

The political composition of parliament and government changed little after the October general elections, but the pre-election period contributed to the harshening of rhetoric and policies regarding citizenship. New state institutions relating to human rights were being created during 2006 but concern was voiced that their authority and independence could potentially be threatened by political interference.

Progress in some areas - such as the reduced use of pre-trial detention and Constitutional Court rulings annulling unconstitutional laws adopted by parliament - were shadowed by worrisome developments in other areas, including the aggressive expression of intolerance on grounds of race and sexual orientation.

Elections

A voter turnout of 61% in the 7 October parliamentary elections was the lowest since independence and down from 71% in 2002. Of the 19 parties and alliances registered for participation, seven passed the five-percent barrier, with the ruling coalition's leading party - the People's Party - receiving 23 out of the 100 mandates. Nineteen percent of the members of parliament were women, 78% were Latvian, and 15% Russian.¹

The elections were acknowledged as free and fair, but there were several allegations of vote purchasing, and criminal investigations regarding voting districts in Latgale and Kurzeme were initiated. As a result of the interpretation of the state language law, the Central Election Committee did not provide any official information in other languages than Latvian, despite the significant number of Russian-speaking voters, although such information was available through the Russian-language media.

As in previous elections, issues surrounding "lustration" appeared. The Constitutional Court ruled on 15 June in a case combining two applications that the restric-

tions on former KGB officials to stand as candidates for election were constitutional, but made an exception for Juris Bojars, the former head of the Latvian Social Democratic Workers' Party, due to his personal history as a supporter of Latvian independence in 1991 and as a former MP.

Concerning "lustration" on grounds of affiliation with the Soviet Communist Party, the 16 March judgment by the Grand Chamber of the European Court for Human Rights (ECtHR) overturned the 2004 ECtHR judgment in the case of Tatyana Zhdanoka,² who had been banned from running for election. The Grand Chamber argued that her right had not been violated since the prohibition was seen as falling within the margin of appreciation of the state, taking into account the vulnerability of Latvia stemming from the complex history of occupation. However, the decision included a clear cautioning that such restrictions on candidacy must be under "constant review with a view to bringing it to an early end."

National protection of human rights

Ombudsman institution

On 6 April the Law on Ombudsman was adopted and it entered into force on 1 January 2007. The ombudsman is to replace the National Human Rights Office (NHRO), retaining its predecessor's general human rights mandate, but broadening it to include all good governance issues. Apart from the concern over the difficulties the NHRO had already had to fulfill its broad mandate, there were also serious concerns over the new institution's independence, the lack of leadership, and the provision of the new law allowing any five members of parliament to propose a candidate or to initiate an ombudsman's removal from office. Discussion of potential candidates had barely started by the very end of the year. On a positive note, in December a budget was adopted for the

ombudsman's office that was almost quadrupling the budget of the NHRO.

On 14 December, the parliament approved three Constitutional Court judges, who had been skeptically received by experts and were not recommended for approval by the legal committee, thus adding concerns over the future independence of this court.

Ill-treatment and other police misconduct

The year 2006 saw the first case of significant compensation being paid for police mistreatment.

◆ On 9 October, the Civil Law Chamber of the Supreme Court ordered the State Police to pay 4,427 Lats (EUR 6,500) in medical costs to an individual who was beaten up by a police officer in Daugavpils in 1995. The police officer had been sentenced to three years' imprisonment in 2003.

There were several reports on police misconduct and corruption, and an attempt at a cover-up by senior police authorities which came to light in July.

◆ On 22 March, a Balvi criminal police inspector, driving under the influence of alcohol, hit an 18-year-old youth who later died of his injuries. Several Balvi police officers, including police chief, attempted to cover up the drunk driving by having another officer provide the required blood test. Disciplinary proceedings were initiated against six officers, out of whom one was dismissed while the chief was demoted and transferred to another policing district. Three police officers received warnings. In addition, the parliament in December dismissed the Balvi District Court judge who knew that evidence had been falsified but had failed to react adequately.

Freedom of assembly

Violations of the right to peaceful assembly remained frequent throughout 2006. While, in contrast to the previous years, hard-

ly any protests were staged on ethnic minority issues, the planned "Riga Pride 2006" gay event triggered controversy.

◆ The Riga municipality refused to issue a permit for "Riga Pride" scheduled for 22 July, a decision upheld by the Administrative District Court that cited security concerns based on classified information. The court's decision was appealed and is due for review in 2007.

Twenty opposition parliamentarians successfully challenged in the Constitutional Court's several restrictive amendments to the 2005 law on meetings, marches and pickets. On 23 November, the court declared several provisions on the amendments unconstitutional, including the requirement to apply for a permit, and supported instead a system of simple notification. In addition, the court ruled as unconstitutional the 50 meter distance prescribed to official buildings; the requirement of the organizers of an event to produce a contract for having hired security guards before applying for a permit; and the time limits for the municipality to prohibit an event. The court provided time until June 2007 to amend legislation.

Citizenship

More than 120,000 persons have become Latvian citizens through naturalization since the process became possible in 1995, yet over 400,000 (about 18% of the population) remained "non-citizens" in 2006. All of them were former Soviet citizens who were permanent residents of Latvia. The number of naturalization applications (10,581) almost halved in 2006 as compared to the previous years.

By law, children born to non-citizen parents after 21 August 1991 in Latvia have since 1998 the right to be registered as citizens, but the low number of registration remained a problem. Out of some 15,000 children eligible for citizenship only 6,000 had been registered as citizens.

The negative political atmosphere toward naturalization especially in the pre-election nationalist rhetoric contributed to lacking interest in naturalization. It took concrete form in the nationalist party Fatherland and Freedom proposal for a new citizenship law. The bill foresaw a suspension of the naturalization process and prescribed that persons who had arrived to Latvia during Soviet occupation could only become citizens through individual parliamentary decision, and only if married to a Latvian citizen, or could obtain citizenship for special merit or other specific circumstances. More stringent demands on language proficiency and loyalty proof were also planned. Although the bill was voted down in parliament twice, the heated rhetoric on lack of loyalty of naturalized citizens contributed to an atmosphere not conducive to the promotion of naturalization.³

There were also calls for a stricter approach in the naturalization procedures. New rules on naturalization were proposed in July by the Justice Ministry, with more stringent Latvian language requirements and with a provision prescribing that an application be discarded if the applicant failed to pass the tests three times; a new application could not be made for one year. The proposed law was accepted for review in committees by parliament on 8 June.

◆ The case of Juris Petropavlovskis continued in 2006. Petropavlovskis, a minority education reform activist, had been denied citizenship in 2004 by the Cabinet of Ministers on grounds of disloyalty to the Latvian state despite having fulfilled all naturalization requirements. The Administrative District Court in 2005 rejected the case saying it was “political,” not administrative. Both an administrative regional court (on 13 February 2006) and the Senate Administrative Department upheld the 2004 decision not to grant citizenship. Juris Petropavlovskis filed a case with the ECtHR in December.

EU Directive

The EU Directive 2003/109/EC on long-term residents of third country nationals, which entered into force on 23 January, and which is to apply to Latvian non-citizens as well as to migrants who are citizens of non-EU countries, was transposed into Latvian law.

After being adopted in a third reading on 25 May, President Vike-Freiberga returned the law for review in parliament, stating the need to consider separating demands put on non-citizens and citizens of third countries in order to qualify for the EU permanent resident status. The new law required proof of permanent residence, language proficiency and legal income from all applicants: however, non-citizens were by definition already permanent residents of Latvia. Despite the president’s intervention, the law was re-adopted without changes on 22 June.

Discrimination, racism and hate crimes

Discrimination

By the end of 2006 the EU Racial Equality Directive 2000/43/EC was still not fully transposed into national law. On 21 September the parliament finally adopted amendments to the labour law relating to the EU Employment Directive 2000/78/EC, explicitly including sexual orientation among the prohibited grounds for discrimination. However, the amendments were passed only after the president had returned the previously adopted amendments for review. Latvia’s First Party parliamentarians had successfully blocked the adoption procedure with a rampantly homophobic speech in parliament.

Case law on discrimination developed in 2006, and the first case of discrimination in employment on grounds of ethnicity was decided in favor of the plaintiff, a Roma woman, in a court in Jelgava, awarding her 1,000 Lats (EUR 1,435) compen-

sation to be paid by the enterprise for not hiring her, referring to her "accent" in the Latvian language. The defendant appealed but lost the case after not showing up to the hearing for a second time. The plaintiff was represented by the NHRO.

On the other hand, the first reversals of discrimination cases were also developing: the first employment discrimination case on grounds of sexual orientation, won by the plaintiff against a prospective employer in 2005, was quashed in the second instance, and a further appeal on procedural grounds was not admitted by the Supreme Court Civil Department.

Hate crimes

Several incidents of racist violence in Old Town of Riga continued to be reported by the media, while police seemed to struggle to develop the capacity to handle such cases.

Fourteen cases were initiated under section 78 of the criminal law (incitement to hatred based on race and national origin or ethnicity) by the security police, most of which concerned hate speech on

the internet, but also in print media. There were also attempts to prosecute violent incidents under this section so as to counter criticism for having classified incidents as mere cases of hooliganism. However, in a surprise development on 12 October, the parliament added to section 48 of the criminal law racist motivation as an aggravating factor. This amendment should pave the way for a clearer division between incitement to hatred and violent hate crimes.

Meanwhile, other amendments to the criminal law section 78 were also under preparation by the Justice Ministry as a reaction to passive police response to protect the participants of "Riga Pride" side events. Rhetoric targeted against sexual minorities before and during the event was intense and to a large extent fuelled by certain politicians. However, illustrating the lack of serious concern and coordination of initiatives, in November, different amendments to this criminal law section were passed in a first reading, leaving the question open of what type of hate crime legislation will ultimately be adopted.

SOURCES FOR FURTHER INFORMATION:

◆ Latvian Centre for Human Rights, at www.humanrights.org.lv

Other organizations:

◆ Ombudsman's Office, at www.vcb.lv

Publications:

- ◆ Latvian Centre for Human Rights, *Human Rights in Latvia in 2006*, at www.humanrights.org.lv
- ◆ Latvian Centre for Human Rights, *Monitoring Report on Closed institutions in Latvia, 2006*, at www.humanrights.org.lv
- ◆ Latvian Centre for Human Rights, *Human Rights in Mental Health Care in Baltic Countries, 2006*, at www.humanrights.org.lv
- ◆ Latvian Centre for Human Rights, *Independent Detention Monitoring in Latvia, 2006*, at www.humanrights.org.lv

Endnotes

- ¹ Of the total number of citizens in Latvia, 74% were Latvians and 19% Russians.
- ² Application no. 58278/00.
- ³ It should be noted that although the motions were defeated and only 10 and respectively 12 votes were cast for them, in each of the votes 51 MPs abstained, rather than voting against the draconian proposal.