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**Arbeitspapier Nr. 12**

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**Personnel Consulting  
Prague, Czech Republic**

**The role of social services in the trans-  
formation process – legal framework  
and forms of organisation**



**Observatorium für die  
Entwicklung der sozialen Dienste  
in Europa**

**Observatory for the  
Development of Social Services  
in Europe**

# Observatorium für die Entwicklung der sozialen Dienste in Europa

Working paper Nr. 12

## The role of social services in the transformation process - legal framework and forms of organisation

Study

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Frankfurt am Main  
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## **Preface**

The expertise describes and analyses the legal framework and the forms of organization for personal social services in the four EU accession countries Czech Republic, Hungary, Poland, and Slovakia. It also deals with the responsibilities concerning administration, financing and organisation. The study comprises an overview on providers and types of services for central fields of social work and social assistance/welfare. In the sector of child and youth welfare, day-care services for children, however, are not covered. Both the cross-country analysis and the country reports retrace the main structural changes since 1989 and point out aspects of social service delivery needing further reform. The comparative chapter highlights the main institutional characteristics in the four countries and contrasts them with the German ‚model‘ of personal social service provision.

Headed and directed by Prof. Igor Tomeš, Charles University Prague and *Personnel Consulting*, Prague, a team of country experts (cf. list of authors) established the study from April to September 2003. The expertise submitted in English language was translated into German by Peter Kleinhempel, Berlin (cf. Arbeitspapier Nr. 13, Igor Tomeš: Die Rolle der sozialen Dienste im Transformationsprozess – rechtliche Rahmenbedingungen und Organisationsformen, Februar 2004). Beatrix Holzer, Mathias Maucher and Barbara Braunschönwandt did the text editing. Mainly for illustrative purposes, the amounts given in national currency have been recalculated to € amounts based on the exchange rates of February 12 2004 (not taking into account differences with regard to purchasing power).

The expertise ‚The role of social services in the transformation process – legal framework and forms of provision‘ is closely linked to two other projects conducted by the Observatory for the Development of Social Services in Europe during 2003 and focusing on the development of social services in EU accession countries in Central and Eastern Europe: First, a survey on providers of social services on the demand of cooperation and consultation in the four EU accession countries Czech Republic, Hungary, Poland, and Slovakia. The results are reported in a working paper, as of February 2004 only available in German (Arbeitspapier Nr. 11, Beatrix Holzer: Befragung zum Kooperations- und Beratungsbedarf mit Trägern sozialer Dienste in den EU-Beitrittsstaaten Polen, Slowakei, Tschechische Republik und Ungarn, Februar 2004). Second, a workshop analysing needs for cooperation and consulting as perceived by the individual bodies of social services in the accession countries Czech Republic, Hungary, Poland, and Slovakia, entitled ‚New Partnerships in an Enlarged EU – Learning from Each Other - Strengthening Social Infrastructures‘, jointly organized in cooperation with the Diakonisches Werk of the Protestant Church in Germany (Berlin, December 8 2003). The Diakonisches Werk of the Protestant Church in Germany will publish a conference documentation which should be available by mid 2004.

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## Introduction

The German Federal Ministry of Family Affairs, Senior Citizens, Women and Youth (BMFSFJ) commissioned the German Association for Public and Private Welfare and the Institute for Social Work and Social Education<sup>1</sup> (hereinafter ISS) to set up a project: “**The Observatory for the Development of Social Services in Europe**”. Within the scope of the project ISS called for an analysis of the role of social services in the transformation process in accession countries. The analysis was to be based on the law and practice in the Czech Republic, Hungary, Poland and Slovakia. It was decided to entrust the study to Personnel Consulting<sup>2</sup>.

It was agreed that the analysis „shall focus on the legal framework and the forms of organisation, namely providers and types of services. It will also deal with the responsibilities concerning administration, financing and organisation“. A systematic analysis of the present state in selected accession countries could contribute to the understanding of these structures in the accession countries and their comparison with the German model. Such a study could be useful for promotion of co-operation and coalition-building at European level.

In order to elaborate a study of a high quality, key experts in the field from selected countries were contracted to provide a country report for their country, namely (in alphabetical order of countries):

**For the Czech Republic – Kristina Koldinská** – Charles University, Prague, Faculty of law, and research assistant of Personnel Consulting

**For Hungary – Karoly Czibere and Marta Korintus** - National Institute for Family and Social Affairs

**For Poland – Dagmara Stateczny** – University of Lodz, Faculty of law and Administration,

**For Slovakia - Helena Woleková** – executive director of SOCIA (foundation for support of social reforms and changes)

**Igor Tomeš** of Charles University and chief consultant of Personnel Consulting, Prague, Czech Republic, prepared the comparative analysis.

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<sup>2</sup> Personnel Consulting, JUDr. Igor Tomeš, Malešická 13, 130 00 Praha 3, Czech Republic,

**The information in the country reports is structured in 4 main chapters:**

1. Legal Framework/regulation, which provides the description of the relevant legislation for social services in selected countries, including public welfare and/or private non-profit organisations. The information follows important stages of development since the transformation process.
2. Structure of providers/Forms of organisation, with special focus on the nature and diversity of providers in the sense of a public/private mix and the importance and competences (independence) of non-public providers of social services, as well as on their involvement in the social security system in different regions or in aggregated (non-profit) associations. Analysis will reveal to what extent structural processes in the selected accession countries follow structures of Western European models or have developed own structures which are based on historical and cultural traditions.
3. Types of social services/forms of offer, which deal with the types of social services in different fields. The study will also provide a survey of dominant measures or programmes of social services in the relevant accession countries.
4. Responsibilities concerning administration, financing and organisation with focus on competencies concerning regulation, financing, administration and definition of standards of quality in the field of social services and the way of the financing of social services in the system of social security. The most important types and fields of social services in the different welfare systems of the accession countries will be identified.

The country reports form the second part of the study.

The first part of the study deals with three issues:

- Chapter 1 provides a comparative analysis of the country reports focused on legal framework, structure of providers, types of social services provided in selected countries and responsibilities concerning organisation and financing in the Czech Republic, Hungary, Poland and Slovak Republic
- In chapter 2 discusses major issues of social service development in the accession countries.
- Finally, chapter 3 strives to answer the question to what extent social services in accession countries are comparable with the German model of social services.

## **1 Comparative analysis of country reports**

The statements in this chapter are primarily based on the findings of four country reports, contained in the annex to this study. The country reports describe the social services in the Czech Republic, Hungary, Poland and Slovakia (hereinafter referred to as the Visegrad countries).

The Visegrad countries share a long common history, the last phase within the frame of the former Austrian-Hungarian Empire.

The notion of social services has a long tradition in the Visegrad countries. Launched by religious convents and parishes in the early medieval times, followed by private mutual solidarity of artisans and voluntary charity provided by cities in the 15<sup>th</sup> and 16<sup>th</sup> centuries, social services developed into a regular charity residential institution during the 19<sup>th</sup> century, first for abandoned children. Some mutual solidarity was also organized by trade unions in the 19<sup>th</sup> century with the growth of the labour force.

The responsibility for social care for those in need was originally entrusted to municipalities. It was assumed by the state only after the 1<sup>st</sup> World War in the Czech Republic, Poland and Slovakia (which was then a part of the Czechoslovak Republic) and after the 2<sup>nd</sup> World War in Hungary.

Under the communist regime most of the social services were nationalized and centralized. No private social services, except those run by the church, were tolerated. Most of them were centrally administered by the competent ministries, which some responsibility for day-to-day management left to the local governments.

The offered social services were mainly residential homes, generally specialized e.g. for children (often by age groups), the elderly and the disabled, separate by type of disability (mental and physical) and age of the disabled. Later home services were being developed mostly at communal and municipal level.

As the crisis of the communist economy was growing the money spent on social services was decreasing and the social services offered by the state were increasingly insufficient both in quantity and quality. Those for the aged and disabled were deteriorating faster than those for children.

### **1.1 Present legal framework**

Since 1989 many changes in different areas of social life took place in the Visegrad countries. Many of the changes were spontaneous and were not always initiated or accompanied by relevant legislation.

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

Social services were regulated in a similar manner under the preceding regime in all the Visegrad countries. They were reformed in three of them.

The legal framework is different in the four different countries (see country reports in the second part of the expertise).

The first to replace the communist legislation was Poland (1990), which also has recently approved new legislation further remodelling the social services. The Act of November 29,

1990 on social assistance<sup>3</sup> redefined social services for the children, youth and elderly. The Act of December 14, 1994, on employment and counteracting unemployment<sup>4</sup> reshaped social services for youth aiming at promoting employment. The right of children as well as disabled and elderly persons to assistance of the State was guaranteed by the Constitution<sup>5</sup> 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 persons<sup>6</sup>. Moreover, in 2003 the act on public utility activities and charity work entered into force.

In Hungary, the democratic Constitution was created in 1989 and it already contained reference to social rights. Hungary was the second to start reforming social services. Since 1993 the Social Act<sup>7</sup> regulates provision of all types of social services, which affected social services provided to elderly, psychiatric patients, addictive patients, homeless people, etc. This law and its later modifications is interesting as it

- I. introduced diversification according to needs,
- II. stated the possibility for non-governmental organizations and the private sector to draw up contracts with local authorities for service provision, and
- III. described the qualifications necessary for the different professionals working within the social domain.

The 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 biggest problems with regulating social services, as the laws approved in communist era are still in force. Social services were not officially reformed and newly regulated in the Czech Republic<sup>8</sup>. The first step towards their reform in the Czech Republic was taken in 1999 by introducing a new concept of social-legal protection of children.<sup>9</sup>

## 1.2 Legal forms of organisation

Regulation of social services needs, in principle, at least **three sets of laws**: one regulating social services, the second regulating public administration and its financing and the third regulating non-governmental organizations.

While in the Czech Republic **social services** delivered by NGOs are not specifically regulated, in Hungary the Act of 1993 and its later amendments opened explicitly the possibility for non-governmental organizations and the private sector to draw up contracts with the public authorities on provision of social services. The practice of contracting out social services has also developed in Poland and Slovakia, while in the Czech Republic the government limited its efforts only to develop the system of public financial support to NGOs providing social services.

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<sup>3</sup> *Ustawa z dnia 29 listopada 1990 r. o pomocy społecznej* (Dz. U. 98.64.414)

<sup>4</sup> Dz. U. 01.6.56.

<sup>5</sup> Polish Constitution of the 2nd April 1997

<sup>6</sup> *Ustawa z dnia 27 sierpnia 1997 o rehabilitacji zawodowej i społecznej oraz o zatrudnianiu osób niepełnosprawnych* (Dz. U. 97.123.776).

<sup>7</sup> Act no. 3 of 1993 on social provisions and social administration

<sup>8</sup> 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.

<sup>9</sup> Act No. 359/1999 on social and legal protection of children

**Public administration** was decentralized in all the Visegrad countries. It was reformed substantially in the Czech Republic in 2000-2002<sup>10</sup>, by abolishing district administration and decentralizing most of the social services responsibilities to communal and municipal governments. A similar process is underway in Slovakia. The result is decentralization of responsibilities and services, for which the communities and municipalities are not prepared; thus the role of NGOs in social services is becoming essential.

Regulation for **non-governmental organizations** (NGOs) was adopted in the early 1990ties.

In Poland<sup>11</sup> 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), where 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 Republic<sup>12</sup> 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 1990ties was very general and needed refinement to map the variety of legal forms needed to develop NGOs. Thus in mid 1990ties in the Czech Republic a set of laws<sup>13</sup> was adopted to distinguish NGOs providing services from those providing money. Recently, it also regulated the voluntary services and volunteers<sup>14</sup> and newly regulated the role of ecclesiastic organizations<sup>15</sup>. 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 the 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.

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<sup>10</sup> 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

<sup>11</sup> Ustawa z dnia 29 listopada 1990 o pomocy społecznej

<sup>12</sup> 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.)

<sup>13</sup> Act no. 248/1995 on public utility societies and Act no. 227/1997 on foundations and foundation funds

<sup>14</sup> Act no. 198/2002 Coll. on Voluntary Service

<sup>15</sup> Act no. 3/2002 Coll. on Freedom of Religion and Status of Churches and Religious Societies

### 1.3 Structure of providers

Providers of social services are established and organised in different forms. In general, social services are provided by the:

- a) State
- b) Regions
- c) Municipalities and
- d) Non-governmental non-profit and profit-making organisations<sup>16</sup>

The **state** was the main provider of social services under the communist regime. The role of local government was marginal and with the exception of the church (e.g. Poland) no NGO (not even co-operatives) was authorized to provide social services. Presently the role of the state is practically limited to regulation and financing. In some of the countries e.g. the Czech Republic the state runs highly specialized institutions that serve all the regions and communities/municipalities<sup>17</sup>.

Under the new public administrative arrangements **regions** (*kraj* in the Czech and Slovak Republic, *województwo* in Poland, *megye* in Hungary) have become the main responsible actor for the provision of social services. E.g. in the Czech Republic regional councils are empowered to subsidise organisations providing social services.<sup>18</sup>

Municipalities<sup>19</sup> and communities (*obec* in the Czech<sup>20</sup> and Slovak Republic, *gmina* in Poland, *önkormányzat* in Hungary) are the lowest level of public administration. They are the closest to the citizens<sup>21</sup>. Municipalities provide several types of services, mainly:

- Residential care in the institutions, established and run by the municipality
- Home care services (especially for handicapped and elderly) within the cadastre of the municipality
- Counselling and crisis resolution

Municipalities may also provide subsidies to social services providers both public and private.

**NGOs** are generally defined as non-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.

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<sup>16</sup> There is no legal barrier in the Czech Republic to providing social services by profit-making organisation.

<sup>17</sup> The MoLSA (Czech Ministry of Labour and Social Affairs) runs five specialized homes for people with different types of handicap

<sup>18</sup> *“within the scope of its own competence the region on its territory care takes in compliance with the local conditions and customs for the complex territorial development, mainly for the development of social care and satisfying needs of its citizens...”* (Article 14 of the Act on Regions, No. 132/2000)

<sup>19</sup> In the Czech Republic (CR) there are three types of municipalities by size (according to the number of permanent inhabitants). The largest municipalities (with a population over 3000 inhabitants) have taken over to roles of the former social welfare departments of the abolished district offices.

<sup>20</sup> In the Czech Republic municipal competencies in social welfare are defined in the Act on Municipalities: *“Within its independent authority and in its territorial area, the municipality shall further ensure, in accordance with local conditions and local custom, that conditions are created for the development of social care and to meet the needs of its citizens.”* (Art. 35 of the Act no. 129/2000)

<sup>21</sup> The Czech Act on Municipalities defines them as follows: *„A municipality is a basic self-governing territorial community of citizens; it forms a territorial unit which is delimited by the boundaries of the municipality’s territory.”* (Art.1 of Act no.129/2000)

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 co-operation between the public authorities and non-governmental organisations.

Some similarities can be found between the Czech and Slovak Republic. In both countries 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 providing of social services.

#### **1.4 Distribution of power and responsibility**

To sum up and generally speaking, the legal forms of social services providers do not vary too much in the Visegrad countries. However, there are significant differences regarding their position and empowerments.

In Poland, governmental and local authorities, churches, confessional aggregations, charity workers and physical persons provide social services on the same footing. Since 2003 there is a new, unifying term for private non-governmental organisations - “public utility organisations”. This law introduced the principle of equality between types of social services providers, as well as between the non-governmental organisations and the public authorities. Non-governmental organisations provide social services on the base of a contract concluded with the public authority. In the contracting process, the principle of co-operation plays a significant role.

Non-governmental social services providers in the Slovak Republic have the following legal forms: church and ecclesiastical organisations, Slovak Red Cross, associations of handicapped, regional associations of small entities, physical persons. Public providers are municipalities and regions. Private (non-governmental) social services providers have to register with a competent public body (region). The majority of social services is still provided by public authorities.

In the Czech Republic the situation is similar, although there was no new legislation. Mainly public authorities provide social services. There is a legal frame for establishing several types of non-governmental entities, which can also provide social services. These forms are: civic societies, public utility organisations and ecclesiastical organisations.

In the country report from Hungary no specific legal forms of non-governmental social services providers were mentioned.

#### **1.5 Forms of social services**

Generally speaking, there seems to be a significant prevalence of residential care, provided especially to the elderly, handicapped and children. There is a lack of home care services and of alternative forms of social services. This fact can be explained as a residuum of the communist era, when the interning of “socially weak” people in the residential institutions was a part of the ideological propaganda. However, all Visegrad countries strive to “de-

institutionalise” and decentralise the providing of social services and to replace the predominantly residential institutions by home care, day-care centres and other ambulatory support.

In the Czech Republic officially there are just three legal forms of public social services – the residential care, home care and day-centres care (*ustavy sociální péče*). For children there is also counselling, foster care and mediation of adoption. Additionally many modern forms of social services are provided especially by the non-governmental organisations, however, without a legal basis. This fact reflects the ability of the Czech non-governmental sector to be very flexible and innovative.

In principle the NGOs have developed four types of social services:

- I. Support through providing information and guidance
- II. Assistance to the client in matters he/she cannot master
- III. Assistance in organized centres providing ambulatory care
- IV. Inmate care in institutions of the residential type.

The Czech country report provides greater details of the services:

<p><b>PROVIDING INFORMATION AND SUPPORT</b>                      Counselling                      Guidance and interpreting service                      Supported employment</p>	<p><b>PROVIDING PERSONAL ASSISTANCE</b>                      Personal assistance                      Domiciliary care                      Early intervention                      Foster services                      Emergency assistance</p>
<p><b>PROVIDING CARE IN DAY CENTRES</b>                      Supported living                      Day-care service centres                      Sheltered workshops                      Shelter                      Hostels                      Low threshold centres                      Therapeutic communities</p>	<p><b>PROVIDING INMATE CARE</b>                      Homes                      Community residential facility                      Half-way houses                      Respite care</p>

A similar pattern of social services will be found in the other Visegrad countries.

In Hungary there are common types of social services, not differed by the target group: basic services (home care, meal delivery, family support services), day care centres, residential care. The most modern types of social services provided are the day care centres.

In Poland services for children can be provided by many types day-care (some of them provided within institutions) and also foster care. For the elderly there are care services, protected houses, family assistance houses and social assistance houses in the offer. Within the above-mentioned forms of services, different types of particular services are offered.

In the Slovak Republic the main form of provided social services is the residential care. The country report underlines the lack on offers with regard to of home care services and other alternative forms of social services. The main reason is the current legislation regulating the provision of social care including social services, which is not convenient for the non-

governmental organisations, so that they are not motivated to develop new innovative forms of social services.

On the whole one can claim that the Visegrad countries have developed patterns of services compatible to those in EU countries. The difference is not in the structure; the major difference refers to the quantity and quality of these services and to the role of NGOs in providing them.

## **1.6 Financing of social services**

As expected, the really hot issue is the financing of social services. In all the four countries (least in Poland) the social service providers are predominantly financed by public budgets, and NGOs may approach the public funds only through selective methods (grants, subsidies, etc.). This gives them an uneven chance compared to the public social services.

The only country with an equal financial treatment of NGOs is Poland. The social services are provided on the base of the contracts concluded between a provider and public authority. The presented offers are discussed and valued by teams/boards established by the public authority body, which will consequently subsidise the providing of social services labelled by the team/board as needed and adequate. The private providers are represented according to the principle of equality in such teams. The positive effect of such decision taking process on financing social services is equality and transparency.

In the remaining countries there is no equality and the subsidising of providing social services is not as transparent. Maybe the most problematic situation is in Hungary, where the fixed funding set by law and obligatory provided by the state draws distinctions not only between the various types of social services, but also between types of non-governmental social services providers. That leads to the low interest of private NGOs in providing social services. However, actually in Hungary there are great differences; where the extent of financing by central government it is relative generous, the number of NGOs is high and vice versa.

A similar situation is in the Czech Republic and Slovakia. In both countries there is no right to public subsidy when providing social services. The provider may only approach a public authority, which decides on the form and extent of a subsidy, while public providers are financed automatically.

## **1.7 The reform process**

To sum up, in all the countries attempts to reform the system of social services can be recognised. Regarding the stage of reform process, the countries can be briefly described as:

- Real reform countries, providing an adequate space for non-governmental social services providers – Poland
- Partial reform countries, with inconsistencies that have to be revisited – Slovak Republic
- No reform countries, where only few changes of the system were adopted, but the reform is still on the agenda and expected by the public – Czech Republic and Hungary

The most significant reform of social services has been undertaken in Poland. In 2003 a new bill on public utility activities and charity work was approved. The law, supplemented by the regulation on the co-operating between the public and non-governmental sector, represents

a legal frame for the whole non-governmental sector. Although it is too soon to evaluate a just established system, the legal framework seems to be able to work well.

In the Slovak Republic the reform already undertaken could be labelled as partial. It is true, that the law on social assistance was already approved in 1998. However, it is evident from the country report that the new bill did not introduce a new system of providing social services. The Slovak government strives to elaborate a new bill specialised just on social services. Such an approach differs from the Polish one and is similar to the Czech approach.

In the Czech Republic, the whole reform of social care is still ahead. There were some efforts to enhance the reform of social care (1994) and of social services (2002), but without result. Nevertheless, the net of NGO social services providers is quite broad. One of the reasons may be the already mentioned rich tradition of non-governmental societies operating in the social sector. After 1989 it was possible to re-build the non-governmental sector on such a tradition. The existence of wide extent of social services providers proofs a high level of flexibility, motivation, voluntary involvement and viability of the NGOs in the area of social services.

On the opposite, in Hungary, some partial changes were undertaken, but these cannot be considered as a real development of social services sector. Moreover, there is no significant development in NGO sector in the area of social services. It is due to the lack on tradition of NGO and the inconvenient position of NGO social services providers. However, there was a great development in terms of quantity and quality in case of residential institutions financed by central government (e.g. residential homes for elderly).

## **2 Discussion of the gained experience**

### **2.1 Do the countries need reform?**

There are multiple reasons for reform of social services.

In the paternalistic atmosphere of the preceding regime social services were all public and not very attentive to special individual needs. The services offered traditionally residential care and only recently developed home care and counseling as an alternative was developed. This approached well suited the uniformity concept of social justice - all had the same chance and the same treatment – but insufficiently and inappropriately meets the needs of a free citizen in a democratic market economy.

To meet the needs emerging in the transitional societies the systems must be reformed. There is a general public opinion on this matter opposed only by liberal and quasi-liberal political parties that consider social services a product of socialism, which they oppose.

What are the essential needs to be met by any reform of social services in the Visegrad countries?

- a) Need of decentralization – to bring the services as close as possible to the client and thus make them sensitive to his/her needs.
- b) Need of de-etatization and opening of social services to civic initiative, which best knows what is needed and how to meet the needs, better than the bureaucrats in the public administration.
- c) Need to move from residential care to protection and support of the client to remain in his/her natural social environment and motivate him/her to seek a personal solution within that environment.
- d) Restructure the method of financing to support the most efficient services regardless of whether they are public or private.
- e) Increase the participation of the client both in terms of financial participation, differed according to social status and income position and in terms of choice of service, i.e. of the way how his/her needs will be met.

## 2.2 Concept of social services

Comparing the development of social services in the Visegrad countries and other post-communist countries<sup>22</sup> one may identify great differences in

- I. the diversity of social services and the level of their diversification,
- II. the level of decentralization of social services management,
- III. level and forms of involvement of NGOs in providing social services and
- IV. the level and forms of government financial support to social services both public and private.

This report is, however, focused upon the Visegrad countries, which in comparison with the other post-communist countries seem to have a leading position.<sup>23</sup>

The country reports for the Visegrad group show the differences in approaches of the post-communist countries in the area of social services. This is due to different tradition<sup>24</sup>, concepts and the influence of European Union (EU) and World Bank (WB) experts. Thus two important concepts seem to compete – the German model and the British approach to social services. This has an impact both on concept and approaches.

In the Polish report social services are understood as “*benefits concerned with providing a service i.e. human actions performed upon or for the beneficiary or which benefit him directly*”<sup>25</sup>. In Slovakia social services are defined as “*specialized activities aimed to solve material or social need*” and they include (i) home care-taking services, (ii) catering, (iii) transportation, (iv) care provided by day-centres and residential institutions and (v) advantageous social loans.

While there is no explicit legal definition of social services in the Czech Republic, these have spontaneously developed a larger variety of new social services such as half-way houses, crises centres, telephone hotlines, personal assistance, early intervention, respite care low threshold centres therapeutic communities and various forms of crises intervention, etc. besides developing the traditional social services such as homes, community residential facilities, supported living, guidance and interpreting service, domiciliary care, day service centres, sheltered workshops, supported employment, foster services, shelter, hostels, ect.

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<sup>22</sup> See various international studies financed by EU and other international and regional organizations, the latest being “*Social Protection in the Candidate countries*” produced in 2003 by GVG (Gesellschaft für Versicherungswissenschaft und -gestaltung e. V.)

<sup>23</sup> Social services are well developed also in Slovenia, but this country was not included because it is not part of the Visegrad group, but is a leader in social services among the former Yugoslavia countries.

<sup>24</sup> E.g. basic social services to the poor disabled people were provided in the Czech Kingdom by the monasteries and some of the king’s free cities (Prague, Hradec Kralove, etc.) as early as the 14<sup>th</sup> century.

<sup>25</sup> See B. Schulte, Types of Benefits and Services in The Transformation of Social Security Systems in Central and Eastern Europe, eds. B. von Maydell, E.M. Hohnerlein, Peeters Press, Leuven 1994, p.185.

### **2.3 Distribution of rights and responsibilities**

There is evidently a difference in the level of centralization and de-etatization of social services.

Public involvement seem to be still important in providing social services in Hungary, due to (i) the lack of tradition in organizing NGOs and setting up initiatives in local communities, (ii) the central and local governments having very high expectations as far as the solving of social problems is considered, and (iii) the obvious lack of culture for offering sponsorship.

On the other hand private involvement seems to be highest in Poland.

Although inspired by the same democratic and Christian civilization, the approaches in details differed. A good example is the development in the two countries that emerged from the partition of the former Czechoslovak Federal Republic. While the Czechs maintained, in principle, the inherited system and the development of the new elements was more or less spontaneous, the Slovaks redrafted the inherited system<sup>26</sup> following the following principles: (i) replaced the concept of „care“ by the concept of „protection“, which meant more emphasis on re-integration of the client, (ii) social services provide support only if the client is not able to take care of him/herself and other social structures (social insurance and state social benefits) fail, (iii) social services should aim to maintain the client in natural social environment and should be toned to meet individualized needs of the client, and (iv) the state should be responsible for social services development but not for their management; social services should be managed by local governments and other public and private organizations and their provision should be open to non-governmental initiatives.

Nevertheless the social services reform is still underway in all the Visegrad countries. The Czech Republic and Slovakia are working intensively on new legislation with new concepts inspired by experiences especially from the United Kingdom and from Germany.

There are, nevertheless, some similarities due to the fact that in the last 40 years the countries have shared the same Soviet (communist) influence. In all the Visegrad countries the citizens have the right to social security declared by the constitution. The guarantee of human social rights was also proclaimed under the communist regimes as these pretended in many of their doctrines and slogans that social welfare was the advantage of socialism as opposed to capitalism.

Over-all evaluation of the processes seem to indicate that all the four countries tend to encourage, in different ways and efforts, the increasing involvement of NGOs and the close co-operation of NGOs and municipalities. The concept thus seems to tend towards a public/private mix, where the public partner shall maintain the institutions and tools to solve social crisis within public responsibility for crisis management, while the NGOs would develop, with public support, personal social services assisting people to maintain or reassume their social integration.

### **2.4 Developing legislation**

A crucial issue of the reform process seems to be the type of legislation to be adopted. There seem to be three possible approaches – (i) an all-involving law regulating all aspects of the system of social support, (ii) a piecemeal approach, legislating the various issues in different laws and (iii) developing a special law on social services, separate from cash benefits.

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<sup>26</sup> Act no. 135/1992 concerning the provision of social services by legal and physical persons and amended by Act no. 195/1998

In Poland the first approach was adopted. The later legislation seems to make a compromise with the piece-meal approach. The experience shows that the advantage of the all-in-one approach has advantages in tuning the interrelations of the various social services and their tools, but a disadvantage, because any amendment of a detail each time “opens the political debate” to all the system; this being dangerous in times of complicated coalitions managing the country.

The piecemeal approach was experimented in the Czech Republic. Originally (1995) it was intended to follow the same trend as in Poland. The piecemeal approach proved all the disadvantages of such an approach. The system has many lacks and is developed unevenly, with disharmonies between the various tools, overlapping provisions and “black holes” at the same time, etc.

The special law on social services is envisaged in the Czech Republic and Slovakia. The advantage is that this approach may fully respect the specifics of services versus cash benefits, but there is a valid argument that in times of difficulties in public finances there must be a reasonable harmonization of the aims and efforts of both cash benefits and service (their costs), which separate legislative treatment of the two makes difficult.

The report from Hungary does not mention any effort to reform the system of social care including social services or to unify the non-governmental sector. However, as problems and challenges emerged the central government has made an initiative to elaborate a new concept of a completely new legislation of system of social protection. The committee, which conducts this project called „SZOLID“, will forward its proposals and recommendations by the end of 2003.

## 2.5 Developing structures

The key issue is the size of the private involvement. There are in principle two possible approaches: (i) limit the public responsibilities in the social sphere only to public authorities, (ii) contract out social services and limit government responsibility to legislation, monitoring and supervision.

In the discussion of the roles of both public and private elements in the management and financing of social services two important issues stand-out: (i) protection of the client, and (ii) quality of social services.

The first issue calls for a tight supervision of social services, to protect the rights of children, old and disabled people, unable to protect their rights. Monitoring and supervision is also important in cases of financing of social services from public sources to avoid their misuse.

The second issue calls for registration of private providers and approbation of social service management and staff to secure professionalism and quality of the service provided for the same reasons as mentioned above. That is why regulation of private providers is so important.

The experience shows that the form of NGO providers may, in principle, be (i) association of citizens or civic society, (ii) ecclesiastical organisation, (iii) public utility society, (iv) foundation or fund to finance social services, and (v) profit-making company.

**Civil societies and associations of citizens or professions** have a long tradition in the post-Austrian-Hungarian Empire, which goes back to the mid 19<sup>th</sup> century. Civic societies represent the most widespread form of legal status also in the field of social services.<sup>27</sup> To make this traditional form efficient in respect to contemporary needs there is need of

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<sup>27</sup> In the Czech Republic one third of the 49,081 registered civic societies provide social services.

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 included in the Hungarian and Polish legislation.

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

There is a discussion in the Czech Republic in connection with the adoption of the new Act<sup>28</sup> whether there should be any distinction made between the position of civil and ecclesiastic organizations providing social services (see Annex – country report for the Czech Republic). There is evidently a tendency to remove any distinction against a tendency to retain some privileges of the churches.

A **public utility society** is an independent, freestanding, non-profit organisation, which provides its services to everyone, without distinction and under equal conditions. It is comparable to business organizations, with the main distinction that it operates in some acceptable public interest and without profit to the owners; salary to workers is not considered profit, but personnel expenses. 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 organisation. 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. In the Czech Republic there are registered 762 public utility organizations.

**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 4 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 the field of homecare. They are, however, not considered as part of the “third” (i.e. non-profit) sector. E.g. in Slovakia the “third” sector has become an entity on the political scene, which cannot be overlooked.

## 2.6 New forms of social services

The most important similarity seems to be the fact, that all examined countries had to face the situation that the state provided only a few traditional forms of social services and that there was an absence of the NGO sector. The most common type of a social service was the residential around the clock care. New legislation on providing public utility services (including social services) was urgently required in the first years of the transformation. The legal answers to such a need vary from country to country.

Recently the Slovak government adopted a programme: „The Government will propose transformation of social services on the principles of decentralization and ensuring of their provision by non-state entities. Public administration will define needs and allocate funds and private providers of services will provide the service. We will introduce basic standards for

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<sup>28</sup> 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.

finances and quality of social services, a system of granting licenses and control, as well as ensuring the equality of all institutions providing social services.” However, little action was taken as most of the competencies have been transferred to regions.

The expertise indicates that the major issue discussed is that of form of social services – should they be residential or non-residential welfare services. This discussion tends to move towards preferring the latter. The preference of counselling, home care and day-care centres is evident for many reasons – it keeps the client in his/her natural social environment, it supports him/her in taking care of themselves and motivates them to be active. It is more of a social “trampoline” than a social “trap”. It provides more dignity to the human being.

## **2.7 Issues of financing**

The cost of social services is an important issue for all the governments in the four countries. Although not important in the macro-economic sense, they represent important sums for the regional and local administrations. The experience is that it is cheaper and less laborious to provide cash benefits than social services.

In all the countries the expenses of social services during the communist regime were covered by the central government in addition to cash benefits. Local governments and people were used to that. However, as public money is lacking in all the countries new resources are sought. The possible alternatives seem to be (i) to continue in the practice of financing through the central budget, (ii) to have the public providers cover the costs from local taxes they collect, (iii) to have clients participate in the cost, (iv) to open up the possibility of private sponsorship by providing tax advantages. Each approach seems to have its advantages and disadvantages so it seems that a mix of the approaches will be the outcome. To change the method of financing will meet rigorous public opposition, because the clients and their families view social service benefits as an input in their family budget.

### **3 Compatibility of accession countries social services systems to the German model of providing social services**

#### **3.1 Differences**

The Visegrad countries – as different from Germany – have to redefine and redevelop their social services, because the inherited services

- I. do not meet the needs of the market economy,
- II. do not meet the needs of the interest of most of the clients to maintain their social integration,
- III. do not motivate the client to active life,
- IV. are expensive.

Germany has its traditional system, which have developed gradually in line with the changing needs and needs refining rather than remodelling.

Social services were under the communist regime closely linked to cash benefits. This was understandable because there was little diversity in personal income levels and people with special needs had to have their incomes supplemented by services. In Germany the services differ from income support systems and are not auxiliary to them. The disintegration of cash benefits and services is a process underway in the Visegrad countries too. This is an understandable consequence of the market economy, because even the middle class that will not be eligible to social cash benefits may need special social services. Thus in Visegrad countries we can speak of a development converging to the German or British model.

Because of lack of NGOs in the Visegrad countries, which had to be developed over the past 13 years, the main responsibility lies with the public services and authorities. No subsidiarity principle – as in Germany - is applied to the relation between the public and private social service providers. In Germany the principle of subsidiarity means, that where social services are already provided by a non-governmental organisation, the local authority is not allowed to provide the same social services. In the accession countries the public authority is called upon to monitor and supervise, to register and contract etc. the private services. Thus in fact the private services perform in support of the public service.

The umbrella associations of private providers in all of the four different countries are spontaneous and chaotic; many of the providers are outside any association. The situation is different from country to country. While in Germany there are 6 umbrella-organisations, uniting almost all social services providers.

With the exception of Poland, there is not such a strong position of churches as providers of social services.

### **3.2 Possibilities of collaboration**

Wide possibilities of collaboration seem to exist in Poland and Czech Republic where the non-governmental social services sector seems to be developed and provides similar activities compatible with those provided by non-governmental organisations in Germany. The reasons are evident – in the past the countries shared a more or less similar tradition and after 1990 there was strong interaction and support from the German side. Under the Phare programmes many German experts visited the two countries and exposed them to the German experience and model. This being true in general, lately there is a strong influence of UK experts in the Czech republic.

The country nearest to the German approach seems to be the Poland. There are following reasons for this statement:

- a) The Polish legislation regulates the principle of collaboration between the public authorities and non-governmental organisations. This principle seems to be quite similar to the German legal principle of subsidiarity.
- b) Poland follows the principle of equality and equal treatment of non-governmental organisations providing social services. Following such a principle enforces the transparency and stability of the whole system of social services and offers a trustable frame for the international collaboration in the area of social services.
- c) The strong and significant position of churches is also to be taken into account, being aware of the strong position of social services provided by ecclesiastical organisations in Germany.

Hungary and Slovakia have traditionally developed a somewhat different approach and are more under other influences. Although recently German experts have beside the British, Dutch and French experts assisted in developing the social sphere in these countries.

## Country reports

This part contains 4 country reports of the Visegrad countries describing - in alphabetical order - the legal framework and forms of organisation of social services in the Czech Republic, in Hungary, Poland and in the Slovak Republic.

### 4 Czech Republic

By Kristina Koldinská<sup>29</sup>

Since 1989, in the Czech Republic (hereinafter CR) many changes in various areas of social life took place. This statement, however, does not fully apply to social services. In fact no major legal reform of social services was implemented. Nevertheless, various new forms of social services spontaneously developed and many social services providers launched their activity generally on an acceptable high professional level. This country report aims to provide an overview of the current situation in the field of social services as well as information on social services providers, their forms, activities, responsibilities and main expectations.

#### 4.1 Legal Framework

##### 4.1.1 Short historical overview of legal development in the transformation

The development of legislation concerning non-profit organisation (including social services providers) can be divided in three main stages, characterised as:

- a) 1990-1995 – establishment of non-profit sector and drafting of a social welfare bill, which was not adopted by the parliament
- b) 1996-2000 – specialisation and differentiation of non-profit sector
- c) 2001-2003 – public administration reform and proposals of social services legislation

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#### 4.1.1.1 1990-1995 – establishment of the non-profit sector

As from 1990 the then Czechoslovak society strived to establish a new, democratic and well-functioning social order in a federal environment. In 1990 the new federal democratic government proposed the first economic reform accompanied by social reform (the governmental “*Scenario for Social Reform*”). One of the goals of the social reform was to establish a new and modern system of social welfare, including social services. The process was interrupted by the disintegration of the federal arrangement.

Unfortunately, during the following more than 10 years of independence (since 1993) of the CR many reforms of social security were launched, except for a genuine reform of social welfare including social services.

The following laws, concerning social welfare (including social services) were in force in the first years of the transformation:

- Act no. 100/1988 Coll<sup>30</sup>. on Social Security, as amended
- Decree of the Ministry of Labour and Social Affairs (hereinafter MoLSA) no. 182/1991 Coll. implementing the Act on Social Security and the Act on Competence of the CR bodies in social security, as amended,
- Decree of MoLSA no. 82/1993 Coll. on reimbursement for the stay in social care facilities, as amended,
- Decree of MoLSA no. 83/1993 Coll. on catering in social care facilities, as later amended.
- Act no. 114/1988 Coll. on the Competence of the CR bodies in social security, as amended
- Act no. 83/1990 Coll. on civic society, as amended (hereafter Act No. 83/1990)
- Act no. 308/1991 Coll., on Freedom of Religion and Status of Churches and Religious Societies, as amended (hereafter Act No. 308/1991)

Obviously many of mentioned laws were introduced in the communist era and the others shortly after the breakdown of the communist regime. However, most of them are still valid until today. None of them introduced a substantial reform; they dealt with organizational matters.

The Act No. 83/1990 was for a long period of five years the only legal frame for establishing any non-profit organisation (except ecclesiastical organisations), including social services providers. The law had a general nature and its main aim was to re-establish the freedom of association, restrained during the communist regime. The regulatory scope of the law was thus very broad: Anyone, who intended to establish a society had just to register such established society with the competent ministry.

As a result, there were neither special rules for establishing and running a non-profit private provider of social services nor any quality requirements. The social services provider could be supervised only if eligible to a subsidy from the state budget (through a competent ministry). Unfortunately, such a situation, just with small modifications, lasts until today.

Similarly, the Act no. 308/1991 was a special law on the right of association, regarding religious societies. The law enabled all registered churches to establish their own

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<sup>30</sup> This abbreviation is an English abbreviation of *Sbirka zakonu a narizeni*, the official bulletin publishing all laws and regulations of the Czech Republic

organisations, including social services providers. Also this law set no rules for running social services.

Operational regulations were in this period issued by the MoLSA for the public social services only.

#### **4.1.1.2 1996-2000 – specialisation and differentiation of non-profit organisations**

It became evident during the first years of the transformation and the new social establishment that mere regulation of the general principles for the creation and operation of non-profit organisations (Act no. 83/1990) is not sufficient. Therefore new acts were approved in order to differentiate the non-profit organisations and to enable them to develop in specialised forms as required. In this connection, the second period of the transformation process can be considered as the first stage of striving for specialisation and differentiation of the non-profit sector. Besides groups of citizens organized in civic societies, the new forms included the creation of public utility organizations, created by both physical and legal persons, and “money” collecting distribution organizations – the foundations and funds.

Within the frame of the *acquis communautaire* process a special reform of social services for children was launched by a special act.

Following laws were adopted in this period:

- Act no. 248/1995 Coll. on public utility societies (hereafter Act No. 284/1995)
- Act no. 227/1997 Coll. on foundations and foundation funds (hereafter Act No. 227/1997)
- Act no. 359/1999 Coll. on social and legal protection of children (hereafter Act No. 359/1999)

In this period the MoLSA made a proposal to reform social assistance and social services (1994). This took place in the framework of discussions of the social reform which resulted in legislation reforming social security and introducing state social welfare cash benefits (1995). In 1997 the MoLSA prepared the first proposal of social welfare system reform bill which was approved by the government. Unfortunately, this attempt was not welcomed by the Parliament and the reform was not realised.

The most significant change of this period thus was the adoption of the Act no. 248/1995. The new law enlarged the possibilities of establishing non-profit organisations. More transparent conditions of economic activity of a public utility society brought an innovative element to the non-profit sector legislation<sup>31</sup>. Nevertheless, the legislation on public utility societies was not specifically built for the field of social services.

Another important change is to be mentioned. The Act No. 359/1999 defines the whole process of social and legal protection of children. Social services for children and youth were defined as well. Before the approval of this law, the social services were regulated in the general legislation on social assistance dating from 1988 and 1991. According to the new law, not only public authorities could provide social services for children and youth, but also private subjects – so called “entrusted persons”. These persons had to ask the registration by the MoLSA. The process of registration is very similar to the process of accreditation.

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<sup>31</sup> As, different from other civic societies, money of the non-profit sector coming from grants, donations or elsewhere was better protected against fraud.

#### **4.1.1.3 2001-2003 – public administration reform, proposals on new legislation on social services**

In the last three years the need to prepare a new law on social services became really urgent. It was also meant to regulate the conditions and rules of providing social services by private subjects, especially by non-profit organisations. Unfortunately none of the efforts was conducted to a final solution in form of a new bill on social services. The proposed social services reform has been criticised because of lack on an integral and consistent concept and of low quality of the legal drafting. However, the situation of a that long absence of legal regulation of providing modern forms of social services by non-profit organisations is - especially for the providers, but also for the clients - non more tenable.<sup>32</sup>

The most important change of the last three years in the field of social services is therefore the public administration reform, which was triggered in 2000 and realised in 2001-2002. The main scope of the reform of public administration was to liberate the central level of public administration from operative decision-making and to enable them to focus upon conceptive and legislative issues. The regulation of day-to-day problems was to be transferred to public self-governing subjects such as communes, municipalities and regions. Moreover, the social services are public services, which have to be run at a local level, as close to the client as possible. The self-governing bodies have the responsibility to ensure the provision of social services to their citizens, according to their needs and requirements.

New important laws were adopted in the field of public administration:

- Act No. 128/2000 Coll., on Municipalities,
- Act No. 129/2000 Coll., on Regions
- Act No. 132/2000 Coll., 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 Coll., on modifying and abolishing some laws connected with the abolishing of district offices

Consequently many competencies in different fields of social life were transferred from the higher level of public administration to the lower level, closer to the citizen. The main aim was a real and wide-ranging reform of public administration aimed to facilitate life of citizens.

Also various changes affected social services. Several competencies were transferred from MoLSA to the regions, or from the regions to the municipalities.

An important change occurred in the area of residential social services. The homes, run originally by the state or by regions, are now administered by regions, municipalities, or even by churches<sup>33</sup>.

In 2002 some changes concerning foundations<sup>34</sup> were adopted, in order to facilitate the economic activity and economic statute of the foundations. However, there are genuine doubts about the real effect of these changes<sup>35</sup>.

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<sup>32</sup> Representatives of social services providers argue that for them and their clients it is better to have a poor law regulating their work and providing them also with a social status, than no law.

<sup>33</sup> A change of the administrator also occurred at the beginning of the transformation period. Some homes started to be run by churches. Further changes in the area of residential care were realised in connection with the restitution of properties confiscated by the communist regime to the original proprietors. Some homes were run in the confiscated buildings. So, during the 1990s some of them were moved, some continued to be run, but under new conditions.

<sup>34</sup> Especially in the Act No. 227/1997 Coll. on Foundations and Foundation Funds

In the year 2002 two important laws were adopted.

The first was a new law regulating the activity of churches and religious societies<sup>36</sup>. The law was strongly criticised, especially by the churches and also by all the religious organisations providing social services. The conflict between churches and the Ministry of Culture, which proposed the above-mentioned law, was brought before the Constitutional Court, which partially decided in favour of the churches<sup>37</sup>.

The second law, adopted in the year 2002 was the Act No. 198/2002 Coll. on Voluntary Service. This law for the first time in the modern history of the CR regulated the activity in the voluntary sector. Such an activity is very important especially in the area of providing social services<sup>38</sup>. The main aim of this law is to enable the volunteer organisations to act more transparently in the society and to ensure to the volunteers at least a minimum social standard (pay social security contributions, travel costs, safety at work etc.). Following conditions laid down by the law a volunteer organisation is enabled to ask for a state financial support to cover the cost of providing and organising the voluntary service.

As the text above shows, many changes within the voluntary social services are in the process of development. There is yet little experience. The impact on the current system of social services is not very significant. Therefore, voluntary service will not be mentioned hereinafter.

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<sup>35</sup> See e.g. *Zpráva o stavu neziskového sektoru v České republice v roce 2002* [The Report on the Situation of the Non-profit Sector in the Czech Republic in the year 2002]

<sup>36</sup> Act No. 3/2002 Coll., on Freedom of Religion and Status of Churches and Religious Societies

<sup>37</sup> See the Decision of the Constitutional Court of the Czech Republic No. 6/2002. The case will be described later in more detail.

<sup>38</sup> Accordingly, the Act defines voluntary service as „activities offering help to the unemployed, the socially weak, the handicapped, the elderly, members of minorities, immigrants, post-penitentiary assistance, assistance to drug-abusers“ etc.

#### **4.1.2 Current legal basis for the activities of social services providers**

Non-profit non-governmental organisations play an important role in the field of social welfare. Following laws and orders represent the legal basis for the activities of the social services providers today:

*1. Social assistance and social services – general legal framework:*

- Act No. 100/1988 Coll. on Social Security, as amended
- Decree of the MoLSA No. 182/1991 Coll. implementing the Act on Social Security and the Act on Competence of the CR bodies in social security, as amended,

*2. Public administration – competences for providing social services:*

- Act No. 114/1988 on the Competence of the CR bodies in social security
- Act No. 128/2000 Coll., on Municipalities
- Act No. 129/2000 Coll., on Regions

*3. Non-governmental social services providers*

- Act No. 83/1990 Coll. on Civic Societies
- Act No. 248/1995 Coll. on Public Utility Societies
- Act No. 227/1997 Coll. on Foundations and Foundation Funds
- Act No. 3/2002 Coll. on Freedom of Religion and Status of Churches and Religious Societies
- Act No. 198/2002 Coll. on Voluntary Service

The list of laws on non-governmental social services providers and on municipalities and regions represents a general framework of the structure of social services providers and their forms.

#### **4.2 Structure of providers and forms of organisation**

There is no uniform monitoring or methodology how to survey the scope of provided social services, their quality and the cost of their provision. Thus, this country study relies on partial data and knowledge gathered by the author.

Providers of social services are established and organised in different forms. In general, social services are provided by the:

- a) State
- b) Regions
- c) Municipalities and
- d) Non-governmental, mostly non-profit organisations<sup>39</sup>

Citizens also provide some social services<sup>40</sup>. Such category, however, is not the object of this study and therefore will be not mentioned further.

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<sup>39</sup> There is no legal barrier to providing social services by profit-making organisation.

<sup>40</sup> There is a possibility for the municipality to contract a citizen in order to provide a certain type of services in a certain locality. According to such a contract, the citizen is entitled to a subsidy by the municipality.

#### **4.2.1 The State**

In spite of the fact that social services should be provided by somebody close to the client, some residential services are still provided by the State. It is a residuum from the communist time, when all social assistance, including social services, was guaranteed and provided by the state. The MoLSA built and operated many institutions for the elderly, handicapped and children and youth. Such homes were large and often not very convenient for clients.

The competences to run those institutions should be transferred to relevant regions once the law on regions comes fully into force. Actually, the MoLSA runs five specialized homes for people with different types of handicap.

#### **4.2.2 Regions**

According to the Article 14 of the Act on Regions, “within the scope of its own competence the region on its territory care takes in compliance with the local conditions and customs for the complex territorial development, mainly for the development of social care and satisfying needs of its citizens...” Accordingly regional councils are empowered to subsidise organisations providing social services. It is not called up to operate individual social services. Municipalities should be running such services. In conformity with this arrangement the State (MoLSA) transferred most of its competencies regarding institutions of residential care to municipalities.

The MoLSA defined criteria for selecting social service institutions run by the State, to be transferred. The criteria include issues related to:

- a) Type of the institution
- b) Capacity of the institution
- c) Extent of the locality, where the institution works

#### **4.2.3 Municipalities<sup>41</sup>**

Municipalities represent the lowest level of public administration. They are the closest to the citizens.<sup>42</sup> The municipal competencies in the social welfare sphere are defined in Article 35 of the Act on Municipalities: “Within its independent authority and in its territorial area, the municipality shall further ensure, in accordance with local conditions and local custom, that conditions are created for the development of social care and to meet the needs of its citizens.” Consequently municipalities provide several types of services, mainly:

- a) Residential care in the institutions, established and run by the municipalities
- b) Home care services (especially for handicapped and elderly).

The municipality can also provide subsidies to social services providers.

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<sup>41</sup> In the CR there are three types of municipalities by size (according to the number of permanent inhabitants). The largest municipalities (with a population over 30.000 inhabitants) have taken over to roles of the former social welfare departments of the abolished district offices.

<sup>42</sup> The Act on Municipalities defines them as follows: „A municipality is a basic self-governing territorial community of citizens; it forms a territorial unit which is delimited by the boundaries of the municipality's territory.“ (Art.1)

#### **4.2.4 Non-profit organisations**

Non-profit, non-governmental organisations represent today a fundamental pillar of modern social services. The subjects of public administration provide mainly residential care and few types of home care. Non-profit organisations provide quite a wide extent of social services especially in bigger cities. As there is no special legislation on non-profit organisation providing social services, such providers are, therefore, established as civic societies, public utility societies or ecclesiastical organisations.

Foundations and foundations funds also operate in the non-profit sector. As they finance but do not provide social services they will be not mentioned in the further text.

##### **4.2.4.1 Civic societies**

Citizens may create civic societies in accordance with the Act No. 83/1991 Coll. This law was the first to enhance the right of association, many of today's subjects providing social services as civic associations.

Their establishment is not very complicated. Having founded the society, a committee of three people can request registration of the society by the Ministry of Interior. If all legal conditions (which are of just formal nature) were followed by the founding committee, the ministry is obliged to registry and so legally establish any society, except those, aimed to limit fundamental human rights, or enhance discrimination of certain groups etc.

The civic society is generally the most common form of non-profit organisations, including social services providers. Unfortunately, there is no general register of non-profit social services providers, so there is no specific data. Recalling the general statistics of non-profit organisations, one can claim that in the year 2002 in the CR there were 49 081 registered civic societies. It is known that nearly 1/3 of the registered civic societies are not active. Civic societies represent the most widespread form of legal status also in the field of social services.<sup>43</sup>

Examples of a civic society, providing social services:

**Naděje** – a society established in 1990, helping the handicapped, elderly, homeless and other socially excluded people.

**Fokus** – a society specialised on the help to people with various psychical problems

##### **4.2.4.2 Public utility societies**

Public utility societies can be established since 1996, when the Act No. 248/1995 Coll. came into force. Originally it was to focus on non-profit organisations regulating all activities in the non-profit sector. Due to some political problems, the aim was modified and the above-mentioned act was adopted.

The public utility society is an independent, freestanding, non-profit organisation, which provides its services to everyone, without distinction and under equal conditions. All its property remains permanently in the non-profit sector, also in case of the dissolution of the society.

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<sup>43</sup> The number 49,081 civic societies represent all registered societies. It is generally known, that some 1/3 of them is not active. So, the proportion between civic societies and ecclesiastical organisations providing social services is definitely not 10:1. For further details cf. explications given at the end of paragraph 2.4, Czech Country Report.

The public utility society can be established by any citizen, legal person or by the state. The society shall within 90 days of its establishment file a request for registration by a competent court, which administers the registry of public utility societies.<sup>44</sup> The legal form of public utility society is being adopted usually by schools or also some smaller work places for handicapped etc.

Today there are 762 public utility societies registered<sup>45</sup>. One of the “bigger” public utility societies is the **Drop-in**, providing social services to people using drugs.

#### 4.2.4.3 Ecclesiastical organisations

The activity of the churches is officially regulated since 1991. The Act No. 308/1991 Coll. regulated the registration of the churches as well as the establishment of their own organisations. Naturally, most ecclesiastical organisations immediately started to provide the social services.

In the last year, the Act No. 308/1991 Coll. was replaced by the new one – No. 3/2002 Coll. The criticism of the new law was already mentioned in chapter 1.1.3. What was the case? The ecclesiastical organisations feared their existence and their financing. According to the older law, churches could freely establish their organisations, without any problem. The new law regulated a new legal form of ecclesiastical organisations obligatory established by the Ministry of Culture through a registration. Existing and operating organisations also had to ask for such a new registration, losing their legal personality until newly registered by the ministry.<sup>46</sup> Moreover, according to the new law, the churches could ask the registration of the ecclesiastical organisations just in order to realise their religious activity (social services were not explicitly mentioned in the law). In reaction to such a situation, some members of the Czech Parliament asked the Constitutional Court to examine the constitutionality of the new law on churches. The court decided, some parts of the law are against the constitution and abolished them.<sup>47</sup> The situation has thus improved compared to 2002.

According to the legislation in force, any ecclesiastical or religious society registered in the CR can create its own social service. Such an organisation has to be registered by the Ministry of Culture and meet some obligations such as regular reporting.

Actually, there are some 4 685 registered ecclesiastical organisations.

The most important organisations include:

**Diaconia in the CR**, which is a special interest group of churches and charitable organisations in the CR (those that provide services for anyone who needs help). Diaconia functions as an umbrella organisation for charitable work in the CR

**Czech Catholic Caritas** – which is a part of the Roman Catholic Church and in the CR gathers 9 ecclesiastical organisations. Its main scope is the help to people, who are on margins of the society, like: single mothers, homeless, handicapped, Roma, socially weak families, drug abusers, elderly, refugees, prisoners etc.

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<sup>44</sup> The registration by a court lasts for 6-12 month, which is quite a long period. Therefore, the registration of the civic society is sometimes easier, than a registration of a public utility society. The civic society can also run its own business much easier, than the public utility society. Moreover, from the point of view of taxes, it is more convenient for a social services provider to establish the civic-society, than a public utility society. Consequently, the establishing and running public utility society seems to be more complicated, than running a civic society.

<sup>45</sup> See table 1. in Annex.

<sup>46</sup> During this period of their “legal non-existence” these organisations of course could not ask any donation or sponsoring, which created serious problems at the end to their clients.

<sup>47</sup> See the Decision of the Constitutional Court No. 6/2002 Coll.

### **4.3 Types of social services / forms of offer**

Existing legislation allows provision of certain types of services (e.g. institutional care or care service) to persons who are unable to secure their basic needs (generally due to age or health handicap). No law, however, does define conditions for providing modern types and forms of social services. This essentially prevents the desirable development of social services and does not guarantee to citizens as users that the services are provided in standard quality or are accessible at all.<sup>48</sup>

Anyway, in the CR, all above-mentioned providers offer a wide extent of different types of social services. Social services are already so widespread (even though there is no adequate legislation), that it is rather difficult to provide a general structuralized overview on provided social services.

In the public administration sphere, institutional services still continue to be the main form of providing social services. Many residential care providers strive to modernise the houses (exterior as well as interior parts) and develop the variety of provided services.<sup>49</sup>

Maybe the most important form within home care services provided by most municipalities is lunch delivery and medical home care. Non-profit organisations often provide personal assistance to the handicapped. There is a perceptible lack on around-the-clock assistance for the elderly.

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<sup>48</sup> See official document of the MoLSA „The Structure of Social Services – Current Status in the Czech Republic“, 2002

<sup>49</sup> Within residential care are provided different types of therapy regarding the group treated in the institution. Different homes provide also respite care or day centres.

The MoLSA defined following types of social services, based on experience gained in the CR, which should be guaranteed in the future:

<p><b>PROVIDING INFORMATION AND SUPPORT</b></p> <p>Counselling Guidance and interpreting service Supported employment</p>	<p><b>PROVIDING PERSONAL ASSISTANCE</b></p> <p>Personal assistance Domiciliary care Early intervention Foster services Emergency assistance</p>
<p><b>PROVIDING CARE IN DAY CENTRES</b></p> <p>Supported living Day-care service centres Sheltered workshops Shelter Hostels Low threshold centres Therapeutic communities</p>	<p><b>PROVIDING INMATE CARE</b></p> <p>Homes Community residential facility Half-way houses Respite care</p>

Most of the above-mentioned services are already provided by non-profit organisations. MoLSA strives to define them legally and to create so a possibility for a client to chose the concrete form of applying his/her right to social care.

### Services provided to children and youths

As already mentioned, services for children and youth are provided mainly in accordance with the Act No. 359/1999 Coll. Services provided by municipalities, regions or by entrusted persons<sup>50</sup> are as follows:

- Prevention of criminality of children and youth and counselling
- Mediation of adoption or foster care
- Institutional care

According to the legislation on social assistance, other services provided to children and youth are

- Counselling
- Home care services

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<sup>50</sup> Regions today provide the registration of entrusted persons. The original registration by the MoLSA is not provided any more. Until today there are registered 86 entrusted persons, 16 of them are ecclesiastical organisations, 4 are physical persons and the resting 66 have other legal form, mainly they are civil associations.

In addition, services not provided on the base of any law, can be also mentioned, such as:

- Services for drug abusing adolescents, street work, drop-in centres, counselling
- Services for youths after serving in prison or exposed to other dangers of social exclusion – half-way houses, counselling centres, daily centres

These services are provided by non-governmental social services providers.

### **Services provided to elderly**

Elderly people are the most important clients of the residential care, provided by municipalities or by regions. According to the actual legislation there are just three forms of social services, which should be provided to the elderly:

- Institutional care – nurseries, houses for elderly (family type)
- Home care – mostly health care services, cleaning services or lunch delivery, shopping

The non-public social services providers provide also:

- Daily centres
- Respite care
- Clubs, cafés
- Wider home care services including personal assistance

## **4.4 Responsibilities in administration, financing and organisation**

Issues of administration, financing and of responsibilities of social service providers are marked by the already mentioned lack of legal frame of social services.

There are no current problems with regard to the autonomous administration of social services providers. There maybe some, but they are of a concrete nature. They generally relate to internal matters of the provider, which have to be resolved by management.

The provider of social services, although being privately run, is publicly acting and influencing significantly the situation of the weakest members of the society. Such a position requires a regulation by a law in order to provide an adequate status to the provider on one hand, and to regulate his acting to protect the user on the other hand.

According to the laws in force, the only services defined as social services in the law, are some forms of residential care and home care. All other services in fact act with no legal basis for their activity.<sup>51</sup>

Non-governmental organisations have no right to state subsidy, although they are caring for the citizens of the state. The financing of state and non-governmental entities providing social services is separated and providers do not have equal access to funding. While the social services provided by public administration (state, regions, municipalities) are automatically fully financed from the state budget, the non-governmental organisations have to demand every year a certain amount of the money on ground of a presented project. They can receive no more than 70% of their costs, in fact they receive never more than 50% of the

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<sup>51</sup> This does not mean, that the social services providers are acting illegally, because in the Czech Constitution is defined the principle: what is not forbidden, is allowed.

real costs.<sup>52</sup> Moreover, the subsidising of the non-governmental organisations activities is declining with regard to the net amount (due to the inflation and development of GDP).<sup>53</sup>

The current tax system provides advantages for non-profit organisations. However, their representatives argue, that these advantages are not sufficient to enable the non-profit organisation to operate their activities adequately, being financially independent. To sum up, there is a little motivation to establish and run non-profit organisations, including social services providers.<sup>54</sup>

The MoLSA itself is aware of the situation. In one official document the ministry argues: *“The quality of the provided services is not adequately checked and the effectiveness of the spending is not controlled at all. At present there do not exist comprehensive data on social services and quality analyses are not performed. Users have very small share on decision making about the manner and form of social services provided and play almost no part in the control. Awareness of citizens – potential users – of social services is low because there is no consistent information system for social services.”*<sup>55</sup>

Data on services provided by non-governmental non-profit organisations are not being systematically collected. Overall expenditures on the existing social services cannot therefore be documented. There can be just said, that the following providers participated in the provision of social care services in 1999 as per the above source: state providers 47.5%, municipalities and cities 35.4%, churches 10.4%, other non-governmental non-profit organisations and physical persons 6.7%.<sup>56</sup>

#### 4.5 Conclusion – further steps

The development of non-governmental social services providers in the CR was spontaneous. Their legal forms and field of activity vary. The non-governmental providers represent a indispensable part of the providing social services in the CR.

The social services/social care sector is in need of good legislation, which would confirm the beneficiary status of the whole sector and regulate the provision of social services aimed to protect the rights of the client properly.

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<sup>52</sup> See Problems of Non-governmental Non-profit Organisations in the Social and Health Care Field in the Czech Republic, *SKOK (Stálá komise oborové konference NNO působících v sociální a zdravotní sociální oblasti)* 2003

<sup>53</sup> In 2000 the state subsidised the activity of the non-profit organisations by 39% of cost for their providing. It represents 3.1 bil. CZK (€ 94,600,000), which is some 600.000.000. CZK (€ 18,300,000) more, than in the year 1999 and more or less the same, as it was in the year 1998. - See Annual Report on the Situation of Non-profit Sector, 2002

<sup>54</sup> See Annual Report on the Situation of Non-profit Sector, 2002

<sup>55</sup> See MoLSA: The Structure of Social Services – current status in the Czech Republic, 2002

<sup>56</sup> See MoLSA: The Structure of Social Services – current status in the Czech Republic, 2002, where is further mentioned: “For the implementation of non-governmental non-profit organisations project, applications were made to allocate Czech Crowns (CZK) 750,000,000 (€ 22,890,000) in the MoLSA budget chapter to the grant procedure for 2001, including funding of the technical renewal of fixed assets of the organisations. Moreover, in connection with the adoption of new budgetary rules that will make it impossible for regional authorities to provide funds to NGOs in 2001, additional CZK 300,000,000

(€ 9,156,000) was requested to secure the operation of social services that would otherwise have not been financially covered for the above reasons. The government approved the proposal of MoLSA and the draft act on the national budget currently contains a proposal regarding the subsidies to non-governmental entities for the amount of CZK 1,050,000,000. (€ 32,050,000) As part of the grant procedure for 2001, MoLSA received 932 applications for the provision of grants from the national budget.”

## 5 Hungary

By Karoly Czibere<sup>57</sup> and Marta Korintus<sup>58</sup>

Institutional help for specific groups has a long history, but the responsibility for social care for those in need was stated to be the responsibility of the state in Hungary, in 1945. However, until the beginning of the 1970's only two forms of social provision existed: financial support and residential homes, where people with all kinds of needs were looked after together. It was only in the 1970's when the system became specialized and separate homes were set up, for instance for the elderly, the disabled and the addictive patients.

The state socialist political system of forty some years, that Hungary had after World War II, was characterized by the dominance of a so-called "caring state". Salaries did not correspond to the full value of people's work, but only to a fraction of it. This was justified, among others, by state financed health care, education, leisure time activities and social welfare. There were no great inequalities in society. However, the funds drawn away from the workers this way, were increasingly spent for financing a deficit-making economy, with the result that less and less money was spent on the "non-productive" sector: health and social services, education and culture.

Nevertheless, by the end of the 1980's a range of social benefits was established. Services for children and families – including the ones for the elderly and special needs people – were quite uniform, did not really take into consideration the different kinds of needs. These looked similar and provided more or less similar provision everywhere in the country.

In 1989-1990, a multi-party democracy emerged and a democratically elected government took office. These were not only the years of political changes but also the beginning of the transition from planned economy to market economy. The process resulted in the dismantling of state property and the modernization of the structure of economy, accompanied by a great upsurge of private enterprises. The changes in ownership have brought about changes in the structure of employment, too: more people work now in the private sector. The results are different work structures, unusual work hours, different demands on the part of employers, and different needs in terms of services helping families. The changes in the political system and the economy have affected the population, especially families with children. There was a decline in the gross domestic product, prices went up, subsidies were reduced, and the majority of the people was getting poorer. Unemployment appeared, and there was quite high inflation. The polarization of society increased rapidly.

### 5.1 Legal Framework

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

The basic elements of the present system of social welfare were laid down in the Social Act of 1993<sup>59</sup>, which regulates all social services for people who need them (elderly, psychiatric patients, addicts, homeless people, etc.). This Act, and its modifications provide the legal background for the services, require diversification according to needs, state the

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<sup>57</sup> Director of the research centre of the Hungarian Ministry of Welfare.

<sup>58</sup> Head of research department of the research centre of the Hungarian Ministry of Welfare.

<sup>59</sup> Law 3 of 1993 on social provisions and social administration.

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.

The Social Act describes the system of services and the financial support system. The aim of both is to maintain the quality of life and human dignity of those people who are in need or need help for physical, mental or social reasons. Help is defined as assistance with those activities of everyday life, which the person cared for cannot carry out himself/herself. The provisions are available for all those who are in need of such services, and whose status of health requires them.

The legislation regulates all service providers, whether they are local authorities, the church, voluntary organizations or private (for-profit) businesses.

There is other legislation also that cover different provisions, which have relevance to the well-being of the population. The most important ones are:

The Act XXXI of 1997 on the protection of children, and its connecting regulations outline the duties of different authorities in identifying children at risk, providing help to their families, taking children into care and looking after children in care.

The Disability Act of 1998 and the Parliament's Decision (100/1999) about the National Disability Programme define the rights of disabled persons, describe the means of ensuring these rights, regulate complex rehabilitation, and aim to ensure the equality, independent life, and active participation of disabled persons in society.

## **5.2 Structure of providers/Forms of organisation**

Ever since the political changes in 1989-1990, one of the issues, which keep coming up is the role of the state, in the provision of social services, in the support of those in need and in financing different kinds of services. The democratically elected governments approached these questions slightly differently, however, the main thrust of the political and the consequent economical changes was the substantial change in the role of the state. Compared to the state socialist years, when all services were financed from the central budget, the government today has only a regulatory function. With the emergence of the local government system in 1990, the responsibility for the provision of services was placed with the county- and local authorities, within the 3-tier system of government (national, county, and local). Recently, there have been debates about the division of Hungary into regions, which might eventually result a change again within the organisation of the local government system.

One aspect of changes was the upsurge of privatization in all spheres of the economy, and the issue emerged in connection with the social support systems as well. However, the idea of privatization was not very popular with the majority of the population who were used to having services for a very low fee or for free, and whose income level still does not reflect the full value of their work (in spite of efforts to raise salaries, etc.).

The size of private sector, that is, the role of non-governmental providers is quite moderate within the social domain. First of all, legislation places the main responsibility on local authorities to provide services for those in need. According to the Social Act, „it is the duty of central government and local authorities - beyond the citizens' responsibility for themselves and their families, and local communities' responsibility for their members - to ensure the conditions for providing social services” (Art.2) By reason of this division of responsibilities the central government establishes the legal framework, the regulations, and the system of financing for social provisions. Local authorities are responsible to set up the local system of

social services within the framework described in the law and to define the entitlement criteria for social allowances and social services.

The Act provides an opportunity for local authorities to contract non-governmental service providers (Art.120). In 1993, at the time of creating the legislation, this opportunity was very progressive because of the short previous tradition of non-governmental initiatives. The law determines the obligatory contents of the contract. The parties must come to an agreement concerning the form of provision, number of places, fees, and the system of reporting and supervision. The local authority is obliged to pass on the available fixed funding from the central budget to the NGO, when the service is offered within the scope of the contract.

Given the framework for NGO involvement, it is useful to look at what the reasons are for their low level participation:

First of all, the main reason is the lack of tradition in organizing NGOs, and setting up initiatives in local communities. At the same time, the central and local governments have very high expectations, as far as solving social problems is considered.

There is a lack of culture for offering sponsorship. Companies have no strategies and ideas for supporting NGOs. Therefore, many NGOs besiege central and local governments for financial assistance.

The level of financing different types of social services is very uneven. The amount of fixed funding, which is the central government's contribution to the cost of care, covers only part of the full cost of services. Therefore, local authorities have to complement it. The ratio of fixed funding per recipient varies significantly among the different services. For example, a lot of NGOs maintain homes for the elderly because the above-mentioned ratio for this service is the highest.

In connection with financing, the role of the fees paid by the recipients must be pointed out. If it is not possible to ask the applicant to pay a fee (e.g. because of his/her low income), it can become difficult for the NGO to compensate the low level of fixed funding from central budget. For example, the Social Act does not allow for providers to charge a fee for family support services. This can explain the small number of NGOs running such type of service.

Another problem is the absence of a link between the system of social care and social security. Services provided within the system of social protection very often have to perform nursing functions because of the increasing number of patients confined to bed in social institutions. However, this burden is neglected by the system of financing health care. In principle, the relationship between the system of social insurance and social protection is complementary but this is not realized in terms of administration and financing. That is, there is no co-ordination on the part of the government concerning the tasks and responsibilities after the entitlement period for social insurance is over. The result is overloaded social services and less than adequate financing.

NGOs providing public services are entitled to exactly the same amount of fixed funding from the central budget (through the contracts with local authorities) as the local authorities themselves. Therefore, NGOs and local authorities meet similar difficulties in financing their services. However, their initial conditions vary considerably. NGOs, in contrast to some public or private providers, have no financial means to purchase property for the site of services, and the fixed funding can be used only to cover maintaining costs.

There are some types of service where the regulated funding comes from the central budget directly and not through the local authority (so called secondary services). This makes planning and maintaining services more secure because the difficult bargaining and the continuous collaboration with the local authority are eliminated. Interests are different. Local authorities would decrease the level and extent of provision, for saving reasons, whereas NGOs would increase number of places and recipients, for professional reasons.

There are signs of unequal treatment of non-governmental providers, namely, social institutions maintained by churches receive an additional financial support, which amounts to about 50% of the funding.

Professionals working in social institutions run by local authorities are protected by strict rules of law on civil servants. However, working for an NGO means uncertainty and lower salaries for the workers.

Considering all these difficulties, in many cases NGOs try to withdraw from service provision soon after they start to run it.

Therefore, within our present system there are some private providers (who charge high fees), there are some voluntary organizations offering services (their level of participation varies among the different types of service), and county- and local authorities maintain the majority of services.

The main features of the system are:

- fixed support (earmarked funding) from the central budget, which is matched with funding from local authorities, to provide financial and in-kind support for the needy, and to maintain services
- almost total absence of employers from the provision of services
- relatively low (government-regulated) fees for services offered by local authorities
- the possibility for local authorities to contract private and voluntary sector providers to ensure social services for the population in their area
- a relatively low participation of both the voluntary and the private (for profit) sector in service provision (due to the discrepancy between the high cost of delivering services and the limited possibility to charge fees due to the low average income level in Hungary)

In summing up the situation today, perhaps we can say that even though the dynamic processes of demand and supply influence the social welfare system to a greater extent than before, the market-controlled approach is not viable. The Hungarian system is a mixed system, comprised of financial- and in-kind support and service provision that is closer to state guaranteed provisions, on the continuum between directly state provided services and fully privatized services (5-25% of the places in the different services are maintained by county- and local authorities).

### **5.3 Types of social services/forms of offer**

In line with the changes outlined above, it has been acknowledged that there is a great need to diversify the earlier forms of uniform provisions and services in terms of:

- a) financing,
- b) types of service and
- c) delivery.

To offer a variety of services to choose from in order to match the needs better is the goal. There have been initiatives to set up new forms of services and attempts have been made to specialize and integrate their delivery. However, there have been no surveys to reveal the real need of the population. Need can be estimated only from information on the utilization of services and the existence or size of waiting lists.

The promoted process of diversification, and the participation of the non-governmental sector have lead to the emergence of a variety of provisions already. There is a move towards scaling services and to implement initiatives that are suitable for serving even the smallest villages. The aim is to ensure full coverage of the population of Hungary with a variety of services to choose from.

The Social Act describes and regulates those services, which have to be offered for the population. Its last amendment was passed in February 2003. The grouping and data below reflect the organisation of the law in 2001 since that is the one for which most recent statistics are available at the moment.

The provisions can be allocated into three big categories: basic services, institutions providing daytime care, institutions providing residential (long term and respite) care

### 5.3.1 Basic services

These are *házi segítségnyújtás* (home help), *szociális étkeztetés* (meal provision), and *családsegítés* (family support service).

Basic services are offered to help members of the population within a local authority area. All local authorities have the duty to provide home help and meal provision for those who need assistance in their own living environment (home) in their everyday life, due to their age, disability or bad health. Family support services are “personal social services that contribute to the well being and development of individuals, families and different community groups and assist in the accommodation to their social environment.”<sup>60</sup>

Between 1999 and 2001, the number of people provided for by all three kinds of services grew (Table 3. and Table 4 in the Annex.) although, there was a temporary decline of about 10,000 in the number of those accessing family support services in 2000. In 2001, home help and meals provision served about 140,000 people altogether, which indicate a 4% increase between 1999 and 2001, whereas the number of those helped by family support services was about 290,000.

Although it is a duty by law for local authorities, the smaller a settlement is, the smaller the likelihood, that it operates a home help service. In 2000, only 47 percent of settlements in Hungary offered home help service, although it is impossible to conceive no demand in the rest of the towns and villages.<sup>61</sup> Looking at the population above 60 and 65, approx. 4.3 percent and 6.17 percent respectively benefited from the service, whereas only 2 percent and 2.74 percent used it in 2001.

Basic services can be provided in settlements with less than 600 inhabitants by employing a “village caretaker” whose job is to compensate for the services that small villages are not able to maintain.

### 5.3.2 Institutions providing daytime care

These are *hajléktalanok nappali ellátása* (day care for the homeless), *idősek klubja* (club for the elderly), *fogyatékosok napközi otthona* (day care for the disabled), and *szenvedélybetegek nappali intézménye* (day care for addicts).

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<sup>60</sup> Law 3 of 1993 on social provisions and social administration.

<sup>61</sup> Korintus M., Hodosán R., Papházi T., Rácz A., Szombathelyi Sz. (2002): *A szociális és gyermekjóléti alapellátások helyzetének áttekintése* [Overview of basic social and child welfare services] Kapocs, I. Évf. I.sz. June 2002, p.2-11., *Nemzeti Család- és Szociálpolitikai Intézet* [National Institute for Family- and Social Policy], Budapest

Institutions providing daytime care aim to serve as a daytime substitute for family care, by providing opportunities for the elderly and the other recipients to meet others, to have meals, to meet their health and hygienic needs and to fight their isolation. These provide meals, various services and leisure activities for those who live in their own home, but cannot fully look after themselves.

Clubs for the elderly are the most popular type. Out of the 51,500 recipients of daytime care, about 40,000 people visited these clubs regularly in 2001 (Table 3. and Table 4. in the Annex). This accounts for about 2.02 and 2.73 percent of the age groups over 60 and over 65 respectively. The rate seems to have been relatively constant since 1990. Of the other types on institutions within this category, day care for the homeless looked after about 9,000 people, day care for the disabled provided for about 2,000 people and day care for the addicts catered for only 400 people in 2001.

### 5.3.3 Institutions providing residential (long term and respite) care

These are *időskorúak otthona, gondozóháza* (home and respite care for the elderly), *pszichiátriai betegek otthona* (home for psychiatric patients), *gyermekkorú fogyatékosok otthona, gondozóháza* (home and respite care for disabled children), *felnőttkorú fogyatékosok otthona, gondozóháza* (home and respite care for disabled adults), *szenvedélybetegek otthona* (home for addicts), *hajléktalanok otthona, szállása és éjjeli menedékhelye* (home, shelter and night shelter for the homeless), *egyéb otthonok* (other homes).

Institutions providing residential (long term and respite) care are for those people, who are not able to look after themselves or need continuous help. The institutions serve meals three times a day, give clothes (if needed), and provide mental care, and health care.

Within the category of residential care, the institutions providing long-term care have the majority of the recipients (Table 3. and Table 4 in the Annex.), about 65,000 people. This represents a 6% growth between 1999 and 2001. Respite care could accommodate only about 10,000 people in 2001.

In 2001, about 40,000 people, 2 percent of the population older than 60 years of age (and 2.7 percent of above 65) lived in residential homes for the elderly, which care for those people who reached retirement age and do not need nursing. This rate increased gradually, just as the number of places grew, by more than 40 percent since 1993. Nevertheless, the occupancy rate has never reached 100 percent.

15,300 people altogether were looked after in residential homes for people with disabilities in 2000, including children's and adults' homes and rehabilitation institutions for the disabled. These provide care and train or educate people with disabilities. The ratio of residents under the age of 18 has also decreased since 1993, while that of the adults grew by 37 percent. About 0.15 percent of the total population lives in these institutions.

Both the number of available places and the number of residents in residential homes for psychiatric patients, which care for and nurse people, who do not need considerable psychiatric treatment but are unable to look after themselves, were around 8,000, with some fluctuation, in the 1990's. The occupancy rate has continuously been above 100 percent.

The number of patients in residential homes for addictive patients was 1,154 in 1999.<sup>62</sup> This shows a nearly 100 percent growth within 6 years though, the ratio is still negligible

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<sup>62</sup> *Szociális Statisztikai Évkönyv 1999* [Yearbook of Welfare Statistics], *Központi Statisztikai Hivatal (KSH)* [Hungarian Central Statistical Office], 2000, p.180.

compared to the total population. These are homes for addictive patients who need care to stabilize their somatic and mental condition, or for those who are temporarily unable to lead their own life, and who need treatment, but no medical care. The growth in the number of recipients is related to the state's acknowledgement of drug-related problems. At the same time, institutional caring forms for alcoholics have unfortunately regressed since 1990 although, excessive drinking is a much more widespread problem.

Residential homes for the homeless provide care for those homeless who cannot be looked after in temporary shelters or in rehabilitation institutes but who require longer-term nursing or care because of their age or status of health. In 2000, there were 12 residential homes for homeless people. About 389 people were admitted, but the institutions were crowded. The ratio is negligible compared to the total population. There would be a great need to increase the number of available places.

There are three types of rehabilitation institutions, whose function is to develop or restore the beneficiaries' ability to lead an independent life. In 2000, there were: 11 rehabilitation institutions for psychiatric and addictive patients providing care for 163 people; 10 rehabilitation institution for people with disabilities providing care for 995 people, and 5 rehabilitation institution for the homeless providing care for 102 people.

Respite homes offer full care for a certain period of time. These are:

- I. respite home for the elderly,
- II. respite home for people with disabilities and
- III. respite home for psychiatric patients and addicts.

The number of users in all respite homes has increased by 0.12 percent.

## **5.4 Responsibilities in administration, financing and organisation**

Today, in Hungary, the responsibility for providing care is shared between families and friends (informal care) and other agents such as, national government, local government, church, and the voluntary sector (formal care). During the state socialist years, the responsibility for formal care was almost entirely with the national government. Since 1989, the state's responsibilities have been decentralized and there is the possibility for other agents to take part in such activities by either drawing up contracts with local authorities or by providing care services independently. However, the process has been quite slow, due mainly to financing difficulties.

### **5.4.1 The role of the national government**

There has been a substantial change in the role of national government since the end of the 1980's. Whereas, during the years of state socialism, all provisions were financed from the central budget, during the transition years, the tendency has been for the state to withdraw from direct involvement, to de-centralize and to pass many of its previous responsibilities to local governments. Its regulatory function is retained but the intention has been to give more independence, the right to choose within the given framework and more flexibility to local governments and different agencies providing the services. Currently, the major role of national government is to provide the legal framework, to secure earmarked (fixed) funding for care services, to ensure the necessary education for staff working with children, youth and adults, and to introduce the framework for supervision and quality assurance.

#### **5.4.2 The role of county government and local government**

The laws mentioned above, define the duties of local authorities also, and state what services there are required to ensure for the population in their area of authority. These duties can be fulfilled by setting up and operating programmes directly, or in partnerships, as well as by means of contracting out the services. County governments provide the rest of the care services. Since the political changes in 1990, the role of the national government has become minimal, compared to the previous era. Many of the state's previous responsibilities, including the provision of care services were given to local authorities. By and large, employers have withdrawn almost entirely from providing services, and the participation of the non-governmental sector varies; it has not become strongly involved in most provisions, yet.

#### **5.4.3 The role of the voluntary sector**

During the past decades there has been a growing interest worldwide in organizations that can be characterized as non-governmental and in their role as service providers. The reason underlying this interest is their flexibility and responsiveness to the needs of communities and their capacity to reach certain groups more effectively than public agencies. The Hungarian non-profit sector has been developing dynamically since 1989. Establishing foundations and associations became possible (i.e. legal) at that time. Many such organizations have been set up in order to meet the unsatisfied needs or at least to ease the shortage of services, which were the results of the over-centralized state provision. However, according to statistics, the share of voluntary organizations in health, education and social services is relatively low compared to other developed countries. The reason behind this is the state monopoly of education and health care that existed under state socialism. Although this monopoly was broken by the change in government in 1990, non-profit service provision could not develop rapidly because of the lack of capital needed for investment. The role of the voluntary sector is even less in services aimed at children and families. According to a survey state support for non-profit organizations providing social care amounted to 30% of their revenues in 1994, which is substantially lower, than in the Western countries. That's why these organizations are forced to depend on their private earnings and private giving of the society, but the rate of state support is increasing.

#### **5.4.4 The role of the private sector**

Local and county governments maintain the majority of care services. Overall, about 5-25% of places (depending on the type) are provided by the non-governmental sector, which includes voluntary, church and private (for profit) sector providers. The relatively low participation of the non-governmental sector in maintaining care services is not surprising. Maintaining a place in a centre or home (for children, the elderly, or for specific groups of vulnerable people) in most cases costs more than the fixed support ensured by the national government. Service providers have to complement it to a different extent, depending on the type of the provision. The contributions by service users are fixed sums, which very often cover the cost of meals received, and cannot be higher than a specific percentage of the recipient's monthly income. The majority of the population in Hungary would not be able to cover the full cost of services anyway. Salaries are still quite low compared to western standard salaries. Families with children and pensioners are among the poorest in the

society. The per capita income in families with children is 66% of that in working families without children<sup>63</sup>.

The following summary shows the responsibilities within the system of social protection in Hungary:

## **Legislation**

- *Parliament* – legislation, law
- *Central government* - further regulation
- *Local governments* - local regulation

## **Administration**

*Ministry of Health, Social and Family Affairs*

- develops social policy
- develops bills and regulations
- implements legislation

*Local governments* (there are about 3,200)

- responsible for providing social assistance and social care for those in need
- determine entitlement criteria, the extent of assistance and care, and other conditions within the legal framework

*Public Administration Offices* (there are about 20, coming under the authority of the Ministry of the Interior)

- responsible for licensing and supervising social institutions

*Methodological social institutions*

- responsible for professional supervising other social institutions

## **Financing**

*Ministry of Health, Social and Family Affairs*

- calculates the amount of fixed funding
- provides additional support through a call for applications each year

*Ministry of the Interior*

- directs subsidy to the local governments

*Local governments*

- determine fee for using social services
- make investment decisions

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<sup>63</sup> *Magyar Statisztikai Zsebkönyv 2000* [Pocketbook of Hungarian Statistics], *Központi Statisztikai Hivatal (KSH)* [Hungarian Central Statistical Office], 2001, Budapest

## Financing

In Hungary an overwhelming part of the institutions providing care are maintained by the county- and local authorities, that's why they are mainly financed by tax revenues. One part of the operational costs gets to the maintaining local authorities from the central budget in the form of a fixed support, another part of the costs is financed from the own revenues of local authorities, and as a third source, a contribution paid by the beneficiaries completes the sum. The contributions are fixed sums, but they cannot exceed a stated percentage of the recipient's monthly income. The ratio of the three sources can be different, depending on the type of the benefits and the financial situation of the given local authority. Private insurance schemes are not involved in the financing system. Overall, this system can be considered as a supply subsidizing one, as services are funded directly and those needing care don't get cash grants in order to finance the services.

There is a difference in the amount of users' fees in the governmental and in the non-governmental sector. As it is described above, the cost of care is financed mainly from three major sources: fixed support (earmarked funding) from the central government, local authority funding and users' fees.

Fixed support is set for each type of service by the government each year. It is provided to fund the services and not the tasks. There are services for which there is no fixed support.

Users' contributions are regulated for those services, which are provided by county- and local authorities and for those non-governmental services, which can obtain fixed support and/or are contracted by local authorities. The very small portion of the services that are not in either of the above categories can charge users' fees, as they like. However, it means they do not receive any kind of funding and users' fees have to cover the full cost of care.

Local authority funding usually completes the financing. The amount of local authority contribution depends on the amount needed in the case of the different services and on the decision of the local authority council.

The contribution that users of different services have to pay varies from service to service. Its amount is calculated on the basis of the regulation, taking into account the user's income. If it is impossible to determine the income, a certain percentage of the average minimum pension (amount of minimum pension was 18,310 Hungarian Forint (HUF)<sup>64</sup> per month in 2001) has to be paid. In general, fees are lower than the average minimum pension and usually cover about from 15% to max. 50% of the full cost of care.

## 5.5 Conclusion

The Hungarian system of social assistance is guaranteed through the Constitution, which defines several social rights, among them also the right to social assistance.

Basic elements of the current system were laid down in 1993, when the Social Act was approved. The Social Act, which regulated general issues, was preceded by two special acts from 1997 and 1998, focused on certain groups of people in need.

The private sector in the field of social services started to develop since 1990s. However, for such a development no sufficient space was created there. Just a very moderate legislation providing responsibilities to private sector was approved. The responsibility on social assistance was placed on local authorities. Therefore, public providers play a very important role in this field.

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<sup>64</sup> € 69.50

The modest activity of private sector is caused also by a lack of tradition of private social services and by a lack of culture for offering sponsorship. A fixed funding provided by central government resumes a big problem, which offers public funding to private providers on a not sufficient level. This caused less than adequate financing of overloaded social services.

All those basic problems of the system of social assistance and social services in Hungary lead to the situation, where is no real private and market-oriented sector in the field of social services. As becomes clear from the country report, the system of social services in Hungary needs further reforms.

## 6 Poland

By Dagmara Stateczny<sup>65</sup>

### 6.1 Legal Framework

Social services for the aims of this work are understood as “benefits concerned with providing a service, i.e. human actions, performed upon or for the beneficiary or which benefit a person directly”<sup>66</sup>. The scope of this project is a presentation of social services rendered to the children and youth, the elderly and the disabled persons. The right of children and families to the assistance of the State is proclaimed in various articles of the Polish Constitution of the 2nd April 1997. According to the Article 18: “[...] Family, maternity and paternity are under protection and care of Polish Republic”). The parents are guaranteed priority in children’s upbringing (art. 48), the State is obliged to take well-being of the family into consideration in its social and economic policy (art. 71). The Polish State is obliged to assure the protection of children’s rights (art. 72). Poland has ratified the UN Convention on Children’s Rights of 20 November 1989<sup>67</sup> on the 30th April 1991.

In relation to the elderly persons, the Article 67 of the Constitution proclaims the right of a citizen to social security in case of incapacity of work for the reasons of disease, disability or retirement age in the limits and forms precised by the law.

Social services for the children, youth and elderly are mentioned especially in the Law of 29 November 1990 on social assistance<sup>68</sup> and in various executive regulations. The social services for the youth linked to the labour market that is services with aim to promote employment are regulated in the Law of 14 December 1994 on employment and counteracting unemployment<sup>69</sup>.

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 of 2 April 1997. The conditions of according the assistance to the disabled persons are regulated in the Law of 27 August 1997 on social and professional rehabilitation and employment of disabled persons<sup>70</sup>. This law has replaced the on the employment and professional rehabilitation of disabled persons of 1991.

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<sup>66</sup> See B. Schulte, Types of Benefits and Services in The Transformation of Social Security Systems in Central and Eastern Europe, eds. B. von Maydell, E.M. Hohnerlein, Leuven 1994, p.185.

<sup>67</sup> Konwencja o Prawach Dziecka, Dz. U. 1991, nr 120, poz. 526, applicable to Poland since 7 July 1991.

<sup>68</sup> Ustawa z dnia 29 listopada 1990 r. o pomocy społecznej (Dz. U. 98.64.414).

<sup>69</sup> Dz. U. 01.6.56.

<sup>70</sup> Ustawa z dnia 27 sierpnia 1997 o rehabilitacji zawodowej i społecznej oraz o zatrudnianiu osób niepełnosprawnych (Dz. U. 97.123.776).

## 6.2 Structure of providers

The current tendency of the contemporary social policy is an increase in the co-operation of public authorities with the structures of non-governmental organizations. According to the estimates of the Ministry of Labour and Social Policy<sup>71</sup>, the number of non-governmental organizations in Poland varies between 32,000 and 48,000. The active and not only registered organizations constitute around 30% of the total number. The non-governmental organizations actually give employment to 200,000 persons and utilize work of around 2,000,000 voluntary workers<sup>72</sup>. The dominant branch of the non-governmental organizations' activity is broadly understood social assistance in which around 51% of all Polish organizations are active.

The new Law of 24 April 2003 on the public utility activities and charity work<sup>73</sup> establishes a legal framework to the functioning of the so-called third sector. The law regulates following principles: operating of the non-governmental organizations in the field of public utility and making use of it by the public authorities in realization of public tasks, acquiring the status of public utility organizations by the non-governmental organizations and functioning of public utility organizations, supervision of the public utility activities. The law also regulates the conditions of rendering the services by the volunteers.

The Law of 24 April 2003 has been prepared for six years. The adoption of the law has resulted in the increase of the position of the non-governmental organizations as a provider of social services. According to the legal provisions, non-governmental organizations that have acquired the status of public utility organizations may compete on the equal position with public authorities to become the provider of social services that fall within the sphere of public tasks enumerated in the Art. 4 of the Law. The sphere of public tasks covers among others: social assistance, protection and promotion of health, activities for the benefit of the disabled persons, care for children and youth, promotion of sport.

Public authorities support the realization of the public tasks by the non-governmental organizations and other non-public agencies enumerated in Art. 3 pt 3 of the Law and entrust them the realization of public tasks. The support and entrustment of tasks is carried out through an open bid-contest in which the non-governmental organizations and non-public institutions compete with the institutions submitted to or supervised by the public administration. The non-governmental organizations and non-public institutions enumerated in the Art. 3 pt 3 of the Law are entitled to present an offer for the realization of the public task on their own initiative also within the realm of tasks carried out by the public authorities. This possibility enables non-governmental organizations to be provider of social services not only in the spheres "neglected" by the public administration<sup>74</sup>.

Public authorities in the choice of an offer take into consideration the possibility of realization of the task by the non-governmental organizations and other non-public agencies or institutions recommended or supervised by the public administration. Furthermore, public authorities analyse the costs of the realization of the task and the amount of public means devoted to the realization of the task. The institution that supports or is entrusted with the

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<sup>71</sup> See: <http://www.mpips.gov.pl/>

<sup>72</sup> Data from <http://www.mpips.gov.pl/>

<sup>73</sup> *Ustawa o działalności pożytku publicznego i o wolontariacie* (Dz. U. 03.96.873), published 29. 05. 2003, entered into force on the 29th June 2003 except Art. 5 par. 1 pt 1, Articles 11-34 and Art. 35 par. 2 pt 5 which will enter into force on the 1 January 2004.

<sup>74</sup> See: J. J. Wygański, *Współpraca administracji publicznej i organizacji pozarządowych w dostarczaniu usług społecznych w Polsce w: Współpraca administracji publicznej i organizacji pozarządowych w dziedzinie usług społecznych*, Report, Stowarzyszenie Klon/Jawor, s. 8.

realization of the task concludes a written contract with the body of public administration. The agency obliges itself to carry out a task that is contracted out and the body is obliged to devote a subsidy to the realization of the task.

The public administration contracting out the task, controls and analyses the realization of the task; i.e. especially the current state of realization, effectiveness, correctness and quality of realization. Furthermore it monitors the correct use of public means received to carry out the task, and the proper management of necessary documentation. The agency is also obliged to present reports of the realization of the task.

The role of non-governmental organisations in the fulfilment of tasks of social assistance is provided for in the Article 1 pt 2 of the Law of the 29th November 1990 on Social Assistance. According to this Article, social assistance is organized by the relevant governmental and local administration that co-operate in this field with social organizations, the Catholic Church, other churches and confessional aggregations, foundations, associations, employers and physical persons and legal entities. The co-operation between the relevant governmental and self-government administration with the enumerated agencies is organized on the basis of partnership, subsidiarity, professionalism, equal access, public nature, economic effectiveness and quality (Art. 12a pt 1a of the Law on social assistance). In the light of Art. 25 of the Law on Social Assistance, the district (*gmina*) and county (*powiat*) self-government co-operate with social organizations, the Catholic Church, other churches, confessional aggregations, employers, physical persons and legal entities in order to render help and achieve the integration of the disabled with the environment.

The conditions of co-operation of public authorities with non-governmental organizations and other non-public agencies in the realization of tasks of social assistance are provided for in the Regulation of the Minister of Labour and Social Policy on the principles and forms of co-operation of public authorities with other agencies and patterns of offers, contracts and reports concerning the realization of tasks of social assistance<sup>75</sup>. The non-public organisations participate in defining the needs, defining tasks to carry out, analysing the realization on principles of the partnership and public nature.

The participation is carried out especially by the following aspects:

- mutual access to information enabling the analysis of problems demanding social action.
- mutual information on the costs of different types of activities enabling its comparison in different types of agencies,
- consulting the projects of basic solutions in the branches concerning its statutory realm of interest and proposed actions.
- creation of conditions for defining and promoting local and trans-local programmes.
- common analysis of effectiveness and professionalism of undertaken and fulfilled tasks.
- common creation and bringing into force of the standards of different types of social services and using them to the evaluation of work of different agencies, and

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<sup>75</sup> Rozporządzenie Ministra Pracy i Polityki Społecznej z dnia 30 czerwca 2000 r. w sprawie szczegółowych zasad i form współdziałania administracji publicznej z innymi podmiotami oraz wzorów ofert, umów i sprawozdań z realizacji zadań pomocy społecznej. (Dz.U.00.55.662).

- creation by the public authorities of the conditions necessary to increase the abilities of the non-public institutions to carry out the contracted tasks, for example through the participation of these subjects in the training organized for the employees of the public authorities.

The non-public organisations also participate in the realization of the tasks of the social assistance by the means of: defining and co-operation in the solution of social problems of the trans-regional scope, participation of the organisations' representatives in the Social Assistance Council<sup>76</sup>, co-operation and counselling in the supervision and analysis of the actual state and effectiveness of social assistance, participation in the identification of social problems and in creation and analysis of the social policy strategy of the region voivodes (województwo), participation in the identification of social problems and elaboration of local programmes of social assistance.

The public authorities, contracting out the social assistance tasks subsidize the activities of non-public organisations according to defined priorities and the financial resources at disposal. Thus, the Minister of Economy, Labour and Social Policy grants the financial resources for the tasks covered by the Ministry annual directions of activity. Voivodes are responsible for the tasks included in the elaborated and enacted purpose programmes, i.e. for the tasks concerning the evaluation of the actual state, effectiveness and co-ordination of certain activities, chairmen of the voivodeship self-government (*marszałkowie*). – Chairmen of the county self-government (*starostowie*), assume the responsibility for solution of social programmes' solution, mayors (*prezydenci, burmistrzowie i wójtowie*) for the realization of tasks included in the local programmes.

The regulation defines the principles of concluding contracts between the representatives of public sector (government authorities and local self-government) and the agencies carrying out the tasks of social assistance. On the basis of the regulation, an uniform system of co-operation of public sector with the organisations carrying out the tasks of social assistance has been created. Until the entry into force of this regulation, the co-operation of the public sector with non-governmental organizations was regulated through local self-government entities' by-laws (district-, department-, voivodeship self-government) or through co-operation programmes announced by the voivodes or the Ministry of Labour and Social Policy. However, as it is indicated in the literature<sup>77</sup>, the majority of local self-governments had not adopted such by-laws which resulted in the lack of criteria and transparency in granting of financial resources and also in the lack of support of activities carried out by the local non-governmental organizations. The regulation establishes thus the equal access of non-governmental organizations to the process of creating social assistance programmes on all levels of social assistance and participation (through its representatives) in teams that consult the presented programmes (offers).

The responsible public administration plans to contract out the task, they define publicly an information concerning the type of the task in a suitable time, and regulate the amount of the financial means devoted to this task and precises procedures of disposing of the financial means in order to enable the equal access and suitable preparation of the tasks by all the institutions interested in the co-operation. Every non-public organisation may on its own initiative propose an offer which in order to be taken into consideration has to fulfil the conditions provided for in the regulation. The results of the offer's choice and the conditions of its realization are announced publicly.

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<sup>76</sup> Advisory body to the Minister of Labour and Social Policy, see Articles 5354 of the Law on social assistance.

<sup>77</sup> See, M. Starzyński, *Współpraca organizacji pozarządowych i administracji publicznej w systemie pomocy dla osób bezdomnych in Współpraca administracji publicznej i organizacji pozarządowych w dziedzinie usług społecznych*, Report, Stowarzyszenie Klon–Jawor, op. cit., s. 24.

The subsidy is given on the basis of the contract concluded between the public responsible administration and the assigned organisation. The public administration contracting out the task to the non-public organisation periodically evaluates the fulfilment of the task, especially the actual state of realization of the contract, effectiveness and quality of fulfilment, and the correctness of the use of means received for its fulfilment, the proper management of documents. The evaluation is conducted on the basis of documents precised in the contract and explanations delivered by the organisation as well as on the basis of the control of the contracting out authorities. The assigned institutions are also obliged to present periodic reports of the fulfilment of the task.

The annexes to the regulation precise the unitary form of offers, contracts and reports of realization of the tasks. Before the enactment of the regulation, every public body contracting out the tasks disposed of its own form of offer, contract and report. This was particularly inconvenient to non-governmental organizations, which were forced to present the same tender to different bodies of the public sector on various forms of offer.

According to the Law of 27 August 1997 on social and professional rehabilitation and employment of the disabled persons, the tasks defined in this Act are carried out by the bodies of the governmental and local administration that are obliged to co-operate in its fulfilment with the non-governmental organizations and foundations acting for the benefit of disabled persons. The co-operation with the non-governmental organizations and foundations acting for the benefit of disabled is cited as one of tasks of the Government's Plenipotentiary for the Disabled (Art. 34 pt 3 of the Law). In Poland, the number of non-governmental organizations providing services for disabled person amounts more than 5,000<sup>78</sup>.

### 6.3 Types of social services

Social services rendered to children and youth, disabled and elderly persons cover counselling, care and living services, placement in social assistance institutions, and health services.

The social services for the benefit of the children are rendered in relation with different reasons like family problems or orphanage, poverty, disabilities, social dysfunctions. In relation to the youth there exist also social services linked to the labour market, i.e. services rendered to facilitate the employment of the youth. Children and youth with disabilities may also be beneficiaries of services provided for in the Law of 27 August 1997 on social and professional rehabilitation and employment of disabled persons.

The social services related to the family reasons are the following ones:

- supporting the natural family (counselling, daily care of children),
- temporary placement of children in foster families,
- long-term care in foster families or in a care and upbringing institution (*placówka opiekuńczo-wychowawcza*).

According to the Regulation of the Minister of Labour and Social Policy of the 1st September 2000, the care and upbringing institutions are classified according to the specificity of its tasks as follows: institutions of daily support (*placówki wsparcia dziennego*), institutions of intervention (*placówki interwencyjne*), family institutions (*placówki rodzinne* – previously family children's houses), socialisation institutions (children's houses), re-socialisation institutions (*placówki resocjalizacyjne*). In the light of § 5 of the Regulation, the care and

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<sup>78</sup> Data from <http://www.mpips.gov.pl>

upbringing institutions may combine different types of services for example: family institutions may render services of intervention, counselling and daily care apart the typical service of long-term care.

Daily support institutions cover especially day-rooms created by the district self-government, the church or non-governmental organisations that assure afternoon care during homework-time, additional care and family counselling. The functioning of the day-rooms is financed from the district anti-alcoholic fund. The role of upbringing centres (*ognisko wychowawcze*) offering daily support and accommodation in crisis situations diminishes as the self-government does not dispose of sufficient resources for their functioning<sup>79</sup>.

The care emergencies and family emergencies (short-term foster families) are the main types of intervention institutions. On the county self-government level there increases an amount of crisis intervention points (*punkty interwencji kryzysowej*).

Family institutions are functioning especially in the form of the multiple-children foster family (family children's houses). There exist around 160 family children's houses in Poland which render care and education services to around 1,000 children. The family institutions enable upbringing of siblings in the same institution<sup>80</sup>. Socialisation institutions (previously children's houses – *domy dziecka*) assure upbringing and 24h care to a child and fulfil necessary needs, conduct different types of activities: therapy, logopedics, socialisation, re-socialisation etc. Furthermore they provide suitable rehabilitation to disabled children, assure education and levelling of education and development delays of a child. The socialisation institutions are obliged to undertake activities with the aim to return a child to the natural family or a placement in an adoptive or foster family.

Re-socialisation institutions as – e.g. youth upbringing centres (*młodzieżowe ośrodki wychowawcze*) – are intended to work individually with socially dysfunctional children and youth according to their personality and needs. They assure education and participation in culture, sports and social life and they aim to prepare to work and life in the natural social environment.

According to the Law on Social Assistance, every person who attains majority age in the foster family or a major person who leaves certain types of social and upbringing institutions, minors' hostels, approved schools and special education and upbringing centres, is entitled to obtain assistance. This assistance aims to achieve at self-dependence and integration with the environment through the social work, financial benefits<sup>81</sup>, assistance in the search for employment, search for a suitable dwelling, protected houses (*mieszkanie chronione*) and benefits in kind. The Regulation of 1 September 2000 on the care and upbringing institutions provides for that the institution's pupils are entitled to the counselling of specialists employed in this institution during three years after the leave of the institution (§ 36 of the Regulation).

The placement of a child entirely or partially devoid of parental care in a foster family is guaranteed by the district self-government. When the means of rendering assistance to a child in a natural family or in a foster family are exhausted, a child is placed in a care and upbringing institution (*placówka opiekuńczo-wychowawcza*). Until the end of 1999, in Poland care and upbringing institutions have functioned within the uniform system of education and

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<sup>79</sup> See T. Polkowski, *Współpraca organizacji pozarządowych i administracji publicznej w systemie pomocy dla dzieci i rodzin w kryzysie* in: *Współpraca administracji publicznej i organizacji pozarządowych w dziedzinie usług społecznych*, op. cit. p. 39.

<sup>80</sup> Ibidem.

<sup>81</sup> See *Rozporządzenie Ministra Pracy i Polityki Społecznej z dnia 9 października 2001 w sprawie udzielania pomocy na usamodzielnienie, kontynuowanie nauki oraz zagospodarowanie dla pełnoletnich osób z rodzin zastępczych oraz osób opuszczających niektóre typy placówek opiekuńczo-wychowawczych i domów pomocy społecznej, zakłady poprawcze, schroniska dla nieletnich i specjalne ośrodki szkolno-wychowawcze* (DZ. U.01.120.1293).

were supervised by the Ministry of National Education. The role of the Ministry in the functioning of these institutions consisted in the repartition of resources, the central elaboration of statutes of the institutions and in the supervision over its activities. Since the 1st January 2000 the system has undergone a reorganisation resulting in the submission of the majority of social and upbringing institutions to the Ministry of Labour and Social Policy<sup>82</sup>.

The institutions of care and education may be managed by public authorities or non-public organisations enumerated in the Law on Social Assistance. The majority of care and upbringing institutions are public. The Catholic Church manages around 10% of all institutions<sup>83</sup>. However, there exist several socialisation institutions managed by the non-governmental organisations. The standards of services rendered in the care and upbringing institutions as well as qualifications of persons employed in the institutions are defined in the Regulation of the Minister of Labour and Social Security of the 1 September 2000. One of the newly established standards of institutions guaranteeing the 24h care concerns the maximum number of children dwelling in such an institution which cannot exceed 30 children (§40 pt 5 of the Regulation). The institutions, which do not comply with the established standards, were obliged to prepare a programme of achieving the standards until the end of 2001. The realization of the standards should be implemented until 31 December 2006 (§ 42 of the Regulation).

The main services rendered to children for poverty reasons encompass service like daily hot meals<sup>84</sup> and school materials including books for the first grade pupils of the primary schools<sup>85</sup>. The service of nourishing becomes an important social service in Poland as the problem of malnutrition is growing and concerns around 30–70% of school-aged children, depending on the country's region, size of the town and level of unemployment<sup>86</sup>. The schools, local self-government and non-governmental organizations conduct the malnutrition combating. The lack of co-ordination between providers and the insufficiency of financial resources are perceived as the principal reasons of inefficiency of the nourishing services' system<sup>87</sup>.

As to the youth, they are also beneficiaries of social services linked to the labour market. According to the Law on employment and counteracting unemployment, the graduates directed by the Chairman of the county self-government (*starosta*) may profit from the vocational training during which they are entitled to 60% of the unemployment allowance (art. 37 a). The services for the young persons and schools' graduates are also provided in the Governmental Programme "First Job" prepared by the Ministry of Labour and Social Policy<sup>88</sup>. The forms of facilitating the employment of the youth cover among others: education, vocational counselling and job placement.

The social services rendered to the elderly persons cover especially: living services, care services rendered in the place of dwelling and in special places like centres of support (*ośrodki wsparcia*), protected houses (*mieszkania chronione*), family assistance houses (*rodzinne domy pomocy*), and finally placement in social assistance houses (*dom pomocy społecznej*).

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<sup>82</sup> See T. Polkowski, *Współpraca....*, op. cit., p. 36.

<sup>83</sup> *ibidem*, p.41

<sup>84</sup> See Regulation of the Council of Ministers of 14 January 2003 on specific principles and procedure of assistance to the nourishing of pupils – *Rozporządzenie Rady Ministrów z dnia 14 stycznia 2003 w sprawie szczegółowych zasad i trybu udzielania pomocy w dożywianiu uczniów w 2003 r.* (Dz. U. 03.13.133)

<sup>85</sup> *Rozporządzenie Rady Ministrów z dnia 18 marca 2003 r. w sprawie szczegółowych zasad i trybu udzielania pomocy uczniom podejmującym naukę w klasach pierwszych szkół podstawowych w roku szkolnym 2003/2004.*

<sup>86</sup> Data from the Conference: „Problems of under nutrition of children in Poland – facts and challenges” organized by Polska Akcja Humanitarna and group Danone under patronage of the Ministry of Economy, Labour and Social Policy on the 3rd–4th April 2003 in Warsaw, in: *Gazeta Wyborcza Łódź*, 31 July 2003.

<sup>87</sup> *ibidem*.

<sup>88</sup> Rządowy programme “Pierwsza Praca”, for details see: <http://www.mpips.gov.pl/>

The care services encompass assistance in fulfilment of everyday needs, hygienic care, nursing advised by the doctor and as far as possible assuring contacts with the environment. The scope and place of services is established by the district self-government that grants assistance in the form of care services. Specialist care services are once being adapted to the special needs resulting from the type of illness or disability. Persons with specialist background render the specialist care services.

This care services may be rendered in centres of support which guarantee the daily stay and the services of care, culture, recreation, education and meals during the stay. The rehabilitation services may be also rendered in the centres. The protected houses are a form of assistance to persons who do not need services in the scope rendered by the social assistance houses and for whom care services in the place of dwelling are insufficient or impossible to carry out.

Family assistance houses should be understood as living and care services rendered 24 hour by a person or a family for not less than 3 and not more than 8 persons who need assistance due to their age (art. 2a pt 9a of the Law on Social Assistance). The services are rendered in the house of a person or a family managing the family assistance house. The standards, types and scope of care and living services rendered by the family assistance houses are regulated in the Regulation of Minister of Labour and Social Policy of 17 October 2001<sup>89</sup>. The management of the family assistance houses is contracted out by the district self-government to persons or families on the basis of a written agreement. The supervision of the family assistance house is conducted by the director of the social assistance centre (*kierownik ośrodka pomocy społecznej*).

In case of impossibility of assuring the care services in the place of dwelling by a family and the district self-government or in a special place, a person who needs 24 h care may be placed in a social assistance house. The social assistance houses may be managed after the *voivode's* approval by self-government agencies, the Catholic Church, other churches, confession aggregations and social organizations, foundations and associations, physical persons, or legal entities. This houses guarantee 24 h care and fulfil living, education, social and religious needs on a basis of standards of services defined in the Regulation on social assistance houses of 15 September 2000<sup>90</sup>.

The control over the realization of services' standards by the social assistance houses belongs to the *voivode's* competences. The institutions that do not comply with the standards, are obliged to elaborate and carry out the reformatory programme me until the year 2006. As long as standards are complied, the social assistance house functions on the basis of a conditional permit. The *voivode* has the right to withdraw the permit to manage the social assistance house and cross its registration off, if the rendered services are on a lower level than the defined standard.

The social services rendered to the disabled persons are regulated in the Law on social and professional rehabilitation and employment of disabled persons of the 2 April 1997. The main forms of social services are the one supporting the professional and social rehabilitation of the disabled persons, assisting in the participation of the disabled persons in the therapeutic activity workshops (*warsztaty terapii zajęciowej*), in rehabilitation holidays (*turnusy rehabilitacyjne*), in vocational training, in loans to start business or agricultural activity, and in financing of bank credits taken to continue commercial or agricultural activity.

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<sup>89</sup> See also *Rozporządzenie Ministra Pracy i Polityki Społecznej z dnia 17 października 2001 r. w sprawie rodzinnych domów pomocy* (Dz. U. 01.127.1399).

<sup>90</sup> See also *Rozporządzenie Ministra Pracy i Polityki Społecznej z dnia 15 września 2000 r. w sprawie domów pomocy społecznej* (Dz. U. 00.82.929).

Social rehabilitation services cover assistance to disabled persons in developing personal skills and social activation as well as developing of fulfilment of social roles. Professional rehabilitation services consist of vocational counselling, vocational training and job placement. The therapeutic activity workshops are institutions which enable social and professional rehabilitation in order to acquire or reconstitute skills necessary to start work by the disabled persons who are incapable of work. The foundations, associations and other subjects may organize the workshops. The control over the functioning of workshops and the level of rehabilitation belongs to the competence of county family assistance centres (*powiatowe centra pomocy rodzinie*)<sup>91</sup>.

The rehabilitation holidays are an organized form of active rehabilitation combined with resting which aims at the improvement of psychical and physical abilities and at the development of social skills of the clients. The rehabilitation holidays may be organized by the physical persons and legal entities who have been running the activity in favour of the disabled for at least two years and have been registered in the voivode's register of rehabilitation holidays' organizers (*organizator turnusów*).

The disabled persons are also entitled to social services provided for in the Law of 29 November 1990 on Social Assistance. According to the Art. 25 of the Law on Social Assistance, disabled persons with limited capacities of movement or communication are assigned assistance in the realm of social work. This assistance aims to enable them to fulfil a socially active role and to integrate within the society. The assistance consists of help to acquire and use of the means of communication and transfer of information as well as adaptation of flats to the constraints resulting from the disabilities. Disabled children and youth profit from all types of social services provided for children and youth on the general basis, for example disabled children may be placed in the care and upbringing institutions if there are no contraindications<sup>92</sup>.

## **6.4 Responsibilities in administration, financing and organisation**

### **6.4.1 Responsibilities in the realm of social services provided for in the social assistance system**

Within the social assistance system, the governmental authorities share the responsibilities with the self-government administration on local levels. The tasks defined in the Law on Social Assistance may be contracted out to social organisations, the Catholic Church, other churches, confessional aggregations, foundations, associations, employers and physical persons, and legal entities which are financially supported in its realization.

The tasks of the *voivode* in the realm of the social assistance services are:

- analysis of effectiveness of social assistance,
- establishing of the means of realisation of the governmental administration tasks carried out by the self-government authorities,
- supervision, independently of the provider, of the quality of activities and respect of the standard of services rendered by the institutions of social assistance as well as conformity of employment of the employees of these institutions with the necessary qualifications and in the case of care and education institutions

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<sup>91</sup> See also *Rozporządzenie Ministra Pracy i Polityki Społecznej z dnia 30 września 2002 w sprawie szczegółowych zasad tworzenia, działania i finansowania warsztatów terapii zajęciowej*, DZ. U. 02.167.1376

<sup>92</sup> § 3 pt 4 of the Regulation of 1 September 2000 on the care and upbringing institutions

- supervising the respect of care standards, control of services and approval of reform programmes (*programme naprawczy*) in the houses of social assistance and evaluation of the realization of the reform programme,
- delivery and withdrawal of permits or conditional permits to manage the institutions of social assistance,
- keeping of the register of houses of social protection,
- indication of the centres keeping the database of children awaiting the adoption and candidates approved as foster parents as well as families willing to adopt a child.

The voivodeship self-government in realm of social services has broadly defined competences of conceptual and coordinative character, which covers: analysis of needs and means in the realm of social assistance in co-operation with counties and districts, elaboration of strategy of development, elaboration and bringing into life of programmes of realization of tasks serving social assistance and its subsidizing, identification of poverty reasons and support of activities aimed at equalization of levels of life of voivodeship inhabitants, inspiring and promotion of new solutions in the realm of social policy.

The tasks of county self-government are more executive such as:

- assuring, organisation and management of services of defined standards in the institutions of social assistance of trans-district level (*zasięg ponadgminny*),
- organisation of protected houses (*mieszkania chronione*) and directing the persons to the houses of social assistance,
- elaboration of county strategy of solution of social problems,
- informing of rights resulting from the social security system,
- organisation and management of specialist counselling, i.e. the counselling for the families and foster families, family therapy included,
- management of crisis intervention centres,
- assuring the care and education to children who are partly or entirely devoid of parents' care and socially dysfunctional children especially through the management of adoption and care centres,
- care and upbringing institutions,
- creation of child and family assistance programmes,
- assuring of training to social assistants,
- methodical counselling to social assistance centres and social workers,
- financing of county support centres,
- assistance in integration of persons leaving certain types of care and upbringing institutions, foster families, etc.

The counties are also responsible for the creation and functioning of county family assistance centres. The county tasks in the realm of social assistance are carried out by the county centres of family assistance. (*powiatowe centra pomocy rodzinie*)

The tasks of social assistance services within the competence of district self-government are: management of houses of social assistance, local support centres and placement of persons needing care, granting of material assistance, granting material assistance to start economic activity, granting loans to start economic activity. The competence of the district



of employers who employ a smaller number of disabled persons than prescribed by law. The Fund's resources are devoted *inter alia* for the creation of new and keeping of existing workplaces for disabled, for social rehabilitation and for financing specific programmes run by governmental and local agencies.

The most important tasks of the local authorities in a voivodeship are: elaboration of voivodeship programmes concerning improvement of social and professional life conditions of disabled persons, and elaboration of voivodeship assistance programmes concerning the realization of the tasks of employment of disabled persons. The voivodeship chairmanship (*zarząd województwa*) is responsible especially for elaborating and presenting to the Plenipotentiary of the task plans and information on the activity, co-operation with the governmental administration institutions as well as counties and districts in realization of tasks provided for in the law and the co-operation with non-governmental organizations and foundations acting for the disabled.

The main tasks of the county local administration are:

- elaboration of the county activity projects in realm of social rehabilitation,
- professional rehabilitation and employment and respect of the disabled persons' rights,
- co-operation with the governmental and local administration in elaboration and realisation of the programmes,
- presenting the district council's programmes to the Plenipotentiary and the *voivodeship's* administration as well as its transmission to the *voivode*.

The county self-government also undertakes activities aiming at limiting the consequences of disabilities, elaborates and presents plans of tasks and information on the activities to the voivodeship local administration. The county self-government co-operates with the non-governmental organizations and foundations in the scope of social and professional rehabilitation of the disabled persons. Furthermore they subsidy:

- the participation of disabled persons and their tutors in the rehabilitation-holidays,
- sport, culture, recreation and tourism of the disabled persons,
- use of rehabilitation-tools,
- orthopaedic materials, and
- auxiliary means to the disabled.

Other important tasks of the county self-government are:

- elimination of the architectural, urban transport, communication and technical barriers
- construction, extension and modernisation of objects serving rehabilitation,
- financing entirely or partly the costs of creating and functioning of activity therapy workshops,
- job placement, vocational counselling, training and redeployment,
- directing of disabled persons who need specialist programme of training and medical and social rehabilitation to the training and rehabilitation centres or other training institution,
- co-operation with the retirement organs,

- legal and economic advising to the disabled persons undertaking commercial or agricultural activity, and
- co-operation with the territorially competent labour inspector in the realm of analysis and control of workplaces of the disabled.

The county council decides by a by-law for which tasks it devotes the means from the Disabled Rehabilitation Fund. The tasks of the district are carried on with the support of county family assistance centres (*powiatowe centrum pomocy rodzinie*) and county labour offices (*powiatowe urzędy pracy*).

## **6.5 Conclusion**

Poland is a country with quite a developed legislation on providing social services and on activities of private sector in this field. Very important laws in this issue were approved in 1990 and in 2003.

The Social assistance act from 1990 started the reform of social assistance inherited from the communist regime. A new approach was introduced and the development of private activities in the field of social assistance was possible.

Now, the approved law on public utility activities completed the reforming process in the field of providing social services.

The Polish approach seems to be very modern and well structured, offering a wide space for activity of private sector. One of the important aspects of such an approach is the obligatory concluding of written contract between public authority and private provider. On the basis of this contract some public subsidies can be provided to the NGOs who are providing social services on private level. In the contract a private provider's right to participate on social assistance programs can also be stabilised at all levels of social assistance.

In the future it might be very interesting to observe the further development of the law on public utility activities and its application. Already today, this law seems to create a very important role for the activity of private social services providers and their equal position towards public administration.

## 7 Slovak Republic

By Helena Woleková<sup>94</sup>

### 7.1 Legal Framework / Regulation

#### 7.1.1 Legal Framework of Social Services prior to 1998

In 1990 the Federal Assembly of the former Czechoslovakia abolished the state monopoly for providing social services by Act No. 180/1990 Coll. Since then social services may also be supplied by private legal and physical entities.

In 1992 Slovak National Council passed a special Act No. 135/1992 on Providing Social Services by Legal and Physical Entities (hereinafter the **1992 Act**). The act created clear and transparent conditions for new providers of social services. It clearly distinguished between the providers–non-profit entities and providers–entrepreneurs. The 1992 Act imposed a duty on legal and physical entities to notify the relevant local state authority of the creation and termination of social services. Basic conditions for a contract on financial support from public resources included the professional capacity of providers.

#### 7.1.2 Present legislation in force

Social services are regulated by Act No.195/1998 on Social Assistance (hereinafter the **1998 Act**) as amended. It was the first act to implement the government strategy “*Transformation Policy of Social Sphere in the Slovak Republic*”, adopted in 1996. The second of the planned acts (on Social Insurance) was passed in 2002 and the third set of planned benefits – the state social benefits - are now being implemented through a set of special acts. No act, however, has defined state support for families as a consolidated special subsystem of social protection.

The 1998 Act has introduced a new philosophy of social protection/social assistance, which had before been defined as *social care*<sup>95</sup>. The new philosophy of social protection/assistance is based upon several principles:

1. Social assistance is provided after the benefits of social insurance (including insurance in unemployment) and state social benefits<sup>96</sup> have been exhausted.
2. Social care has been replaced by the term “*social assistance*” in order to emphasize that the primary responsibility to solve an unfavourable social situation lies with the citizen and his/her family. In accordance with the Constitution a citizen (as well as 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*”.
3. Individual social assistance should be a tailored solution to the unfavourable social situation of a citizen/resident depending upon his/her individual needs and individual preconditions of his/her self-activation.

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<sup>94</sup> Executive director of SOCIA (foundation for support of social reforms and changes)

<sup>95</sup> Act No. 100/1988 on Social Security and by other subordinate legal norms

<sup>96</sup> Non-contributory allowances, provided as off right from the state budget.

4. Assistance in unfavourable social situations should not be an exclusive task of the state; it requires participation of other social partners: municipalities, regions and private/church organizations.
5. The unfavourable situation of a citizen and/or family is defined by the act as “*a state of material or social need*” or both. Special treatment is provided to severely disabled citizens to compensate social consequences of their status.

The 1998 Act defines the following forms of social assistance: (a) social counselling, (b) social and legal protection, (c) social services, (d) social assistance allowance and (e) social services, financial contributions for compensation and financial contribution for nursing the severely physically disabled citizens.

Social services are legally defined as „*specialized activities aimed at solving the material need or at solving social need*“ (Art.14, par. 1 of the 1998 Act). Under Art. 14, par. 2 social services shall be: (a) home care service, (b) organizing public catering, (c) transport service, (d) care provided in the facilities of social services, and (e) social loans.

The 1998 Act regulates: (a) the powers and responsibilities of public authorities to secure and provide social services; (b) the proceeding of providing social services; (c) contents of individual services; (d) their target group and the conditions to be fulfilled by a citizen; (e) location of the provided services; (f) realising the social services by private providers; (g) granting a contribution for settling expenses of the private providers, and (h) financing social services.

The reform of public administration in 2002 introduced a dual system of public administration, in which state administration is strictly separated from the self-governing administration. Under the reform of competences to undertake the social services are being transferred from the state to self-governments<sup>97</sup>. As of 1 July 2002 two in three social facilities have been decentralized to self-governing regions and municipalities (hereinafter **the Regions** and **the Municipalities**). The powers to home care services and transport services were delegated to municipalities in January 2003. In January 2004 and 2005 the remaining social facilities should be decentralized to self-governing administration upon the approved project of further phases of the decentralization.

### 7.1.3 Preparation of New Legislation of Social Services

At present the Ministry of Labour, Social Affairs and Family<sup>98</sup> of the Slovak Republic (hereinafter **MoLSAF**) has almost completed its Social Services Reform Policy. Actual new bill on Social Services is also a part of the policy. The decision was made for several reasons:

1. Social assistance has been found insufficiently proactive and pro-integrational. It also contributed to the growth of unemployment, now at a level of 18-20%, and to increased impoverishment. The social assistance fails to stimulate citizens to actively search for work and solve their social situation. This concerns especially to a great extent the long-term unemployed. The present administrative penalty in relation to the social benefits has proved to be insufficient. It was decided to replace the 1998 Act by a package of special laws. One of them is the Act on Social Services, which is expected to take effect as of 1 January 2005.

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<sup>97</sup> Act No. 416/2001 Coll. on Power Transfer from the State Administrative Bodies to the Municipalities and Higher Territorial Units.

<sup>98</sup> Formerly the Ministry of Labour and Social Affairs; the words “and Family” were added later in the 1990ties.

2. The present regulation of social services is criticised for the same shortcomings as the 1998 Act itself. Even though Art.1 of the 1992 Act defined new principles of social assistance it introduced only insignificant changes in social services and conserved the position they had under the past regime - high concentration of specialized services in resident facilities.

## 7.2 The structure of providers/forms of organisation (public-private)

The amendment to the Act No. 100/1988 on Social Security in the year 1990 enabled legal and physical entities (hereinafter **private providers**) also to provide social services. The structure of facilities according to their founders in 2001 is indicated in table No. 1.

**Table No.1. Number and capacity of social services according to provider (2001)**

Provider	Number of facilities	Capacity of facilities
Regional Office	369 = 55.1%	27,591 = 81.5%
District Office	171 = 25.5%	2,263 = 6.7%
Municipality	25 = 3.7%	1,159 = 3.4%
Church <sup>99</sup>	54 = 8.1%	1,690 = 5.0%
Other legal entities	43 = 6.4%	708 = 2.1%
Physical entities	8 = 1.2%	436 = 1.3%
Total	670 = 100%	33,847 = 100%

Source: Statistic Yearbook in the field of labour, social affairs and family 2001, MPSVaR SR (Ministry of Labour, Social Affairs and Family) Bratislava 2002

### 7.2.1 Public Providers of Social Services

The first step of decentralization of social services was carried at the end of 1990. Municipalities were delegated powers to run retirement centres, centres of personal hygiene, laundries, homes for elderly (only in Bratislava) and homes with nursing service. In fact decentralization also involved facilities like social clubs and functional accommodation for the elderly, or which protect public hygiene.

In 1996 another stage of the public administration reform was approved. Regional offices took over the administration of large social facilities for elderly people and institutes for disabled children and adults with all-national competence, previously under competence of MoLSAF. Social departments of regional offices took over administration of orphanages for children aged between 4 and 18. They took over crèches for children up to 3 years from the Health Ministry. The district offices continued to administer home care services and smaller local facilities. The structure was completed with shelters. Clinics which were nursing children changed into crisis centres.

The public administration reform in 2002 introduced a genuine decentralization of powers of the state to self-governing units. On 1 July 2002, 263 facilities of social services were

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<sup>99</sup> Note: Apart from that the Slovak Catholic Charity administering 17 charity homes for order sisters and priests that are not included in the statistics of MPSVR SR, as they receive contributions from the Ministry of Culture of the Slovak Republic.

transferred to the regions with a total capacity of 17,513 places and 7,751 employees. 101 facilities with 4,768 places and 1,954 employees (homes for elderly and facilities of nursing service) were transferred to municipalities. On 1 January 2003 the municipalities took over the home care service which before was in the competence of the district offices. In 2002 this service was provided for 26,172 citizens. By the end of 2002 8,435 people of district offices were employed.

The main task of the second phase of decentralization (2004 to 2006) is to complete the transfer of powers over the remaining services of the state administration to the self-governments. The powers to be transferred to the Regions include:

- crisis centres and re-socialization facilities to be delegated from district offices
- homes of social services for physically or mentally disabled and orphanages that shall be delegated from the regional offices.

The local offices of the state administration still have the power to establish certain facilities of social services. Table 2 provides selected data on these facilities:

**Table 2. Structure of facilities to be decentralized in the 2<sup>nd</sup> stage<sup>100</sup>**

Facility	Provider	Amount	Capacity	Term of decentralization
Homes for children who stay year-long	Regional office	43	3,396	January 2004
Crisis centres	District office	18	371	January 2004
Re-socialization centres	District office	1	8	January 2004
Homes for single parents	District office	1	36	January 2004
Orphanages	Regional office	73	3,633	January 2005

Children with compulsory institutional custody, who are now placed in special educational facilities, should also fall within the competence of the regions. Method of transfer of these children is to be agreed between the two ministries concerned.

Any social facility created as a legal entity by a municipality, region, district or regional office, is deemed to be a fully subsidized public provider of social services. If the facility is not a legal entity, it is an organizational part of a municipality or of a district office and will be financed directly by them.

The number and structure of public providers of social services has been steady in the long term, as the state has not invested into the development of the social services since 1990. Its activities were focused on completing the constructions, which had been started before 1990. Another matter to be solved was the reallocation of some of the facilities, as the original owners of the buildings claimed their restitution. Most of the facilities, however, remained in

<sup>100</sup> Reform Policy of Social Services in the Slovak Republic, draft version, Ministry of Labour, Social Affairs and Family of the Slovak Republic, July 2003.

the original buildings under a lease arrangement or the state repurchased the buildings from the owners.

## **7.2.2 Non-public / Private Providers of Social Services**

The private providers of the social services may conduct their activity if they are entered in the Register of Providers. The Register of Providers is run by the regions. The legislation strictly defines the conditions to be met in order to apply for registration. MoLSAF grants licences for providing social counselling, social and legal protection and for conducting social prevention. The applicant has to submit a project, which includes the methodology of social work and the target group and must meet requirements both, professional and as to suitable premises.

Compared to public providers, the number and structure of facilities run by private providers is constantly changing. In 2003 the Regions supported 326 private facilities operated by non-governmental organizations (**NGOs**). At present the basic structure of private providers of the social services is, generally speaking, as follows:

### **7.2.2.1 Facilities Owned by Churches and Ecclesiastical Organizations**

The Act on Churches and Parishes No. 308/90 Coll. allows the churches to operate their own functional facilities. Pursuant to the Act the Slovak Catholic Charity and the Evangelical Diaconia have re-established their activities.

#### **The Slovak Catholic Charity**

In 1927 the Episcopal Assembly created the Central Caritas in Slovakia, seated in Bratislava. After 1949 public administration was imposed on the Central Caritas and its property. The Central Caritas was assigned a special task during the socialist regime: administration of the charity homes where the priests and order sisters were placed. In spring 1991 the Confederation of Bishops passed a resolution to renew the charity activities in the dioceses. The Central Caritas was renamed the Slovak Catholic Charity (**SCCh**). Since 1 January 1996 the Diocesan charities (**DCh**) founded by resident bishops exist as independent legal subjects. Today the SCCh includes: Bratislava-Trnava Archdiocesan Charity, Archdiocesan Charity Košice, DCh Nitra, DCh Banská Bystrica, Spiš Catholic Charity, DCh Rožňava, Greek-Catholic Diocesan Charity Prešov, Bratislava Catholic Charity. The DCh are exercising their activities in the territories of the dioceses, which is not identical with the public territorial division. Every DCh (except Bratislava) has to communicate with two or three Regional Offices. Some of the DCh, which have succeeded in expanding the number of facilities and centres providing social services, are planning to transfer the legal personality upon their organizational units or smaller territories.

In 2000 the SCCh and the DCh charities administered: 17 charity homes, 14 accommodation facilities for abandoned children, physically or mentally disabled children and adults, for elderly and ill people, 24 daily care centres, 28 charity and social centres for the homeless and for needy families, 42 centres providing especially nursing service in families. In total the charity today employs 1,400 employees and the operational expenses reached 216 million Slovak crowns (SKK)<sup>101</sup>.

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<sup>101</sup> € 5,349,000



### **7.2.2.3 Social Services Provided by Associations of the Handicapped**

After abolishing the Slovak Association of the Handicapped in 1990, 40 all-national civic associations of disabled were created, mostly for different handicaps. They continued their traditional activity of self-help educational and free-time activities. Later they asserted the interests and requirements of their members during formation of public policies on nation-wide and local levels. In the third stage of their transformation these associations began to provide the social services on their own, with the main stimulus to create an alternative to the low-quality public services.

Currently the most active associations are the Association Assisting Mentally Handicapped People (hereinafter as **ZPMP**), Union of the Blind and Weak Sighted, Federation of the Deaf and Hard of Hearing, Christian League for the Deaf and several civic associations of citizens with physical handicap.

At the start ZPMP focused on creating facilities with day and week care, later they focused on protected workshops and now they have become a pioneer in pursuing protected accommodation and supported employment. Local associations have legal personality. ZPMP is spreading auxiliary services for independent life. Agencies supporting employment are a modern new service defined as a network service. However, these agencies, launched as pilot projects, are in the system of employment services, rather than within the system of social services. Agencies and other new services have predominantly a legal form of NGOs providing public utility services (according to the law of 1997).

The Union of the Blind and Weak Sighted of Slovakia runs a counselling and rehabilitation centre in each of the 8 regional towns. Moreover, it offers training of orientation and attendant service. In Bratislava and soon also in Košice it operates centres with modern diagnostic instruments for examining and rehabilitating sight.

Associations of citizens with physical handicap focus on counselling services, transport service, personal assistance and on employment and accommodation.

### **7.2.2.4 Social Services Provided by Local Organizations**

This category includes NGOs established on the initiative of individuals, groups of citizens or legal entities with the primary intention to provide a specific social service for a specific target group of citizens in social need. It does not include local associations or territorial organizations of nation-wide associations (see part 7.2.2.3).

Nowadays the local founders of NGOs providing public utility services and the founders of civic associations have diverse motivation. A great motivation is on behalf of professionals who decided to quit the public services and citizens' former clients of such facilities or their relatives and/or friends. They exploit their past experience. A new category of NGO founders are the municipalities, micro regions or regions. There is an effort to co-ordinate the services from the lower levels or shelter the local organisations by nation-wide associations, which deal with certain services (e.g. re-socialization of drug addicts), or certain target groups (citizens with psychiatric disorders).

### **7.2.2.5 Social Services Provided by Physical Persons**

There are not many physical persons providing social services. Generally medical nurses licensed for providing nursing activities are applying for registration as providers of home care service. Several physical persons are registered as providers of services for elderly

(immobile) people in a resident facility. One physical entity is registered as an operator of a sanatorium for drug addicts.

#### **7.2.2.6 Social Services Provided by Privatised Organizations**

Two homes providing social services for mentally disabled citizens in the Košice Region have initiated pilot transformation projects with the aim to substantially increase the quality of the provided services. Specifically, this means enhancing services to encourage self-support and integration of customers in local community. The transformation project also involves dissolving public budgetary organizations and taking over the services by a NGOs providing public utility services. In one of the cases the NGO was established by the facility management, in the other case by a region. A Home for Elderly in Veľké Kapušany has also changed into a NGO from the previous budgetary organisation under the competence of the municipality. The privatization only concerns provided services while property remains public ownership. It is unlawful to invest the public property taken over from the state. This blocking article should be abolished from 1 January 2004. In spite of lengthy discussions no consensus has been reached. The initiative is being taken over by the local and regional parliaments without any policy existing on a national level.

### **7.3 Types of Social Services / Forms of offer**

Social assistance is legally defined as “*social prevention and solution to the material and social need of a citizen*”. The forms include social counselling, social and legal protection, social services, social assistance benefit and compensation for disability of citizens by means of services and functional benefits. The legal and physical entities prior to 1999 may be divided into two groups:

- a) those exercising social prevention and providing social counselling or selected activities of social and legal protection (the wider concept) and
- b) those providing social services (in the narrower sense).

The first group needs a licence of MoLSAF for its performance, while the second group has to be registered by the Register of Providers of social services of a Region. Public providers of the first group are departments of social affairs of district offices and municipalities. Public providers of the second group are facilities with legal personality, district departments of social affairs and municipalities.

Public organisation implemented under the 1992 Act shows a remarkable deficiency as to the fields of social work, counselling, therapy communities, auxiliary and respite care services for a substitute family or the family care-taking of their ill or disabled member. E.g. the reason why no transport services have been transferred to municipalities is that none had ever been established; only private providers offer this service.

Crisis intervention is not considered an autonomous specialised and professional activity. Methodology of social work is reduced to fundamental care or passive supervision, lacking counselling and therapeutic support and stimulation of the customer in the homes for single parents or in the shelters for the homeless or shelters for those educated and brought up in orphanages. Private providers of intense qualified intervention for people in crisis have met misunderstanding and constraints. Hence the system of social services is losing its dynamics, professional stimulus with no pro-active and pro-integration procedures.

Typical social services are inherited facilities providing social care to the elderly and to handicapped persons. In 2001 the homes for elderly and for mentally or physically handicapped adults, administered by regional offices, stood for  $\frac{3}{4}$  of the total of vacancies in

all the facilities (the remaining vacancies represented homes of social services for handicapped children and orphanages). An average amount of beds per facility was 90. None of the governments has passed a resolution on transforming these facilities. A high number of the customers are still living their lives inactively segregated in non-functioning buildings, often isolated from local communities.

A high share of capacities and financial means is provided to all-year facilities for elderly and adult handicapped citizens. Public administration regards home care service as a preventive and auxiliary service (e. g. lunch deliveries) and as a rule placed citizens needing nursing into facilities. The experience of private providers shows that even these more serious cases may be efficiently cured at home, e.g. excellent results of the Geriatric Activation Centre Betánia.

Progress is more remarkable in homes for children where daily and weekly regimes have been implemented alongside with the all-year regimes. The facilities put more emphasis on education and preparing the children for independent life. However, the country is lacking auxiliary services assisting youth at the time of their life-start (such as supported accommodation and employment). Thus, a number of these young people end-up in all-year facilities for adults. Supported accommodation and employment still remains the domain of insufficiently supported private providers.

There are several pilot projects of community rehabilitation. A regional pilot project „*Transformation into an integrated system of mental health care*“ is being tested in Eastern Slovakia, with no successors in this field. The Minister of Health has also announced the launching of an integrated model of social and long-term health care for selected groups. The goal common to all these projects is forming a functioning complex multi-departmental system involving both the branch of Labour and Social Affairs and that of Ministry of Health.

## **7.4 Responsibilities of Management, Financing and Organisation of Social Services**

### **7.4.1 Current Division of Competency**

Public administration reform was also argued by a need to re-divide political power and responsibility in the state. Also local and regional politicians are showing an interest in political power. However, their interest to secure high-quality public services for citizens is notably smaller. Moreover, after adoption of the Act on Civil Service, civil servants are not interested in employment in self-government.

At present, responsibility for providing social services is unclear. Generally speaking, all public authorities share the responsibility but none is explicitly responsible.

MoLSAF is the central administration in social assistance; it elaborates policies. The law entrusts the same task to regional offices as well as to regions: to elaborate and publish policies concerning social services, social prevention and social counselling in their territory (which is identical for both offices). For all of them the law stipulates the obligation to coordinate activities of public authorities, municipalities, regions and other legal entities and individuals acting in social assistance in a given territory.

There are several exclusive competencies of the MoLSAF with regard to social services: it

1. performs state supervision over social services, especially with respect to fundamental human rights and freedoms of citizens,
2. grants a written consent prior to the cancellation of a social service facility,

3. verifies the competence of legal and physical persons to perform social prevention, social counselling and to perform selected activities of social and legal protection; it decides on issue of licences for these activities, maintains records of licences and controls the level of performance,
4. organises professional training and systematic professional education of employees in the field of social assistance; it checks their special qualification, determines the extent and conditions of professional training as well as the subject and conditions of an examination and issues a certificate on special qualification.

Regional offices, district offices, the regions and the municipalities have several identical competencies in the field of social services: they

1. establish and check facilities of social services; while regional and district offices may only establish facilities providing services which have not been decentralised to self-administration yet, a self-administrative region and a municipality may establish all types of services;
2. decide on providing care in facilities of social services which have been established by them and on a citizen's duty to pay a fee for the provided care in a facility of social services which have been established as a fully-subsidized or a partially-subsidized organisation (unless these jurisdictions were delegated to the organisations themselves);

Regions and Municipalities:

- decide on nursing and transporting services and on fees for these services;
- organise common catering.

District offices (on level 1) and regional office (on level 2):

- issue a review for the purpose of providing transporting service, home care, housing and supervision in a facility of protected housing and care in a rehabilitation centre
- confirms whether a citizen meets the conditions for providing social service.

A district office and municipality provide counselling in solving family and social problems; the district office also ensures prevention.

A self-governing municipality creates conditions for interest and cultural activity and for maintaining physical and mental activity of citizens, helps citizens in securing a shelter and keeps records of citizens to whom social assistance was provided (it does not keep records of citizens needing assistance). A municipality may provide a financial contribution or a lump-sum ear marked financial contribution from its budget to an entity providing social assistance under this act.

The exclusive jurisdiction of a region is to:

- keep the register of providers of social services – legal or physical entities,
- decide on entry to and erasure from register of persons providing social services and/or rejection of an application or prohibition of services.
- conclude a contract on providing financial contribution for payment of costs of social service, social prevention, social counselling or selected activities of social-law protection of entity providing social assistance under this act,

- conclude a contract on providing financial contribution to a municipality and contract on providing a lump-sum earmarked financial contribution,
- check (i) the level of providing social services or social counselling and the level of performing social prevention or of selected activities of social-law protection to entities providing social assistance under this act, and (ii) the economy of using of the provided financial contributions.

The contract on providing financial contribution may be updated by an annex on annual basis.

#### **7.4.2 Prepared Changes in Distribution of Competencies**

The new Act should bring several principal changes.

1. MoLSAF is to define mid-term National Priorities of Social Service Development and to ensure financial and organizational support mechanisms to meet them.
2. The regions are to have a decisive co-ordination function in creating an optimal network of services in the territory of a region on the basis of a good knowledge of the citizens' needs in the territory and on the basis of knowledge of development trends. The network of services must meet the criterion of local and financial accessibility of the services. The municipalities are to be the only co-ordinators of the services ensuring for their citizens according to their individual needs in a given time. Based on the subsidiary pattern principle, first the legal and physical entities should be the providers of services and supporting programmes for families and only then the municipalities and regions. All social service providers should acquire accreditation within a certain time on the basis of meeting the minimum standards of social service quality. The minimum standards will be embodied in the act. Compliance with the minimum standards will be monitored by an independent expert inspection of service quality, which shall replace the present state supervision at the Ministry. Several categories of providers will be formed gradually and this will enable any applicant for a service to offer an accessible service from a financial viewpoint.

With regard to insufficient specialised information on fiscal decentralisation, the policy on future financing of the services is the least elaborated policy.

#### **7.4.3 Financing of Social Services – Present Status**

According to Article 89 of the 1998 Act social assistance is financed from

1. the state budget, municipality budget, self-administrative region budget and in partially subsidized organisations
2. payments for provided social services paid by the citizens and persons having an obligation to pay maintenance towards these citizens and
3. income arising from payment of the agreed price of a social service.
4. donations provided by legal and physical entities.
5. after-tax profit from business activity performed by the facilities of social services with the consent of the founder.

**Table 3. State budget expenditure for social services in 2002 before decentralization (thousand SKK)<sup>102</sup>**

Region	Public providers	Private providers	Total
Bratislava	530,010	28,810	558,820
Trnava	520,242	20,000	540,242
Trenčín	637,336	15,000	652,336
Nitra	709,818	33,494	743,312
Žilina	661,372	14,306	675,678
Banská Bystrica	656,299	21,000	677,299
Prešov	649,824	49,250	699,074
Košice	729,944	30,000	759,944
Total	5,094,845	211,860	5,306,705

Source: Law on the state budget for 2002

Facilities of social services established by district and regional offices are financed by the state budget through budgetary chapters of regional offices. Since all facilities are fully subsidized, the contributions for the service by citizens are income to the state budget.

Social service facilities of fully-subsidized organisations decentralised to self-administrative regions and municipalities are also financed from the state budget, since the fiscal decentralisation has not been implemented yet (planned from 1 January 2005). However, fees by clients remain partially in the facility and partially are revenues of self-administrative regions/municipalities.

The financing of the home care service, which was transferred from the district offices to municipalities on 1 January 2003, is basically the same. It is a temporary solution.

Contributions from public sources to legal and physical entities come from the state budget and are part of the decentralisation subsidy. Since 1 July 2002 the register of social service providers and the financial contributions to them have been decentralised from the regional offices to the self-administrative regions. The Act on Social Assistance set conditions for the provision of a contribution:

1. social services are absent in the given territory,
2. there is a lack of social services,
3. social services will be provided on a higher level as the present standard,
4. social services will be provided on a similar level, but at lower operating costs than other comparable services,
5. other social services.

Involving them only for the provision of missing and lacking services is considered by private providers as limiting competition and a measure to protect public providers. The valid legal regulation does not even try to define the criteria of quality social services. A practical consequence of this situation is that registration of providers is not considered as a tool to protect citizens against unprofessional provision of social services but as a prerequisite to acquire a financial contribution from public sources.

<sup>102</sup> 1,000 SKK = approximately € 25.00

#### **7.4.4 Financial Contributions from Public Sources for Private Providers of Social Services**

A private provider of social services may receive a financial contribution from public sources for which it asked, if it meets the basic conditions: (i) it has been registered, (ii) provides services to eligible citizens, (iii) the given social service is missing or lacking in the region, (iv) the provider does not perform social service for the purpose of making profit and (v) reported to the registration body on activity and economic situation.

The amount of the financial contribution is determined by law as implemented by a decree. The contribution may be provided at most up to the amount of the difference between the average expenditures and revenues of comparable public providers. If comparison is not possible, the contribution may be provided up to the amount of real expenditures. Particular amounts of average expenditures and revenues for individual social services by size and regime of service (daily, weekly, annual, temporary) are stipulated by the relevant decree of MoLSAF.

Until 2002 sums of financial contribution for private providers were set for special purposes in the budgets of the regional offices. On the one hand it ensured sources for its operation, on the other hand the allocated amounts were relatively small and the entry of new providers almost always meant a new re-distribution. In 2001 lobbyists of private providers managed to push through the parliament a guarantee of a minimum 50% possible contribution (with effect from 2002), a year later the parliament approved the guarantee of 100%. A paradox of the present situation is that the private providers of traditional social services are in a relatively more advantageous position than the providers of new modern services (protected housing, crisis centre, re-socialisation centre, social counselling, etc). The former have a support in revenues and expenditures of public providers, the latter must severely defend their expenditures.

Table 4. Contributions from state budget for private social services providers 1997- 2003 (thousand SKK)<sup>103</sup>

<b>Region</b>	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>
Bratislava	14,030	10,251	17,730	17,00	28,810	28,810	48,000
Trnava	9,731	6,974	12,300	8,650	31,000	20,000	46,840
Nitra	6,976	11,450	12,900	13,435	51,420	33,494	74,002
Trenčín	7,523	7,690	10,927	12,800	21,700	15,000	37,500
Žilina	7,518	5,800	12,265	11,926	24,000	14,306	31,506
Banská Bystrica	8,184	11,388	17,917	18,000	32,000	21,000	51,000
Prešov	27,798	19,960	29,926	27,700	69,250	49,250	86,330
Košice	13,020	9,356	16,800	16,800	40,000	30,000	84,980
<b>Total Slovakia</b>	<b>94,780</b>	<b>82,869</b>	<b>130,765</b>	<b>126,311</b>	<b>298,180</b>	<b>211,860</b>	<b>460,158</b>

Source: Law on state budget for 1997, 1998, 1999, 2000, 2001, 2002, 2003

In 2003 the decentralisation subsidy for self-administrative regions does not set aside earmarked funds for private providers. In 2004 funds for social services are not to be set-aside for a special purpose either and the MoLSAF's decree is to be replaced by a generally binding ordinance of the self-administrative region. Since the paternalism in the field of social services still dominates, the private providers will have to manage a new stage of fight for the right to exist. This time, it will be on a local and regional level.

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<sup>103</sup> 1,000 SKK = approximatively € 25.00

## 7.5 Conclusion

After 1990, the system of social services has not changed radically. No government had a programme of their restructuring and for a principal strengthening of social work and home care services. None have stimulated creation of new support and disburdening services for family with a sick or handicapped member, emphasized social prevention and counselling or defined the services of crisis intervention. Government policy focused on sustaining operations of existing residential facilities without requiring a higher quality of provided services, effective economy with public sources or higher self-reliance. Many facilities do not comply with basic standards ruling space and capacity.

The only transformation element in the system of social services is the cancellation of the state monopoly for their provision. Private providers study the experience and trends in the European Union countries. They seek foreign partners for co-operation, and join international institutions. They bring to Slovakia new services which they verify and push into the system. The scope of services they provide grows continuously, in spite of an insufficient support of the government. The private providers of services, however, do not ensure a share of services to significantly influence and change the character of the entire system. A higher dynamics of growth in private services is not reached also due to a high organizational fragmentation of private providers. Building up a service network by one founder is going on slowly. The need of system changes is pursued by private providers rather on the basis of a non-formal platform SocioForum than by a pressure of big providers or formal associations. SocioForum was the sole supporter of the decentralisation of social services to the self-administration. In the new framework, it is the initiator of checking minimum standards in quality of social services and in introduction of quality inspection, which are the prerequisite of enactment of the same rules for all providers regardless of their founder. A further aim is to initiate community planning of social services development. All these transformation elements have been pursued by SocioForum into the Reforming Policy of Social Services in the Slovak Republic, which the government should adopt this year.

The Programme of the Government for 2002 – 2006 years includes the following: “The Government will propose transformation of social services on the principles of decentralization and ensuring of their provision by non-state entities. Public administration will define needs and allocate funds and private providers of services will provide the service. We will introduce basic standards for finances and quality of social services, a system of granting licenses and control, as well as ensuring the equality of all institutions providing social services.”

## **Annex**

### **Czech Republic**

- Table 1. Non-profit Organisations Statistics 1990–2002
- Table 2. Subsidies to Non-profit Organisations 2002

### **Hungary**

- Table 3. Number of people using the services, 1999–2001
- Table 4. Use of services, 1999–2001
- Table 5. Number of institutions / sites and people served by provider type, 2001

### **Poland**

- Table 6. Legal character of social services providers
- Table 7. Social services provided by different legal units

### **Slovak Republic**

- List of Social Services according to Act No. 195/1998 on Social Assistance as amended (Art. 14 and Art. 18)

## 1. Czech Republic

**Table 1. Non-profit Organisations Statistics 1990–2002**

	Civic societies	Foundations	Foundation funds	Public utility societies
1990	3,879			
1991	9,366			
1992	15,393	1,551		
1993	21,694	2,768		
1994	24,978	3,800		
1995	26,814	4,253		
1996	27,807	4,392		*1
1997	30,297	5,238		52
1998	36,046	**55	**71	129
1999	38,072	272	695	560
2000	42,302	282	735	557
2001	47,101	299	784	701
2002	49,108	330	825	762

\* Act No. 248/1995 Coll. on public utility societies entered into force 1. January 1996

\*\* Act No. 227/1997 Coll. on foundations and foundations funds entered into force 1. January 1998

Source: Czech Statistical Office, Albertina –company monitoring

**Table 2. Subsidies to Non-profit Organisations 2002**

Type of the legal personality	TOTAL
<b>Program of anti-drugs policy</b>	<b>28,736,605</b>
Ecclesiastical organisations	6,174,692
Public utility societies	1,962,600
Civic societies	20,599,313
<b>Program of social prevention and prevention of criminality</b>	<b>144,251,682</b>
Ecclesiastical organisations	49,990,691
Citizens	0
Public utility societies	4,666,100
Civic societies	89,594,891
<b>Other social services</b>	<b>607,035,747</b>
Ecclesiastical organisations	252,359,903
Citizens	6,975,900
Public utility societies	32,699,305
Civic societies	315,000,639
<b>Total</b>	<b>780,024,034</b>

## 2. Hungary

**Table 3. Number of people using the services, 1999-2001**

	<b>Year</b>	<b>Number of people using the service</b>
<b>Basic service</b>	1999	423,607
	2000	412,398
	2001	432,002
<b>Institutions providing daytime care</b>	1999	49,699
	2000	49,794
	2001	51,538
<b>Institutions providing residential care</b>	1999	70,287
	2000	72,183
	2001	74,338

Source: Yearbook of Welfare Statistics, Hungarian Statistical Office, 2002

**Table 4. Use of services, 1999-2001**

Services		Year	Number of served	Number of served per 10,000 of people above 60 years of age	Number of institutions/sites
Basic services	<b>Házi segítségnyújtás</b> (Home help)	1999	39,957	194.3	-
		2000	40,292	193.7	-
		2001	41,275	197.3	-
	<b>Szociális étkeztetés</b> (Meal provision)	1999	97,281	473.0	-
		2000	98,158	472.1	-
		2001	100,370	479.9	-
	<b>Családsegítés</b> (Family support service)	1999	286,369	-	558
		2000	273,948	-	660
		2001	290,357	-	766
	<b>Falugondnoki szolgáltatás</b> (Village caretaker service)	1999	-	-	-
		2000	-	-	462
		2001	-	-	552
Institutions providing daytime care	<b>Hajléktalanok nappali ellátása</b> (Day care for the homeless)	1999	7,843	-	108
		2000	7,978	-	110
		2001	8,660	-	114
	<b>Idősek klubja</b> (Club for the elderly)	1999	40,017	194.6	1,309
		2000	39,917	192.0	1,287
		2001	40,373	193.0	1,279
	<b>Fogyatékosok napközi otthonai</b> (Day care for the disabled)	1999	1,839	-	81
		2000	1,899	-	84
		2001	2,076	-	90
	<b>Szenvedélybetegek nappali intézménye</b> (Day care for addicts)	1999	-	-	-
		2000	-	-	-
		2001	429	-	13
Institutions providing residential (long term and respite) care	<b>Tartós bentlakásos szociális intézmények</b> (Institutions providing residential long term care)	1999	60,887	-	789
		2000	62,862	-	832
		2001	64,721	-	886
	<b>Átmeneti elhelyezést nyújtó szociális Intézmények</b> (Institutions providing residential respite care)	1999	9,400	-	341
		2000	9,321	-	337
		2001	9,617	-	344

Source: Yearbook of Welfare Statistics, Hungarian Statistical Office, 2002

**Table 5. Number of institutions / sites and people served by provider type, 2001**

Services		Institutions / sites				Number of people served			
		Local authority	Church	Non-profit	Other	Local authority	Church	Non-profit	Other
Basic services	Házi segítségnyújtás (Home help)	-	-	-	-	40,477	72	705	21
	Szociális étkeztetés (Meal provision)	-	-	-	-	99,351	457	520	42
	Családsegítők (Family support service)	687	5	44	30	-	-	-	-
Institutions providing daytime care	Hajléktalanok nappali ellátása (Day care for the homeless),	65	7	42	-	3,030	727	4 903	-
	Idősek klubja (Club for the elderly)	1 246	22	9	2	38,824	1 108	307	134
	Fogyatékosok napközi otthonai (Day care for the disabled),	66	2	21	1	1,565	73	403	35
	Szenvedélybetegek nappali intézménye (Day care for addicts)	6	-	5	2	167	-	179	83
Institutions providing residential (long term and respite) care	Tartós bentlakásos és átmeneti elhelyezést nyújtó szociális intézmények (Institutions providing residential long term and respite care)	557	124	160	63	55,984	6 140	7 420	4794

Source: Yearbook of Welfare Statistics, Hungarian Statistical Office, 2002

### 3. Poland

**Table 6. Legal character of social services providers**

Sector	The number of social assistance units	Percentage %
Non-governmental organisations	908	57%
Local administration	405	25%
Churches /Monasteries	107	7%
Cooperatives' sector	68	4%
Private sector	61	4%
Central administration	34	2%
Others	20	1%
	1,603	100%

**Table 7. Social services provided by different legal units**

	Non-governmental sector		Public administration		churches/monasteries		Others (e.g. co-operatives)		Total	
Children and youth	294	50.1%	209	35.6%	32	5.5%	52	8.9%	587	100%
Sick and disabled	318	57.4%	149	26.9%	38	6.9%	49	8.8%	554	100%
Elderly persons	116	41.4%	82	29.3%	28	10.0%	54	19.3%	280	100%
Persons in difficult personal situation	48	42.1%	59	51.8%	2	1.8%	5	4.4%	114	100%
Homeless and the poorest	27	35.1%	31	40.3%	19	24.7%	0	0.0%	77	100%
Alcoholics	31	32.6%	58	61.1%	4	4.2%	2	2.1%	95	100%
Women	31	68.9%	6	13.3%	4	8.9%	4	8.9%	45	100%
Single mothers	30	52.6%	15	26.3%	11	19.3%	1	1.8%	57	100%
Jobless	14	28.0%	30	60.0%	3	6.0%	3	6.0%	50	100%
Addicted to drugs	21	61.8%	9	26.5%	4	11.8%	0	0.0%	34	100%
Refugees	3	30.0%	5	50.0%	1	10.0%	1	10.0%	10	100%

## 4. Slovak Republic

### List of Social Services according to Act No. 195/1998 on Social Assistance as amended (Art. 14 and Art. 18)

- a) Home care service
- b) Organising of common catering
- c) Transporting service
- d) Care in the facilities of social services:
  - 1. home-lodging house for senior pensioners,
  - 2. pensioners' club,
  - 3. canteen for pensioners,
  - 4. personal hygiene centre,
  - 5. laundry,
  - 6. nursing service facility,
  - 7. home for elderly,
  - 8. protected housing,
  - 9. rehabilitation centre,
  - 10. home of social services for children with daily stay,
  - 11. home of social services for children with weekly stay,
  - 12. home of social services for children with year-long stay,
  - 13. home of social services for adults to whom the care is provided year-long and weekly,
  - 14. home for single parents,
  - 15. station of nursing service for children,
  - 16. facility for fosterage care,
  - 17. crisis centre for children,
  - 18. orphanage,
  - 19. shelter,
  - 20. re-socialisation centre
- e) Social loan.

## Impressum

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