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## The constitutional guarantee of the provision of local Social Services in Spain: a comparative regional study

### *A garantia constitucional da prestação de serviços sociais locais na Espanha: um estudo comparativo das Comunidades Autônomas*

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#### Abstract

This article outlines the public architecture of social services in Spain from the perspective of the constitutional guarantee of the provision of local social services. For

#### Resumo

*Este artigo desenha a arquitetura pública dos serviços sociais em Espanha, na perspectiva da garantia constitucional da prestação de serviços sociais locais. Para tal, analisa*

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this, the Spanish Constitution is analyzed, as well as the 17 laws of social services corresponding to the different Autonomous Communities. It is therefore a comparative regional study in which the local authority is the essential unit to deploy social services, responding to the principles of universality, proximity, and decentralization; mandated by Spanish legislation. These and other complementary laws establish universal access to social services for all citizens, determine the territorial structure, the competences of the different administrations, rights holders, typologies of services and benefits and their articulation to ensure the quality of life and social welfare of all citizens.

*a Constituição espanhola, bem como as 17 leis sobre serviços sociais correspondentes às diferentes Comunidades Autônomas. Trata-se, portanto, de um estudo autonômico comparativo em que a entidade autônoma local é a unidade essencial para a prestação de serviços sociais, respondendo aos princípios de universalidade, proximidade e descentralização, consagrados na legislação espanhola. Estas leis e outras de caráter complementar estabelecem o acesso universal de todos os cidadãos aos serviços sociais, determinam a estrutura territorial, as competências das diferentes administrações, os titulares de direitos, os tipos de serviços e prestações e sua articulação para garantir a qualidade de vida e o bem-estar social de toda a cidadania.*

**Keywords:** social services; constitutional law; Autonomous Communities; local powers; Spain.

**Palavras-chave:** serviços sociais; direito constitucional; comunidades autônomas; competências locais; Espanha.

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## 1. INTRODUCTION<sup>1</sup>

The birth of formal democracy in Spain can say that it will become the catalyst towards the creation of social services as we currently understand them. The promulgation of the 1978 Constitution (SC) shapes the current State of autonomies, which is the principle of the development of social services.

<sup>1</sup> *Vid in totum*, FORNS I FERNÁNDEZ, Maria Victòria. El sistema organizativo y competencial de los servicios sociales locales de la postcrisis en el Estado Español. El caso de Catalunya. **A&C – Revista de Direito Administrativo & Constitucional**, Belo Horizonte, ano 18, n. 74, p. 25-66, oct./dic. 2018. DOI: 10.21056/aec.v19i74.1046.

The SC represents a change of state model, towards the rule of law, democratic and social, which at territorial level will involve the establishment of the autonomous state. A social State that will involve the assumption of collective responsibilities to meet the needs of citizenship.

The Magna Carta classifies the rights of Spaniards into three groups: fundamental rights and public freedoms; the rights and duties of citizens and finally the guiding principles of social and economic policy. While the first two, as Vila i Mancebo indicates, bind all public authorities and are immediately and directly enforceable, in the case of the third group “the application of these social rights is therefore deferred to what is determined by the laws that develop them. The approval of these laws is the responsibility of the competent state or autonomous legislative power, in accordance with the criteria of distribution of competences established in Articles 147 to 150 of the SC and the corresponding SA”<sup>2</sup> It therefore leaves the Autonomous Communities (AACC) with exclusive responsibility for social services.<sup>2</sup>

The SC in the chapter on fundamental rights and duties expressly refers to the dignity of the person and the need to facilitate the development of citizens and ratified in the fundamental rights and freedoms of all international treaties and European regulations, which the Spanish State has signed.<sup>3</sup>

With regard to the second chapter on Rights and Freedoms, we shall highlight article 14, which states that “Spaniards are equal before the law, without any discrimination based on birth, race, sex, religion, opinion or any other personal or social condition or circumstance.”

The Constitution, in chapter three, entitled “On the Guiding Principles of Social and Economic Policy”, includes three articles that refer to specific groups to which it pays special attention for their protection to: family,<sup>4</sup> infancy,<sup>5</sup> disabilities<sup>6</sup> and elderly;<sup>7</sup>

<sup>2</sup> SA (Autonomy Statutes). VILA I MANCEBO, Antoni, **Informe. Tendencias de los Servicios sociales**. Madrid: European Anti-Poverty Network, 2009, p. 24.

<sup>3</sup> As stated in Article 10 SC: “1. The dignity of the person, the inviolable rights inherent in him, the free development of the personality, respect for the law and the rights of others are the foundations of the political order and social peace”.

<sup>4</sup> Article 39.1 SC provides that “the public authorities shall ensure the social, economic and legal protection of the family”.

<sup>5</sup> Article 39.4 SC states that “Children shall enjoy the protection provided for in international agreements which safeguard their rights”.

<sup>6</sup> Article 49 SC, in relation to the public powers, provides that “the public authorities shall implement a policy of provision, treatment, rehabilitation and integration of the physically, sensorially and mentally handicapped, to whom they shall give the specialized attention they require and shall protect them in particular for the enjoyment of the rights granted to all citizens by this Title”.

<sup>7</sup> With regard to the elderly, Article 50 SC states that “The public authorities shall guarantee, through adequate and regularly updated pensions, the economic sufficiency of citizens during their old age. In addition, regardless of family obligations, they shall promote their well-being through a system of social services that will address their specific health, housing, cultural and leisure problems”.

although the purpose of social services today goes far beyond the attention to these groups, expanding the entire citizenry through universal access and comprehensive care for the individual.

The SC grants powers to the AACC in the third chapter and through Article 148.20 establishes that they may assume competences “in social assistance matters”. Therefore, highlights the responsibility of the AACC in the assumption of social services and their social character, as well as the principle of decentralization of power, bringing services closer to the citizen.

In this sense, Aguado i Cudolà refers to the autonomous state as the social and development state of social services stating that “has largely been the driving force behind the construction of the Welfare State and the development of social rights in Spain. It is necessary to recall the important role that the AACC have had in this regard, in areas such as social services, education and health, in which they have assumed competences in accordance with the provisions of the block of constitutionality”.<sup>8</sup>

The SC completely decentralized responsibility for social assistance to the Autonomous Communities when it admitted that the Statutes of Autonomy assumed them exclusively. This probably explains why, as Sáenz Royo stated at the time, social assistance was considered a marginal and exceptional aspect, unlike the role it occupies in the last decades of our society.<sup>9</sup> It should be recognized that the approval of the SC will mean a before and a after the construction of the Welfare State and in the overcoming of the beneficence and the development of the social rights contained previously in the international norm.

## 2 THE COMPARATIVE MODEL OF SOCIAL SERVICES IN THE AUTONOMOUS COMMUNITIES.

In the Spanish State, as defined by Fornis i Fernández and Alegre-Agís “the SS. SS form part of the conjuncture of the Welfare State, together with the social security, health and education systems, employment and housing policies, among others”<sup>10</sup>. According to the European Anti-Poverty Network EAPN, “also, are the pillar of the Welfare State so that later it has developed and implemented as a right”<sup>11</sup> currently based on

<sup>8</sup> AGUADO I CUDOLÀ, Vicenç. El régimen jurídico de las prestaciones de los Servicios sociales. In: EZQUERRA HUERVA, Antonio (Coord.). **El marco jurídico de los Servicios sociales en España**. Barcelona: Atelier, 2012. p. 47.

<sup>9</sup> SAENZ ROYO, Eva, Derechos de protección social y Estado autonómico: los márgenes constitucionales de actuación del Estado y de las CCAA. In: EMBID IRUJO, Antonio (Coord.). **Derechos económicos ysociales**. Madrid: Iustel – Aragon Government, 2009. p. 39 y ss.

<sup>10</sup> FORNS I FERNÁNDEZ, Maria Victòria; ALEGRE-AGÍS, Elisa, Una aproximación práctica (II): La gestión de los servicios sociales locales. In: FUENTES I GASÓ, Josep Ramon (Coord.). **Externalización e internalización de la gestión de los servicios sociales públicos: entre lo público y lo privado**. Valencia: Tirant lo Blanch, 2022. p. 489.

<sup>11</sup> EUROPEAN ANTI-POVERTY NETWORK (EAPN). **Análisis de los Servicios Sociales. Las personas atendidas y la perspectiva autonómica**. Madrid: Ministerio de Derechos Sociales y Agenda 2030, 2021. p. 4.

the foundation of social rights in the international and European legislative framework. Also, as Forns i Fernández says “social services have been a commitment to human rights for Western countries and the world in general”<sup>12</sup>. They are an instrument for the exercise of the right of all citizens to receive a response to their problems and demands, channel social integration and bring administration closer to the people<sup>13</sup>. Also, for Alguacil Gomez, “has been the system most exposed to erosion and sensitive to changes, implying greater adaptability to be permanently rethought and rearmed”<sup>14</sup>.

From the need to keep thinking the SS, our objective is to point out its most outstanding aspects, through the comparative model of the different systems, since the revision of the updated Social Services Acts enacted by the different Autonomous Communities (AA. CC) of the Spanish State.

## 2.1. Conceptualization<sup>15</sup>

The SS, SS involve public actions “aimed at providing personal attention and support, facing social and personal risks and difficulties”<sup>16</sup>. The object of the SS, SS laws for Alemán Bracho “is to implement a public system that integrates resources, actions, benefits for the full development of individuals and groups, as well as prevention,

<sup>12</sup> FORNS I FERNÁNDEZ, Maria Victòria, Estado del Bienestar y servicios sociales: ¿Un binomio en crisis? In: FORNS I FERNÁNDEZ, Maria Victòria (Coord.). **La protección jurídica de la atención a las personas en materia de Servicios sociales. Una perspectiva interdisciplinar**. Barcelona: Atelier, 2020. p. 123.

<sup>13</sup> *Vid in totum*, PELEGRÍ VIANA, Xavier. El modelo de servicios sociales en España. **Revista Internacional de Ciencias Sociales y Humanidades, SOCIOTAM**, vol. XVII, n. 2, p. 125-150, 2007.

<sup>14</sup> ALGUACIL GÓMEZ, July. La quiebra del incompleto sistema de Servicios Sociales en España. **Cuadernos de Trabajo Social**, vol. 25, n.1, 2012. p. 64.

<sup>15</sup> For the development of this section the following legal instruments were reviewed: Law 9/2016, Social Services of Andalusia. Friday December 27th, 2016. BOE Nro. 18 January 21, 2017, article 2. Act 5/2009, on Social Services of Aragon. June 30<sup>th</sup>, 2009. BOE Nro. 201, August 20, 2009, article 3. Act 1/2003, on Social Services of Asturias. February 24th, 2003. BOE Nro. 86, April 10, 2003, article 2. Act 2/2007, Rights and Social Services of Cantabria. March 27th, 2007. BOE Nro. 94 April 19, 2007, article 8. Act 14/2010, on Social Services of Castilla-La Mancha. December 16th, 2007. BOE Nro. 38 February 14, 2011, article 4. Act 16/2010, on Social Services of Castilla y Leon. December 20th, 2010. BOE Nro. 7 January 8, 2011, article 4. Act 12/2007, on Social Services of Catalonia. October 11th, 2007. BOE Nro. 266 November 6, 2007, article 2. Act14/2015, on Social Services of Extremadura. April 9th, 2015. BOE Nro. 108 May 6, 2015, article 3. Act 13/2008, on Social Services of Galicia. December 3th, 2008. BOE Nro. 15 January 17, 2009, article 2. Act 4/2009, Social Services of Balearic Islands. June 11th, 2009. BOE Nro. 163 July 7, 2009, article 2. Act 16/2019, May 2, on Social Services of Canary Islands. BOE Nro. 141 June 13th, 2019, article 4. Act 7/2009, on Social Services of La Rioja. December 22, 2009. BOE Nro. 14 January 16, 2010, article 3. Act 12/2022, on Social Services of the Community of Madrid. December 21th, 2022, BOE Nro. 135 June 7, 2023, article 7. Act 3/2021, on Social Services of Murcia Region. July 29th, 2021. BOE Nro. 308, December 24, 2021, article 4. Foral Act 15/2006, on Social Services of Navarra. December 14th, 2006. BOE Nro. 27 January 31, 2007, article 3. Act 12/2008, on Social Services of the Basque Country. December 5th, 2008. BOE Nro. 242 October 7, 2011, article 5. Act 3/2019, on Social Services of the Valencian *Comunitat*. February 18th, 2011. BOE Nro. 61 March 12, 2019, article 5.

<sup>16</sup> ORGANIZATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (OECD). **Modernización de los servicios sociales en España. Diseño de un nuevo marco estatal**. OCDE publicaciones, Paris. 2022. p. 3 <https://doi.org/10.1787/4add887d-en>

treatment and elimination of causes leading to marginalization”<sup>17</sup>. Its *raison d'être* “is to serve the purposes and policies of Social Welfare, constituting its fundamental pillars and its most popular and visible image”<sup>18</sup>. In general terms, the AA. CC have defined the SS. SS system as a set of resources, benefits, plans, programs, projects, equipment and technical equipment, for the social care of the population and contribute in an integrated and coordinated manner to the achievement of the objectives of social services policies.

However, this definition varies in terms of ownership of services. For example, Aragon, Castilla-La Mancha, Castilla-Leon, Catalonia, Extremadura, Galicia, Balearic Islands, Canary Islands, La Rioja, Murcia and Navarra incorporate into the system resources, services and equipment that are public and private, while Andalusia, Asturias, Cantabria and Valencia refer to ownership, public control and public funding. Basque Country defines its system as one of public responsibility, although it foresees that it will consist of services, services and equipment of public and private ownership. Madrid, Murcia and Valencia declare that they have the character of universal/essential public service, by virtue of which they derive essential services to satisfy basic needs and improve people’s quality of life, as Fuentes i Gasó points out<sup>19</sup>.

In any case the social services place the responsibility for the management, “either directly or indirectly, in the hands of the public administrations to achieve the social protection of citizens and to restore or improve their welfare”<sup>20</sup>

## 2.2. Holders of the right to access social services<sup>21</sup>

The AA. CC share a set of criteria regarding persons who may be entitled to access the services and benefits of the SS. SS system on each of these. For Fantova

<sup>17</sup> ALEMÁN BRACHO, Mari Carmen. Una perspectiva de los servicios sociales en España. **Alternativas. Cuadernos de Trabajo Social**, n. 2, 1993. p. 200.

<sup>18</sup> MOIX MARTÍNEZ, Manuel. El Trabajo Social y los Servicios Sociales. Su concepto. **Cuadernos de Trabajo Social**, n.17, 2004. p. 138.

<sup>19</sup> *Vid in totum*, FUENTES I GASÓ, Josep. Ramon. On public service and service of general economic interest: a conceptual approach. **Revista de Direito Econômico e Socioambiental**, Curitiba, vol. 12, n. 2, p. 237-261, 2021. doi: 10.7213/rev.dir.econ.soc.v12i2.28848

<sup>20</sup> MUNUERA GÓMEZ, María Pilar. Agenda digital: e-Servicios sociales. **Gestión y Análisis De Políticas Públicas**, n. 16, 2026. p.32.

<sup>21</sup> *Vid.* Act 9/2016, on Social Services of Andalusia, article 6. Act 5/2009, on Social Services of Aragon, article 4. Act 1/2003, on Social Services of Asturias, article 4. Act 2/2007, on Social Services of Cantabria, article 3. Act 14/2010, on Social Services of Castilla-La Mancha, article 2. Act 16/2010, on Social Services of Castilla y Leon, article 10. Act 12/2007, on Social Services of Catalonia, article 6. Act 14/2015, on Social Services of Extremadura, article 6. Act 13/2008, on Social Services of Galicia, article 5. Act 4/2009, on Social Services of *Illes Balears*, article 5. Act 16/2019, May 2, on Social Services of Canary Islands, article 9. Ley 7/2009, on Social Services of La Rioja, article 5. Act 12/2022, on Social Services of the Community of Madrid, article 4. Act 3/2021, on Social Services of Murcia Region, article 8. Foral Act 15/2006, on Social Services of Navarra, article 4. Act 12/2008, on Social Services of Basque Country, article 3. Ley 3/2019, on Inclusive Social Services of the Valencia *Comunitat*, article 9.

Azcoaga, these criteria “have as fundamental text the European Social Charter of 1961 where it is indicated that ensuring the effective exercise of the right to benefit from social services to citizenship”<sup>22</sup>. The first laws of SS. SS according to Aguilar Hendrickson, “they enunciated a very generic and brief right, while in the new ones their presence is broader and more extensive”<sup>23</sup>. In this sense, we find that they are holders of the right to access the social services system:

1. Spaniards, nationals of other Member States of the European Union and resident aliens, if they have an administrative neighborliness/are registered in the relevant Autonomous Community.
2. Spanish emigrants and their descendants if they have established their last administrative neighborliness/domicile of registered in an Autonomous Community and when access to social services allows them their definitive return to Spain.
3. Aliens not belonging to any Member State of the European Union who are in the condition of asylum, refuge, exile, subsidiary protection or stateless, under the terms established by international treaties and legislation on aliens.
4. Passers-by/non-residents and those not mentioned in the previous sections that are in one of the AA. CC and facing a situation of personal urgency and indigence, family or social.
5. Andalusia, Canary Islands, Madrid, Murcia and Basque Country include as a special category of subjects, foreign minors, who are in the territory of these CCs. AA, regardless of their administrative status, and may be at risk or helpless.

Although as Moix Martínez asserts “this set of criteria seeks to meet the principle of universality”<sup>24</sup>— that is, all people who are at risk or vulnerable can access the social services system —, the AA. CCs clarify that it is not unlimited access, but that this will be subject to the fulfilment of pre-established requirements by each.

<sup>22</sup> FANTOVA AZCOAGA, Fernando. **Sistemas públicos de servicios sociales**. Bilbao: Universidad de Deusto, 2008. p. 20.

<sup>23</sup> AGUILAR HENDRICKSON, Manuel. Los servicios sociales en la tormenta. **Documentación Social. Revista de Estudios Sociales y de Sociología Aplicada**, n. 166, 2013. p. 153.

<sup>24</sup> MOIX MARTÍNEZ, Manuel. «Universalidad» versus «selectividad» en los servicios sociales: la discriminación positiva. **Alternativas. Cuadernos de Trabajo Social**, n. 2, 1993. p. 187.



## 2.3. Functional Structure<sup>25</sup>

AA. CCs use various names to refer to the functional structure of the SS. SS. However, “all respond to the traditional classification of SS. SS basic and specialized social services”<sup>26</sup> although there have been significant changes in the name, content and ordering of these<sup>27</sup>, as we will see below in detail.

### 2.3.1. Andalusia

The structure is called the primary level and the specialized level. Community social services are in the primary, which is the first level of contact with users and where needs assessment, planning, intervention, treatment, monitoring, assessment of care and coordination with other actors in the social service system are carried out. For their part, specialists are the most advanced structure in which complex actions are carried out that require specific technical expertise or the provision of specific resources. Access to these services will be possible upon referral from community social services, except in situations of social emergency requiring immediate attention at this level of complexity.

### 2.3.2. Aragon

In Aragon they are structured in general and specialized. The generals constitute the first level of the system and their purpose is to promote access to the resources of this social welfare system, generating alternatives to deficiencies or limitations in coexistence. Specialized are organized to meet needs and seek to respond to situations that require technical specialization or where the intervention is particularly intense or complex.

<sup>25</sup> Vid. Act 9/2016, on Social Services of Andalusia, articles 26; 27 and 32. Act 5/2009, on Social Services of Aragon, articles 12; 13 and 16. Act 1/2003, on Social Services of Asturias, articles 9; 10 and 12. Act 2/2007, on Rights and Social Services of Cantabria, articles 12; 13 and 16. Act 14/2010, on Social Services of Castilla-La Mancha, articles 12; 14 and 18. Act 16/2010, on Social Services of Castilla y Leon, articles 29; 30; 31; 32 and 33. Act 12/2007, on Social Services of Catalonia, articles 15; 16 and 18. Act 14/2015, on Social Services of Extremadura, articles 9; 15 and 19. Act 13/2008, on Social Services of Galicia, articles 8; 9; 10; 12 and 14. Act 4/2009, on Social Services of *Illes Balears*, articles 11; 12; 13; 15 and 17. Act 16/2019, May 2, on Social Services of Canarias, articles 24; 25 and 27. Act 7/2009, on Social Services of La Rioja, articles 14; 16 and 18. Act 12/2022, on Social Services of the Community of Madrid, articles 13; 14 and 18. Act 3/2021, on Social Services of Murcia Region, articles 29; 30 and 34. Foral Act 15/2006, on Social Services of Navarra, articles 28; 29 and 34. Act 12/2008, on Social Services of the Basque Country, articles 22 and 27. Act 3/2019, on Inclusive Social Services of the Valencian *Comunitat*, articles 14; 15 and 16.

<sup>26</sup> PELEGRÍ VIAÑA, Xavier. El modelo de servicios sociales en España. **Revista Internacional de Ciencias Sociales y Humanidades, SOCIOTAM**, vol. XVII, n. 2, p. 125-150, 2007. p.139.

<sup>27</sup> VILA I MANCEBO, Antoni. La nueva generación de leyes autonómicas de servicios sociales (2006-2011): análisis comparativo. **AZARBE, Revista Internacional de Trabajo Social y Bienestar**, n. 1, 2012. p. 145.

### 2.3.3. *Asturias*

Asturias divides them into general and specialized. The first constitute the immediate access point for people and their family and social environment to the system, while the latter design and execute interventions of greater technical complexity and intensity of attention through centers, services and programs addressed to people and collective that require a specific attention.

### 2.3.4. *Cantabria*

In this Autonomous Community are divided into primary care services and personalized care services. Primary care is the first level of care and represents the first point of contact with the system. The personalized is the level of specific intervention for the programming, implementation, and management of different actions that — in response to increased complexity and specific needs— require a specific technical specialization or provision of specific resources. Like the legislation of Andalusia, access to personalized care will be made by derivation of primary care social services.

### 2.3.5. *Castilla-La Mancha*

Castilla-La Mancha has a similar structure to Cantabria, with a level of primary care and personalized attention. The former is the first level of care, while the latter seek to respond to the specific needs of persons requiring more specialized technical care or a device that goes beyond the scope of primary care social services.

### 2.3.6. *Castilla y Leon*

Castilla y Leon presents a different functional structure to the AA. CC previously reported. In this Autonomous Community social services are structured by levels: First level consisting of basic social action teams and second level consisting of specific multidisciplinary teams, in addition to “other functional organizational structures”<sup>28</sup>.

Basic social action teams are defined as a basic unit of functional articulation responsible for the assessment of cases, the provision of services and the coordination and monitoring of services to be provided by local authorities with responsibility for social services. Specific multidisciplinary teams are aimed at meeting specific needs that correspond in their ownership or management to local entities with competence in social services.<sup>29</sup> Regarding “other functional organizational structures”, the Act does not provide for a specific definition, but notes that such structures may exist, provided

<sup>28</sup> Act 16/2010, of social services of Castilla y Leon, article 30.

<sup>29</sup> FORNS I FERNÁNDEZ, Maria Victòria. The management of local social services in Spain. **A&C – Revista de Direito Administrativo & Constitucional**, Belo Horizonte, ano 22, n. 87, p. 65-87, jan./mar. 2022. DOI: 10.21056/aec.v22i87.1585.

that their specific characteristics or coverage require their creation and are different from the teams mentioned above.

### 2.3.7. *Catalonia*

Catalonia responds to the traditional structure, distributed in basic social services and specialized social services. The former is the first level of the system that grants guarantee of proximity to users in the personal, family, and social. According to the Law, these have a multi-purpose, community and preventive character and must give answers in coexistence and the relationship of the recipients of services. The second aims to respond to situations and needs that, by their nature, require technical attention or specific resources and are organized considering the different needs that can be met by the system. In addition, and as Gutierrez Resa points out “specialized social services are organized and managed, with ownership of the Autonomous Community, depending on the population groups to which they are addressed”<sup>30</sup>.

### 2.3.8. *Extremadura*

Extremadura is structured in basic social care services and specialized social care services. The former constitutes the first level of care in the social services system and the autonomous legislation expressly provides that one social worker per 3,000 inhabitants shall be appointed to guarantee universal and comprehensive attention to social needs. As in previous cases, specialized care services are designed to meet the needs of a technical specialty, making special mention that they are particularly aimed at people or groups who are in vulnerable and/or socially disadvantaged situations.

### 2.3.9. *Galicia*

The Galician system is divided into community social services and specialized social services; the former, in turn, are subdivided into basic and specific. The community is the main agency of the system and carries out preventive interventions, comprehensive care for individuals and families and social and labor incorporation. Within this category, basic community social services are the means of access to the social services system, while specific services are responsible for developing programs aimed at groups, with identified and unique problems. The specialized ones are intended for people who demand a greater technical specialty or who require a special intensity in the intervention that is carried out.

<sup>30</sup> GUTIERREZ RESA, Antonio. El Plan Concertado de Prestaciones Básicas de Servicios Sociales en España (Once años del Plan Concertado). **Reis: Revista Española de Investigaciones Sociológicas**, n. 93, enero-marzo 2001. p. 93.

### 2.3.10 *Balearic Islands*

The Balearic Islands have a functional structure similar to that of Galicia, being distributed in community, subdivided into basic and specific, and specialized. The SS. SS Community is the first level of the system and the point of immediate access to it with a view to ensuring the personal, family, and social proximity of the users of the system. The basic communitarians are the regular channel of access to the system, while the specific ones manage unique problems for specific groups and can act as a transit space to a specialized service. Highlights of the regional legislation<sup>31</sup> that community social services will be coordinated with the level of specialized care and with other services operating in the Autonomous Community, especially those of health, education, culture, employment and housing,<sup>32</sup> to ensure a comprehensive intervention for users.

### 2.3.11. *Canary Islands*

In the Canary Islands have social services of primary and community care and specialized social services. Primary and community care are the first level of care in the system, responsible for preventing situations of social vulnerability, identifying and assessing needs, diagnosis, planning, intervention, treatment, monitoring and evaluation of care. Specialized care is the level of specific intervention and develops actions that, given their greater complexity, require a specific technical specialization or a provision of specific resources. Access to these services will be by SS. SS referral primary and community care, except for social emergencies that require immediate attention at this level of care.

### 2.3.12. *La Rioja*

In La Rioja the SS. SS are structured by levels. The first is made up of general or community social services and has a multi-purpose, community-based and preventive character in different situations of social need. The second level consists of specialized social services, which are responsible for meeting social needs and situations due to their technical complexity and for the economic cost arising from the specific characteristics and needs of certain population groups require technical and/or specialized attention. These offer specific services and benefits, diversified and designed according to the type of need they are intended to cover.

<sup>31</sup> Act 4/2009, on Social Services of *Illes Balears*, article 12.

<sup>32</sup> *Vid.* FORNS I FERNANDEZ, María Victòria. Derecho a la vivienda y emergencia habitacional en España: el rol de las Comunidades Autónomas. **Revista de Investigações Constitucionais**, Curitiba, vol. 9, n. 3, p. 579-618, set./dez. 2022. DOI: 10.5380/rinc.v9i3.88558

### 2.3.13. *Madrid*

In Madrid the SS. SS can be of primary social care and specialized social care. The first are the access to the system and offer individualized social care, specific, close and in the person's own environment. Specialized social care services cater to those individuals or groups who, because of their unique needs, require the programming, implementation and development of actions that require the provision and participation of material, technical and professional resources, able to offer support and solutions adapted to the special profile of these needs. Access to these services shall be by professional referral from the primary care social services.

### 2.3.14. *Murcia*

In Murcia social services are primary care and specialized care. The first are the basic structure of the system, responsible for ensuring global and universal attention to social needs, responsible for assessing these needs, planning, monitoring, assessing care and coordinating with other institutions present in the territory of the Autonomous Community to articulate the response to the individual and social needs of care.

In other hand, specialized care is a specific level of attention to those social needs that, due to their specific characteristics, are more complex than primary care can satisfy. Access to these services is provided by means of primary care, with the exception of social emergencies which may be dealt with directly.

### 2.3.15. *Navarra*

Navarre is structured in basic social services or primary care and specialized social services or specialized care. The first, as in the previous AA. CCs are the basic unit of the system and access door, as well as the level closest to the recipients. Specialized services are those whose benefits involve sectoral interventions for social needs requiring technical specialization or the provision of specific resources. Access occurs by referral from basic social services or primary care.

### 2.3.16. *Basque Country*

Basque Country has primary social care services, responsible for guaranteeing people access to the system, and responsible for meeting needs related to autonomy, social inclusion and emergency situations or social vulnerability, with particular emphasis on the prevention of risk situations. Also, they have SS. SS secondary care responsible for meeting the needs arising from situations of exclusion, dependence or lack of protection.

### 2.3.17. Valencia

Valencia has primary care services that is the first level of care, responsible for information, advice, prevention, diagnosis, and intervention, with a community approach and oriented to prevention and intervention with individuals, families or living units, groups, and communities. These services are subdivided into basic and specific services. In those of a basic nature, care is general and versatile, while those of a specific nature consider the uniqueness of the care and intervention required, depending on the nature of the situations that arise. On the other hand, they have secondary care services, a second level to provide specialized services and services, which reinforce primary care in those cases that require a comprehensive intervention of greater intensity and sustained over time.

## 2.4. Benefits from Social Services systems<sup>33</sup>

### 2.4.1. Concept

The AA. CCs of Andalusia, Cantabria, Castilla-La Mancha, Castilla-Leon, Catalonia, the Balearic Islands, the Canary Islands, La Rioja, Madrid, Navarre and Valencia define what is to be understood by the provision of public social service systems. Based on the concept of public service for Ayala García, “when we talk about Social Services we must differentiate between economic public services, non-economic or social public services”<sup>34</sup>.

In general terms, benefits are understood as the set of actions, technical interventions, programs, projects, economic and technological aids, resources and means of care, aimed at fulfilling the aims of the different autonomous laws and/or contributing to the social inclusion of users of the system, as well as the attention to their needs.

<sup>33</sup> Vid. Act 9/2016, on Social Services of Andalucía, articles 40; 42; 43. Act 5/2009, on Social Services of Aragon, articles 34; 36; 37; 38. Act 1/2003, on Social Services of Asturias, articles 19; 21; 22; 23; 24; 25; 26; 27; 28; 29; 30; 31; 32; 33. Act 2/2007, on Social Services of Cantabria, articles 25; 27. Act 14/2010, on Social Services of Castilla-La Mancha, articles 33; 36; 37; 38; 39. Act 16/2010, on Social Services of Castilla y Leon, articles 13; 14; 19; 20. Act 12/2007, on Social Services of Catalonia, articles 20; 21; 22; 23. Act 14/2015, on Social Services of Extremadura, articles 28; 30; 31. Act 13/2008, on Social Services of Galicia, articles 18; 19; 20; 21; 22. Act 4/2009, on Social Services of *Illes Balears*, articles 20; 21; 22; 23. Act 16/2019, May 2, on Social Services of Canary, articles 18; 20; 21; 22. Act 7/2009, on Social Services of La Rioja, articles 20; 21; 22 and Annex. Catalogue of services and benefits of the La Riojano Public Social Services System. Act 12/2022, on Social Services of the Community of Madrid, articles 22; 23; 24; 26; 27. Act 3/2021, on Social Services of Murcia Region, articles 12; 15; 16; 18. Foral Act 15/2006, on Social Services of Navarra, articles 10; 11; 12; 13; 20. Act 12/2008, on Social Services of the Basque Country, articles 14; 15; 16; 17. Act 3/2019, on Inclusive Social Services of the Valencian *Comunitat*, articles 31; 32; 33; 36; 37; 38.

<sup>34</sup> AYALA GACÍA, Saida. Marco jurídico-conceptual del sistema público de servicios sociales. *BARATARIA. Revista Castellano-Manchega de Ciencias Sociales*, n.24, 2018. p. 226

## 2.4.2. *Types*

The classification or categorization presented by the Autonomous Social Services Acts with respect to the benefits they offer is very varied, but they mainly serve two main criteria: the type of benefit and its obligation on the part of general government.

As regards type, three main groups are distinguished: 1. Professional, technical, material or service; 2. Technological services and 3. Economic services; whereas, according to their obligation, we find: 1. Guaranteed and/or essential services and 2. Conditional, non-essential and/or standard services.

### 2.4.2.1. Professional, technical, material or service

This first group of services has different names on the part of the AA. CC, however, all serve the same purpose or central idea. These are services, activities, services of a non-economic nature, provided by professional teams, which aim at prevention, the diagnosis, assessment, protection, promotion, care and integration of persons, cohabitation units and groups in social need.

This type of service represents the most important, extensive, or detailed group of benefits listed in the different regional laws and AA. CC as Aragon, La Rioja subdivide them, considering the functional structure of their social services; professional, technical, material or service provided in the basic, community or first level SS. SS and those provided in specialized or second level services.

In this category are include: 1. Information, assessment, diagnosis, and guidance services. 2. Home help service. 3. Family intervention service. 4. Specialized information services. 5. Specialized assessment services. 6. Psychosocial, rehabilitation and guardianship services. 7. Permanent or temporary accommodation services. 8. Measures aimed at preventing social exclusion and promoting individual autonomy. 9. Actions aimed at ensuring the protection of minors. 10. Family support measures. 11. Home catering. 12. Service for the promotion of autonomy and the removal of communication barriers such as Spanish sign language interpreter or foreign language mediator for persons with serious difficulty understanding the Spanish language. 13. Legal and social protection of persons with limited capacity. 14. Support for personal mobility. 15. Day or night center. 16. Occupational centers. 17. Specific services for persons with disabilities. 18. Psychological counselling service. 19. Emergency residential care service for women victims of gender-based violence. 20. Comprehensive shelter and intervention service for women victims of gender-based violence, among others.

### 2.4.2.2. Technological benefits

Aragon, Castilla-La Mancha, Catalonia, Balearic Islands, Canary Islands, Basque Country, and Valencia refer to technological performance. They are understood as

those services of technological assistance, aids of instrumental character or products of support destined to the protection, maintenance or improvement of the autonomy and social inclusion and guarantee for the universal accessibility.

This group includes: 1. Technological or technical assistance. 2. Financial aid intended to maintain or improve personal autonomy or to promote social integration. 3. Assistance for universal accessibility. 4. Telecare (Canary Islands). 5. Adaptations in the physical environment, aimed at removing barriers to accessibility in the habitual place of residence of persons (Basque Country).

#### 2.4.2.3. Economic benefits

All AA. CCs contemplate economic benefits in their laws, understood as monetary contributions or in kind (Canary Islands), periodic or in a single payment, aimed at improving the quality of life, that as Canals Montero argues must guarantee “the welfare of the citizenry. (...) as well as influencing those factors that influence people’s well-being”<sup>35</sup> and the autonomy, attention to emergency situations, social and health care, or coverage of basic needs of users of the system that allow a decent standard of living.

AA. CCs mean economic benefits, among others: 1. Emergency social assistance. 2. Social integration benefits. 3. Benefits for women victims of gender-based violence. 4. Financial Foster Care Benefit. 5. Financial emancipation support for extuted youth. 6. Checks-service. 7. Basic Social Income. 8. Economic benefits for the acquisition of technological benefits, technical aids, and adaptations in the home and for universal accessibility, among others.

#### 2.4.2.4. Guaranteed and/or essential benefits

The benefits mentioned above can be categorized according to the obligation of granting them by the different public administrations participating in the SS. SS system. The first category concerns guaranteed and/or essential benefits, that is, those that are due at all times and their provision is mandatory for public administrations regardless of the level of needs or the index of demand. Andalusia, Castilla y Leon, Madrid and Valencia expressly indicate that the benefits declared as guaranteed and/or essential, are enforceable as a subjective right by the users of the social service system. These benefits are recognized in the autonomous legislation of SS. SS of Andalusia, Castilla-La Mancha, Castilla y León, Extremadura, Galicia, Madrid, Murcia, Navarra and Valencia, being some of these: 1. Information, assessment, guidance and advisory services. 2. The telecare service. 3. Immediate attention in emergency and social emergency situations.

<sup>35</sup> CANALS MONTERO, Xavier. Proceso de construcción de un marco de calidad específico para los Servicios Básicos de Atención Social en Cataluña. **Alternativas. Cuadernos de Trabajo Social**, n. 25, 2018. p. 109.



4. Basic Income. 5. Financial benefits linked to autonomy and care for dependency. 6. Home help. 7. Psychosocial care for victims of gender-based violence. 8. Family and community mediation. 9. Financial aid for women victims of gender violence, among others.

#### 2.4.2.5. Conditional, non-essential and/or standard benefits

Contrary to guaranteed or essential benefits, conditional, non-essential and/or standard benefits are not obligatory for public administrations, but shall be subject to the availability of resources and the requirements and conditions established by each Autonomous Community.

Andalusia, Castilla-La Mancha, Castilla y León, Galicia, Madrid, Murcia and Valencia refer to this type of benefits in their autonomous legislation of SS. SS, although not all present a list of which material, technological and/or economic benefits shall be conditional, non-essential and/or standardizing. For example, Andalusia, Castilla y Leon and Murcia, far from offering a list for these benefits (as if they offer it for guaranteed and essential benefits), point out that all those benefits not qualified as guaranteed and essential by the Law or by the SS Catalogue. SS shall be regarded as conditional, non-essential and/or standardizing.

Castilla-La Mancha, Galicia, Madrid and Valencia, if they list the conditional, non-essential and/or standard benefits, among them: 1. Support for active ageing. 2. Support for young people who have been or are under some administrative or judicial measure of protection. 3. Social Emergency Benefit. 4. Financial benefits for specific needs. 5. The personal assistant service. 6. Alternative accommodation. 7. Day or outpatient care. 8. The rehabilitation and universal accessibility of housing aimed at quality of life and social inclusion. 9. Socio-educational guidance, inter alia.

### 3. LOCAL POWERS: MUNICIPALS AND SUPRAMUNICIPALS<sup>36</sup>

Act 27/2013 of rationalization and sustainability of local government (LRSRL)<sup>37</sup> and for Lasala Meseguer “redefined and reclassified the competences of local authorities, which, impacted on the competences in matter of SS. SS”<sup>38</sup>. With the reform, municipalities can exercise the following SS. SS powers:

1. Evaluation and information of situations of social need and immediate attention to people at risk of social exclusion. This is a separate competence provided for in Article 25.2. e) of Act 7/1985 Regulating the Bases of the Local Regime (LRBRL)<sup>39</sup>
2. Regarding to compulsory powers, article 26 of the LRBRL provides that, in municipalities with a population of more than 20,000 inhabitants, the service of assessment and information on situations of social need and the immediate care of persons at risk of social exclusion must be provided. For Forn i Fernández “it should be noted that there was a reduction of municipal powers from the LRSRL since, the obligation of all municipalities to provide the food and beverage control service provided for in the previous article 26.1.a) of the LRBRL is abolished”<sup>40</sup>.
3. Provision of SS. SS, promotion of equal opportunities and prevention of violence against women, when the State and/or AA. CCs have delegated these powers to local authorities in accordance with Article 27.3.c) of the LRBRL.

Also, Hernández-Echegaray explains the heterogeneity and territorial inequality of social services in Spain, mainly due to: 1. the mandate of social assistance to the

<sup>36</sup> Vid. Act 9/2016, on Social Services of Andalusia, articles 49; 50 and 51. Act 5/2009, on Social Services of Aragon, articles 45; 46; 47; 48 and 49. Act 1/2003, on Social Services of Asturias, articles 6 and 7. Act 2/2007, on Rights and Social Services of Cantabria, articles 64; 65 and 66. Act 14/2010, on Social Services of Castilla-La Mancha, articles 57; 58; 59 and 60. Act 16/2010, on Social Services of Castilla y Leon, articles 46; 47 and 48. Act 12/2007, on Social Services of Catalonia, articles 28; 29; 30; 31 and 32. Act 14/2015, on Social Services of Extremadura, articles 33; 34 and 35. Act 13/2008, on Social Services of Galicia, articles 59; 60; 61; 62 and 63. Act 4/2009, on Social Services of *Illes Balears*, articles 35; 36; 37 and 38. Act 16/2019, on Social Services of Canary 48; 49 and 50. Act 7/2009, on Social Services of La Rioja, articles 28; 19 and 30. Act 12/2022, on Social Services of the Community of Madrid, articles 10 and 11. Act 3/2021, on Social Services of Murcia Region, articles 21 and 22. Foral Act 15/2006, on Social Services of Navarra, articles 37; 38 and 39. Act 12/2008, on Social Services of the Basque Country, articles 40; 41 and 42. Act 3/2019, on Inclusive Social Services of the Valencian *Comunitat*, articles 28; 29 and 30.

<sup>37</sup> Act 27/2013, on rationalization and sustainability of local government. December 27, 2013. BOE Nro. 312 December 30, 2013.

<sup>38</sup> LASALA MESEGUER, Inmaculada. La cooperación técnica entre las administraciones públicas y otros actores para el desarrollo de las políticas sociales. **AZARBE, Revista Internacional de Trabajo Social y Bienestar**, n. 3, 2014. p. 244.

<sup>39</sup> Act 7/1985 Regulatory of the Bases of the Local Regime. April 2, 1985. BOE Nro. 80 April 3, 1985, article 25.2.e).

<sup>40</sup> FORNS I FERNÁNDEZ, Maria Victòria. El sistema organizativo y competencial de los servicios sociales locales de la postcrisis en el Estado Español. El caso de Catalunya. **A&C – Revista de Direito Administrativo & Constitucional**, Belo Horizonte, ano 18, n. 74, p. 25-66, oct./dic. 2018. DOI: 10.21056/aec.v19i74.1046. p. 62.

Autonomous Communities and the management of this competence by local authorities; 2. the characteristics of the third sector in each local context; 3. to the social problems of each social context and historical moment, since needs and demands also shape social services<sup>41</sup>

Under this umbrella, we will review the distribution of competences in matters of SS. SS have carried out the different regional legislations, concentrating on the competences of local and supramunicipal authorities.

### 3.1. Andalusia

#### 3.1.1. Powers of local authorities

According to Act 5/2010 on local autonomy of Andalusia and Act 9/2016 on Social Services of Andalusia, local authorities are responsible for the management of the communitarian SS.SS that includes: 1. Management of the technical and economic services of the communitarian SS. SS, 2. Management of the basic equipment of the communitarian SS.SS, and 3. The promotion of social volunteering activities for the care of different groups, within its territorial scope<sup>42</sup>. But also, local authorities, once guaranteed the communitarian SS. SS may provide those of a specialized nature which they consider necessary, in accordance with their financial capacity and in the framework of the planning established by the Autonomous Community.

#### 3.1.2. Powers of Provincial Councils

Regarding supramunicipal entities, Act 9/2016 on Social Services of Andalusia provides that provincial councils may manage communitarian SS. SS of municipalities serving several municipalities, and, in addition, may manage, centers and establishments of specialized provincial and supramunicipal SS. SS of their ownership, without prejudice to the provisions of state legislation.

### 3.2. Aragon

#### 3.2.1. Powers of local authorities

The Act 5/2009, of Social Services of Aragon establishes the provision of basic SS. SS as a competence of local authorities, the management of emergency aid in municipalities with more than 20,000 inhabitants and the implementation of a set of

<sup>41</sup> HERNÁNDEZ-ECHEGARAY, Antonio. Retos de los Servicios Sociales en España según la opinión experta en Trabajo Social. **Alternativas. Cuadernos de Trabajo Social**, n. 26, 2019. p. 125.

<sup>42</sup> Act 5/2010 on local autonomy of Andalucía. June 11, 2010. BOE Nro. 174 June 19, de 2010, article 9.3.

activities related to the provision of such services (identification of needs, preparation of local action plans, provision of emergency spaces for the provision of these services, among others). It also provides that municipalities with more than 20,000 inhabitants constituting basic areas of SS. SS shall exercise in the territorial area corresponding to the same powers as those assigned to the counties.

### 3.2.2. *Powers of the Region and Provincial Councils*

For the Region it is expected that these will replace the municipalities of less than 20,000 inhabitants in the exercise of the powers proper to the basic SS. SS when the municipalities are not able to provide such services directly or jointly. Additionally, it is given powers for the management of general SS. SS, the maintenance and management of own specialized care centers, the coverage of basic social needs in emergency situations, the management of emergency aid, among others. The Provincial Councils are empowered to cooperate and provide technical and economic assistance to the municipalities in their respective area to ensure the provision of its competences on SS. SS, as well as providing services which, being of a supra-regional nature, may correspond to it under local legislation.

## 3.3. Asturias

Little does Act 1/2003 on social services in the Principality of Asturias provide for the competences of local authorities in matters of SS. SS. Its article 7 states that they shall be responsible for the ownership and management of the general SS. SS, the management of programs and financial assistance that the Administration of the Principality of Asturias and the processing of data, information and documents of users may entrust it to incorporate them into the SS. SS information system and the Unique Electronic Social History. Moreover, no mention is made of the granting of powers to supramunicipal entities.

## 3.4. Cantabria

Cantabria grants local authorities powers to provide SS. SS primary care and personal care, in addition to being able to develop and approve their own portfolios of SS. SS, and exercise the powers related to the provision of the assigned SS. SS (develop plans and programs corresponding to their services, identify individual or community social risk situations, prevent such risk situations with the development of interventions to facilitate social inclusion, prevent situations of disability and dependency and develop home and community support resources, to prevent situations of lack of protection and the development of family support resources when situations of risk for

children and adolescents are identified, in the terms established by the relevant legislation, and even the promotion and conduct of research and studies on the SS. SS at the local level). Like Asturias, Act 2/2007, on rights and social services of Cantabria does not grant powers to supramunicipal entities.

### 3.5. Castilla-La Mancha

#### 3.5.1. Powers of local authorities

Act 14/2010, of Castilla-La Mancha Social Services grants the municipalities with powers for the provision of SS. SS primary care and specialized care. Depending on this, they can: 1. Study and identify social needs at the territorial level, 2. Collect information and statistical data, 3. Manage the benefits of the catalogue corresponding to the level of primary care. 4. Provide the corresponding financial contribution. 5. Early detection of individual and community social risk situations, among others.

#### 3.5.2. Powers of municipal councils

Regarding the Provincial Councils, the Social Services Act 14/2010 grants it residual powers. According to this Law, the Provincial Councils may lend SS. SS subsidiarily, where agreed jointly with the Autonomous Community, in cases where these services are not provided by other local authorities or where, because of their inter-municipal or supramunicipal character, they are provided under local law. At the same time, they may provide technical, economic and legal assistance to the municipalities with the least managerial capacity and provide the financial contribution due to them, in accordance with their competences.

We insist that this is a residual competence, since article 59 of the Law gives precedence to the Autonomous Administration to act subsidiarily in those municipalities whose local authorities have less management capacity for the development of the SS. SS Primary Care and because the participation of the Provincial Councils in the provision of the SS. SS must be made prior agreement with the Autonomous Community.

### 3.6. Castilla y Leon

The Castilla y Leon Social Services Act 16/2010 distributes competences between municipalities and provinces, depending on the number of inhabitants, that is; the Provinces shall exercise their powers in municipalities with a population equal to or less than 20,000 inhabitants, while municipalities shall exercise their powers in towns of more than 20,000 inhabitants.

Having made this distinction, municipalities and provinces will exercise their powers as follows: 1. Planning of the SS. SS. 2. Approval of their SS. SS catalogues. 3. Proposals for the identification of areas and areas of social action and third-level structures which may correspond to them. 4. Organization, maintenance, direction and direct management of the Basic Social Action Teams. 5. Organization, maintenance, direction and management of the functional organizational structures which may be their responsibility and the programs, services, centers and resources necessary for the development of the functions and activities assigned to them. 6. Basic emergency or social emergency aid and emergency accommodation to temporarily house those who lack it, among others.

### 3.7. Catalonia

#### 3.7.1. *Municipal powers*

The Catalonia Social Services Act 12/2007 grants municipalities the competence in basic SS. SS, however, these may assume specialized SS. SS in coordination with the Administration of the *Generalitat* and the corresponding local supramunicipal body, or by delegation. In the case of municipalities with a population of less than 20,000 inhabitants, the counties assume ownership of the basic SS. SS own competences when these municipalities are not in a position to directly or jointly manage.

#### 3.7.2. *Supramunicipals powers*

For their part, the supramunicipal local authorities, according to Law 12/2007 of Social Services of Catalonia, are competent to: 1. Provide technical, economic and legal support to the managing bodies of the basic areas of SS. SS. 2. Provide information and documentation services to the core areas of SS. SS. 3. Promote and manage the services, benefits and resources of specialized social care to ensure the coverage of the social needs of the population of its territorial scope, among others.

### 3.8. Extremadura

Act 14/2015 on Social Services of Extremadura gives local authorities the competence to provide the basic care SS. SS, providing adequate and adequate equipment and personnel. It is also responsible for collecting information and statistical data and collaborating with the Junta de Extremadura in the development of the SS. SS, especially in protection of minors and promotion of personal autonomy and care for dependency. The law provides that municipalities may lend the SS. SS of their competence through groupings, associations, or other forms of shared management. It also provides

that the provincial councils shall coordinate the provision of the SS. SS in municipalities with a population of less than 20,000.

### 3.9. Galicia

Act 13/2008 on social services of Galicia gives the municipalities the competence for the creation, management, and maintenance of the basic community SS. SS and for the creation, management and maintenance of specific community SS. SS, without prejudice to the fact that the latter is a competence attributed to the Junta de Galicia, according to the article 59.i) of such Act. They will also participate as a collaborating entity, in the management of economic benefits and, where appropriate, in the subsidies granted by the Galician Government, under the legally established terms.

It provides for autonomous legislation, which municipalities must guarantee, as a minimum, the provision of basic community SS. SS of municipal ownership. If this proves difficult or impossible, in application of the principle of subsidiarity, the municipalities may request the Galician Government to waive the obligation to provide them, case in which it is for the Council of the Junta de Galicia to determine the body or the Administration that should assume the service.<sup>43</sup> Moreover, if the municipality is guaranteed the benefit of the basic community SS. SS and the other powers conferred upon it by law, may create, manage and maintain specialized SS. SS, in coordination with the Junta de Galicia and in accordance with the SS. SS catalogue and the corresponding planning.

As regards the powers of supramunicipal entities, the autonomous legislation provides that the provincial councils shall provide economic, technical and legal assistance municipalities for the implementation of their powers, especially in those municipalities with a population of less than 20,000.

### 3.10. Balearic Islands

#### 3.10.1. Powers of municipalities

Act 4/2009 on social services of the Balearic Islands gives the municipalities the competence to create, organize and manage the community SS. SS being able to define the basic areas and the areas in their municipal. They may also create, organize and manage the SS. SS delegated to them by other administrations, in accordance with the SS. SS portfolio and the corresponding strategic plan, and regional and island strategic plans.

<sup>43</sup> Act 5/1997 on Galicia Local Administration. July 22, 1997. BOE Nro. 237 October 3, 1997, article 83.

It should be noted that, in the case of the municipality of Palma, Act 23/2006, of 20 December, on the capital of Palma de Mallorca<sup>44</sup> establishes -in addition to the powers provided by Law 4/2009 on social services of the Balearic Islands and applicable to it— as the responsibility of the municipality to prepare the general planning of the services provided; propose to the Government of the Autonomous Community the regulation of public and private entities, services and establishments providing SS. SS in the municipality and to create a permanent school for the training of volunteers, as well as a list of the services to be provided in Palma de Mallorca.

### 3.10.2. Powers of Islands Councils

Act 4/2009 on social services of the Balearic Islands gives the Island Councils powers in matters of SS. SS, among which are: 1. To create, organize and manage centers or services which by their nature and characteristics are insular or supramunicipal in nature. 2. Develop the specialized SS. SS according to the criteria of its programming and those established in the general planning of the Government of the Balearic Islands. 3. Provide technical and professional support to the community SS. SS and collaborate with them in the implementation of basic services. 4. Provide technical assistance and advice to municipalities and associations of municipalities, as well as other public or private non-profit entities that are part of the public network of SS. SS. 5. To grant institutional aid for the maintenance and operational functionality of centers for the provision of direct services and the granting of public aid to implement certain projects.

## 3.11. Canary Islands

### 3.11.1. Powers of municipalities

Act 16/2019 on Social Services of the Canary Islands gives the municipalities the power to create, organize and manage the SS. SS of primary care and community; collaborate with other Administrations in the promotion and creation of SS. SS of specialized care, to define the basic areas of SS. SS of its territorial scope, to participate in the elaboration of the catalog of services and benefits, in the terms established in this law, among others.

<sup>44</sup> Act 23/2006, on Palma de Mallorca Capital. December 20, 2006. BOE Nro. 26, January 30, 2007, articles 99 and 100.



### 3.11.2. Powers of the Island Councils

Act 8/2015, of Island Councils of the Autonomous Community of the Canary Islands grants the Island Councils competences in matters of social assistance and SS. SS, as well as in the management of dependency. In this sense, Law 16/2019 of Social Services of the Canary Islands grants them, among others, the following competences: 1. To provide, organize and manage the specialized services which, due to their nature and characteristics, have an insular or supramunicipal character. 2. To provide assistance to the municipalities of their respective islands, preferably to municipalities with insufficient economic or management capacity, to ensure the establishment and adequate provision of SS. To provide assistance to municipalities with insufficient economic or management capacity, in order to guarantee the establishment and adequate provision of primary and community health care. 3. To cooperate with the municipalities in the comprehensive care of situations of risk or social exclusion. 4. To create, direct and manage supramunicipal centers and services that provide coverage to persons or groups in situations of social vulnerability, especially those related to alternative housing. To create, direct and manage its own specialized island centers and services, as well as those transferred by the Autonomous Community of the Canary Islands.

### 3.12. La Rioja

Act 7/2009, of Social Services of La Rioja, establishes that local authorities are responsible for, among others: 1. To create, maintain and manage the first level of SS. 2. To create, maintain and manage the second level SS. 2. To create, maintain and manage the second level of public health services they consider necessary within their territorial area, in accordance with the provisions of the general planning of the Government of La Rioja. 3. To manage the services and benefits that correspond to them in accordance with the law and with the portfolio of services and benefits of the Public Health System of La Rioja.

### 3.13. Madrid

In the case of Madrid, Act 12/2022, on Social Services, grants local entities the power to: 1. The establishment, maintenance and management of primary social care centers and services, including the provision of sufficient and adequate personnel to ensure the provision of quality services. 3. The management of specialized social care facilities for municipal ownership, as well as those of the same level and of regional ownership that may be agreed upon, in accordance with the principle of territoriality and subsidiarity. 4. The granting of individual economic benefits of social urgency and emergency and temporary economic aid aimed at personal integration.

Regarding specialized social care resources owned by municipalities, it provides that municipal entities may establish them when, taking into account the number of inhabitants or potential users, have sufficient material and personal resources and are advised for reasons of efficiency and territorial balance. In these cases, a proposal must be made to the Community of Madrid who must decide within a maximum period of 6 months, except in cases where the municipal competence is determined directly by law, where communication to the Community of Madrid of the establishment of the resource will suffice.

### **3.14. Murcia**

Act 3/2021 on Social Services of Murcia Region grants local authorities, among other powers to: 1. Create, maintain, and manage SS. SS primary care. 2. Create, maintain, and manage SS. SS of specialized attention that they consider necessary within their territorial scope. 3. Manage municipal financial aid, under the conditions established, and collaborate with the regional administration in the administrative processing and reporting of periodic and non-recurrent regional aid. 4. Collaborate with the Administration of the Autonomous Community of the Region of Murcia, in the development of the SS. SS when joint action is required and, especially, on protection of minors and promotion of personal autonomy, dependence and basic income. 5. To participate in the administrative processing of aid administered by the Autonomous Communities, by issuing reports.

### **3.15. Navarra**

Foral Act 15/2006, on Social Services of Navarra grants the following powers: 1. Create, maintain, and manage the SS. SS base of its territorial scope. 2. Create, maintain, and manage the specialized SS. SS deemed necessary within its territorial scope. 3. Approve the SS. SS portfolio at local level when it intends to complete the portfolio of general services at its territorial level. 4. Manage the benefits of SS. SS in accordance with the Foral Law and in accordance with the provisions of the SS portfolio. General SS and, where appropriate, with its own portfolio.

### **3.16. Basque Country.**

#### *3.16.1. Powers of municipalities*

Act 12/2008, on Social Service of the Basque Country, provides, among others, the following powers for Municipalities: 1. Creation, organization and management of basic SS. SS. 2. Provision of the SS. SS primary care of the Catalogue of Benefits and Services of the Basque SS. SS System, except the telecare service which falls under the

competence of the Basque Government. 3. Fixing of public prices for services within its jurisdiction. 4. The powers conferred on minors at risk by the regulations in force on the care and protection of children and adolescents<sup>45</sup>. 5. The promotion and promotion, in coordination with the other Basque public administrations, of the training of agents and professionals involved in the Basque SS. SS System, within the framework of the strategic guidelines to be established for this purpose, the improvement of the quality of care and of innovation and research in SS. SS. 6. Inspection and exercise of the sanctioning power with respect to the services, centers and entities of their ownership and with respect to services, centers and private entities arranged, contracted or, where appropriate, agreed, for the provision of services of municipal competence.

### 3.16.2. Powers of Foral councils

With respect to the Foral organs, they have competence to: 1. The provision of the Secondary care SS. SS except those attributed to the Basque Government in its direct action competence. 2. Fixing public prices for services within its jurisdiction. 3. The powers conferred by Act 3/2005 on the Care and Protection of Children and Adolescents on the protection of minors at serious risk or without parental care<sup>46</sup>. 4. The promotion of the third sector of social action, as well as the promotion of citizen participation, the promotion of associations and volunteering and the participation of users and professionals in the management and evaluation of the SS. SS. 5. The regulation and maintenance of the Foral Register of SS. SS, as well as the transfer of the data contained in that register to the General Register of SS. SS, among others.

## 3.17. Valencia.

### 3.17.1. Powers of municipalities

Act 3/2019, on inclusive social services of the Valencian Community grants municipalities, alone or grouped, the following powers: 1. Provision and management of

<sup>45</sup> These are: a) Implementation of measures to protect children and adolescents at risk. b) Direct or indirect management of services and centers deemed necessary for the care of children and adolescents at risk. c) Authorization, registration, approval, inspection and evaluation of services and centers. d) Raising public awareness by organizing awareness campaigns and promoting positive action at the community level in defense of the rights of children and adolescents. *Vid.* Act 3/2005, on Attention and Protection to infancy and adolescence. February 18, 2005. BOE Nro. 274, November 14, 2011, articles 104.3

<sup>46</sup> Namely: a) Implementation of measures to protect children and adolescents in situations of serious lack of protection or neglect. b) Direct or indirect management of services and centers deemed necessary for the care of children and adolescents in situations of serious lack of protection or neglect. c) Authorization, registration, approval, inspection and evaluation of services and centers. d) Training and follow-up of persons applying for foster care and adoptions and, where appropriate, of their families. e) Raising public awareness through awareness-raising campaigns and the promotion of positive measures in defense of the rights of children and adolescents. *Vid.* Act 3/2005, on Attention and Protection of infancy and adolescence, articles 104.2

the Basic primary health care SS. SS. 2. The provision of adequate space, equipment, and staff for the provision of primary care benefits. 3. Services for children and adolescents, gender-based violence, functional diversity or disability, and chronic mental disorder in specific primary care. 4. The supervision of cases, training, technical assistance and guidance of professional persons of the Valencian Public System of SS. SS of its area of competence, among others.

### 3.17.2. Powers of provincial councils.

With respect to provincial councils, the Act grants it the following powers: 1. Provide technical and economic assistance and supervision to ensure that municipalities, especially those with a smaller population, economic capacity and/or management, exercise their SS. SS competences. 2. The supervision of cases, training, technical assistance and guidance of professional persons of the Valencian Public System of SS. SS of its area of reference. 3. Collaborate in the provision of the SS. SS, in accordance with the strategic planning of the Generalitat, through the formulas of inter-administrative collaboration provided for in Act 3/2019, on inclusive social services in the Valencian Community and in current legislation on local government.

As we have seen, as Garrido Juncal assures us, there is a “great disparity of forms of management of social services (...), given the Spanish reality, and as a consequence of the lack of a uniform legal regime of application to this matter”<sup>47</sup>.

## 4. CONCLUSIONS

The 1978 Constitution established the Social, Democratic and Legal State and the configuration of the State of Autonomous Communities, as well as the consolidation of the current system of social services. A system that aims to guarantee the well-being of the citizenry and that stands as the provider of “quality services of social, health, educational character to people who are often in situations of vulnerability when not of frank helplessness”<sup>48</sup>

Being, as we have seen, the AA. CC. those with full SS competence, these have a very similar organic distribution of their SS. SS systems serving the classification of basic and specialized services.

Although the names for basic SS. SS vary between: first level, general, community and/or primary care, the idea is always the same; these services are the gateway to the system, are the level closest to the users and responsible for the diagnosis of social

<sup>47</sup> GARRIDO JUNCAL, Andrea. Las nuevas formas de gestión de los servicios sociales: elementos para un debate. *Revista Catalana de Dret Públic*, n. 55, December 2017. p. 86.

<sup>48</sup> LAZO VITORIA, Ximena. Prestación de servicios a las personas: ¿concierto social o contrato? *Revista de Estudios de la Administración Local y Autonómica*, n. 20, October. 2023. p. 32.

needs and the prevention of risk situations. In addition, they determine which situations should be referred to the specialized SS. SS.

Within this group, the CC. AA of Galicia, Balearic Islands and Valencia stand out, which present a subdivision of the SS. Basic (or first contact) SS which in turn attends to a general and specialty classification. Also noteworthy is the Autonomous Community of Extremadura, which expressly provides that one social worker per 3,000 inhabitants shall be assigned to basic social care services.

On the other hand, the names of the Specialized SS. SS vary between second level, secondary care or specialized care, and attend precisely to the criterion of specificity, in other words, to provide support and cover for specific risk situations which, because of their complexity, are outside the scope of the basic, community or first level SS. SS.

Finally, we highlight that the Autonomous Community of Castilla y Leon foresees the possibility of creating other functional organizational structures, different from those mentioned above, to give specific coverages different from those of the basic and specialized SS. SS.

From the review carried out, it was noted that there is no single criterion foreseen by the different AA. CC to distribute SS. SS competences between municipalities and supramunicipal entities. In general terms, municipalities are responsible for providing primary, basic or community care services (depending on the name given by the respective Autonomous Community), without prejudice to the fact that, in some cases such as Andalusia, Catalonia and Galicia, they are granted the competence to provide specialized basic services, provided that the economic financial circumstances of the municipality permit and in the case of Catalonia, in coordination with the Administration of *Generalitat* or by delegation.

The competences attributed to the Provincial Councils and other supramunicipal entities are also varied. We can find cases such as those of Castilla-La Mancha, where they are granted residual competence, or cases such as Catalonia, the Balearic Islands, the Canary Islands or the Basque Country, where they are granted their own competences.

Another element to highlight in terms of the distribution of competences is that the legal regime is not limited to the autonomous laws on SS. SS. It has been observed that the autonomous legislation in this area refers to other special laws, or the Statutes of Autonomy to refer to the competences attributed to municipalities and supramunicipal entities. This normative dispersion undoubtedly makes it difficult for the researcher to have a complete overview of the SS. SS system in the different AA. CC, this even though we have focused on publicizing, how is distributed the provision of basic and specialized SS. SS in AA. CC.

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