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FLASH REPORT

Country:	Republic of North Macedonia
Title:	New Law on Social Protection adopted
Date:	3 June 2019
Expert:	Biljana Kotevska
<u>Context</u>	
Issue at stake:	New Law on Social Protection
Grounds of discrimination:	All grounds
Field of application:	Social protection, Social advantages, Social security
Source:	Policy development
Applicable law:	Law on Social Protection

Content

Law development: On 22 May 2019; the Assembly of the Republic of North Macedonia (hereinafter the Parliament) adopted a new Law on Social Protection (LSP). This law will replace the 2009 Law on Social Protection (the old law). The LSP entered into force on 23 May 2019. The adoption of the new law is the result of a thorough overhaul of the social protection system with the participation of relevant CSOs. This forms the core of the social reform which the current government has set out to complete during its four-year mandate. It includes complete de-institutionalisation, improvement of the services and increasing the effectiveness of the measures which are to take and keep people out of poverty. The reform is led and coordinated by the Ministry of Labour and Social Policy, led by Mila Carovska – former activist and part of the civil society sector.

Key points of analysis: Several provisions of the law are of importance for equality and non-discrimination. The LSP applies to all citizens and foreigners that reside in the country, as well as asylum seekers, refugees, persons under subsidiary care, as well as citizens and foreigners with temporary residence under conditions established under the law (Articles 13 and 14). The law stipulates that all its provisions should be understood as being gender neutral, applying equally to men and women (Article 5).

The LSP contains a chapter on principles applicable to the field of social protection. One of the principles is 'equal treatment and non-discrimination' (Article 16). According to this article, the beneficiary of social protection has a right to equal treatment. Every form of discrimination in relation to securing a right to monetary assistance, or any other right or service provided for under this law is prohibited on the grounds of race, colour, origin, national or ethnic belonging, sex, gender, sexual orientation, gender identity, belonging to a marginalized group, language, citizenship, social origin, education, religion or religious belief, political belief, other belief, disability, age, family or marital status, property status, health status, personal or other social status, or any other ground. This replicates fully the list of grounds from the new Law on Prevention and Protection against Discrimination (ADL), adopted on 16 May 2019.

The law does not go into defining the different forms of discrimination or introducing any other equality law provisions. Instead, it refers to the ADL. This is a much-welcomed change which can help secure the position of the ADL as a *lex specialis* on equality and non-discrimination matters. It also is in line with Article 51 of the ADL which foresees that all laws and bylaws that contain provisions on prevention and protection against discrimination will be aligned with the ADL within two years.

It is also worth mentioning that the LSP defines a person with disabilities as 'person having a long-term physical, intellectual, 'mental' or sensory impairment, which in interaction with various barriers may prevent the person's full and effective participation in society on an equal basis with others' (Article 4, paragraph 1, point 5). This definition replicates the definition from the ADL (Article 4, paragraph 1, point 3), with a difference in 'barriers' in the ADL being specified as 'social barriers' whereas in the LSP these are just 'barriers'. The preparatory materials do not state why this omission was made. It is possible that it was made in order to avoid more narrow interpretations which may arise in a context of social protection (for example, whether a barrier in an individual house would fall within this scope for the purposes of providing mobility assistance).

Source: Law on Social Protection [Закон за социјалната заштита], *Official Gazette of the Republic of North Macedonia*, No.104/2019 (22.05.2019).

Law on Social Protection [Закон за социјалната заштита], *Official Gazette of the Republic of Macedonia*, Nos. 79/2009, 36/2011, 51/2011, 166/2012, 15/2013, 79/2013, 164/2013, 187/2013, 38/2014, 44/2014, 116/2014, 180/2014, 33/2015, 72/2015, 104/2015, 150/2015, 173/2015, 192/2015, 30/2016, 163/2017, 51/2018; Constitutional Court Decision U.br.165/2009.

Law on Prevention and Protection against Discrimination [Закон за спречување и заштита од дискриминација], *Official Gazette of the Republic of North Macedonia*, No.101/2019 (22.05.2019).