



Social Policy in the European Union

Legal aspects of cross-border provision of social services

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MÍSTNÍ AKČNÍ SKUPINA
PLOŠTINA

Local action group (LAG) Ploština

- LAG are based on the principle of partnership and cooperation of public, private and NGO sectors at local level
- made up of representatives of municipalities, local entrepreneurs (also farmers), NGOs and active citizens



Why is European dimension important?

- Common issues across borders
 - Better addressed at the central level
 - Economies of scale and scope
- Need for harmonizing the regulation
 - Tackling discrimination based on nationality
 - Opening up market for providers of social services
- Roaming people in need
 - People with needs don't stay at home, they want to travel and integrate
 - Multiple cross-border issues (social security systems, healthcare...)
- **European Social Charter 1961**

EU instruments of social policy

- Evolution of competence
 - 1957 - Freedom of services
 - 1993 - Freedom of movement of citizens
 - 1997 - Social Chapter - common action in social policy as a shared competence
- 2009 – general principle – Article 9 of Treaty on the Functioning of the European Union (“TFEU”)
- *“In defining and implementing its policies and activities, the Union **shall take into account** requirements linked to the promotion of a high level of employment, the guarantee of **adequate social protection**, the **fight against social exclusion**, and a high level of education, training and **protection of human health**.”*

EU fundamental freedoms

- Freedom of movement as one of the main EU law pillars
 - Economic activity roaming across borders enjoys protection against discrimination on grounds of nationality
- EU citizenship and citizenship rights
 - Departure from a concept of economic activity
 - Right to social protection based on legal residence in an EU Member State
 - Directive in 2004 extended all social rights to family members
 - EU Courts expanding the notion of EU citizen – strong inclusive policy

Social chapter in the TFEU

□ Article 151 TFEU

*“The Union and the Member States...shall have as their **objectives** the promotion of employment, improved living and working conditions, so as to make possible their harmonisation while the improvement is being maintained, proper **social protection**, dialogue between management and labour, the development of human resources with a view to lasting high employment and the **combating of exclusion.**”*

□ Allows the EU to take action on various matters of social policy, incl.

- Social security and protection
- Integration of persons excluded from labour market
- Equality between men and women

□ Article 151 TFEU is a special legal basis for adoption of binding legislation – directives.

EU Economic and Social Committee

- ❑ Established in 1957
- ❑ A “*bridge between Europe and organized civil Society*”
- ❑ Must be consulted when the EU institutions are exercising their competence in social matters – especially on the basis of the Social Chapter in TFEU
- ❑ Section for Employment, Social Affairs and Citizenship (SOC)
 - ❑ multiple policies: employment, social policy and poverty, education and training, immigration, asylum, gender equality, disability issues, sport, family...
 - ❑ Prepares opinions requested by the European Commission, Parliament or Council
 - ❑ Co-organizes the biannual **European Integration Forum**

EU action includes:

- Freedom of movement of providers of social services
- Freedom of movement of recipients of social services
- EU citizenship
- Recognition of qualification of social workers
- Social and healthcare insurance
- Jurisdictional and governing law issues in legal cases with cross-border element
 - Consumers protection

Benefits for local players?

- Municipalities and other local authorities, non-profit organizations and social services business
- Benefits:
 - Clear common frame of reference, social policy as one of the principal policies of the EU
 - Harmonized legislation
 - Support in their dialogue with States and governments
 - Direct effect of EU law
 - Clear complaint and legal action procedure
 - Political pressure
 - Involvement in the Committee of Regions and the Economic and Social Committee

Thank you for your attention

■ Questions?

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