Autonomy of Social Health Insurance in Albania – inputs from GTZ[6]

Jens Holst[7]

Legal background

After the end of socialism, Albania opted for implementing a contribution-based single payer health financing system. In 1993, the establishment of the Albanian Health Insurance Institute (HII) started to be planned and set up; and in the following years, the HII developed into one of the most important players and stakeholders in the country's healthcare system. The delivery of HII-financed healthcare benefits started actually in 1995 with the reimbursement of a series of drugs considered priority. Even though HII was implemented with the idea of stepwise expanding the scope of the benefit package, it took the HII and the Albanian health authorities more than 10 years to apply the first relevant upgrade of services. Since January 2007 the HII is also covering outpatient care delivered countrywide in about 400 health centres, including specialised care in a few policlinics. Only two years later the HII rushed into the next benefit package expansion including secondary and even tertiary inpatient and outpatient hospital care since the 1st of January, 2009 (cp. Hana/Sinani in this reader, pp. 14f). These two major steps in the development of the HII have significantly changed the role of the HII within the Albanian healthcare system and increased its political and financial responsibility.

In October 1994, law no. 7870 "On Health Insurance in the Republic of Albania" was the country's the first legal arrangement regarding health insurance (Hysi//Zyba 2008). The implementation of the HII scheme started with drug reimbursement as the first type of services covered from January 1st of 1995 until today (Holst/Burazeri 2008, p. 7). A series of legal arrangements have been implemented since then for regulating and organising HII procedures and responsibilities. Several laws and sub-laws, define formal conditions, tasks, duties and rights of the single-payer health insurance scheme. HII is currently established as a public, autonomous and partly self-administered body under the authority of the Albanian Parliament. The scheme is formally not run by the State although there are a series of interferences as well as overlapping responsibilities regarding health benefits and service delivery on the one hand and health insurance coverage and entitlements on the other hand (ibid. p. 21).

Forthcoming challenges

Legal arrangements concerning health financing and health care provision in Albania and elsewhere are usually facing complex challenges, as they have to conciliate autonomy and systemic performance. International experience especially from European countries with Bismarck-like healthcare systems shows that social health insurance (SHI) requires a reasonable level of independence from the government and autonomy regarding all strictly insurance-related issues (Lindenlaub/Schulte 2008). At the same time it is indispensable to clearly define the role and position of a health insurance scheme within the overall healthcare system, and the relationship to all other institutions, stakeholders and actors. An adequate and well-designed regulatory framework provides a country with appropriate means for balancing the various and partly contradictory interests in place, and assuring both sufficient autonomy and accountability. A series of statutes are required for regulating activities of autonomous health insurance schemes and safeguarding transparency and reliability.

[6] This paper includes the reflections on the statutory framework of the HII presented by the integrated CIM expert at the ISKSH, Mr. Holger Thies, during the ISKSH-GTZ international conference hold on September 28 and 29 of 2009 in Tirana.

[7] Consultant for GTZ on health financing and health sector development, drdrjensholst@web.de.

Recently, the HII has experienced two significant expansions of the health benefit package covered, implementing outpatient care in 2007 and specialised outpatient as well as inpatient hospital care in 2009. Both measures required relevant changes in the regulation of health financing in Albania because the original legal framework created in the 1990es did not foresee relevant topics the HII currently has to deal with. Both the inclusion of outpatient and inpatient care created an urgent need for contracting new types of providers and, thus, for developing adequate contractual frameworks. HII had to develop into an institution that is capable and has the legal attributions to contract providers at the primary, secondary and tertiary health care level. Today HII is, at least in theory an autonomous public institution contracting and reimbursing public healthcare providers, which are stepwise gaining more autonomy and independence from the Ministry of Health (MoH).

While the role of the MoH is continuously shifting from healthcare provision to legislation and regulation, the relevance of the HII as single public contractor and payer has been rising considerably. Against this background, and as a part of the national debate on a new health financing law in Albania, the question of HII's level of autonomy and its capacity to organise the health system are key factors of social health protection and of the overall system performance. Autonomy of public health insurance schemes comprises political, financial, organisational, normative and contractual aspects. According to the abovementioned Law no. 7870 and Decision No. 88 of the Council of Ministers (2003), the HII is organised as an autonomous legal person and autonomous administrator of the health insurance fund (Hysi/Zyba 2008, p. 4).

Autonomy requirements

Political autonomy does certainly not imply complete independence from government and other public bodies, but it refers to the options of social health insurance schemes to develop and design their own institutional setting and to be provided with a reasonable level of protection against the attempt of other institutions to both interfere in the core tasks and to access funds earmarked to health. The last topic is a prerequisite of financial autonomy, which refers first of all to a certain level of budgetary independence regarding resource generation and spending on health services. Organisational autonomy implies defining the institutional setting, the relationship to other public and private bodies and formal independence from government institutions. Health insurance schemes also require normative autonomy in order to set internal and external rules with regard to the core functions. Due to the recent changes occurred in the HII and in the whole Albanian healthcare sector, contractual autonomy has become a priority challenge for the Albanian Health Insurance Institute.

For organising and managing outpatient and inpatient care, the HII is required to develop contractual frameworks and to directly contract with providers all over the country; this should be mainly linked to expected outcome indicators and the potential to ensure fair access to adequate healthcare for all citizens and not to inter-institutional rivalries or unclear health system conditions. For defining the tasks, the role and the level of autonomy of the HII, an adequate legal framework is indispensable. However, the set of regulations and laws referring to health insurance in Albania is currently highly fragmented and partly not fully compatible to each other.

The health insurance law from 1996 setting up the HII scheme as a public institution provided with a certain level of autonomy is still in place. The only benefit at that time was the reimbursement for medicines, and all changes introduced since then were implemented through additional by-laws or specific ministerial orders for extending the benefit package or resolving certain topics. Even such a crucial measure as the exten-

sion of health insurance benefits to hospital care, which implied completely new contractual relations and reimbursement rules and almost doubled the HII budget, is based only on a specific by-law. In order to resolve the problem of the complex and partly incongruent set of laws and decrees regulating health financing in Albania, the Albanian government represented by the Council of Ministers is working on an updated legal framework for health financing and especially on a new health insurance law.

One of the four main objectives of the HII-GTZ project was closely related to the legislation process within the healthcare sector. In view of the pre-existing conditions and the forthcoming needs, the first project indicator was focussing on the elaboration of proper HII proposals for statutes regulating health care financing and assuring the autonomous organisation of the Albanian single-payer institution. Therefore, GTZ was supporting the HII in elaborating draft statutes for a social health insurance scheme in order to define and describe the expectations and proposals of the HII on how to organise health insurance tasks in the future. For defining the baseline or starting point, the project hired national legal experts for assessing the general legal framework for public institutions in Albania (Anastasi/Çani 2008) and to make a detailed assessment of the current regulatory framework of the HII (Hysi/Zyba 2008); the findings and conclusions were presented to the HII and discussed with various stakeholders in the Albanian healthcare system. From their evaluation the specialists in constitutional rights and public sector legislation drew a series of lessons learnt and elaborated various options for better defining and improving the statutory situation and options for making the HII to perform more effectively and in favour of its clients.

HII statutes and health financing law

The project support to the HII focussing on the development of an own proposal for how to organise health financing in Albania turned out to coincide and, thus, to be a valid replenishment and assistance for the ongoing debate of the draft health financing law. Although the project focus was on the elaboration of future HII statutes, many proposals and recommendations worked out by GTZ-contracted experts were considered and reflected in the numerous discussions about the draft law; the expertise gathered through the HII-GTZ project has contributed to continuously enrich the ongoing legislation process. The amendments to the draft health insurance law which might be most directly attributable to the GTZ inputs referred mainly to the detailed analysis of the implications of mandatory topics; proposals regarding the composition of the Advisory Board; leadership issues and competencies of the Administrative Council of HII; the way of how to select the General Director and the definitions of his/her tasks and duties; and the level of autonomy with regard to provider contracting (Anastasi/Çani 2009; Hysi/Zyba 2009).[8]

The current draft law starts with setting some basic definitions of terms and continues with an in-depth set up of all aspects of a health insurance including the definition of affiliates and beneficiaries, contributions and other revenues, benefits, administration and organisation of the HII, cost-sharing arrangements, contracting, statistics, and information system. The draft law contains a lot of articles that will still require further specification through additional regulations and especially through adequate HII statutes. Based on the inputs provided by the project, the HII developed a draft statute which was then again revised by the legal consultants who presented their recommendations in a workshop together with the HII staff and representatives of the Administrative Council. In view of the ongoing legislation process the HII is required to actively contribute to fur-

[8] This two-fold analysis is based on the draft law dated 10/7/09 as received by the ISKSH experts.

ther elaborating the statutory framework that will regulate the scheme's future tasks, duties and obligation. Therefore, the HII should make sure that the forthcoming changes in the legislation do take into account the various levels of autonomy mentioned above for assuring effective and efficient performance of the single payer for healthcare services in Albania (HII 2009).

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