



Social services in accession countries

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Introduction

The 1st May 2004 10 new countries joined the European Union. It is one of the most important events in the history of the European Union and all of Europe. New nations are accessing the Community and so new challenges are emerging. An important challenge is the exchange of information in order to better understand each other. This article aims to outline information on the social services in selected accession countries – Poland, Czech Republic, Slovakia and Hungary (hereinafter “Visegrad countries”).¹

In the last decade of the 20th Century significant political changes took place in Europe. The communist regime gradually came to an end in all Soviet-block countries. Liberty and democracy came to Central and Eastern Europe and the societies there had to go through the unprecedented change in their modern history in economics, politics and social affairs inherent to the unique experience of transformation from communism back to capitalism.

Economic transformation was not easy and in all countries social problems emerged, which for the previous 4-5 decades had not been tackled – because during communism there were officially no social problems, no unemployment, no poverty. The transformation process brought liberty and democracy on one hand, but on the other hand some people became poor or threatened by poverty. In the field of social security, the entire system had to be reformed, starting with social assistance and social services, in order to avoid the massive growth of poverty and serious social problems. In the following text we will deal with the issue of the reform of social services in the accession countries as one of the important instruments of combating poverty and social exclusion in Visegrad countries.

History – unifying aspect of development of social services

The reason for being able to speak in general about social services in Visegrad countries is that those countries had quite a long common history and their social systems developed in similar ways.

The first period of the common history was the Austro-Hungarian Empire uniting Central European countries. In the Empire, social services had long tradition. In contrast with e.g. England, central European churches and religious orders started to provide social services as early as the 11th century. When magnitude of social problems grew, the Church was no longer able to efficiently deal with poverty. Cities and municipalities took over and consequently were obliged by governments (kings and governors) to look after their poor. During the enlightened government of Maria Theresa social policy thinking enhanced and competent bodies started to provide social services in an organised manner. Social legislation developed in response to the developing awareness of fundamental rights.² In central Europe “bismarkian” social policy had a crucial influence on the Austro-Hungarian Empire during the Taaffe government. Thus Poland, Hungary, Czech Republic and Slovakia, together with Austria, have a common tradition of social services, inspired by Christianity and enhanced by

free private providers and local authorities having the responsibility for running social services.

Another aspect of common history was generated in the period of communist governments in 20th Century. After the 2nd World War the four countries became a part of the Soviet Block and satellites to the USSR. In line with the prevailing communist doctrine these countries had to adopt the soviet paternalistic model of social security, which influenced for a long period all the system of social services. All had to be centralized. The entire system of social services was run by the state, no form of private social services providers was permissible (with some exception of church activities in some of the countries) and actually the major form of social services was residential care.

After the political change in Visegrad countries in 1989 and 1990, new legislation had to be adopted to reform of the whole system of social services.

The challenges for the legislators included:

- Deetatization and decentralisation
- Developing new forms of social services, with regard to new needs
- Conceptualising new types of social service providers, especially the private ones
- Elaborating new ways of financing social services (diversifying financial resources)
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These challenges will be dealt with hereinafter.

Notion of social services and their constitutional dimension

Social services are one of the instruments of social assistance; therefore social services are provided mostly to the economically weakest groups of the population. It can be argued that social services are one of the basic forms of social security. In effect providing social services enhances the application of basic human rights – especially the right to the dignity of the person and the right to basic social assistance in case of need.

All the constitutions of the Visegrad countries define the right to social assistance in case of material or other need as one of the social rights guaranteed by the Constitution.

The Constitution of the Hungarian Republic guarantees several social rights, especially the right to social security and to living. The right to social benefits is provided by the state through its social security system and its welfare institutions.

The right to the assistance of the State is proclaimed in various articles of the Polish Constitution of the 2nd April 1997. According to the Constitution, the State is obliged to take the wellbeing of the family into consideration in its social and economic policy (art. 71) and to assure the protection of children's rights (art. 72). In relation to elderly persons, Article 67 of the Constitution proclaims the right of a citizen to social security in the case of inability to work for reasons of disease, disability or retirement age in the limits and forms precised by the law. The right of the disabled persons to the assistance of public authorities in securing their existence, professional training and social communication has been proclaimed in Article 69 of the Polish Constitution.

In accordance with the Slovak Constitution a citizen (as well as a resident in the country) is entitled to claim benefit to cover essential living conditions, defined by the 1998 Act as: "*one hot meal per day, necessary garments and a shelter*".

The Czech Republic defines all social rights in the Bill of Fundamental Rights and Freedoms.³ According to Article 30 "*everybody who is in the material need has the right to such help, which is necessary for guaranteeing his/her basic living conditions*".

All the Visegrad countries declare the right to social welfare in their constitutions. However, they did not implement the rights with the same vigour.

The first to replace the communist legislation was Poland (1990), which also has recently approved new legislation for the further remodelling the social services. The Act of November 29, 1990 on social assistance⁴ redefined social services for the children, youth and the elderly. The Act of December 14, 1994, on employment and counteracting unemployment⁵ reshaped social services for youth with the aim to promote employment. The right of children as well as disabled and elderly persons to assistance by the State was guaranteed by the Constitution⁶ in 1997. The conditions of according the assistance to the disabled persons are regulated in the Act of August 27, 1997, on social and professional rehabilitation and employment of disabled persons⁷. Moreover, in 2003 the act on public utility activities and charity work entered into force.

Hungary was the second to start reforming social services. Since 1993 the Social Act⁸ regulates provision of all types of social services, which affected social services provided to elderly, psychiatric patients, addictive patients, homeless people, etc.

Slovak Republic newly regulated the social assistance in 1998. According to the country report, however, the legislation needs to be further modified and developed and a more decisive reform has yet to be undertaken.

The Czech Republic has the largest problems with regulating social services, as the laws approved in the communist era are still in force. Social services were not officially reformed and newly regulated⁹. The first step towards their reform in the Czech Republic was taken in 1996, but rejected by Parliament, and the second in 1999 by introducing a new concept of social-legal protection of children.¹⁰

Current types of social services in Visegrad countries

The new legislation in Visegrad countries, aimed among other issues, to introduce new types of social services. It was a necessary step, when trying to reform the system of social assistance.

The inherited social services were, almost exclusively, guaranteed in the form of residential care, and mainly provided in large institutions build for hundreds of clients. The aim of the reform in all Visegrad countries was to enable the person in need to claim an individual service, possibly provided at home or in a daily centre, when the service tries to activate the client and include himself into the process of his assistance.

Several types of social services, which are presently provided in Visegrad countries, are mentioned in the following table.

providing information and support Counselling Guidance and interpreting service Supported employment Outreach programmes	providing personal assistance Personal assistance Domiciliary care Early intervention Foster services Emergency assistance
providing care in day centres Supported living Day service centres Sheltered workshops Shelter Hostels Low threshold centres	Providing inmate care Homes Community residential facility Half way houses Respite care

Therapeutic communities	
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In majority of cases, the wider amount of services is provided by NGOs, when local public authorities often limit their activity to residential care, counselling and maybe some home-care.

Form and legal status of social services providers

In the Visegrad countries the reform of competencies for providing social services was partially implemented. Public administration was substantially reformed in the Czech Republic in 2000-2002,¹¹ by abolishing district administration and decentralizing most of the social services responsibilities to regional, communal and municipal governments. A similar process is underway in Slovakia. The result is decentralization of responsibilities and services, for which however the communities and municipalities were not prepared.¹² Thus, the role of NGOs in social services is becoming essential.

In general, social services are provided by the:

- a) State
- b) Regions
- c) Municipalities and Communes and
- d) Non-governmental non-profit and profit-making organisations¹³

As in several other areas of social security, the public providers have an indispensable role as the provider of social security benefits. In the area of social services, public authorities can play just the role of guaranteeing social services and entrust the main part of the provision social services to private legal personalities, mainly of a non-profit character. The advantages of such a regulation are:

- Effectivity – if there is good regulation and enough motivation to achieve a high standard for provided services, a smaller private-run body is always more effective than a large public-authority body
- Economic efficiency – private subjects are more interested in offering a service at a convenient price. So, in most cases the social service provided by an NGO is cheaper and of a higher quality.
- Better quality, individualisation – smaller private subjects are able to provide the service at a higher quality standard than a public body has, mainly because of a higher level of interest in the issue. Among private subjects there also emerge some established by interest-groups (e.g. by parents of disabled children), who are very interested in the high standard of quality of the social services. Such NGOs approach mainly the people in need with a high level of individualisation and modify the service according to their individual need.
- Among disadvantages of providing social services through the NGOs one may mention:
- Danger of misuse - in case of a scarce quality of regulation for running NGOs providing social services, there is a danger of misusing public financial subsidies for the interests of the owners of such NGO.
- Scarce financing – scarce quality - NGOs need to be financed sufficiently in order to provide the highest standard of social service quality. There should be good legislation regulating the issue of subsidising NGOs providing social services by public financial sources, especially in case there is evidence the NGO is able to provide a higher standard of quality of social service, than a public provider.

To sum up, it is highly desirable that social services are provided by NGOs, if the following conditions are respected:

- The position and competencies of NGOs providing social services should be precisely regulated by a legislative act.
- Quality of provided social services is criterium number 1. So,
 - in case, there is an NGO able to provide social service at a higher quality than the public provider, the NGO should be preferred and should be also financed at least partially from the public financial sources.
 - there should also be a regulation of the mechanism of controlling and supervising the provision of social services in order to avoid abuse and misuse of the public money.

Legislation on NGOs in accession countries

First regulation for NGOs was adopted in the early 1990s. In Poland¹⁴ the NGOs were permitted to provide social services as early as 1990. New legislation on public utility activities (2003) placed NGOs on the same footing as public administrations. In Hungary (1993), participation in social services provision was opened to NGOs and the private sector by regulating (i) rules for contracting with local authorities for service provision, and (ii) qualifications necessary for the different professionals working within the social domain.

In the Czech Republic¹⁵ and Slovakia their participation was tolerated under the legislation on civic societies, although this legislation does not explicitly regulate the provision of social services. However, the law of the early 1990s was very general and needed refinement to house the variety of legal forms needed to develop NGOs. Thus in the mid 1990s in the Czech Republic a set of laws¹⁶ were adopted to distinguish NGOs providing services from those providing money. Recently it also regulated the voluntary services and volunteers¹⁷ and newly regulated the role of ecclesiastic organizations¹⁸. This Act and its modifications provide the legal background for the services, require diversification according to needs, state the possibility for non-governmental organizations and the private sector to draw up contracts with local authorities for service provision, and describe the qualifications necessary for the different professionals working within the social domain.

In Slovakia, Act no.207/1996 on foundations and the Act no.213/1997 on non-profit organizations providing public utility service are conceived in a similar way as the Czech legislation.

NGOs are generally defined as not-profit and represent a fundamental pillar of newly emerging social services. They generally provide a wide extent of counselling, home-care and day care centres especially in larger cities in the Czech Republic, Poland and Slovakia. In Hungary the size of private sector, that is, the role of non-governmental providers is more moderate within the social domain.

Among the examined countries, Poland seems to be the country with the most important accent on the non-governmental sector regarding social services. There is also strongly supported principle of equality and cooperation between the public authorities and non-governmental organisations, although the new act on public utility organisations was criticised and should be amended by regulation of taxation and financing of providing social services.

Some similarities can be found between Czech and Slovak Republics. In both countries the non-governmental social services providers have to register with a competent body and their position in comparison to the public authorities providing social services is in fact subordinate. The Hungarian situation does not vary very much from the Czech and Slovak approach. It should also be underlined that, in the Czech Republic and Hungary, regulations

still make the state and local public authorities primarily responsible for the provision of social services.

Legal forms of NGOs providing social services

The experience shows that the form of NGO providers may, in principle, be

1. association of citizens or civic society,
2. ecclesiastical organisation,
3. public utility society,
4. foundation or fund to finance social services, and (v) profit-making company.

Civil societies and associations of citizens or professionals have a long tradition, which goes back to the mid 19th century. Civic societies represent the most widespread form of legal status also in the field of social services.¹⁹ To make this traditional form efficient in respect to contemporary needs there is need of regulation, namely to safeguard professional provision of social service and to maintain a reasonable level of quality. These measures are meant to safeguard the rights of the client, who is generally incapable of defending him/herself. Such measures are in the Hungarian and Polish legislation.

Ecclesiastical organisations providing social help and services have the longest tradition, which goes back to the 13th century, to the time when monasteries were massively founded in the Visegrad countries. Their position was regulated in the early 1990ties in the Czech²⁰ and Slovak Republics and in Poland.

A public utility society is an independent, freestanding, non-profit organisation, which provides its services to everyone, without distinction and under equal conditions. Any acquired profit is channelled to some public interest. All its property remains permanently in the non-profit sector, also in case of the dissolution of the organization. In the mid 1990ties this form has gained some public interest. It enables to focus more on the outcome and leaves less room for politics and long discussions of members.

Foundation or funds were originally initiated by foreign humanitarian associations and societies to finance development of social services. Where tax legislation allows advantages for sponsoring of social services, local foundations have developed. This “society of money” has become an interesting source of financing local social services in all the four Visegrad countries.

Profit-making companies are not excluded in the four countries from providing social services, although in Slovakia they are not provided with public funds. In the Czech Republic they operate to some limited extent in home-care.

The role of above mentioned forms of NGOs providing social services varies from country to country. While in Poland the most important provider of social services were the ecclesiastical organisations, in the Czech Republic the most widespread form of NGOs providing social services is the form of civic society. The preference of establisher for the certain form of NGO determinates the social and historical experience of the society.

Financing of social services – different ways

Discussing several reform aspects in the area of social services, one of the most important issues is of course financing. In all the countries the expenses of social services during the communist regime were covered by the central government in addition to cash benefits. Such approach, however, put the citizen in a passive role – he/she just expected from the state, all (or the most part of) the social service would be provided by public-costs.

However, as public money is lacking in all the countries new resources are to be found, especially by motivating the client to participate financially on providing his social service, when he/she can afford it.

As can be seen above, the increasing role of NGOs providing social services is essential. All the NGOs usually ask their clients to pay for the service, at least a symbolic sum. The payment can be symbolic just in case they are able to find other financial sources – e.g. through sponsorship.

When a non-profit NGO provides social services its activity should be partially financed by the central budget, as the state should pay everybody who cares for its citizens. It is namely the state that has to guarantee the applying of constitutional social rights to all its citizens.¹ This principle is, however, not entirely respected in the Visegrad countries. E.g. in the Czech Republic, every NGO providing social services (so, acting in the public sphere) has to apply for a state subsidy in every year, without any right to receive it.

Conclusion

All the Visegrad countries started to reform their systems of social services. They introduced new forms of services and new forms of social services providers. However, it is just the start of social services/social assistance reform. The most important current challenge in the field of social services is, therefore, bringing reform of social services to a successful end by establishing a really coherent system of social services, through which every person can apply his/her right to social assistance/social service in case of material or social need.

Notes

¹ This article is based on the study „The Role of Social Services in the Transformation Process – Legal Framework and Forms of Organisation“, prepared for the German Federal Ministry of family Affairs, Senior Citizen, Women and Youth by a team lead by Prof. Igor Tomeš, who elaborated also a comparative analysis of country reports.

² The Anglo-Saxon tradition of social security in general does not have the same imprint. The social security developed because of the fear of king and nobility to loose their power because of social movement in Europe. The activity of churches and religious orders was very limited.

³ Act No. 3/1993 Coll.

⁴ Ustawa z dnia 29 listopada 1990 r. o pomocy społecznej (Dz. U. 98.64.414)

⁵ Dz. U. 01.6.56.

⁶ Polish Constitution of the 2nd April 1997

⁷ Ustawa z dnia 27 sierpnia 1997 o rehabilitacji zawodowej i społecznej oraz o zatrudnianiu osób niepełnosprawnych (Dz. U. 97.123.776).

⁸ Act no. 3 of 1993 on social provisions and social administration

⁹ The Act no. 100 of 1988 is still in force and the two attempts to change it were rejected by Parliament. The only new regulation is that of socio-legal protection of children (Act of 1999) that regulates some services for children to be provided by communes and municipalities.

¹⁰ Act No. 359/1999 on social and legal protection of children

¹¹ Act no. 128/2000 on Municipalities; Act no. 129/2000 Coll., on Regions; Act no. 132/2000 on modifying and abolishing some laws connected with the law on regions, the law on municipalities, the law on district offices and the law on the City of Prague; Act no. 320/2002 on modifying and abolishing some laws connected with the abolishing of district offices

¹² Within the Czech public administration reform occurred, the competencies were delegated to the municipalities, however without delegating also the money for providing e.g. social services. The result is, that municipalities have to provide some social services; they do not provide anything, because of lack of money.

¹ In the Czech Republic it is not the case. The NGOs have to ask the subsidy from the state (MoLSA), without any right to claim it.

¹³ There is no legal barrier in the Czech Republic to providing social services by profit-making organization.

¹⁴ Ustawa z dnia 29 listopada 1990 o pomocy społecznej

¹⁵ Act no. 83/1990 on civic society and Act no. 308/1991 on Freedom of Religion and Status of Churches and Religious Societies, as amended (hereafter Act no. 308/1991 Coll.)

¹⁶ Act no. 248/1995 on public utility societies and Act no. 227/1997 on foundations and foundation funds

¹ Act no. 198/2002 Coll. on Voluntary Service

¹⁷ Act no. 3/2002 Coll. on Freedom of Religion and Status of Churches and Religious Societies

¹⁸ In the Czech Republic one third of the 49081 registered civic societies provide social services.

¹⁹ Act no. 3/2002, newly requiring ecclesiastical organisations to register obligatory with the Ministry of Culture, while under the 1991 legislation the churches were free to provide social service without any registration. Such regulation, which actually limited the freedom of churches, caused a big dispute and the case was discussed also before the Constitutional court.

²⁰ In the Czech Republic it is not the case. The NGOs have to ask the subsidy from the state (MoLSA), without any right to claim it.

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