



## Material reception conditions for applicants for international protection

### *Fact of the case:*

Alim K., a citizen of Kazakhstan, after his arrival to Poland, made an application for international protection. The application was also made on behalf of members of his family: disabled wife Kamila K. and their two children aged 15 and 16.

When making the application, the applicants were instructed by the authorities that within 2 days they should appear in the reception centre for asylum-seekers, where they will be registered in the material reception conditions system. They were also informed, that from the day of the registration they would be entitled to the accommodation in a centre for asylum seekers. They will be also provided with food, health care, pocket money etc. They were also informed that if they do not want to live in a reception centre, they may apply for a financial allowance to rent a flat on a free market and ensure their subsistence on their own.

On the way to the reception centre Kamila K. felt bad and was unable to continue her journey. Therefore, the family stopped at the railway station, where they spent the night. In the morning, they managed to make contact with friends from Kazakhstan staying in Poland. The family spent 10 days with their friends living on their savings. After 10 days, Kamila K. felt good enough to continue the journey to the reception centre.

When they arrived to the reception centre, they were informed again that material reception conditions would be granted only from the day they reported to the centre, and not from the day of making the application for international protection. After being registered they were allocated in a room at the reception centre. However, the room did not have any facilities necessary for the disability of Kamila K. (she needed a special bed and handles in the toilet). Therefore, the family decided to apply for a financial allowance and look for a flat in which such facilities would be available.

The authorities have awarded the family 100 EUR monthly per person (uniform amount determined by law). At the same time, with the assistance of volunteers, the family managed to find a suitable flat. However, the rent was higher than the market price of a comparable flats, due to the facilities for the disabled installed there. In addition, it turned out that for a special bed for Kamila K. the family had to pay the equivalent of the half allowance paid to the family for a current month.

The family appealed against the decision granting them the financial allowance. In the appeal, they stated that the amount of financial allowance for Kamila K. should be higher, because she needs special housing conditions.

## *Arguments to be considered*

It should be taken into account that the average monthly wage in Poland is approximately EUR 800 per month. Amount of the financial allowance granted to the family shall be assessed in comparison with this wage.

In addition, according to national law, the family has no right to work for the first six months during the asylum procedure.

## *Legal Framework*

### **Relevant European Law**

#### **Directive 2013/33/EU (recast Reception Conditions Directive)**

*(11) Standards for the reception of applicants that will suffice to ensure them a dignified standard of living and comparable living conditions in all Member States should be laid down.*

*(14) The reception of persons with special reception needs should be a primary concern for national authorities in order to ensure that such reception is specifically designed to meet their special reception needs.*

#### *Article 17 General rules on material reception conditions and health care*

*1. Member States shall ensure that material reception conditions are available to applicants when they make their application for international protection.*

*2. Member States shall ensure that material reception conditions provide an adequate standard of living for applicants, which guarantees their subsistence and protects their physical and mental health.*

*Member States shall ensure that that standard of living is met in the specific situation of vulnerable persons, in accordance with Article 21, (...)*

#### *Article 18 Modalities for material reception conditions*

*1. Where housing is provided in kind, it should take one or a combination of the following forms:*

*(a) premises used for the purpose of housing applicants during the examination of an application for international protection made at the border or in transit zones;*

*(b) accommodation centres which guarantee an adequate standard of living;*

*(c) private houses, flats, hotels or other premises adapted for housing applicants.*

#### *Article 21 General principle*

*Member States shall take into account the specific situation of vulnerable persons such as minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of human trafficking, persons with serious illnesses, persons with mental disorders and persons who have been subjected to torture, rape or other serious forms of*

*psychological, physical or sexual violence, such as victims of female genital mutilation, in the national law implementing this Directive.*

*Article 22 Assessment of the special reception needs of vulnerable persons*

*1. In order to effectively implement Article 21, Member States shall assess whether the applicant is an applicant with special reception needs. Member States shall also indicate the nature of such needs.*

*That assessment shall be initiated within a reasonable period of time after an application for international protection is made and may be integrated into existing national procedures. Member States shall ensure that those special reception needs are also addressed, in accordance with the provisions of this Directive, if they become apparent at a later stage in the asylum procedure.*

*Member States shall ensure that the support provided to applicants with special reception needs in accordance with this Directive takes into account their special reception needs throughout the duration of the asylum procedure and shall provide for appropriate monitoring of their situation.*

*2. The assessment referred to in paragraph 1 need not take the form of an administrative procedure.*

*3. Only vulnerable persons in accordance with Article 21 may be considered to have special reception needs and thus benefit from the specific support provided in accordance with this Directive.*

*4. The assessment provided for in paragraph 1 shall be without prejudice to the assessment of international protection needs pursuant to Directive 2011/95/EU.*

## **Relevant National Law**

### **Law on material reception conditions and health care for asylum-seekers**

*Art. 2.*

*1. Material reception conditions shall comprise:*

*1) reception conditions provided at a centre for asylum-seekers including:*

*a) accommodation,*

*b) food,*

*c) cleaning and personal hygiene products,*

*d) pocket money for personal expenses,*

*or:*

*2) a financial allowance to cover the costs of the stay, the amount of the allowance is 100 EUR per month for one person.*

# JUDGING THE CHARTER

# TRAINING MATERIALS

*Art. 3. Material reception conditions are available to applicants during the period of asylum proceedings, starting from the date when the applicant appeared and registered in the reception centre.*

## *Questions*

1. Is the Charter applicable in this case? Which provisions exactly?
2. Since when should a family receive a financial allowance? Is the amount of the financial allowance sufficient to ensure them a dignified standard of living? Should its amount be varied for individual family members?