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**THE NEW LONG-TERM CARE ACT IN SLOVENIA**

Although the existence of older people and people with disabilities who cannot take care of their daily needs is not new and there have always been people who depend on the care of others, there were in the past other social mechanisms that provided care (e.g. family members caring for each other). With changing demographic structures, increasing life expectancy, more elderly people in society, children no longer living in the same place as their parents, etc., the need arises for society to step in through solidarity-based social insurance systems<sup>1</sup>.

In the past, long-term care benefits in Slovenia were dispersed among the pension and disability, health, and parental protection insurance branch, as well as social assistance and social services schemes.

This will change with the new Long-Term Care Act (*Zakon o dolgotrajni oskrbi*, ZDOsk-1, Official Gazette of the Republic of Slovenia, No. 84/23), which introduces a new branch of social insurance - long-term care insurance. The aim of this paper is to present the innovations that the new act will bring to the Slovenian social security system.

**I - THE LONG WAY HERE**

The need and intention to comprehensively regulate long-term care within the framework of social insurance for long-term care has been discussed in Slovenia since 2006, when the first legislative proposal was presented by the Ministry of Health. It was followed by the second proposal from the Ministry of Labour, Family, Social Affairs and Equal Opportunities in 2010 and the third proposal from the Ministry of Health in October 2017. The fourth proposal from the Ministry of Health was published in August 2020 and finally adopted by the Slovenian legislator at the end of 2021 as the first Long-Term Care Act (*Zakon o dolgotrajni oskrbi*, ZDOsk, Official Gazette of the Republic of Slovenia, No. 196/21).

However, the 2021 Long-Term Care Act (ZDOsk) turned out to be full of grammatical, contextual, and systematic inconsistencies and did not contain provisions that would establish a new and independent social insurance branch. Its establishment, which would entail at least some new financial obligations for

1 G. Strban and S. Bagari, « Reliance on long-term care as a „new“ social risk in national and EU law », *Acta Universitatis Wratislaviensis*, no. 123, 2020, p. 87.

employees and their employers, was to take place only after the adoption of a *lex specialis*. Moreover, the act provided for disproportionately short transition periods and did not ensure a transparent transfer of existing rights and their holders to the new long-term care system.

During the drafting and adoption of the law, stakeholders pointed out that the ZDOsk could not be implemented within the timeframe provided in the transitional provisions because the implementation of the law represented a major systemic change that required thorough implementation preparation and a longer timeframe<sup>2</sup>. The Act was later amended (« ZDOsk-A ») to extend the transition period by one year, and in July 2023 it was completely replaced by the new Long-Term Care Act (ZDOsk-1) due to the above-mentioned criticism and a number of changes. The content of the latter (ZDOsk-1 from 2023) is the subject of this paper.

## II - BRIEF OVERVIEW OF THE SLOVENIAN SOCIAL SECURITY SYSTEM STRUCTURE AND RELEVANT DATA

Before discussing the new social insurance scheme in detail, the Slovenian social security system should be briefly introduced. The Slovenian social security system is based on compulsory public social insurance schemes for different social risks. The internationally and constitutionally recognised right to social security is exercised primarily through social insurance schemes, which are supplemented by social assistance and family benefit systems.

In addition to the new long-term care insurance, there are four main schemes of social insurance: health insurance, pension and disability insurance, unemployment insurance and parental insurance. These social insurance schemes are financed by contributions from employers and employees (as well as from other insured persons)<sup>3</sup>.

According to the Institute for Macroeconomic Analysis and Development (*Urad za makroekonomske analize in razvoj* - « UMAR »), Slovenia currently spends about 1.1 % of its GDP on long-term care, compared to the European average of 1,7 % of GDP. Of this, about three-quarters of long-term care spending was publicly financed in 2020, but private spending has grown rapidly over the past decade, much faster than public spending, increasing from 23 % to 27 % in the structure of total long-term care spending.

The rising share of the inactive (dependent) population and the declining share of the active population have meant that the level of social insurance and other sources (e.g. the budget) is already insufficient to finance the range of support and assistance needed for all those in need of care, and that more and more additional financial burdens are being shifted to the direct payments of users and their families,

2 L. Mišič, « Zakonodajna dejavnost na področju socialne varnosti : primer Zakona o dolgotrajni oskrbi » (*Legal Drafting in the Field of Social Security: The Case of the Slovenian Long-Term Care Act*), *Delavci in Delodajalci*, no. 23(2/3), p. 143.

3 B. Kresal, K. Kresal Šoltes and G. Strban, *Social Security Law in Slovenia*, Alphen aan den Rijn, Kluwer, 4th edition, 2020.

who cannot afford them to the extent needed to provide an adequate and high-quality level of support.

### III - LONG-TERM CARE ACT (« ZDOSK-1 ») FROM 2023

The new Long-Term Care Act (ZDOsk-1)<sup>4</sup> was passed by Parliament in July 2023 and will enter into force in January 2024 or, in the case of some provisions, as late as January 2025. However, in view of the numerous, including structural, innovations it will bring to the Slovenian social security system, the question of too short a transition period arises (once again).

The ZDOsk-1 builds on the previous ZDOsk from 2021, which primarily aimed to define long-term care, unify the legal bases governing rights in the field of long-term care, and define the content and scope of rights.

According to the Ministry of Solidarity-Based Future, which drafted the ZDOsk-1, the starting point for drafting the law was the need to provide person-centred care and strengthen community-based services as much as possible. Person-centred care is primarily achieved through personalised plans tailored to the needs of the individual, based on an assessment tool tested in pilot projects. The goal of person-centred care is also achieved through the broader idea of entry points that are not only points at which eligibility is assessed, but also serve to inform, advise, and monitor the user.

Another priority is an expanded and strengthened network of community-based services, recognising that, that every individual wants to stay at home as long as possible. Slovenia lags far behind in personal home care inclusion, while the percentage of those receiving institutional care is increasing. Due to the recognised importance of home care services, provisions on home care will enter into force one year before the provisions on institutional care (1 December 2025).

### IV - INTRODUCTION OF LONG-TERM CARE INSURANCE - A LONG ROAD AHEAD

As mentioned above, the ZDOsk-1 introduces a new branch of social security, long-term care insurance<sup>5</sup>. The Act regulates financing in such a way that it establishes a budgetary source for financing long-term care and a contribution rate of 1 % for employees, 1 % for employers and 1 % for pensioners from net pensions<sup>6</sup>. For comparison, pension and disability insurance contributions amount to 24,35 %, health insurance contributions amount to 13,45 %, parental insurance contributions amount to 0,2 % and unemployment insurance contributions amount to 0,2 %.

4 The Long-Term Care Act (ZDOsk-1, 2023) is available in Slovenian at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO8819>

5 Although long-term care insurance had already been introduced in law by the ZDOsk, it was never implemented in practise, as the ZDOsk was replaced by the ZDOsk-1 before it came into full force.

6 The contributions will be levied from July 1, 2025.

Compulsory long-term care insurance is defined as social insurance for insured persons against social risks arising from illness, old age, infirmity, injury, disability, lack or loss of intellectual capacity over a period of time of not less than three months or on a permanent basis, providing for assistance by other persons in the performance of basic and supportive activities of daily living (article 52 of the ZDOsk-1).

For the purposes of the ZDOsk-1, persons insured for long-term care are those who are compulsorily insured on the basis of the regulations on compulsory health and accident insurance or other regulations outside the world of work, as well as their family members if they have reached the age of eighteen (article 54 of the ZDOsk-1).

The insured person is entitled to long-term care benefits if (i) he or she has been compulsorily insured for at least 24 months in the 36 months preceding the date on which the entitlement to long-term care benefits arises, (ii) he or she is a permanent or temporary resident of the Republic of Slovenia, and (iii) he or she is classified on the basis of the entitlement assessment (article 11 of ZDOsk-1). Long-term care insurance claims are a benefit in kind in the form of all-day care in an institution, daily care with a care provider, home care or a family caregiver, or a cash benefit in the form of a subsidy, as described in article 14-30 of the ZDOsk-1.

The basis for the provision of care services is the personal plan, which is established as the basic starting point in the ZDOsk-1. In addition, the ZDOsk-1 introduces the possibility for users to decide for themselves which care services they wish to receive. The focus is on community-based long-term care, as the underlying assumption is that everyone wants to stay at home as long as possible. The user can choose between institutional care, a home-based service and a cash benefit. A cash benefit is essential, especially for users for whom formal long-term care services cannot be provided very quickly, but also for users in more difficult circumstances for whom creative long-term care services must be created.

However, it is important to emphasise that the introduction of new long-term care services will be gradual. The first change will take effect in early 2024 and will affect the status of family caregivers. All other services will be introduced in 2025, starting with the establishment of entry points - centres for social work (*Centri za socialno delo*) on 1 January 2025, followed by the introduction of home-based long-term care, electronic care and the long-term care contribution on 1 July 2025, and the strengthening of long-term care in institutions and the cash benefit on 1 December 2025.

Although the ZDOsk-1 was supposed to address the shortcomings of the ZDOsk, it has itself been heavily criticised, mainly for the new social security contribution that it introduces and for the claim that not all stakeholders were consulted in the drafting of the act. However, the ministry countered that the creation of a systematic source of funding already stemmed from the 2021 ZDOsk, but it did not specify how the new contribution would be levied or how high it would be. The timetable of the legislative process was tight, as they wanted the ZDOsk-1 to enter into force before the ZDOsk had been implemented on 1 January 2024.

## Conclusion

Guidance on the regulation of long-term care in national legislation and its implementation can also be found at European Union (EU) level. Access to affordable and quality long-term care services is enshrined in Principle 18 of the European Pillar of Social Rights, which stipulates that « everyone has the right affordable long-term care services of good quality, in particular home-care and community-based services ». Although the European Pillar of Social Rights is not legally binding, it represents an important collective commitment by the EU institutions to act at EU level, while stimulating legislative and other activities in the Member States.

Building on the principles of the European Pillar of Social Rights, the European Commission presented a European Care Strategy at the beginning of September 2022<sup>7</sup>, which aims to ensure quality, affordable and accessible care services across the EU and to improve the situation of care recipients and carers, whether professionally or informally. The Strategy is accompanied by a Proposal for a Council Recommendation on access to affordable, high-quality long-term care, which highlights timeliness, comprehensiveness, affordability, availability and quality of long-term care services as key elements of a long-term care system to be pursued through reforms of national legislation.

The report recommends (inter alia) that Member States submit to the Commission, within 12 months of the adoption of the Recommendation, a national action plan setting out measures to implement the Recommendation, taking into account national, regional and local contexts, and report regularly thereafter on their progress. At EU level, we can also see the emergence of a framework for policy reforms to guide the development of long-term care arrangements at national level.

The regulation on long-term care must address structural weaknesses in the social security system with the aim of providing quality long-term care that is available and affordable to all who (and as soon as) they need it, while being organised in a financially sustainable and legally feasible way.

Although we have waited a long time for a comprehensive regulation of long-term care, at this stage the question of whether the ZDOsk-1 provides adequate and effective solutions cannot yet be answered. To answer this question, we will first have to wait for its implementation in practice.

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7 <https://ec.europa.eu/social/main.jsp?langId=en&catId=89&furtherNews=yes&newsId=10382#navItem-relatedDocuments>