

**Input by the Latvian Human Rights Committee
to the universal periodic review: the Republic of Latvia**

KEYWORDS: *International human rights law - National human rights institutions - Cruel, inhuman or degrading treatment or punishment - Fair trial - Hate speech and hate crime – Discrimination – Nationality - Peaceful assembly - Social security – Housing - Persons belonging to minorities*

International human rights law

1. The Republic of Latvia has not signed the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, International Convention for the Protection of All Persons from Enforced Disappearance. The Republic of Latvia does not recognize the competence of the Committee on the Elimination of Racial Discrimination to receive and consider communications from individuals according to Article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination.

2. Recommendation: Latvia should sign and ratify the human rights treaties mentioned above, as well as recognize the competence of the Committee on the Elimination of Racial Discrimination to receive and consider communications from individuals.

National human rights institutions

3. The Ombudsman of the Republic of Latvia is an independent official elected by the Parliament, whose main tasks are encouragement of the protection of human rights and promotion of a legal and expedient state authority, which observes the principle of good administration. The staff of the Ombudsman Office was enlarged in 2008 from 49 to 51 people, but harshly reduced in 2009, due to austerity measures – from 51 to 41. The funding is also drastically cut, despite human rights problems becoming more acute: from roughly 1.3 million LVL (1.85 million EUR) in 2007 and 2008 to 0.9 million LVL (1.28 million EUR) in 2009 and 0.56 million LVL (0.8 million EUR) in 2010.

4. Until 2009 the Secretariat of the Special Assignments Minister for Social Integration was responsible for state policy in the field of social integration, non-discrimination and minority rights. Due to austerity measures in January 2009 the Ministry for Children and Family Affairs of Latvia took over the functions and became the Ministry of Children, Family and Integration Affairs. In July 2009 the Ministry of Children, Family and Integration Affairs was eliminated, now only a department within the Ministry of Justice is responsible for state policy in the field of social integration, non-discrimination and minority rights.

5. Recommendation: despite the need to tackle economic crisis and ensure public spending cuts, human rights should be high on the list of state priorities. Responsibility for effective implementation of human rights should be explicitly

mentioned in a mandate of a Government's minister. Adequate financial support should be guaranteed for the Ombudsman Office.

Cruel, inhuman or degrading treatment or punishment

6. The situation in Latvian prisons, police cells and other closed institutions (such as psychiatric/social welfare establishments) remains the matter of grave concern. Reports of ill-treatment, poor conditions, lack of appropriate health care are frequent. The prison population rate in Latvia is one of the highest in Europe (6,548 persons in prisons in 2007, 6,837 - in 2008, 7,055 - in 2009).

7. Recommendation: financial support should be increased for prisons and other closed institutions in order to ensure adequate standard of treatment. Any allegation of ill-treatment should be investigated effectively. The state policy in the field of criminal law should be reviewed: some violations should be decriminalised, other kinds of punishment should be used instead of imprisonment (such as community service), and individual probation should be used widely.

Fair trial

8. The proceedings in Latvian courts sometimes last too long. For example, in 2009 there were 1015 civil cases being examined by courts of first instance for more than 2 years (and 180 such cases on appeal). Only the Criminal Procedure Law provides for an opportunity to terminate the proceedings, if a reasonable time cannot be guaranteed to a suspect or an accused. There is only a declaration on examination of cases within a reasonable time. The legislation does not establish any compensation, if the proceedings are not finished within a reasonable time.

9. Recommendation: financial support should be increased for courts in order to ensure adequate number of judges and fair trial within a reasonable time. Compensations should be introduced, if the proceedings are not finished within a reasonable time. The legislation should provide effective procedural sanctions for actions aimed at delaying proceedings.

Hate speech and hate crime

10. The Criminal Law provides for punishment for actions which are deliberately aimed at the incitement of national, ethnic or racial hatred. The evaluation of these actions requires quite high standards of evidence: to obtain a conviction, the prosecution must prove direct intent aimed at the incitement of hatred. This is why the number of cases of incitement of hatred is relatively small (6 persons convicted by courts in 2007, one person convicted, 3 acquitted in 2008, 2 persons convicted in 2009). In 2007, a man who called himself a neo-Nazi said in a public discussion that Roma and Jews are not human beings and those who are not human can be killed in ethnic cleansings. After the conviction in the court of first instance, he was acquitted in 2010. A number of incidents of violence against visible minorities (Africans, Roma) have increased in recent years.

11. Recommendation: the law enforcement bodies should be trained in order to tackle effectively the issue of hate speech and hate crime.

Discrimination

12. In recent years, due to obligations under the EU law, anti-discrimination provisions have been added to a number of laws. However, the anti-discrimination amendments to the Civil Law are still pending before the Parliament, the same way they did since 2004. It means that the prohibition of discrimination does not apply to transactions between private individuals not engaged in business activities (e.g. renting an apartment). In such cases the only provision arguably applicable is the prohibition of discrimination in the Constitution.

13. Recommendation: the legislation should prohibit discrimination in all spheres.

Nationality

14. The citizenship policy of Latvia is based on the concept of state continuity: only those persons, who had been citizens of independent Latvia in 1940, and their descendants, had their citizenship restored. The naturalisation for other permanent residents began on 1 February 1995. There is a special procedure for stateless children born in Latvia after the restoration of independence – they can be registered as citizens upon application by their parents.

15. In recent years the naturalisation has declined significantly - in 2009 only 3,470 naturalisation applications were received; 2,080 people were granted citizenship of Latvia. Statistics shows that more applicants could not pass naturalisation tests than earlier. In particular, in 2009 17.7% of the applicants did not pass the test on Latvian history and 38.9% of applicants did not pass the test on the Latvian language.

16. In 1995 the Law on the Status of those Former USSR Citizens who do not have the Citizenship of Latvia or that of any Other State introduced a special legal status of non-citizens. It defined the status of those people who had registered domicile in Latvia on 1 July 1992 and who did not have citizenship of Latvia or any other country. The Constitutional Court mentioned that non-citizens are not Latvian nationals and are not considered stateless according to international law, but the Republic of Latvia recognises a certain legal link with non-citizens. As of 1 January 2010 there were 343,279 non-citizens of Latvia (15.27% of the total population); almost all of them are persons belonging to ethnic minorities, as ethnic Latvians are entitled to citizenship by means of simple registration.

17. Non-citizens have rights akin to citizens, for example, the right to reside in Latvia without visas or residence permits. In accordance with some legislative acts, some rights and opportunities are reserved only for citizens. This includes political rights (the right to participate in elections, establish political parties) and social and economic rights (land property rights in some territories, public and private sector careers in some professions, pension for work periods accrued during the Soviet period outside Latvia). Some of these rights are also guaranteed to the EU citizens if they reside in Latvia, but they are not granted to non-citizens.

18. Recommendation: Latvia should ensure effective naturalisation through free training courses for the naturalisation examinations and abolition of examinations for people of retirement age and the disabled, as well as persons who received their education in Latvia. The procedure should be simplified for the children born in Latvia after the restoration of independence - providing that they receive citizenship together with their birth registration. Disproportional restrictions on non-citizens are

to be cancelled, such as the ban for non-citizens to work as advocates, patent attorneys, to receive the first category licence for security work and be head or member of the board in detective agencies, as well as to obtain land property in the cities without a special permit. Non-citizens should be granted the right to participate at least in local elections. The rights guaranteed to the EU citizens should be guaranteed also for non-citizens. The Government should comply with the judgment of the European Court of Human Rights in the case *Andrejeva v Latvia* and ensure that old-age pension for work periods accrued during the Soviet period outside Latvia is paid to non-citizens in the same manner as to citizens.

Peaceful assembly

19. A number of restrictions upon the freedom of assembly were declared illegal by the Constitutional Court in November 2006. However, in practice many decisions of local governments restricting the freedom of assembly are cancelled by administrative courts (such as decisions of the Riga City Council to prohibit Gay Pride in 2009 or Russian Rally in 2007).

20. Recommendation: in order to guarantee the right to freedom of assembly, the Government should ensure that information is widely disseminated on the opportunity to claim both pecuniary and non-pecuniary damages for illegal decision to prohibit an assembly.

Social security

21. In the framework of austerity measures the Parliament decided to cut significantly a number of pensions and benefits. The Constitutional Court declared some of such cuts illegal (such as cutting 10% off all state pensions). Nevertheless, other measures still in force can undermine enjoyment of the right to social security, and indirectly – the right to housing and the right to health care.

22. Recommendation: the Government should take into account that properly functioning social security system is of utmost importance during the economic crisis. Austerity measures and public spending cuts should not significantly affect pensions and benefits.

Housing

23. After the restoration of independence a process of denationalisation took place in Latvia, including restoration of property rights to owners of houses living independent Latvia in 1940 or their descendants. As a result, more than 10,000 residential buildings with 78,000 apartments have been denationalised. Unlike tenants in state or municipal houses, tenants in denationalised houses were not able to privatise the rented apartments. The Constitutional Court has cancelled state-regulated rent in such houses since 1 January 2007. State and municipal assistance aimed at making tenants in denationalised houses able to purchase a property only partially covers the costs.

24. Recommendation: a system of compensations for the lack of opportunities to privatise a rented apartment should be introduced for tenants in denationalised houses.

Persons belonging to minorities

25. As of 1 January 2010, 59.4% of the population were ethnic Latvians; others were persons belonging to ethnic minorities (Russian – 27.6%, Belarusians – 3.6%,

Ukrainians – 2.5%, Poles – 2.3%, Lithuanians – 1.3%); in many municipalities ethnic Latvians are in minority. According to the 2000 census, 58.2% of the respondents named Latvian as their mother tongue, 39.6% said their native language was Russian, while 2.2% mentioned another language as their first language. The current State Language Law stipulates that all other languages, except the Latvian language, are defined as foreign languages with no exceptions for minority languages. Public primary and secondary schools may implement education programmes in minority languages (but since 2004 even in such secondary schools at least 60% of the curricula must be in Latvian and since 2007 all state examinations shall be passed in Latvian).

26. Employees of state and municipal institutions and enterprises must know and use the state language to the extent necessary for the performance of their professional duties. The Government defines the level of proficiency necessary for each profession. In the private sector, employers set their own requirements as to the state language proficiency of their employees, but the Government set requirements in respect of those employees, whose activities affect the legitimate interests of the society. This list has significantly expanded in recent years.

27. The legislation demands that all personal names, place names, street names and other topographical indications be spelled in the state language only (upon wish in documents personal name may be supplemented by the historical or original form in another language transliterated in the Latin alphabet). The legislation does not guarantee the right to use languages other than the state language for communication with the authorities; it also directly prohibits the use of other languages in written communications with official bodies. This rule is also applied in regions where the share of the non-Latvian population is significant or even dominant.

28. The Administrative Violations Code outlines different kinds of language violations. The State Language Centre supervises how the law is implemented, carries out checks and imposes fines.

29. Recommendation: status of minority languages should be explicitly recognised in the legislation, providing the opportunity to use personal names, place names, street names and other topographical indications in minority languages, as well as the right to contact the authorities in minority language on the territories where a significant part of population belongs to minorities. Sanctions for the violations of the language legislation and professional state language proficiency requirements should be reviewed, taking into account the principle of proportionality. The right to qualitative education in the languages of minorities should be guaranteed; the administration of educational institutions should have the right to choose independently the proportion of different languages in their educational programmes.