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**THE INSTITUTION OF THE SOCIAL ASSISTANCE FROM THE  
REPUBLIC OF MOLDOVA IN THE CONTEXT OF EUROPEAN  
INTEGRATION**

**SUMMARY**

553.05 Labor and Social Protection Law

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## CONCEPTUAL REFERENCES OF RESEARCH

**The topicality and importance of the problem proposed for research.** The economic and political instability in the last decade in the Republic of Moldova has further contributed to the decline of real incomes of citizens, amplification of social risks and considerable increase of the socially vulnerable population, which is unable to independently ensure a minimum of existence and requires material, financial and psychological support from institutions empowered with social functions. Under these conditions, we must adopt effective social policies that would contribute to the decrease of social tension and -would protect the population from the negative consequences of social risks.

An important mechanism through which social policies are implemented in the state is social assistance. In this context, we establish that the importance of social assistance as a tool for combating poverty and promoting social inclusion, is recognized at national, European and even international level. In recent years, the states of the world are increasingly concerned with modernizing and improving the social assistance system, in order to be as much adapted as possible to the social problems and risks that affect contemporary society.

The commitment to protect the vulnerable population segments was also assumed by our state in art. 47 of the Constitution of the Republic of Moldova, thus, one of the most important functions of the state is to ensure a decent standard of living for all citizens and their families. Its fulfilment is impossible as long as we do not have a multidimensional regulatory framework, and the gaps and contradictions of legal norms show us the lack of an overall approach to legal, institutional and financial issues, fact which affects the social field and prevents the offering of qualitative, sustainable and efficient social assistance.

In this context, we consider to be stringent the analysis of the legal framework of regulating social assistance in order to assess the extent to which it responds to the challenges that are posed to the social field such as: impoverishment of a large mass of the population, globalization, aging of the remaining population in the country, mass migration of young people and workforce, social exclusion, etc. These phenomena require the development and modernization of the legislative framework of social assistance aiming to reorient social policies and review the forms of population support, on the basis on active social policies that would recover, reintegrate and return to work the marginalized people so that they become independent of the social assistance system.

The imperative of European integration expressed directly in the Association Agreement required a detailed analysis of the social policies promoted by the European Union, which are

considered the most effective and well-developed social practices in the world, with Member States leading the way in terms of welfare, human development and quality of life. More than this, the comparative study of social policies in the field of social assistance will help us to carry out a complex and comprehensive work and to identify the possibilities of modernizing the measures and actions of social assistance provided in the Republic of Moldova. The implementation of the European experience in the targeted field can contribute to the transformation and improvement of the social assistance system, so that it becomes an efficient and sustainable mechanism in the fight against the existing social risks in our society.

**The topicality of the research theme** comes out from the importance of this institution for the harmonious development of society. Thus, the detailed understanding of the problems facing society and, most importantly, the continuous and permanent development of the normative framework in the field of social assistance will contribute considerably to the efficiency of social practices and their influence on the welfare of the citizens of the Republic of Moldova. More than this, the in-depth research of this institution of major importance will allow us to increase the effectiveness of the provision of sustainable social assistance and to constantly adapt it to the social realities existing in different stages of development.

**The description of the situation in the field of research.** At present, the Republic of Moldova lacks scientific papers that would address or subject to an ample analysis the legal regulation of social assistance in terms of national and European instruments. A variety of important scientific papers tangentially address the particularities of the topic proposed for research and namely: they study social assistance as a component of social protection; analyze the legal regulation of social benefits and social services; examine the institutional-administrative aspect of social assistance; research the legal regulations regarding the social assistance of the child and of the families with children; analyze the social assistance systems from Romania and the Republic of Moldova, etc.

Even if in the specialty national literature there are several valuable legal works in the field of social assistance, the European experience in the targeted field has not been approached by local researchers. For these reasons, we rightly reserve the right to develop a complex paper in which we will try to identify European best social practices, which can also be borrowed by our state in order to improve and modernize the national social assistance system, so that it is as appropriate as possible to the social realities in the period in which we live.

Among the local researchers concerned with the development of this field that is so important for the harmonious development of society can be highlighted: Nicolai Romandaș,

Ludmila Proca, Aliona Chisari, Ina Odinoakaia-Negură, Sosna Boris, Maria Bulgaru, Marcela Dilion, Oleg Bulgaru, Gonciar Ludmila etc.

In the Romanian speciality literature, the legal framework for regulating social assistance has been researched in the works of the authors: Alexandru Țiclea, Evlampie Donos, Nicolae Tudose, Oana Dobre, Elena Zamfir, Simona Maria Stănescu, Daniel Arpinte, Laura Georgescu, Eufemia Vieru, George Neamțu, Adina Rebeleanu, Mărioara Țichindelean, Sanda Ghimpu, Constantin Tufan and others.

If we refer to the degree of investigation of the issue of the social assistance institution within the specialized doctrine of the Russian Federation, we highlight the works of the following theorists: E. A. Eliseeva (Е .А. Елисеева), Svetlana Smali (Светлана Смалъ), M. V. Kargalovoi (М. В. Каргаловой), M. V. Voronțova (М. В. Воронцова), B. E. Makarov (Б. Е. Макаров), T. V. Derkaseva (Т. В. Деркачева), G. B. Selnoкова (Г. Б. Челнокова), E. E. Maciuliskaia, (Е. Е. Мачульская), O.A. Mitina (О. А. МИТИНА), D. Kojevnikov (Д. Кожевников) etc.

In the international legal literature, social assistance is a fairly researched field; the most extensive works at the international level have been developed by researchers: Kieran Walsh, Thomas Scarf, Sofie Van Regenmortel, Anna Wanka, Kieran Walsh, Jean-Micheal Lafleur, Daniela Vintilă, Giovanni Azzini, Chiara Saracenco, Elaine Fultz, Martin Tracy, Francine Mestrum etc.

Certainly, some research directions approached within this scientific approach will be the subject of discussion for experts, public authorities with social functions, practitioners, and for researchers it will be a starting point in conducting multilateral investigations of the perspectives for the development of the normative framework for regulating social assistance, so as to correspond to national and international standards in the social field.

**Aim and objectives of the thesis.** The accomplished doctoral research is aimed at the complex, critical and multidimensional analysis of the social assistance institution in the Republic of Moldova through the prism of the national and international sources of the doctrinaire opinions in order to identify the degree of compatibility of the national legislation with the social standards established in the European Union.

We intend to achieve the major goal by revealing the following objectives:

- ✓ the identification of the research degree of the social assistance institution within the national and international doctrine.
- ✓ the analysis of the right to social assistance through the prism of national, European and international mechanisms.

- ✓ the examination of the evolution of regulations concerning the establishment and development of social assistance in Moldova.
- ✓ defining of the “social assistance institution”, the establishment of the aims and objectives and the outlining of the legal particularities that delimit the mentioned institution
- ✓ the analysis of the forms of social assistance and highlighting the legal, institutional and financial problems that affect the process of granting social assistance.
- ✓ the analysis of the legal regulations regarding the providing of social assistance by the member states of the European Union (UE).
- ✓ the characterization of the EU recommendations provided to Member States aiming at the establishing of an adequate, fair and combined minimum income combined with the active reintegration measures into society.
- ✓ the examination of the standards set by the European institutions for the organization, operation and development of the social service systems of the Member States of the European Union.

**The scientific problem solved** consists in the analysis of the social assistance institution through the prism of the national and European legal instruments, with the aim to determine the degree of compatibility of the legislative framework in the field of social assistance, which allowed us to highlight the prospects of modernizing and streamlining of national social legislation in accordance with European and international social standards and trends.

**Presentation of the research methodology.** The methodological basis of the doctoral study consists of several traditional research methods such as: a) *logical*, consisting in the use of legalities and logical reasoning used in the process of examination of the opinions of national and foreign researchers and synthesizing the regulations regarding the forms of social assistance and how to grant them; b) *systemic*, manifested by the examination of national and international legal norms, of the competent institutions, of the material and procedural norms; c) *historical*, through which we researched the establishment and development of social assistance in the Republic of Moldova; d) *comparative*, through which we examined from a comparative legal point of view the national and European social legislation; e) *synthetic*, consisting in the generalizing expression of the problems and challenges that are put in front of the legal institution social assistance in contemporary societies.

**The scientific novelty of the obtained results.** The innovative element represents the essence of any research, being indispensable also to the present work. Thus, our research in the field of social assistance is one of the first scientific papers that will exhaustively and complexly

analyze the forms of social assistance through the prism of a legal-comparative analysis of national legislation with the social legislation of the European Union, identifying the best social practices applicable in the European space.

The elements of scientific novelty are materialized in the following theses:

- there have been highlighted the legislative, institutional and financial problems affecting the provision of qualitative and sustainable social assistance;
- there have been examined the most important documents regulating the field of social assistance on the territory of the European Community;
- there have been characterized the minimum standards established at European level regarding the establishment of minimum income schemes and the organization of social services;
- there have been highlighted the best social practices implemented by the Member States.

The analysis of all aspects that were the subject of the study was due to the exacerbation of social problems and the need to provide integrated, adequate and sustainable social assistance, which would respond promptly and effectively to social risks affecting the quality of life of the citizens of the Republic of Moldova.

There have been also formulated several recommendations in order to complete the normative framework that regulates social assistance and proposals of *ferenda law* which, in our opinion, have a pertinent and reasoned character, and which can also contribute to the improvement and modernization of the local social legislation so that the normative framework of this institution responds to the challenges facing the social field in our country.

**The theoretical importance and the applicative value of the paper** consists in examining the impact of social policies on the living standard of the beneficiaries of social assistance, as well as the establishing the perspectives for their improvement on the basis of the social practices successfully implemented by the member states of the European Union.

Due to the fact that the national literature lacks scientific papers that would fully address social assistance from a legal-comparative point of view, we consider that the elaborated scientific approach can certainly serve as teaching material for students of law, public administration and social assistance, but also for specialists working in the field of social assistance. In addition, we believe that this legal investigation will serve as a starting point for research for other PhD students and specialists in the field of social protection and assistance.

**Main scientific results submitted for support:**

1. Social assistance, in a modern and democratic state represents a legal institution of the right to social protection, which consists in providing measures to help people or families who are in need, and through social services and social benefits granted separately or jointly ensures them an adequate level of well-being and regain independence from the social assistance system.
2. Currently, the provision of efficient and sustainable social assistance is impossible because:
  - there is not a clear delimitation of the responsibilities of state institutions in the field of providing social assistance, at the same time there is a faulty collaboration between competent institutions with social functions, which favours the transfer of duties;
  - the financial resources allocated for the financing of social assistance are insufficient for the provision of quality services and the provision of social benefits that prominently improve the living conditions of the beneficiaries;
  - social assistance can have a decisive impact on the welfare of the population only if it is directed to the most affected segments of society, unfortunately, in the Republic of Moldova, in particular, social benefits in most cases are provided based on the principle of category, and do not always reach people affected by poverty.
  - In the current conditions, when the financial resources are modest, we consider that it is rational to redirect our social policies and to review the forms of aid, based on active social policies, which would recover and reintegrate in the field of work the marginalised people, in order to become independent of the social assistance system again. Only in this way, we could ensure a balanced and sustainable social assistance system in accordance with the principles of social justice that combats social exclusion by adopting active measures to support the population affected by the existing social risks in our society.
3. Within the European Union, social assistance is based on a common set of principles and values, harmonised with the specific elements of the system in each country. But today major differences persist due to the cultural, historical and economic peculiarities of each state, however, the most important is that European countries learn from each other how to improve their social practices and develop their own social assistance systems, so that European citizens be as protected as possible from the social risks that affect their life quality.

**Approval of research results.** The research on the legal regulation of the social assistance institution from the Republic of Moldova in the context of European integration was elaborated and discussed within the Doctoral School of Legal Sciences of the Moldova State University. The research results were approved by the guiding committee of the Doctoral School.

The most important conclusions of the doctoral study were presented and examined in the meetings of several national and international scientific conferences, and some investigations



have been exposed in scientific journals in the Republic of Moldova. **Publications on thesis theme:** 6 papers were presented within national and international conferences and 5 scientific publications in national speciality journals.

**Thesis structure** reflects the logical order of the set objectives. The scientific approach is structured as follows: annotations (in 3 languages), list of abbreviations, introduction, three chapters, general conclusions, recommendations, bibliography, annexes, CV. The scientific material is displayed on 171 pages of text, and the bibliographic list contains 198 titles. The sections are drawn up in accordance with the requirements established for this type of research.

**Key-words:** social protection, social assistance, social risk, social welfare, social cohesion, socially vulnerable categories, social benefits, social services, allocations, compensations, allowances, European Union.

**Chapter I – The doctrinaire-legislative dimension of the legal institution of the social assistance**, consists of 4 parts:

In the first part we researched the most significant doctrinaire sources of local scholars and authors from abroad who treated more broadly or tangentially the place and role of the legal institution of the social assistance as part of social protection, its impact on the living standards of citizens and the primary importance of social assistance in contemporary society. We also analysed the national and international legislation that proclaims and guarantees the right to social assistance, and finally we reviewed the most important documents that favoured the development of social assistance system and laid the legal foundations of the social assistance institution.

**Subchapter 1.1. The analysis of the national and foreign theoretical framework that approaches the place and role of the legal institution of social assistance**

Even if it has an indisputable importance in modern societies, we find that the study of social assistance in terms of national and European instruments has not been so far a distinct object of research in the Moldovan doctrine. In the national and foreign specialised literature we discover tangential scientific approaches to the issue of social assistance, which somehow deals with various aspects of this important institution.

Studying the doctrine of the Republic of Moldova, we can notice that this subject is mostly based on specialized legal literature from the Soviet period. In the legal field, the pioneer in scientific research regarding this field is the Professor Nicolai Romandas, who in the monograph *The Law of Social Protection (Dreptul protecției sociale)*, published in 2001, performed a deep legal analysis of the social assistance institution as part of the social protection branch. During the thorough study, the author identified several deficiencies of the social assistance system such as: “there are not established and confirmed by legislation the exact cases of providing temporary social assistance and the adoption of the law on the minimum subsistence level is postponed. The introduction of concrete types of social assistance usually serves as an extreme measure indicated to alleviate the very tense situations that threaten stability in society. The differentiation criterion does not represent the basis for granting the aid, therefore the category of aid beneficiaries, its type and magnitude are established by the social protection bodies”<sup>1</sup>.

The author Evlampie Donos, in his PhD thesis entitled *Social Assistance Systems in Romania and the Republic of Moldova. Interference points (Sisteme de asistență socială în*

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<sup>1</sup> Romandaș Nicolai. *The Law of Social Protection*. Chishinau, Universitas Publishing House, 2001, p. 22.

*România și Republica Moldova. Puncte de interferență*), which appeared in 1996, was concerned about: the evolution of social assistance systems in the Republic of Moldova and in Romania; the development of legal framework in the targeted field; particularities of national social assistance systems; harmonization of social assistance systems in the Republic of Moldova and Romania, etc. Following the thorough research of this important subject, it was concluded that the harmonization of social assistance systems between Romania and the Republic of Moldova is a central objective of the social policies of these two Romanian states. And their harmonization entails the application, in one form or another, of three basic principles, able to offer to those in need adequate social protection: *equal treatment in Romania and in the Republic of Moldova of underprivileged people; determination of applicable law; maintaining the granted rights*<sup>2</sup>.

The book entitled the *Law of Social Protection (Dreptul protecției sociale)*, authors N. Romandas, L. Proca and I. Odinoakaia (Negura), 2011 edition, represents a helpful work on social rights, being a detailed local study on the defining features of social protection law institutions. The authors note that the services provided by social assistance bodies are always and will be necessary even in the most successful periods of development of society, because no one can guarantee that even then there will be no helpless elderly, orphans, single-parent families, people with disabilities or people with mental health problems<sup>3</sup>.

A sociological research in the field of social inclusion of people with disabilities was conducted by Parascovia Munteanu in 2018. The author analysed the legal framework for regulating social inclusion in the Republic of Moldova and identified barriers that influence the standard of living and full participation in social life of people with disabilities. Following the research, the author considers that the institutional mechanism for the development, implementation and monitoring of social policies is fragmented and uncoordinated, and the structures responsible for coordinating policies at national level do not provide an effective mechanism for transferring responsibilities in its implementation process by the local authorities<sup>4</sup>.

Tangentially, the issue of the place of the social assistance institution within the branch of social protection was approached by the researcher Ina Odinoakaia in the paper *The place and the role of the social protection law in the legal system of the Republic of Moldova (Locul și rolul dreptului protecției sociale în sistemul de drept al Republicii Moldova)*. The author rigorously

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<sup>2</sup> Donos Evlampie. *Social assistance systems in Romania and the Republic of Moldova*. Summary of the doctoral thesis. Bucharest, 1996, p. 31.

<sup>3</sup> Romandaș Nicolai, Ludmila Proca, Ina Odinoakaia Negură. *Social Protection Law*. Chisinau, 2011.

<sup>4</sup> Munteanu Parascovia. *Social inclusion of people with disabilities in the Republic of Moldova from the perspective of social values*. Doctoral thesis. Chisinau, 2018, p. 142.

analyses the evolution of social assistance in Moldova; defines and highlights the particularities that distinguish the social assistance institution from the social insurance institution; analyses the principles of law that govern the above-mentioned institution and comes up with a set of recommendations that contribute to the continuous development and improvement of social assistance practices. An important aspect, which the author notes, is that today the social assistance institution has affirmed its necessity and usefulness, becoming a credible and integral partner of the civilized world, being at the centre of political will, economic resources, social policies and local needs<sup>5</sup>.

In **Romania**, the legal institution of social assistance enjoys a special attention, being the object of research of several doctoral students. Nicolae Tudose, in his legal-economic research, entitled *Social assistance in Romania in the context of European integration (Asistența socială în România în contextul integrării europene)*, makes a complex analysis of the social assistance institution in Romania and the European Union. We share the same opinion that the state has a fundamental role in ensuring the welfare of citizens, because through the steps taken to provide benefits in cash or in kind, guarantee universal access to education and health and other related services, it can influence the standard of living of certain social categories considered to be disadvantaged<sup>6</sup>.

Another paper in the field was developed by the researcher Oana Dobre, entitled *Social Security in the context of Romania's integration into the European Union (Securitatea socială în contextul integrării României în Uniunea Europeană)*. In this study, the author also deals with the issue of social assistance, types of beneficiaries, how to provide it, noting that social assistance is provided to people in need due to chronic lack of subsistence or loss of income due to an emergency<sup>7</sup>.

A monographic study published in 2015 entitled *Social assistance in Romania: answer to the problems of transition (Asistența socială în România: răspuns la problemele tranziției)* reveals the multifunctional nature of the field of social assistance, developed by theorists Elena Zamfir, Simona Maria Stanescu, Daniel Arpinte. An opinion that deserves our attention is that monetary benefits respond to an economic-monetary deficit, while social services can also restore the deficit of individual capacities. Only the simultaneous application of these support

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<sup>5</sup>Odinokaia Ina. *The place and role of social protection law in the legal system of the Republic of Moldova*. Doctoral thesis. Chisinau, 2010, p. 45.

<sup>6</sup> Tudose Nicolae. *Social assistance in Romania in the context of European integration*. Doctoral thesis review. Craiova, 2017, p. 17.

<sup>7</sup> Dobre Oana. *Social security in the context of Romania's integration into the European Union*. Doctoral thesis. Petroșani, Universitas, 2009, p. 172.

components leads to the gradual recovery of the marginalised, but also to the prevention of future risks that may occur<sup>8</sup>.

A relevant place in the series of legal works dedicated to the analysis of legal institutions of social security law: social assistance and social insurance, represents the monographic study of researchers Alexandru Ticlea and Laura Georgescu, entitled *Social Security Law (Dreptul securității sociale)*, which was published in 2019. The authors thoroughly analysed each institution in particular, characterising the measures and actions of social assistance undertaken by the Romanian state in order to support marginalised social groups. Remarkable is the point of view of the authors according to which social assistance has a universal vocation because the need, once proven, allows access to all categories of disadvantaged people, i.e. those having materially difficult situations, to benefits provided in these situations<sup>9</sup>.

The examined subject by us was also studied by the researcher Simona Ioana Bodogai in a complex paper dedicated to the study of *Social Assistance for the elderly. Current methods and planned construction (Asistenței sociale a persoanelor vârstnice. Metode Actuale și construcție planificată)*, which was published in 2020. In this regard, the author states that people who do not get enough support from higher levels of social protection will receive a final support through the social assistance system based on the determination of individual needs and of the available resources. Its basic function is to provide the poorest a minimum income to ensure their subsistence<sup>10</sup>.

The subject of our PhD thesis on social assistance has also been rigorously analysed by **Russian** scientists.

A monograph relevant to our field of research was written by the Russian author E.A. Eliseeva in 2015, entitled *Social Policy in the countries located in Western Europe (Politica socială în țările amplasate în Europa de vest)*, in which the scientist revealed in details the evolution, principles and content of social policies implemented in the European Union. Following the investigation, the author came to the conclusion: “The basic purpose of welfare states is to ensure an adequate social stability and social protection and adapted to social realities. States must build their policies in such way that the interests of all citizens are taken

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<sup>8</sup> Zamfir Elena, Simona Maria Stănescu, Daniel Arpinte. *Social assistance in Romania: answer to the transition problems*. Cluj-Napoca, 2015, p. 132.

<sup>9</sup> Ticlea Alexandru, Laura Georgescu. *Social security law. University course*. The 8th edition, updated. București, Legal Universe, 2019, p. 20.

<sup>10</sup> Bodogai Simona Ioana . *Social assistance for the elderly. Current methods and planned construction*. Cluj University Press, 2020, p. 55.

into account and working conditions are according to the new trends. And the most important thing is that every citizen feel protected”<sup>11</sup>.

A multilateral investigation in the targeted field was conducted by Russian researcher M.V. Kargalovoi, which was included in the work entitled *Social Europe in the 21<sup>st</sup> Century (Europa socială în secolul XXI)*. Within the treaty, the existing social problems in the European space related to: migration, social ecology, social security, etc. were examined, as well as the tendencies to change the social policies implemented by the member states of the European Union in the 21<sup>st</sup> century. The author mentions that, in accordance with Community legislation, the European social model implemented by the Member States of the European Union is based on the principles: social justice; social security, social cohesion; competitive economy and friendly social environment. The European social model registers remarkable results, due to the fact that it evolves and adapts to the existing social realities in different stages of development<sup>12</sup>.

At the international level, social assistance is a field researched by various theorists. Studying the foreign literature, we were interested in a paper that examines one of the main social risks that affect both the national population and European society. Thus, in 2020, there was published an extremely conclusive monograph entitled *Social exclusion in later life (Excluziunea socială în următoarele perioade)*, written by several British-American researchers, such as Kieran Walsh, Thomas Scarf, Sofie Van Regenmortel, Anna Wanka. This treaty examines social exclusion at various stages of society's development, the key attributes and manifestations of this phenomenon, negative for the development of a healthy society. The authors believe that demographic changes and social inequalities have had a positive dynamic in recent years, and more and more people have reached the fringes of society. Despite these circumstances, which suggest the need for a stronger focus on social exclusion, research and policy debates on this issue have stagnated in recent years. This is due to the lack of a coherent agenda that would contain ambitious goals to combat the social risk of 21<sup>st</sup> century social exclusion<sup>13</sup>.

An extensive work in the targeted field, consisting of III volumes, was carried out by researchers Jean-Micheal Lafleur and Daniela Vintila in 2020, entitled *Migration and social protection in Europe and beyond. Comparative study of access to the right to welfare, volume I. (Migrația și protecția socială în Europa și dincolo de limitele acesteia. Studiu comparat al accesului la dreptul de bunăstare, volumul I)*. We consider that currently, this seems to be the

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<sup>11</sup>Елисеева Е.А. *Social policy in Western Europe*. Saint Petersburg, 2015, p. 219.

<sup>12</sup> Каргаловой М. В. *Social Europe in the XXI century*. Moscow, 2011, p. 173-174.

<sup>13</sup> Kieran Walsh, Thomas Scarf, Sofie Van Regenmortel, Anna Wanka. *Social exclusion in later life*, volume 28. New York, 2020, p. 33-34.

largest study in the field of migration, which contains empirical and theoretical research on various aspects of international migration. Following the study, the authors found that social assistance systems in some states have direct or indirect forms of social exclusion of migrants, because citizenship is still an important element that conditions access to welfare. Thus, while in some countries (Austria or Ireland), foreigners from the European Union and outside the European Union have the right to guaranteed access through minimum income schemes, under the same eligibility conditions as nationals, in other states, the condition of residence directly impedes the right to seek social assistance<sup>14</sup>.

To conclude, we note that in the national and international literature the issue of social assistance occupies an important place, and theorists are concerned with the continuous development of the legal framework in the social field, so as to respond as effectively as possible to challenges national governments face to.

### **Subchapter 1.2. Examination of national and international mechanisms that guarantee the right to social assistance**

The importance of social assistance as a key tool in combating poverty and promoting social inclusion is recognised worldwide. In the context of globalization and the intensification of social risks, a series of documents of major importance have been adopted at the international level, which commit states to ensure a minimum subsistence for all citizens and to adopt social policies that would guarantee a decent standard of living and combat any form of social exclusion.

The development of social assistance policies in the Republic of Moldova has been conditioned by the signing of several important international documents proclaiming and guaranteeing the right to social assistance: Universal Declaration of Human Rights, International Covenant on Economic, Social and Cultural Rights, European Social Charter (revised), the Convention on the Rights of Persons with Disabilities and its Additional Protocol, the Convention on the Rights of the Child, the Madrid International Plan of Action on Ageing and the Political Declaration, the 2030 Sustainable Development Agenda, the Association Agreement between the European Union and the Republic of Moldova, etc. In our opinion, every international act signed by our state has essentially contributed to the development and promotion of the social rights of the citizens of the Republic of Moldova. The signing of these documents offers the possibility for our state to benefit from good practices in the social field

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<sup>14</sup> Jean-Micheal Lafleur, Daniela Vintilă. *Migration and Social Protection in Europe and Beyond. Comparing access to Welfare Entitlements*, volume I, p. 25-26.

that have been successfully implemented for years in the states of the European Union and in other countries of the world.

The right to social assistance is attributed to the category of socio-economic rights of the citizen and is found in art. 47 of the Constitution of the Republic of Moldova, which provides: The state is obliged to take measures to ensure that every person has a decent standard of living, which ensures the health and well-being of himself and his family, including food, clothing, housing, medical care and social services<sup>15</sup>.

For the purpose of transposing art. 47 of the Constitution of the Republic of Moldova, the Law on social assistance no. 547 of 25.12.2003, which is the most important normative act that regulates the social assistance relations. This Law aims to determine the principles and objectives of social assistance, establishing the right to social assistance, benefits and social assistance services for beneficiaries, provides the forms of social assistance, organization and operation of the social assistance system in the Republic of Moldova and how to finance it.

Currently, the regulatory framework for social assistance is very complex and contains a multitude of normative acts that regulate various social benefits, so, in this regard, we note: the Law on the rights of the child; Law on social assistance; Law on the Republican Fund and local funds for social support of the population; Law on the special social protection of certain categories of population; Law on state social allowances for some categories of citizens; Law on Veterans; Law on Social Protection of Citizens Suffering from the consequences of the Chernobyl Catastrophe; Law on the social inclusion of people with disabilities, etc.

The primary law in the field of organization and functioning of social services in the Republic of Moldova is the Law on Social Services which establishes the general framework for the creation and operation of the integrated system of social services (primary, specialized, highly specialized), determining the tasks and responsibilities of central and local public administration authorities, of other legal entities and individuals empowered with the provision of social services, as well as the protection of the rights of the beneficiaries of social services.

In addition to the broad national and international legal framework that directly or indirectly regulates the social assistance institution, there is a set of programs designed to support vulnerable social groups (children, people with disabilities, the elderly, low-income families, etc.), as an example we mention: for the integration of ageing issues in policies and the Active Ageing Action Plan (2018-2021)<sup>16</sup>; Strategy for the protection of children and families 2014-

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<sup>15</sup>The Constitution of the Republic of Moldova from 29.07.1994. In: OM of RM nr. 34/373 from 22.06.1995.

<sup>16</sup>Decision no. 406 of 02.06.2014 on the approval of the *Program for the integration of aging issues in policies*. In: OM of the Republic of Moldova no. 153-159 from 13.06.2014.



2020<sup>17</sup>; The National Program for Social Inclusion of Persons with Disabilities for the years 2017-2022 and the Action Plan on its implementation <sup>18</sup>; “Moldova 2020” National Development Strategy.

Analysing all the strategies adopted at national level, which are based on ambitious objectives to combat poverty and ensure a minimum standard of living, we can conclude that social policy aimed at protecting the population from the risk of poverty must focus on preventing situations where citizens cannot independently ensure a decent standard of living. In this sense, we support the opinion of European experts who mention that the main tool in combating poverty is job creation; only in such conditions states can fight the scourge of society poverty and social exclusion.

### **Subchapter 1.3. Historical landmarks on the establishment and development of social assistance in Moldova**

The social assistance system in our country, as in most countries in the world, has a long history, appeared in antiquity with the advent of the first forms of social assistance, which manifested themselves through various aids, donations to those social categories that were considered needy. Over the years, these social assistance activities have developed, leading to the establishment of a legislative framework that regulates the way they are provided, administered and financed<sup>19</sup>.

As we have mentioned, long time ago, the church had the charity mission, and during the 19<sup>th</sup>-20<sup>th</sup> centuries we distinguish some main stages.

*The first dimension* of the history of social protection in Bessarabia begins with the adoption of various acts of charity by the state (in the form of proclamations, laws or decrees) from certain organizations, individuals, public committees; “zemstvo” medicine. This represents a considerable stage in the evolution of the social sphere in Moldova<sup>20</sup>.

In the 19th century, the leadership of the Bessarabia gubernia issued a series of decrees that included certain obligations of traders, landowners to provide material support to the needy according to the “proclamations”; The Bessarabia Regional Law on Social Care, which was adopted on the basis of the Decree of the Russian Executive Senate of September 16, stipulates the obligation of the Governor of Bessarabia to protect and finance from the gubernia budget

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<sup>17</sup> Decision no. 434 of 10.06.2014 on the approval of the *Strategy for the protection of children and families*. In: *OM of the Republic of Moldova* no. 160-161 from 10.06.2013

<sup>18</sup>The combined second and third reports of the Republic of Moldova, *Implementation of the UN Convention on the Rights of Persons with Disabilities*. Chisinau, 2020, 54 p.

<sup>19</sup> Sacara Ana. *Historical landmarks regarding the establishment and development of social assistance in Moldova*. In: International scientific-practical conference „ Theory and practice of public administration”, Academy of Public Administration, Chisinau 2021, p. 341

<sup>20</sup> Neamtu George. *Treaty of social assistance*. Ed. II. Iași, Polirom, 2011, p. 1197.

orphanages, hospitals and public charity organisations; The decree of January 8, 1843, issued by the Russian tsar to the medical leaders of the gubernia, provided for the obligation of the gubernia leadership to help the population that suffered from the drought with a certain amount of corn; The provision regarding the spread of charity responsible people in military and “zemstvo” gubernia hospitals.

***The second period of evolution*** of social assistance in Moldova is the interwar period (1918-1940, when Bessarabia develops its social services being a part of Romanian territory). During this period, numerous laws and normative acts in the field of social assistance were elaborated, accompanied by numerous charitable actions, undertaken for those in need. Therefore, in April 1921, a Law and a Regulation on the liquidation of vagrancy and begging and child protection were adopted, which provide for the direct involvement of social assistance in combating begging and vagrancy.

In 1937, the Law on the Organization of the General Institution of the Disabled, War Widows and Orphans and Former Fighters was adopted. This law represents an important normative act that grants basic attributions to General Institution in the field of social assistance. The given institution carried out control and supervision over the observance of the legislation in the field and granted protection to the disabled, war orphans, former fighters and widows.

***The third stage in the development of social assistance begins with the return of Bessarabia as being influenced by Russia (1944)***. During this period, several measures and actions of social assistance were undertaken aimed at helping children, the elderly and the disabled people.

During this stage, a series of normative acts were adopted that had a considerable impact in the development of social assistance, such as: Law no. 100 on the approval of the Regulation of the Society of the Blind in the MSSR of 28 February 1962, the Law on the approval of the Regulation of the Society of the Deaf in the MSSR of 14 April 1962, the Law on the approval of the Regulation of the Ministry of Social Assistance of the MSSR of 1972. However, the denial of social problems was characteristic of the communist regime, promoting the idea that "communist society has no problems that would require community social assistance." Thus, the social services provided focused primarily on the problems of the elderly and the disabled people<sup>21</sup>.

This stage ended with the USSR collapse in 1990 ***and the proclamation of the independence of the Republic of Moldova***. The beginning of the 1990s brought great challenges for the Government of the Republic of Moldova, which had the mission to reform the social

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<sup>21</sup> Romandaş Nicolai, Ludmila Proca, Ina Odinoakaia, *cited work*, p. 5.

assistance system in the conditions of a budgetary limit and some expectations from the population who were accustomed to a generous social protection system. During the transition period, social assistance faced difficult tasks due to severe population poverty and social risks. However, during this difficult period, social assistance became an instrument for implementing social policies.

## **Chapter II – The legal regulation of forms of social assistance**

In this chapter, we have carried out extensive research on the notion of social assistance from a number of perspectives and examined the purpose, objectives and functions of the social welfare institution within contemporary societies. This is also where we have been subjected to research on forms of social assistance, analyzing the legal framework regulating the types of social benefits provided to marginalized people and their impact on reducing poverty among the population of the Republic of Moldova. We have also studied the legal regime of the social services provided in the Republic of Moldova, as well as the prospects for their development and raising their quality in order to provide accessible, adaptable, acceptable and affordable social services for those who need it. The compartment contains a thorough analysis of legislative, financial, institutional problems that prevent effective and sustainable social assistance.

### **Subchapter 2.1. General considerations regarding the social assistance institution of the Republic of Moldova: concept, purpose and objectives**

In today's society, the social protection of citizens occupies an important place in public policies, and the key element of all social reforms and the main direction of social policy in the state is *social assistance*. This is the main mechanism by which institutions responsible for social functions commit to preventing, limiting and removing the negative effects of situations giving rise to social risks that can lead vulnerable people to the margins of society.

Social assistance, in a modern and democratic state, *is a legal institution of social protection law, which consists in providing assistance to persons or families in difficulty, and by means of social services and social benefits provided separately or jointly, they ensure an adequate level of well-being and independence from the social welfare system.*

Social assistance tends to create a prosperous and inclusive society for all vulnerable social groups/families and solitary citizens who face various social risks or who are at risk that could lead to situations of vulnerability.

In general, the basic objective of social assistance is to help those in need to get the conditions for a decent life, helping to develop their own capacities and skills for proper development<sup>22</sup>.

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<sup>22</sup> Zamfir Elena, S. Stănescu, D. Arpinte, *cited work*, p. 111.

The defining characteristics which distinguish the legal institution of social assistance from other legal institutions are: *it is a legal institution of social protection law; it is granted to special subjects - socially vulnerable persons; it is provided to persons facing various social risks; it is provided in the form of social services and benefits; state institutions with social functions regulate the legal framework for the establishment, administration, financing, monitoring and evaluation of forms of social assistance; social security measures and activities are financed from the state budget.*

The crucial role of social assistance was seen by most countries in the period of the COVID-19 pandemic, which led to a substantial reduction in the income of the population and contributed to the rapid spread of poverty. Countries with effective and sustainable social assistance systems have effectively managed the precarious situation in which citizens have been affected. Thanks to effective social policies, states reacted promptly by adopting more social programs, broadening the scope of social assistance so that as many citizens as possible would receive financial support from institutions with social functions. The state of emergency in the Republic of Moldova in relation to the pan-democratic situation at national and global level has amplified the existing problems in the field of social protection and assistance, which, not being resolved in time by appropriate measures, has led to the deterioration of the human rights situation, increasing inequality in society and has further affected vulnerable people<sup>23</sup>.

The social assistance institution as an important part of the social protection law branch provides protection for the marginalized through a range of social services and benefits designed to ensure an adequate level of well-being. In today's society, this plays an important role in carrying out important functions in the state, which is why social institutions must pay particular attention to the development of this institution and the harmonization of social practices in accordance with European and international standards. Furthermore, we believe that social assistance is an attribute of all developed countries and the social achievements warn us of the state's responsibility in protecting people in need.

### **Subchapter 2.2. The legal nature of social assistance benefits provided to needy persons**

Social assistance benefits may be non-contributing cash amounts or benefits in kind, financed from the State budget which is granted to persons in various situations of difficulty or to certain social groups meeting the eligibility conditions laid down by the legislation in force. They are provided for the purpose of ensuring a minimum standard of living, supporting families with children and guaranteeing the exercise by persons with disabilities of the rights and

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<sup>23</sup> Report on the respecting of human rights and freedoms in the Republic of Moldova in 2020. Chisinau, 2020, p. 50.

freedoms laid down in the legislation in force. The provision of social benefits is conditional on applicants being in a state of social needs, the satisfaction of which helps to ensure an adequate level of well-being.

The system of social benefits of the Republic of Moldova includes: Compensation, allowances, benefits, social, material and other benefits. Social benefits are an important instrument for financial support for groups of people at various social risks such as disability, material deprivation, etc. However, with regret, we can note that although we have a large number of social benefits, the very small amount of these monetary benefits makes the monetary support remain purely symbolic, because they do not ensure a visible improvement in living conditions. The benefits provided by the social assistance program do not yet cover the minimum consumption basket of a family, which limits its capacity to reduce poverty. The values of social assistance are too low and represent only a small part of the need created by a shock<sup>24</sup>. Thus, the miserable amount of social benefits makes a modest contribution to increasing the income of beneficiaries and thus to reducing poverty, which consequently leads to a considerable increase in the number of people living below the poverty line.

Another problem that is hindering the normal functioning of the social benefit system identified by specialists *is the lack of a special budget which would finance the forms of social assistance*. Thus, at present, social assistance measures do not have a clear basis for funding, social services and some social benefits being financed from the State budget, and allowances and compensation are financed from the State social security budget. The inseparable social security and social assistance budgets hamper the development of both systems, which are intended to perform completely different functions.

Despite the fact that there is a lot of money, transfers of social assistance make a little contribution to the well-being of people in need. It highlights insufficient financial support for the most needy beneficiaries and poor administrative efficiency arising from the administrative costs of paying out the many small social assistance benefits<sup>25</sup>. A large part of the social benefits system is provided on the basis of belonging to a particular social category, such as those involved in the liquidation of the consequences of Chernobyl, war veterans, etc., irrespective of their income and standard of living, although their families are often not considered among the

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<sup>24</sup> Draft law for the approval of the National Development Strategy "Moldova 2030".

[https://gov.md/sites/default/files/document/attachments/intr40\\_12\\_0.pdf](https://gov.md/sites/default/files/document/attachments/intr40_12_0.pdf)

<sup>25</sup> Maria Davolas, Bethany Brown. World Bank Report. *Addressing the economic security of the elderly in Moldova in terms of human rights*, 2017, p. 97.

<http://documents1.worldbank.org/curated/es/657251493392758897/pdf/112339-ROMANIAN-137p-Moldova-Aging-PostDM-FINAL-translated.pdf>

poorest. The Republic of Moldova is targeting a significantly reduced share of the funds allocated to finance social benefits aimed at combating poverty. According to World Bank experts, "the social welfare system in the Republic of Moldova is dominated by categorically social benefits, which cover 60% of the welfare budget, which is why the efficiency of the system is low"<sup>26</sup>.

Another problem that makes it difficult to achieve the aim of providing social benefits is the *lack of a national database containing information* on the total number of beneficiaries of social benefits. Thus, no institution currently has information on the actual number of beneficiaries and the number of social benefits they receive. We therefore have overlapping social benefits, because a beneficiary can be provided with several types of categorically defined social benefits at the same time, which are not always provided to those who are in need.

*Fraud and errors in accessing social benefits.* As mentioned above, the year's winter aid and social aid are granted on the basis of the social survey, which is drawn up by the social assistant. The majority of applicants for social assistance are honest, but we also have people who present erroneous information about their income and property. Because specialists do not verify the applicant's financial situation de facto, fraudulent income is received.

Another major problem in the field under investigation is the *lack of information to the public about social assistance measures*. Due to the lack of a basic document setting out the categories of beneficiaries, eligibility conditions and forms of social assistance, the population is not informed about social assistance measures and actions. We support the opinion of the Romanian authors that, through specialized services and activities, social assistance should provide people in need with opportunities for knowledge and access to specialized social protection and assistance services, and should guide them toward using and understanding the social protection legislative framework<sup>27</sup>.

Another challenge facing public authorities when awarding monetary social benefits is *the failure to create a dependency of beneficiaries on social benefits*. Some experts consider the benefit system to be a "two-way sword" for many poor. On the one hand, it does not allow them to end up in extreme poverty, and on the other, it prevents them from adopting strategies that would increase their self-confidence so that they can escape poverty<sup>28</sup>. We believe that social benefits must be built in such a way that they encourage employment. In the Republic of

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<sup>26</sup> Economic update - Moldova, autumn. 2019 Special thematic note: Social assistance <http://pubdocs.worldbank.org/en/328051574937579038/Moldova-Special-Focus-Note-Social-Assistance-November-2019-RO.pdf>

<sup>27</sup> Buzduncea Doru. *Social assistance for risk groups*. Iași, Polirom, 2010, p. 413.

<sup>28</sup> *Social assistance reform in Moldova. Evaluation of beneficiaries*. Final report. October 2007, p. 32.

Moldova, we do not have a strong interrelationship between social assistance and employment policy, which would partly solve the problem of the re-acquisition of financial independence of beneficiaries from social benefits.

### **Subchapter 2.3. The typology and prospects for developing social services in the Republic of Moldova**

The second strand of social assistance through which the state provides active and much more effective support compared to social benefits is *social services*. They help to promote an inclusive society and help people to participate actively in the life of the community. The provision of services that meet needs enables older people to live better, to live in a healthy community and to live an active life in society for people with disabilities. Social services also provide children with a decent life and education, preparing them for active integration into society.

Social services, in line with social benefits, are designed to enable all people in the community to enjoy a decent standard of living. They facilitate access for all to activities and areas of everyday life (education, work, health services, leisure, other community resources) and help address potential problems of social exclusion. The aim of these services is to keep beneficiaries as independent as possible in the family and to create new effective and sustainable mechanisms to combat situations of difficulty and social exclusion<sup>29</sup>.

According to the social legislation of the Republic of Moldova, *social services*, as part of the social assistance system, are a set of measures and activities carried out to meet the social needs of the person/family in order to overcome situations of difficulty, prevention of marginalization and social exclusion. They are based on the principle of individualization of intervention, adjustment to the specific needs and needs of the individual, to the socio-economic context in which the beneficiaries of these services live, which is why they always respond more effectively to situations of risk or crisis and allow for an intervention tailored to the specificities of the beneficiaries with the help of specialized staff<sup>30</sup>. We partly support the expert opinion, because at present, the social services provided are pre-defined in nature, without always taking into account the individual needs of applicants. This is due to the lack of a legal mechanism to identify and assess individual needs and the degree of satisfaction of beneficiaries of social services.

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<sup>29</sup> Romandaş Nicolai, Sacara Ana. *Conceptual aspects regarding the social services system in the Republic of Moldova* In: International Scientific Journal of the Rule of Law ISSN 2345-1971 (Category B) nr. 4, p. 45

<sup>30</sup> Chiriacescu Diana. *Public-private dialogue for the financing of social services in Romania*. Bucureşti, 2013, p. 5.

The objective of providing social services is to maintain, restore and develop individual capacities in order to overcome a situation of difficulty, chronic or emergency where the individual or his family is unable to overcome it alone<sup>31</sup>. One opinion we fully support is that social services intervene to ensure that the individual who is experiencing problems has a normal social functioning. The purpose of social assistance services is to help people in difficulty overcome those situations<sup>32</sup>. Moreover, the role of social services is crucial in adapting to the evolving social conditions and in the process of social inclusion of people who are at the margins of society because of certain social, financial and other factors.

According to the legislation of the Republic of Moldova, depending on the level of intervention, we distinguish three types of social services: primary social services; specialized social services; highly specialized social services (residential).

**Primary or community social services** shall be provided at community level to all beneficiaries and shall aim at preventing or limiting situations of difficulty which may result in marginalization or social exclusion<sup>33</sup>. Social services shall be provided on a one-off basis or at the same time as social assistance benefits with the aim of achieving the maximum personal level of well-being at community level. Community services are targeted at individuals, families and communities in need, i.e. those who do not have the means (resources, capacities, information) to solve the problems they face. In such cases, the community should provide special support to persons and community support defined as community social assistance<sup>34</sup>. According to the classification of social services, four types of primary social services are provided at community level: community social assistance; home social assistance; social assistance canteen; community social assistance centre.

The responsibility for the provision and development of these services is placed on the hands of first-level local public authorities. LPA plays a decisive role in the qualitative and efficient delivery of community social services, as it must ensure that needs are assessed, that the development of these services is planned in line with the needs identified and that they are properly funded. We note that national legislation does not contain exhaustive provisions which would establish clear responsibility for the provision and development of social services by the level 1 local public administration, there are no clear boundaries between the responsibilities of local public institutions for the development and management of social services, and the sources

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<sup>31</sup>Paşa Florin, L. Paşa, *cited work*, p. 53.

<sup>32</sup>Buzducea Doru. *Contemporary aspects in social assistance*. Iaşi, Polirom, 2005, p. 61.

<sup>33</sup> *Ibidem*.

<sup>34</sup>Paşa Florin, L. Paşa, *Social assistance in Romania*, Iaşi: Polirom, 2004. p. 54.



and procedure for financing them are not regulated. In this way, we can infer that local public authorities only "contribute" to the implementation of social assistance measures and actions.

In literature, the theorists believe that the development of social services should aim at placing and focusing social services on the family and community, in close proximity to their specific requirements<sup>35</sup>. At the moment, the European institutions also support the idea that social services must be based on the family and the community, rather than on institutionalization. The state institutions must ensure that marginalized people receive adequate and qualitative support in the family at community level, rather than in specialized institutions, which could lead to social isolation; it would help to damage family relations and create a chronic dependence on the social assistance system.

At present, the public administration is unable to ensure harmonious development of social services, as it lacks sufficient mechanisms that would contribute to the provision of affordable, efficient and sustainable social services. The most serious problems affecting the provision of qualitative and efficient primary social services are: poor funding of these services: insufficient qualified staff and the lack of a clear division of the competences of local public administration at first and second levels.

The second category of services to people in need is *specialized social services* provided by specialists. They shall aim at maintaining, rehabilitating and developing individual capacities to overcome a difficult situation in which the beneficiary or his family is placed<sup>36</sup>. Specialized services serve a small number of people whose needs cannot be met at community level. The development, evaluation and delivery of these services are the responsibility of the level two local public authorities. Most services are developed in cooperation with non-governmental organizations from donor financial sources in districts where public administration is more open to the provision of new services.

The social services nomenclature<sup>37</sup> includes 41 social services and regulates their typology, regulatory framework, categories of beneficiaries and social services. We also note that for most specialized social services, regulations on the organization and functioning of the service are not drawn up; minimum quality standards and a costing methodology. In this context, we note that we cannot talk about providing quality social services as long as there is no legislative framework that would set minimum standards to be met by social service providers. Some scholars consider that the social services nomenclature is outdated and not up-to-date and

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<sup>35</sup> Zamfir Elena, S. Stănescu, D. Arpinte, *cited work*, p. 147-148.

<sup>36</sup> Law on social services no. 123 from 18.06.2010. In: OM of RM nr. 155-158 from 03.09.2010.

<sup>37</sup> *Nomenclature of social services*. Approved by Order of the Minister of Labor, Social Protection and Family no. 353 of December 15, 2011.

does not represent an expression of the current state of work in the field of services<sup>38</sup>. We support this view, because the social services system in the Republic of Moldova needs reform and development in order to reorganize the principles of the functioning of types of social services so that they respond effectively to the needs of the beneficiaries and have a sustainable impact in the lives of vulnerable citizens.

*Highly specialized social services* are of two types: residential — *services provided in a residential* or specialized temporary placement institution, which require a range of complex interventions that may include any combination of specialized services, granted to highly dependent beneficiaries and requiring continuous supervision (24 hours); *non-residential – services* providing highly qualified complex social assistance with narrow specialization at regional or national level to beneficiaries<sup>39</sup>.

According to paragraph 4 of Article 12 of the Social Assistance Act, central public authorities shall organize and manage service institutions only if such institutions cannot be organized and managed by the local public administration authorities. According to the stipulated rule, the Ministry of Health, Labor and Social Protection has a double role: on the one hand, it promotes social welfare policies, coordinates and evaluates the activity of social welfare structures, and on the other it organizes social services and is a provider of social services. In our view, MHLSP must only perform functions of regulation and social policy making, including monitoring, coordination, evaluation and control, but under no circumstances should it directly provide social assistance or provide social services.

Social services are an important component of the social assistance institution, which contributes significantly to the process of adapting to living conditions and the process of social inclusion of vulnerable people and groups. For these reasons, the specialized public authorities in cooperation with the local public administration in the first and second levels must pay more attention to developing and raising their quality. More resources should therefore be allocated to the financing of social services, more types of primary social services with a preventive aim developed, as well as more qualified staff who would provide qualitative and efficient social services.

### **3. THE ANALYSIS OF SOCIAL ASSISTANCE IN TERMS OF EUROPEAN LEGAL INSTRUMENTS**

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<sup>38</sup> Palihovici Serghei, Liliana Paliovici. *Provision of social services in the Republic of Moldova in the light of the evolution of the general legal regulatory framework*. In: Public administration magazine nr. 4, 2020, p. 18-19.

<sup>39</sup> Law on social services no. 123 from 18.06.2010. In: OM ofRM nr. 155-158 from 03.09.2010.

Section III is dedicated to the analysis of the most significant treaties governing various aspects of social assistance in the European Community and the principles of coordination of social assistance systems within the European Union.

### **Subchapter 3.1 European legal framework for the establishment and functioning of the social assistance institution in the European Union**

According to the international standards, the citizens of the European Community enjoy a high standard of living, and the majority of the population can independently ensure an adequate level of well-being. Member States have the most effective and well-developed social protection systems in the world, being leaders in terms of well-being, human development and life quality.

Currently, social policies within the European Union consist of three basic components: employment and the labour market; social insurance; social assistance.

In the European space, towards the end of the 19<sup>th</sup> century, the emphasis was on the development of social assistance, which remains a basic attribute of social policies which until now represents an important mechanism of the state to ensure an adequate level of well-being in accordance with established principles. In this regard, in 1992, the European Council issued the Recommendation on common criteria concerning sufficient resources and social assistance in social protection systems, which establish clear recommendations imposing certain standards for the organisation and functioning of social assistance systems and the fundamental criteria for the value of social assistance benefits.

According to the principle of subsidiarity, each state is responsible for the conceiving, development, financing and modernisation of security and social assistance systems. Legislative measures of a social nature adopted at European level are aimed at standardising the social rights of European citizens so that they will enjoy equal treatment in any state. In order to ensure equal social guarantees for every European citizen, it is necessary to establish at European level a set of minimum standard social norms that states undertake to implement in national social policies.

Economic theory has founded <sup>40</sup> four basic models of social assistance systems within the European Union: the Scandinavian model, the Mediterranean model, the Continental model and the British model.

- ✓ The *Scandinavian model*, called also by some authors the *Nordic model*, is widespread in Sweden, Denmark, Finland and the Netherlands. The countries that belong to the Nordic model have the highest expenditures in order to finance the system of protection and social assistance, and the social benefits are granted based on the principle of

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<sup>40</sup>Eardley T., Bradshaw J., Ditch J., Gough I., Whiterford P., *Social assistance in OECD countries: Szntehesis Report, Departament of Social Securitz Research Report*, University of York, Londra 1996, p. 47.

citizenship. The social model in the mentioned countries is decentralised; the local public authorities enjoy a high level of autonomy. This model promotes social inclusion, the universality of social assistance, social dialogue and cooperation of the social partners with the government.

✓ The *Latin (Mediterranean) model* is characteristic of social assistance practices in southern European countries, including France. In these countries, social assistance systems are less developed than in the Nordic countries. Social practices are based on the principle of social inclusion.

✓ *The Continental model* is specific for Germany, Belgium, the Netherlands, Austria, and Luxembourg and is based on the principles of Chancellor Otto von Bismarck. The social insurance institution is very well developed in these countries. Countries that subscribe to the continental model are guided by the principle: work is the only absolute duty of any citizen<sup>41</sup>, and actions and measures to help vulnerable social backgrounds have to be directly dependent on their work activity.

✓ *The British model* is characteristic for Great Britain and Northern Ireland, Beveridge-inspired. The British model, like the continental model, emphasizes the development of social insurance, which is transferred especially to employees with modest salary incomes. The social assistance system in this country is relatively developed.

✓ In the Romanian specialised literature, it is also encountered an European social model, namely the *“catching-up” model*. It includes the characteristics of the new Member States of the European Union, which joined in 2004. The efforts of these countries to raise the social welfare of their population have encountered a number of financial difficulties, which has not stopped them from aspiring to a level of life as of the old Member States of the European Union through various methods (for example, attracting foreign investment). Precisely because of these efforts, this name of catching-up<sup>42</sup> model was created. The Romanian author Nicolae Tudose proposes that the model found in the countries of Central and Eastern Europe be added to the four basic models described above. Without being able to be considered a proper model, the practices in the field of social assistance in the former socialist countries represent in an atypical way the characteristics that are found in the rest of the states, since until recently satisfying the social needs of vulnerable social categories was not a major priority, and the development path was the adoption of practices that led to positive experiences and favourable effects in other

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<sup>41</sup> Hamerijck A.C., T. P. Palm, E. Entenmann, Van Hooren, F.J., *op. cit.*, apud. - Max Weber - *The protestant ethic and the spirit of capitalism*, 1904, p. 21.

<sup>42</sup> Oneașcă Iulian, *The European social model - implications for Romania*. Study Consecrated by the European Institute of Romania.p. 10

countries<sup>43</sup>.

The European social model, as a guideline for interventions in the field, is based on the Bismarck and Beveridge doctrines, which are adapted to the conditions and social problems in our country that occur in different periods of development. If we analyse those models with strong Bismarck-type influences, we find that the social assistance institution is aimed at meeting the immediate needs of ensuring an adequate standard of living, as they provide generous monetary benefits and complex social services that meet the needs of beneficiaries. In countries that subscribe to Beveridge-type social models, social assistance measures are aimed at adopting social strategies and programs that meet the immediate needs of the population, but also provide measures to help beneficiaries to recover through their own means<sup>44</sup>.

### **Subchapter 3.2 Legal regime of the minimum income systems within the European Union**

The basic purpose of the European institutions in the social field is to standardize citizens' rights in matters of social assistance, but the forms, amounts and conditions for granting social rights are based on the particular reality of each Member State.

Most social benefits provided by Member States are determined by the specific nature of each region, but certain rights are universal, such as *guaranteeing a minimum income*.

At European level, three key elements have been highlighted that are most relevant in establishing minimum income schemes<sup>45</sup>:

**1. Adequacy of benefits to combat poverty, inequality and social exclusion.** The first key element in determining the effectiveness of minimum income systems is adequacy, which, based on the principle of a dignified life, assumes that basic needs should be covered by minimum income benefits in an appropriate way, taking into account living standards and price levels or the national poverty line in that Member State<sup>46</sup>.

**2. Eligibility rules and rules of use.** Minimum income schemes are usually universal and are granted to all people who are in a situation of financial vulnerability. The main eligibility requirements applied in national schemes include nationality / citizenship and / or residence, age, lack of financial resources, lack of assets above a certain limit, the unavailable right to any other social benefits and, in most cases, availability and willingness to work.

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<sup>43</sup> Nicolae Tudose, *cited work*, p. 70.

<sup>44</sup> Sacara Ana. *The European Social Model - an instrument of cohesion between the states of the European Union*. In: Journal of Public Administration ISSN 1813-8489 (Category B), 2021, nr.1 , p.159

<sup>45</sup> Walter Hanesch, Report, *Peer Review on "Minimum Income Benefits – securing a life in dignity, enabling acces to services and integration into to the labour market"* Germany 2018, p. 12

<sup>46</sup> Conclusions of the Council of the European Union. *Strengthening the protection of the minimum income for combating poverty and social exclusion in the COVID-19 pandemic and beyond*. Brussels, 9 October 2020, p. 6.

Many Member States face challenges related to low usage rates. The complexity of many national minimum income systems and administrative requirements can impede their efficient and targeted implementation. In 2017, the Council of Europe, according to the Decision on the guidelines for the employment policies of the Member States, expressly notes that states have to modernise their social protection systems in order to ensure efficiency and adequate protection at all stages of the lives of individuals, moreover, they have to be designed in such a way in order to facilitate the application for benefits and services by eligible persons.

3. *Activation and access to services* represent a clear trend in all Member States. Their conditionality links social benefits to participation in activation programs or acceptance of employment. Thus, economic support has to be accompanied by activation measures and non-monetary incentives, including the provision of additional services. Activation approaches need to take into consideration the considerable differences between beneficiaries related to different personal factors. This requires combining personalised assistance, such as able-bodied beneficiaries, to find or obtain a qualification and reintegrate into the workforce. Failure to comply with the obligation to search for a job may lead to the temporary suspension of the minimum income or even the cessation of this payment.

In order to increase the effectiveness of the guaranteed minimum income, the European Commission aims to launch in 2022 a mandatory Directive on the minimum income that complements the social policies of the Member States and modernizes these institutions to respond promptly and effectively to the financial or material necessities of people in need. The Directive would provide a framework for the gradual improvement of minimum income schemes in terms of adequacy, accessibility and facilitation while respecting the principles of proportionality and subsidiarity.

### **Subchapter 3.3 Social services of general interest-an essential component of the European social model**

Within the European Union, social services play a crucial role in improving the quality of life and ensuring effective and sustainable social protection. Moreover, they are an important tool for achieving the basic objectives of the European Union such as: social, economic and territorial cohesion, employment and social inclusion. Social services have a key role in European society, promoting and ensuring the increase of capacity of vulnerable people to active participate in society's life and guaranteeing the observance of fundamental rights of European citizens proclaimed in Community law.

The right to social services of general interest is a fundamental right at European level, therefore, it is included in the economic, social and cultural rights proclaimed by the Universal

Declaration of Human Rights. In this regard, the European Parliament urges states to guarantee non-discriminatory access, regardless of gender, income, race or ethnic origin, religious belief, disability, age, sexual orientation or employment. The European social charter, revised in art. 14, expressly establishes the right of persons to benefit from social services and in this regard it is the obligation of the state to “encourage or organise services that by specific methods of social service contribute to the well-being and development of vulnerable individuals and groups in the community, as well as their adaptation to the social environment.

Member States, in accordance with the principle of subsidiarity, are responsible for establishing, organising and financing the national social services system, but in accordance with the principle of proportionality, the European Community establishes a set of obligations and responsibilities to promote an adequate level of well-being. In addition, it recommends that states organise their social service systems in a transparent, efficient, operational manner and adapted to social realities. The normative framework in the field should be adjusted to the European, national, regional and local legislation, in such a way as to respond as efficiently as possible to the existing social problems and risks in the country. In this regard, European experts recommend that states adopt the best methods in order to provide personalised, accessible, integrated, preventive social services, in a way that ensures continuity and in conditions of close cooperation between state institutions.

Even though, at European level, a general regulatory framework is set for these systems, states register large differences in their level of development due to country-specific factors. At European level, depending on the organisation and functioning of social service systems, theorists have delimited four models of social services<sup>47</sup>:

✓ *Scandinavian model* which is present in Finland, Sweden, Norway and Denmark, is based on the principle of universality. Thus, in the above-mentioned states, every citizen who considers that he/she is in a situation of difficulty has the right to request social services from the competent authorities with social functions. Specific for this system is the fact that state institutions play a major role in the organisation and provision of social services, and the involvement of non-governmental organizations constitute a minimal level.

✓ *Family care model* is specific to Mediterranean countries such as Cyprus, Italy, Malta, Portugal and Greece. In these states, the family and non-governmental organizations play a decisive role in the care of vulnerable people, and the involvement of state institutions is

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<sup>47</sup> Brian Munday. *Report European social services: a map of characteristics and trends*. p. 7-8, august 2012  
[www.coe.int/t/dg3/socialpolicies/socialrights/source/SocServEumap\\_en.doc](http://www.coe.int/t/dg3/socialpolicies/socialrights/source/SocServEumap_en.doc)

minimal. As a rule, in these states, high-income families access social services for a fee. At European level, the social service systems within these states are harshly criticized, because the role of women in society is diminished, as they are burdened with the care of family members who are in difficulty: the elderly, children, people with disabilities, etc.

✓ ***Means testing model*** is specific to Great Britain and Ireland. The primary role in the provision of social services is played by non-governmental organizations, and the state only contracts care services for vulnerable people. Overall, state institutions are focused on intervening in problem situations: low-income people and people dependent on social services.

✓ ***The Northern European subsidiary model*** is specific to the Member States of the In the Netherlands and Germany, social services are provided by religious denominations and non-governmental organizations, and state institutions are responsible for their proper and adequate funding. The family plays a major role in the provision of care services. Specific to these countries is that there are many differences even within the same state, because at the regional level the authorities are further involved depending on the problems in the region.

In order to successfully implement the European Pillar of Social Rights, European institutions in collaboration with national governments have joined forces to strengthen minimum income schemes, improve the quality of social services, modernise community-based social infrastructure and strengthen policies aimed at recruiting and retaining qualified and well-trained staff in the field of social assistance.

## **GENERAL CONCLUSIONS AND RECOMMENDATIONS**

**1.** Researching the doctrine of domestic and international specialty, we observe as an institution, social assistance has been a research object for several domestic and foreign theorists. In general, research has been directed toward identifying the most effective levers that can contribute to the development and improvement of this area, so that social assistance is based on a modern and coherent regulatory framework that responds promptly to the social challenges facing this institution.

**2.** At present, the social assistance institution does not have a coherent and unified regulatory framework. The legal relationships of social assistance are governed by more than 40 legislation, the rules of which often contradict or exclude, which makes it absolutely necessary to revise all legislation and to systematize the legislative framework for social assistance. In our opinion, the best solution for the structure of legislation in this field would be the elaboration of the *Social Assistance Code* that will help social professionals to fulfil their job quality, and citizens will be



able to obtain more easily information about the social assistance rights guaranteed by the Constitution of the Republic of Moldova.

**3.** The social assistance plays a decisive role in ensuring the sustainable development and implementation of the principle of social solidarity and in safeguarding the rights and freedoms established by national and international law. In general, social assistance programs are aimed at: combating poverty, ensuring life-long social protection, harmonious family development, combating inequalities and raising the standard of living of the population.

**4.** The social assistance system in the Republic of Moldova is inefficient and needs legislative and institutional reform. It is therefore essential to adopt an integrated *National Strategy for the Development of Social Assistance*, which would contain ambitious targets and priority directions for development at national level. In our view, the harmonious and sustainable development of social assistance cannot be achieved on a sector basis, by category of beneficiaries, but only in the context of a complex, multi-faceted approach, monitored and controlled at national level will it achieve its basic aim: *to ensure an adequate level of well-being for all citizens in distress.*

**5.** Social assistance is an important element of social policies in the Republic of Moldova, being aimed at supporting people in difficulty. Support shall be provided according to the needs of the applicant through social benefits and services. However, in order to fully restore the financial and psychological capacity of vulnerable people, social assistance measures must be implemented simultaneously and only in these circumstances can beneficiaries regain their independence from the social assistance system.

**6.** The social benefits system of the Republic of Moldova is multi-faceted, contains several types of benefits: allowances, compensation, benefits and benefits, most of which are provided on the basis of belonging to a particular social category: war veterans, participants in the liquidation of the consequences of the Chernobyl disaster, which do not always belong to a vulnerable social category. Thus, the targeting of social benefits remains insufficient and many people in need are outside the social assistance system. Thus, we believe that social programs can only have a strong influence on the well-being of the population if, firstly, they are directed to the most needy sections of the population, and secondly, if the use of these benefits improves the living conditions of the beneficiaries considerably. At present, the social assistance programs provided in our country do not meet any of the conditions mentioned. In this context, in order to improve the living conditions of users of social assistance, we believe that *we need to ensure effective targeting of forms of social assistance, so that it reaches the people most affected by social risks, and at the same time increase the amount of social benefits to the minimum of existence.*

7. To fix the actual amount of social benefits which will have a beneficial impact on welfare, we believe that the adoption of a *methodology for calculating the value of social benefits* is urgent. Thus, we will create a regulatory basis, which in line with certain indicators such as the minimum basket of consumption, the average wage per economy, the minimum guaranteed wage; etc will set the amount of social benefits, which will indeed ensure a minimum standard of living.

8. Following the study carried out, I came to the conclusion that increasing efficiency and equity in the welfare system must be one of the key concerns of policy makers so that social benefits and activities reach the most vulnerable parts of society. We consider it imperative to strengthen social benefits in terms of reducing their number, thus increasing the principle of social fairness, but on the other hand, administrative costs will be reduced.

9. In the context of limited financial means and for the purpose of effective use of means of financial allocation, we welcome the adoption of mechanisms for the record-keeping of recipients of social assistance and types of benefit to provide assistance in accordance with the principle of social fairness and the targeting of social assistance to those social groups that face social risks in contemporary society.

10. In order to empower applicants for social assistance, we believe that they should present truthful information and notify the assistant of any changes to his employment status, and the experts in social welfare structures should be more vigilant when determining their right to social benefits provided for in social legislation. In this context, we consider it appropriate to supplement the Code of offenses with the following Article:

Article. *Breach of the rules on claiming social benefits*

(1) the submission by the beneficiary of non-material information, incorrect or incomplete in the application for social benefits or failure to provide information on the change in the employment status of the beneficiary of social aid or aid for the cold period of the year the penalty shall be imposed on the applicant by a fine of 5 to 15 conventional units.

(2) establishment of entitlement to social benefits by the territorial social assistance structure in the absence of established documents

penalties shall be imposed on the social assistant from 15 to 25 conventional units and on persons responsible for the position of responsibility from 25 to 50 conventional units'.

11. In the current circumstances, when financial resources are modest, we consider it rational to refocus our social policies and review forms of aid, based on active social policies that would help to recover and reintegrate marginalized people into the labour market, to make them independent from the social welfare system. Only in this way will we be able to ensure a

balanced and sustainable social assistance system, in accordance with the principles of social justice that combat social exclusion, by adopting active measures to support the population affected by the social risks that exist in our society.

**12.** The second component of social assistance through which the State provides an active and much more effective support compared to social benefits is social services. They contribute to promoting an inclusive society and helping people to participate actively in the life of the community. Three types of social services are provided in the Republic of Moldova: primary, specialized and highly specialized.

**13.** The effective functionality of the social services system of the Republic of Moldova is affected by several problems: modest funding; lack of a clear and comprehensive definition of the competences of the first and second level public administration; poor collaboration between institutions involved in the process of providing social services; limited number of primary social services; lack of skilled staff, etc.

**14.** We believe that our state must review its priorities and allocate funds adequate to finance social assistance measures and activities. Investing in people must be the basic priority for any rule of law, because it ensures proper social development and avoids social bottlenecks. Moreover, international practice has shown that progress can only be achieved if we have a healthy, prosperous and inclusive society.

**15.** Social services are provided by the local public administration in the first and second levels, and in some cases by the specialized central authority itself. The current regulatory framework does not clearly set out the competences relating to their organization, delivery and financing. For these reasons, with a view to eliminating any act, interpretation or transfer of powers, We are proposing to exclude from paragraph 1 Article 9 of Law No 123 of 18.06.2020 concerning social services the word "to insure" and from paragraph 1 Article 10 of Law No 123 of 18.06.2020 concerning social services the word "to contribute".

**16.** The Ministry of Health, Labor and Social Protection cannot have a double role: on the one hand it promotes social assistance policies, coordinates, evaluates the work of social assistance structures, and organizes social services and has the status of a social service provider. In our view, MHLSP must only perform functions of regulation and social policy making, including monitoring, coordination, evaluation and control, but under no circumstances should it directly provide social assistance or provide social services. To this end we propose to exclude paragraph 4 of Article 12 of the Social Assistance Act which states: "central public authorities shall organize and manage service institutions only if such institutions cannot be organized and managed by the authorities of local public administration".

**17.** In order to assess the impact of social work on the standard of living of beneficiaries of benefits and social services and identify the levers for improving them and assess the satisfaction of beneficiaries, a Methodology for assessing the impact of social assistance measures and activities on beneficiaries needs to be adopted.

**18.** Social assistance counsellor is the key element in the provision of effective social assistance, balanced and sustainable, but on the human resources side we have two serious problems: a year in which there is a shortage of labour in social assistance, and a second is that in providing social assistance, people who lack the necessary education to perform this important job are trained. In order to enhance the prestige of this profession and establish a legal obligation to hold a license diploma to become a social assistant, we consider it appropriate to complete the social assistance regulatory framework with the *Law on the status of social assistant*, which includes its requirements, rights, obligations and responsibilities. This legislative measure will also encourage and motivate young people to choose the position and to perform their duties with dedication and dignity. For these reasons, we also come up with a bill, which we believe is relevant and will help to strengthen the welfare state.

**19.** We consider it reasonable to complement the social assistance regulatory framework with a *Methodology for identifying the needs of vulnerable social groups*, because only if we know the problems and needs of disadvantaged people will we be able to define priority interventions; objectives and we will be able to set out directions for development to increase the effectiveness of forms of long-term social assistance, ensuring that the well-being of the entire community is enhanced.

**20.** The social realities of the Republic of Moldova require us to create a regulatory framework performance that would regulate an effective and inclusive system of social services, provided with social benefits and active labour market reintegration measures, and would ensure prevention and combating of situations that create social risks. Only then will social assistance become qualitative, efficient, personalized and geared toward rapid and effective resolution of social problems.

**21.** At the European level, already in 2000, the European Commission established that the systems of social assistance must be based on a common set of principles and values, harmonized with the specific elements of the system in each country. But today, although major differences persist due to the cultural, historical and economic particularities of each country, what is important in the European area is that countries learn from each other how to improve their social practices and improve their welfare systems.

**22.** The membership of the European community imposes certain social standards on Community countries and States are committed to implementing them through national social policies. The level of development of social assistance systems varies from country to country, and the growing differences between and within member states underline the importance of action taken across the Union <sup>48</sup>.

**23.** In the European countries, social assistance has an active character, measures and activities of social assistance is provided with the aim of helping people to overcome difficulties independently and successfully reintegrate into the community by actively participating in social life.

**24.** A complex regulatory framework has been developed at European level over time, coherent and adapted to social realities so that member states' social assistance systems provide adequate social assistance to people in situations of vulnerability. In accordance with European values and principles, the Member States of the European Union provide social assistance through minimum income schemes which must be *adequate, eligible and fair and be combined with comprehensive, personalized, designed and provided in an inclusive manner*.

**25.** Social welfare institution legislation must be improved with a regulatory framework modern, unitary and complex, developed in accordance with international and European social standards, which would cover all aspects of social assistance relations, since well-designed, integrated social services and services, adequate and sustainable provide effective protection for all members of society throughout their lives <sup>49</sup>.

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<sup>48</sup> EPSCO Council "Combating poverty and social exclusion: an integrated approach". Conclusions adopted at the 3474-th meeting held on 16 June 2016.

<https://data.consilium.europa.eu/doc/document/ST-10434-2016-INIT/ro/pdf>.

<sup>49</sup> Conclusions of the Council of the European Union. *Strengthening the protection of the minimum income for combating poverty and social exclusion in the COVID-19 pandemic and beyond*. Brussels, 9 October 2020, p. 3.

## LAW

### ON THE STATUS OF SOCIAL ASSISTANT IN THE REPUBLIC OF MOLDOVA

This Law transposes Article 3 paragraph (1) letters (a), (b) and (d) of Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, Published in Official Journal of the European Communities No L 180 of 19 July 2000.

#### Chapter I

##### GENERAL PROVISIONS

###### **Article 1. The object and purpose of the law**

(1) this Law regulates the function of social assistant, the status of social assistant, the legal relationships between social workers and state institutions and other relationships arising from employment relationships.

(2) the purpose of this Law is to encourage persons trained in the provision of social assistance, to perform their professional, qualitative, regular and effective duties in the interests of vulnerable persons and of the whole society.

###### **Article 2. Basic notions**

In the context of this Act, the following definitions are provided:

*social assistance* - shall mean a legal institution of social protection law, consisting of the provision of measures to assist persons or families in difficulty, and by means of social services and social benefits provided separately or jointly, they ensure an adequate level of well-being and independence from the social welfare system.

*public authority* — any organizational structure established by law or by any other regulatory act, acting under public authority for the purpose of carrying out a public interest;

*social assistant* — person who has obtained a bachelor degree in a higher social security institution, who is trained in the provision of social assistance to the sections of the population affected by various social risks;

*social risk* – an unexpected adverse event affecting the quality of life of individuals and families who are unable to overcome the difficulties caused by social risks independently;

*disadvantaged individuals and families* – citizens and their families who are at various risk situations and need material, financial and psychological support from institutions with social functions;

*beneficiary of social assistance* – person or family who is affected by various social risks and receives support from the competent institutions according to their needs in the form of benefits and/or social services.

#### Chapter II

## **CAREER OF SOCIAL ASSISTANT**

### **Article 3. Employment of social assistant**

One may serve as social assistant in case he or she meets all of the following conditions:

- (a) holds citizenship of the Republic of Moldova;
- (b) knows the state language and the language of communication in that territory;
- c) possesses full exercise capacity;
- d) is not 63 years of age;
- (e) is medically fit for the performance of the duties;
- (f) holds a diploma of bachelor or master with specialist qualifications awarded by national educational institutions accredited or recognized in accordance with the order of the Ministry of Education, Culture and Research of the Republic of Moldova No. 1702 of 26.12.2019 on the approval of the Regulation on the recognition and equivalence of documents and qualifications obtained abroad;
- g) has no open criminal record;
- (h) he is not deprived of the right to hold office or to carry on a particular activity.

### **Article 4. Having the position of social assistant without specialized studies**

The social assistant without specialized studies in this position at the time of the law's entry into force has the right to continue his professional activity if he submits documentary evidence that he has enrolled with a university with a specialized social assistance specialist.

### **Article 5. Employment of social assistant**

Social assistance position shall be filled through:

- (a) competition;
- (b) transfer;
- c) detachment.

### **Article 6. Organization of the competition for the position of social assistant**

Competition for the position of social assistant

- (1) The competition for vacancy or temporary vacant posts shall be organized on the basis of the principles of legality, transparency and equality.
- (2) The competition for the employment of social assistant shall be organized in accordance with the laws in force by:
  - a) contest commission made up of the mayor, lawyer and a representative of the Council for Social Assistance and Family Protection of the local public administration at level two to replace the vacant position of the social assistant of the first level of the local public administration;
  - (b) contest commission made up of the head of the Council for Social Assistance and Family Protection, a lawyer and a representative of the specialized central public authority, to supplement the vacant position of the social assistant of the first level local public administration.
- (3) the conditions for organizing and carrying out the contest shall be determined by the Government.

(4) disputes arising in the process of organizing, conducting and finishing the contest shall be settled by the courts of administrative litigation.

#### **Article 7. Employment requirements**

The citizens who for the first time become social assistant will be set a trial period in accordance with Articles 60-63 of the Labour Law of the Republic of Moldova.

#### **Article 8. Termination, modification, suspension and termination of employment of the social assistant**

The termination, modification, suspension and termination of employment of the social assistant shall be executed in accordance with the rules of the Labour Law of the Republic of Moldova.

#### **Article 9. The legal framework for the activities of the social assistant**

The social assistant puts into practice the knowledge, values and norms of social assistance and operates in accordance with the rules set out in the Constitution of the Republic of Moldova, the legislation of social assistance and the code of ethics of the social assistant.

#### **Article 10. The activities of the social assistant**

The social assistant carries out several activities relating to:

- a) identifying categories of citizens who are in difficulty and require the support of the relevant authorities;
- b) in accordance with the principle of social assistance the flexibility of social assistance measures and the individual approach of beneficiaries determines the most effective support (social benefits and/or services) that will have a decisive impact on the well-being of vulnerable persons;
- c) the establishment and assessment of social risks in the locality that adversely affect the quality of life of social groups considered vulnerable;
- d) development of action plans, measures and programs that would help to make the provision of sustainable and qualitative social assistance more effective;
- e) informing and advising citizens about the social rights guaranteed by the Constitution of the Republic of Moldova;
- f) shaping the mechanism for developing the social assistance system to match the needs and needs of beneficiaries;
- g) detecting social weaknesses that hamper social development;
- h) ensuring close cooperation between the institutions responsible for social functions and develop strong partnerships that will increase the effectiveness of social assistance provision.

#### **Article 11. The principles of the social assistant's activity**

The work of the social assistant shall be based on the following principles:

- (a) the active involvement of the beneficiary in the selection of the most reasonable methods of intervention;
- b) continuous training and improvement of working methods;
- c) a combination of several working methods and techniques.



**Article 12. The necessary conditions for the successful accomplishment of the activities by the social assistant**

The public and private institutions within which the social assistant operates must ensure the necessary conditions for the successful accomplishment of the activities provided by art. 9.

**Article 13. The way of activity's fulfilment of the social assistant**

The social worker can work within:

- a) the public sector, within the first and second level public administration, in accordance with the internal Regulation of the institution, the present law, the Labour Code of the Republic of Moldova and with the Law on the unitary salary system in the budgetary sector no. 270 of 23.11.2018, with subsequent amendments.
- b) the private sector, in accordance with the internal regulations of the respective company or organization, this law, the Labour Code of the Republic of Moldova and the Law of Pay no. 847 of 14.02.2002, with subsequent amendments.

**CHAPTER III  
THE STATUTE OF THE SOCIAL ASSISTANT**

**Article 14. The rights and the obligations of the social assistant**

(1) The social assistant has the right:

- a) to continuous training in the field of social assistance;
- b) to defend his profession;
- c) to contribute to increasing community confidence through providing of adequate and effective social assistance;
- d) to be open to new methods of intervention in supporting the segments of the population affected by various social risks;
- e) to establish and join trade unions and other organizations that carry out activities that do not contravene the legislation of the Republic of Moldova;
- f) to have access to the information regarding the accomplishment of the service attributions provided by the job description and individual employment contract;
- g) to stimulation for the efficient and conscious accomplishing of service attributions in the form of award, recompense and honorary diploma;
- h) to benefit from the social guarantees provided by the legislation of the Republic of Moldova;
- i) to be provided with the necessary tools and protective equipment so as to perform their duties in maximum safety;
- j) to be provided with transport for the accomplishing of work attributions in the territory.

(2) The social assistant is obliged:

- a) to respect strictly the ethical norms imposed by the Constitution of the Republic of Moldova, the international treaties ratified by our state and the legislation in force;
- b) to respect the rights and freedoms of the beneficiaries, taking into account their values and principles;

- c) be loyal and tolerant with social assistance users;
- d) to provide social assistance to all persons at risk in equal terms, without any discrimination;
- e) to inform in an accessible manner, for the understanding of all, the citizens about the social rights stipulated by the legislation of the Republic of Moldova;
- f) to actively participate in the finding out of citizens in difficulty and to support them in accordance with the principles of social assistance;
- g) to carry out their activity in such a way as to respect the personality of the beneficiary, offering them the right to choose the type and manner of granting social assistance;
- h) to respect strictly the ethical norms provided by the Deontological Code of the social worker;
- i) to carry out its activity responsibly and qualitatively so as to satisfy the legitimate interests of social assistance users;
- j) to participate yearly in continuous training courses in order to permanently improve their professional training;
- k) to monitor the beneficiaries of social assistance throughout all the period of social benefits

#### **Article 15 . Incompatibilities and restrictions**

The position of social worker cannot be held by the person who:

- a) does not have a bachelor's or master's degree with specialization in the field;
- b) is convicted by a court decision of committing an intentional crime in the process of performing work duties;
- c) is temporarily suspended from office for the period of service investigation.

The status of the position of social assistant is incompatible with:

- a) carrying out activities that may endanger professional dignity;
- b) carrying out activities with intent that may worsen the social / material / psychological situation of the beneficiaries;
- c) promoting the interests of some political parties to the detriment of the social assistant profession.

## **CHAPTER IV**

### **CONTINUOUS PROFESSIONAL TRAINING OF THE SOCIAL ASSISTANT**

#### **Article 16. Organizing the continuous professional training of the social assistant**

The specialized central public authority will ensure the organization of continuous training courses, at least once a year, which will contribute to:

- a) deepening knowledge in the field of social assistance;
- b) developing new skills and capacities so that the provision of social assistance is as qualitative, efficient and sustainable as possible, with a decisive impact on the welfare of the beneficiaries.

**Article 17.** The standardized procedure for the professional training of the social worker is transposed in the Annex to the Order of the Minister of Labour, Social Protection and Family no. 90 from 17.06.2015.

## CHAPTER V

### LEGAL LIABILITY OF THE SOCIAL ASSISTANT

#### **Article 18. Bringing the social assistant to legal liability**

For the infringement of the duties of service, ethical norms, material damages and committing contraventions, crimes in the process of accomplishing work duties, the social worker bears disciplinary, material, and criminal liability, etc., in accordance with the legislation in force.

#### **Article 19. Grounds for disciplinary liability**

The following actions constitute a disciplinary violation:

- a) non-respecting of the Internal Regulations of the institution in which he works;
- b) disclosing the information received in the process of exercising work duties;
- c) ungrounded refusal to exercise the duties stipulated in the job description and the individual employment contract;
- d) negligence in the fulfilling of work duties;
- e) performing consciously actions that may harm the prestige of the position of social assistant;
- f) violation of the ethical norms provided by the Deontological Code of the social assistant;
- g) non-respecting of the norms of this law;
- h) carrying out political activities during the work program.

#### **Article 20 . Disciplinary measures**

The social assistant is sanctioned by:

- a) warning;
- b) rebuke;
- c) harsh rebuke;
- d) dismissal.

**Article 21.** The disciplinary sanctions provided in Article 16 shall not relieve the social worker of material, civil and criminal liability.

## CHAPTER VI

### FINAL AND TRANSITORY PROVISIONS.

**Article 22.** This Law shall enter into force on.....

## ADNOTARE

**SACARA ANA**, „*Instituția asistenței sociale din Republica Moldova în contextul integrării europene*”. Teză de doctor în drept. Școala doctorală Științe Juridice a Universității de Stat din Moldova. Chișinău, 2021.

**Structura tezei:** teza a fost perfectată în anii 2018-2021, având următoarea structură: introducere, ca inițiere în studiu, trei capitole, concluzii generale și recomandări, 171 pagini de text de bază, bibliografie din 198 de titluri, anexe. Rezultatele obținute sunt reflectate în 11 lucrări științifice.

**Cuvinte-cheie:** protecția socială, asistență socială, risc social, bunăstare socială, coeziune socială, categorii sociale vulnerabile, prestații sociale, servicii sociale, alocații, compensații, indemnizații, Uniunea Europeană.

**Domeniul de studiu:** specialitatea 553.05 – Dreptul muncii și protecției sociale

**Scopul și obiectivele tezei:** Cercetarea doctorală efectuată are drept scop analiza complexă, critică și multidimensională a instituției asistență socială în Republica Moldova prin prisma izvoarelor juridice naționale și internaționale și a opiniilor doctrinare pentru a identifica gradul de compatibilitate a legislației naționale cu standardele sociale stabilite în Uniunea Europeană. Cele mai importante obiective propuse sunt: identificarea gradului de cercetare a instituției asistență socială în cadrul doctrinei naționale și internaționale; analiza dreptului la asistență socială prin prisma mecanismelor naționale, europene și internaționale; examinarea evoluției reglementărilor cu privire la constituirea și dezvoltarea asistenței sociale în Moldova; definirea „instituției asistență socială”, stabilirea scopului și obiectivelor și conturarea particularităților juridice care delimitează instituția menționată de alte instituții de drept; analiza formelor asistenței sociale și evidențierea problemelor de ordin legal, instituțional și financiar care afectează procesul de acordare a asistenței sociale; analiza reglementărilor juridice privind furnizarea asistenței sociale de către statele membre al Uniunii Europene; caracterizarea recomandărilor UE furnizate statelor membre în vederea stabilirii unui venit minim adecvat, echitabil și combinat cu măsurile active de reintegrare în societate.

**Noutatea științifică a rezultatelor obținute:** Cercetarea noastră în materia asistenței sociale reprezintă una dintre primele lucrări științifice care analizează exhaustiv și complex formele asistenței sociale prin prisma unei analize juridico-comparate a legislației naționale cu legislația socială a Uniunii Europene, identificând cele mai bune practici sociale aplicabile în spațiul european. De asemenea au fost formulate mai multe recomandări în vederea completării cadrului normativ care reglementează asistența socială și propuneri *de lege ferenda* care, în opinia noastră, au un caracter pertinent și argumentat și, totodată, pot contribui la perfecționarea și modernizarea legislației sociale autohtone astfel încât cadrul normativ al acestei instituții să răspundă provocărilor care stau în fața domeniului social din țara noastră.

**Problematica științifică** soluționată rezidă în analiza instituției asistență socială prin prisma instrumentelor juridice naționale și europene, cu scopul de a determina gradul de compatibilitate a cadrului legislativ în domeniul asistenței sociale, fapt care ne-a permis să evidențiem perspectivele de modernizare și eficientizare a legislației sociale naționale în conformitate cu standardele și tendințele sociale europene și internaționale.

**Semnificația teoretică a lucrării** constă în examinarea impactului politicilor sociale asupra nivelului de trai al beneficiarilor de asistență socială, precum și stabilirea perspectivelor de ameliorare a acestora în baza practicilor sociale implementate cu succes de statele membre ale Uniunii Europene.

**Valoarea aplicativă a cercetării**, demersul științific elaborat poate servi, cu certitudine, ca material didactic pentru studenții facultăților de drept, administrare publică și de asistență socială, dar și pentru specialiștii care activează în domeniul asistenței sociale. În plus, considerăm că această investigație juridică va servi drept bază de pornire în cercetare și pentru alți doctoranzi și specialiști din domeniul protecției și asistenței sociale.

## Аннотация

Сакара Анна, „*Институт социальной помощи в Республике Молдова в контексте европейской интеграции*”. Докторская диссертация. Докторантура Юридические науки Государственного Университета Молдовы. Кишинев, 2021.

**Структура диссертации:** диссертация была выполнена в 2018-2021 годах, со следующей структурой: введение, ознакомление с исследованием, три главы, общие выводы и рекомендации, 171 текстовых страниц, библиография 198 наименований, приложения. Полученные результаты отражены в 11 научных работах.

**Ключевые слова:** социальная защита, социальная помощь, социальный риск, социальное благосостояние, социальная сплоченность, уязвимые социальные категории, социальные льготы, социальные услуги, пособия, компенсация, европейский союз.

**Область обучения:** специальность 553.05 - Трудовое право и социальная защита.

**Цель и задачи диссертации:** докторское исследование направлено на комплексный, критический и многомерный анализ института социальной помощи в Республике Молдова с точки зрения национальных и международных правовых источников и доктринальных мнений для определения совместимости национального законодательства с стандартами социального законодательства, установленные в европейском союзе. Наиболее важными предлагаемыми задачами являются: определение степени исследования института социальной помощи в рамках национальной и международной доктрины; анализ права на социальную помощь сквозь призму национальных, европейских и международных механизмов; изучение эволюции положений о создании и развитии социальной помощи в Молдове; определение «института социальной помощи», установление цели и задач и выделение юридических особенностей, которые ограничивают данное учреждение от других правовых институтов; анализ форм социальной помощи и выявление правовых, институциональных и финансовых проблем, влияющих на процесс предоставления социальной помощи; анализ нормативно-правовых актов по оказанию социальной помощи в странах-членах Европейского Союза; характеризуя рекомендации ЕС, предоставленные государствам-членам с целью установления адекватного, справедливого и комбинированного минимального дохода с активными мерами по реинтеграции в общество.

**Научная новизна полученных результатов:** Наше исследование в полный комплексный анализ форм социальной помощи проведенный путем сравнительно-правового анализа национального законодательства с социальным законодательством Европейского Союза, определяя наилучшие применяемые социальные практики в европейском пространстве. Также были сформулированы несколько рекомендаций по дополнению нормативной базы, регулирующей социальную помощь, и предложения которые, на наш взгляд, носят аргументированный характер и, в то же время, могут способствовать улучшению и модернизации местного социального законодательства, таким образом чтобы ответить на вызовы, стоящие перед социальной сферой в нашей стране.

Исследованная

**Научная проблема** заключается в анализе института социальной помощи сквозь призму национальных и европейских правовых инструментов, с целью определения степени совместимости законодательной базы в сфере социальной помощи, что позволило выделить перспективы модернизации и повышение эффективности национального социального законодательства в соответствии с европейскими и международными социальными стандартами и тенденциями.

**Теоретическая значимость диссертации** состоит в изучении влияния социальной политики на уровень жизни бенифициаров социальной помощи, а также в определении перспектив их улучшения на основе социальных практик, успешно реализованных государствами-членами Европейского Союза.

**Прикладная ценность исследования,** разработанный научный подход, безусловно, может служить учебным материалом для студентов юридических факультетов, государственного управления и социальной работы, а также для специалистов, работающих в области социальной работы. Кроме того, мы полагаем, что данное юридическое исследование послужит отправной точкой для исследований других аспирантов и специалистов в области социальной защиты.

### Annotation

SACARA ANA, „*The institution of the social assistance from the Republic of Moldova in the context of the European integration*”. Thesis of PhD in law. Doctoral School of Legal Sciences of the Moldova State University. Chisinau, 2021.

**Thesis structure:** the paper was realized during the years 2018-2021, having the following structure: introduction, as an initiation to the study, three chapters, general conclusions and recommendations, 171 pages of basic text, bibliography from 198 titles, annexes. The obtained results are reflected in 11 scientific works.

**Key-words:** social protection, social assistance, social risk, social welfare, social cohesion, socially vulnerable categories, social benefits, social services, allocations, compensations, allowances, EU.

**Study area:** specialty 553.05 – Labor and Social Protection Law

**Aim and objectives of the thesis:** The accomplished doctoral research is aimed at the complex, critical and multidimensional analysis of the social assistance institution in the Republic of Moldova through the prism of the national and international sources of the doctrinaire opinions in order to identify the degree of compatibility of the national legislation with the social standards established in the European Union. The most important objectives are: the identification of the research degree of the social assistance institution within the national and international doctrine; the analysis of the right to social assistance through the prism of national, European and international mechanisms; the examination of the evolution of regulations concerning the establishment and development of social assistance in Moldova; defining of the “social assistance institution”; the establishment of the aims and objectives and the outlining of the legal particularities that delimit the mentioned institution from other legal institutions; the analysis of the forms of social assistance and highlighting the legal, institutional and financial problems that affect the process of granting social assistance; the analysis of the legal regulations regarding the providing of social assistance by the member states of the European Union; the characterization of the EU recommendations provided to Member States aiming at the establishing of an adequate, fair and combined minimum income combined with the active reintegration measures into society.

**The scientific novelty of the obtained results:** Our research in the field of social assistance is one of the first scientific papers that exhaustively and complexly analyzes the forms of social assistance through the prism of a legal-comparative analysis of national legislation with the social legislation of the European Union, identifying the best social practices applicable in the European space. There have been also formulated several recommendations in order to complete the normative framework that regulates social assistance and proposals of *ferenda law* which, in our opinion, have a pertinent and reasoned character, and which can also contribute to the improvement and modernization of the local social legislation so that the normative framework of this institution responds to the challenges facing the social field in our country.

**The scientific problem solved** consists in the analysis of the social assistance institution through the prism of the national and European legal instruments, with the aim to determine the degree of compatibility of the legislative framework in the field of social assistance, which allowed us to highlight the prospects of modernizing and streamlining of national social legislation in accordance with European and international social standards and trends.

**Theoretical significance of the thesis** consists in the examination of the impact of social policies on the standards of life of social assistance beneficiaries, as well as the establishing of the perspectives for their improvement based on the social practices successfully implemented by the member states of the European Union.

**Applicative value of the thesis,** the elaborated scientific approach can certainly serve as teaching material for students of law, public administration and social assistance, but also for specialists working in the field of social assistance. In addition, we believe that this legal investigation will serve as a starting point for research for other PhD students and specialists in the field of social protection and assistance.

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**SACARA ANA**

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REPUBLIC OF MOLDOVA IN THE CONTEXT OF EUROPEAN  
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