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**EUROPEAN SOCIAL CHARTER**

**REPLY TO SUPPLEMENTARY QUESTION**

4th National Report on the implementation of  
the European Social Charter

submitted by

**THE GOVERNMENT OF LATVIA**

(Articles 13§4  
for the period 01/01/2006 – 31/12/2007)

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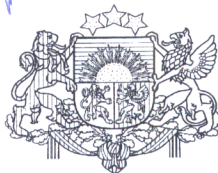
Report registered by the Secretariat on 20 August 2009

**CYCLE XIX-2 (2009)**



Reply to questions

LATVIJAS REPUBLIKAS  
LABKLĀJĪBAS MINISTRIJA



MINISTRY OF WELFARE  
OF THE REPUBLIC OF LATVIA

Skolas iela 28, Rīga, LV-1331  
Tālr. 67021600  
Fakss 67276445  
E-pasts: lm@lm.gov.lv

28 Skolas str., Rīga, LV-1331, Latvia  
Phone 371 67021600  
Fax 371 67276445  
E-mail: lm@lm.gov.lv

13. 08. 2009 Nr. 15.1-0102/2017

Mr. Regis Brillat  
Head of the Department of the European Social Charter  
Executive Secretary of the European Committee of Social Rights



Directorate General of Human Rights and Legal Affairs  
Directorate of Monitoring

Council of Europe  
F-67075 Strasbourg Cedex

Dear Mr Brillat,

With regards to questions of the European Committee of Social Rights that were forwarded by your letter of 25 May 2009, after consultations with the liable institutions we would like to inform you about the following.

In relation to the question of the Committee regarding aliens who do not have to apply for a visa to come to Latvia and happen to be without health insurance and adequate recourses, Ministry of Health stressed that in accordance with the Article 111 of the Constitution of the Republic of Latvia the State protects the human health and guarantee the minimum of medical service for everybody. Under Section 16 of the Medical Treatment Law everybody has the right to receive emergency medical care in accordance with procedures prescribed by the Cabinet of Ministers.

Pursuant to Section 17 of the Medical Treatment Law, the amount of medical treatment services paid from the State basic budget and from the funds of the recipient of services in accordance with the procedures prescribed by the Cabinet shall be provided to:

- 1) Latvian citizens;
- 2) Latvian non-citizens;
- 3) Citizens of Member States of the European Union, of European Economic Area states and Swiss Confederation who reside in Latvia in relation to employment or as self-employed persons, as well as the family members thereof;

Tekšlietu ministrijas 2009.g. 07. augusta vēstules

Nr. 1-38/2955

Neoficiāls tulkojums

┌ About the request of Council of Europe

Pursuant to the request of Yours and the Council of Europe to give answers on questions about an accomplishment of the European Social Charter obligations in relation to its Paragraph 4 Article 13, Ministry of the Interior comes up with the following information:

1. Under the seventh Paragraph of Article 1 of the Asylum Law in the Republic of Latvia an asylum seeker is considered as a third country national or a stateless person, who has submitted a written application for granting refugee or alternative status<sup>1</sup>, till the moment when final decision on his or her application enter into force and becomes unassailable.

A person shall personally submit above mentioned application to the State Border Guard at the border control point before entry into the Republic of Latvia or to any State Border Guard's territorial unit if the person is located in the Republic of Latvia. When the application is submitted, officials of the State Border Guard send application and the all available information on person, *inter alia*, an interview with a asylum seeker, to the Office of Citizenship and Migration Affairs (hereinafter - Migration Office). In general cases an official authorized by the Head of the Migration Office shall examine the application and not later than within three months shall take a decision to grant or to refuse the granting of refugee or alternative status. The State Secretary of the Ministry of the Interior of Latvia or his or her authorized person may extend the time period for consideration of an application up to twelve months in case of substantiated reasons<sup>2</sup>.

Based on the sixth Paragraph of Article 10 of the Asylum Law, during the examination of an asylum seeker's application for refugee or alternative status (asylum procedure), a person is entitled to receive emergency medical assistance and primary health care services from the State financial resources<sup>3</sup>.

<sup>1</sup> Alternative status shall be granted to a person to whom refugee status may not be granted, but only if there is reason to believe that he or she after return to country of his or her citizenship or, if the person is a stateless person, in the country of his or her former residence, would be subjected to serious harm and for this reason are unable or don't want to accept that national defense.

<sup>2</sup> In accordance with the second Paragraph of Article 13 of the Asylum Law.

<sup>3</sup> under the provisions of 17.3.2 Paragraph of Cabinet of Ministers Regulation No.1046 of 19 December 2006 "Health care organization and financing arrangements".

in accommodation center receives emergency medical care, primary health care services and secondary health care services.

In accordance with the seventeenth Paragraph of referred Regulations the person health care services are provided by the following procedure:

1) emergency medical assistance – by a medical practitioner of the accommodation centre (begins to act without waiting for the arrival of the emergency medical assistance team) and – after the call made by an official or a medical practitioner of the accommodation centre – by the emergency medical assistance team;

2) primary health care services (dental assistance – in case of acute toothache) – the medical practitioner of the accommodation centre (dental assistance – dentist);

3) secondary health care services, which are to be provided immediately and are provided to a person by a specialist, – with a referral of the medical practitioner of the accommodation centre or the emergency medical assistance team.

Along with the rules of the Cabinet of Ministers' Regulations No.434, for foreigners placed in an accommodation centre are guaranteed adequate daily nutrition norms, washing product norms and personal hygiene product norms equally to each category of person.

After the granting of refugee or alternative status to person and his or her children to them are still being provided emergency medical assistance in the same range and conditions as to Latvian citizens, Latvian non-citizens, the European Union's citizens living in Latvia and foreigners living in Latvia, which have been issued permanent residence permits<sup>4</sup>.

Due to the granted permanent residence permit<sup>5</sup> for refugee and its family members, they have the same access to social services and social assistance as the inhabitants of Latvia according to Law On Social Services and Social Assistance regulations.

Moreover, if the refugee has no other source of livelihood for the first 12 months after obtaining refugee status, he receives an allowance which covers the accommodation costs, as well as necessary costs for studies of a national language. The allowance covering the accommodation costs, receive the person to whom has been granted alternative status too, if this person had no other source of livelihood for the first 9 months after the acquisition of alternative status.

Mentioned allowance, which covers the costs of residence in the Republic of Latvia, provides for adult person – amount of the national minimum monthly wage (in year 2009 minimum monthly wage is 180 LVL), while for a minor - 30% of amount of the national minimum monthly wage. This allowance is

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<sup>4</sup> Under Article 16 and Clause 5 of first Paragraph of Article 17 of Medical Treatment Law.

<sup>5</sup> Permanent residence permit to refugee is issued according to first Paragraph of Article 36 of Asylum Law and Clause 9 of first Paragraph of Article 24 of Immigration Law.

When a new travel document is being issued to a person who has received a document certifying the status of a stateless person before 2 March 2004 at the same time a permanent residence permit in the Republic of Latvia shall be issued<sup>11</sup>. Therefore the rights of stateless person for social assistance resulting from legal capacity of branch legislation on the person who has granted a temporary residence permit or a permanent residence permit.

The rights to receive State social allowances in the Republic of Latvia have Latvian citizens, Latvian non-citizens, foreigners and stateless persons to whom a personal identity number has been granted and who permanently reside in the territory of Latvia<sup>12</sup>.

According to the first Paragraph of Article 3 of Law on Social Services and Social Assistance the right to receive social services and social assistance shall be enjoyed by Latvian citizens and Latvian non-citizens and foreigners who have been granted a personal identity number, except for persons who have received a temporary residence permit.

This means that a Latvian stateless person must reside in the territory of Latvia with issued permanently residence permit in order to receive social care free of charge. However a stateless person who has received a temporary residence permit in the Republic of Latvia has guaranteed emergency medical assistance at any time.

We would like to note that the Ministry of the Interior does not collect the information about abode in the Republic of Latvia of individuals applying for stateless status and stateless persons of other countries, because these persons may be either those whose Latvian citizenship was revoked as well as persons who resided in Latvia illegally or have been detained and located in the accommodation centre for detained foreigners "Olaine" of the State Border Guard or legally resided in the Republic of Latvia. Accordingly to a stateless person who has been detained applies all the same health and social guarantees as to any detained person in Latvia<sup>13</sup>.

At the same time we would like point out that the Republic of Latvia has adopted and implemented in national legislation the following obligations of international legislation regarding to the health and social care of foreigners and stateless persons:

1. Council of the European Union Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof;
2. Council of the European Union Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers;

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<sup>11</sup> Described in Paragraph 2 of Transitional Provisions of Law On Stateless Persons.

<sup>12</sup> According to the first Paragraph of Article 4 of the Law on State Social Allowances.

<sup>13</sup> For guarantees of detained persons look answer 1.



**SECRETARIAT GENERAL**

DIRECTORATE GENERAL OF HUMAN RIGHTS  
AND LEGAL AFFAIRS

DIRECTORATE OF MONITORING

*HEAD OF THE DEPARTMENT  
OF THE EUROPEAN SOCIAL CHARTER  
EXECUTIVE SECRETARY  
OF THE EUROPEAN COMMITTEE OF SOCIAL RIGHTS*

ESC 107  
NC/JW



Mr Sergejs Maluhins  
Ministry of Welfare  
Social Insurance Department  
International Agreements and  
Relations Division  
Skolas Iela 28  
LV-1331 RIGA

Strasbourg, 25 May 2009

Dear Mr Maluhins,

The European Committee of Social Rights is currently examining the 4<sup>th</sup> Latvian report on the European Social Charter and has instructed me to forward to you the enclosed questions concerning Article 13§4.

The Committee would be grateful if you could reply to these questions before 27 June 2009 in order to allow the information to be taken into account in Conclusions 2009.

Yours sincerely,

Régis Brillat

Council of Europe  
F-67075 Strasbourg Cedex

Tel.: +33 (0)3 88 41 23 75  
Fax: +33 (0)3 88 41 37 39

E-mail: [regis.brillat@coe.int](mailto:regis.brillat@coe.int)  
<http://www.coe.int/justice>



**EUROPEAN COMMITTEE OF SOCIAL RIGHTS**  
**COMITE EUROPEEN DES DROITS SOCIAUX**



Question in respect of the 4<sup>th</sup> report of Latvia

Article 13§4:

The Committee recalls that under Article 13§4 of the Charter, legislation or practice which denies entitlement to emergency medical assistance to foreign nationals, within the territory of a State Party, even if they are there illegally, is contrary to the Charter (International Federation of Human Rights (FIDH) v. France, Complaint No.14/2003, decision on the merits of 8 September 2004).

The Committee asks whether foreign nationals, unlawfully present in Latvia, including those whose applications for refugee or stateless person status have been rejected as well as others, are eligible for emergency medical and emergency social assistance (e.g. food, shelter, clothing) in case of need.

The Committee notes that aliens applying for a visa or temporary residence permit must present a valid health insurance package which covers emergency health care services. What about those aliens who do not have to apply for a visa to come to Latvia (e.g. EU nationals) and happen to be without health insurance and adequate resources?