

**EU-CHINA SOCIAL PROTECTION REFORM PROJECT
COMPONENT 3**

DRAFT REFORM PROPOSALS

on

2019 research topics

Social Assistance:

A Legal framework for Social Assistance with a Focus on Social Services Provisions

The legal framework for social assistance focusing on social organizations' participation in social assistance services



Social Protection Reform Project
中国-欧盟社会保障改革项目

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FOREWORD

Component 3 of EU-China SPRP based on the cooperation with Chinese partners mainly MoCA and EU authorities and experts is intended to provide policy reform proposals for the social assistance in China. This report covers issues related to social services and social organisations' participation in social assistance services.

The policy recommendations are a final output of the research done by Component 3 and discussion from the C3 5th Workshop held in Beijing in March 2019.

This report provides a complex policy recommendation for MoCA based on the Chinese and EU expertise after several knowledge and practices exchanges at technical level performed mainly in China.

The full outputs of the Component 3 research will be published in the C3 Volume on 2019 research topics: <http://www.euchinasprp.eu/en/components-en/component-3-en/2017-reports>

All other outputs of Component 3 are available from the Project website:

<http://www.euchinasprp.eu/index.php/en/components-en/component-3-en>

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Table of Contents

RESULT 9 OF THE C3 EU-CHINA SPRP

Topic 3.1.1A A Legal framework for Social Assistance with a Focus on Social Services Provisions	6
Topic 3.1.1B The legal framework for social assistance focusing on social organizations' participation in social assistance services	11

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RESULT 9: The capacity of the MoCA for promulgating and enforcing the Social Assistance Law and the regulations on rural and urban minimum standards of living are strengthened; the skills of local officials in policy transmission and implementation are upgraded.

Topic: 3.1.1A A Legal framework for Social Assistance with a Focus on Social Services Provisions ¹

- **Governance and collaboration: dealing with departmental relations and central-local relations in law making and policy design**
 - **Planning social service assistance policies in social service development strategies in a cross-sector joint planning approach.**
 - **Plan the social service assistance strategy with the vision of a multi-level social service system to play the safety-net role of social service assistance**
 - **Coordination of planning and action between financing department and service delivery department**
 - **Encouraging and supporting local governments to develop social service assistance**
- **Policy design: benefits, targeting, financing and delivery**
 - **Improving the design of benefits to respond to the needs and risks of care dependants and informal family care givers**
 - **Optimize the targeting model and rationally select a social service policy model based on local financial resources and care needs gap**
 - **Fostering the social services market and increasing the efficiency of service outsourcing**

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- **Establish legally how the various social benefits, whether they are social security benefits or social assistance benefits, relate to each other and guarantee a final safety net for the most unfortunate**
- **Clearly defining the aim(s), the personal scope, the conditions, the form, the means test, and so on in a law so as to make the law more effective**
- **Where possible copy the definitions and criteria of the other social provisions**
- **Cooperation between the different departments**
- **Constant cooperation between the central and the local level**

¹ Excerpt from Peng Zhaiwen, Professor, report, April/May 2019 & Kim Schryvers, EU-China SPRP expert, report March/April 2019.

According to the assessments report the policy recommendations submitted by Chinese expert on legal framework for providing services for social assistance beneficiaries have been defined as follows:

■ **Governance and collaboration: dealing with departmental relations and central-local relations in law making and policy design**

China's social assistance system is composed of a series of social policy schemes based on means-testing. It spans many policy areas and involves many administrative departments. In order to improve the efficiency of the development planning and the policy design, the government should coordinate multi-sectoral actions and carry out integrated planning. In addition, in a period of steady decline in economic growth and an upgrading of industrial structure, how to encourage local governments to invest more policy resources (financial resources, human resources and technical resources) to actively develop social service assistance is also needed to improve the governance mechanism of local governments.

- **Planning social service assistance policies in social service development strategies in a cross-sector joint planning approach.**

Legislative suggestion 1: Expanding the functional areas of the social assistance policy system planned by the Interim Measures for Social Assistance, and clearly identifying the four major social service assistance schemes, including long-term care assistance, child care assistance, social care assistance for people with disabilities, and social work services targeted at low income people. Actively rationalize the relationship between the social assistance law (and policy) and the social service law (and policy).

Each social service assistance policy is only a part of the social service system, such as long-term care, child care, disabled care and so on. Therefore, the planning of social service assistance policy needs to be based on the development strategy of social service policy. In order to improve the efficiency of strategic planning and policy design, the administrative department of social assistance should actively cooperate with the administrative department of social services to carry out joint planning across departments.

Specifically, (1) In terms of the long-term care policy, the National Commission on Ageing, the Ministry of Civil Affairs, the National Medical Security Bureau, the Health and Health Commission and the China Disabled Persons' Federation should carry out joint cross-sectoral planning to plan the development goals, policy system and reform path of social care and long-term care for the disabled elderly (including disabled persons) in the future, and plan on this basis. The development orientation, policy model and policy design of long-term care and assistance schemes are in their key development stages. (2) For child care policy, the Ministry of Civil Affairs and the Ministry of Education should carry out joint planning to plan the policy system of childcare and education for children aged 0-3 and 3-6 with the development orientation of social services, and accurately define the development ideas of child care and assistance. (3) The Ministry of Civil Affairs, the China Disabled Persons' Federation and the Commission on Ageing should cooperate actively in carrying out long-term care policy and policy planning and policy design for the disabled.

At present, the development of social services in China lags behind other countries. Long-term care, child care, care for the disabled and social work services are in the early stage of development, lacking a clear strategic plan. The construction of a social assistance system is a relatively long process. It has entered the legislative stage. In order to improve the planning efficiency and the legislative quality, the development orientation and policy design of social service assistance should take into account the development strategy of a social service policy. In this way, the development

plan of social service assistance schemes not only responds to recent social problems and social risks, but also provides a basis for the future development of social service policies and the improvement of the social policy system.

- **Plan the social service assistance strategy with the vision of a multi-level social service system to play the safety-net role of social service assistance**

Legislative suggestion 2: In the multi-level social service system, there are two ways for social assistance services to play a fundamental role: (1) to develop social service assistance specifically for low-income groups; and (2) to reduce the financial burden of low-income groups by means of social service insurance contribution subsidies and service users' self-payment cost sharing.

Along with the development of a social service assistance policy, long-term care, child care, disabled care policy and social work services have also entered into the policy agenda, and have developed rapidly. When the provisional measures for social assistance were formulated, many social service assistance schemes were still in a trial phase, or there was only the practice of a few local governments. Therefore, many social service assistance programs have not been included in the social assistance system planned by the provisional measures for social assistance. With the introduction and expansion of social insurance and universalism of welfare social service schemes, some social service assistance schemes may need to adjust their functional orientation and policy design over time. Therefore, the development planning of social service assistance schemes needs to be integrated into the planning vision of a multi-level social service system and to distinguish the key tasks in their different stages of development.

Under the background that the development strategy of the social service system is still in the exploratory stage and basic social service schemes have not yet been introduced, China should actively solve the social service problems of low-income groups by giving priority to the development of social service assistance.

With the introduction of the development strategy of a social service system and the introduction of basic social service schemes, social service assistance schemes can play a bottoming role by subsidizing the social insurance contributions of low-income groups and sharing the social service costs of low-income groups.

The development orientation and policy design of a social service assistance policy depend on the development strategy of a multi-level social service system, and will change with the adjustment of the development strategy.

- **Coordination of planning and action between financing department and service delivery department**

Legislative suggestion 3: Abandoning the structural system of the Interim Measures of the Social Assistance, which mainly focuses on social assistance schemes, introducing the concept of social assistance administration, designing modules of social assistance entitlements and qualifications, social assistance benefits, social assistance financing and social assistance service delivery, in order to meet the policy design requirements of social service assistance schemes.

The policy design of social service assistance includes two parts: fund raising and service delivery. In China's administrative system, these two functions usually belong to different administrative departments. Therefore, coordinating the planning and action of the fund-raising department and the service delivery department is very important to improve the policy level and the quality of the legislation.

The service delivery policy design of social service assistance is closely related to the reform of public institutions, the equalization of basic public services and the purchasing of government services. To improve the efficiency of fund use and service delivery, it is necessary for civil affairs

departments to strengthen their close cooperation with financial departments, compilation management departments, social service agencies, medical service agencies and social organization management departments to coordinate the relevant planning ideas and reform measures.

➤ **Encouraging and supporting local governments to develop social service assistance**

Legislative suggestion 4: Actively improve the system of public fiscal transfer payments, personnel management in the public sector, and encourage and support local governments to develop social service assistance.

Social service assistance is not only related to the quality of life of the elderly, the disabled and children, but also affects the burden of care of ordinary families and impacts women's labor market participation strategies. Well-designed long-term care assistance and child care assistance are important means for social policy to cope with the new social risks and the challenges of population aging. Furthermore, social service assistance will affect the quality of basic public services of local governments, and is an important element of urban competitiveness. The central government should fully understand the strategic value of social service development, and encourage local governments to vigorously develop their social service system (including social service assistance) to improve the level of urban competitiveness.

In addition, the central government should actively improve the financial transfer payment system, share the financial pressure of local governments in the development of social services; improve the establishment of a management system, increase human support for the development of social services assistance; improve the access of social organizations and regulatory reform, and cultivate and strengthen the social services market.

■ **Policy design: benefits, targeting, financing and delivery**

➤ **Improving the design of benefits to respond to the needs and risks of care dependants and informal family care givers**

Legislative suggestion 5: The government should assume the responsibility of caring for the disabled elderly, children and the disabled in ordinary income families. Clearly identify coping with the new social risks as one of the goals of social service assistance development, and actively share the burden and risk of family care while improving the quality of life of the benefit's recipients.

Firstly, the government should fully understand the necessity and feasibility of developing long-term care services, child care services and care services for the disabled, vigorously promote the development of social services, reverse the pattern that China's social policy system attaches importance to income security and neglects social services, so as to better cope with the challenges of post-industrialization and population ageing.

Secondly, the government should introduce innovative thinking of social policies such as new social risks, work-family balance and social investment into the social service assistance policy planning. While paying attention to the quality of life of the elderly, children and the disabled, the government should focus on solving the problem of the burden of care cost caused by their family members' participation in informal care services, so as to truly realize the goal: response to the pressures of ordinary families in China.

➤ **Optimize the targeting model and rationally select a social service policy model based on local financial resources and care needs gap**

Legislative suggestion 6: In response to the heavy care burden and pressure on ordinary income families, the Social Assistance Law can appropriately relax the eligibility requirements for means-testing and respond to the care pressures and risks of some middle-income groups.

Whether social service policy gives priority to responding to the care needs and pressures of low-income families or universally responds to the care needs and pressures of ordinary families is related to the choice of policy models and needs to consider the attributes of care needs.

In view of the elderly, the disabled elderly, those with severe physical disability, mental disability or intellectual disability, as well as the vulnerable groups who are in urgent need of psychological counseling services, social service policy can choose the model of social insurance or categorical welfare scheme on the basis of financial capacity to respond to the care risks of all families, including low-income families, in order to effectively solve the social problems. At present, many local governments have abandoned means-testing, responded to the needs and risks of recipients, and achieved good policy performance.

In the areas of social services where the caregivers still have some self-care abilities, the burden of care is relatively light. The market for care services is adequately supplied in areas such as the long-term care of the semi-disabled elderly, the disabled, the day care of children aged 0-3, and the recreation and social integration of the retired elderly. Here the model of social assistance can be considered. The government only bears the responsibility of providing care services for the low-income groups, and leaves room for development of other services to business and social organizations.

- **Fostering the social services market and increasing the efficiency of service outsourcing**

Legislative suggestion 7: Delivering social services assistance in the form of service outsourcing, and developing and improving policies such as social service market regulation, social organization support, social service purchase and performance evaluation.

At present, China has basically established a model for the purchasing of social services from commercial organizations, social organizations and public institutions through public service outsourcing. Therefore, optimizing market access supervision, cultivating and expanding the social service market, and strengthening service supervision are the key measures to improve the efficiency of social service purchasing.

The government should promote the reform of public institutions engaged in the production and delivery of social services, gradually de-administrate them through the purchasing of public services, and remove all kinds of explicit and implicit administrative monopolies, so as to provide a foundation for the development of the social service market.

The government should improve the reform of the market access supervision system for social service organizations, incubate and cultivate a number of professional social service organizations, and strengthen the supervision of social service organizations by means of service purchase performance evaluation, so as to gradually establish a relatively fully competitive social service market.

The government should improve the policy design of government purchasing of social services, adjust and improve the policy design of service pricing, budget arrangements, bidding mechanisms, performance evaluation and public accountability to improve the efficiency of service purchasing.

Considering the EU experiences following recommendation have been proposed on legal framework for providing services for social assistance beneficiaries in China:

- **Establish legally how the various social benefits, whether they are social security benefits or social assistance benefits, relate to each other and guarantee a final safety net for the most unfortunate**

When talking about social security and social assistance, the image of safety nets is often used. Both systems are intended to protect the beneficiaries against certain risks and their social and financial consequences. Unemployment benefits are the safety net in case of involuntary unemployment, medical insurance is the safety net in case of (high) medical costs, and so on. This means that there are many specific safety nets. As soon as conditions are attached to benefiting from these rights, e.g. you must have contributed to a system in order to enjoy the benefits, some people will slip through the mazes of these safety nets. It is very important to have a final and last safety net: the last social assistance system that will catch everybody who falls through the mazes of the other nets.

In order to realise this, it is not only important that such a final safety net is created, but also that, in the different laws or in the different sections of the same law, there is a clear hierarchy in the safety nets. This can be done by defining the personal scope of the right, by taking up or leaving out certain benefits in the means-test, by stating that all other rights need to be exhausted before appealing to a certain system, by stating that some rights cannot be granted if a person already benefits from a specific other right. This guarantees an efficient use of public finances, without granting too much to some and too little to some others.

- **Clearly defining the aim(s), the personal scope, the conditions, the form, the means test, and so on in a law so as to make the law more effective**

Why is a law created? Who are the beneficiaries? Which right is granted? Under what conditions? In which form? Is there a means test?

The answers to these questions are crucial for everybody who will come into contact with the law. When the aims of the law are clearly defined, when it is clearly stated who are the beneficiaries, when the conditions that need to be fulfilled in order to benefit from a certain right are clearly described, when the means test is worked out, when the forms in which the right can be granted are clearly outlined, the law will be more effective.

The beneficiaries, whether they are natural persons, social organisations, private or public institutions, will be assured that they will fulfil the conditions as described by the law. The governmental departments, whether they are at the level of effectively executing the law or at the in between levels creating more specific legislation in order to execute the higher legislation, will be clear on what are the aims, limits, tools etc. of the higher legal norm.

However, this does not mean that the conditions must be formulated in detail in the highest legal order. It is possible that the higher law shapes the framework and that the lower legislation(s) completes it.

- **Where possible copy the definitions and criteria of the other social provisions**

Social assistance covers a broad range of measures. For every measure, there are conditions that need to be fulfilled. Before drawing up a new list of conditions when a new right is created, it might be interesting to check whether there is not already a list of conditions of another right, which can also apply for the new right.

For example, for many rights, it might be interesting to create an income or a means test. It might also be interesting to take into account different household compositions: persons living alone, a person living together with or without dependents, single-parent household, etc. Where possible the same kind of income or means test and the same kind of household composition definitions should be used. This avoids redoing the social investigation time and again.

If the conditions and definitions for certain rights are the same, then checking for one right can automatically lead to the attribution of the other right.

■ Cooperation between the different departments

Creating a life in keeping with human dignity is the responsibility of many departments. This is also clearly shown in the report of Dr. Peng Zhaiwen. Good cooperation can only take place when there is contact between all levels of the different departments. There should be working groups at all levels of the different departments, but there should also be a good flow of information between the civil servants. It is, for example, important that they can easily contact each other (e.g. by providing lists with telephone numbers and other contact details), that they are regularly informed about legislative changes and so on.

When all levels of the different departments see clearly which part they play in the bigger picture, they will be better at developing and adapting policy, creating and executing the law, responding to questions, applications, etc.

■ Constant cooperation between the central and the local level

The local level is crucial in every step of the way: in providing the information for the design of the evidence-based policy, in the drafting of the law, in the execution of the law and in the evaluation of the law.

Due to their contact with the beneficiaries, their knowledge about the local situation, the problems they meet when executing a law, the best practices they develop, etc means that they are a valuable source of information for the more central levels of government.

3.1.1B The legal framework for social assistance focusing on social organizations' participation in social assistance services²

- Raising the level of legislation and formulating relevant laws
 - Formulating a Social Assistance Law
 - Formulating a Social Organization Law
- Formulating supporting regulations and elaborating the legal provisions
- Revising the relevant laws and making the legislation more coordinated

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- comprehensive social protection systems
- active inclusion approach for addressing poverty, social exclusion and inequality
- aim to cover the needs of all age groups in a future oriented way
- integrated approach to social services policy designed starting from the real needs of different categories of socially disadvantaged people, beneficiary – centered systems
- the social organizations have the indispensable tools of legitimacy, motivation and resources in view to develop qualitative social services
- specific legal provisions which ensure the efficient participation of the social organizations in the decision-making process, within the elaboration process of the normative acts
- quality management systems on social services (sets of minimum quality standards / types of services / types of beneficiaries, quality monitoring systems, social audit systems)
- specialized human resources in the social assistance field, employment field, health field.

In this regard, the recommendations are:

- elaborate the legal provisions regarding the definition, role, rights and the financing of social organizations
- improve the legislative provisions on public-private partnerships regarding the development of social services and the contracting of social services
- establish a co-decision, co-financing, co-implementation model between local authorities and social organizations
- develop a national map of existing social services, as well as an estimation of the necessary social services
- identify all examples of good practice developed at regional/local level regarding the development of social services and the involvement of social organizations
- establish a network of professionals working in the field of social assistance
- organize conferences at the local / regional level to analyze the social services sector, the community's needs, opportunities, limitations and solutions with the participation of all interested social actors, including the citizens' representatives
- develop legal instruments to enable local authorities to support the work of active social organizations by offering space, tax incentives or grants for specific projects
- create a national database of active social organizations

² Excerpt from Zhang Haomiao report, Professor, March 2019 and Alexandra Nemes EU-China SPRP expert, report March/April 2019.

- **improve communication between the local authorities and the social organizations by designating a representative responsible for the dialogue with them and by establishing effective communication channels**
- **develop social intervention mechanisms at the local level with the participation of the representatives of the local authorities with attributions in the sphere of social assistance, as well as research institutions and university education institutions, with the participation of citizens' representatives of the potential beneficiaries.**

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According to the assessments report the policy recommendations submitted by Chinese expert on legal framework of social organizations' participation in social assistance services have been defined as follows:

■ **Raising the level of legislation and formulating relevant laws**

At present, the relevant laws and regulations on the participation of social organizations in social assistance in China have some problems, such as the low status of the legislation, and the poor coordination and fragmentation of the provisions of the relevant laws and regulations. Therefore, it is necessary to formulate a law on Social Assistance and a law on Social Organizations Law so as to improve the status level the legislation.

➤ **Formulating a Social Assistance Law**

The 'Interim Measures of Social Assistance' has regulated all assistance programs in the field of social assistance in one document, but they are still administrative regulations with weak coercive forces and normative forces. The 'Interim Measures of Social Assistance's' regulations on social organizations' participation in social assistance services are too general having a lack of coordination: First, the legal status of social organizations' participation in social assistance has not been identified. Second, the responsibilities of social organizations and governments in social assistance affairs are not clearly assigned, Third, the incentive support for social organizations' participation in social assistance services needs to be made concrete.

Compared with Germany's experience (see Box1 in the Appendix), China's 'Interim Measures of Social Assistance' lack provisions relating to social organizations so as to maintain their independence in the process of participating in social assistance services. In our country, in the process of social organizations' participating in social assistance services, their status should be independent. This should be embodied whether a social organization can decide to participate in the purchase of government services or whether it can accept an assistance mission entrusted by the government. In particular, social organizations are not subordinated to the government when the government entrusts them to purchase services. Therefore, it is necessary to avoid the government completely entrusting the obligations that the government should fulfill to social organizations, or it interfering in social organizations' participation in legal activities of social assistance services.³ In addition, on the basis of the principle of government responsibility for social assistance, the policy of encouraging and supporting social organizations to participate in social assistance services should be clarified, and vague concepts in the previous legislation, such as society and social forces, should be avoided.⁴ In terms of the identification of social assistance recipients, although the identification is the obligation of the government, social organizations can play an appropriate role in their identification. This is an important reflection of social organizations' participation in social assistance's administrative management services. It is mentioned in the social assistance legislation that the State commends and rewards the units and individuals that have made remarkable achievements, but it is not clear whether the units that have been commended and rewarded include social organizations. Moreover, the content of an administrative reward is not mentioned. This is not conducive to fully mobilizing the enthusiasm of social organizations to participate in social assistance services.⁵ This should be considered so as to be clarified and improved in the Social Assistance Law. In terms of the provisions of the social assistance fund, as to the government's expenditure on purchasing social assistance services and the necessary subsidies provided to

³ Gao, Y. Participation of non-profit organizations in social assistance: a model for German legislation, *Journal of Fujian Provincial Party School*, 2016(8).

⁴ Han, J. Investigation and analysis on the legislation of Chinese charity organizations' participation in social assistance, *Jianghuai Forum*, 2016(4).

⁵ Han, J. Investigation and analysis on the legislation of Chinese charity organizations' participation in social assistance, *Jianghuai Forum*, 2016(4).

encourage social organizations to participate in social assistance services, the purpose and proportion of the expenses should be specified. Thus, there will be a legal guarantee for social organizations to obtain financial support from the government .⁶

➤ **Formulating a Social Organization Law**

At present, China should promulgate a basic law on social organizations on the basis of the relevant legislative experience of social organizations and unifying the commonality of social groups, private non-enterprises and foundations. In the legislation's purpose, "promotion and cultivation" and "management and regulation" should be paid equal attention, In terms of the content, procedural law and substantive law should be paid equal attention to stipulate the rights and obligations of social organizations in terms of substance.

Firstly, steps should be to reform the dual management system and lower the registration threshold for social organizations. The government should give up the management mode of the prior permission system for social organizations, and learn from the experience of the British legislation (see Box1 in the Appendix). Large social organizations should be regulated. The regulation of small social organizations should be relaxed and their legal status should be recognized. The capacity for the rights, and the legal status, of social organizations are different concepts. Registration only obtains the capacity for rights in the sense of the civil law. Legislation should focus on the regulation of the specific activities of social organizations, strengthening daily supervision and management, and strictly prohibiting and punishing social organizations who engage in economic, political and other illegal activities.⁷

Secondly, steps should be taken to establish a system of unincorporated organizations. In the current legal system of social organizations in our country, only private non-enterprises can have a partnership and individual form. Social groups and foundations are required to have a legal entity. Germany and Britain and other countries recognize unincorporated social organizations who are unregistered as being legal (see Box1 in the Appendix). Registration means accepting stricter rules from the law, enjoying more tax benefits and having a greater competitive advantage in purchasing services and undertaking government projects. This is conducive to the equality of rights and obligations. In its future legislation, China may also consider allowing the existence of unincorporated social organizations. Unincorporated organizations are not illegal, but just have an incomplete capacity for rights. Unincorporated non-profit organizations should be managed through records being kept on them..⁸

Thirdly steps should be taken to improve the regulations on daily supervision and the punishment of social organizations and establishing a diversified supervision mechanism. It is necessary to clearly stipulate the need for daily supervision and punishments for social organizations in the Social Organization Law and to construct a pluralistic supervision mechanism for social organizations. The practices of Germany, Britain and other developed countries has proved that under the premise of a sound self-regulatory mechanism of social organizations and effective social supervision, an appropriate reduction in the government's punishment of social organizations will not cause disorder and chaos in organizational management (see Box1 in the Appendix). At present, China's registration and administration authorities and competent authorities are endowed with a large number of supervisory powers, but in practice, administrative authorities are powerless and lack sufficient manpower to ensure supervision. This makes supervision a mere formality. The

⁶ Han, J. Investigation and analysis on the legislation of Chinese charity organizations' participation in social assistance, *Jianghuai Forum*, 2016(4).

⁷ Gao, Y. Participation of non-profit organizations in social assistance: a model for German legislation, *Journal of Fujian Provincial Party School*, 2016(8).

⁸ Gao, Y. Participation of non-profit organizations in social assistance: a model for German legislation, *Journal of Fujian Provincial Party School*, 2016(8).

government's supervision over social organizations can be gradually delegated to social organizations themselves, and society can be involved in supervision. The diversification of supervisory power can make supervision more effective.

■ Formulating supporting regulations and elaborating the legal provisions

China now has administrative regulations on social organizations, including ‘Regulations on the Registration and Administration of Social Groups’, ‘Interim Regulations on the Registration and Administration of Private Non-enterprise Units’, and ‘Regulations on the Administration of Foundations’. Due to the differences in the legal activities ‘of social groups, private non-enterprise units and foundations, the future Social Organization Law should be the basic law for the commonness of social organizations. In other words, in the Social Organization Law, only the most basic content related to social organizations should be stipulated, so as to reflect the legal status and independence of their rights and obligations, etc. The specific provisions made according to the characteristics of the different types of social organization, especially the specific procedural provisions such as registration, cancellation and liquidation, should be detailed under the administrative regulations. The existing ‘Regulations on the Registration and Administration of Social Groups’, the ‘Interim Regulations on the Registration and Administration of Private Non-enterprise Units’, and the ‘Regulations on the Administration of Foundations’ could be continued, and any inconsistencies between them and the future Social Organizations Law should be rectified.⁹

In addition, specific provisions should be made for the participation of the social organizations in various aspects of social assistance, especially in the relevant legislation on the purchasing of social assistance services by social organizations. Although, in 2014 the Ministry of Finance and the Ministry of Civil Affairs issued the ‘Administrative Measures on the Governments Purchasing of Services (Interim)’, which provide a certain behavioral paradigm for the government to purchase social services, these are a departmental regulation and as such have a weak normative force. Due to the particularity and professionalism of the content of social assistance services, the basic ways and working modes of the government to purchase social assistance services are complex and diverse in practice. Therefore, it is necessary to pass special legislation.¹⁰ At the national level, it is suggested to formulate an administrative regulation on the government’s purchasing of social assistance services, which will be conducive to promoting social organizations to participate in social assistance services. To be specific, it is necessary to clarify the purpose and the principles of the government’s purchasing of social assistance services and to define the legal status of the buyers, implementers and recipients of social assistance services. It is necessary to specify the scope of the projects for which the government will purchase social assistance services, to scientifically formulate a guiding catalogue for a state-level government to purchase social assistance services, and to clearly define a unified and standardized service scope and quality standards. It is necessary to stipulate the ways and procedures by which the government will purchase social assistance services, and to establish the bidding system and an information disclosure system for the government’s purchasing of social assistance services. In particular, it is necessary to regulate the large number of non-independent purchasing and non-competitive purchasing procedures in practice. It is necessary to establish an incentive mechanism and performance evaluation mechanism for social organizations’ participation in the government's purchasing of social assistance services.¹¹

⁹ Gao, Y. Participation of non-profit organizations in social assistance: a model for German legislation, *Journal of Fujian Provincial Party School*, 2016(8).

¹⁰ Han, J. Investigation and Analysis of the Legislation of Chinese Charity Organizations' Participation in Social Assistance, *Jianghuai Forum*, 2016(4).

¹¹ Han, J. Investigation and analysis of the legislation of Chinese Charity Organizations' Participation in Social Assistance, *Jianghuai Forum*, 2016(4).

■ Revising the relevant laws and making the legislation more coordinated

The participation of social organizations in social assistance services involves multiple legal relationships. Relying only on the Social Assistance Law, a Social Organization Law, the Charity Law and other relevant laws and regulations, will make it difficult to stipulate all the areas for social organizations' participation in social assistance services. Therefore, it is necessary to revise and improve the relevant laws to increase the coordination of the legislation

Firstly, improve the provisions on a legal personality in the Civil Law. Provisions about incorporated foundations and unincorporated societies could be added to clarify the legal status of both these organizations. Secondly, the Tax Law's provisions on tax incentives for social organizations should be improved. The 'Implementation Regulations of the Enterprise Income Tax Law' should be amended to make special provisions for the payment of tax, the tax exemption rules for social organizations, and to distinguish the operating income of social organizations (which belongs to the scope of taxable income and which belongs to the scope of tax exemption) so as to avoid a one-size-fits all provision on the total exemption or full levy of the income of the different natures of social organizations. Third, the Procedural Law on the rights' relief of social organizations should be improved. The relevant provisions of the Administrative Procedure Law and the Civil Procedure Law should be amended to keep them in line with the ways of rights' relief in the legislation of social organizations. An infringement of the internal management of a social organization by an administrative organ should be regarded as one of the situations for accepting cases of administrative litigation, and unregistered unincorporated organizations shall be given a certain litigation status. Fourthly, social work legislation should be improved. Social workers are the key force in providing social assistance services. Social workers can provide specialized and personalized assistance services. The 'Interim Measures of Social Assistance' also stipulate that social work service agencies and social workers should play their roles. However, at present, China's social work legislation has problems of low priority level and is imperfect. It is necessary to prescribe the legal definition, professional conditions, professional ethics, rights and obligations of social workers, the scope, content and beneficiaries of social work, social work service agencies and other related matters.¹²

Considering the EU experiences following recommendation have been proposed on legal framework for social organizations' participation in social assistance services in China:

- comprehensive social protection systems
- active inclusion approach for addressing poverty, social exclusion and inequality
- aim to cover the needs of all age groups in a future oriented way
- integrated approach to social services policy designed starting from the real needs of different categories of socially disadvantaged people, beneficiary – centered systems
- the social organizations have the indispensable tools of legitimacy, motivation and resources in view to develop qualitative social services
- specific legal provisions which ensure the efficient participation of the social organizations in the decision-making process, within the elaboration process of the normative acts
- quality management systems on social services (sets of minimum quality standards / types of services / types of beneficiaries, quality monitoring systems, social audit systems)
- specialized human resources in the social assistance field, employment field, health field.

The functioning of European social market economies is based on comprehensive social protection systems, the Member States of the European Union (EU) spending on average about 30% of their

¹² Gao, Y. Participation of Non-profit Organizations in Social Assistance: a Model for German Legislation, *Journal of Fujian Provincial Party School*, 2016(8).

GDP – or at least half of the public budget – on social protection. Social policies underpin the welfare and well-being of citizens, but they also play an important part in economic performance.

The European modern social protection policies are designed to support the deployment of skills and competences that are key for future growth and competitiveness in a knowledge-based society. The adequate access to benefits and care services and the important role for prevention and activation measures help enhance, mobilise and maintain labour force potentials, thereby enabling more people to participate actively in the society and the economy and achieve a proper livelihood.

These social protection systems follow the outcomes established at European level. All Member States have agreed upon a common social policy agenda in the framework of the social Open Method of Coordination (social OMC). The EU priorities in the social area are reflected in the common objectives. The overarching objectives of the OMC for social protection and social inclusion are to promote:

- (a) Social cohesion, equality between men and women and equal opportunities for all through adequate, accessible, financially sustainable, adaptable and efficient social protection systems and social inclusion policies,
- (b) more and better jobs and greater social cohesion,
- (c) good governance, transparency and the involvement of stakeholders in the design, implementation and monitoring of policy.

The active inclusion approach remains a highly relevant European policy framework for addressing poverty, social exclusion and inequality. Adequate income support is combined with access to quality enabling services and inclusive labour markets to support those who can work to enter and advance in the labour market, thus helping them out of poverty.

Integrated support is provided for people who cannot work to ensure a life in dignity and their active participation in the society. The lessons the most European countries have learned over the past decade underline the need to combine effective tax and benefit systems to allow appropriate redistribution with access to various services provide universally or in a personalized manner.

Social services provision entails personalized support and implementation in an integrated manner increases the impact on the beneficiaries' life. There is no one-size-fits-all solution but the European states teste different approaches for ensuring an integrated service provision. Based on the particular context, initial set-up, or specific target groups, integrated service delivery can be achieved through, for example loose cooperation, formal cooperation of stakeholders or one-stop-shops. A key aspect is that the integrated approach allows for the delivery of interventions that are best suited with regards to the scope (services needed), time (order of interventions) and follow-up (to avoid revolving doors).

The success of the active inclusion approach depends on the strong and transparent coordination between national, regional and local levels, as well as on the involvement of relevant stakeholders – social organizations (NGOs, social partners) and the beneficiaries of social measures, those affected by poverty and social exclusion in the design, implementation and evaluation of the policies.

In this regard, the recommendations are:

- elaborate the legal provisions regarding the definition, role, rights and the financing of social organizations
- improve the legislative provisions on public-private partnerships regarding the development of social services and the contracting of social services
- establish a co-decision, co-financing, co-implementation model between local authorities and social organizations

- develop a national map of existing social services, as well as an estimation of the necessary social services
- identify all examples of good practice developed at regional/local level regarding the development of social services and the involvement of social organizations
- establish a network of professionals working in the field of social assistance
- organize conferences at the local / regional level to analyze the social services sector, the community's needs, opportunities, limitations and solutions with the participation of all interested social actors, including the citizens' representatives
- develop legal instruments to enable local authorities to support the work of active social organizations by offering space, tax incentives or grants for specific projects
- create a national database of active social organizations
- improve communication between the local authorities and the social organizations by designating a representative responsible for the dialogue with them and by establishing effective communication channels
- develop social intervention mechanisms at the local level with the participation of the representatives of the local authorities with attributions in the sphere of social assistance, as well as research institutions and university education institutions, with the participation of citizens' representatives of the potential beneficiaries.

The Government of the People's Republic of China will get a strategic partner to strengthen its social assistance system by the empowerment of the social organizations whilst at the same time increasing their accountability in terms of developing quality social services.

The vital ingredients can be found at the very grassroot level, within the local human resources.