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## **EUROPEAN SOCIAL CHARTER**

Comments by the Ombudsman of the Republic of Latvia  
on the 7<sup>th</sup> National Report on the implementation of the  
European Social Charter

submitted by

**THE GOVERNMENT OF THE REPUBLIC OF LATVIA**

Articles 3, 11, 12, 13, 14, and 30  
of the European Social Charter

for the period 01/01/2016 – 31/12/2019

Comments registered by the Secretariat

on 13 July 2021

**CYCLE 2021**



Ombudsman of the Republic of Latvia

**Alternative Report on the “7<sup>th</sup> National Report by Government of the Republic of Latvia on the Implementation of European Social Charter submitted by the Government of Latvia” of the government of Latvia**

**Articles 3,11, 12, 13, 14, and 30  
for the period 01/01/2016 – 31/12/2019**

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## **Terms**

The Charter – the Revised European Social Charter.

The Ombudsman – Ombudsman of the Republic of Latvia.

The Report – 7<sup>th</sup> National Report by Government of the Republic of Latvia on the Implementation of European Social Charter.

## Introduction

Government of the Republic of Latvia has issued a comprehensive and exhaustive Report on the implementation of Articles 3, 11, 12, 13, 14, and 30 of the Charter. This alternative report is hereby issued by the Ombudsman in their capacity of human rights' institution of the Republic of Latvia to supplement the National Report.

Still there are some points of concern, including some referred to in the previous Alternative Report as well as other issues escalated during the reporting period. Presence of the issues of social security remains very high.

No issues related to the implementation of Article 3 of the Charter (*the right to safe and healthy working conditions*) have been analysed in this Report. The Ombudsman involves in the problematic deriving from employment relations when there are elements of mobbing and bossing.

While sharing the position presented in the Report, the Ombudsman intends to provide an insight in application of the Charter in the fields of health care, social security, and social assistance.

## **Article 11: The right to protection of health**

The Report contains information on the actions taken during the reporting period in the field of health care. The provided data are not complete, however. The Ombudsman has highlighted a number of essential shortcomings in relation to the provision of health care services adversely affected by the insufficient remuneration level and shortage of human resources and funding.

1) According to the Report, free access to child psychiatry specialists, mental health nurses and functional specialists is provided by the state since April 2019. Despite this, children still have no access to the services of psychiatry specialists in a number of health care institutions due to the shortage of such specialists, the scope of their services is limited and not equally available throughout the territory of Latvia. For this reason, non-availability of timely diagnostics can cause problems to further development of a child.

2) The Teenager Support Centre was launched for implementation of preventive society-based outpatient support program for 11 to 18 years old teenagers with substance abuse or addictive behavioural disorders. Such centres are currently operating in two cities in Latvia and deserve appreciation, however their scope is inadequate to provide access to psychiatry services for teenagers. In 2018 the Ombudsman conducted monitoring visits to the six hospitals in Latvia where inpatient psychiatric treatment of children is provided. A number of systematic shortcomings were observed in inpatient psychiatric treatment of children including non-availability of outpatient services, lack of social rehabilitation services, shortage of child psychiatrists, and over-medication.

The Ombudsman has highlighted the issue of children exposed to risk of becoming inpatients at psychiatric hospitals. Formation of support service units was expected this year for assessment of development or behaviour disorders in children by specialists (education and school psychologist, special pedagogue, speech therapist). The formation of such service units unfortunately has not received governmental support and therefore implementation of the project is delayed.

3) Notwithstanding that dentistry services for children are expected to be free of charge in our country<sup>1</sup>, the Ombudsman has observed the problematic availability of state-funded dentistry services for children for several years already, and this issue has reached a critical point at the municipal level: at some locations children have to wait for the appointment from half a year to nearly two years. The Ombudsman applied to the Ministry of Health in 2019 for developing the scheme whereby visits to dentistry specialists would be fully funded by the state. The Ministry of Health has difficulties providing immediate solutions due to lack of funding and complicated administrative procedure.

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<sup>1</sup> The Cabinet Regulations No. 555 on 28 August 2018 “Procedure for Arrangement of Health Care Services and Payment Procedure” [Available at: <https://likumi.lv/ta/id/301399-veselibas-aprupes-pakalpojumu-organizesanas-un-samaksas-kartiba>]

4) The Ombudsman regularly receives complaints on the lack of legal instruments for protection of the rights of persons on the occasions of domestic noise. The problem continues to exist since 2014 when the Constitutional Court held<sup>2</sup> that liability for domestic noise cannot be regulated by the binding municipal regulations. Adequate regulation must be enshrined in the law<sup>3</sup>. The Ministry of Environmental Protection and Regional Development as the responsible ministry has made attempts to develop a respective regulation, however no progress has been made in the previous years. In practice, the police are helpless to address behaviour of those making noise, and therefore the right of population to quiet night sleep (enabling environment) is not protected at all.

No adequate regulation is put in place by the Government to address environmental noise detrimental to human health, such as noise generated on motorways at populated areas. There are two motorways in Latvia situated in direct vicinity to residential houses and therefore affecting the health and welfare of population. The Government has not properly addressed this issue since 19 December 2017 when the regulatory act governing noise on motorways was repealed<sup>4</sup>.

Notwithstanding that the Constitutional Court has held that encumbrance from noise generated on motorways may exceed that of traffic noise and cause indirect health disorders depending on the level of noise, exposure time and individual characteristics of persons. The opinion of the Constitutional Court has not been properly considered by the Government. Similar solution must be applied regarding noise generated at shooting grounds. It should be noted that certain groups of persons have been seeking proactive involvement in the improvement of legal regulations regarding noise generated on motorways and shooting grounds. It must be admitted that the ideas presented by such persons have been merely formally considered by the responsible ministries, despite that a number of such ideas are effective and deserve support. In general, hardly any progress has been achieved in settling of this issue so crucial to the interests of population.

5) With its high quality of medical education and low salaries, Latvia has been holding the position of a donor country for medical personnel already for several years.<sup>5</sup> Rapid negative dynamics of the total number of medical professionals at medical institutions can be marked. The low remuneration is the key reason. This problem is very acute for

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<sup>2</sup> The judgement of the Constitutional Court on 12 December 2014 in case No. 2013-21-03. [Available at: [https://www.satv.tiesa.gov.lv/web/viewer.html?file=/wp-content/uploads/2016/02/2013-21-03\\_Spriedums.pdf#search=](https://www.satv.tiesa.gov.lv/web/viewer.html?file=/wp-content/uploads/2016/02/2013-21-03_Spriedums.pdf#search=)]

<sup>3</sup> Control over different types of noise at the time when the Constitutional Court rendered their judgement was governed by Article 167.<sup>1</sup> of Administrative Offences Code of Latvia stipulating administrative liability for exceeding of acoustic noise standards and threshold values of environmental noise. Starting from 1 July 2020, liability for exceeding of noise threshold is prescribed by Article 57 of the Law on Contamination [Available at: <https://likumi.lv/ta/id/6075-par-piesarnojumu>].

<sup>4</sup> The Cabinet Regulation No. 16 on 7 January 2014 “Procedure for Noise Measurement and Management” were repealed by the judgement rendered by the Constitutional Court in case No. 2017-02-03 [Available at: [https://www.satv.tiesa.gov.lv/web/viewer.html?file=/wp-content/uploads/2017/01/2017-02-03\\_Spriedums.pdf#search=](https://www.satv.tiesa.gov.lv/web/viewer.html?file=/wp-content/uploads/2017/01/2017-02-03_Spriedums.pdf#search=)  
[https://www.satv.tiesa.gov.lv/web/viewer.html?file=/wp-content/uploads/2017/01/2017-02-03\\_Spriedums.pdf#search=](https://www.satv.tiesa.gov.lv/web/viewer.html?file=/wp-content/uploads/2017/01/2017-02-03_Spriedums.pdf#search=)]

<sup>5</sup> The Conceptual Report “On reform of health care system”. [Available at: [http://www.vm.gov.lv/lv/nozare/veselibas\\_aprupes\\_sistemas\\_reforma/](http://www.vm.gov.lv/lv/nozare/veselibas_aprupes_sistemas_reforma/)]

those employed in the health care while support on part of the Government is insufficient. The funding required to increase remuneration of medical professionals was included in the state budget for 2020 only in the amount of about 50% of what the Government had promised.

6) Notwithstanding that situation has improved in terms of timely availability of health care services, compared to the previous reporting period, a large part of patients still must pay for certain scheduled health care services (examinations, surgeries, etc.) normally funded from the state budget because of long waiting periods. One must wait even 122 days to consult, for example, an endocrinologist; from 67 to as much as 320 days to make a neurogram, and (inpatient) child psychiatry, that is currently an especially urgent problem, is also not timely available.



## **Article 12, Parts 1 and 2: The right to social security**

Certain improvement has been achieved during the reporting period in the field of social security through involvement of the Constitutional Court, the national tool for protection of constitutional rights. Even though the revised amount of pension is still inadequate to meet all needs of an individual, the changes deserve appreciation and serve as base to expect continued dynamic increase of the minimum income level.

1) The minimum amount of disability pension is set starting from 1 January 2020 from 80 euro to 128 euro per month, and for persons with inherited disability from 122.69 euro to 196.30 euro per month.

According to the Ombudsman's applications to the Constitutional Court and the judgments of the Constitutional Court, the minimum amount of the invalidity pension per month was significantly increased, setting it at 136 euros to 217 euros, and 163 euros to 260 euros for persons with disabilities since childhood. The increased amount of disability pension, however, is still inadequate to meet the basic needs of persons with disability.

2) The Report contained reference to the measures taken in the reporting period with the view to increase the amount of state pensions, such as improved procedure for indexation of pensions, increased additional payment to pensions to the part of pension recipients for length of service before 31 December 1995, and launched indexation of additional payments, as well as increase of the minimum pensions starting from 1 January 2020.

It should be noted in addition to the Report that the Constitutional Court has held the norms defining the minimum amount of old age pension (referred to on page 62 of the Report) non-conforming with Sections 1 and 109 of Constitution of the Republic of Latvia.<sup>6</sup>

Therefore, starting from 1 January 2021, the minimum amount of old pension per month is 149.60 euro for persons with insurance period of 10 to 15 years; 179.30 euro for persons with inherited disability; 152.32 euro for persons with insurance period of 16 years, and 220.32 euro and 264.06 euro respectively for persons with insurance period of 41 years.<sup>7</sup>

Notwithstanding that the legislator has increased the minimum amount of old age pension, the defining thereof still does not meet certain essential principles: first, the minimum amount of old age pension is not based on economically justified method, and second, no annual reviewing of the minimum amount is provided for. Reviewing<sup>8</sup> of the basis for calculation of the minimum old age pension was scheduled with more

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<sup>7</sup> The minimum amount of the old-age pension from 01.01.2021. State Social Insurance Agency, [Available at: <https://www.vsaa.gov.lv/lv/media/1579/download>]

<sup>8</sup> The Law "On State Pensions" Article 12, [Available at: <https://likumi.lv/ta/id/38048#p12>]

than three years interval<sup>9</sup>. If the given amount is frozen for three years, the respective data of 2023 would be five years old, and it would not conform with the actual national social and economic situation. The Ombudsman drew attention of the Parliament to the beforementioned aspects at the time of drafting of the regulatory acts already.

As regards the increase of the amount of old age pension in general (page 65 of the Report), it should be noted that old age pension for most of the recipients remains under the standards defined by the European Code of Social Security. In particular, the amount of pension for 79% of the recipients of old age pension in 2018 per month was under 499 euro (40% of the average salary 984 euro for a man employed in processing industry make 393 euro), and for 75% and 73% of recipients in 2019 and 2020 respectively<sup>10</sup>.

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<sup>9</sup> The Law “On Social Security”, Article 2.<sup>2</sup> [Available at: <https://likumi.lv/ta/id/36850#p2.2>].

<sup>10</sup> Calculation is based on data of the Central Statistics Agency on the average salaries in 2018, 2019, and 2020 of those employed in processing industry “DSV030. Average monthly remuneration of employees by types of activities (euro) – Gross/Net, Sector, Type of Activity (NACE rev. 2) and Period of Time” [Available at: [https://data.stat.gov.lv/pxweb/lv/OSP\\_PUB/START\\_EMP\\_DS\\_DSV/DSV030/](https://data.stat.gov.lv/pxweb/lv/OSP_PUB/START_EMP_DS_DSV/DSV030/)] and statistic data of the State Social Insurance Agency “Distribution of old age pensions by the granted amount (including additional payment) for December 2018, December 2019, and December 2020” [Available at: <http://www.statistika-vsaa.lv/2020/10/31.html>].

### **Article 13: The right to social and medical assistance**

Significant improvements have been recently achieved by the Ombudsman; however, the increased level of social security remains inadequate to meet at least the minimum needs of population.

1) The Ombudsman has pointed to the low amount of social security allowance in the previous reporting period already. The Cabinet decided to increase the amount of the state social security allowance by nearly 16 euro, starting from 2020. Increase of the allowance was inadequate, however, and did not serve to improve the situation of recipients.

The social security allowance was altered again in 2021 subsequent to the judgement of the Constitutional Court<sup>11</sup>. The Parliament increased the amount of the state social security allowance and defined different amount of allowance for employed and unemployed persons with disability, starting from 1 January 2021. The amount of the state social security allowance for persons with the I and II group of disability depends on the fact of employment. For non-working recipients it is higher because a supplement is granted.

The amount of the state social security allowance effective from 1 January 2021:

- for recipients of old age pension – 109.00 euro per month;
- survivor's pension for a child under seven years – 136.00 euro per month; for a child over seven years – 163.00 euro per month;
- for persons with the I group of disability: employed – 152.60 euro per month; unemployed – 198.38 euro per month;
- for persons with the I group of inherited disability: employed – 190.40 euro per month; unemployed – 247.52 euro per month;
- for persons with the II group of disability: employed – 130.80 euro per month; unemployed – 156.96 euro per month;
- for persons with the II group of inherited disability: employed – 163.20 euro per month; unemployed – 195.84 euro per month;
- for persons with the III group of disability – 109 euro per month irrespective of employment;
- for persons with the II group of inherited disability – 136 euro per month irrespective of employment.

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<sup>11</sup> The judgement of the Constitutional Court on 9 July 2020 in case No. 2019-27-03 [Available at: <https://www.satv.tiesa.gov.lv/cases/?case-filter-years=&case-filter-status=&case-filter-types=&case-filter-result=&searchtext=2019-27-03>]

2) Based on the judgement of the Constitutional Court<sup>12</sup> (see pages 72 and 73 of the Report), the amount of guaranteed minimum income level has been increased starting from 1 January 2021: 109 euro for the first/sole member of the household and 76 euro for other members of the household. In case of a low-income household, the income threshold is 272 euro for the first/sole member of the household and 190 euro for other members of the household.

The legislator's decision to increase the minimum level of income can be viewed as positive in general, however there remain serious concerns regarding the legislator's decision to define specific minimum amounts in the law instead of the principle of defining the minimum income threshold, and the previously fixed reviewing of the minimum income level has also been repealed so that the minimum income threshold level must be reviewed at least every three years<sup>13</sup>. The allowance expected in 2021 in the amount of 109 euro is already estimated regarding the income median in 2018.

3) The issue of payment for medications for needy people is still topical (page 78 of the Report). It should be emphasized that only those medications that are included in the lists of reimbursable medications are reimbursed to the needy in 100%<sup>14</sup>. Whereas the costs for medications not included in the list persons should cover for themselves. Municipalities are free to provide health care allowance for their residents. It should be noted, however, that such allowance is symbolic in most municipalities; the costs compensated for are mainly those related to patient co-payments for inpatient treatment, dentistry services such as dentures and for provision of medications and medical devices. Some municipalities also provide compensation for purchases of vision-correcting glasses or lenses.

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<sup>12</sup> The judgement of the Constitutional Court on 25 June 2020 in case No. 2019-24-03 [Available at: <https://likumi.lv/ta/id/315688>]; The judgement rendered of Constitutional Court on 16 July 2020 in case No. 2019-25-03, [Available at: <https://likumi.lv/ta/id/316171>].

<sup>13</sup> The Law on Social Security, Section 2. [Available at: <https://likumi.lv/ta/id/36850#p2.2>]

<sup>14</sup> The lists of compensated medications. [Available at: <https://www.vmnvd.gov.lv/lv/kompensejamo-zalu-saraksti>]

### **Article 30: The right to protection against poverty and social exclusion**

The issue of social inclusion remains topical. People experience discomfort in different household situations. Such issues require long-term solutions, yet people must have the possibility to take care of themselves and their families.

1) Persons with the lowest income who experience crisis situations or unable to provide housing for themselves can use support tools such as municipal rent apartments and housing allowances. Unfortunately, condition of the housing fund is poor or even critical in most of municipalities, and the space of available rent apartments is often inadequate to meet the needs of families with children, especially those of large families. On the other hand, no regulatory act defines either requirements for the minimum residential space or the level of amenities that should be taken into consideration to ensure that the right of children to appropriate housing is provided for. In our days, many households still are overpopulated in apartments with low comfort level.

2) Mortgage guaranties for families with children are available from the state. Such support is basically available, however, to higher income metropolitan families. Therefore, the existing housing support is not available to a large part of households if their income exceeds the minimum level of eligibility to municipal housing or housing allowance, yet it is insufficient to apply for mortgage.

3) Integration of Roma children in general education programs also remains a challenge. Children from Roma families are hardly ever attending preschool even though the first years of life form grounds for physical and mental health, emotional security, cultural and personal identity of children and development of their skills<sup>15</sup>. Roma children are exposed to high risk of quitting their education. The program “Pumpurs” operating in Latvia under supervision of the State Education Quality Service provides support to minimize quitting. The program is expected to extend also to children of grades of 1 to 4 in 2021/2022 academic year, starting from April 2021. Such changes are aimed at minimizing the adverse impact on education due to restrictions imposed during the Covid-19 pandemics, and this form of support is expected to continue the same level also in subsequent years.

4) The Ombudsman conducted an opinion poll in 2016 to identify availability of education at higher education institutions for persons with disability. The opinion poll covered 446 respondents with disability. Most of the respondents with the second group disability represented the age group of 18 to 34. In the respondents’ opinion, availability of higher education institutions in general was inadequate and improvements are required in terms of informational and physical environmental access. Higher education institutions were inspected in 10 cities of Latvia, 164 sites in total including 81 university buildings, 42 libraries and 40 dormitory accommodation

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<sup>15</sup> The General Comment No. 7 by Committee for the Rights of Children (2005). Exercising of the rights of child in early childhood. Para 6.

units. Results of the inspection<sup>16</sup> were distributed to all higher education institutions in Latvia providing enrolment of students with disability (42 in total) along with recommendation to improve availability of information and physical environment. 25 of 42 higher education institutions have implemented the recommendations.

5) Information on changes in employees' taxation system is presented on page 103 of the Report. The changes have been introduced as a part of tax reform of 2018. The Ombudsman in collaboration with researchers of the University of Latvia has presented a research on tax reform "Tax reform - evaluation of problems, efficiency and solutions of application of non-taxable minimum, relief and eligible expenses"<sup>17</sup>.

The key conclusions drawn from the study include the following:

- a) The tax reform does not serve the objective to minimize inequality;
- b) The introduced system of forecasted non-taxable minimum is excessively complicated and eventually leads to the risk of indebtedness thus imposing higher administrative burden on population;
- c) Part of taxpayers cannot apply for the offered tax rebate (for dependents and for eligible expenditures) because their income is so low that there is no taxable income. Mostly these are persons with one or several dependents. The Ombudsman has recommended a more targeted support system in the long term to ensure that tax rebate reach the persons who are most dependent on such support;
- d) Attempts of the tax administration institutions to optimize the procedure for administration of eligible expenditures reach no adequate support from the responsible ministry.

Notwithstanding the Ombudsman's recommendation that the Parliament and the Government should amend the regulatory acts to ensure more equitable, user-friendly regulations in terms of non-taxable minimum and eligible expenditures, the recommendations have not been taken into consideration despite even to the fact that, apart from the given study, the opinions issued by other experts and politicians also contain criticism of the tax reform.

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<sup>16</sup> Available at: <https://www.tiesibsargs.lv/lv/pages/petijumi-un-publikacijas/petijumi>

<sup>17</sup> Available at: [https://www.tiesibsargs.lv/uploads/content/kopsavilkums\\_1551263741.pdf](https://www.tiesibsargs.lv/uploads/content/kopsavilkums_1551263741.pdf)  
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## Conclusions

The Ombudsman has devoted a lot of work and resources throughout the year to draw attention of the Government to non-conformities in the field of social security and social assistance.

The Ombudsman has achieved reviewing of the minimum levels of income: the level of the state pensions, the guaranteed minimum income level. Likely, the threshold for eligibility to the status of needy or low-income person (family) has been increased. Considering that for most of the population in Latvia has limited means of subsistence, such changes are essential and can be expected to facilitate daily life to significant extent.

Along with major achievements, the Ombudsman continues to focus on certain issues requiring special attention and involvement. These include state support to those employed in health care as well as social security to the most vulnerable groups of the population in Latvia – the elderly and persons with disability.

Remuneration of health care personnel is essential not only for professionals working in the field. It is closely related to the right of the population to qualitative medicinal services in general. Contribution by medicine professionals deserves high appreciation and support, moreover, in the context with the current epidemiologic situation.

The Ombudsman's involvement has contributed to improvement of social situation of the low-income persons, yet the improvements are not sufficient. Support from the state and municipality is crucial for certain groups of the population. Social security and social support are among the key factors for existence of a sound democratic society, and therefore the Ombudsman is committed to monitor and put in all efforts to facilitate implementation of the principles enshrined in the Charter.