



LATVIJAS REPUBLIKAS TIESĪBSARGS

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Rīgā

2014.gada 13.februārī Nr.1-8/5

Ministru prezidentei
L.Straujumai
Brīvības bulvārī 36
Rīgā, LV – 1520

Par likumprojektu „Veselības aprūpes finansēšanas likums”

Cienījamā Straujumas kundze!

Saeimā 1.lasījumā ir pieņemts likumprojekts „Veselības aprūpes finansēšanas likums”. Minētais likumprojekts galvenokārt nosaka veselības aprūpes finansēšanas vispārējos principus un organizatorisko struktūru, tomēr tas skar arī iedzīvotāju tiesības uz veselības aprūpi.

Likumprojekta apspriešanas gaitā esmu norādījis, ka likumprojekts nav atzīstams par sociāli taisnīgu un nesamērīgi ierobežos cilvēktiesības. Turklāt gandrīz visas nozari pārstāvošās nevalstiskās organizācijas – Latvijas Ģimenes ārstu asociācija, Latvijas Lauku ģimenes ārstu asociācija, Latvijas Slimnīcu biedrība ir izteikušas kritiku par likumprojektu un tā tālākas virzības lietderību.

Tomēr uz jebkuru iebildumu par likumprojekta trūkumiem veselības ministre I.Circene kā vienu no būtiskiem argumentiem min ANO Augstās komisāres cilvēktiesību jautājumos pozitīvu slēdzienu. Tādēļ uzskatīju par savu pienākumu pārliecināties par šāda dokumenta esamību un tā saturu.

ANO Augstā komisāre cilvēktiesību jautājumos atbildes vēstulē tiesībsargam informē par tikšanos ar veselības ministri 2013.gada jūnijā, kurā pārrunāts koncepcijas (nevis likuma) projekts par veselības aprūpes sistēmas finansēšanas modeli. Sarunas laikā augstā komisāre ministrei uzsvērusi, ka ikvienam ir jābūt pieejai pilnam veselības aprūpes pakalpojumu klāstam bez jebkādas diskriminācijas.

Augstā komisāre vēstulē norāda, ka atbildība par veselības aprūpes jaunās politikas atbilstību cilvēktiesību standartam gulstas uz visām likumdošanas procesā iesaistītajām pusēm.

No iepriekšminētā secinu, ka likumprojektam „Veselības aprūpes finansēšanas likums” nav saņemts ANO Augstās komisāres cilvēktiesību

jautājumos pozitīvs slēdziens, līdz ar to veselības ministre ir maldinājusi Latvijas sabiedrību.

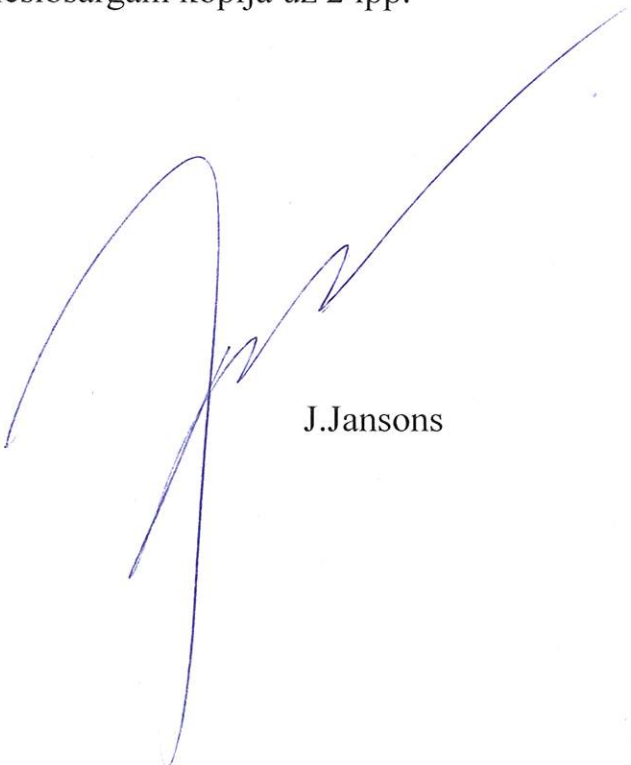
Šāda augstas valsts varas pārstāves rīcība ir pretrunā labas pārvaldības principam, tiesiskumam un vispārpieņemtajiem ētikas standartiem.

Pielikumā:

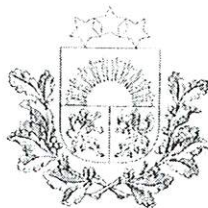
Tiesībsarga 2014.gada 27.janvāra vēstules Nr. 1-7/1 ANO Augstajai komisārei cilvēktiesību jautājumos Navenethemai Pillejas kundzei kopija uz 3 lpp.

ANO Augstās komisāres cilvēktiesību jautājumos biroja 2014.gada 10.februāra atbildes vēstules tiesībsargam kopija uz 2 lpp.

Ar cieņu,
tiesībsargs



J.Jansons



OMBUDSMAN OF THE REPUBLIC OF LATVIA

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Rīga

27 January 2014 No 4-7/1

Ms. Navanethem Pillay
UN High Commissioner for Human Rights
Office of the United Nations
High Commissioner for Human Rights
Palais Wilson - 52, rue des Pâquis
CH-1211 Geneva 10 (Switzerland)

Honorable Ms. Pillay,

Highly appreciating your experience, knowledge and competence in the protection of human rights, and appreciating and sharing your endeavors and efforts, I still feel obligated to inform you of the fact of incorrect, as I believe, reflecting upon the opinion expressed by you regarding the expected new health care financing model in Latvia.

The Government of the Republic of Latvia intends to change the health care financing model. Therefore, the draft "Health Care Financing Law" is currently presented for considering to the Parliament of the Republic of Latvia, proposing a conceptually new procedure for access to the health care services funded by the State, that is, access to health care would be tied to the payment of tax (filing the income return) on fixed amount of annual income.

The services available regardless of the payment of tax would only include emergency medical assistance, scheduled health care for patients with certain conditions and diagnosis (8 groups) and compensation of medicines and medicinal devices for outpatient treatment in the amount fixed by the Government. In addition, 19 categories of individuals have been approved as eligible to insurance provided by the State.

The right to health care is among the fundamental human rights subject to protection in accordance with the Constitution of the Republic of Latvia and international treaties binding upon it. In my capacity of the Ombudsman of the Republic of Latvia, I have the duty to follow up any changes in this field of law that is vitally important to the society.

According to the global experience, the features of health policy crucial to the public health include: comprehensive protection of finances under the governmental control;

fair distribution of resources; comprehensive availability of services, and low co-payments for primary health care.¹

Having familiarized with the concept and draft law proposed by the Government, I am concerned that the new approach would prevent access to the health care services financed by the State, including the primary health care, for a high number of inhabitants of our country. According to the data of the Ministry of Health, 145 thousand individuals or about 6% of the total population of Latvia in giving age are neither payers of resident income tax (RIT) nor covered by State insurance.² According to the forecasts of the Ministry, only 5% or 7250 individuals out of the above-specified number can be expected to join the State insurance system and make voluntary contributions in the amount of EUR 28 a month. It can be therefore proposed that about 138 thousand inhabitants of Latvia would have no access to the health care services funded by the State. The above-mentioned group eventually includes individuals employed without legal grounds and not registered with the employment services, who would be enabled by the proposed reform to fix their social status and join the State health insurance system.

I am particularly concerned by the fact that State-funded health care, including the primary care, would be made unavailable to the members of Latvian society who are fair tax payers yet their income is either irregular or small, corresponding with the social and economical situation of Latvia.

It is important to note that the above-mentioned group is comprised of individuals in giving age who have been unable to gain income in the amount of at least 12 minimum wages fixed by the State during the year³. The minimum monthly wage fixed by the Government in 2013 makes 320 EUR/month.⁴ According to statistic data, about 68.5 thousand employees or 18% gain income under 100 Latvian lats (142 euro) a month⁵. Under the new concept, low-income individuals would be forced to set another 28 euro aside from their content income every month for access to State-funded health care.

I have identified, apart from the above-mentioned, that the new concept does not include the basic health care services and the primary health care for such a category of individuals subject to international protection as asylum-seekers.

¹ Starfield B., Primary care: an increasingly important contributor to effectiveness, equity and efficiency of health services. SESPAS report 2012., Gac Sanit. 2012. Doi:10.1016/j.gaceta2011.10.009

² Assessment report on the effect of the draft Health Care Financing Law, Part III, par. 6.2, available at: <http://titania.saeima.lv/LIVS11/SaeimaLIVS11.nsf/0/50843B52838DC30CC2257C32004A6798?OpenDocument>

³ The draft law proposes that State-funded health care services would be also available to individuals if the aggregate income (12 minimum monthly wages) is earned by the individual in the period of 11 months.

⁴ Cabinet Regulations No 665 of 27.08.2013 Regarding the Minimum Monthly Wages and the Minimum Hourly Rate.

⁵ Central Statistic Board of the Republic of Latvia, available at: www.csb.gov.lv.

Given the high risk of poverty and social exclusion in Latvia⁶ and the negligible amount of social support, it is my opinion that such concept is not socially equitable and that it has the effect of incommensurable restriction of human rights. It does not ensure the minimum medicinal assistance to everyone, and it can be expected to increase the number of unemployed persons and recipients of allowances, and to encourage social exclusion and deteriorate the already critical health condition of the inhabitants of Latvia.

What I am concerned most of all is the behavior of Ms. Ingrida Circene, the Minister of Health: when railroading the new concept, she opposes any reservations regarding the shortcomings of the new concept by quoting the opinion issued by you and the UN Task Force for human rights in June 2013 that "the minimum health care provided for in the concept is even above the level necessary to ensure proper protection to the patients with chronic diseases and social risk groups. The UN experts have noted that no threat to human rights has been identified in relation to the new health care concept presented by the Ministry of Health".⁷

Probably you have issued the above-quoted opinion upon assessment of the concept and the new draft law on theoretical level, without delving into the social and economical reality of Latvia, that is, without knowledge of statistic data regarding the level of income of the Latvian people, their social exclusion, social support system, solvency of inhabitants and their access to health care. Probably you have had no opportunity to familiarize with the impartial opinion of the representatives of NGOs and human right bodies regarding the issue in question.

You are therefore kindly asked to issue a repeated opinion regarding the proposed health care financing model with due regard of the above-described aspects.

Ombudsman of the Republic of Latvia

Juris Jansons

⁶ 40% of the inhabitants of Latvia are exposed to the risk of poverty and social exclusion; Eurostat; available at: http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=ilc_peps03&lang=en; Central Statistic Board of the Republic of Latvia, available at: www.csb.gov.lv.

⁷ Preliminary assessment report on the effect of the draft law Health Care Financing Law, available at: <http://titania.saeima.lv/LIVS11/SaeimaLIVS11.nsf/0/50843B52838DC30CC2257C32004A6798?OpenDocument>

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REFERENCE: RRDD/HRESIS/CC/LG/18

10 February 2014

Dear Mr. Jansons,

I would like to thank you for your letter of 27 January 2014, in which you raised a number of concerns regarding the draft health care financing law which is currently before the Latvian parliament.

As you may be aware, OHCHR met with the Minister of Health in June last year to discuss how the draft health policy under consideration could be aligned with human rights standards and principles. In this regard, we underscored, among other things, the need for a fully participatory process in which all stakeholder views were represented as well as the need to ensure the protection of vulnerable and marginalised groups. In addition, we noted that the prioritisation of budget allocations for health care was paramount and that everyone should have access to the full complement of health care services without discrimination.

OHCHR considers that, in a process as important as this one, human rights advocates such as your office have a crucial role to play. Indeed, I am fully persuaded that an inclusive and participatory decision-making process is an indispensable element of the margin of appreciation available to states to determine how best to meet their human rights obligations. As is the norm in such processes, and as you are well aware, there are many fundamental questions that must be settled before finalisation and, while I offer my encouragement to all involved, it is for the Latvian stakeholders to determine the suitability of any new health policy within the parameters of Latvia's human rights obligations. Consequently, OHCHR welcomes the opportunity to provide technical guidance on applicable human rights norms. However, it is not our office's policy to offer the wholesale endorsement of specific programmes, laws or plans.

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Mr. Juris Jansons
Ombudsman of the Republic of Latvia
Baznīcas iela 25
Rīga, LV-1010
Latvia



On another note, I take this opportunity to welcome you on your Office's decision to apply for accreditation with the International Coordinating Committee of National Human Rights Institutions. Please do not hesitate, in due course, to contact my colleagues in the National Institutions and Regional Mechanisms Section of OHCHR for assistance in this process. I wish you every success in your very important endeavours.

Yours sincerely,

Bacre Ndiaye
Director
Officer-in-Charge

Research and Right to Development Division

cc:
His Excellency
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