



## European network of legal experts in gender equality and non-discrimination

### FLASH REPORT

<b>Country:</b>	Bulgaria
<b>Title:</b>	New Social Services Act
<b>Date:</b>	27 March 2019
<b>Expert:</b>	Margarita Ilieva
<b>Context</b>	
<b>Issue at stake:</b>	New rights-based legislation governing social services provision
<b>Grounds of discrimination:</b>	Age, Disability, Other ground
<b>Field of application:</b>	Goods and services, Social protection, Social advantages, Education, Employment, Housing, Self-employment
<b>Source:</b>	Legislation
<b>Applicable law:</b>	Social Services Act, adopted 7 March 2019, promulgated 22 March 2019, entry into force 1 January 2020

### Content

**Law development:** On 7 March 2019, Parliament adopted a Social Services Act (SSA), announced by the government as a key measure for equal access to quality social services (for persons with disabilities, inter alia) and deinstitutionalisation, the last one in a package of three laws - together with the Persons With Disabilities Act (adopted 2018) and the Personal Assistance Act (adopted 2018) - aimed at guaranteeing persons with disabilities' rights. SSA, promulgated on 22 March 2019, is to enter into force on 1 January 2020.

SSA's language is rights-based, and its stated aims are, inter alia, to guarantee equal access to social services corresponding to individual needs, and each person's right to support for purposes of a home-based, community-based life (as opposed to institutionalisation). SSA's stated principles include availability and accessibility of social services, individualised support, prevention of institutionalisation, and respect for the rights of users and guaranteeing their active part in decision-making. Social services are defined as support aimed at preventing or eliminating social exclusion and at rights realisation. Social work is defined as being based on human rights and social justice. SSA posits an individualised approach, defined as placing a person's specific needs, capabilities and possibilities at the centre of support work. Individualised needs assessment, expressly defined under SSA, is the basis for this approach. The law proclaims a right to social services for each person in need of support regardless of their age, health status, education, income, or social and property status. Each child is entitled to social services corresponding to her/his best interests, age, physical and mental state, development level and individual needs. SSA bans direct or indirect discrimination in social services provision on the range of grounds protected under the Protection Against Discrimination Act.

SSA provides for respect for the rights and wishes of social service users, banning any infringement on their freedoms, dignity and personal inviolability. Under the law, servicing

is contingent on, and defined by, personal choice, and the expression of users' opinion regarding services they use is guaranteed.

Under SSA, residential care is an option only where there are no more possibilities for home-based and community-based care. Residential care is to be organised in such a way as to not isolate users from the community. Adults may not be involuntarily committed to residential care. Involuntary use of social services may only be ordered by court in other cases stipulated under law. Residential care is always for a fixed time period, which may be renewed only based on an updated individual needs assessment and where there are no possibilities for home-based support. Child residential care is subject to court control. Children under three years of age may not be placed in residential care except for children with long-term disabilities who need constant medical attention that cannot be otherwise secured. Child residential care as a protection measure may not be for a period longer than two years and is to be reassessed every six months. That term may only be prolonged where a child cannot be reintegrated in a family.

The wishes of persons under guardianship to use, or discontinue the use of, social services, including residential care, take priority, including over their guardian's opinion. Adults under guardianship are placed in residential care by the court, based on their written demand, only where they cannot be cared for in the community. The court's decision, delivered under a hearing, is subject to appeal. Residential care users are entitled to participation in decision-making regarding the organisation of their daily life and the quality of care. Service providers are under a duty to create possibilities for users to do that via user councils. Residential care use is discontinued by the court.

Social services users are entitled to choose their service provider (in some cases, within the limits of the municipality or region they reside in). Children may not be refused social services they requested.

SSA provides for definitions for "social exclusion", "home-based support", "community-based support", "institutionalisation", "residential care", "day care", "early intervention in child disabilities", "children with long-term disabilities", "adults with long-term disabilities", "persons unable to care for themselves", "persons in need of constant medical monitoring and medical care", among a range of other concepts. "Children with long-term disabilities" are defined as "children with a certified of 50 or more percent disability type and degree or long-term loss of working ability degree". "Adults with long-term disabilities" are defined as "persons with a certified 50 or more percent long-term loss of working ability degree or disability type and degree".

Under SSA, institutions (for children and adults with disabilities and for children devoid of parental care) are to be dismantled, starting with child institutions, within diverse timeframes, ranging from 2021-2035. SSA explicitly bans new institutions from being created. All users are to be transferred to individualised social services within the meaning of SSA.

**Internet link source:**

<https://dv.parliament.bg/DVWeb/showMaterialDV.jsp?idMat=135546> = (in BG).