

INTRODUCTION TO THE SOCIAL SECURITY SYSTEM OF NORTH MACEDONIA

The concept of social security system

The social security system in North Macedonia consists of the following schemes: social insurance (*socijalno osiguruvanje*), social protection (*socijalna zashtita*) and family benefits (*zashtita na decata*) schemes.

The social insurance schemes are covering three basic types of insurances, i.e. the health care insurance (*zdravstveno osiguruvanje*), the pension and invalidity insurance (*penzisko-invalidsko osiguruvanje*) and the unemployment insurance (*osiguruvanje vo slucaj na nevrabotenost*). They are primordially financed on the basis of social security contributions and are of a professional nature. They are covering the professionally active persons (employees, self-employed people, farmers and civil servants), their family members and some assimilated groups. Although professional of nature, the health care insurance is covering the entire population residing in the country and guarantees equal access to health care regardless of employment and legal status of the citizens.

Social protection schemes are taken care of by the state, and focus upon prevention and coverage of the basic social needs. These schemes are universal in the sense that they cover all citizens and persons residing in the country and meeting the eligibility criteria determined in the Law. Benefits are means tested. Some categorical assistance schemes, providing assistance to specific groups (elderly in need, handicapped) exist as well.

The family benefit (child allowance – *detski dodatok*) schemes are separately organised. Benefits are financed through the State Budget. Although they are universal with regard to their personal scope, they mainly target working families with a low income (below minimum subsistence). For that purpose use is made of means testing. Special benefit (*poseben dodatok*) is provided to children with special needs.

The legal value of the constitutional provisions for social security

The Constitution of North Macedonia includes a detailed list of provisions regarding the economic and social protection of the citizens. Under Article 1 of the Constitutional Basic Provisions, North Macedonia is declared as an independent, sovereign, democratic and social state, while Article 8 of the basic provisions as one of the basic Constitutional values of North Macedonia is determining the principle of social justice.

The social rights can be found in Chapter 2, Part 2 of the Constitution and they include right to health protection, social security (social insurance) and social protection (Articles 32- 42)¹. The citizens have right to a social security and social insurance determined with law and the collective agreements. Moreover, everyone has the right to material assistance during temporary unemployment. Every citizen is guaranteed the right to health care. Mothers and children are particularly protected.

Citizens may invoke the protection of rights determined by the Constitution before the courts, as well as before the Constitutional Court of North Macedonia, through a procedure based upon the principles of priority and urgency.

Judicial protection of social security rights of individuals

¹ According to the Article 35 of the Constitution of the Republic of Macedonia (Official Gazette No. 52/1991 as of 22.11.1991) "the Republic provides for the social protection and social security of citizens in accordance with the principle of social justice. The Republic is guaranteeing help to the helpless and to the citizens incapable for work. The Republic is providing special protection to the persons with disability as well as conditions for their active inclusion in the society."

Individual's access to social rights is guaranteed in a three instance procedure, the last instance being judicial protection.

The procedures for attainment the rights and obligations related to health insurance are laid down in the Health Insurance Law and Law on General Administrative Procedure. The procedure is being initiated upon an application of the insured persons or a member of their family. A regional service of the Health Insurance Fund is obliged to issue a decision regarding the filed application and to deliver it to the applicant thereof. The applicant has a right to a complaint to the minister of health in the capacity of a second instance authority against the aforesaid decision of the Health Insurance Fund. Judicial protection is provided to the insured person against the decision of the minister. The individual can address his/her complaints to the Administrative Court of North Macedonia as the first instance court in accordance with the Law on Administrative Disputes.

The rights related to the pension and invalidity insurance are different because they are acquired depending on the period and amount of investment in the funds for pension and disability insurance.

The procedure is provided through the Pension and Disability Insurance Fund, having regional units throughout the country. Applications should be launched with the local branch office of the Pension and Disability Insurance Fund. In case a person wants to launch an appeal against the taken decision, he/she can apply to the State Commission for Resolution of Second Instance Administrative Proceedings and Labour Relation Proceeding. This is the second instance, while in a further process against the second instance decision the individual can launch an administrative dispute in front of the Administrative Court as the first instance court.

Proceedings with regard to unemployment benefits are initiated on the basis of application filed by the unemployed (insured) person and the first instance decisions are brought by the administrator of the local Employment Centre where the unemployed person is registered. In the second instance, the rights determined by the Law on Employment and Insurance in Case of Unemployment are dealt with by the Minister of Labour and Social Policy. In the third instance, the individual can lodge an administrative appeal with the Administrative Court as the first instance court against the decision of the minister of labour.

The Social Work Centre decides upon the rights of social protection and family (child) benefits in the first instance. The competent centre is the social work centre where the individual holds temporary or permanent residence. The Minister of Labour and Social Policy deals with the complaints in the second instance procedures. The judicial protection is provided by means of initialising administrative dispute before the Administrative Court of North Macedonia as the first instance court. Provisions laid down in the Law on Social Protection, Child Protection Law and Law on General Administrative Procedure apply for administering the aforesaid proceedings.

With regards to the judicial protection, as noted above the Administrative Court decides in the first instance upon lawsuits against administrative acts of the state administration (ministries). The individuals may further file an appeal against the decisions of the Administrative Court to the Higher Administrative Court, as the second instance court. The Supreme Court of the Republic of Macedonia is the last instance and decides upon extraordinary legal remedies against the decisions of the Higher Administrative Court.