



KOMITETI SHQIPTAR I HELSINKIT ALBANIAN HELSINKI COMMITTEE

MONITORING REPORT ON THE NATIONAL LEGAL FRAMEWORK IN THE FIELD OF HEALTH CARE SERVICES

Introduction

Albanian Helsinki Committee (AHC) is the first non-governmental organization founded in December 19, 1990 for the protection of human rights and freedoms in Albania. Its main mission is to monitor the respect for human rights and freedoms, respond to identified violations, and raise the awareness of citizens and the accountability of public administration in the protection of their rights through legal amendments and improved practices in the enforcement of the law through legal opponency and concrete recommendations. Part of AHC mission is to divulge violations identified in responsible state institutions offering relevant suggestions for a better observation of human rights and standards for the rule of law.

Recognizing the importance of health care services, patient's rights and their treatment by health care institutions, AHC undertook this monitoring initiative and gave its contribution to the quality improvement of these services in compliance with the national and international legislation in this field.

Objectives of the Initiative

Such an initiative aims at contributing to the improvement of respect for citizens' human rights in the field of health care services in general, and persons suffering from chronic and mental illnesses, orphan children, and women.

AHC carried out a legal research regarding health care services offered to patients suffering from mental and chronic illnesses, treatment of orphan children as well as primary health care. Research findings show progress made in this field, main problems identified, and few recommendations about legal amendments related to health services.

Health Policy in Albania

As in other fields, EU integration policies play an important influence in the reforms carried out in the health system of our country. Although health care does not explicitly come out as part of the requirements of the EU *Acquis Communautaire*, a number of its special chapters involve issues that influence the health care system. In conjunction with it, Article 152 of the Amsterdam Treaty requires that EU and its member states take constant measures to improve public health and ensure that all policies and related activities provide high-level health protection.

In order to ensure minimum standards in the field of social and health insurance, our country adopted in year 2006 the ILO Convention 102 and the European Code of Social Insurance. In its health policy, our country is also guided by the UN Millennium



KOMITETI SHQIPTAR I HELSINKIT

ALBANIAN HELSINKI COMMITTEE

Development Goals. In this respect, the National Strategy for Development and Integration of the Albanian Government determines several priorities for health care:

- Improving access to health care services for the entire population;
- Adapting the health system to the new economic social and epidemiological reality of the country;
- Strengthening institutional capacities in the health services system;
- Increasing financial resources and efficient management, etc.

This strategy is based on a legal framework and a number of approved sectoral strategies, which highlight main principles that relate to equal access to services, non-discrimination, and social inclusion. These strategies formulate the mandate of health programs and services at a regional and local level, of the NGOs and private undertakings.

Institutional Framework

Although a number of reforms undertaken in these last 10 years resulted in the development of various health services strategies, yet infrastructure and especially legislation in this field leave much to be desired. From year 2005 until now, the draft law “On Health Care in the Republic of Albania” has yet to be approved. This draft law shall repeal the law no. 3766, dated 17.12.1963 “On Health Care”, which despite amendments already made, cannot be further adapted to the conditions of a new political and economic system. The draft law “On Health Care” aims at regulating separation of authority and responsibilities in health services, similarly to what happened with the social services sector in year 2005.

For the first time, the idea of pluralism in health care institutions is being introduced. Contrary to the current situation when health centers and hospitals are managed by a board of representatives from the Local Government, Regional Directorate of the Health Insurance Institute (HII) and the Regional Health Authority, they are to be transformed into public juridical, non-budgetary, non-profit and independent persona. Health centers and hospitals shall have a special bank account to be registered with and licensed by the Ministry of Health.

Pursuant to the Law no. 8652, dated 31.07.2000 “On the Organization and Functioning of the Local Government” which partially mirrors the Council of Europe “European Charter on Local Autonomy”, the local government took over several responsibilities on primary health care. In the mean time, the draft law “On Health Care in the RoA” is also anticipated to regulate the separation of authority and responsibilities for local government units in the health sector.

Another priority issue pending solution from year 2005 is that of the establishment of a social fund which will ensure support for community services, such as alternative services for children, disabled people, elderly living with families, etc. This fund aims at increasing community inclusion in the social services system.



KOMITETI SHQIPTAR I HELSINKIT ALBANIAN HELSINKI COMMITTEE

Greater access to health care

Improving access aims at increasing the chance of reaching out to poor strata, vulnerable groups such as orphan children, mentally and chronically diseased people, and especially those living in remote mountainous areas. Based on legal provisions, the entire population is entitled to continuous basic public health care according to the geographic distribution and number of the population in the entire country. Although the legal framework, giving a universal character to the health insurance scheme, guarantees the entire population, in reality, part of the population operating in the informal economy remains outside of this scheme and does not fulfill its legal obligation of paying contributions. According to official statistics, this part of the population comes mainly from the rural and mountainous areas, where health care provision and outreach remains problematic because medical staff refuses to work under difficult conditions.

The goal of protecting public access to health care requires infrastructure investments in the primary health care to ensure the necessary conditions for health service practices.

The reconfiguration of hospitals' map, including efficient management, shall have its effect in the current network of secondary and tertiary institutions. For this purpose, it is necessary to assign accurate reference criteria to be used within the health system through the primary health care and specialized secondary and tertiary services. Although it has been sanctioned that every patient shall be referred to the specialized doctor and latter to the specialized hospital by their family doctor, quite often patients bypass the family doctor and ask for direct access to hospital services, where medical equipment are better and personnel is more qualified. The purpose of introducing the family doctor concept was to avoid direct referral of patients to the hospital where they are required to pay. This requires a clear definition of referral criteria between various levels of health care so that the patient can use these services to their greatest advantage and at the same time improve the quality of primary services which will, in turn, increase patient confidence. Since private operators are to be included in the health insurance scheme, such criteria must be compulsory for private likewise public providers, having due consideration for the right of the patient to choose his/her GP and considering the aspects of health care quality, efficiency, and effectiveness.

Clear identification of the constituting parts of this service network is another important problem in the health care system, the solution of which will guarantee continuity of this health care. The draft law "On the Establishment of a Health Insurance Fund" aside from primary services, also regulates specialized health care, hospital care and medical transport. Current rights of the beneficiaries need to be reviewed in order to ensure the application of rational criteria and equal pharmaceutical services especially for vulnerable groups. The establishment of a uniform payment system posted and advertised in the health care facilities and the introduction of the Health Card, shall have a positive impact on citizens' access to health services.

Providing free basic services to the public is considered an action in compliance with the policies supporting groups in need. International experience has shown that in order to



KOMITETI SHQIPTAR I HELSINKIT ALBANIAN HELSINKI COMMITTEE

achieve positive results in public health, it is necessary for some of the most requested public health services be extended to the entire population, despite their ability to pay for them. In our country, we actually offer through our primary public health and hospital services a free services package. This package includes vaccinations, surveillance, sample testing and other services as well as reimbursement of a certain category of medical drugs.

It is necessary however to reconsider the rights of the beneficiaries in order to guarantee the criteria of equality in pharmaceutical services and the provision of a list of drugs which are of a better quality and more affordable for a greater number of the population.

Health care quality standards

Standardization of health care in all of its elements aims at increasing its quality based on approved standards recognized by service providers as well as beneficiaries. We might say that such standards in the health care field have yet to be unified at all levels of health care, primary or hospital health care. AHC finds the development of national standards for primary care, hospital care, laboratories, dentistry, etc., necessary. Ensuring a more efficient enforcement of the legal framework requires for each law, order, and regulation to have a detailed action plan and supportive financial resources.

From the legal perspective, it is necessary to define relevant standards and functional regulations. The inclusion of the private sector and health care community centers requires special agreements in determining rules for licensing, contracting, and quality standards for each medical service delivered as part of private or public services. This would serve as an instrument of assurance not only to patients but health personnel as well. Furthermore, it is necessary to standardize standards operation procedures and norms regarding the management of institutions, measure and encourage better quality practices in health services. The promotion of clinical management protocols and guidelines and certification shall be the object of the activity of the National Center for Quality, Safety, and Accreditation of Health Institutions, established a year ago.

Ministry of Health and the Ministry of Labor, Social Affairs and Equal Opportunities must cooperate closely for the development of the necessary regulations in the enforcement of the legal framework in effect, which is binding to all public and private institutions.

Health Care System Funding

With the aim of improving quality and access to health care in our country, funding levels and public spending efficiency have taken priority. Only 61% of the GDP is spent on health care, a figure which has seen a slight change in recent years. This shows that health system reforms have an increasing social and financial cost and that the new concept of health insurance has been instilled. Increasing financial resources through health contributions is in line with the free market economy system, where one must pay to meet one's needs, and it aims at improving the quality of health care services.



KOMITETI SHQIPTAR I HELSINKIT ALBANIAN HELSINKI COMMITTEE

The establishment of a uniform payment system involves the development of cost determining procedures and how the service package will be spent, which will be finalized with the implementation of the Patient's Card. A considerable portion of financial resources currently maintaining the system, are paid underhand by patients or their family members something that actually hinders the utilization of resources for the system and damages citizens. Collecting money under a fund is an efficient way to protect the poorest strata of the population, despite their ability to pay. The draft law "On the Establishment of a Health Insurance Fund" aims at converting direct payments coming out of the pockets of the patient and going into the pockets of the medical personnel, into proper prepayments to the health care system. Attempts to convert them into clean financial resources for the system shall increase access for the strata in need and efficiency in the health system.

Higher efficiency in the utilization of current resources can be achieved by concentrating on the HII (Health Insurance Institute) as the sole strategic buyer, which will be fully responsible for the use of public funds. Financial resources in the form of contributions require transparency in their management with all actors, as well as flexibility in the management of resources and low administrative cost in service delivery.

Health Care Management

AHC suggests that the Ministry of Health improve its role in the effective management of the health sector, as part of the new context of function separation and greater patient freedom of choice. Concentrating on the design of the reform, as opposed to the direct management of health services, has brought about deficiencies in the proper functioning of health centers and hospitals, which has impaired citizens' health. The Ministry of Health needs to improve its functional profile. It must improve its ability to ensure political leadership, allowing other actors, as provided by the law, to deal with direct delivery and management of health services.

On the other hand, public institutions for health care delivery need professional managers different from the current figure of the medical Director. Setting them apart from medical Directors shall improve the management of resources as well as the clinical quality. Proper enforcement of the requirement to include a full time finance officer in the organizational structure of health centers shall have a positive impact in the way these are managed. Furthermore, health institutions should be outfitted with internal regulations, clear standard operating procedures, job descriptions, and workload indicators for every profession in the health system.

Another critical element in governing health system in Albania is the ability to monitor and appreciate its own performance. Various actors must be regularly provided with information on clinical and non-clinical outcomes, creating thus a climate of transparency and accountability. This will increase confidence among the population. Currently there exist no official capacities capable of generating scientifically processed information based on which the Ministry of Health might develop its policies. In this respect, AHC recommends the



KOMITETI SHQIPTAR I HELSINKIT ALBANIAN HELSINKI COMMITTEE

establishment of strict rules of extraction, processing, and dissemination of statistical information according to contemporary standards.

Public Information

Public Information is one of the essential functions of the health care institutions, which should make population aware of their rights and of the ways in which these rights are guaranteed. Population migration and immigration requires not only a serious reconsideration of the current distribution of services throughout Albania, but also special attention to public information.

Likewise, one of its goals is to promote the right to protection, information, and health care in workplaces, being in the public or private sector. For this purpose, cooperation shall be extended to organizations for professionals, who wish to promote their professionals, uphold standards and establish rules on professional ethics and job competency evaluation. This would require the development of a package of rules, alongside current ones, in order to guarantee the right of patients and medical personnel in public or private health care institutions.

Based on enacted legal provisions, Ministry of Health in cooperation with the Ministry of Labor, Social Affairs and Equal Opportunities, shall develop regulations and introduce social workers and psychologists in the relevant structures. It is only the law on mental health that emphasizes the requirement of integrating such professionals in all psychiatric and rehabilitation institutions.

The approval of the law “On Health Care” and “On the Health Insurance Fund” must be followed by the development of the regulations, standardization of norms and work procedures necessary for the management of these institutions.

Main conclusions

1. AHC recommends the publication of a summary on the approved legal basis regarding national health policy and its dissemination to health care centers and hospitals, private or public, as well as local government institutions, responsible for health care issues, NGOs, etc., as an important element. Despite the fact that the legal framework in effect has undergone changes and has been reformed in compliance with our international commitments, it still needs to be revisited and improved in order to guarantee proper enforcement in the field.

2. Another important issue to be kept in mind while considering the draft law “On the Health Insurance Fund” is that of the contract, as the main instrument regulating basic relation between the HII and primary health care centers. Upon the general regulation on contracting primary health care services, HII is given sole authority to develop the standard contract, to be approved by the Administrative Council of this body. In the mean time, as a



KOMITETI SHQIPTAR I HELSINKIT ALBANIAN HELSINKI COMMITTEE

rule, parties entering into a contract shall be treated equally from the moment the signatory document is drafted.

3. It is recommended that Ministry of Health issue regulations on the use and quality of drugs and medicaments, pursuant to the Law no. 9323, dated 25.11.2004 “On drugs and pharmaceutical services”.

4. Furthermore, the Ministry of Health in cooperation with the Ministry of Labor shall analyze accidents at work and professional illnesses and determine rules of organization and operation for first aid services, treatment and rehabilitation, regulations on the organization and operation of the dental service, in order to guarantee free service for orphans and other groups as foreseen by the law.

5. Professional and ethical standards shall be binding to all personnel in the primary and secondary health care services and this must be also reflected in standard regulations developed by the Ministry of Health for all health institutions.

6. Ministry of Health shall determine minimum standards for physical infrastructure (buildings, areas, equipment, medical supplies, and qualifications of human resources), the type and extent to which health services must be delivered. In this respect, AHC suggests that the investment fund shall be transferred under the authority of the HII since this institution has the responsibility of assessing the needs of and gathering requests from health centers.

7. Alongside the approval of the draft law “On the Health Insurance Fund”, it is also necessary to develop and approve a law on the operation of primary service health centers, which currently operate based on the Order no. 13 “On the approval of the Standard Statute of the Health Center”, issued on 16.01.2007 by the Ministry of Health. This order contains vague statements on the activities of health centers, which are determined by the basic services’ package. Likewise, it is necessary to determine which of these services is to be delivered free of charge for the entire population, and which are co-financed by the patient and the HII, and to what extent should such co-financing occur as well as the provisions for exempt groups. Meantime, the Regional Health Authority determines new services to be provided by the center in response to the need for health care of the population in the surrounding area.

8. Likewise, AHC suggests that there is room for more representatives of the interest groups and a higher participation on their part in the board of the health centers. Currently, these boards are composed of representatives of the Regional Health Authority, local authorities, and regional HII. Under these conditions, the consumer of HII services serves at the same time as part of the management team of these primary health care sentences. These are two separate functions; therefore health care centers need independence regarding self-management, in order to increase accountability in the effective use of funds allocated by the HII and the Ministry of Health.



KOMITETI SHQIPTAR I HELSINKIT ALBANIAN HELSINKI COMMITTEE

9. All legal and natural persona exercising their activity in the field of health care, being analogous to social services, shall not only adhere to national standards for a quality health care service, but also to other standards in their management, ranging from the evaluation of the condition of the patient, to forms of intervention, clinical treatment, and continuous monitoring of the patient, etc. It is through these rules that the Albanian population will be educated in the health culture, which is currently almost absent.

10. AHC suggests that standards be set even regarding data collection, data statistical representation and processing through unified software at a national level, in order to conduct full comparative analysis. Performance indicators established by the HII shall be reevaluated based on the range of issues that surface from their practical application, therefore clear rules of continues revision must be determined, with the participation of all stakeholders.

11. Apart from licensing from the Ministry of Health, every public or private health institution shall have a minimum level of accreditation from the National Center for Quality, Safety and Accreditation, according to the standards set by the Government.

12. Failure of the referral system with the family doctor referring to hospitals, shall be reviewed in order to better determine the rules of operation for the referral system so that patients have their first contact with the family doctor at the primary service centers, prior to being referred to the secondary and tertiary hospital services. These rules fully prescribe points of reference, relevant responsibilities of service providers at both levels, the primary and secondary one, regarding the referral of the patient from the primary to the secondary and vice versa, in order to continue with his/her treatment.

13. AHC draws the attention of the State Sanitary Inspectorate regarding the need for rules of conducting efficient inspections, so that those can be well-planned and provided with qualified assistance and not an on-the-spot-check.

14. Approval of the law “On the establishment of a social fund” as soon as possible shall provide support for community services, such as alternative services for children, disabled persons, and the elderly. AHC is of the opinion that cutting back the position of the doctor in the residential care centers for children is unsubstantiated at a time when hospitals and health centers are introducing the idea of social workers and psychologists being staff members.

15. Preventive policies on Mental Health Protection rely on the inclusion of mental health care considerations in the professional development programs of those working in the education, social care, health, administration, and recreational activities sectors.

16. The need for the development of a complete legal framework shall be coupled with arrangements taken to guarantee its enforcement. For this purpose, it shall occur in parallel with planning of financial resources, in order for the latter to be adequate and above all ensure competent resource management capable of meeting the needs of the health system, including a full system of information at all levels of the system.



KOMITETI SHQIPTAR I HELSINKIT
ALBANIAN HELSINKI COMMITTEE

17. AHC shares the opinion that placing patients at the center of this system and strengthening its role, improving access to primary health care, delivering services which meet established norms and standards as well as establishing a monitoring system to measure performance, shall pave the way for modernizing health care system in our country and improving respect of patient rights.