

The Federation of Bosnia and Herzegovina recognises the status of a “parent-carer”

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In September 2021, the Parliament of the Federation of Bosnia and Herzegovina adopted a Law on parent-carers, introducing benefits for unemployed parents or guardians of persons with a disability who require 24 hour care. Although the law brings recognition of parent-carer status and corresponding modest benefits, it neglects other needs of persons with a disability and family members who provide long-term care.



Description

On 9 September 2021, the Parliament of the Federation of Bosnia and Herzegovina (FBiH), one of the two entities of Bosnia and Herzegovina (the other one being the Republic Srpska), adopted the Law on parent-carers, which introduces rights for so-called “parent-carers”. These rights had already been adopted in the first reading in 2019 through changes to the Law on principles of social protection, despite the initial opposition from the FBiH Government and the Ministry of labour and social policy (see Jusić, 2019). In July 2021, after public hearings conducted online during July 2020 and subsequent consultative meetings held with some stakeholders, the FBiH government decided to propose a specific law to regulate the rights of parent-carers (and to withdraw the changes that had been introduced through the Law on principles of social protection).

The new law was subsequently adopted by the parliament, with amendments proposed by the government. In its final form, it regulates the status and benefits of parents and official guardians of persons with 100% disability (regardless of age) who already receive benefits under the FBiH Law on principles of social protection; it also stipulates additional conditions related to ability to perform daily tasks and personal hygiene. With the new law, parent-carer status can be granted to one parent or a legal guardian of a person with 100% disability. The status of parent carer can only be granted to both parents if the family is caring for two or more persons with 100% disability who require the assistance of another person. The parent or guardian must be unemployed and

below the age of 65. Unemployed status has to be confirmed by the public employment services or by the Tax Authority. The amount of the benefit will be equal to the FBiH minimum wage. On top of this, the FBiH government will also cover the social insurance contributions of the parent carer, based on an amount equal to the minimum wage.

The benefit cannot be claimed by parents and guardians whose child is placed in institutional care, or is in half-day or day-care. The only exception is when the child spends less than four hours in a day-care facility, including pre-school, educational or health institutions, or with other care providers in the absence of the parents or guardians. If and when the parent or guardian gains the status of a carer, the person with a disability will lose the right to carer’s assistance, paid under the Law on principles of social protection.

In a letter to the FBiH Parliament, the Ombudsmen for Human Rights expressed concerns that the FBiH government did not consult organisations representing the interests of persons with a disability, even though these organisations submitted specific suggestions for legislative improvements (Institution of Ombudsmen of BiH, 30.08.2021). There are claims that organisations with different views and ideas have been deliberately silenced (Mreza-mira.net). Most of these concerns were also voiced during the parliamentary discussions. Still, the law was adopted unanimously by the FBiH parliament. Both houses of parliament (House of Representatives and House of Peoples) stated that the law offers some recognition and compensation to families who care for a family member with the most severe forms of disability. Alongside the law, the House of Peoples adopted a conclusion,

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instructing the FBiH government to closely monitor implementation of the law and propose improvements within three months.

Outlook and commentary

The new law has been criticised on several important grounds, ranging from the inadequacy of benefits and limited coverage, to the fact that it is discriminatory and contrary to the UN Convention on the rights of persons with a disability, primarily due to restrictions on participation in educational activities, and on the grounds that the law may encourage persons with a disability who do not have parents to opt for dependency status.

The Law on parent-carers reinforces the role of families and parents as primary carers, discourages employment of both parents, thereby confining one of the parents (usually the mother) to care work in the house. Given that living on one salary in most cases means living on a low income, while living with a disability entails additional costs, the law will bring a very modest increase in monthly benefits for eligible families, of only KM 132.16 (€67.8). The net benefit for a parent-carer, then, will amount to KM 406.56 (€208.5), but the family will lose its carer's allowance, which for Category I (100% disability) amounts to KM 274.4 (€126.9), under the Law on principles of social protection. However, as mentioned above, the FBiH government will now also cover the social insurance contributions of the parent-carer, computed on the basis of the minimum wage.

The implementation of the Law on parent-carers, which should start three months after its adoption, may negatively influence the behaviour of parents and persons with a disability. Given the eligibility conditions, parents of

children with a disability will need to decide whether to send their child to day-care for longer than four hours, or to have the status of parent-carer. The criteria apply even in the case of pre-school education, elementary education or similar, in which case the child's withdrawal from the activity could be detrimental for his/her development. Also, the law may incentivise adults with a disability who do not have parents to resort to guardianship. This would reduce their rights to the rights of minors, since the guardian decides over all aspects of the ward's life, including his/her property.

Furthermore, the condition related to the level of disability is directly linked to the section of the Law on principles of social protection related to the rights of so-called "non-war persons with a disability" (i.e. "ordinary" persons with a disability who cannot claim rights under other, more generous disability schemes). Only parents or guardians of persons in Category I (100% disability) currently receiving a carer's allowance and benefits under the Law on principles of social protection will be eligible to apply for the status of parent-carer under the new law. The assessment of disability under the secondary legislation of the Law on principles of social protection has been based on a medical diagnosis. However, the Law on parent-carers introduces additional and completely new conditions related to the beneficiary's functional ability to perform daily tasks and personal hygiene, which do not correspond to the current procedure of determining the level of disability and carer's allowance under the Law on principles of social protection. It remains to be seen how the Ministry of Labour and Social Policy intends to resolve the discrepancy in disability assessment implied by the new law and the old practice.

Moreover, the Law on parent-carers does not provide any systematic aid for families providing long-term care, in the form of community-based services, such as respite care, expert advice, etc. These services are unavailable in most communities (Obradović and Jusić, 2021), and the burden of long-term care still falls solely on families. When working on secondary legislation and legislative improvements, the ministry responsible should consider all these and additional issues raised by organisations representing the interests of persons with a disability.

Further reading

FBiH Law on principles of social protection [Zakon o osnovama socijalne zaštite, zaštite civilnih žrtava rada i obitelji s djecom u Federaciji BiH], Official Gazette of the FBiH, No. 36/99, 54/04, 39/06, 14/09, 45/16.

Institution of Ombudsmen of BiH (30.08.2021). [Opinion of Ombudsmen for Human Rights of BiH related to the proposed FBiH Law on parent-carers \[Mišljenje Ombudsmena za ljudska prava BiH u vezi sa Prijedlogom Zakona o roditeljima njegovateljima u FBiH\]](#) (accessed on 12 September 2021).

Jusić, Mirna (2019). Bosnia and Herzegovina's long-term care challenge, ESPN Flash Report 2019/38, European Social Policy Network (ESPN), Brussels: European Commission.

Mreza-mira.net (30.07.2021). [What is unsaid about the Law on parent-carers \[Šta je sve prešućeno vezano za zakon roditelj-staratelji\]](#) (accessed on 14 September 2021).

Obradović, Nikolina and Jusić, Mirna (2021). ESPN Thematic Report on Long-term care for older people – Bosnia and Herzegovina, European Social Policy Network (ESPN), Brussels: European Commission.

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