who have worked are certainly in a better position, not only because they can count on a pension, but also because they are entitled to the T.F.R.
- It isn't a social security payment benefit, but a part of the salary that is not paid during employment, but is set aside and paid to the worker at the end of the relationship (retirement, resignation, dismissal, termination of a fixed-term contract, death).
- It's a kind of compulsory savings plan.

ARE NATIONAL (PENSION) BENEFITS BEING PROVIDED TO GUARANTEE MINIMUM INCOME PROTECTION FOR THE ELDERLY AND IF SO, HOW ARE THEY CONSTRUCTED? HAVE ANY REFORMS BEEN ADOPTED RECENTLY?

- The traditional tool for supporting poor elderly people is the

SOCIAL ALLOWANCE

It is an economic benefit, paid on request, dedicated to Italian and foreign citizens (EU citizens registered in the registry of the municipality of residence, non-EU citizens who are family members of EU citizens, non-EU citizens with EU residence permits for long-term residents, and foreign nationals or stateless persons holding political refugee status) in poor economic conditions and with incomes below the thresholds set annually by law.

SOCIAL ALLOWANCE

The amount for the year 2022 is equal to € 468.11 for 13 months.

The income limit is € 6,085.43 per year if the applicant is unmarried; € 12,170.86 per year, if the applicant is married.

BASIC INCOME

- 1998, Onofri Report: indicates the distance between Italian welfare and that of the most dynamic European countries.
- Over the years various income support tools have been tested.
- In particular for the elderly (more than 65 years) the so-called **Social card**: a prepaid card, automatically recharged every two months, containing a sum of 80 euros, divided into 40 euros per month, which could be spent on the purchase of basic necessities.

PENSIONE DI CITTADINANZA (CITIZENSHIP PENSION)

- Is a subsidy aimed at people over 67, introduced in 2019.
- It's a measure intended for families (and not for single individuals) in situations of economic hardship. If the family unit is made up of people under the age of 67, there is the citizenship income
- The benefit is provided through an electronic payment card, the Citizenship Income (or Pension) Card, and is subject to adherence to a path of social inclusion based on the characteristics of the beneficiary family.
- The economic benefit is made up of a supplement to family income and an eventual contribution for the rent of a house or the home loan.

PENSIONE DI CITTADINANZA (CITIZENSHIP PENSION)

- The basic economic contribution is equal to € 630 for 12 months, for a total of € 7,560 per year. There are increases based on the number of family members.
- The second part (rent or loan) is equal to € 150.00 for 12 months, therefore € 1,800 per year.

CITIZENSHIP AND RESIDENCY REQUIREMENTS

- Those who apply for the citizenship pension must be, alternatively:
 - Italian citizen or EU citizen;
 - family member of an Italian or European Union citizen who holds the right of residence or the right of permanent residence;
 - third-country national in possession of an EU residence permit for long-term residents or stateless persons in possession of a similar permit;
 - holder of international protection.
- Residence in Italy for at least ten years is required, the last two of which continuously.

MINIMUM PENSION

- Only for pensions paid under the salary system (before 1996)
- For 2022, pensioners with an annual income of less than € 6.816,55 (€ 524,35 for 13 months), have a pension supplement of up to € 524,35 per month. If the pensioner is married, the thresholds are higher and family income is considered.
- The amount payable is equal to the difference between the pension and the amount of the minimum benefit.

HOW ARE “MINIMUM PENSION BENEFITS” COORDINATED IN CASE OF PENSIONERS WHO RELOCATE TO OTHER MEMBER STATES?

- Although the minimum pension consists of an increase in a pension benefit, such as an old-age or early retirement pension, it is an assistance benefit. In fact, it is not due based on the contribution, but solely based on the pensioner's income.
- The minimum integration cannot be transferred if the Italian pensioner moves to another EU country (in some cases it is possible to transfer it if the pensioner moves outside the EU).

HOW ARE THE EU'S SOCIAL SECURITY PROVISIONS ON PENSIONS AND IN PARTICULAR ON PENSION SUPPLEMENTS INTERPRETED AND APPLIED BY THE MEMBER STATES? IS ANY NATIONAL CASE LAW AVAILABLE?

- Residents in Italy, enrolled in a social security management scheme for private employees administered by INPS, who have completed insurance periods in other EU countries, must submit pension applications to INPS.
- Residents in Italy who are not enrolled in any social security management scheme of INPS, and who have completed insurance periods in other EU countries, must submit pension applications directly to foreign institutions.
- Residents in an EU State who have completed insurance periods in Italy too, must submit the application for a pension to the institution of the country of residence, which will forward it to INPS.
- There isn't any significant case law.

HOW IS THE CRITERION OF RESIDENCE (RESIDENCE CLAUSES) BEING APPLIED BY THE MEMBER STATES WITH REFERENCE TO “MINIMUM PENSION BENEFITS” OR “MINIMUM INCOME PROTECTION FOR THE ELDERLY”? HAS A SCIENTIFIC DISCUSSION TAKEN PLACE OR IS NATIONAL CASE LAW ON THE INTERRELATIONSHIP BETWEEN REG. 883/2004 AND DIR. 2004/38 AVAILABLE IN THE MEMBER STATES?

- The foreigner is a "resident" if registered in the municipal register.
- For the social allowance 10 years of continuous stay are required too.
- For the citizenship pension the last 2 years of residence must be continuous.
- On the other hand, social allowance, minimum pension supplement, and citizenship pension are not exportable abroad.
- In any case, equal treatment between foreign and Italian workers for social security purposes is guaranteed

ITALIAN CONSTITUTIONAL COURT

- N. 4/2013: *The legislator is allowed to implement a differentiated discipline for access to services exceeding the essential limits, to reconcile the maximum usability of the expected benefits with the limited economic resources. The legitimacy of this purpose does not, however, exclude that the selective canons adopted must respond to the principle of reasonableness ... It is possible to make the provision of certain social benefits, not aimed at remedying serious urgent situations, subject to the demonstration of the non-episodic and not short-term stay of the foreigner in the Italian territory.*

ITALIAN CONSTITUTIONAL COURT

- N. 197/2013 and 180/2016 (social allowance): *“the provision of a permanent stay limit (for ten years) on the national territory as a requirement to obtain the recognition of the social allowance appears to have been adopted, rather than based on a merely "restrictive" choice, on the assumption of a level of presence more intense and continuous, compared to the mere stay in the territory of the State”*

THANK YOU FOR YOUR ATTENTION