



Republic of Moldova

PARLIAMENT

LAW No. 123
of 18.06.2010

on social services

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The Parliament adopts the present organic law.

Chapter I
GENERAL PROVISIONS

Article 1. Basic notions

The following notions are defined for the purpose of this law:

social services – a set of measures and activities taken to meet the social needs of the person or family to overcome a situation of difficulty, to prevent marginalisation and social exclusion;

initial assessment – the first investigation, carried out by the community social assistant by visiting the living place or residence place of beneficiary aiming to identify individual needs of the person or family and establishes the right of the person / family to benefit from social services;

complex assessment – detailed investigation and analysis of the case, carried out by visiting the living place or residence place of beneficiary, based on interaction with the beneficiary's social network and direct involvement of specialists from relevant institutions aiming to identify the needs of the person or family and the resources available within the family and community and the recommended social service, and to develop the individualised assistance plan;

individualised assistance plan – a plan developed in writing on the basis of the recommended Individualised Assistance Plan, approved by the Ministry of Labour, Social Protection and Family, which covers the totality of actions identified to meet the beneficiary's needs, the type of social services, the duration of their provision, the responsible staff. The individualised assistance plan is developed and implemented with active participation of the beneficiary and his/her family or his/her legal representative;

social assistance unit – organisational unit operating at community level provided with finance resources by authorities of local public administration of level II with the aim to deliver social services as close as possible to beneficiaries;

territorial social assistance structure – internal administrative structure approved, based on organisational autonomy principle, by authorities of local public administration of level II, aiming to implement social assistance policies.

Article 2. Object of the law

The present law sets the general framework for creation and operation of the integrated social service system determining the tasks and responsibilities of central and local public authorities, of other legal entities and individuals authorised to provide social services, as well as the protection of the rights of social service beneficiaries.

Article 3. Principles of social service delivery

Social service delivery is based on the following principles:

a) targeted social assistance, which implies the priority targeting of social services to the most disadvantaged and the most vulnerable people identified through individual needs assessment;

b) focusing on the user, that means adjusting services to the individual needs of beneficiaries, in a process of continuous changes, on the basis of regular assessment of service impact on beneficiary situation;

c) accessibility, ensuring access to social services for disadvantaged individuals/families by informing population regarding existing social services, developing new social services, placing services in beneficiaries proximity as well as adjusting services to beneficiaries needs;

d) equal opportunities that ensures the right of all disadvantaged individuals/families to social services under conditions of equal treatment excluding any form of discrimination;

e) ensuring celerity, which means promptitude in decision making regarding the delivery of social services.

Article 4. Entitlement to social services

The entitlement to receive social services is established individually on the basis of assessment of the needs of the person or family for social services.

Article 5. Application of the law

The present applies to:

a) citizens of the Republic of Moldova and foreign citizens, refugees and stateless persons who have the domicile on the territory of the Republic of Moldova, in compliance with the law;

b) individuals and legal home and foreign entities with their registered address in the Republic of Moldova, irrespective of their form of organisation and type of property.

Chapter II

TYPES OF SOCIAL SERVICES

Article 6. Classification of social services

(1) Social services are classified in the following types:

a) primary social services;

b) specialised social services;

c) very high need social services.

(2) Primary social services are provided at community level to all beneficiaries and aim at preventing or limiting situations of difficulty that can cause marginalisation or social exclusion.

(3) Specialised social services are services that imply the intervention of specialists and aim at maintaining, rehabilitating and developing individual capacities to overcome a situation of difficulty of the beneficiary or his/her family.

(4) Very high need social services are services provided in a residential or specialized temporary placement institution, and imply a series of complex interventions that can include any combination of specialised social services for beneficiaries with increased dependency who require continuous supervision (24/24 hours).

Chapter III

ENTITIES AUTHORISED TO PROVIDE SOCIAL SERVICES

Article 7. Social service providers

(1) Social service providers can be individuals or legal entities, public or private.

(2) Public providers of social services can be:

a) social assistance institutions created and run by authorities of central public administration;

b) authorities of local public administration of level II;

c) authorities of local public administration of level I.

(3) Private providers of social services can be:

a) non-governmental associations and foundations, private institutions with a non-commercial character registered in compliance with the legislation – all in the social sphere;

b) legal entities and individuals with commercial character registered in compliance with the legislation.

(4) The providers of social services can organise and provide social services only if they are accredited under the law.

(5) The conditions of accreditation of social service providers are regulated by a special law.

Article 8. Competence of authorities of central public administration

(1) The Ministry of Labour, Social Protection and Family is the specialised central authority responsible for implementation of social assistance policies and bears the main responsibility for ensuring the provision of social services at national level. In this respect the Ministry of Labour, Social Protection and Family:

a) develops and promotes the policies in the field of social assistance, inclusive in social services and promotes the rights of disadvantaged people;

b) develops normative acts regarding the organisation, operation and development of integrated social service system;

c) regulates and organises the social service inspection system, provides inspection of quality of social services delivery and verifies compliance to by-laws of social service providers, irrespective of the type of property and legal form of organisation;

d) provides consultation to employers' associations, trade unions and civil society and agrees draft economic-social by-laws with them;

e) provides consultation and support to local public administration authorities on the planning, organisation and delivery of social services;

f) organises and runs social service institutions delivering very high need services, only where it is not possible for the institutions to be organised and run by local public authorities.

(2) During the implementation of their competences, other central public authorities that have social service facilities under their authority, should not contravene present law, other by-laws that regulate social services delivery. In this respect other ministries and central public authorities will:

a) take measures to promote deinstitutionalisation and reintegration of beneficiaries into family and community;

- b) ensure access to social service facilities to competent bodies for the reasons of inspection of social services;
- c) provide information on the situation of social service facilities under their authority to the Ministry of Labour, Social Protection and Family;
- d) collaborate and coordinate any activity regarding social service delivery.

Article 9. Competences of local public authorities of level II

(1) Local public authorities of level II ensure the development and management of social services in compliance with their own competences set by law, depending on the identified needs of the population on the territory in question, either autonomously or in association with other authorities of local public administration, as well as in cooperation with economic entities, employers' associations, trade unions and non-governmental associations in the country and from abroad.

(2) In the administrative-territorial units of level II, the territorial social assistance structure is the main provider of social services that has a direct responsibility for the diversification and delivery of social services aimed at maintaining the beneficiary in his/her family and community.

(3) During the implementation of their competences, territorial social assistance structures benefit unconditionally, depending on the case, from the support of police, education and health public institutions as well as from public institutions from other fields.

(4) For the delivery of social services, the level II of the local public authorities has the following competences within the territorial-administrative unit:

a) to inform the population and provide consultations on the social services and the rights of the person to these services;

b) to analyse the community's needs for social services;

c) to plan the types of social services and identify the necessary funds for the delivery of these social services, depending on the identified needs, including the procurement of social services that the authority does not have or where it is not economically efficient for it to provide them;

d) to create, reorganise or close institutions providing social services and ensure their operation;

e) to refer the requests/complaints to the authorised body that provides social services in case the subject of requests/complaints exceeds its competence;

f) to inform competent authorities immediately on cases of violation of the legislation in the field of social service delivery, as well as on other cases of non-compliance with the prescribed requirements;

g) to assess and to identify the needs of the person/family regarding social services and

depending on the needs to provide the appropriate social services;

h) to monitor the process of service delivery and to organise the evaluation of quality of these services provided by service providers irrespective of the type of property and legal form of organisation of service provider within the territorial-administrative unit;

i) to provide the Ministry of Labour, Social Protection and Family with information collected during local monitoring and evaluation of provided social services, in the established form and terms.

Article 10. Competence of authorities of local public administration of level I

(1) Authorities of local public administration of level I contribute to the development and delivery of social services within the territorial-administrative unit and approve the necessary funds, in compliance with the legislation.

(2) The social service delivery work is provided by the social assistance unit via social assistants and social workers selected and employed in compliance with the legislation, in cooperation with other services at community level.

(3) For the delivery of social services on the administered territory, the authorities of local public administration of level I have the following responsibilities:

a) to inform the population and provide consultations, on the nature of social services and the rights of the person to these services;

b) to analyse the community's needs for social services;

c) to participate at selection and recruitment of the community social assistant and community social workers;

d) to facilitate and support the work of community social assistants and social workers in their community;

e) to plan social services in the community and ensure the necessary funds for the delivery of these social services subject to the needs of population;

f) to support the community-based organisations of public utility operating in the sphere of social services;

g) to provide the territorial social assistance structure of level II with information accumulated during local monitoring and evaluation, in the established form and terms.

Article 11. Non-governmental associations operating in the sphere of social services

(1) In order to protect beneficiaries of social services, non-governmental associations operating in the sphere of social services, in compliance with its status and the legislation have the right:

a) to provide social services and participate in the implementation of state programmes and projects in the field of social services, under the law;

b) on the basis of applications received from beneficiaries or from the office, to notify the entities authorised to provide social services, the law enforcement bodies and the social service control bodies on cases of violation of beneficiaries' rights;

c) to receive information from the entities authorised to provide social services regarding the submitted proposals and notifications;

d) to conduct surveys aiming at identifying the needs and gaps in social service delivery, as well as the observance of the rights of the person to social services;

e) to make suggestions to local and central public administration authorities on amendment of the legislation and state policies regarding social assistance and social services;

f) to inform the population via the media on state policies in the field of social service delivery, the violation of legitimate rights and interests of social service beneficiaries, as well as on the results of public opinion consultation;

g) to bring cases before courts on protection of social service beneficiaries.

(2) The foundations, private institutions with non-commercial character and other organizational forms of civil society established under the legislation, as well as the legal entities and the individuals – companies with commercial character – have the rights stipulated under par. (1).

Chapter IV

RIGHTS AND OBLIGATIONS OF SOCIAL SERVICE BENEFICIARIES

Article 12. Rights of social service beneficiaries

The rights of social service beneficiaries are provided by:

a) respecting the fundamental rights and freedoms, with the exclusion of any forms of discrimination;

b) protecting against any form of violence, injury or physical and mental abuse or neglect, maltreatment and exploitation and informing on situations of risk, as well as on other social rights;

c) communicating, in accessible terms, information on the fundamental rights and legal protection measures, as well as on the conditions that need to be met to benefit from them;

d) enabling the beneficiary to participate in the decision-making process regarding delivery of social services;

- e) ensuring that the beneficiary can express his/her opinion on the services provided;
- f) respecting confidentiality of the provided information;
- g) protecting the beneficiaries' property when they have reduced capacity to decide, even if they are taken care of in the family or in an institution;
- h) respecting dignity and personal privacy of the beneficiary.

Article 13. Obligations of social service beneficiaries

Social service beneficiaries are obliged:

- a) to provide correct and relevant information on their identity, family, social, medical, economic and health situation, being responsible for the correctness of this information;
- b) to participate in the decision making on service delivery;
- c) to contribute, in compliance with the legislation, to the delivery of social services;
- d) to communicate any modification that occurred in their personal situation.

Chapter V

PROCEDURE OF SOCIAL SERVICE DELIVERY

Article 14. Identification of social service beneficiaries

(1) To apply for social services, any person who considers himself/herself in a situation of social risk or disadvantaged person /family, or who has suffered neglect or abuse, files a written or verbal application to the local social assistance unit where he/she has the domicile. The application for social services can also be submitted directly to another provider of social services stipulated in art. 7 of the present law in the locality of beneficiary's domicile.

(2) Acting in the interests of the person /family or for social security of the community, the application for social services of the person /family stipulated in par. (1) can be filed by community members or other interested persons, who will indicate the reason for which the person or his/her legal representative cannot file this application independently.

(3) The workers of instructive-educative institutions, healthcare institutions, social service delivery institutions, police and other competent bodies, who have information on the need to provide social services to a person /family are obliged to inform immediately, within 24 hours the territorial social assistance structure within the local public authority where the person /family has the place of residence. Under these conditions, such cases will be examined without an application filed by the person or the legal representative.

Article 15. Examination of the application

Based on the application stipulated in art. 14, the social assistance unit must:

- a) provide information or consultation immediately at the time of application or within 3 days, in case of impossibility to provide them immediately;
- b) ensure the initial assessment of the needs of the person or family with a view to provide social services;
- c) in emergencies, provide services immediately where necessary, involving the competent authorities.

Article 16. The initial assessment

(1) The initial assessment is carried out within 10 days from the date of registration of the application, and the decision is communicated immediately both to the person that filed the application and to the person concerned by the application.

(2) After the initial assessment, the social assistance unit may:

- a) reject the application, explaining the reason for the decision to the person to whom social service delivery was refused;
- b) provide one-off intervention;
- c) carry out the complex assessment;
- d) to refer the case based on the competence, in emergency situations or in the situation when the case cannot be solved at community level.

(3) If the application is accepted, the social assistance territorial structure via the social assistance unit shall provide the necessary social services to meet the identified needs of the beneficiary. For this purpose and to respect the right of the beneficiary to live in the family, the territorial social assistance structure provides solutions to avoid the separation of family members. If this cannot be achieved, the territorial social assistance structure identifies solutions that would allow as many meetings of family members as possible in places accessible for everybody.

Article 17. Complex assessment

(1) If the results of the initial assessment or of the one-off intervention are insufficient to meet the needs of the person, the social assistance unit conducts a complex assessment of the beneficiary and coordinates all the actions with the territorial social assistance structure.

(2) Complex assessment is carried out with direct involvement of specialists in the field and/or related fields and with compulsory participation of the beneficiary and of those who conducted the initial assessment and is finalised within 10 days from the date when the case was taken over for complex assessment.

(3) As a result of complex assessment, the territorial social assistance structure develops the individualised assistance plan of beneficiary that may stipulate, depending on the case, the following recommendations:

a) the delivery of primary social services in the beneficiary's community;

b) the delivery of specialised social services, established according to the individualised assistance plan, either in the biological family, in a substitute family, in day centers or temporary placement centers, first of all at the place of residence of the beneficiary, and complementarily in another territorial-administrative unit close to the same level or of the II level;

c) referral to very high need services.

Article 18. Guarantees regarding the delivery of very high need services

(1) The territorial social assistance structure refers the case to very high need services only if there are reasons determining that options stipulated in Article 17 par. (3) letters a) and b) cannot meet the identified needs of the beneficiary and the failure to provide very high need services is a risk for the beneficiary's life.

(2) Very high need services are provided to the beneficiary only if he/she has been referred by the territorial social assistance structure as a result of complex assessment.

(3) The provider of very high need services, irrespective of the legal form of organisation and subordination does not accept any beneficiary in very high need services without:

a) complex assessment and individualised assistance plan;

b) justified decision to refer the case for the delivery of very high need services.

(4) Poor material conditions of the person/family cannot serve as exclusive grounds for his/her referral to very high need services.

(5) In emergency situations, only in cases of imminent danger for the life and health of the person very high need services can be provided, by derogation from par. (3), for a period of no longer than 30 days, in which the complex assessment is conducted and the individualised assistance plan is developed with direct involvement of representatives of the territorial social assistance structure from the area where the beneficiary resides.

Article 19. Periodic review of the individualised assistance plan

(1) In order to determine the efficiency of provided social services and to determine whether the intervention continues or the case is closed, the situation of the beneficiary is periodically reassessed by the social service provider.

(2) The review of the individualised assistance plan is compulsory:

- a) after the first month of social service delivery;
- b) after three months of social service delivery;
- c) depending on the need, but at least once in six months.

(3) Based on results of review, the individualised assistance plan is added to, modified or closed by the provider of social services.

Article 20. Data record on the delivered social services

(1) The record of any delivered social services is maintained by the service provider in a register, which contains the last name and first name, personal data, home address of the beneficiary, as well as the problem that determined him/her to apply for social services, the duration of the hearing, the result of service delivery.

(2) The registration, storage and use of personal data of social service beneficiaries follow the provisions of the Law no. 17-XVI of 15th February 2007 on the Protection of Personal Data.

Chapter VI **INSPECTION OF SOCIAL SERVICES**

Article 21. General provisions on the inspection of social services

(1) The inspection of social services is carried out by the Social Inspection subordinated to the Ministry of Labour, Social Protection and Family.

(2) Social inspection may be exercised on all social service providers, irrespective of the type of property and form of organisation. The inspection of social services is conducted periodically in line with the legislation in force. In inspection delivery are involved representatives of civil society, including beneficiaries of social services.

(3) Reports on the results of Social Inspection may be made available to the public in periodical magazines, in the newsletter and on the webpage of the Ministry of Labour, Social Protection and Family.

Article 22. Objectives of Social Inspection

The inspection activity has the following objectives:

- a) to apply legal provisions on social services;
- b) to meet the social services quality standards;
- c) to improve the quality and increase the efficiency of social services;
- d) to guide and support methodologically the activity of social service providers;

e) to ensure the respect of beneficiaries' social rights.

Chapter VII MONITORING AND EVALUATION OF SOCIAL SERVICES

Article 23. Monitoring and evaluation of social services

(1) Social service monitoring is a process of continuous and regular collection of information based on specific indicators used to analyse the dynamics of progress regarding the fulfillment of activities and the achievement of social service objectives.

(2) The evaluation of social services is a process of analysis of monitoring data and of other information to determine the relevance of social service objectives, their achievement, efficiency, impact and sustainability.

Article 24. The role of the Ministry of Labour, Social Protection and Family in social service monitoring and evaluation

The Ministry of Labour, Social Protection and Family is responsible for the organisation of monitoring and evaluation of integrated social service system via the development and application of the methodology for this field and analysis of impact of social services on disadvantaged persons/families.

Article 25. The role of local public administration in the process of social service monitoring and evaluation of social services

(1) The social assistance unit collects primary information on social services provided at community level and presents it to territorial social assistance structure.

(2) The territorial social assistance structure provides the Ministry of Labour, Social Protection and Family with regular reports containing the information requested according to the methodology of monitoring and evaluating the impact of social policies in the field of social services, including for services provided by the private sector.

(3) Private providers of social services are responsible for submitting reports to social assistance units and, respectively, to territorial social assistance structures, in compliance with the requirements of social service monitoring and evaluation.

Chapter VIII FINANCING OF SOCIAL SERVICES

Article 26. General provisions on financing of social services

(1) Social services are financed from the:

- a) state budget – for functions specified in art. 8;
- b) budgets of administrative-territorial units – for functions described in art. 9 and 10;
- c) own sources of social service providers – for functions specified in art. 11;
- d) other sources under the legislation.

(2) The way of social service financing is established by the legislative framework that regulates the inter-budgetary relationships.

(3) Social service financing from sources stipulated in par. (1) letters a) and b) is carried out on the principles of competition and quality.

(4) Central or local public administration authorities can procure and contract social services under the law.

Article 27. Partnership financing

Social services may be jointly financed in partnership: from the state budget, the budgets of territorial units of levels I and II, in accordance with their responsibilities stipulated in Chapter III.

Article 28. Other sources of financing

(1) Social services financing can use the own incomes of service providers, donations, sponsorship or other contributions of domestic or foreign individuals or legal entities as well as other sources under the law.

(2) Depending on the income, the beneficiary can contribute to social services financing in compliance with the law.

(3) Social service providers can develop economic activities for self-financing of the provided social services.

Chapter IX EXAMINATION OF LITIGATIONS ON SOCIAL SERVICES. LIABILITY FOR NON-OBSERVANCE OF THE LEGISLATION

Article 29. Settlement of litigations

(1) The litigations in the field of social service delivery that cannot be settled in an amicable manner between the interested parties are referred to courts for settlement under the legislation.

(2) The administrative acts that violate the legitimate rights or interests of the individual or

legal entity involved in relations in social service delivery can be appealed against in the administrative court.

(3) The applications submitted in administrative court for solving the litigations regarding the right to social services or the delivery of social services are exempted from state taxation.

Article 30. Liability for non-observance of the legislation

The violation of present law provisions brings to legal liability according to the law.

Chapter X
FINAL AND TRANSITIONAL PROVISIONS

Article 31

(1) The present law comes into force at the expiration of 6 months from the date of publication.

(2) Before obtaining the accreditation stipulated in art. 7 par. (4), the activity of social service providers who provide social services on the date of coming into force of the present law shall be carried out in compliance with the legislation.

(3) Within 12 months from the date of publication of this law, the Government will bring its by-laws in compliance with its provisions and will come with proposals to bring the legislation in compliance with the present law.

CHAIR OF THE PARLIAMENT

Mihai GHIMPU

No. 123. Chisinau, 18th June 2010.