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NOVELTIES AND EXPECTED IMPACT FROM CHANGES IN THE MACEDONIAN SOCIAL PROTECTION LEGISLATION

Abstract

The new Law on Social Protection (LSP in further text) in the Republic of North Macedonia was adopted in 2019 as part of a social reform process in line with the key strategic goals within the social protection system. The main aspects of the new regulation focus on types, procedures and realization of social protection activities, the system, organization and institutional framework of social protection, as well as cadres, financing and oversight and other issues of importance for realization of social protection. The new LSP introduced many systemic changes which are reasonably interlinked in the text and provide for unhindered accomplishment of the key ongoing processes in social protection, such as deinstitutionalization, decentralization and pluralization in social services delivery.

This article aims to identify impact and challenges related to implementation of the new social legislation, with focus on delivery and financing of social services. The content of this paper is a result of an analysis conducted in 2021 based on qualitative methodological approach and application of techniques of content analysis of relevant

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laws, bylaws, statistical data, reports, as well as expert interviews with representatives from relevant institutions – Ministry of Labour and Social Policy, Institute for Social Activities and representatives from national social service providers (public and private).³

Keywords: social protection, social services, social institutions, service users, social legislation.

INTRODUCTION

The reform processes in the Macedonian social protection legislation have been initiated in 2017 in line with European trends in this area (Carera et al., 2020). The main goal of the reform was introduction of new text of the Law on social protection and changes in the Law on child protection. The process of preparation of the new legislation was guided by the key strategic goals set in the National Programme for Development of the Social Protection System 2011-2021:

- Redefining the financial assistance system in the direction of: improved targeting, more efficient administration and linkages with other systems, primarily with the employment system.
- Increasing the quality of social services and creating conditions for reducing dependence on institutional protection by developing alternative forms of protection.
- Continuation of the processes of decentralization, pluralization and deinstitutionalization in social service delivery.
- Internal reorganization of social protection institutions for optimal utilization of available capacities and improved professional work.
- Increased participation of beneficiaries, involvement in planning and decision making, strengthening and maximization of beneficiary's potentials.

In addition, the process of preparation of the new legislation was led by the principles of good governance: transparency, accountability and liability, predictability and sustainability, continuity, effectiveness,

³ This article contains findings and conclusions from a qualitative research (Bogoevska, N., Bornarova, S.) carried out within the project "Supporting modernization and deinstitutionalization of social services" financed by the European Union and implemented by EPTISA in consortium with CARE in 2021.

efficiency, accessibility and availability, participation, equal treatment and non-discrimination (Bogoevska, 2019).

The process was quite challenging in the first place, as it required almost a complete rewriting of the actual text of the law. This was done in order to provide more clear, precise and readable text with provisions more adequately structured in new chapters and subchapters. Having in mind that the LSP is a systemic law with a broad coverage linked to many other laws in different domains (education, health, family, child protection, criminal law, migration etc.), the task was quite ambitious. Namely, social protection as an area that encompasses multiple domains of policies and involves various actors at many levels, is regulated by a substantial primary and secondary legislation. The status, rights, obligations and responsibilities of public bodies and other non-state providers of social services are regulated by several laws and by-laws: Law on organization and operation of the state administrative bodies, Law on local self-government, Law on institutions, Law on associations and foundations, Law on disability organizations, Law on administrative servants, Law on employees in public sector, Law on general administrative procedure, etc.

Despite the initial consideration to prepare two separate laws (for social services and financial benefits), this idea was abandoned, and the whole material was regulated in a single act. At the end of the process, in 2019 the new LSP introduced novelties in many domains and aspects, of which the most crucial ones and their expected impact will be pointed out further in this article.

GENERAL PROVISIONS, SOCIAL ASSISTANCE AND SOCIAL SERVICES

In the new Law on social protection, a new, more comprehensive definition of social protection was provided and the goals of social protection revised based on the latest global trends. A glossary of key social protection terms was incorporated (such as: social risk, social problem, household, single parent, older person, disabled person etc.). This was important because previously, in the absence of a glossary of terms, in practice different interpretations were present that led to confusion, ill-implementation of legal provisions and consequences upon users and their equality under the law. In addition, a new chapter of social protection contemporary principles was introduced, defining

key principles which are to serve as gatekeepers for user rights and practical guidelines for social protection professionals: equal treatment and non-discrimination (guaranteed by the Law on prevention and protection against discrimination); participation; individualization; user empowerment; privacy; respect of the interests and rights of the users; best interest; least restrictive environment; confidentiality; openness and transparency; social justice; and subsidiarity.

The responsibilities of the key carriers in the social protection system (Government, Ministry of Labour and Social Policy, municipalities, the city of Skopje and municipalities in the city of Skopje) previously dispersed throughout the text of the law, were grouped in a separate chapter, amended, extended and clearly defined. This contributed to clarify their mutual relations, obligations and responsibilities and disabled overlapping and negative conflict of jurisdiction.

The social protection continues to be provided through realization of the rights to financial assistance and provision of social services which were considerably reformed.

SOCIAL ASSISTANCE

There were considerable changes in the social assistance scheme. The most important change was the reduction of the previously existing fragmentation of financial benefits. This was a product of frequent ad-hoc and non-systemic introduction of new financial benefits based on the actual demands, political decisions and influences and lobbying by different interest groups (Gerovska, 2020).

Several new types of social assistance were introduced: guaranteed minimal assistance (joined social financial assistance and permanent care from the previous law); disability allowance (joined several separate disability benefits: mobility, blindness etc.) and permanent allowance (incorporated parents as caregivers of a child with disability). In addition to the new financial benefits, there was also a revision of the already existing benefits in the previous law, such as: personal care allowance, housing benefit, salary compensation for reduced working hours and one-off payments. Part of the benefits from the previous law (i.e. for a person who had status of a child without parent and parental care) were transferred in the Law on child protection.

The changes in the financial benefits scheme were of major importance as they contributed to:

- Considerable increase in the amounts of the benefits, most visible with the guaranteed minimal assistance.
- Extension of the access to financial benefits for certain user groups (such as people with intellectual disabilities and parents - caregivers).
- Enhancing the user activation dimension of financial benefits through establishment of direct and shared responsibilities for individual planning and case management between centers for social work and employment agency services.
- Reduction of the financial benefits dependency (i.e. through introduction of provisions for exiting the scheme in case the beneficiary refuses to participate in active measures twice in a row).

SOCIAL SERVICES

Social prevention and social services were strongly emphasized and activities and measures for preventive action were extended. The services of information and referral, professional assistance and support and counselling, as traditional social services, were clearly defined as separate social services.

Previous classification of social services as institutional and non-institutional services was replaced with a new classification: home-based, community-based and out-of-family services, depending on the place where beneficiary receives the service.

In terms of the home-based services, personal assistance was regulated as regular social service (previously implemented as programme activity). Both personal assistance and home assistance and care were in more detail regulated which provided for basic preconditions for their practical implementation.

As to the community-based services, in line with the National Deinstitutionalization Strategy “Timjanik” 2018-2027, the services for rehabilitation, reintegration and resocialization were amended with the respite care and half-way house as new social services. In addition, the socially vulnerable groups (drug addicts, sexual workers, alcohol addicts and gambling addicts) were recognized and given an increased access to a broader set of services.

Out-of-family services were enriched with the nursing care residential services for chronically and terminally ill beneficiaries. This

provided for the possibility to encourage development of socio-medical services and to further extend access to social services for different beneficiary groups. In addition to foster care, the introduction of the kinship care, for the first time in our social protection system, enabled utilization of best possible caring environment for the beneficiary in a family of his/her relatives. The previously poor regulation of some out-of-family services (such as supported living, group homes vs. placement in institutions) was improved and upgraded.

In general, all social services were redefined, the list of potential beneficiaries was more appropriately developed and the entry criteria were more precisely defined. Overall, the main advantages of the reform changes in the domain of social services relate to: introduction of the functional capacity assessment of the beneficiary as eligibility criteria (such as for home assistance and care and personal assistance); promotion of the possibilities for establishment of joint social, health and educational services; enhancing the legal provisions for integrated social services delivery; and creating an environment for enhanced focus on development and utilization of home and community-based services as alternatives to out-of-family services (Flaker, 2020).

INSTITUTIONAL FRAMEWORK OF THE SOCIAL PROTECTION SYSTEM

The main carriers of social protection with the new LSP remain the same: the Republic and the municipality, the City of Skopje and the municipalities of the City of Skopje. They perform social protection activities through direct establishment of social protection institutions or transfer of social protection activities to associations and other legal and natural persons. In the latter case, their mutual rights and obligations are arranged with administrative contracts.

The Government and the Ministry of labour and social policy remain the key institutions responsible for social policy making and implementation of policies on national level. Municipalities' roles in social protection determined with the Law on local self-government are extended in strategic policy planning and service delivery through establishment of municipal social protection councils and social protection councils of planned regions. The new LSP anticipates these councils to be established as multi-sectoral bodies at local and regional level. The new role of municipalities in social protection involves in-depth mapping

of social problems and vulnerable groups in the municipality, analysis of the capacities and available social services in the municipality, as well as determining specific goals for development of social services. These obligatory strategic planning activities are part of the process of preparation of the Social plan of each municipality to be used as a basis for development of the Annual programme for social protection. The municipalities in each planning region establish Social protection councils of planned regions for the purpose of planning and development of the network of social services in the region. At least once a year, the Regional Council submits a proposal to the Ministry on the need to develop social services in the planning region, the types and manner of establishment of these services. The Ministry plans the annual funding for social services based on the submitted proposals.

The novelties related to local and regional strategic planning are expected to reduce the centralization in social services planning, introduce the bottom-up approach in the development of social services and increase the role and influence of local actors in identification and development of services to meet local social protection needs (Bornarova, Bogoevska, 2020).

NETWORK AND LICENSING OF SOCIAL SERVICES PROVIDERS

With the new LSP the terminology and distinction between authorized and licensed service providers is introduced for the first time. The Ministry determines the network of authorized social service providers that consists of public social protection institutions and other authorized providers of social services with whom the Ministry or the municipality has entered into an administrative contract for provision of social services (associations, other domestic and foreign legal entities) as well as natural persons who deliver social services as professional activity. Outside the network, social services are provided by associations and other legal entities and natural persons who had received a license for performing social protection (license).

One of the key novelties in the new LSP is licensing of social services providers that must fulfill specific norms and standards. To this end, a Licensing commission is established within the Ministry which administers the whole licensing procedure and manages a data base of

all licensed service providers in the country according to the type of social services.

The process of licensing and development of network of social service providers (including authorized non-state providers) is expected to lead to: equalization of public and private service providers in delivery of publicly funded social services; raising the quality of the delivered social services; overcoming the previous disorder and ambiguity in the delivery of social services etc.

SOCIAL SERVICE PROVIDERS

In the new LSP social service providers are listed in a single article: Institute for social activities, centre for support of foster families, social protection institutions, foster families, associations and natural persons. In addition to the changes in responsibilities, organization, working methods and evaluation of the service providers previously recognized in the law, the new LSP introduces one new institution – centre for support of foster families for promotion of foster care, preparation, assessment and training of future foster families and provision of support to the existing foster families. Given the importance of foster care for the process of deinstitutionalization, it is expected that establishment of such centres will support and advance this process.

A new classification of the social protection institutions was also adopted: centre for social work, centre for social services and out-of-family social protection institution. This was done following the newly established classification of social services: home-based, community-based and out-of-family services.

The organizational forms for provision of social services are regulated by the Law on institutions as *lex generalis* for all public services. In this respect, there are no considerable changes related to establishment, organization and management of these institutions. Some adjustments were made to overcome identified weaknesses in the implementation of provisions from the previous law (Dimitrijoska, 2018).

The responsibilities of the centres for social work as public institutions with public authorization in the text of the new LSP were more precisely and in more detail elaborated and extended. This update was done to provide for more efficient and effective response to citizens' social protection needs and latest challenges. Provisions are introduced to strengthen the cooperation linkages with the local authorities in terms

of the obligation to implement social protection programs and other acts adopted and financed by the municipalities, to participate in the work of the local and regional councils for social protection and to be involved in the preparation of the local social plans.

For the first time in the new LSP there is a clear distinction between organizational forms for delivery of social services in the home and in the community on one hand, and out-of-family social services, on the other. Namely, the term “centre for social services” was introduced as organizational form for delivery of daily or temporary services in the home and in the community. This entailed distinct regulative changes related to establishment and organization of the services based on their type and character.

Associations and natural persons were recognized as service providers in the previous law, but in the new LSP their involvement in the system is more fully and comprehensively regulated in line with the endeavors to promote pluralization. For some social services, associations were liberated from having to establish a social protection institution for delivery of services (except for the services of: placement in institution, group home, institution for treatment and rehabilitation).

FINANCING OF SOCIAL SERVICES

The main sources of financing of social protection activities remain the same. Still dominant model of financing is through the state budget based on the Annual program for realization of social protection activities. Other sources are: budgets of the municipalities (as optional and non-obligatory); participation of users and other persons obliged to provide for users’ maintenance on the basis of regulations in the Family Law; charging services, gifts, legacies and other sources in accordance with the law. Charging for a service is made depending on the type of services used and material conditions of the user and his/her family.

Funding of associations for performing social protection activities is also provided from other state sources based on the Law on Games of Chance and Entertainment Games and the Law on Associations and Foundations (the Program for Financing Program Activities of Associations and Foundations by the Government).

In general, the spirit of the new law is to provide increased involvement of municipalities, associations and private entities as service providers, to reduce the role of the state as a direct service provider, and

to support pluralization through public financing of services provision. This is expected to be achieved through service purchasing from non-state providers through service contracting based on a methodology for determination of service prices.

Significant changes relate to introduction of three types of grants (public calls) as financing mechanisms for social services delivery: for municipalities, for associations and for innovative social services. It is stipulated grants for financing social services by municipalities to be announced annually, specifying the concrete terms and procedures for application, selection and implementation of the service. As mentioned before, social services to be financed annually are determined following the bottom-up approach on regional and local level. Funding for social services provided by municipalities should be equally distributed per planning regions in a same or a higher amount of the granted funds for the same purposes in the previous year. This provision is important as it should provide for sustainability and continuity in the delivery of services. Advantage in selecting services to be financially supported is given to applications that anticipate service provision through inter-municipal cooperation, cooperation with licensed service providers, inter-agency cooperation and provided co-financing. This will contribute to development of services by mutual cooperation of local and regional actors, development of new providers specifically for this purpose, as well as to effective utilization of the available resources. The municipalities may grant own funds for provision of social services to licensed associations or other private service providers through announcing public calls. This provision is to ensure open competition and avoiding subjective preferences of service providers.

The intention of the new LSP regarding financing of social services for associations is to achieve more substantial funding, more balanced and transparent distribution of funds and more precise funding criteria. Grants for financing social services by associations should be published annually specifying the concrete terms and procedures for application, selection and implementation of the service. Also, advantage is given to applications for social services delivered through partnerships, inter-sectoral cooperation and provided co-financing.

Another novelty in financing social services is introduction of the grants for innovative and interventional social services delivered by municipalities, associations and private service providers. This is expected to enable in-crisis, ad-hock and early meeting of social protection needs of citizens in specific situations.

HUMAN RESOURCES

Provisions related to social protection cadres in the text of the new LSP were adjusted to the systemic Law for public service employees and specificities of the social protection domain. New LSP introduces changes in the categories of the working places in social protection institutions, based on the needs to upgrade the practice with contemporary work approaches and methods. Namely, the working positions of supervisor, case manager and triage officer were incorporated for the first time.

Considerable novelties were introduced in the sphere of licensing of professionals. The previous one general license for social protection is replaced with three new types of licenses: general (for professional work in centres for social work and for professional work in other service providers); special (for case management); and specialized (for foster care education, supervision and counselling and therapy). Within the professionals' licensing process, the possibility to value and recognize professional activities other than training and theoretical and practical exam (publications, projects, conferences etc.) was introduced for the first time.

The pluralization of training providers was also enabled. For that purpose, the LSP anticipates establishment of a Commission for approval of programs for continuing professional education responsible to announce public calls for training providers and administer the selection process. This is expected to lead towards breaking the monopoly of the Institute for social activities as a single training provider for all social protection professionals in the country. Given the limited capacities and resources of the Institute, this novelty should positively impact the quality of the training and provide diversification of contents and training programs.

USER PERSPECTIVE

The new LSP introduced several provisions that should contribute to the increased user choice, involvement in planning and implementation of social services and safeguard of user's rights.

Unlike previously, the user is entitled to choose a preferred social service provider from the list of registered authorized providers, if available. In addition, user involvement and participation in services planning is provided through compulsory requirements of social service providers to establish User councils. One member of the Steering committee of the

social protection institution is proposed by the User Council. Still, despite the formal establishment of user councils in social protection institutions and participation of user representatives in steering committees, their active involvement in these bodies should be supported and encouraged.

To safeguard the user rights, ensure professional treatment and respect of ethical standards in social protection, the new LSP anticipates establishment of an Ethical board within the Institute for social activities. This body acts upon complaints and information related to unethical behavior of professional workers when dealing with service users, which are in conflict with the Professional ethical codex. Based on the analysis of data in each case, the Ethical board may propose revocation of the professional worker license. Service users should be informed about their rights and the manner and procedures to submit complaints and encouraged to communicate informally with the Ethical board in cases of concern and need (Bornarova, 2019).

CONCLUSIONS AND REMAINING CHALLENGES

The analysis of the impact from the implementation of the new LSP shows that there are considerable steps made towards achieving social protection strategic goals. The text of the new LSP provided for precise definitions of the key terms used within the social protection system, defined contemporary user-oriented social protection principles and clear division of responsibilities of relevant stakeholders at all levels and areas of action.

The main changes in the LSP related to the rights to social assistance, namely in terms of scope, types, amounts and eligibility criteria. Also, the law introduced modifications in the classification and types of social services, as well as manner, scope, procedures and standards for social services delivery. These changes were accompanied by adequate alterations in the institutional framework on central and local level and modalities of financing of social services delivery.

Licensing of service-providers was introduced for the first time which enabled further development of pluralization and possibilities for increased involvement of non-state actors in social services delivery. Likewise, changes were made relative to the system of licensing and continuing professional education of professionals engaged in the social protection field.

In addition, significant changes were anticipated in terms of the methods and approaches used in professional work, specifically, case management and supervision. This entailed changes in the provisions for internal organization and systematization of the working places in social protection institutions.

The social reform process despite changes in the LSP included subsequent changes in the Law on child protection and enactment of a new Law on social security for older people.

However, in the following period the need remains for further improvements, responding to the current issues and challenges and continuous adaptation to the emerging circumstances in the field of social protection. Actions to be taken in future should predominantly focus on the institutional framework, social services delivery and financing and user involvement.

Social protection institutions still face the challenge of further reorganization, restructuring and upgrading of human capacities. This especially refers to the centres for social work as key social protection institutions with public authorization, as they are still overburdened with extensive administrative work, scarce and inappropriate human resources with heavy work-load and insufficient coverage of the socially vulnerable population with the required services. In addition, the role of the municipalities in strategic planning and delivery of social services should be enhanced. In this respect, despite functional and administrative, financial decentralization is yet to be introduced (Trbojevik et al., 2013).

As to the social services, they should be further developed through interventions in the following aspects:

- All social services should be revised in terms of purpose, contents, scope and eligible categories of users.
- Integrated, preventive, socio-educational and socio-medical services should be more intensively developed.
- The eligibility for using social services should not be determined based on the category of users, but on the assessment of the functional capacity of the user for performing basic and instrumental activities of daily living.
- Social services for resocialization, reintegration, rehabilitation for most socially vulnerable groups (children and adults – drug, alcohol and gambling addicts, sex workers, children in risk and in conflict with the law etc.) should be more intensively developed.

- Supervision, monitoring and evaluation of the social services delivery should be introduced and adequate mechanisms and instruments adopted for this purpose.
- Quality standards should be developed for all social services.

Overall, all processes and activities related to implementation of social protection in the country should be user-oriented and guided by the principles of good governance. The application of the key principles of social protection defined in the LSP should be enhanced through raising the awareness among professionals of the importance of these principles and provision of necessary conditions in the working place for their application. User choice should be more commonly used in professional work and promoted, as new social services emerge and the list of authorized and licensed service providers develops. The process of development of individual plans should be more participative, user tailored, less formal and continuously reviewed and revised.

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НОВИНЕ И ОЧЕКИВАНИ УТИЦАЈ ОД ПРОМЕНА У МАКЕДОНСКОЈ ЗАКОНОДАВНОСТИ О СОЦИЈАЛНОЈ ЗАШТИТИ

Резиме

Нови Закон о социјалној заштити (ЗСП у даљем тексту) у Републици Северној Македонији усвојен је 2019. године као део процеса социјалне реформе у складу са кључним стратешким циљевима у оквиру система социјалне заштите. Главни аспекти нове уредбе фокусирани су на врсте, поступке и остваривање делатности социјалне заштите, систем, организацију и институционални оквир социјалне заштите, као и кадрове, финансирање и надзор и друга питања од значаја за остваривање социјалне заштите. Нови ЗСП је увео многе системске промене које су у тексту разумно повезане и омогућавају несметано остваривање кључних текућих процеса у социјалној заштити, као што су деинституционализација, децентрализација и плурализација у пружању социјалних услуга. Овај чланак има за циљ да идентификује утицај и изазове у вези са применом новог социјалног законодавства, са фокусом на пружање и финансирање социјалних услуга. Садржај овог рада резултат је анализе спроведене 2021. године на основу квалитативног методолошког приступа и примене техника анализе садржаја релевантних закона, подзаконских аката, статистичких података, извештаја, као и стручних интервјуа са представницима надлежних институција – Министарство Рад и социјална политика, Институт за друштвене делатности и представници националних пружалаца социјалних услуга (јавних и приватних).

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Кључне речи: социјална заштита, социјалне услуге, социјалне установе, корисници услуга, социјално законодавство.

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