

Results of Public Opinion Poll and International Practice

About the draft law on the System of Social Assistance

November 2006

1.1 Focus group analysis¹

From October through November 2006 Transparency International Georgia, with the financial assistance of the Swiss Development and Collaboration Agency held focus groups on the draft law of Georgia on social assistance in Kvareli, Dusheti, Gori, Kutaisi, Ozurgeti, and Senaki. Former Sakrebulo members, staff of regional executive bodies (i.e. gamgeobas), social agents, local nongovernmental organizations, lawyers, and other interested persons participated in focus groups. From 12 to 14 people participated in each meeting, resulting in a total of 75 participants in those towns.

The draft law, other legislative acts and explanatory letters that covered the aim of the meetings and possible questions that would be discussed were sent to the participants of the focus groups in advance. As the result, each participant had the opportunity to become familiar with the draft and to form his/her viewpoint and approach to the draft beforehand.

Positive sides of the draft

All participants of the meeting, even the representatives of the local government—both Sakrebulo members and Gamgebelis—noted the positive aspects of the draft, recognizing the fact that the government has made the social sphere a priority. The complex approach to the whole social sphere and its protection mechanisms is another important issue highlighted in the draft.

This draft law is the first attempt in the history of an independent Georgia to develop a method to regulate social services. Up until now, social assistance had been regulated by separate legislative acts were defused in the different statutes.

Dissatisfaction with innovations in the draft

At the majority of meetings society expressed its dissatisfaction with the conceptual approach of the legislation. In most cases participants criticized the lack of a detailed mechanism to regulate the social assistance system. Despite the desire of complex regulation of the abovementioned sphere, the form of and guarantees of social assistance were incompletely formulated in the legislation.

The participants heavily emphasized the lack of a concept of social protection as one of the most problematic parts of the law.

A lack of evaluation criteria and certain judicial definitions

¹ The focus group report represents only members' ideas. The views expressed in this report are those of the focus group participants and not those of Transparency International Georgia or the Swiss Agency for Development and Cooperation.

The participants of the regional meetings were dissatisfied with the fact that well-defined criteria for a number of legal institutes and institutions are not considered by the draft. For example, the draft law does not establish criteria for identification of residents who need constant special care, poor families, or homeless people, thus making it unclear according to which criteria the social assistance should be distributed. The functions and competence of special agencies of the Ministry of Healthcare and Social Protection in the social sphere are also vague.

Need to decentralize the system

At the meetings it was underlined that in the draft the role of the local self-governance in the field of social protection is diminished. What is more, the possibility of involvement of self-governmental entities in the system of social protection is only vaguely mentioned in the draft. Participants also mentioned that at the local level self-governmental entities are rather competent about existing social conditions and are well qualified to participate in the function of the social protection system.

Dissatisfaction due to high centralization of the sphere

Most participants of the meetings disapproved of the centralized management of the social protection system and the role of the Labor, Health, and Social Affairs Ministry. It was also mentioned that the Minister of Labor, Health, and Social Affairs has advantage of regulating a whole series of social protection issues through inner standard acts, a.k.a. Minister's Order. According to the draft law, the minister individually determines reintegration and living standards, compensation for adopting a child, amount of the compensation for family care for an adult and confirms the standards of non-financial social service. As a result, participants proposed the idea of regulating these issues by the draft and accordingly, more transparency is needed to involve society in the process of decision-making.

Considerations of financial aid

Attitudes toward financial aid turned out to be identical in different regions. According to participants, it is necessary to determine the amount of single and repeated financial aid in the draft. Calculation of the sum must be done in accordance with the fixed percentage of the subsistence wage determined by the government. The circle of beneficiaries receiving single and repeated financial aid must also be determined by the draft. Attention was paid to the need to provide students and unemployed people with financial aid.

Need for different kinds of non-financial assistance

The need to determine different kinds of social non-financial assistance in the draft was emphasized during the meetings, which would be in accordance with the existing social conditions in Georgia. The possibility to distribute social assistance in natural forms (wood, medicine, etc.) or by service (e.g. delivering goods to pensioners and invalid children who cannot move independently) was also discussed during the meetings.

Mechanism of appeals

Participants of the meetings expressed their dissatisfaction regarding the given mechanism of appealing and they talked about the improvement of this mechanism. In their opinion, the process of appealing social assistance decisions must not be delayed by the Labor, Health, and Social Affairs Ministry. According to the existing version of the draft, appeals can take three to four months to be considered, which can further complicate the condition of a socially unprotected person. In their opinion, it is necessary to reduce the time allowed for the appeals process, to simplify procedures, and to extend the functional role of the court in resolving these issues.

1.2. International Practice of Social Assistance System

Social assistance is a part of the common Social Protection System, development and implementation of which is in parallel with the realization of the other components of this common system. International experience is important with respect to the concepts of social protection and its interaction with other systems in the same field.

The analysis given below presents the international experience of social protection legislation using examples from the Baltic States (Estonia, Lithuania, and Latvia), Eastern European (Ukraine and Slovenia), and Latin America (Venezuela, Uruguay, and Mexico).

In the Baltic States the formation of the system of social assistance and adoption of legislation in this sphere were simultaneous processes together with the formation of a unified national system. In Lithuania, Latvia, and Estonia, the social assistance system is an indivisible part of the system of social protection. As a result, the elaboration of legislation in this sphere is conducted together with complex reforms in social assistance, social insurance, and pension systems. As early as 1990 the law on the principles of the social assistance system and consequently the principles of formation of the unified social assistance system were determined. The law, which affected the entire population of the country, defined the concept of the assistance system together with its meaning and competence, established state bodies to regulate this field, and determined the sources of funding.

A segment of the system of social assistance in the Baltic States is determined by several laws, e.g. in Lithuania

2005 Law on Social Assistance;
2004 Law on Social Assistance regarding Child's Upbringing;
2004 Law on Pecuniary Aid for Low Income Families;
2004 Law on Social Assistance in case of Person's Death;
2004 Law on Social Service System.

According to Lithuanian legislation, there are two types of social assistance: monetary and non-monetary (providing certain kinds of service).

The beneficiaries of monetary social assistance are:

- Invalid children;
- Orphaned children;

- People who have been recognized as disabled or partially disabled by the age of 24;
- People who have been recognized as disabled or partially disabled from the age of 24 but not later than the age of 26 due to injuries s/he sustained by the age of 24;
- Parents, adopters, trustees, who reached pension age or have been recognized as disabled or partially disabled because of losing 60% of working ability. Also those who took care of invalid children in the families for 15 years (1st and 2nd group invalid children) or who took care of incurable children until the age of 18 (social aid will be given according to the number of invalid children);
- Mothers of many children, who have five or more children who are under eight years of age, or those who have reached pension age or who have been recognized as disabled or partially disabled because of losing 60% or more of ability to work;
- Persons who reached retirement age or were recognized as disabled or partially disabled because of losing 60% of working ability and do not receive any kind of pension or they are unemployed or not involved in subsistence farming.

The second category is separated and it is comprised of families that receive social assistance because of taking care of a child regardless of the amount of their income and low-income people, who receive financial aid to cover communal taxes.

As a result of the social reforms conducted in the Baltic States over the last two years, priority was given to those families who have children. The following types of financial aid have been determined:

- Assistance for giving birth to a child;
- Assistance for military recruits;
- Assistance for pregnant women;
- Grant for giving birth to a child.

The law definitively determines the amount of financial aid according to the circle of beneficiaries. This is directly connected to the pension system of social insurance as the determination of the amount of aid is calculated according to the main pension rate that is presented in the law on social insurance. That law exactly determines the amount of social aid according to specific categories, which are directly connected to the pension system of social insurance because the amount of social aid is determined by the “main pension rate of social insurance law.” According to the law financial aid is distributed as follows:

- Invalid children with hard diseases - double the main pension;
- Invalid children with moderate diseases - 1.5 the main pension;
- Invalid children with mild diseases - the main pension;
- Persons who have been recognized as disabled or partially disabled after the age of 24, but not later than the age of 26 - double quantity of main pension;

Social assistance for pupils is a special type of social assistance. According to this assistance pupils are provided with school food and supplies.

The law regulating the delivery of financial aid because of a person's death is separate.

Social assistance departments of self-government bodies are responsible for distribution of financial aid. Funds for financial aid are annually transferred from the central budget to self-

government bodies. The same social assistance departments identify beneficiaries and grant the corresponding status, the norms of which are determined in the law according to place of residence, amount of land, and monthly income. The simultaneous receiving of different types of aid is possible for those people who fit different categories of beneficiaries.

Another type of social assistance, non-financial social assistance provided with different forms of services

Services are provided at specially designed service centers. Another means of service is determined according to the place of residence of a beneficiary. This type of social assistance is regulated by the Law on Providing Social Service and a number of orders of the Minister of Labor, Health, and Social Affairs. The above mentioned ministry contains a special department responsible for providing social assistance. Along with the Ministry some specialized departments of local self-governance and governmental bodies are actively involved in the process. The Center of Training and Qualifying The center of A special system for qualifying of Social Workers in the Ministry of Social Defense and Labor is responsible for training and qualifying social workers. The center provides social workers' attestation and certification together with the active participation of the Ministry of Education and Science.

As for the system of appeals, citizens appeal to the local self-governance in connection with financial social aid, and appeals concerning non-monetary social aid are referred to the specially designed Service Centers and the Ministry of Social Defense and Labor.

The social defense system of Estonia is made up of the following seven schemes:

- Health Insurance
- Unemployment Insurance
- State Aid for the Unemployed
- State Aid for Families
- Social Aid for the Disabled
- State Aid for Funerals
- Pension Insurance

Health Insurance is regulated by the Health Insurance Act, which was came into force in October 2002 and includes the following three major points:

- Remunerating medical treatment expenses
- Providing aid in cash in case of illness, being a mother, or taking care of a sick/disabled person
- Remunerating the cost of medicines for several categories of insured people.

Unemployment Insurance: Since January 2003 risk of unemployment has been covered by two-staged pecuniary aid: an unemployment insurance based on earnings, which includes paying taxes

(basic aid) and state assistance for the unemployed in which tax payment is not included (supplementary aid).

State Assistance to the Unemployed: This assistance will be delivered if a person has insufficient economic resources. The aid is calculated according to the person's income. Assistance is provided only if a recipient's income is lower than the monetary amount of assistance.

State Assistance for Families: This scheme is regulated by the Act of Family aid that came into force in January 2002 and aims to partially cover family expenses related to the care, upbringing and education of children. ***There are several types of monthly family assistance such as:***

- ***Assistance for a child:*** Payment begins at the time of a child's birth and continues up to the age of 16;
- ***Assistance for taking care of a child:*** This sort of assistance will be given to one of the parents that raises at least one child up to the age of three;
- ***Assistance to a child with a single parent:*** This kind of assistance will be given to a child up to the age of 16 in the following circumstances: in case there were no notes about a child's father in the birth-certificate; in case such a note was made on the basis of the mother's statement; and in case one of the parents is delinquent in payment of alimony;
- ***Assistance to the child of a recruit:*** This kind of assistance will be given to a child up to the age of 16 whose parent serves in the Armed Forces;
- ***Guardianship assistance:*** This assistance is given to a child who does not have a parent and is put in the care of a different guardian.

Assistance to a single member of a family:

- ***Child's birth assistance:*** This kind of aid will be given to one of the parents at the time of a child's birth;
- ***Aid for the beginning of an independent life:*** This recipient of this assistance are people who were brought up in a state institution or at a school for children with special needs when they independent life at a new place of residence;

Quarterly family aids:

- ***Assistance to families with four or more children:*** This aid will be given to a parent, a trustee, or a guardian who brings up four or more children;
- ***Assistance to the families with triplets:*** This assistance will be given to a parent, a trustee, or a guardian if children are under the age of 16 in the given quarter of the calendar year.

Yearly family assistance:

- ***School assistance:*** This assistance will be given to the children under the age of 16.

Social assistance for the disabled: The social assistance scheme for the disabled is regulated by the act on Social Aid for the Disabled, which entered into force in 2001. Among some of the types of assistance are:

- ***Assistance to disabled children:*** This aid is determined for a child (under the age of 16) suffering moderate, chronic, or heavy illness;
- ***Assistance to a disabled adult:*** This aid will be given to people over the age of 16 suffering moderate, chronic, or heavy illness;

- ***Assistance to a guardian:*** This is an aid for a guardian or a trustee of a person from the age of 3 up to 18 under the circumstances determined by the law;
- ***Assistance to a disabled parent:*** Monthly assistance determined for a disabled or a single disabled parent;
- ***Education assistance:*** The aid given to a disabled student;
- ***Rehabilitation assistance:*** Aims to partially remunerate active rehabilitation expenditures at the rehabilitation institutions for the disabled between the ages of 16 and 65;
- ***Qualification improvement assistance:*** This aid is provided in order to partially cover the real costs of professional training for mentally disabled employees.

State assistance for funerals:

Since March 2001 state aid for funerals is allowed and regulated by the Act on the State Aid for Funerals. This is single assistance aiming at a partial remuneration of transportation, cremation, or burial expenditures of a deceased on the territory of Estonia.

Pension Insurance: This is a new pension system including the following three stages:

- A public pension scheme financed by a reformed system (which means paying taxes along with taking a salary);
- A mandatory, financial scheme managed by the recipient;
- A private pension scheme financed by volunteers.

Apart from this, certain types of assistance are determined for the illegally repressed persons and there is some ***compensation*** for the victims of crime.

In the Ukraine just like the Baltic countries there is a unified system of social protection with a number of distinct characteristics. The social protection segment in the Ukraine is also regulated by several laws, such as:

- The Law on Social Assistance to Families with Children;
- The Law on the Minimal Standards of Living;
- The Law on Social Aid to Poor Families.

According to the first law, social aid is pecuniary aid and may be given in the following cases:

- Social assistance due to pregnancy and giving birth to a child;
- Single assistance because of giving birth to a child;
- Social assistance because of taking care of a child under the age of three;
- Social assistance for taking care or guarding a child;
- Social aid for low-income families with children (for the children under the age of 16 or for the students under the age of 18).

The amount of social assistance for the above mentioned types of social assistance is individually determined directly by the law or given as a directive norm.

Funds and financial assistance are transferred from in the form of a subvention are transferred from the Central Budget to the budget of the local Self-governance. Appeals concerning social assistance of a financial type might be referred directly to the local self-governance bodies as well as to the courts.

The Law on Social Aid to Poor Families provides only pecuniary aid for poor families with minimal living standards for six months. The given status is conferred to the families on the basis of their financial-material condition, which is carried out by the local self-government. In exceptional cases monetary social aid is given to the single disabled persons during the lifetime and to single disabled persons during the lifetime and to single old people over the age of 65.

The state budget is again the only source of financing in this case. Labor and Social Policy State Agency controls the allocation of funds.

In *Slovenia* the Social Defense System consists of five linked components, four from the social defense sphere and one from social assistance.

The legal basis of social aid is the Law on social aid. According to the law there are two types of social assistance: financial aid and non-monetary social aid.

According to the law there are two types of financial aid:

- Monetary social assistance;
- Non-monetary social assistance.

Disabled workers and single people over the age of 60 with no income belong to the category of people who receive financial aid. They will be given 60% (150 USD) of a minimal salary (250 USD according to the year 2002) throughout their lifetime.

Supplementary social assistance is given to families whose monthly income per one family-member is lower than a certain percent of a minimal salary. For example, this rate is 29% for a child under the age of 7 and 52% for the teenagers. The additional financial aid covers a difference between the percentage in question and a real monthly income.

The second type of social assistance includes services, such as:

- Primary social assistance (social assistance for children and the youth and crisis centers for juveniles);
- Private and family social assistance (a psychological and/or a socio-pedagogical assistance to the families and crisis centers for protecting children's rights);
- Stationary assistance ;
- Other types of non-monetary social assistance.

Service and Rehabilitation Centers are formed to provide services to the population in order to reach the above-mentioned goals. In addition service is provided on location for immobile citizens (e.g. due to advanced age or disability).

Some types of social assistance (e.g. subsistence aid, living subsidy, reintegration assistance, aid to families with an adopted child, compensation for family care to the adult etc.) does not belong to the category of social assistance according to Slovenian legislation. They are implemented by means of a rather effective system of social insurance.

In Slovenia the social assistance system is administered by the Ministry of Social Defense and local self-governance bodies, financed directly from the State Budget. Courts are divided into two level, primary and appeal, to discuss appeals concerning labor and social issues.

The experience of Latin American countries such as Uruguay and Venezuela in social assistance sphere is very interesting. In these countries as well as in a number of European states social assistance is a component of a large unified system of social protection. The difference is that that the direction and types of social assistance are not diverse enough. The reason is that social assistance is the same as the mandatory social insurance and social assistance is similar to pension insurance. For example, in Uruguay social aid is only given to the single old and the disabled. Other types of social assistance are covered by the obligatory state or private insurance systems. Such financial social aid as subsistence aid, living subsidy, reintegration assistance, compensation for family care to the adults, aid to the unemployed, etc. is represented in the form of a pension and is distributed in the state or private special funds. Processes in this direction are administered by the Ministry of Labor and Social Protection with the help of its structural local units.

The Mexican law of 2001 on social protection does not include the concept of social assistance, but does establish obligatory and non-obligatory social protection systems. In the funds established within the borders of these systems certain sums of accumulated money is distributed in different social directions in the form of pensions.

Without obligatory insurance it is impossible to receive different types of financial aid, such as:

- A pension for an industrial trauma;
- A pension for illness and childbirth;
- Subsistence aid;
- A living subsidy;
- An aid for the old and the disabled;
- A medical-psychological service.

The amount of the above-mentioned financial aid is determined directly by the law. The processes are administered by the Ministry of Labor and Social Protection.