



Latvijas Republikas tiesībsargs
Ombudsman of the Republic of Latvia

Baznīcas street 25, Rīga, LV-1010, Latvia, phone +371 67686768, fax +371 67244074, e-mail:
tiesibsargs@tiesibsargs.lv, www.tiesibsargs.lv

UN Human Rights Council
UPR Working Group
uprsubmissions@ohchr.org

**Report of the Ombudsman of the Republic of Latvia on the human rights
situation in the Republic of Latvia within the framework of the 3d cycle of the
UN Universal Periodic Review**

The Ombudsman of the Republic of Latvia is an institutionally and functionally independent national human rights institution, that was established in year 2007. The main functions of the ombudsman are to promote the protection of the human rights of individuals, to promote equal treatment and prevention of discrimination, to assess and promote the observance of the principle of good governance in public administration, as well as to promote public awareness and understanding of human rights. Since 2015, the Ombudsman's Office has been granted the status of "A" in the United Nations, which means that the institution meets the highest UN criteria, and this status gives the ombudsman the right to participate and express his views in the UN Human Rights Council and other UN bodies.

The obligations assumed and the achievements made by Latvia in the area of human rights shall be assessed by the UN Working Group on the Universal Periodic Review. Ombudsman of the Republic of Latvia as the National Human Rights Institution hereby presents our report on the human rights situation in the Republic of Latvia within the framework of the 3d cycle of the UN Universal Periodic Review.

Hereby the Ombudsman of the Republic of Latvia provides comments to the recommendations supported by the government of Latvia following the 2nd cycle of

the UN Universal Periodic Review.

1. Ratification of OPCAT

(Theme A12 and D25; rec.118.26.; 119.6.; 120.13)

Since 2016 the Ombudsman has contacted international and national authorities, informing about the steps taken by the Government of Latvia to ratify the Optional Protocol to the Convention against Torture, at the same time pointing out that delays in the establishment of a national preventive mechanism in Latvia are not permissible, as well as calling for support for the ratification of the Optional Protocol, which would prevent future human rights violations in institutions where vulnerable people reside.

Although Latvia has not yet signed and ratified the Optional Protocol, in 2017 a government decision entrusted the Ombudsman with the function of a preventive mechanism. Consequently, a unique situation has developed in Latvia, because although the Optional Protocol has not yet been ratified, the state has already laid the foundations for the establishment of the national preventive mechanism provided for in the Optional Protocol. Thus, on 1 March 2018, the Prevention Division was established in the Office of the Ombudsman, the main task of which is to make regular visits to institutions where persons have or may have restricted liberty.

In the beginning of 2020 Ombudsman was invited to provide comments to the draft law “On the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment”. However due to the COVID-19 crisis there have been no further developments regarding the draft law.

2. Conditions of detention

(Theme D26; 118.27-118.29)

The Latvian prison infrastructure is outdated, and the introduction of human rights standards there is impossible in essence and would require investment of disproportionately large financial resources. Multiple visits to prisons and short-term detention facilities have shown that prisoners with reduced mobility do not have adequate detention conditions.

The specifics of execution of life sentences has been focusing on excessive security measures, isolation instead of a gradual preparation of these categories of prisoners for life in society and enabling this group of convicts to serve their sentence not only in closed prisons but also in partly-closed and open prison regimes.

The issue of self-governance or hierarchy of prisoners in their mutual relations remains topical and unresolved in Latvian prisons.

In 2019, the employees of the Ombudsman's Office visited all short-term detention facilities in the Republic of Latvia (State Police station isolators) in order to identify and preventively assess the compliance of short-term detention facilities with the requirements specified in regulatory enactments and human rights standards. During the visits inadequate living conditions were discovered in many short-term detention facilities and reported to the responsible officials. In some of the cases Ombudsman observed severe inadequacies and following the Ombudsman's recommendations Valmiera short term detention facility was closed.

3. Trafficking in human beings

(Theme D27; rec. 118.6.; 11.32-11.38)

During the review period the trafficking in human beings has been an important field of research and the Ombudsman has repeatedly noted concerns about the shortcomings regarding the co-operation and co-ordination between institutions and organizations involved in the prevention of trafficking in human beings, undermining the identification and referral of victims to social service providers.

The data of the study “The Role of Local Governments’ Social Services, Orphan’s and Custody Courts and Branch Offices of the State Employment Agency of Latvia in the Process of Identification of Victims of Trafficking in Human Beings” that was conducted by the Ombudsman in 2017, certify that not all relevant state institutions are equally successful in mapping other institutions of the support system for victims of human trafficking, and the low recognition of NGOs that provide rehabilitation support among employees of municipal services is worrying. When summarizing the answers to Ombudsman’s survey, it can be concluded that a large number of institutions see their role only as the information provider to the police for the investigation of a criminal offense. When they perceive their role in this way, the aspect of social assistance is forgotten, which, according to the competence of the interviewed institutions, would have equally pressing importance. The data confirm that not all institutions understand the system of allocation of the social rehabilitation services to victims of trafficking in human beings in Latvia. Additionally, the training of institutions is considered to be fragmented and is provided only within individual

projects and initiatives.¹

Additionally in 2019 Ombudsman has called upon the Government to develop one comprehensive “umbrella” law to improve regulatory framework in the field of prevention of human trafficking and to provide a clear referral mechanism for victims of trafficking, as well as an effective mechanism for transferring and exchanging information between public authorities and social service providers.

4. Violence against women

(Theme: F13; rec. 118.1.-118.4.;118.30-118.31; 119.2)

Although Latvia has undergone significant improvements to bring the national laws in line with the requirements of the Council of Europe’s Convention on Preventing and Combating Violence against Women and Domestic Violence and has signed the convention in 18th of May, 2016, so far Latvia still has not been able to ratify the Convention due to lack of political consensus.

Additionally, Ombudsman notes that in order to provide meaningful assistance to children that have been exposed to domestic violence, it is necessary to review the content of social rehabilitation providing that children get psychosocial rehabilitation considering the needs of each child. The justification for the provision of each programme should be assessed by evaluating the needs of the child rather than only considering the initiation of criminal proceedings on the criminal offences towards the child.

5. Rights of refugees and asylum seekers

(Theme: G5; rec. 118.58.-118.60; 120.88; 120.93)

The Ombudsman wishes to emphasize that after the visit of the European Union Schengen Evaluation Commission to the country in April 2018, the Republic of Latvia has not received instructions that the conditions in the reception centers for asylum seekers do not comply with international standards.

The Ombudsman would like to point out that both the accommodation center for detained asylum seekers and the asylum accommodation center have a medical assistance point where several doctors are employed to provide medical assistance to asylum seekers accommodated in the centers. Emergency care is available at local hospitals.

¹ “The Role of Local Governments’ Social Services, Orphan’s and Custody Courts and Branch Offices of the State Employment Agency of Latvia in the Process of Identification of Victims of Trafficking in Human Beings” available at http://www.tiesibsargs.lv/uploads/content/publikacijas/trafficking_in_human_beings_in_latvia_1496389389.pdf.

Concerning the guarantees for the right to fair trial in the asylum cases the Ombudsman wants to point out that according to Asylum law asylum seekers have the right to appeal negative decisions, including those that have been made in accelerated procedure. A person cannot be deported until the final decision in their asylum case has come into force.

6. Provision of integration services to asylum seekers and beneficiaries of international protection

(Theme B32 and G5, rec. 120.89-120.90)

Since 2016 asylum seekers and beneficiaries of international protection have the right to receive services of social worker and mentor that are designed specifically for the needs of asylum seekers in order to facilitate their integration. However, this right has not been enshrined in law and the services are provided on a basis of different government supported projects. The Ombudsman has stressed the need to do so in order to protect this right.

The Ombudsman has also drawn the attention of government to the lack of affordable housing for beneficiaries of international protection and how this problem also affects their possibilities to receive social benefits that are usually provided by the municipalities.

7. Hate speech and hate crimes

(Theme: B31 and B32; rec.118.24; 120.35; 120.70)

As in many countries, a considerable part of hate speech in Latvia is now found online: on websites, in comments sections and on social media. In 2016 within the framework of public information activities in the field of tolerance and prevention of discrimination, the Ombudsman drew attention to the topicality of hate crimes and hate speech, developing a study “Issues of Investigating Hate Crimes and Hate Speech in the Republic of Latvia”². In this study the Ombudsman indicated that the State has a duty to strengthen the strategy to fight the spread of criminal offences caused by hate, as well as restriction of hate-motivated speech on Internet portals. The Ombudsman further indicated that it is necessary to promote more active application of norms of criminal law in practice, strengthen an effective rights protection mechanism and carry out preventive activities to prevent the spread of hate crimes and hate speech. It was concluded in the study that law enforcement authorities have to pay greater attention to matters concerning identification, qualification, and

² “Issues of Investigating Hate Crimes and Hate Speech in the Republic of Latvia” available at http://www.tiesibsargs.lv/uploads/content/publikacijas/naida_noziegumu_un_naida_runas_izmekles_ana_lv_2016_1496214733.pdf

investigation of hate speech and hate crimes. The importance of informative campaigns was also stressed.

It is necessary to launch informative campaigns in order to raise the tolerance level of the society, as well as educate about the consequences of hate crimes and hate speech. It is especially important for many young people who remain unaware that posting comments containing hate speech can result with criminal liability.

8. Non-citizens

(Theme G1 and D6; rec. 118.55-118.57.; 120.78-120.79; 120.82)

In 2019 the Parliament of Latvia passed a law which stipulates that from 2020 no children will be born in Latvia with "non-citizen" status. The Ombudsman welcomed the decision of Saeima.

Nevertheless, a large number of non-citizens in Latvia remain and the naturalization step can be accelerated. The state must motivate young people to get Latvian citizenship. The Ombudsman has on many occasions initiated the discussion on the issue of non-citizens. In 2017 the Ombudsman in his letters to Speaker of the Saeima and Prime Minister stressed that naturalization step must be accelerated.

In 2019 the questions about the naturalization process were posed to the Ministry of Interior and the Office of Citizenship and migration Affairs. Although a lot of measures have been taken in order to facilitate the naturalization process, the Latvian language courses for naturalization applicants remain insufficient.

9. LGBT rights

(Theme B31; rec. 120.62.)

In 2018, the Ombudsman called on the government and parliament to implement the positive obligation of the state to provide a legal framework for the recognition of various forms of family in accordance with the latest findings of the ECHR; to review the regulatory framework, creating a common understanding of the concept of the family and its protection, providing for the recognition of various forms of family.³ However, no changes have been made so far.

10. Human rights education

(Theme A5 and D51; rec. 118.12 and 118.14)

Within the framework of the Ombudsman's annual conference in 2019, the Ombudsman dedicated one of the panels to human rights education inviting various

³Ombudsman of the Republic of Latvia opinion Regarding case No. 2018- 38-26G available at http://www.tiesibsargs.lv/uploads/content/atzinums_29102018_par_dazadu_gimenes_formu_atzisa_nu_eng_1593603809.pdf.

stakeholders from state institutions, court system as well as NGO sector to both share their examples of good practice as well as their view on the topicality of human rights education in Latvia.

The Ombudsman established that there is no comprehensive policy concerning human rights education in Latvia as well as no coordination and oversight from the relevant state authorities. There is almost no research on the topic of human rights education for various target groups and for the most part various stakeholders that include human rights education in their agenda have a very limited knowledge of each other's activities and available resources.

11. Rights of persons with disabilities

(Theme F4; rec. 118.47; 119.13; 120.73)

In 2017 Ombudsman published results of an investigation case concerning the provision of technical aids to children concluding that the budget is calculated on the basis of inappropriate base prices set before 1 September 2009, and the procedure for granting technical aids is fragmented and unclear. The Ombudsman called on the responsible authorities to create a system for parents to receive technical aids that is comprehensible and transparent, enabling parents to choose the manufacturer of medical devices in the European Union according to the needs of the child. The Ministry of Welfare was called upon to implement the developed improvement model of technical aids service provision in order to eliminate shortcomings in the existing system of technical aids. So far, the Ministry of Welfare has not eliminated the shortcomings identified by the Ombudsman, the model for improving the service of technical aids has not been implemented, and no amendments have been made to regulatory enactments.

Although the availability of technical aids has improved during the reporting period, i.e. the waiting time in line has decreased – it may still be up to 6 months; the system is not fully suited to meet individual needs of a person and the options are limited.

The Ombudsman would like to point out that the Central Election Commission (CEC) has carried out a number of activities to promote the participation of persons with special needs in elections. Also, monitoring the electoral process in the previous parliament, EP and local government elections, the Ombudsman is convinced that at the national level, persons who are treated in psychoneurological hospitals or have disabilities and live in social care centers are provided with the opportunity to vote. The CEC draws attention to the fact that polling stations are accessible to wheelchair

users.

12. Inclusive education

(Theme F4; rec. 118.48)

In the “Latvian National Development Plan for 2014-2020”, the hierarchically highest national level medium-term development planning document, inclusive education is defined among the main tasks in the field of education. However, in practice, many children with special needs do not have access to special education programs near their place of residence or even in the municipality of their place of residence. Children are most often taken to boarding schools, where they stay from Monday to Friday, because the municipalities are unable or unwilling to provide transport for such children to and from the educational institution.

If a special education program is licensed, educational institutions in practice are not always able to provide the necessary support for quality education of children with special needs. According to the regulatory framework, money follows the student, and often the educational institution does not objectively evaluate its financial and human resources to ensure an appropriate learning process. The problem needs to be solved urgently.

13. Ombudsman’s activity in the field of social and economic rights

The reporting period has been crucial for the Ombudsman in the area of social and economic rights, focusing on issues affecting societal poverty and social exclusion in Latvia. In 2019 Ombudsman's Office purposefully analyzed the compliance of minimum income levels - guaranteed minimum income, poverty level income threshold, state social security benefit and minimum pensions - with the constitution of the Republic of Latvia, emphasizing their adequacy, regular review obligation and compliance with general legal principles.

As a result, in July, 2020, 5 cases regarding the amounts of the minimum income and social support have been initiated in the Constitutional Court upon the application of the Ombudsman.

14. Strengthening the capacity of the Ombudsman

(Theme: A42; rec.119.9-119.10.)

In order to strengthen the guarantee of the Ombudsman as an autonomous constitutional entity, in May 2015 the Ombudsman urged the Saeima to consider a proposal to supplement the Constitution of the Republic of Latvia with a new chapter named “Ombudsman”.

Strengthening the Ombudsman's entity in the Constitution of the Republic of Latvia would protect against undesirable political manipulation; promote the compliance of the national human rights authority with the so-called Paris Principles; strengthen the principle of power-sharing enshrined in the Constitution of the Republic of Latvia; exclude any doubts that the Ombudsman belongs to any state powers. The proposal has not progressed any further yet.

As for the inner developments of the Ombudsman institution it must be noted that in 2018, the Prevention Division was established in the Office of the Ombudsman, the main task of which is to make regular visits to institutions where persons have or may have restricted liberty.

However, the financial support allocated from the state budget remains insufficient to retain the experienced employees as well as to attract qualified new employees to the institution.