



OMBUDSMAN OF THE REPUBLIC OF LATVIA

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Riga

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To: Mr. Nils Muižnieks
the Commissioner for Human Rights of the Council of Europe
Mr. Herman Van Rompuy
The President of the European Council
Ms. Viviane Reding,
Vice President of the European Commission and Commissioner for Justice, Fundamental
Rights and Citizenship
European Economic and Social Committee
Agency for Fundamental Rights
International Ombudsman Institute

For information:
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President of the Republic of Latvia
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Chairman of the Saeima (Parliament) of the Republic of Latvia
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Report on the risk of poverty in Latvia

I. Situation description

Notwithstanding the information provided by the Latvian government about rapid recovery of the national economy, improvement in economic indicators, that for the third quarter in a row Latvia is the fastest growing economy in the European Union, social reality and statistical data suggest that the economic stress is still felt by more than one half of the Latvian population, in the regions of Vidzeme and Latgale even 76.4 to 77.7% households.¹ Data suggest that economic stress in the households is not weakened, by contrast, keeps growing. 40% of the Latvian population including 43% of children and 33% of pensioners are exposed to the risk of poverty and social exclusion.²

¹ Central Statistical Bureau of the Republic of Latvia, accessible on: <http://www.csb.gov.lv/dati/statistikas-datubazes-28270.html>.

² Eurostat, accessible on: http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=ilc_peps03&lang=en;
Central Statistical Bureau of the Republic of Latvia, accessible on: www.csb.gov.lv.

In accordance with data from the Statistical Office of the European Union (hereinafter referred to as Eurostat) in the European Union (hereinafter referred to as the EU) on average expenditure of governments of the Member States for social protection is 29.4% from GDP, while Latvian government for this purpose directs only 17.8%, which is the second lowest indicator among the Member States.³

The 2011 threshold for the risk of poverty calculated by Eurostat in Latvia was 147 Latvian lats (or 209 euros) a month per person.⁴

Right now 1106 pensioners in Latvia are receiving the old-age pension under 50 Latvian lats (71 euros), but the number of recipients of the old-age pension from 50.01 to 150 Latvian lats (213 euros) is 100,083. Invalidity pension in September of this year has been paid to 69,633 residents of Latvia and its average amount is 119 Latvian lats (169 euros).⁵

By making quite simple calculations, it is possible to conclude that approximately 170.8 thousand or 8.5% of Latvia's population: pensioners and people with disabilities that in the context of human rights are considered to be more vulnerable groups of the population requiring specific state aid, in Latvia are subject to the risk of poverty.

Minimum wage since 1 January 2011 is set as 200 Latvian lats (284 euros) per month. After payment of taxes for subsistence of an individual remains 144 Latvian lats (205 euros), consequently an amount that is less than the estimated threshold for the risk of poverty. Data are indicative that 189.8 thousand of Latvian population⁶ are receiving the minimum wage or the amount that is less than the minimum wage, and this constitutes a quarter of all the employees.

Level of the registered unemployment in Latvia at the end of the 2nd quarter of this year was 15.9% of the total economically active population, which is the fourth highest rate among the European Union countries. Data are indicative that 45.8% of the unemployed have no work for more than a year, consequently these are people that no longer receive unemployment benefits and potentially are subject to the risk of poverty.⁷ The contents of applications received in the Ombudsman Office are indicative that the actual unemployment rate could be even higher, since a part of the long-term unemployed persons has lost motivation to visit the State Employment Agency, and therewith they have lost the unemployment status and are not listed as unemployed persons.

Of course, data relating to personal income, given the high proportion of the shadow economy in the country⁸ and illegal employment may not be objective, however, in my opinion all the above figures are alarming enough in order to become a focus of international attention.

II Ombudsman's initiatives

Further I will refer just to one illustrative example I have selected, since a large part of the applications in the field of social rights is received by the Ombudsman office exactly from the pensioners and contains only one question: how can a person survive with so small pension to say nothing of dignified human life and enjoying well-earned old age.

³ Eurostat, accessible on: http://epp.eurostat.ec.europa.eu/portal/page/portal/social_protection/data/main_tables

⁴ Eurostat, accessible on: http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=ilc_li01&lang=en.

⁵ State Social Insurance Agency, statistical data on 1 September 2012; accessible on: <http://www.vsaa.lv/lv/budzets-un-statistika/statistika>.

⁶ Central Statistical Bureau of the Republic of Latvia, table DS14, accessible on: <http://www.csb.gov.lv/dati/statistikas-datubazes-28270.html>.

⁷ State Employment Agency, [Report on situation of unemployment in the country at September 2012](#), accessible on: <http://www.nva.gov.lv/index.php?cid=6&mid=404&txt=413&t=stat>.

⁸ Studies of different experts indicated proportion of shadow economy is 26.5% to 30.3% of GDP.

Since 1996 in Latvia a minimum amount of the old-age pension has been set. Consequently, if the amount of pension calculated for a person is low, the country has defined an additional payment to a particular level. Right now the minimum old-age pension is determined on the basis of the state social security benefit, by application of relevant coefficients to it, taking into account the duration of insurance periods of the person.

In November 2011 the Ombudsman's opinion on the determination of the amount of old-age pension was sent to the Presidium of the Saeima and to the Cabinet of Ministers⁹. Opinion has stated that no criteria have been developed in Latvia for the determination of the minimum social security level. The state social security benefit, to which the minimum amount of old-age pension is linked, is 45 Latvian lats (64 euros) per month, and this amount has remained constant since 1 January 2006. It is based neither on economic indicators, nor estimates of the necessary means to ensure the needs of an individual, and is obviously much less than the estimated threshold for the risk of poverty. This opinion appealed to the Cabinet of Ministers to determine the minimum amount of old-age pensions, to be based on definite calculations and the method aimed at determination of the minimum amount of social security. I have insisted also that, although the country enjoys a wide freedom of action in the field of social rights and as a result of political decision may select the most suitable type how to guarantee a social security to minimum amount, it can not completely depart from such an obligation.

However, the Saeima and the government of the Republic of Latvia have not yet expressed willingness to address this sensitive issue in a systemic manner.

III Constitutional rank of social rights and international obligations

Article 109 of the Satversme (Constitution) of the Republic of Latvia, guarantees for everyone the right to social security in old age, for work disability, for unemployment and in other cases as provided by law. The purpose of this right is to serve that the country, within the limits of possibility, ensures an existence worthy of human dignity. At the same time, the Satversme of the Republic of Latvia has no provisions to the amount of this security and to the procedure of its granting. It should be noted that the Constitutional Court of the Republic of Latvia has analysed the content of the said article in several judgments and indicated that social rights are very important, but at the same time, special and different human rights, since implementation of these rights depends on the economic situation of each country and the financial resources available, i.e. it is directly linked to possibilities of each country.¹⁰

However, I would like to point out that one of the principles describing social rights is the principle of progressive development. International law places an obligation on the country to achieve as full implementation of the social rights as possible with the most available resources and by appropriate means at a growing pace.

With vote for accession to the European Union in 2004, the people of Latvia decided to join the EU not only as an economic union, with implementation of the common security, cooperation and monetary policy, but also as the union, where the Member States are committed to promote economic and social progress for their peoples, in accordance with the principle of sustainable development.¹¹

⁹ Ombudsman Office outgoing documents No. 1-8/19 and No.1-8/20, dated 4 November 2011. *Regarding the amount of minimum pensions* (unpublished).

¹⁰ Paragraph 10 of the Judgment in the Case No.2010-20-0106 of the Constitutional Court of the Republic of Latvia of 17 February 2011. accessible on: http://www.satv.tiesa.gov.lv/upload/spriedums_2010-20-0106.htm.

¹¹ *Treaty on European Union*, Preamble; *Treaty on the Functioning of the European Union*, Preamble, accessible on: <http://eur-lex.europa.eu>.

Article 2 of the Treaty on European Union defines human rights as the EU fundamental values. While Article 3 determines among the objectives of the EU - to promote well-being of its peoples, as well as to combat social exclusion and to promote social justice.

In the Treaty on the Functioning of the European Union the Member States have included a desire to ensure the development of prosperity, in accordance with the principles of the Charter of the United Nations. Article 9 of the Treaty contains a determination, that in the defining and implementing its policies and activities, the EU shall take into account requirements linked to the guarantee of adequate level of social protection and the fight against social exclusion.¹²

In accordance with the Charter of fundamental rights of the European Union (hereinafter referred to as the Charter) the EU recognises and respects the rights of the elderly to lead a life of dignity and independence and to participate in social and cultural life. The “Solidarity” chapter of the said document prescribes that in order to combat social exclusion and poverty, the EU recognises and respects the right to social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources, in accordance with the rules laid down by EU law and national laws and practices.¹³

Even though the principles set out in the Charter are directly applicable only in acts of the EU institutions and bodies and the Charter should be applied by public authorities of the Member States only when they are implementing the Union law, namely, when they are applying the EU regulations, decisions or implementing the directives,¹⁴ however, in my opinion that does not mean that public authorities of the Member States may ignore objectives and approach to eradicate poverty and to reduce social exclusion on the EU scale.

Therefore I appeal to the responsible institutions of the European Union within the scope of their competencies to use the rights and powers defined by the Treaty on European Union and the Treaty on the Functioning of the European Union in order as far as possible to prevent infringements of social rights in acts of the Member States.

Ombudsman of the Republic of Latvia

Juris Jansons

¹² Ibidem.

¹³ Charter of Fundamental Rights of the European Union, 25., Article 34, accessible on: <http://eur-lex.europa.eu>.

¹⁴ Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2010 Report on the Application of the EU Charter of Fundamental Rights, accessible on: <http://eur-lex.europa.eu>.