



29 June 2009

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EUROPEAN SOCIAL CHARTER

REPLY TO SUPPLEMENTARY QUESTION

6th report on the implementation of
the European Social Charter

submitted by

THE GOVERNMENT OF THE CZECH REPUBLIC

(for the period 1 January 2003 to 31 December 2007:
Articles 13§4)

Report registered at the Secretariat on 29 June 2009

CYCLE 2009

The Committee asked whether the following categories of foreign nationals are eligible for emergency social assistance (e.g. food, shelter, and clothing) in case of need:

- **lawfully present in the Czech Republic (e.g. students, tourists etc.);**
- **unlawfully present, including those whose applications for refugee or stateless person status have been rejected as well as others.**

The group of persons entitled to access to social services and extraordinary immediate assistance (emergency benefit) is laid down in the 6th Report on the Fulfilment of the European Social Charter, which was sent to the Council of Europe in 2008. These people also include foreigners non-resident in the Czech Republic who are guaranteed those rights by an international treaty, while law does not distinguish between legal and illegal residents. Law explicitly refers to the European Social Charter as the international treaty that guarantees those rights.

Thus we can construe that the citizens of Contracting States to the European Social Charter, whether they are legal or illegal residents in the Czech Republic, have access to social services and extraordinary immediate assistance.

Extraordinary immediate assistance is one of the emergency benefits. It is designed, inter alia, to provide effective assistance in single, sudden and unfavourable situations. Extraordinary immediate assistance can be provided, for example, to a person affected by a serious extraordinary event while the person's overall social and asset status does not allow the person to overcome the unfavourable situation by the person's own efforts. A serious extraordinary event is considered to be particularly a natural disaster, fire or other destructive event, ecological or industrial accident.

The benefit is granted by commissioned municipal authorities according to the place of residence; for illegal residents, the benefit should be granted by authorities according to resident's location. If the serious extraordinary event is of greater extent, authorities' employees usually actively search for affected people, and the applications for benefits are made on the spot. The same principles are applied to the distribution (often with assistance from non-profit organisations) of aid in kind, counselling, provision of accommodation if necessary, etc.

The amount of the extraordinary immediate assistance is set, in view of the asset and income status of the affected person, at up to CZK 46,890.

The extraordinary immediate assistance can also be provided to a person who fails to meet the conditions of material difficulty, as defined by the Act on Emergency Assistance, but, given the person's income, overall social and asset status, the person's health may be seriously affected. In this case, the benefit is granted in the amount of the difference between the income and the existence minimum.

Foreigners who have found themselves in an extraordinary situation can use the social services of shelters and assistance in crisis situation. Shelters provide temporary accommodation services to people who have found themselves in an unfavourable social situation in relation to the loss of housing. These social services include the provision of food or assistance in obtaining food, provision of accommodation, and assistance in the exercise of rights, legitimate interests and in arranging personal matters.

Assistance in crisis situation is a field, ambulant or accommodation service for a temporary period, provided to people whose health or life is threatened, when they are temporarily unable to resolve their unfavourable social situation by their own efforts. The service includes the provision of accommodation, provision of food or assistance in obtaining food, socially

therapeutic activities and assistance in the exercise of rights, legitimate interests and arranging personal matters.

In addition to the above forms of assistance, social services or other forms of assistance are provided, to the necessary extent, to people who are not being provided with a social service and who have found themselves in a situation that failure to provide immediate assistance would threaten the life or health of such a person. The evaluation of the seriousness of the situation must be based on an expert assessment by a social worker. The qualified social worker is competent to assess and decide whether the person's life and health is threatened or not. In this respect, the Ministry of Labour and Social Affairs recommends that the relevant authorities should make use of their existing cooperation with general practitioners. The conditions must be met concurrently, i.e. (a) there is a person in the territory of the municipality who needs the service, (b) the person is not able to obtain the service by the person's own efforts, and (c) failure to provide the service would threaten life and/or health. As far as the formulation of other form of assistance is concerned, assessment of person's individual needs is made, while assistance that does not constitute a social service, such as bringing the person into contact with his or her relatives, may ensue from the assessment.

29th June 2009

APPENDIX

SECRETARIAT GENERAL

DIRECTORATE GENERAL OF HUMAN RIGHTS
AND LEGAL AFFAIRS

DIRECTORATE OF MONITORING

HEAD OF THE DEPARTMENT
OF THE EUROPEAN SOCIAL CHARTER
EXECUTIVE SECRETARY
OF THE EUROPEAN COMMITTEE OF SOCIAL
RIGHTS

ESC 109
NC/JW



Ms Kateřina Machová,
Legal Official;
Ministry of Labour and Social Affairs,
Na Poříčním právu 1,
128 00 PRAHA 2
Czech Republic

Strasbourg, 25 May 2009

Dear Ms Machová,

The European Committee of Social Rights is currently examining the 6th report from the Czech Republic on the European Social Charter and has instructed me to forward to you the enclosed question concerning Article 13§4.

The Committee would be grateful if you could reply to these questions before 27 June 2009 in order to allow the information to be taken into account in Conclusions 2009.

Yours sincerely,

Régis Brillat

EUROPEAN COMMITTEE OF SOCIAL RIGHTS

COMITE EUROPEEN DES DROITS SOCIAUX



Question in respect of the 6th report of the Czech Republic

Article 13§4

The Committee recalls that under Article 13§4 of the Charter, legislation or practice which denies entitlement to emergency medical assistance to foreign nationals, within the territory of a State Party, even if they are there illegally, is contrary to the Charter (International Federation of Human Rights Leagues (FIDH) v. France, Complaint No 14/2003, decision on the merits of 8 September 2004).

The Committee asks whether the following categories of foreign nationals are eligible for emergency social assistance (e.g. food, shelter, clothing) in case of need:

- lawfully present in the Czech Republic (e.g. students, tourists etc);
- unlawfully present, including those whose applications for refugee or stateless person status have been rejected as well as others.