

30% bilo predviđeno za invalidsku pomoć i penzije, a 20% za rizike bolesti i smrti.

Rudarsko-bratinske kase su bile aleatorne pravne prirode u vezi sa rizicima bolesti i smrti, jer je pravo na bilo kakvu naknadu prestajalo sa prestankom radnog odnosa u rudniku, bez prava na povraćaj uplaćenih uloga do tog trenutka. Prema modelu Statuta rudarsko-bratinske kase za pomoć u slučaju bolesti ili smrti koji je donet Zakonom o izmenama i dopunama Rudarskog zakonika iz 1900. godine precizirano je da član rudarsko-bratinske kase može da bude lice koje nije mlađe od 15 godina, koje je zdravo, sposobno za rad i dobrog vladanja i da pri upisu položi 5% od svoje mesečne zarade (Statut, čl. 4). Osim toga, uprave rudarsko-bratinskih kasa su mogle, prema imovnom stanju kase odlučiti da li će angažovati stalnog lekara sa određenim honorarom ili će ga po potrebi povremeno pozivati, dok je imala obavezu da obezbedi i propisno održava ručnu apoteku za prvu pomoć (Statut, čl. 18).

5. ZAKLJUČAK

Imajući u vidu dominantan Otomanski sistem državnog i privrednog ustrojstva na početku 19. veka koji je takođe obeležen borbom za oslobođenje od turske vlasti, Srbija je u zakonodavnom smislu napravila brojne napredne korake. Osim što je Uredba o esnafima iz 1847. godine bila reformskog karaktera u odnosu na

feudalni sistem i privredne odnose, ona je iskoristila i tradiciju solidarnosti i uzajamnosti bratovština kada je regulisala esnafske kase uzajamne pomoći. U istom smislu, to važi i za rudarsko-bratinsku kasu iz Rudarskog zakonika iz 1866. godine. Koliki značaj je tadašnja državna vlast u Srbiji pridavala značaj ovim načinima osiguranja i obezbeđenja zanatlija, trgovaca i rudara vidi se i po nadležnosti policije za nadzor rada esnafa, kao i nadležnosti Ministarstva finansija, a kasnije Ministarstva narodne privrede u pogledu izdavanja saglasnosti na formiranje rudarsko-bratinske kase većeg broja rudnika i na tekst statuta bratinske kase.

Esnafske i rudarsko-bratinske kase su bile aleatorne pravne prirode u vezi sa rizicima bolesti i smrti, jer je pravo na bilo kakvu naknadu prestajalo sa prestankom radnog odnosa u rudniku, bez prava na povraćaj uplaćenih uloga do tog trenutka.

Esnafsko i rudarsko socijalno osiguranje je po svojoj prirodi bilo obavezno, athezionog karaktera na osnovu stupanja u esnafsko članstvo ili ugovorom o radu u slučaju rudara. To je bitna razlika u poređenju sa društvima za uzajamno osiguranje osiguranik u kojima se svojstvo člana stiče potpisivanjem ugovora o osiguranju. Prilozi kroz plaćanje taksi i dodatni, vanredni prilozi za nepredviđene potrebe ukazuju na to da su esnafske i rudarsko-bratinske kase bile organizovane po uzoru na društvo za uzajamno osiguranje, bez namere sticanja dobiti i isključivo u korist svojih članova.

Slobodan JOVANOVIĆ

Faculty of Business Economics and Entrepreneurship, Belgrade, Serbia
Association for Insurance Law of Serbia, Belgrade, Serbia

Ozren UZELAC

University of Novi Sad, Faculty of Economics, Subotica, Serbia

The principle of solidarity and mutuality in the mandatory social insurance of craftsmen, merchants and miners in the 19th century in Serbia

Review scientific paper

SUMMARY

Solidarity and mutuality constitute the basis for uniting various groups of people with a common interest in offsetting different risks. This paper briefly analyzes the meaning of the terms “solidarity” and “mutuality” as the basis of social security, then the emergence of social security and the current constitutional framework of the Republic of Serbia and

the law of the European Union. In separate parts, the content and scope of mutuality and solidarity organized through mutual aid funds of craftsmen and merchants, according to the Guilds Decree 1847 and the mining and fraternal funds of miners from the Mining Code 1866 are investigated. The historical method is used to follow various types of care and assistance to briefly explain the reasons that led to their emergence, and later the social security institutions, while logical

methods is deployed to draw conclusions about the characteristics of mutual insurance of craftsmen, traders and miners under these regulations. The paper deals with the analysis of the content and meaning of only those provisions and rules are relevant to the topic of this paper.

Having in mind the dominant Ottoman system of state and economic organization at the beginning of the 19th century, which was equally marked by the struggle for liberation from the Turkish government, Serbia has made numerous advanced steps in the legislative sense. Apart from the fact that the Guilds Decree 1847 was of a reform character in relation to the feudal system and economic relations, it also relied on the tradition of solidarity and mutuality of fraternities when it regulated guild funds of mutual aid. The same applies to the mining-fraternal fund from the Mining Code 1866. How much the then state government in Serbia attached importance to these ways of insuring and securing craftsmen, traders and miners can be seen in the competence of the police to supervise the work of guilds. Besides, the Ministry of Finance and later the Ministry of National Economy were issuing consent to the fraternal fund of a number of mines and the text of the bylaws of the fraternal fund.

The guild and mining-fraternal funds were of an aleatory legal nature in relation to the risks of illness and death. Namely because the right to any compensation was ceasing with the termination of employment in the mine, without the right to a refund of paid deposits until then.

Guild and mining social insurance was, by its nature, mandatory, of an adhesive nature based on entry into guild membership or an employment contract in the case of miners. This is an important difference in comparison to mutual insurance companies in which the status of a member is acquired by signing an insurance contract. Contributions through the payment of fees and additional, extraordinary contributions for unforeseen needs indicate that the guild and mining and fraternal funds were organized on the model of a mutual insurance company, without the intention of making a profit and exclusively for the benefit of its members.

Keywords: mutuality, solidarity, social security, Guilds Decree 1847, Mining Code 1866

LITERATURA (REFERENCES)

- Britannica, T. Editors of Encyclopaedia. (2022, February 7). *social insurance*. Encyclopedia Britannica. Dostupno na: <https://www.britannica.com/topic/social-insurance>, 16. 2. 2022.
- Cutler, M. D., Johnson, R. (2004). The birth and growth of the social insurance state: Explaining old age and medical insurance across countries, *Public Choice*, 120(1-2), 87–121.
- Charter of fundamental rights of the European Union, (2016/C 202/02), *Official Journal of the European Union*, C 202/389, 7. 6. 2016.
- Ilić, D. (1936). *Socijalno osiguranje trgovaca*. Skoplje: Izdavačka knjižara „Slavija”.
- Janković, V., Milosavljević, M. (redaktori). (1986). *Mala enciklopedija Prosveta – Opšta enciklopedija*, četvrto izdanje, Po-Š, tom 3. Beograd: Prosveta.
- Jovanović, Slobodan. (2016). *Pravo osiguranja*. Novi Sad: Pravni fakultet za privredu i pravosuđe.
- Jovanović, S., Uzelac O. (2020). Tradicionalne pravne ustanove i pravo osiguranja, *Evropska revija za pravo osiguranja*, 19(1), 8–15.
- Kenneth, A.. (2005). *Explorations in classical sociological theory: seeing the social world*. Thousand Oaks, Canada: Pine Forge Press.
- Marković, B. (2010). Novo Brdo – Grad i rudnik prema zakonu despota Stefana. Maliković, D., Atlagić, M. (ur.) u: *Kosovo i Metohija u civilizacijskim tokovima* (143–154). Kosovska Mitrovica: Filozofski fakultet Univerziteta u Prištini.
- Merriam-Webster. (n/a). *Solidarity*. Dostupno na: <https://www.merriam-webster.com/dictionary/solidarity>, 16. 2. 2022.
- Milenković, M., Milenković, t. (2002). *Zapošljavanje u Srbiji od začetka do oslobođenja zemlje 1944*, knjiga I. Beograd: Republički zavod za tržište rada.
- Milosevic, S. (2021). Fiscal policy in the function of encouraging investment in research and development in selected countries in the region, *International Review*, 3–4, 157–164.
- Nacionalna služba za zapošljavanje. (n/a). *Istorijat – Hronologija razvoja institucije za posredovanje*. Dostupno na: <https://www.nsz.gov.rs/nsz/istorijat/4045>, 17. 2. 2022.
- Petrović, Z., Čolović, V., Knežević, D. (2013). *Istorija osiguranja u Srbiji, Crnoj Gori i u Jugoslaviji do 1941. godine*. Beograd: Beogradska bankarska akademija, Dosije studio, Institut za uporedno pravo.
- Rabrenovic, M., Mitrovic R., Kovacevic B. (2020). The relationship between strategic management and public relations and their implications for financial operations, *International review*, 1–2, 89–93.
- Radovanović, B. (1996). *Stari Kragujevac*. Kragujevac: PIP „Krug”.
- Ristić, S., Simić, Ž, Popović, V. (1963). *Enciklopedijski englesko-srpskohrvatski rečnik*, tom II. Beograd: Prosveta.
- Rohrbach, W. (2007). „Socijalno osiguranje i privatno zdravstveno osiguranje”, *Revija za pravo osiguranja*, 6(1-2), 11–14.
- Rudarski zakonik za Kraljevinu Srbiju od 15. aprila 1866. godine s izmenama i dopunama od 21. jula 1877, 6. februara 1896. i 27. januara 1900. godine. Beograd: Državna štamparija Kraljevine Srbije.
- Šolević, M. (2020). „Savremene promene obrazovne strukture stanovništva i regionalni ekonomski razvoj”, *Megatrend revija*, 17(4), 125–140.

16

- Šulejić, P. (2005). *Pravo osiguranja*. Beograd: Dosije.
- Tucović, D. (1910). *Zakon o radnjama i socijalna demokratija*, predgovor Zakonu o radnjama. Beograd: Socijalistička knjižara.
- Uredba o esnafima od 14. avgusta 1847. godine.
- Ustav Republike Srbije, *Službeni glasnik RS*, br. 98/2006, 115/2021.
- Vujanić, M., Gortan-Premk, D., et al. (2007). *Rečnik srpskoga jezika*. Novi Sad: Matica srpska.
- Zakon o osiguranju, *Službeni glasnik Republike Srbije*, br. 139/2014, 44/2021.
- Žarković, N. (2013). *Pojmovnik osiguranja*. Novi Sad: Skonto.