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Directorate-General for Economic and Financial Affairs
European Commission

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*On the Ombudsman's opinion regarding
the priorities of the state budget for year 2019 in the area of human rights*

With regard to Stability programme of Latvia for 2018-2021 submitted to European Commission in April this year I would like to draw your attention to my opinion expressed to the Parliament and Prime Minister of Latvia on the priorities of work of the 13th Saeima and the state budget for year 2019 in the area of human rights, I would like to draw attention to the most acute problematic aspects in the area of human rights and good governance, which so far have significantly affected the public welfare and increased the social gap.

From my point of view, it is important to ensure that, while planning the annual budget, the state pays attention to activities, which give an opportunity to inhabitants of Latvia to fulfil their basic needs. Pursuant to international human rights standard of, and national legislation, basic needs are defined as food, clothing, housing, healthcare and compulsory education.¹

It is crucial to ensure, that the state has taken care of the needs of those inhabitants, who are unable to take care of themselves, i.e., children, people with disability, the elderly and one-parent families.

Compared to the budget expenses of other EU Member States, two main areas have to be emphasized, where Latvia is significantly lagging behind the European average indicators – healthcare and social security.² These are areas, which have been neglected and inadequately financed for years. At the same time, it has to be noted, that these are areas, which are closely related to ensuring basic needs of people.

¹ Section 1(11) of the Law on Social Services and Social Assistance.

² Data of Eurostat. Total general government expenditure, 2016; available at: https://ec.europa.eu/eurostat/statistics-explained/index.php/Government_expenditure_by_function_%E2%80%93_COFOG

1. Healthcare

It is planned to allocate only 4% of GDP for healthcare of inhabitants of Latvia in 2020.³ The Ministry of Health indicates that healthcare financing for OECD states fluctuates between 5.1% and 16.4% of GDP. In 2016, it was 2.9% of GDP in Latvia. This means, that healthcare financing in Latvia is significantly lower than even the lowest financing in any of OECD countries. In Latvia, it is more than twice as low as healthcare financing in our neighbouring country Estonia, where it reaches 6% of GDP.⁴ In this situation, it is not clear, how Latvian politicians plan to achieve significant improvements in the sector, preserving critically low levels of financing required for this sector.

I regularly receive applications from inhabitants on unavailability of healthcare services both for adults and children. They mention long queues, expensive medicines, uncertainty about possibilities of receiving healthcare services.

I would like to draw particular attention to availability of healthcare for children. The UN Committee on the Rights of the Child has indicated that, according to Article 24 of the Convention, member states are encouraged to ensure appropriate medical treatment and rehabilitation services for children and adolescents with mental health disorders. The Committee indicates that every child with mental health disorders is entitled to receive medical treatment and care as far as it is possible in the community of child's residence.⁵

Without receiving timely outpatient services, a child is exposed to the risk that his or her health condition may deteriorate and the child may require hospitalization in a psychiatric medical institution. In my opinion, failure to deliver timely psychiatric assistance infringes Article 4 of the Convention and Article 67(1) of the Medical Treatment Law, as it increases the risk of hospitalization of a child in a psychiatric medical institution, which, possibly, may not happen, if the child would receive the necessary outpatient services.

2. Social security

The social security system created in Latvia and the minimum amounts of social support is under the minimum threshold to ensure a dignified living. Benefits are not based on calculations; moreover, they mostly have not been revised for several years, for example, the state social security benefit has remained constant since 2005, whereas the poverty threshold – since 2011.

Almost all minimum amounts of pensions and benefits are basically linked to the state social security benefit.

2.1. State guaranteed social support

³ Section 4(2) of the Healthcare Financing Law.

⁴ Data of the Ministry of Health. Available at:

http://www.vm.gov.lv/lv/aktualitates/preses_relizes/5144_par_merkciem_un_riskiem_veselibas_aprupe

⁵ UN Committee on the Rights of the Child, General Comment No. 4 (2003) Adolescent Health and Development in the Context of the Convention on the Rights of the Child, paragraph 29.

State social security benefit – granted to a person, who is not entitled to receive state pension or insurance indemnity in the case of an accident at work or occupational disease.⁶

- The amount of state social security benefit is 64.03 euros (constant since 1 January 2006);
 - The amount of state social security benefit for persons with disability since childhood is 106.72 euros (constant since 1 January 2009);
 - The amount of state social security benefit for persons with group I disability shall be determined by applying a coefficient 1.3 to the amount of benefit, i.e., 83.24 euros, and for persons with disability since childhood – 138.74 euros (effective since 1 July 2014);
 - The amount of state social security benefit for persons with group II disability shall be determined by applying a coefficient 1.2 to the amount of benefit, i.e., 76.84 euros, and for persons with disability since childhood – 128.06 euros (effective since 1 July 2014);
- The minimum amounts of pension are linked to the state social security benefit.

*Retirement pension*⁷

The minimum amount of retirement pension may not be less than the state social security benefit, applying the following coefficient depending on the insurance period (in full years) accrued by the person:

- for persons, whose insurance period constitutes from 10 to 20 years – 1.1 (70.5 euros);
- for persons, whose insurance period constitutes from 21 to 30 years – 1.3 (83.24 euros);
- for persons, whose insurance period constitutes from 31 to 40 years – 1.5 (96.05 euros);
- for persons, whose insurance period constitutes 41 years and more – 1.7 (108.85 euros);

*Disability pension*⁸

- the amount of pension for persons with group I disability shall not be less than the state social security benefit, applying a coefficient 1.6 (102.45 euros, for persons with disability since childhood – 170.75 euros);
- the amount of pension for persons with group II disability shall not be less than the state social security benefit, applying a coefficient 1.4 (89.64 euros, for persons with disability since childhood – 149.41 euros);
- the amount of pension for persons with group III disability is equal to the state social security benefit (64.03 euros, for persons with disability since childhood – 106.72 euros);

The minimum amount of insurance indemnity for loss of ability to work is linked to the minimum disability pension amount, i.e., the granted indemnity for loss of ability to work shall not be less than the minimum amount of disability pension determined in the Law “On State Pensions” for the respective group of disability.⁹

⁶ Section 13 of the Law on State Social Allowances, the Cabinet of Ministers Regulations No. 1605 “Regulations Regarding the Amount of the State Social Security Benefit and Funeral Benefit, Procedures for the Review thereof and Procedures for the Granting and Disbursement of the Benefits” of 22 December 2009.

⁷ Section 12(1) of the Law “On State Pensions”, the Cabinet of Ministers Regulations No. 924 “Regulations on the Minimum Amount of Retirement Pension” of 5 December 2011.

⁸ Section 16(1)2) and 16(2) of the Law “On State Pensions”

⁹ Section 13(3) of the Law “On Mandatory Social Insurance against Accidents at Work and Occupational Diseases”.

The state social security benefit in the case of loss of the provider, survivor's pension, compensation for loss of provider – the minimum amount of survivor's pension was approximated to the minimum amount of means of subsistence (effective since 1 April 2017).¹⁰

The minimum amount of the state social security benefit in the case of loss of provider, survivor's pension and compensation for loss of provider for each child is:

- from birth up to reaching seven years of age – 92.50 euros;
- from seven years of age – 111.00 euros;
- for a child with disability since childhood, from birth up to reaching seven years of age – 106.72 euros.

Also the minimum amount of all **service pensions** is linked to the state social security benefit.

2.2. Local government support for ensuring basic needs

- *Guaranteed minimum income level* from 1 January 2018 is 53 euros.¹¹ From 1 January 2013 to 1 January 2017, the guaranteed minimum income level was 49.80 euros. The increase of guaranteed minimum income level by 3.20 euros is not considered to be sufficient.
- *Income level* for obtaining the status of *a needy person* (family) shall not exceed 128,06 euros (constant since 1 January 2011) ¹²
- *Housing allowance.* The determination process of the amount and disbursement procedure of housing allowance, and persons, who are eligible to receive this allowance, is left completely under the competence of local governments; therefore, local governments do not have a unified approach to regulation of housing allowance. Majority of local governments disburse housing allowance only during the heating season, thus it does not provide monthly support for ensuring of housing, which is particularly important for needy and low-income persons. At the same time, I have detected, that exactly housing maintenance costs are considered by inhabitants as the most significant, which shall be definitely paid. To cover these costs, some inhabitants cannot afford proper nutrition and healthcare services, including acquisition of necessary medicines.

2.3. Social guarantees for young persons after extra-familial care

The obligation of the state to particularly support children, who have left without parental care, is stipulated in section 110 of the Constitution of the Republic of Latvia. Whereas section 43(1) of the Protection of the Rights of the Child Law stipulates, that children, who have reached the age of majority and whose extra-familial care is terminated, are entitled to receive social guarantees until reaching 24 years of age. Social guarantees are provided by local governments and involve disbursement of various benefits and support of local government in solving the housing issue, as well as psycho-social assistance.

¹⁰ Section 23(9) of the Law “On State Pensions”, the Cabinet of Ministers Regulations No. 156 “Regulations Regarding the Minimum Amount of the Survivor's Pension, Compensation for Loss of Provider and State Social Security Benefit in the Case of Loss of Provider, and Procedures for the Review thereof” of 21 March 2017.

¹¹ The Cabinet of Ministers Regulations No. 913 “Regulations on the Guaranteed Minimum Income Level” of 18 December 2012.

¹² The Cabinet of Ministers Regulations No. 299 “Regulations Regarding the Recognition of a Family or Separately Living Person as Needy” of 30 March 2010.

According to the Cabinet of Ministers Regulations No. 857 “Regulations on Social Guarantees for an Orphan and a Child Left Without Parental Care, Who is in Out-of-family Care, and After Termination of Out-of-family Care” of 15 November 2005, the amount of benefits disbursed by the local government may not be less than the amount determined by the Cabinet of Ministers. According to the Regulations, a young person is entitled to receive a benefit for starting an independent life, the amount of which is not less than the amount of two social security benefits, i.e., 128.06 euros. Paragraph 30 of the Regulations stipulates eligibility for receiving a one-time benefit for acquisition of household items and soft inventory. The amount of said benefit shall not be less than 249.71 euros. The Regulations also stipulate, that it comprises a half of the amount, which is required to equip housing with the minimum household items and soft inventory necessary for starting an independent life (consequently, it is presumed, that an amount of 499.42 euros is required for furnishing of housing).

If a young person continues his or her studies at an institution of general or vocational education, university or college, and successfully acquires an educational programme, the local government shall disburse a benefit for monthly expenses, which is not less than the state social security benefit – i.e., 64.03 euros monthly.

The practice shows, that some local governments disburse benefits equal to the minimum amount set in the Regulations of the Cabinet of Ministers, without taking into consideration, that the amount of benefits is insufficient and cannot cover the actual costs and fulfil even basic needs of young persons. The Regulations of the Cabinet of Ministers, which stipulate the minimum amounts of benefits, were adopted 13 years ago, which, in its turn, actually does not correspond to the current economic situation. To ensure adequate support, changes to the legal framework have to be made and the amounts of benefits have to be determined according to the actual expenses, granting state financing for this purpose.

3. Technical aids for persons with special needs

Applications of parents concerning manufacturing of technical aids or granting a compensation indicate to systematic problems in the procedure of granting technical aids. The inspection case led to a conclusion that it is required to:

- increase the compensation to be disbursed to a person from the state budget funds for acquisition of technical aid, if a person acquires it at own expense in a Member State of the European Union or the European Economic Area, or the Swiss Confederation. Currently, the amount of disbursed compensation is determined at not more than 2,500 euros. (For those technical aids, which cannot be manufactured or specially equipped in Latvia); orthoses issued by the Technical Aids Centre do not suit in many cases. If orthoses cannot be manufactured individually in Latvia, manufacturing of orthoses in the European Union shall be financed at the rate of 100%;
- revise the orthoses procurement (base) prices determined by the state, which are low and are not adequate, as they were adopted before 1 September 2009. Therefore, orthoses manufactured in Latvia are low quality and very often unusable. For manufacturers it is problematically to manufacture a full spectre of orthoses, incl. for the price determined by the state, which in separate cases does not cover the manufacturing cost. In separate cases the base prices are even tenfold lower than the manufacturing cost;

- grant financing for acquisition of technical aids, which can be allocated to patients for use to prevent a situation, when a child has to wait for them for several months (for example, a waiting period for receiving a wheelchair is approximately 9 months).

4. Government initiatives for mitigation of inequality and poverty

In 2014, a concept “On Determination of Minimum Income Level”¹³ was developed, which is aimed at mitigation of poverty and income inequality, based on solidarity principles – to determine a minimum income level, which is methodologically justified and corresponds to the socio-economic situation, which would serve as a milestone for improvement of support measures determined within the framework of areas of social security system (state social benefits, social insurance, social assistance). Initially, this concept was planned to be introduced already in 2017.

In my opinion, introduction of this concept would significantly improve the social security of less protected inhabitants of Latvia. However, by now, the initially planned idea is already transformed and its introduction is postponed already for several years.

On 9 March 2017, a draft plan “Plan for Improvement of the Minimum Income Support System for 2018-2020” was announced at the State Secretaries' meeting; however, it was not included for examination in the agenda of the Cabinet of Ministers meeting.

On 10 May of this year, the updated draft plan “Plan for Improvement of the Minimum Income Support System for 2018-2020” (hereinafter – the Draft Plan) was announced at the State Secretaries' meeting, which was aimed at improvement of the minimum income support system, providing support to the social groups that are most exposed to poverty and income inequality risks.

In the Letter No. 90/TA-1363/6859 of 17 September 2018, the Cabinet of Ministers has indicated to the Ombudsman, that pursuant to the resolution adopted by the Prime Minister on 23 August 2018, the Draft Plan will be prepared for examination at the Cabinet of Ministers meeting during the process of preparation of the draft state budget for 2019.

It has to be noted, that also measures specified in this plan do not reach the practice recognized in European states for harmonization of the minimum income level with the poverty risk limit; however, it would be a substantial improvement for strengthening social security guarantees offered to inhabitants of Latvia.

5. Evaluation by international experts

The Republic of Latvia has declared itself as a socially responsible state. An obligation of a socially responsible state is to take care of equalization of social differences, and this principle includes ensuring of dignified life, protection in the case of social risk, as well as ensuring of social justice.

The international documents binding upon Latvia stipulate an obligation to follow the level of implementation of rights and social securities, and improve it, if necessary.¹⁴

¹³ Approved by the Cabinet of Ministers Order No.619 “Regarding the Concept “On Determination of the Minimum Income Level”” of 30 October 2014, available at: <http://tap.mk.gov.lv/lv/mk/tap/?pid=40330153>

¹⁴ Section 30 of the Revised European Social Charter; General Comment No. 19 on Economic, Social and Cultural Rights. The right to social security (section 9) paragraph 59.

In late 2017, while examining the Report on implementation of sections 3, 11, 12, 13, 14 and 30 of the Revised European Social Charter, submitted by the Republic of Latvia, the European Committee of Social Rights concluded, that the situation in Latvia does not comply with requirements of section 30 of the Charter, because there is no proper general and harmonised approach to fighting poverty and social exclusion in Latvia.¹⁵

I also remind, that the Council of the European Commission in the Recommendation on the National Reform Programme of Latvia 2018, by which the Council gives its opinion on the Latvia's Stability Programme 2018, has included among three given recommendations a call for improvement of adequacy of the minimum income benefit, minimum retirement pension and income support granted to persons with disability, and for improvement of availability, quality and cost-effectiveness of the healthcare system.¹⁶

Sincerely,

Ombudsman of Latvia

Juris Jansons

¹⁵ Conclusions of the European Committee of Social Rights of 8 December 2017. Available at: <https://hudoc.esc.coe.int/eng#%7B%22ESCArticle%22:%5B%2230-00-163%22%5D,%22ESCCharterId%22:%5B%22163%22%5D,%22ESCDcType%22:%5B%22FOND%22,%22Conclusion%22,%22Ob%22%5D,%22ESCStateParty%22:%5B%22LVA%22%5D,%22ESCDcIdentifier%22:%5B%222017/def/LVA/30/EN%22%5D%7D>

¹⁶ The Recommendation of the Council of European Commission on the National Reform Programme of Latvia 2018, by which the Council gives its opinion on the Latvia's Stability Programme 2018. Available at: https://ec.europa.eu/info/sites/info/files/file_import/2018-european-semester-country-specific-recommendation-commission-recommendation-latvia-lv.pdf