

SOCIAL AID LEGISLATIONS AND ITS PRACTICE IN ALBANIA

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Abstract

In a world where the economic crisis is affecting all life spheres, social welfare has become an important asset in the government's policies. Social welfare is directly related with the guarantee of a minimal income for the families, meeting certain "social contingencies" (sickness, old age or unemployment) and social services available for all the citizens. This paper aims to analyse how the government in Albania is trying to reduce the social gaps on bases of these three elements.

Firstly this paper will present a clear legislative picture of the social aid programs in Albania. The legislation is organised on bases of the European Union standards. In general the Albanian social program covers the social assistance for disabled people, old people, poor families, women and orphans. However, it may be said that the current legislation (based on the program followed during 2009-2013) is quite sophisticated.

On the other hand, the reality seems to be quite disappointing. Every day in the news there are disabled people claiming for not taking their benefits, women being violated or even killed, orphan house with poor conditions etc. The reasons for this situation may be various such as the political system, political culture and weak roots of democracy. For the purpose of this paper, only the political system will be analysed, considering it as having the largest impact and as being the main factor for the contradictions between the legislation and practice.

The paper will suggest possible solutions about the shortcomings of the legislative reforms and their implementations.

Keywords: Social aid, Albania, Disability benefit, Unemployment benefit.

INTRODUCTION

According to Locke, Rousseau and Hobbes, citizens of one society are connected with the community through the so called 'social contract'. In this case the community (nowadays it may be seen as the government) had to protect its own citizens as they gave up some of their rights. The continuity of this social contract may be seen in today's modern societies in terms of social aids. Governments have to ensure help for the disabled people, for elderly and at the same time offer them some possibilities. As year passes, even the obligations of the state over its own citizens increase. The level of welfare of any society is reflected in the way it treats people, their

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present and their future; the better people live, the more developed is considered that society. In these bases a large number of institutions and organizations are set in order to fulfill the social obligations. In compliance with economic developments and needs dictated by time, this system has always been subject of continuous reforms.

To indicate the importance of the topic it should be mentioned that, many countries describe one of the most important goals as achieving to advanced democracy through the establishing the principle of social welfare state. In other words, as (Woshinsky, 2008, p. 16) stated that “the term **welfare state** is commonly used to describe governments in modern nation”. He also pointed out that “[m]any societies have become wealthy enough to provide modest (even generous) social safety nets, and most citizens accept that providing various forms of social aid is one of government’s major functions (Woshinsky, 2008, p. 16). Therefore governments regulate protecting the disadvantaged groups (disabled, elderly people in particular) in their constitution as the legally binding highest level document and usually establish a ministry for social welfare.

In Albania a large number of these institutions as well as a sophisticated legislation exist. There can be mention two main institutions such as Social Insurance Institute (hereinafter SII) and State Social Service (hereinafter SSS). However all of them flaw at one point: practice. At this point it can be asked: why does Albania flaw at practice? Is it the lack of resources or the lack of an efficient bureaucracy? Or does this go even way deeper in the roots of the state itself and its institutions?

Moreover there is also a lack of research in the field of social studies in Albania and for this reason this paper aims to give a snapshot of the current situation and to analyze some of the main laws in terms of social aid and attempts to find out some solutions in order to surpass these flaws of the system.

Social insurance and social assistance are two main components of the social welfare in Albania. The Albanian Constitution of 1998 clearly defines that the state aims to reach the highest standards in terms of assistance for elderly people, orphans, disabled people, and their integration into the society. More specifically Article 52 of the Albanian Constitution states:

“1. Everyone has the right for social insurance in old age or when he is unable to work, according to a system established by law.

2. Everyone, who remains unemployed, for reasons independent of his will and when has no other means of support, is entitled to assistance under the conditions provided by law.” (Kushtetuta e Republikës së Shqipërisë , 1998, p. 25)

As stated above, the Constitution recognizes to everybody the right of social insurance according to a system that is established by law. Currently the social insurance is regulated on bases of the law no.7703, dated 11.05.1993 “For the social insurances in the Republic of Albania”. The main principle for the functioning of the social insurance in Albania is solidarity. Accordingly, the

people who work (self-employed or employer) pays contributions. These contributions are collected and distributed among the people who cannot work due to age, illness etc. (Assembly of the Republic of Albania, 1993).

The system of the social insurance is financed in two ways. Major part is financed from the resources taken by the contributors (self-employed or employers), while the other part is covered by the state budget. It must be mentioned that the resources that come from the contributors are very low in comparison with the expenses for the social insurance. For this reason the system becomes more depended in the state budget as the years pass.

Based on the last report of the SII, the contributions in the last six month of 2012 were 29,166 Million ALL from which 5,264 Million ALL (18% of all sum) were coming from the State Budget. While in the first six months of 2013 the contributions were 30,808 Million ALL from which 5,904 Million ALL (19% of all sums) were coming from the state budget (Instituti i Sigurimeve Shoqerore, 2003, p. 3).

In order to analyze the current situation and problems we will explore the two main institutions responsible for social aid in Albania.

1. SOCIAL INSURANCE INSTITUTE (SII) (INSTITUTI SIGURIMEVE SHOQERORE-ISSH)

1.1. Mission

The mission of the Social Insurance Institution is to administer the social insurances, in particular the pensions. Moreover SII has to cover the population with social insurance in every place and time when that right/need arises. SII has also the duty to collect and manage the revenues from the contributors. These revenues are later distributed as social insurance to the elderly people (pension), or in case of temporary disability, maternity, accidents at work etc.

1.2. History

The first legal act in the field of social insurance is the Law on "Civil Pensions", no. 129, dated 28.10.1927. The content of this legal act presupposes that the regulatory provisions for pensions have existed even before. Some foreign companies that had operated in Albania had voluntarily developed the network of insurance in work, where mostly it was related with the social insurance in case of accidents at work.

A more comprehensive system of social insurance was created in August 1947. This system was completed and consolidated furthermore in 1966, with the approval of Law no. 4171, dated 09.13.1966 "On Social Insurance in PSRA (People's Socialist Republic of Albania)". The system of social insurance was modeled in accordance with the socialist political system. Accordingly, on the one hand it was quite generous and on the other hand it did not provide full social

protection. It predicted lower age of retirement and different treatment for certain categories of persons.

Profound political, social and economic transformation of Albania after the fall of the communist regime, made it necessary to undertake a radical reform of the social insurance system, which aimed to stop further degradation of the pension scheme and to create an efficient system that will not only face the urgent problems of the period and the costs incurred, but also would resist the time in order to serve also to the new generations. For this reason, on 11 May 1993, the Albanian Parliament adopted the Law no. 7703 "Social Insurance in the Republic of Albania", which entered into force in October of that year. The fundamentals of this new system were the principles of social justice.

General System of Social Insurance is based on the principle of contribution, the principle of the individual's own responsibility for the future risks in the social field and in the principle of generations agreement "pay as you go". The system consists of four main insurances: (i) Compulsory Social Insurance, (ii) Voluntary Social Insurance, (iii) Supplementary Social Insurance, (iv) Special State Pensions. In exchange for their contribution, the system protects the employee by giving them insurance in case of: maternity, temporary inability to work due to illness, occupational diseases and accidents at work, old age, mental disabilities, loss of householder, unemployment. To the other economically active persons (employers and self-employed) the system gives insurance in case of: maternity, old age, disability and loss of householder.

1.3. Main Legislature

As it was mentioned above, the system of social insurance was regulated based on the law no.7703, dated 11. 05. 1993 "On Social Insurance in the Republic of Albania". The following part will present some of the main articles of this law which designs the system of social insurance works.

Article 2/ Obligatory Insurances

Obligatory insurance is non-profitable, and protects with incomes:

- a) Employed persons in case of
 - Temporary disability to work due to illness;
 - Maternity;
 - Old age, disability and loss of householders;
 - Accident in work place and professional illness
 - Unemployment
- b) Other economically active persons (employers and self-employed) in case of:

- Maternity;
- Old age, disability and loss of householders;

The paid contribution is guaranteed a cash payment to compensate the reduction in the income that covers at least a minimal living standard, which is determined by the Council of Ministers.

When it is necessary, benefit may be given in kind or the income in cash may be increased, in accordance with the regulations of the Social Insurance Institution.

Article 3 / Voluntary social insurance

A person who is insured on the basis of obligatory insurance, when for a period of time and different reasons cannot be insured with obligatory insurance, has the right to continue his insurance through the voluntary system.

Voluntary insurance is possible during the period of university studies, with the condition that the insured person must contribute for this period before the date of commencement of the right to income.

Voluntary insurance includes even those persons who are not defined in Article 2.

Voluntary insurance is done under the defined conditions by the regulation of Social Insurance Institute.

Article 4/ Supplementary social insurance

To benefit the additional pension for the state officials, the Council of Ministers has the right to create a supplementary insurance scheme.

Article 5/ Special state pensions

The people who have the right for special state pensions:

- a) Have been part of the National Renaissance, popular movements, war against the Nazi-fascist inside and outside Albania, and in the democratic movement
- b) Have achieved high results in the field of science, culture, arts, economy and politics
- c) Have suffered from the political persecution in the communist regime

People mentioned in the clauses a, b, c of this article benefit:

- a) Special state pension, in case they do not benefit pension from the social insurance
- b) Additional pension over the pension that they take from the social insurance

Article 6 / Obligatory protection

Social insurance is obliged to protect all economically active citizens in case their income decreases as a result of maternity, old age, disability or loss of holders of the family.

Social insurance also protects all the employed people in case of income decrease as a result of an illness, accident in work, professional illness and unemployment.

Article 9/ Type of contributes to be paid

The employed persons and their employers are obliged to pay contributions for illness, maternity and pensions with an amount that depends on their payment (gross).

The employers are obliged to pay a contribution for accidents in working place, professional illness and unemployment.

Economically active persons are obliged to pay a monthly contribution for maternity and pensions in the basic level.

Article 19/ Cash income

Cash incomes are paid to the persons who benefit from:

- a) Insurance branch of illnesses
- b) Insurance branch of maternity
- c) Insurance branch of pensions
- d) Insurance branch of professional accidents and illnesses
- e) Insurance branch of unemployment

Article 20/ Income in case of illness

In the insurance branch for illness are paid:

- a) Incomes for illness
- b) Incomes for illness compensation, in case of changes in working place

Article 26/ Income in case of maternity

In the insurance branch for maternity are paid:

- a) Incomes for maternity
- b) Incomes for maternity compensation, in case of changes in working place
- c) Birth grant

Article 30/ Pensions

In the insurance branch of pensions are paid:

- a) Retirement pension
- b) Partial retirement pension
- c) Disability (as a result of accident in work) pension
- d) Partial invalidity pension
- e) Additional income for guardianship
- f) Additional incomes for a depended child
- g) Family pensions
- h) Payment in case of death

Article 43/ Incomes in case of professional accidents and illnesses

The insured people who suffer from the accidents at work or professional illness, have the right for income, regardless of their seniority.

- a) For additional medical care
- b) In case of disability
- c) Compensation for reasonable damages
- d) In case of death

Article 53/ Unemployment incomes

- 1) Insured person benefit unemployment incomes in cases of:
 - a) Have contributed to the social service for not less than 12 months
 - b) Has been confirmed by the competent labor office that are:
 - unemployed
 - Accept to qualify or retrain
 - c) Do not have any other benefit from this law, in exception of the partial pension of invalidity.

2. STATE SOCIAL SERVICE (SSS)(SHERBIMI SOCIAL SHTETEROR)

State Social Service is the executive institution of policies and regulations in the field of social protection in Albania. Alleviating the poverty, promoting social integration, guaranteeing rights and standards of care assistance for individuals and groups in need, are stated as the vision of this institution.

SSS activity may be summarized in:

1. Financial Assistance (EA) – monthly cash income (ALL) for families in need.
2. Payment for disability - physical disability, mental disability, blindness, paraplegic and quadriplegic
3. Social care system (Sherbimi Social Shteteror, 2013)

Social Service focuses on the following main groups:

- Orphaned and abandoned children
- Elderly who are left alone
- People with disabilities
- Women and children victims of trafficking
- Women and children victims of domestic violence
- Roma community (Sherbimi Social Shteteror, 2013)

2.1. Mission

SSS mission is to implement policies, legislation of the financial assistance, payment for persons with disabilities and social services throughout the state. This mission is accomplished through:

1. Social Services administration for individuals nationwide.
2. Programming the financial assistance funds;
3. Programming the funds for the payment of persons with disabilities;
4. Programming the funds for social services;
5. Control the law enforcement and use of budgetary funds for financial assistance for people with disabilities and in need of social services.
6. Administration of National Electronic Registry for applicants and recipients of welfare benefit, payment of disability and other social care services;
7. Monitoring standards of social services at the national level (Sherbimi Social Shteteror, 2013).

For the realization of its mission, SSS cooperates with local government structures, civil society, community, business associations and beneficiaries in order to meet the social needs and to improve the quality of life of individuals, families in need and vulnerable groups of society .

2.2. Financial Assistance/Aid

Organizing financial assistance is one of the main functions of this institution. During 2005 - 2006, the legal basis of financial assistance has been created. Since then the main legal basis remains as the Law No. 9355 dated 10.03.2005 "On Social Assistance and Services". The purpose of this law is two folded. Firstly it aims to determine social assistance and services to individuals and groups in need who cannot provide their basic life needs, development of personal opportunities and skills, and maintaining of the integrity and capability due to limited economic, physical, psychological and social opportunities. Secondly SSS, through the program

of financial assistance, aims to mitigate poverty and social exclusion for individuals and families, as well as to create opportunities for their integration, by providing a system of services and involvements/contributions to improve their lifestyle.

The financial assistance may be given in cash or in kind depend on the necessities of the individuals. Moreover according to Law No. 9355 dated 10.03.2005 "On Social Assistance and Services" and DCM (Decision of Council of Ministers) No. 787 dated 14.12.2005 "On the determination of the criteria, procedures and the amount of aid" to the individual who can benefit from the financial assistance are:

- Households with no income or low income.
- Orphans of unemployed over 25 years.
- Orphans aged 18-25 years, who are not placed in institutions or foster care social services.
- Parents in need with triplet or more children.

2.3. Payment for Disability

The second main function of SSS is the payment and assistance given to the disabled people. Like the financial assistance, the main legal basis of payment for disability is organized based on the Law 9355, dated 10.03.2005, "On Social Assistance and Services". According to Article 7 of this law, the people who can benefit from the payment of disability are:

1. Persons with disabilities who have been declared incapable/unable to work with the decision of Medical Commission of the Work Capability Assessment.
2. Paraplegic and quadriplegic, who are declared with the decision of the Medical Commission of the Work Capability Assessment (medical expert), regardless of the cause and age.
3. People who are declared as working invalids (people who were damaged in the work places and cannot work anymore) with the decision of the Medical Commission of the Work Capability Assessment (medical expert).
4. Payment for persons with disabilities is provided monthly in the form of ALL currency. The amount of payment for these individuals and their caregivers is determined by the Council of Ministers.
5. An applicant who is refused payment for disability, have the right to appeal in court (Assembly of the Republic of Albania, 2005).

3. "REALITY VS. REGULATIONS"

The Albanian legislature in terms of social assistance appears quite sophisticated. In theory, the laws are quite specific and the people in need are totally under the protection of the state. However, it must be stated that the social aid that people in need take, including paraplegics, quadriplegics, orphans, elderly people etc., is quite low benefit compared with the life standards in Albania. For example, paraplegics and quadriplegics take 8700 ALL per month. On the other hand, for the financial assistance the holder of the family may take 2600 ALL per month, the members of family over the age of working¹ may take 2600 ALL per month, the members of family in the age group of working (18-65) may take 600 ALL per month and the members of family under the age of working may take 700 ALL per month.

But the low assistance/social aid is not the only problem in Albania. There have been also cases that the people in need have not been paid for several months. The most affected individuals have been the paraplegics and quadriplegics, the persecuted people during communist regime and also the families in need with no other income. Paraplegics and quadriplegics have done hunger strikes in 2009 and 2011 (Minxha, 2009) (Tema, 2011) in order to increase their rights. But for them, the worst days were the end of 2012 and the beginning of 2013 when they could not take their benefits for 3 months (Mema, 2013). Usually the situation becomes worse when the people with disabilities are also the holders of the family. In this case buying their medicines and taking care of themselves become more challenging or even impossible. This is a clear violation of law as on bases of Law 9355, dated 10.03.2005, "On Social Assistance and Services", Article 7 all the people with disabilities should take a monthly payment in cash.

In October 2012 another hunger strike for more than 20 days held by the ex-prosecuted people as they were not getting their benefits. The situation deteriorated at that point where people were trying to burn themselves as there was no response from the government (Gazeta Shqip, 2012). According to the law no.7703, dated 11. 05. 1993 "On Social Insurance in the Republic of Albania", Article 5 clause C, all the people who have been prosecuted during the communist regime have the right of special pension.

Another indicator for the malfunction of the assistance/social aid system in Albania is the fact that in August 2013, in Ura Vajgurore commune in Berat district, 100 families had not taken financial aid/social welfare aid for 4 months (Xhelili, 2013). This was a heavy situation for the people as the benefit was the only income for their families. While in theory we have the law No. 9355 dated 10.03.2005 "On social assistance and social services", and Article 10 clearly states that families in need have the right to benefit every month a specified amount in cash (Assembly of the Republic of Albania, 2005) the reality does not always follow the theory.

The restructuring of oil public sector in Albania "Albpetrol" in 2010, affected over 250 disabled persons (people who have had accident in work places) (energija.al, 2010). Although this category of employees is protected by the law, executives of "Albpetrol" have not hesitated to

¹ Age working in Albania is from 16 years to 59-65 for males and 54-60 for females.

include the names of 250 disabled people in the list with 1200 names that would be fired as the result of privatization. According to law no.7889, dated 14.12.1994, "On the status of the work invalids" (updated with the law no. 8052, dated 21.12.1995 and with the law no. 9143, dated 16.10.2003), Article 2, the state must protect the work invalids in such a way that they must have an appropriate job ("Per statusin e invalideve te punes"/ "On the status of work invalids", 1994). But as it is seen the rights of this group of people are not always taken into consideration. In accordance with the above mentioned law, Article 7 the work invalids must take a monthly aid in cash ("Per statusin e invalideve te punes"/ "On the status of work invalids", 1994). But still in 2011 and 2013 there may be found cases where this group of people could not get the aids for 1-3 months. In 2011 42 thousand work invalids did not take their aids. In Durres they did not get for 2 months, in Puka for 3 months and in Kukes for 1 month (Balkan Web, 2012). The same thing happened also in 2013 in many localities but even in the capital city the work invalids have not taken their aids for three months (Republika, 2013).

Still the issue is getting more serious in Korca and Berat. In Korca the people with disabilities have not taken their payment for 6 months. Left with no choice, the people say that they are living in extremity and have no money to buy food or medicines (Top Channel (a), 2013). On the other hand in Berat people with disabilities have not taken their assistance for the last two months. In the villages of the same city people had to endure four months without taking the assistance. In total, there are 1400 work invalids, 540 blind people and 200 paraplegics in the region of Berat. So in total there are 2140 people that have not taken their assistance which for most of them is the primary source of living (Top Channel (b), 2013).

The above mentioned cases clearly show how the social aid system in Albania flaws in different ways. It is obvious that in a state like Albania, where the living standards are relatively low, a strong political will is needed to change the current situation. Currently Albania is having problems also with the state budget which makes the current situation even more difficult. Even though the new coming governing party, Socialist Party, in its program has treated quite precisely the issue of pensions, assistance and social aids. According to this program financial aid would not be charity, but support for reintegration in society (Partia Socialiste, 2011).

Even though, the government was obliged to cut the state budget. According to the Albanian Prime-minister this was necessary as the previous government had spent the entire budget that would be used for the assistance. According to Edi Rama the previous government has used 174 million dollars for the electoral period from the state budget. He stated that there has been spent 94% of the budget that is used for assistance of the people in need. Leaving like that only 7 million dollars budget to be used for them, which is not enough (Top Channel (c), 2013).

Another weak point of social insurance in Albania is the voluntary system. Because of the low incomes in Albania, people are not willing to pay voluntary insurances in order to have better incomes in the future. As a result the budget for the social system is very low and results with cases of not helping the people in need. In this case, what we can do is to follow the case of

Turkey or create a system that approaches with that of Turkey. In 2013, Turkey has started to follow a new system in which does not contribute only the employer and employee, but also the government. This system functions as it is explained below:

Employees can save in an effective three-policy framework: the new government contributions, the employer-sponsored contributions and the employee contributions. This is in addition to the basic social security system, which is DB. Each policy component will be subject to separate vesting rules:

The government matching contributions will be accessible at retirement. Prior to retirement, they are partially vested: 15% after 3 years of participation, 35% after 6 and 60% after 10 (Tower Watson, 2012).

4. CONCLUSION

The system of social insurance in Albania flaws in many different ways. First of all the number of contributors is relatively low. In order for the scheme to function properly a ratio of 4:1 in terms of contributor-assignee need to be realized. In Albania, unfortunately this ratio is 1.2:1. Another problem may be considered also the demoralization of the new generations for not being part of the voluntary insurance system leading this way to the malfunctioning and low incomes for the system. As a result, in the everyday life we face a system that often fails to meet the basic need of the people in need.

For eight years (2005- 2013) Albania has been governed from the Democratic Party. In June 2013 the elections were won from the Socialist Party. In theory as well as in practice the socialist parties are in favor of working class, helping people in need and equality among people. Although the new government of Albania has highlighted the issue of social insurance and assistance, there is still a big question remains about the implementation due to the budget problems. At this point it seems that the increase of the retirement age and lowering of the contribution percentage may be two of the efficient solutions that may help in the improvement and overcoming the current social aid problems. So as a conclusion we may say that the time will be the best indicator to show whether Albania, governed by the Socialist Party, will follow in practice the examples of some successful socialist states such as Germany, Swiss or Great Britain (especially when it was governed by the Labor Party).

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