



Ombudsman of the Republic of Latvia

Alternative report
On the Second Report of the Republic of Latvia
on the unratified articles of the European Social Charter

2023

Terms

Charter – the Revised European Social Charter

Ombudsman – Ombudsman of the Republic of Latvia

Report – Second Report of the Republic of Latvia on non-ratified Articles of the European Social Charter

Introduction

The Government of the Republic of Latvia has provided a comprehensive Report on Article 4(1), Article 12(3) and (4), Article 19, Article 23, and Article 31(2) and (3) of the Charter. The Government considers that the situation in Latvia does not comply with the requirements of the relevant articles of the Charter.

The Ombudsman, as the national human rights institution of the Republic of Latvia, provides this alternative report as an addition to the State's national report.

The alternative report does not analyse Article 19 of the Charter (The right to protection and assistance of migrant workers and their families).

In agreement with the report, the Ombudsman will provide additional insight into Latvia's situation in relation to the provisions of Articles 4, 12, 23 and 31 of the Charter.

Article 4 Right to a fair remuneration

With a view to ensuring the effective exercise of the right to fair remuneration, the Parties undertake:

- 1. to recognise the right of workers to a remuneration such as will give them and their families a decent standard of living.**

In addition to the report on the conditions for setting the minimum wage, the Ombudsman draws attention to the fact that Latvia sets a different minimum hourly rate and a different amount of minimum monthly wage for persons convicted with deprivation of liberty. Namely, Section 56.¹⁶ of the Sentence Execution Code of Latvia (hereinafter – the Code) provides that the minimum hourly tariff rate and the minimum monthly wage for convicted persons serving the sentence in a closed or partially closed prison, as well as for juvenile convicted persons (hereinafter – the convicted person) are 50 per cent of the remuneration determined in the State. Furthermore, Article 56.¹⁷ of the Code provides that, to recover the remuneration of the convicted person, deductions are made in the amount of up to 80 per cent of the salary.¹

¹ [The Ombudsman's letter No 1-8/22 of 26 June 2023 on the remuneration of persons sentenced to deprivation of liberty](#)

Article 12 Right to social security

With a view to ensuring the effective exercise of the right to social security, the Parties undertake:

3. to endeavour to raise progressively the system of social security to a higher level.

Minimum income thresholds

Since 1 January 2021, improvement in the field of social security has been achieved using the constitutional rights' defence instrument – the Constitutional Court. The minimum income thresholds – the level of guaranteed minimum income, the level for determining the status of a poor and low-income household, the amount of state social security benefit, as well as the amount of minimum pensions, are determined using the relative method. Namely, the State minimum income thresholds have been chosen to be calculated as a percentage of the median of the current income, which is determined according to the equivalence scale chosen by Latvia – 1, 0.7, and 0.7. The minimum income threshold shall not be lower than 20 % of the median current income. The minimum pensions are set at 25 % of the median or 30 % of the median for a disabled person since childhood, differentiated according to the disability group (disability pensions) or insurance period (old-age pensions). As of 2024, the minimum income thresholds are expected to be reviewed annually on 1 January. In 2023, the minimum income thresholds were revised on 1 July.

From 1 July 2023, a median income of EUR 626,57 for 2020 has been used in setting minimum income thresholds². Accordingly, 20 % of the median income is EUR 125.³

However, it should be noted that, even after the changes made in minimum income, there are shortcomings. Namely, in its judgment of 5 October 2023 in case No 2022-34-01, the Constitutional Court⁴ recognised that the procedure for setting the minimum income threshold established in Latvia together with other measures of the social security system does not create an opportunity for any needy person to build a life in accordance with human dignity. There is still no social assistance system in place to ensure transparent provision of support, so that both local authorities, policy makers and the legislator have access to

² [NNM080. Median minimum \(MIL\) income \(disposable income per household member; scale 1, 0.7, 0.7\) \(euro\) 2004 – 2021 | Official Statistical Database](#)

³ [Minimum income thresholds until 1 July 2023 and from 1 July 2023](#) (available in Latvian)

⁴ [Judgment of the Constitutional Court of 5 October 2023 in case No 2022-34-01](#)

information on the amount and effectiveness of support provided to deprived persons. By the above-mentioned decision, the Constitutional Court recognised the norms establishing the minimum income threshold and the procedure for reviewing it as being incompatible with Article 1 and Article 109 of the Satversme of the Republic of Latvia and invalid as of 1 January 2025.

This indicates, in turn, that the other minimum amounts, starting with the State social security benefit for persons with group III disability and persons who have reached the age required for the granting of an old-age pension, which is set at 20 % of the median, cannot be regarded as sufficient to ensure a dignified life.

On the minimum object of mandatory State social insurance contributions

The Report indicates that as of 1 July 2021, a minimum object of mandatory State social insurance contributions has been introduced in Latvia (hereinafter – the minimum object of mandatory contributions), while also providing for certain groups of persons, which are exempt from the payment of minimum mandatory contributions. The Report indicates that persons with disabilities are exempt from mandatory minimum contributions.

In Ombudsman's opinion, it is necessary to clarify the above-mentioned statement in the Report. Persons with group I and II disability are exempt from the minimum mandatory contributions, whereas persons with group III disability are required to pay the minimum contributions.

The Ombudsman considers that, firstly, such system reduces the employability of people with group III disability. They are often people who do low-skilled work but are unable to work full-time due to functional or mental disorders. With the new arrangements, employers avoid employing such people part-time. Secondly, this system constitutes a violation of legal equality vis-à-vis persons with group I and II disability. Meaning, persons with group I and II disability are placed in an unequal situation, because the State does not provide them with social protection guaranteed by minimum compulsory contributions compared to other workers, including persons with group III disability. Since the social security objective is to ensure social protection and the State has set such an objective for all employed persons, including those with group III disability, it is unclear why this level of social protection is reduced for people with group I and II disability.⁵

⁵ Ombudsman's letter No 1-8/25 of 28 May 2021.

4. to take steps, by the conclusion of appropriate bilateral and multilateral agreements or by other means, and subject to the conditions laid down in such agreements, in order to ensure:

(a) equal treatment with their own nationals of the nationals of other Parties in respect of social security rights, including the retention of benefits arising out of social security legislation, whatever movements the persons protected may undertake between the territories of the Parties;

(b) the granting, maintenance and resumption of social security rights by such means as the accumulation of insurance or employment periods completed under the legislation of each of the Parties.

On 15 June 2023, the Saeima supplemented⁶ the Law on State Pensions with norms stipulating that the right to old-age and survivors' pension for a person who resides permanently outside the territory of Latvia in a country which is not a Member State of the European Union, a State of the European Economic Area (EEA) or a State with which an agreement on cooperation in the field of social security is in force, if he or she has reached the age necessary for granting an old-age pension in accordance with the Law on State Pensions and if it has accumulated the insurance period required for the granting of a pension in accordance with this Law⁷.

Thus, the number of persons who are guaranteed payment of old-age and survivor's pension for the period of service in Latvia has been extended, provided that the person's accumulated insurance period is sufficient.

⁶ [Amendments to the Law on State Pensions" of 15 June 2023](#) (available in Latvian)

⁷ In accordance with Section 11, Paragraph 1 of the Law On State Pensions in conjunction with Paragraph 8.² of the Transitional Provisions, until 31 December 2024, the insurance period required for granting old-age pension is 15 years, and from 1 January 2025 – 20 years.

Article 23 The right of old people to social protection

With a view to ensuring the effective exercise of the right of elderly persons to social protection, the Parties undertake to adopt or encourage, either directly or in co-operation with public or private organisations, appropriate measures designed in particular:

— to enable elderly persons to remain full members of society for as long as possible, by means of:

(a) adequate resources enabling them to lead a decent life and play an active part in public, social and cultural life.

In addition to the report on social guarantees targeted for the social protection of older people, it should be noted that the average amount of old-age pension, e.g., in June 2023, was EUR 530, which accordingly exceeds 80 % of the median income of 2020 (see comment under Article 12). However, Latvia has a large number (around 15 %) of old-age pension recipients whose old-age pension is below 50 % of the median income (EUR 313)⁸. However, if a person's income does not exceed 50 % of the median income, a person may claim the status of a poor household and, accordingly, social assistance provided by the local government, including the payment of expenditure related to the use of housing (see the comment to the report on Article 12 and Article 31).

(b) provision of information about services and facilities available for elderly persons and their opportunities to make use of them;

– to enable elderly persons to choose their lifestyle freely and to lead independent lives in their familiar surroundings for as long as they wish and are able, by means of:

a) provision of housing suited to their needs and their state of health or of adequate support for adapting their housing;

b) the health care and the services necessitated by their state;.

The function of the National Preventive Mechanism of the Optional Protocol to the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) is exercised in Latvia by the Ombudsman, which provides for regular

⁸ Breakdown of old-age pensions by the amount granted (with supplement) (please select reference period). Available at: <http://www.statistika-vsaa.lv/2020/10/rez10.html>

visits to places where the freedom of individuals is de jure or de facto restricted, including institutions (social care centres) where older people/seniors live.

When carrying out visits to social care centres, it can often be observed that institutional environment (e.g., hospital ward-like rooms), rooms are not cozy and comfortable (door thresholds, narrow doors, insufficient space for functional aids). Sometimes there is no privacy in the rooms of older people, 3-4 persons in one room, and privacy is also not ensured in situations where individual care (dressing, hygienic or medical procedures) is not provided, either due to lack of shielding equipment or because they are not used. Sometimes there is no lockable storage for personal belongings, residents must share cabinets with roommates (one wardrobe for several residents).

In many cases, for the elderly, daily activities (activities, events) and walks are not provided or are insufficient, thereby socially isolating the elderly from society.

It is not clear from the Report stating that a person can choose a service that meets the person's wishes only if their income exceeds EUR 1000 per month.

According with the provisions of Section 28 of the Law on Social Services and Social Assistance, persons of retirement age and persons with functional disorders if the required amount of service exceeds the amount specified for home care or care in a day care and a social rehabilitation institution, have the right to receive long-term social care and social rehabilitation service.

The rights of clients of long-term social care and social rehabilitation institutions are laid down in Section 29 of the Law on Social Services and Social Assistance. In particular, the customer has the right:

- to independently take decisions and implement them to the extent it does not restrict the rights and freedoms of other persons or does not endanger the health or life of the person;
- to receive services suitable for his or her functional state and the necessary care level and also to individual and professional approach of the personnel in the provision of services;
- to stay outside the institution in the care of another person (family) from one month to three months;
- a certain amount of money for personal expenses. The amount of money that after payment of the service remains at the customer's disposal may not be less than 15 % of the amount of the pension paid to the person.

In accordance with Article 8 of the Law on Social Services and Social Assistance, a client or their sponsor is obliged to pay for the received social care and social rehabilitation services. If a client or their sponsor is unable to pay for social care or social rehabilitation service, the cost of the service shall be covered from the local government budget in accordance with the procedures laid down by the Cabinet of Ministers.

The procedures by which a customer who receives social care or social rehabilitation service (hereinafter – the service) shall pay for the service, and the procedures by which the cost of the service is covered from the local government budget, if the customer or their sponsor is unable to pay for the service, shall be determined by Cabinet Regulation No 275 of 27 May 2003 Procedures for Payment of Social Care and Social Rehabilitation Services and Procedures by which Service Costs shall be covered from the Local Government Budget (hereinafter – Regulation No 275).

According to these provisions, the obligation to pay for the service lies with the recipient of the service (the customer). If the means at their disposal, usually an old-age pension, are not sufficient, the payment of the service lies with the customer's sponsor, i.e., a person who is obliged by law⁹ or a court decision to take care of their spouse, children, or parents. If the funds of the client and/or their sponsor are not sufficient to pay for the service, then the service is co-financed from the local government budget. At the same time, it should be noted that local governments have determined in their binding regulations to what extent they provide co-financing for the provision of the service.

At the same time, it should be noted that during 6 to 26 March 2023, the Ombudsman's Office organised a campaign "How is life in a nursing home?" receiving feedback and complaints about the work of several nursing homes and the attitude of their employees towards residents of these institutions and their relatives. During the campaign, people in Latvia expressed concern that the amount of their pension is not sufficient to pay for a nursing home if their state of health would require such care. In Latvia, the cost of a nursing home is about EUR 25-40 per day, while the amount of pension is often lower.

⁹ In accordance with Section 188 of the Civil Law, the obligation to maintain parents and, if necessary, grandparents rests on all children in proportion to their ability to maintain parents or grandparents and property status.

Article 31 Right to housing

With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed:

2. to prevent and reduce homelessness with a view to its gradual elimination;

Access to housing is also closely linked to the problem of homelessness in the country. The lack of affordable housing, among other things, is one of the causes of homelessness. Latvia has one of the highest housing overcrowding levels in Europe. This reflects the problem of housing provision in general, not just among one target group. A study carried out by the Ombudsman's Office in 2019 concluded that there is little data on homelessness, and this problem is not addressed at national level. In all policy documents and legislation, the problem of homelessness has been reduced to the provision of shelter/night shelter services. No policy measures have been put in place to relocate homeless people from shelters to temporary accommodation and later to permanent residence.

3. to make the price of housing accessible to those without adequate resources.

Already in 2018, the Ombudsman drew the attention of the Ministry of Economics to the insufficiency of the local government housing, informing that due to lack of financing local governments do not replenish the housing or actively improve technical condition of the existing housing, except Riga, Valmiera, and Cēsis. The residential fund is replenished mainly at the expense of the residential premises with no heirs, as well as through the acceptance of purchases and gifts. When implementing one of their autonomous functions – to provide assistance to residents in solving apartment issues, local governments, within the framework of the annual budget, must provide money for the development of the residential fund, especially by promoting access to social housing for vulnerable groups of persons.

In March 2021, the Ombudsman made his recommendations for improving the draft plan of the Recovery and Resilience Plan prepared by the Ministry of Finance. Decent housing in a safe living environment is a basic human need. Considering that there is much higher demand for low-cost rental housing than planned in the Recovery and Resilience Plan, as well as to meet the requirements of the Latvian National Development Plan, the Ombudsman sent a letter to the Ministry of Finance calling for more financial resources to be allocated in the Recovery and Resilience Plan, providing for a larger number of rental housing constructions available to residents with medium and low income. However, this was not considered.