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REPORT
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COMMISSIONER FOR HUMAN RIGHTS
OF THE COUNCIL OF EUROPE

FOLLOWING HIS VISIT TO LATVIA
FROM 5 TO 9 SEPTEMBER 2016

SUMMARY

Commissioner Nils Muižnieks and his delegation visited Latvia from 5 to 9 September 2016. During the visit, the Commissioner held discussions with state and local authorities, national human rights structures and civil society organisations. The present report draws upon the themes of the visit and focuses on the following major issues:

Gender equality and women's rights

Gender equality is one of the key principles underlying the European Convention on Human Rights and remains one of the major goals to be achieved by the member states of the Council of Europe. It is indispensable to integrate the principle of gender equality in an in-depth and transversal manner in all policies and measures.

While noting the on-going work in Latvia to develop long-term gender equality policies, the Commissioner encourages the authorities to reinforce their efforts with a view to rendering gender equality effective in reality. More should be done to raise awareness among civil servants and society as a whole about the concept of gender equality and the negative impact of structural inequality upon both men and women, as well as to promote an education system with the above goals in mind. The Commissioner recommends strengthening sex-disaggregated data collection and gender analysis, which should provide a basis for developing concrete activities to bridge, in a systematic manner, the remaining gaps related to women's rights and gender equality. The foregoing should be supplemented with corresponding budgetary resources, clear and time-bound targets, and identified duty-bearers in charge of implementation.

Survey data show that violence against women and domestic violence in Latvia remain among the highest in Europe. In 2014, Latvia adopted regulations on temporary protection and rehabilitation services for the victims of violence. It is essential to ensure that there is the requisite capacity among law enforcement, prosecutorial and judicial authorities to investigate, prosecute and punish all instances of violence against women and attend to their protection needs by establishing a sufficient number of adequately-resourced specialised shelters.

On 18 May 2016, Latvia signed the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention). The Commissioner welcomes this step and calls on the authorities to proceed promptly with ratification of the Istanbul Convention.

Violence against women and domestic violence is rooted in entrenched societal inequalities between men and women that continue to be reproduced through stereotypes, out-dated educational policies, and the lack of broader awareness about the scale and negative impact of violence against women on families and society as a whole. The Istanbul Convention gives a roadmap for preventing and combating all forms of violence against women by providing mechanisms to progressively change the social norms and practices that reproduce it, and to ensure that the education system is free of gender bias and stereotypes. The Commissioner calls on the authorities to invest in raising public awareness about the objectives of Istanbul Convention, and to ensure that debates on gender equality and violence against women are based on evidence-based research and gender-disaggregated data. In this process, the Commissioner attaches particular importance to the engagement of men and the responsibility of political and community leaders to send an unequivocal message condemning violence against women and domestic violence.

Human rights of children

The legal and institutional framework for the protection of children's rights is largely in line with the international human rights obligations in this field. Latvia is party to the UN Convention on the Rights of the Child; furthermore, the Constitution and the Law on the Protection of the Rights of the Child stress the special protection needs of children with disabilities and prohibit discrimination. However, the Commissioner notes a persistent "implementation gap" in several areas, which will require a renewed commitment by the Latvian authorities in order to address the well-being and development of all children in the country.

As of 1 July 2016, there were 6301 stateless children in Latvia, among them 4816 children under the age of 15. While amendments to the Citizenship Law have simplified the procedure of granting citizenship to stateless children born to "non-citizen" parents, there is still the requirement that one of the child's parents formally

submit a citizenship application at the time of birth registration. The Commissioner urges the authorities to revisit this issue and initiate amendment of the Law on Citizenship in order to render the procedure entirely automatic. Pending such amendment, the Commissioner calls on the authorities to step up awareness raising and design effective communication strategies addressing "non-citizen" parents, with a view to ensuring that every child born in Latvia acquires nationality at birth.

A considerable number of children in Latvia reside in institutions, which maintains them isolated from their peers and the rest of society. In 2013, the government adopted Guidelines for the development of social services for 2014-2020, and in June 2015 it developed an Action Plan for Deinstitutionalisation for 2015-2020. The Commissioner encourages the authorities to invigorate the stalled process of deinstitutionalisation and improve cooperation with municipalities to devise concrete measures to move the process forward. The authorities should prioritise alternative care in family-type settings rather than placing children in institutions, and allocate more resources to increase the engagement of guardians and foster carers.

Special schools for children with disabilities have long existed in Latvia, and this practice has seldom been questioned due to prevailing views in society that such children are best educated in segregated settings. This approach contravenes the UN Convention on the Rights of Persons with Disabilities, which Latvia has ratified. The Commissioner calls on the authorities to ensure the right to inclusive education in line with that Convention and relevant laws and strategies in the areas of development and education, and underscores the need to ensure that children with disabilities have access to mainstream schools close to their residence and benefit from support services. The authorities should invest in raising public awareness on this issue, and local authorities and educational establishments should devote attention to improving inclusion policies for children with disabilities.

Human rights of LGBTI persons

Following EU accession, Latvia has made some progress on anti-discrimination and the protection of human rights of lesbian, gay, bisexual, trans and intersex (LGBTI) persons, notably through transposing into its national law the requirements of the EU Employment Directive 2000/78/EC, which includes sexual orientation as a prohibited ground of discrimination. However, the protection accorded to LGBTI persons in the Latvian legal system remains fragmentary, and there is a lack of public policies designed to promote the human rights of LGBTI persons in all spheres of life. The Commissioner encourages the authorities to address these gaps in a systematic manner by designing an action plan in cooperation with the Council of Europe.

The Commissioner welcomes the improved policies to protect freedom of assembly and expression of LGBTI persons, as reflected in measures to protect gay pride events, such as the Europride 2015 held in Riga. Nevertheless, concerns remain about inadequate responses to homophobic and transphobic crime and hate speech.

The amendments to the Criminal Law enacted in September 2014 redefined the provision on incitement to social hatred and enmity by providing an open-ended list of vulnerable groups. Furthermore, violating the prohibition against discrimination may be criminally sanctioned. The Commissioner recommends that sexual orientation and gender identity be explicitly included among the prohibited grounds for discrimination. In the meantime, he encourages the application of the existing legal framework with full consideration of the protection needs of LGBTI persons. The authorities are also urged to expand the list of aggravating circumstances in the Criminal Law by including homophobia and transphobia. Continuous trainings should be organised for the police, prosecutors and judges to ensure effective investigation, prosecution and punishment of hate crimes and hate speech against all vulnerable groups, including LGBTI persons.

The Latvian legal regime provides only for marriage between men and women and does not envisage any type of registered partnership for same-sex or different-sex couples. The Commissioner invites the authorities to consider favourably the possibility of providing cohabiting different-sex and same-sex couples with legal means to address the practical problems related to the social reality in which they live. In this context, the authorities are encouraged to take into account the case-law of the European Court of Human Rights regarding protection of the relationships of cohabiting same-sex couples living in stable de facto partnerships.

Lastly, the Commissioner stresses the need to put in place educational polices that respect human rights, promote diversity and exclude discriminatory and degrading content regarding LGBTI persons. He encourages the authorities to develop age-appropriate educational programmes, including on sexual and reproductive health and rights, in such a way that they overcome prejudices in society, promote equality between men and women, and address homophobic and transphobic stereotypes.

INTRODUCTION

1. The Commissioner for Human Rights of the Council of Europe, Mr Nils Muižnieks (the Commissioner), carried out a visit to Latvia from 5 to 9 September 2016.[1] The visit focused on three sets of issues: gender equality and women's rights, with a focus on the issue of violence against women; the human rights of children with reference to stateless children, alternative care, the process of deinstitutionalisation, and the rights of children with disabilities to inclusive education; and, lastly, the rights of LGBTI persons, having regard to the country's anti-discrimination framework and educational policies.

2. In Riga, the Commissioner met with Mr Māris Kučinskis, the Prime Minister of Latvia; Mr Rihards Kozlovskis, the Minister of the Interior; Mr Kārlis Šadurskis, the Minister of Education and Science; Mr Edgars Rinkēvičs, the Minister of Foreign Affairs; Mr Ēriks Kalnmeiers, the Prosecutor General; Ms Karīna Ploka, the Parliamentary Secretary of the Ministry of Welfare; Mr Raivis Kronbergs, State Secretary of the Ministry of Justice; Ms Anita Gotharde, the Deputy Head of the State Inspectorate for Protection of Children's Rights; and Mr Juris Radzēvičs, Executive Director of the City of Riga and other Riga City Council officials. In the *Saeima* (Parliament), he met with representatives of different parliamentary factions. In addition, the Commissioner held discussions with the Ombudsman, Mr Juris Jansons, and representatives of civil society.

3. The Commissioner went to two sites of human rights relevance: the Milgravis family crisis centre in Riga and the Baldone branch of the Riga State Social Care Centre, which is located in the municipality of Baldone.

4. The Commissioner would like to thank the Latvian authorities in Strasbourg and Riga for their assistance in facilitating the visit. He is also grateful for the assistance provided by the Ombudsman and wishes to thank all his interlocutors for sharing their knowledge and insights with him.

1 WOMEN'S RIGHTS AND GENDER EQUALITY

1.1 LEGAL AND POLICY FRAMEWORK FOR GENDER EQUALITY

5. Latvia is bound by several international human rights instruments on the protection of women's rights and the elimination of discrimination against women. At the global level, Latvia is a party to the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR), which provide for a duty to ensure equal rights of women and men as regards the enjoyment of economic, social, cultural, civil and political rights. In 1992, Latvia joined the Convention on the Elimination of All Forms of Discrimination against Women. However, it has neither signed nor ratified its Optional Protocol that would recognise the competence of the Committee on the Elimination of Discrimination against Women - the body that monitors compliance with that Convention - to receive complaints from individuals or groups.

6. At the European level, the relevant standards applicable to Latvia include the European Convention on Human Rights and the jurisprudence of the European Court of Human Rights; the Revised European Social Charter; and the relevant recommendations of the Committee of Ministers to Council of Europe member states.[2]

7. The Latvian Constitution provides for the principle of equality and non-discrimination for "all human beings [...] before the law and the courts",[3] which, according to the government, entails the principle of gender equality.[4] While there is no comprehensive law on gender equality, sectorial laws prohibit

[1] The Commissioner was accompanied by Ms Bojana Urumova, Deputy to the Director of his Office, and Mr Vahagn Muradyan, Adviser.
[2] Recommendations of the Committee of Ministers.
[3] The Constitution of the Republic of Latvia.
[4] Latvia, National report on the implementation of the Beijing Declaration and Platform of Action (1995) and the results of the 23rd Special Session of the General Assembly (2000), July 2014.

discrimination based on gender in various fields, including labour, education, and social security.[5] Further, the Law on Judicial Power guarantees a fair trial irrespective of a person's sex.[6] Latvia's accession to the European Union in 2004 and the adoption of the Union's *acquis* further strengthened the inclusion of the principle of gender equality in the country's legislation and policies.[7]

8. Latvia is ranked below the EU average on the European Gender Equality Index, although it shows results above the average in specific areas, such as the economic participation of women.[8] In 2016, the Global Gender Gap Report ranked Latvia among the 18 leading countries with notable results in the category of economic participation and educational attainment. However, the gender pay gap continues to persist, mostly due to the concentration of women in certain fields characterised by lower remuneration, such as health and education.[9] For example, according to data published in 2015, 89% of teachers in Latvia were women.[10] Moreover, the involvement of women in politics remains relatively low. Currently, the percentage of women in the Latvian parliament is 18%, which is below the global average of 22.9% and falls significantly short of the widely-accepted 30% target for women in decision-making, as set by the UN Economic and Social Council (ECOSOC) in 1990 and the Beijing Platform for Action in 1995.[11] At local level, the percentages of women mayors and members of local councils were respectively 24% and 31% in 2015.[12]

9. The national gender-equality institutions were designated in 1999, with the Ministry of Welfare being the main government actor responsible for policies in this regard. The Gender Equality Committee, established in May 2010 under the Ministry of Welfare, has a broad-based representation of government agencies and NGOs, and oversees the implementation of gender equality policies. Other institutions with competencies in this field include the Ombudsman's office, in its capacity as the country's equality body,[13] and the Labour Inspectorate, as concerns the application of the principle of gender equality in labour relations.[14]

10. The first strategic policy document for gender equality in Latvia was the Concept Paper on Gender Equality Implementation, adopted in 2001, which served as a basis for the development of further action plans and policies. Three operational documents have been adopted by the government to implement activities in this field: the Programme for the Implementation of Gender Equality 2004-2006; the Programme for Implementation of Gender Equality 2007-2010; and the Plan for the Implementation of Gender Equality 2012-2014.[15] The main directions in those documents are the following: women's and men's economic independence and the promotion of equal opportunities in the labour market; gender roles and the reduction of stereotypes; reconciliation of work and family life; reduction of gender-based violence; and capacity building, education and awareness raising about gender equality.[16] During the visit, the Commissioner was informed that work was underway to prepare a follow-up action plan for 2016-2020.

11. Systematic implementation of the principle of equality between women and men can have a wider positive impact on the development of Latvian society as a whole. While acknowledging the efforts made by the authorities in Latvia to develop and pursue policies in this regard, the Commissioner

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[5] *Ibid*.
[6] Section 4, Law on Judicial Power, adopted in 1992 by the Supreme Council of the Republic of Latvia.
[7] The Policy on Gender Equality in Latvia, Policy Department C: Citizens' Rights and Constitutional Affairs, European Parliament, January 2015.
[8] Latvia, Gender Equality Index, 2005-2012 Trends, European Institute for Gender Equality.
[9] The Policy on Gender Equality in Latvia, European Parliament, January 2015.
[10] Latvia: Education for All 2015 National Review, report submitted in response to UNESCO's invitation to its Member States to assess progress made since 2000 towards achieving Education for All (EFA).
[11] Inter-Parliamentary Union, Women in National Parliaments, Situation as of 1st August 2016. ECOSOC Resolution 1990/15, Recommendations and conclusions arising from the first review and appraisal of the implementation of the Nairobi Forward-looking Strategies for the Advancement of Women to the Year 2000 (E/1990/68), 24 May 1990. ECOSOC Official Records, 1990; Women in Parliament: 20 Years in Review, Inter-parliamentary Union, 2015.
[12] European Commission, Local/municipal councils.
[13] Office of the Ombudsman, Latvia: Brief Profile: Equinet, the European Network of Equality Bodies.
[14] The Policy on Gender Equality in Latvia, European Parliament, January 2015.
[15] Cabinet Order No 35 on the Plan for Gender Equality (2012 -2014), 17 January 2012.
[16] Latvia, National report on the implementation of the Beijing Declaration and Platform of Action (1995) and the results of the 23rd Special Session of the General Assembly (2000), July 2014.

notes that progress is fragmentary. There remains the need to eliminate gender-bias and stereotypes that still affect decision and policy-making and impede the advancement of women in political life. The Commissioner encourages the involvement of all relevant actors from both government and civil society to ensure systematic implementation, monitoring and evaluation of the future gender equality action plan.

1.2 VIOLENCE AGAINST WOMEN AND DOMESTIC VIOLENCE

12. In their human rights assessments concerning Latvia made in 2003 and 2007, the Commissioner's predecessors referred inter alia to the "relatively common" problem of domestic violence. In that context, one of the leading local NGOs in the field of provision of services to children and adults in crisis situations, the Skalbes crisis centre, reported to the Office of the Commissioner in 2006 that approximately 35 women died every year from violence inflicted by their husbands or partners. Persons subjected to domestic violence were generally reluctant to turn to the law enforcement bodies, as police and the courts tended to diminish the seriousness of domestic violence and to treat it as a private matter. Gaps were identified in the assistance to sufferers of violence, specifically as concerns the availability of shelters and financial allocations for rehabilitation programmes. In his observations, previous Commissioner Thomas Hammarberg encouraged a genuine and substantive debate on domestic violence, as well as broader awareness campaigns for law enforcement agencies, judges, and welfare workers.[17]

13. Since 2009, the Ministry of Welfare has been compiling annual reports containing data on domestic violence. On average, the police receives 13 calls per day on cases of "family conflicts"; however, 97% of such cases do not result in criminal proceedings, mostly because police do not qualify them as criminal offences.[18] Police data, which are lower than the actual instances of domestic violence, reveal the following: in 2013, 155 women were subjected to such violence, and 144 women in 2014. In 2012, three women were killed by their partners. The following year, two women were killed by their partners, while six women were killed by other relatives.[19] Moreover, according to the Information Report compiled by the Ministry of Welfare, in 2014, at least five women were killed by their spouses or partners, and four more were killed by other relatives. [20]

14. A survey carried out by the EU Agency for Fundamental Rights (FRA) in 2012 (published in 2014) suggested that Latvia had one of the highest incidences in the EU of violence against women, with 39% of women in Latvia subjected to sexual and/or physical violence (as compared to the 33% EU average), and 31% of women suffering physical violence inflicted by their partner (EU average: 20%).[21]

15. In 2008, the Government adopted a Programme for Reducing Domestic Violence for 2008-2011 which included three priority directions: identification of domestic violence, prevention of domestic violence, and institutional cooperation in the provision of assistance and rehabilitation services.[22] The information report on the outcomes of the programme prepared by the Ministry of Welfare in July 2012 showed that every third woman had suffered from domestic violence, which corresponds to the figures collected by FRA. The report also revealed the lack of expertise, guidelines and criteria to identify cases of domestic violence against women and children.[23] After the end of the above-mentioned programme, follow-up activities were included in the Guidelines for State Family Policy for 2011-2017 and their corresponding Action Plan.[24]

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[17] Report by Alvaro Gil-Robles, Commissioner for Human Rights, on his visit to Latvia, 5 - 8 October 2003 and Memorandum to the Latvian Government, Assessment of the progress made in implementing the 2003 recommendations of the Council of Europe Commissioner for Human Rights, Strasbourg, 16 May 2007.

[18] Information submitted by the Ministry of Welfare to the Office of the Commissioner on 31 August 2016.

[19] *Ibid.*

[20] Information Report on the Cases of Violence against Women and Domestic Violence: Their Prevalence and Dynamics in 2014. The Ministry of Welfare: Riga, 2016.

[21] Violence against women survey, European Union Agency for Fundamental Rights, published in March 2014.

[22] Programme for the Reduction of Domestic Violence (2008-2011).

[23] Information report on the outcomes of the Programme for reducing domestic violence 2008 -2011, published on 12 July 2012.

[24] Statement by the representative of the Ministry of Welfare at the 57th Session of the Commission on the Status of Women, UN 2013.

16. Latvia does not have separate comprehensive legislation on combating violence against women or domestic violence. According to the authorities, the Criminal Law does not envisage separate liability for violence against women and domestic violence, and these offences are qualified according to existing criminal law provisions, for example, intentional infliction of moderate bodily injury. The aggravating circumstances listed in Section 48 of the Law can be applied in criminal proceedings concerning violence against women, covering inter alia situations of violence, or threats of violence and sexual violence, committed against former or current spouses or partners.[25] The officials at the Ministry of Justice also informed the Commissioner about ongoing work to reinforce criminal liability for domestic violence by enhancing the action of law-enforcement bodies to investigate and prosecute a case, irrespectively of whether a victim has lodged a complaint.

17. On 25 March 2014, following the adoption of the EU Regulation No 606/2013 on mutual recognition of protection measures in civil matters,[26] the Cabinet of Ministers adopted Regulation 161 which gives state and municipal police officers the power to issue a decision on separation and inform the victim about the right to apply to courts for temporary protection (restraining order). The Criminal Law was amended to introduce sanctions for failure to comply with an adjudication regarding temporary protection against violence. The authorities have indicated that 18 trainings had been conducted in 2014 for state and municipal police officers on the new legislation on temporary protection.

18. The Commissioner was informed that, pursuant to the above provisions, state and municipal police have the right to adopt a decision on separation for 8 days. According to the data provided by the Ministry of the Interior, from 31 March 2014 until the middle of 2016 the police issued a total of 259 decisions on separation. As for court rulings granting temporary protection, there were 891 from 31 March 2014 to 31 December 2015. In 2015, 71 women and one man were placed under protection. The Commissioner was informed that in order to enforce the new regulation, one additional staff position was created in every police station, and 39 police officers have been recruited in total (2 men and 37 women).

19. In 2014 and 2015, there was a total of 25 violations of police decisions on separation and 369 violations of court decisions on temporary protection against violence. During the same two-year period, the state police initiated 267 criminal proceedings for failure to comply with court decisions on temporary protection on the basis of Section 168[1] of the Criminal Law. During the first half of 2016, the police initiated 96 criminal proceedings on the same basis.

20. On 23 December 2014, the government adopted Regulation Nr 790 on social rehabilitation services for adult victims of violence and perpetrators.[27] It defines the procedure for providing services to the victims of violence including psychosocial assistance, threat assessment and security planning, recovery and integration. In 2015, 30 municipalities introduced a new social rehabilitation service for victims of violence, and in the same year, such services were provided to 114 persons (109 women and five men).[28]

21. The Commissioner had an opportunity to gain first-hand information about support services for victims of violence by visiting the Milgravis family crisis centre, which was initially opened in 2006 to provide services to victims of domestic violence. The centre gradually broadened its scope to attend to the needs of other vulnerable groups. At the time of the visit, it accommodated 16 persons with children and, in addition to victims of domestic violence, included homeless persons, victims of human trafficking, as well as a person on methadone replacement therapy. The centre received funding from both the municipality and the state, acting as provider of services procured by each of those levels of government. The material conditions at the centre appeared to be satisfactory and the Commissioner

[25] Information submitted by the Office of Prosecutor General to the Office of the Commissioner on 31 August 2016.
[26] EU Regulation No 606/2013 of the European Parliament and of the Council on mutual recognition of protection measures in civil matters (12 June 2013) envisages protective and preventive measures including against "any form of gender-based violence or violence in close relationships such as physical violence, harassment, sexual aggression, stalking, intimidation or other forms of indirect coercion."
[27] The Regulation contains legal norms arising from Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 on establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/TI.
[28] Information Report on the Cases of Violence against Women and Domestic Violence: Their Prevalence and Dynamics in 2014. The Ministry of Welfare: Riga, 2016.

was informed that the municipal police carried out regular visits for the purpose of ensuring the residents' protection needs.

22. During the visit, civil society interlocutors involved in providing services to victims of domestic violence expressed the view that the competencies of the law-enforcement bodies - especially at the level of municipal police - to properly identify and investigate cases of violence against women continued to be inadequate. Several interlocutors also referred to difficulties experienced by women victims of domestic violence in the context of criminal proceedings, in particular as concerns their lack of access to adequate information about their rights, including those stipulated in the recent regulation on temporary protection.

23. Several NGOs also considered inter-institutional coordination to be weak, and pointed to shortcomings in the documentation of physical violence by medical professionals as well as a lack of specialists to treat cases involving sexual violence. Reportedly, the number of adequately trained women forensic experts and psychologists remained low. The Commissioner encouraged the authorities to address those issues as part of their institutional policies and capacity-building work. As regards the issue of forensic experts, the Commissioner was informed that the Law on Forensic Examination had been amended to foresee forensic examination of victims of sexual violence made by an expert of the same gender (with exceptions of cases when the sexual violence perpetrator was of the same gender as the victim).[29]

24. During the meetings, the Commissioner's official interlocutors generally acknowledged the disproportionate impact of violence upon women and the need to step up efforts in this area. The Commissioner notes the on-going work to review the relevant legislation and strengthen the criminal justice system to respond to violence against women. It is essential to ensure that there is the requisite capacity among law enforcement, prosecutorial and judicial authorities to effectively identify, investigate and prosecute all forms of violence against women. Municipal police act as first responders to cases of violence; therefore, the authorities should place particular emphasis on creating sufficient and qualified capacities at this level. Rehabilitation services and specialised shelters for women should be available in all municipalities in sufficient numbers, having regard to the specific local needs. The authorities should intensify efforts in this regard and strengthen cooperation with civil society by seeking frank feedback on the effectiveness of measures taken, and continuously re-evaluating and improving their action to create permanent and effective response mechanisms.

1.3 THE COUNCIL OF EUROPE CONVENTION ON PREVENTING AND COMBATING VIOLENCE AGAINST WOMEN AND DOMESTIC VIOLENCE

25. In 2015, the Ministry of Welfare prepared a comprehensive report, including a legislative gap analysis, proposing to join the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention).[30] In January 2016, during the Universal Periodic Review at the UN Human Rights Council, the Latvian authorities stated that in preparation for accession to the Istanbul Convention, Latvia planned to fully review its legislative framework and ensure full compliance with the Convention,[31] which Latvia signed on 18 May 2016. During the Commissioner's visit, the authorities re-affirmed that the legislation was under review in light of future ratification of the Convention, and that amendments were being prepared to criminalise psychological violence, stalking, and female genital mutilation.

26. The Commissioner welcomes these steps and urges the Latvian authorities to promptly proceed with ratification in order to send a clear message of commitment to women's rights and systematic work to combat all forms of violence against women.

27. During the visit, civil society interlocutors brought to the Commissioner's attention their concerns about the quality of public debates that surrounded the process of signing the Istanbul Convention and the often inaccurate assessments presented by the opponents of ratification. According to their

[29] Information submitted by the Ministry of Welfare on 31 August 2016.
[30] Concept Note on Latvia's accession to the Council of Europe Convention on preventing and combating violence against women and domestic violence, Ministry of Welfare, 2015.
[31] Latvia, Universal Periodic Review on 26 January 2016.

accounts, public discussions revealed a strong gender bias and stereotypical attitudes which minimised the seriousness of the problem, downplayed the disproportionately high impact of domestic violence on women, portrayed the Convention as a threat to family values, and often involved non-factual and misleading information about the Convention's general principles and aims.

28. The Commissioner is concerned by these reports, and in line with his mandate to promote awareness of human rights in Council of Europe member states finds it pertinent to address those misconceptions.

29. First of all, the Commissioner would like to stress that debates on matters of public interest should be based on factual information and evidence-based research in order to provide an accurate assessment of the situation. He further recalls that violence against women and domestic violence remain a persistent problem throughout Europe, including in Latvia. Although perpetrators and victims of domestic violence may be either women or men, in the vast majority of cases it is women who are exposed to violence inflicted by men. This assessment is fully supported by the relevant data compiled by the Latvian government that show the scope of the problem and its disproportionate impact on women. At the same time, the Commissioner would like to stress that the Istanbul Convention extends protection against violence to men by expressly recognising in the preamble that "men may also be victims of domestic violence."

30. The Istanbul Convention is the first legally-binding instrument in Europe that comprehensively addresses violence against women and domestic violence. In doing so, it builds and expands on the framework of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) as well as other international standards and recommendations. By defining violence against women "as a violation of human rights and a form of discrimination against women," the Convention makes it clear that violence against women and domestic violence cannot be considered as private matters, and that states have an obligation to prevent violence, protect victims and punish the perpetrators.

31. The Commissioner would like to underline that one of the major strengths of the Istanbul Convention is its focus on prevention through awareness-raising about different manifestations of violence against women. It envisages inclusion in the education system of teaching materials on equality between men and women which are free of gender bias and are adapted to the evolving capacities of learners. These are necessary measures to stop reproducing prejudices and practices based on stereotyped roles for women and men which are often based on the idea of inferiority of women. The principle of gender equality and the rejection of gender stereotypes, such as the "perception of women as primary child-carers and men as primary breadwinners" as grounds for justifying difference in treatment, are also duly recognised in the case-law of the European Court of Human Rights.[32] The Commissioner is of the opinion that implementing preventive measures in this area will greatly limit violence in the home.

32. The Istanbul Convention has as its goal to create a Europe free from violence against women. Fully operationalising the Convention's monitoring mechanism to cover all member states will generate data and advice across Europe, and will facilitate the exchange of expertise and good practices. Another major innovation of the Istanbul Convention is to give a particularly important role to national parliaments to participate in the monitoring of the measures taken for the Convention's implementation. This can strengthen the role of parliaments and cultivate their sense of ownership of the process at both local and European levels.

33. The Commissioner strongly encourages the authorities to raise awareness in Latvian society about the true aims and principles of the Istanbul Convention. He places special importance on the involvement of political leaders and the media to transmit accurate messages, carry out constructive information campaigns, and provide unbiased coverage of gender equality issues.

[32] Case of Konstantin Markin v. Russia, Grand Chamber judgement of 22 March 2012, European Court of Human Rights.

1.4 CONCLUSIONS AND RECOMMENDATIONS

34. Gender equality is a basic principle of human rights, and women's rights are an inalienable, integral and indivisible part of universal human rights. Equal treatment that fully integrates the principle of equality between women and men should be at the heart of an effective justice and governance system. It is also a prerequisite for social justice, democracy and economic development.

35. The Commissioner notes the improvements in Latvia in the area of gender equality, particularly as regards women's economic empowerment. However, he is concerned by the reported occupational relegation of women to spheres of activity with lower remuneration, which contributes to the gender pay gap. The low level of representation of women in politics, especially in parliament, is another area of concern that in turn can have a negative impact on the development of gender-sensitive legislation and policies. The Commissioner urges the Latvian authorities to institute long-term strategies and action plans that fully apply the principle of gender equality across all sectors and promote women's participation in public and political life. The implementation of such policies requires close coordination among public entities and civil society organisations. They should have concrete activities, with clear, time-bound targets, identified duty-bearers in charge of implementation and corresponding budgetary resources. Relevant and reliable disaggregated data is also a pre-condition for providing a sound base-line for specific actions to address the real needs and gaps related to women's rights and gender equality.

36. The Commissioner notes that violence against women and domestic violence continue to be significant problems in Latvia, where the data provided by the police shows the disproportionate impact of domestic violence on women. Many of the Commissioner's official interlocutors are cognizant of the need to take decisive actions to prevent and combat violence against women, and the existing strategy documents reflect the shift towards understanding violence against women and domestic violence as human rights violations. The Commissioner urges the authorities to demonstrate a renewed commitment to preventing and combating all forms of violence against women in a comprehensive manner, including by adopting a specific action plan to bring together all relevant policies in this area.

37. The Commissioner recalls that violence against women, including domestic violence, is a major concern in Europe and a human rights violation that affects all Council of Europe member states. He notes the on-going efforts of the authorities to bring Latvia's legislation in line with the requirements of Istanbul Convention. At the same time, he recommends further efforts to build capacity, including through continuous training, for law enforcement, prosecutorial and judicial authorities to effectively identify and investigate cases of violence, prosecute and punish perpetrators, and provide protection to the victims. Specific efforts in this regard are required at municipal level. The Commissioner also stresses the need to establish a sufficient number of specialised and adequately-resourced women's shelters to comprehensively address the multiple and interlocking problems related to their and their children's health, safety and welfare in line with the requirements of the Istanbul Convention.[33]

38. The Commissioner welcomes the signature by Latvia of the Istanbul Convention and calls on the authorities to proceed promptly with its ratification. However, he notes with concern that the debates about the need to ratify the Convention have often been based on misleading and inaccurate information. He encourages the authorities to conduct awareness-raising campaigns for the public using evidence-based research and gender-disaggregated data to explain the true nature and the scope of the problems of violence against women and domestic violence and the measures envisaged in the Istanbul Convention to respond to and prevent those phenomena.

39. Social stereotypes and prejudices persist in Latvian society about gender roles and the principle of gender equality. Such lingering stereotypes can have a negative impact on policy-making with respect to women's rights in many areas, including on women's sexual and reproductive health and rights. The Commissioner strongly believes that investing in an education system which is free from gender bias is needed in order to bring long-term changes, address the root causes of violence against women, and

[33] For more guidance see Council of Europe Task Force to Combat Violence against Women, including Domestic Violence (EG-TFV) September 2008, Explanatory Report, to the Council of Europe Convention on preventing and combating violence against women and domestic violence, Istanbul 11 May 2011.

eliminate discrimination based on gender. He encourages the authorities to ensure that this is the case by introducing educational tools that emphasise equality between girls and boys, and women and men.

40. Political and community leaders can play an important role in leading responsible public debates and mobilising social resources against all forms of violence against women. He particularly emphasises the positive role and benefits of public campaigns that involve men in order to send a clear message of zero-tolerance for all forms of violence against women.

2 HUMAN RIGHTS OF CHILDREN

2.1 STATELESS CHILDREN

41. Latvia is bound under international human rights law to ensure each child's right to a nationality. Article 7 of the Convention on the Rights of the Child provides for the child's right to acquire a nationality at birth, and stipulates that states should ensure this right in line with the national law and obligations under international human rights instruments, in particular in situations where the child would otherwise be stateless. Moreover, Latvia is a party to the 1961 Convention on the Reduction of Statelessness and to the 1954 Convention relating to the Status of Stateless Persons. Domestic law prohibits discrimination against children, including that based on national, ethnic or social origin, place of residence, birth or other circumstances of the child, or of his or her parents, guardians, or family members.[34]

42. Most stateless children in Latvia are born to Russian-speaking families whose members did not acquire Latvian nationality after the dissolution of the Soviet Union and restoration of Latvian independence. According to the official position of the Latvian government, Latvian "non-citizens" cannot be regarded as stateless persons in the meaning of the 1954 Convention Relating to the Status of Stateless Persons.[35]

43. The rules and procedure of naturalisation in Latvia are governed by the Citizenship Law adopted in 1994, and by Cabinet Regulation of 24 September 2013 No.1001 entitled "Procedures for Receiving and Examining Applications for Naturalisation". Since the beginning of the naturalisation process in 1995, 144 041 applications for naturalisation concerning 157 382 persons have been received by the authorities. 144 003 persons were granted Latvian citizenship, including 14 429 minor children, who became naturalised together with their parents.[36]

44. In July 2003, prior to the visit to Latvia of the first Commissioner for Human Rights, the number of "non-citizens" was 494 319, making up some 21% of the population.[37] According to the data provided by the Population Register, in July 2016, there were 247 104 "non-citizens", which constituted 11.57% of the total population. Over the last year the number of "non-citizens" has further decreased by 10 273 persons. The Commissioner was informed that as of 1 July 2016, there were 6 301 stateless children; among them, 4 816 children were under the age of 15.[38]

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[34] The Law on the Protection of the Rights of the Child, English translation Latvian State Language Centre 2015.

[35] Second report by Latvia under the Framework Convention for the Protection of National Minorities, 3 September 2012. The UNHCR data obtained from the Office of Citizenship and Migration Affairs (OCMA) refer to 178 officially recognised stateless persons legally residing in Latvia as of 01 January 2016.

[36] Data provided by the Ministry of the Interior.

[37] Report by Alvaro Gil-Robles, Commissioner for Human Rights, on his visit to Latvia, 5 - 8 October 2003

[38] Data compiled and transmitted by the Latvian Ministry of the Interior. By way of comparison, in 2011 there were some 9000 stateless children in Latvia. See "Governments should act in the best interest of stateless children", Human Rights Comment by Nils Muižnieks, Council of Europe Commissioner for Human Rights, 15 January 2013 as well as "Ending Childhood Statelessness: A Study on Latvia" Working Paper 07/15, European Network on Statelessness (http://www.statelessness.eu/sites/www.statelessness.eu/files/Latvia_0.pdf).

45. The procedure for acquisition of citizenship by children of "non-citizens" was simplified in 2011 and 2013.[39] Most importantly, the amendments to the Citizenship Law adopted in May 2013 simplified the procedure, by providing that a child may be registered as a Latvian citizen simultaneously with registration of the child's birth at the Civil Registry Office, thus eliminating the previous requirement to seek naturalisation before the Office of Citizenship and Migration Affairs. In addition, according to the authorities, a new-born child can be registered as citizen on the basis of the wish expressed only by one parent. Between the ages of 15 and 18, children can independently apply for citizenship.[40] After the May 2013 amendments, the number of children of "non-citizens" registered as Latvian citizens increased by 30%.[41]

46. According to official data, 235 newborn children were registered as citizens under the new procedure in 2015, and 69 children were granted the status of "non-citizens" based on the decision of their parents. From 1 January to 15 August 2016, 129 children were registered as citizens, whereas 27 children acquired the status of "non-citizens".

47. The Advisory Committee of the Framework Convention for the Protection of National Minorities, the independent expert committee responsible for evaluating the implementation of the Convention, recommended that Latvia automatically grant citizenship to children who otherwise would be stateless. The Advisory Committee stated that such a provision would be in line with Articles 3 and 7 of the Convention on the Rights of the Child, as well as with Article 1(1)(a) of the 1961 Convention on the Reduction of Statelessness.[42] In its response, the Latvian government maintained that Latvian citizenship to "children of non-citizens and stateless persons is granted automatically" and that the legislative amendments intended to adhere to international recommendations and at the same time take into consideration "the interests of a certain part of parents of non-citizen children, who wish to retain the non-citizen status for their children."[43]

48. During the visit, the authorities referred to the same argument and underlined the reluctance of many non-citizen parents to register their children as citizens, mainly because of favourable travel regimes to certain foreign countries. In this respect, the Commissioner would like to stress that access to citizenship is a fundamental human right that in turn confers certain formal legal rights such as the right to vote and the right to be elected. A situation where certain categories of children may be left out of the protection system accorded by the institution of citizenship and deprived of enjoyment of certain rights available to others effectively amounts to difference in treatment. While acknowledging the right of parents to care for and protect their children, the Commissioner would like to stress that the authorities also bear responsibility for the well-being and development of Latvian children and should make every effort to stop reproducing the stateless population. He therefore strongly encourages further legislative amendments to make the process of granting citizenship to new-born children of non-citizens parents entirely automatic.

49. The Commissioner further refers to the January 2016 Concluding Observations of the UN Committee on the Rights of the Child, which recommended more efforts to ensure that all children have access to a nationality, including by reviewing the Citizenship Law to automatically grant citizenship to children born in Latvia who would otherwise be stateless, including children of parents with a "non- citizen" status or parents who are unable to transmit their citizenship to the child.

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[39] Second Opinion on Latvia, adopted on 18 June 2013: Advisory Committee on the Framework Convention on National Minorities, 3 January 2014.
[40] Citizenship Policy in Latvia, the Ministry of Foreign Affairs, 12 November 2015.
[41] Resolution CM/ResCMN(2014)9 on the implementation of the Framework Convention for the Protection of National Minorities by Latvia.
[42] Second Opinion on Latvia, adopted on 18 June 2013, Advisory Committee on the Framework Convention for the Protection of National Minorities: Strasbourg, 3 January 2014.
[43] Comments of the Government of Latvia on the Second Opinion of the Advisory Committee on the implementation of the framework convention for the protection of national minorities by Latvia, Strasbourg, 3 January 2014.

2.2 LEGAL AND POLICY FRAMEWORK FOR CHILD PROTECTION

50. Latvia is party to the UN Convention on the Rights of the Child, the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, and the UN Convention on the Rights of Persons with Disabilities and its Optional Protocol. The revised European Social Charter is recognised as having immediate legal effect in the domestic legal order.[44]

51. The Latvian Constitution recognises the special protection needs of "disabled children, children left without parental care or who have suffered from violence."[45] The Law on the Protection of the Rights of the Child adopted in 1998 provides a framework for the relevant sectorial laws and policies and designates institutional duty-bearers. Section 3 of that Law provides that the state will ensure the rights and freedoms of all children "irrespective of race, nationality, gender, language, political party alliance, political or religious convictions, national, ethnic or social origin, place of residence in the State, property or health status, birth or other circumstances of the child, or of his or her parents, guardians, or family members."[46]

52. The Ministry of Welfare, in cooperation with other ministries and stakeholders, develops long-term policies in the area of child protection and delivery of social services. The main policy documents on child protection and children's rights include the Guidelines on State Family Policy 2011–2017 and Action Plan; Policy Guidelines on the Development of Social Services 2014-2020; and Policy Guidelines on the Development of Education 2014-2020 and Action Plan.[47] Other key institutional duty-bearers in the area of children's rights are: the State Inspectorate for Protection of Children's Rights, a body subordinate to the Minister of Welfare, which carries out supervision of the observance of relevant regulations, conducts inspections and operates a trust helpline; and the Orphan's courts, which oversee custody issues and defend the personal and property interests and the rights of the child.

53. The Ombudsman can receive complaints from children and carry out monitoring visits to the relevant state care institutions. In 2015, the Ombudsman received a total of 890 submissions on children's rights, a 24% increase as compared to 2014. The largest number of submissions concerned the rights of orphans and children left without parental care.[48]

54. According to civil society representatives and expert assessments, the relevant legislation and policies are satisfactory overall; however, their implementation remains inadequate.[49] It would appear that, due to the decentralised nature of the child protection system, there exist considerable disparities between different municipalities in developing and implementing child protection programmes and providing assistance and support to families.

55. During the visit, civil society representatives expressed concerns as regards the low number of social workers and other professionals, such as psychologists, available to provide targeted services to children and families, in particular as concerns the needs of children with disabilities. According to data provided by the Ministry of Welfare, in 2014 the total number of social workers in local government social services was 1208, a figure including 535 general social workers, 359 specialists in services for adults, and 314 persons specialising in families with children. In 2015 the total number of social workers was increased by 50 to 1258, with 381 specialists providing services for adults and 357 specialising in family and children-focused services.[50]

56. The Commissioner encourages the Latvian authorities to create more training and study opportunities to train child protection professionals in their respective municipalities in order to eliminate existing disparities and strengthen locally available support services which will meet the needs of the population. Cooperation between the local and central authorities should be further enhanced in

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[44] Latvia and the European Social Charter factsheet, Department of the European Social Charter: Directorate General of Human rights and the Rule of Law, updated in November 2015.
[45] Article 110, The Constitution of the Republic of Latvia.
[46] The Law on the Protection of the Rights of the Child, English translation Latvian State Language Centre 2015.
[47] Information submitted by the Ministry of Welfare on 27 September 2016.
[48] Annual Report 2015, Ombudsman of the Republic of Latvia.
[49] Member States' Policies for Children with Disabilities, Country Report on Latvia, Policy Department C - Citizens' Rights and Constitutional Affairs, European Parliament, December 2014
[50] Data provided by the Ministry of Welfare, 29 September 2016.

order to ensure more uniform application of the existing policies to deliver child-friendly social services, in line with the Council of Europe Recommendation on children's rights and social services friendly to children and families (2011).

2.3 CHILDREN IN ALTERNATIVE CARE

57. In Latvia the main types of alternative care for children are foster care, guardianship, long-term care in small family-based institutions of the type provided by the charity organisation SOS Children's Villages [51] and long-term care in institutions funded from the state or municipal budgets.

58. Two types of institutions provide long-term residential care for children: State Social Care Centres and Child Care Institutions (the latter are also referred to as orphanages). State Social Care Centres are subordinated to the Ministry of Welfare and accommodate orphans and children without parental care up to the age of 2 years; children diagnosed with mental and physical development disorders up to 4 years of age; and children with severe mental impairments aged from 4 to 18. In 2015, such long-term care services were provided in 7 branches of 3 State Social Care Centres. In addition, municipalities provide long-term social care and social rehabilitation services for orphans and children without parental care aged from 2 to 18 years. In 2015 there were 33 Child Care Institutions under the authority of local governments.

59. During the visit, the Commissioner heard concerns about the slow development of care provided in family or family-like environments, and that institutional care continued to be the first choice in Latvia in most cases, especially for orphans and children without parental care. According to the NGOs, orphans and children without parental care under 2 years of age were particularly likely to be placed in child care institutions, because of the availability of funds for that purpose.

60. In 2015, according to the data compiled by the Ombudsman's office, there were 347 018 children in Latvia, out of whom approximately 500 were accommodated in State Social Care Centres, and 1 354 in Child Care Institutions. The Ombudsman raised concerns that children most often remained in institutional care for periods from 2 to 6 years, and that 12% of children stayed in institutional care as long as 10 years.[52] The Ombudsman also noted the practice of transferring children from orphanages to psycho-neurological hospitals under the authority of the Ministry of Healthcare. In 2015, 372 children were placed in 6 such hospitals. He further expressed concern that some children in hospitals were accommodated together with adults.[53]

61. The Latvian authorities informed the Commissioner about planned amendments to the Law on Social Services and Social Assistance, envisaging that the stay of children up to the age of 2 in institutional care should not exceed six months. The Commissioner recommended that priority be given to providing alternative care in a family-like environment, before taking any decision on placement in an institution. He also recalled that, according to the predominant opinion of experts, alternative care for children - especially those under 3 - should be provided in family-based settings.[54]

62. Civil society representatives have expressed concerns about the low number of foster families and obstacles to the development of this form of alternative care, including insufficient financial resources and awareness-raising efforts to encourage a greater number of foster families. Moreover, the slow rate of development of child care services which prioritise a domestic environment over residential state care institutions has been raised by the Ombudsman,[55] who has also highlighted the frequent transfers – 157 in 2014 - of children from foster and guardian families into municipal care institutions.[56] Similarly, in January 2016, the UN Committee on the Rights of the Child voiced concern

[51] The authorities indicated that as a specific model for this category of alternative care. Submission by the Ministry of Welfare, 28 September 2016.
[52] Submission of the Ombudsman of the Republic of Latvia for the 24th Session of the UN Working Group on the Universal Periodic Review, 19 June 2015.
[53] Alternative Report of the Ombudsman for the Committee on the Rights of the Child of United Nations, (period covered: 1 January, 2007 to 30 June, 2012), Riga 2015.
[54] See Guidelines for the Alternative Care of Children, Resolution Adopted by the UN General Assembly, 24 February 2010.
[55] See the Alternative Report of the Ombudsman of the Republic of Latvia for the Committee on the Rights of the Child of United Nations in the Period from 1 January, 2007 to 30 June, 2012: Riga, 2015.
[56] Report on the year 2014 By the Ombudsman of the Republic of Latvia.

about the slow development of the foster family network (1155 children placed in foster care in 2012 and 1224 children in 2014) in its Concluding Observations on Latvia.

63. Interlocutors at the Ministry of Welfare informed the Commissioner that the number of foster families was only 15 in 2003, and had grown to 585 by 2015. As to the number of children who benefited from this type of care, the authorities pointed out the gradual increase from 150 children in 2005 (the first year with available data) to 1232 in 2015. In addition, in 2015, alternative care in the form of guardianship was provided to 4620 children.[57] While acknowledging this increase, the Commissioner notes that it remains insufficient for the actual needs in Latvia.

64. The Commissioner finds it important not only to increase the number of foster and guardian families, but also to provide them with adequate training and support to ensure quality care for children. In this respect, for the period 2017-2019 and on the basis of the concept "On the Improvement of the System of Adoption and Out-of-family Care" approved by the Latvian Cabinet of Ministers on 9 March 2015, the authorities plan to increase the allowances for foster parents, introduce a new form of specialised foster families to provide care for children with special needs and children victims of violence, as well as increase psychological services. Other planned activities include support for adopters and guardian families. The implementation of the planned activities requires an additional 20 million EUR funding for the three-year period. The National Development Plan for 2014-2020 further aims to raise the proportion of children living in guardianship and foster families in relation to all children being in out-of-family care from 77.8% in 2011 to 85% in 2020.[58]

65. The Commissioner would like to highlight the Council of Europe recommendation on the rights of children living in residential institutions, which stresses that the placement of a child in them should remain the exception, and have as the primary objective the best interests of the child and his or her successful social integration or re-integration. In this context, civil society representatives in Riga have indicated that children and adults with disabilities in institutions are more likely to be subjected to abuse, including of a sexual nature. Collecting testimonies from alleged victims who have psychosocial and intellectual disabilities poses particular challenges for law-enforcement officials because of the victims' difficulty to express their account of abuse. According to the non-governmental organisations whom the Commissioner met, law-enforcement officials often lacked the requisite training and capacity to work with this category of victims.[59]

66. During the visit, the Commissioner stressed to his government interlocutors the need to accelerate the process of deinstitutionalisation. In 2011, the authorities informed the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) that deinstitutionalisation of residents of social care homes had suffered due to the economic crisis affecting the country.[60] The Commissioner notes that Latvia's recovery from the crisis[61] provides an opportunity for renewed efforts to move forward the stalled process. In the meantime, he calls on the relevant authorities to put in place preventive measures to strengthen the well-being of children and adults in institutions and ensure their access to justice.

67. In 2013, the government adopted Guidelines for the development of social services 2014-2020, and in June 2015 developed an Action Plan for Deinstitutionalisation for 2015-2020. Officials at the Ministry of Welfare informed the Commissioner that public policies were envisaged to strengthen the three lines of action: deinstitutionalisation, which includes the closing of at least 3 branches of State Social Care Centers; development of community-based social services; and effective governance of the system of social services. The expected results of the Action Plan include: reducing by 60% the number of children placed in long-term care institutions for periods longer than 6 months; reducing the number of children in institutions to 720; provision of social services to 3 400 children with disabilities; facilitating the transition to independent living of 700 adults with psychosocial and intellectual disabilities; and increasing the share of community-based services from 20% to 45%.

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[57] Data provided by the Ministry of Welfare of Latvia, 28 September 2016.
[58] Annual Report 2015, Ombudsman of the Republic of Latvia: Riga, 2016.
[59] Country Report on Latvia, Policy Department C - Citizens' Rights and Constitutional Affairs, European Parliament, December 2014.
[60] Report to the Latvian Government on the visit to Latvia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 5 to 15 September 2011.
[61] OECD Economic Survey of Latvia, 2015.

68. According to NGOs, the pace of deinstitutionalisation is slow and the planned activities are not supported by concrete measures to develop community-based services to ensure the right to independent living. In this context, many civil society organisations indicated that there was resistance towards the deinstitutionalisation process by local authorities. The national authorities also acknowledged the need to improve cooperation with city governments, and referred to procedural disagreements regarding demands by some stakeholders to access European structural funds prior to carrying out individual assessments of clients and developing regional deinstitutionalisation plans. Both government officials and NGOs stressed that the prevailing attitudes in Latvian society – i.e., that long-term care institutions are actually beneficial for persons with disabilities – have created additional barriers in the deinstitutionalisation process.[62]

69. The implementation of the deinstitutionalisation plan is led by the Ministry of Welfare in cooperation with municipalities, with the former providing the regulatory framework for policy reform as well as methodological management and supervision. According to officials, the implementation of 5 projects – one in each planning region of Latvia - was moving forward, and cooperation agreements had been signed with 94% of the municipalities. Project activities included: identification of a target group; public procurement procedures for hiring specialists to perform individual needs assessments and prepare individual support plans; and preparation of regional deinstitutionalisation plans, including mapping of further EU investments for social service development and reorganisation plans for long-term care institutions.[63]

70. The Commissioner raised the issue of cooperation between state and local authorities during his meeting with Riga city officials, who expressed commitment to the process but considered that there were shortcomings as regards targeted planning and assessment reflecting local needs and capacities. Therefore, the Commissioner called on the state and municipal authorities to improve cooperation and streamline their coordination mechanisms to revitalise the deinstitutionalisation process, so that persons currently residing in institutions can enjoy independent living in their communities.

71. The Commissioner visited the Baldone branch of the Riga State Social Care Centre in the municipality of Baldone, a large residential institution for children and adults with intellectual and psychosocial disabilities. At the time of the visit there were 61 children aged from 4 to 18 years and 95 adults residing in the institution. The material conditions appeared to be of an adequate standard; the institution was surrounded by large grounds with an orchard and vegetable garden, as well as a playground. All 61 children were registered in educational institutions. The Commissioner was informed about the following types of schooling arrangements available to the residents: home-schooling; special educational establishments for persons with visual impairments; and special education programmes for those diagnosed with severe intellectual impairments or severe developmental disorders provided in schools for children with special needs, as well as specialised classes in mainstream schools. The programmes concerned were provided in different educational establishments, including boarding schools. Those residents able to do so could participate in varied activities, including recreation and arts and crafts classes. Further, re-socialisation and half-way home services were offered for adults to prepare their transition to independent leaving in a group home. The Commissioner encouraged continuous training for staff to attend to the different needs of clients and make more efforts to ensure inclusive education.

2.4 ACCESS OF CHILDREN WITH DISABILITIES TO INCLUSIVE EDUCATION

72. The UN Convention on the Rights of Persons with Disabilities (CRPD) establishes the obligation to provide an inclusive education system for persons with disabilities.[64]

73. Latvia ratified the UN Convention on the Rights of Persons with Disabilities in March 2010. The Ministry of Welfare is responsible for disability rights policies, ensures coordination between ministries, and oversees the activities of the National Council of Disability Affairs (NCDA), an advisory body comprising representatives of the ministries, government agencies, associations and disability

[62] See also: Member States' Policies for Children with Disabilities, Country Report on Latvia, Policy Department C - Citizens' Rights and Constitutional Affairs, European Parliament, December 2014.
[63] Data provided by the Ministry of Welfare.
[64] Article 24, the Convention on the Rights of Persons with Disabilities.

rights NGOs. The Ombudsman's office is the designated independent mechanism to promote, protect and monitor the implementation of the Convention in line with Article 33 (2) CRPD.

74. The national legal framework affords protection against discrimination on the basis of disability. Article 110 of the Constitution recognises the special protection needs of disabled children, and the Law on the Protection of the Rights of the Child - in addition to prohibiting discrimination based on health status - provides for an obligation to ensure that all children have equal rights and opportunities to acquire education commensurate to their ability.[65]

75. In 2014, Latvia had 161 094 persons with disability status for 2 million inhabitants, including 7605 children with disabilities.[66] Official statistics for 2016 indicate that out of 352 298 children, 8111 were children with official disability status.[67] Latvian law and practice also define a broader category of children with special needs which includes those with learning disabilities, hearing and visual impairments, physical and intellectual disabilities, as well as those diagnosed with mental health disorders and long-term illnesses.[68] Such children receive special education, defined as "general and professional education adapted for persons with special needs and health disorders."[69] In 2016, there were 60 educational institutions for children with special needs, including boarding schools. In the academic year 2015/2016, the total number of students with special needs in special education schools was 5830.[70]

76. Persons with special needs are listed among the primary target groups of the education system and policies, and the Education Law prohibits differential treatment, including on grounds of "state of health" and "place of residence".[71] In case of violation of the principle of non-discrimination, the burden of proof lies with the provider of the educational programme to demonstrate that there was no difference in treatment. Victims have the right to seek redress, including through courts, and to receive legal assistance from the Ombudsman. The Ministry of Education, together with municipalities and educational establishments, ensures implementation of inclusive measures in line with the legislation and government policies. Local governments have a particular duty to provide for educational activities at an establishment closest to the child's residence.[72] The State Education Quality Service controls compliance of the educational process with laws and regulations.

77. Special schools for children with disabilities have long existed in Latvia, and this practice has seldom been questioned due to prevailing views in society that such children are best educated in segregated settings. In January 2016, the UN Committee on the Rights of the Child recommended in its Concluding Recommendations on Latvia that comprehensive measures be drawn up for the development of inclusive education and priority be given to inclusive education over placement of children in specialised institutions and classes. In addition, it recommended that priority be given to educating and assigning specialised teachers and professionals to the integrated classes, in order to provide individual support and appropriate attention to the children with learning disabilities.

78. In his 2013 report, the Ombudsman noted that distribution of special schools was irregular. While special schools for children with mental disabilities were provided in 36 out of 119 municipalities, Riga was the only municipality in the country able to provide almost all programs of special education. Riga had the only special school for students with visual impairments and one of the two special schools for those with hearing impairments. Citing data by the Ministry of Education, the Ombudsman's report noted that at the beginning of the 2012/2013 academic year, 6102 students attended special educational institutions, while special education in general educational institutions was provided to 4058 students. As not all municipalities were willing or able to provide education according to the special needs of children, many children did not have the possibility to access special education

[65] The Constitution of the Republic of Latvia; the Law on the Protection of the Rights of the Child (English translation), Latvian State Language Centre 2015.
[66] Member States' Policies for Children with Disabilities, Country Report on Latvia, Policy Department C - Citizens' Rights and Constitutional Affairs, European Parliament, December 2014.
[67] Children in Latvia 2016, Central Statistical Bureau of Latvia: Riga 2016.
[68] E-mail communication with the Ministry of Education of Latvia: 20 October 2016.
[69] Children in Latvia 2016, Central Statistical Bureau of Latvia: Riga 2016.
[70] Information submitted by the Ministry of Education on 6 September 2016.
[71] Education Law, adopted on 29 October 1998. English translation by the Latvian State Language Centre, 2015.
[72] Section 17 "Competence of Local Governments in Education", Education Law.

programmes in their area.[73] The Ombudsman also pointed out that municipalities often were not inclined to license special curricula in mainstream schools, and that parents often had to resort to sending their children to special schools located in other districts.[74] The foregoing concerns were confirmed by the Commissioner's civil society interlocutors during his visit.

79. The National Development Plan 2014-2020 and the Education Development Guidelines 2014–2020 list inclusive education among the different government priorities. The government acknowledges the inadequate level of development of support services for children with special needs, and emphasises the necessity to invest in professional staff and raise awareness about persons with special needs.[75] During the visit, the authorities indicated that several services, including psychological and sign language interpretation, had been introduced since 2011. In 2014, 12.1 % of teachers expressed the need for further training on teaching students with special needs, and there were several education programmes designed for that purpose.

80. According to the Ministry of Education, the negative demographic trends indicating a decline in births provide an additional incentive to adapt curricula to accommodate children with special needs, in order to avoid school closures due to an insufficient number of students. In the academic year 2015/2016 there were 11 846 students with special needs integrated in mainstream schools and classes from grades 1 to 12.

81. Several interlocutors, including the Ombudsman, reported particular problems with implementation of the requirement to provide education in the nearest mainstream school in the municipality where children reside. Justifications for the foregoing, as cited by many schools, were: inadequate support services for the accommodation of children with special needs; unavailability of licensed programmes for children with visual and hearing impairments; and the availability of special schools in other districts, which - according to them - could better serve children with special needs. The Commissioner was also informed about attempts of undue influence or pressure upon parents to enroll children in special education schools due to an unwillingness or inability of mainstream schools to license special programmes.

2.5 CONCLUSIONS AND RECOMMENDATIONS

82. While Latvia does have a strong institutional and policy framework for the protection of children's rights, there is a considerable gap between the stated policies and their implementation. The Commissioner urges the authorities to address this matter, and to ensure that all children are in a position to effectively enjoy all human rights. It is especially important to improve coordination between national and municipal authorities aimed at ensuring sufficient staff and expertise to provide child-focused social services in all municipalities.

83. The Latvian authorities have the responsibility to prevent statelessness among children. Whereas the amendments to the Citizenship Law have simplified granting citizenship to stateless children born to "non-citizen" parents, the requirement for at least one parent to formally request registration as a citizen for new-born children still results in the transmission of statelessness in part of the population. The Commissioner urges the authorities to address this issue as a matter of priority and to make the citizenship registration procedure for new born-children of "non-citizen" parents entirely automatic. Such a measure would be in line with the principle of the best interests of the child and will ensure access to the full enjoyment of all human rights for all children born in Latvia. Pending such changes to the procedure, the Commissioner calls on the authorities to step up awareness-raising efforts on this issue and design effective communication strategies to reach out to "non-citizen" parents.

84. The Commissioner is concerned about the practice of institutionalisation of orphans and children without parental care, especially those under the age of 3. He would like to refer to the prevailing opinion among experts that alternative care for young children, especially those under the age of 3 years, should be provided in family-based settings. He encourages the authorities to refrain from

[73] Report on the Year 2013 by the Ombudsman of the Republic of Latvia
[74] The Ombudsman's submission within the framework of the 2nd cycle of the UN Universal Periodic Review.
[75] Latvia: Education for All 2015 National Review, report submitted in response to UNESCO's invitation to its Member States to assess progress made since 2000 towards achieving Education for All (EFA).

automatic placement of this category of children in long-term residential care and instead prioritise other types of care in a family-type environment. He also calls on the authorities to allocate sufficient funds, implement information campaigns and trainings in order to increase the number of guardians and foster families.

85. The Commissioner is concerned by the situation of children in long-term state care institutions, including children with disabilities, and urges the authorities to move forward the stalled deinstitutionalisation process. As a first step, the authorities should refrain from placing additional persons in residential institutions, and prioritise efforts aimed at creating community-based services in order to provide all children with viable mechanisms for exercising their right to independent living in their communities. Providing adequate support to parents of children with disabilities should be one of the measures given priority in this context.

86. In order for deinstitutionalisation to advance, it is important to improve cooperation between state and local authorities, especially as concerns the assessment of the needs and capacities at the local level and the allocation of funds. It would also be advisable for municipal authorities to adopt more ambitious locally-tailored programmes and support the national strategies and policies in this field.

87. Pending the progressive shift away from placement in institutions towards care within the community, large residential care facilities should strive to ensure an environment and quality of care conducive to the child's development. Large institutions pose a higher risk of violence and sexual abuse to residents and measures should be taken to continuously strengthen the national human rights protection framework to reinforce preventive action. In this regard, the Commissioner acknowledges the monitoring activities of the Ombudsperson and the State Inspectorate for Protection of Children's Rights. The Commissioner recommends further strengthening of the national human rights architecture through ratification of the Optional Protocol to the UN Convention against Torture and establishment of an adequately resourced National Preventive Mechanism.

88. Latvia has an obligation to ensure access to inclusive education for children with disabilities in accordance with Article 24 of the UN CRPD. However, the placement of students with disabilities in mainstream classes can only be successful if accompanied by structural changes. The authorities have expressed a commitment to integrate children with special needs in mainstream schools, and the Commissioner urges them to implement those policies in close cooperation with local governments and educational establishments. He also encourages them to reinforce their efforts to collect disaggregated data and conduct research, with a view to developing more effective policies and interventions. Further guidance in this regard may be found in the General Comment No 4 on meeting the obligations under CRPD Article 24.

89. There is a need to make a clear break from old practices, related to widely-held and unchallenged beliefs, that favour segregated schooling for children with disabilities. The Commissioner is of the opinion that, when implemented properly, inclusive education has benefits for the wider population. He therefore recommends that all policy measures in this area be accompanied by awareness-raising about the right of persons with disabilities to inclusive education and the need to protect them from discrimination in the education system.

3 HUMAN RIGHTS OF LGBTI PERSONS

3.1 LEGAL AND POLICY MEASURES FOR THE PROTECTION OF LGBTI PERSONS

90. In a memorandum published in 2007, the Commissioner's predecessor expressed concern about the tense climate surrounding the gay pride event on 23 July 2005, initially prohibited by the mayor of Riga, but subsequently authorised by the Riga administrative court following an appeal lodged by the organisers. He noted that several politicians, including the Deputy Speaker of Parliament at the time, openly opposed the initiative. The former Commissioner's memorandum also made reference to a violent attack against gay activists in the context of another pride event in July 2006, which had been prohibited on security grounds. Participants who arrived in Riga had been threatened by hostile opponents and had to be evacuated from their hotel.[76] At the time, the low level of social awareness of LGBTI persons was reflected in the results of Eurobarometer survey in 2006, when only 6% of respondents said they had homosexual acquaintances.[77]

91. The results of a survey carried out by FRA in 2012 showed that 35% of the respondents from the LGBT community in Latvia considered that the expression of hatred and aversion towards LGBT persons in public was very widespread and 48% thought it was fairly widespread.[78]

92. During the visit, the Commissioner discussed with the relevant state and municipal authorities measures taken to ensure the safety and security of LGBTI persons as well as their right to freedom of assembly and expression, including in the context of pride events. The Commissioner noted the generally improved climate as concerns the peaceful conduct of pride events, and welcomed the fact that Europride 2015 in Riga took place without significant incident and even rallied support from some members of parliament.[79] The Commissioner called on his interlocutors to build on this progress and invest in raising awareness among the general public about equal treatment policies and equal access to human rights for all. The Commissioner specifically stressed the responsibility of political leaders to promote those principles and values in Latvian society.

93. As regards the relevant institutional framework, the Commissioner observes that currently there are no public policies that would address the human rights of LGBTI persons in a comprehensive and systematic way.[80] Moreover, according to NGOs and researchers, statistical information on LGBTI people is not collected, and there is only anecdotal evidence of cases of violence against sexual minorities.[81]

94. The Latvian Constitution guarantees equality before the law and the courts and the implementation of human rights without discrimination.[82] While there is no general law on protection against discrimination, various sectorial laws contain specific prohibitions of discrimination based on a person's sexual orientation. Latvia's legal provisions against discrimination on the ground of sexual orientation exceed the minimum requirements of the EU Employment Equality Directive 2000/78/EC, and such discrimination is forbidden in employment (both in the private and in the public sectors) and in civil service.[83] Further, on 18 April 2013, the parliament amended the Electronic Mass Media Law,

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[76] Memorandum to the Latvian Government, Assessment of the progress made in implementing the 2003 recommendations of the Council of Europe Commissioner for Human Rights, Strasbourg, 16 May 2007.

[77] Discrimination on grounds of sexual orientation and gender identity in Europe, 2nd edition, Council of Europe, September 2011.

[78] LGBT Survey 2012, European Union Agency for Fundamental Rights.

[79] EuroPride 2015: Latvia turning its face towards equality, ILGA Europe, 24 June 2015.

[80] Professionally speaking: challenges to achieving equality for LGBT people, FRA 2016.

[81] Latvia: The Status of Lesbian, Gay, Bisexual and Transgender Rights – Submission to the UN Human Rights Council for its Universal Periodic Review of Latvia (11th Session(2011)). ILGA Europe. (ILGA Europe, UPR 2011); Anhelita Kamenska, *Civil and Political Rights, How democratic is Latvia*? Audit of Democracy 2005-2014, Advanced Social and Political Research Institute, Riga 2014.

[82] Article 91, the Constitution of the Republic of Latvia.

[83] See Legal Study on Homophobia and Discrimination on Grounds of Sexual Orientation and Gender Identity. Latvia January 2014 Update, Authors: Anhelita Kamenska, Kristīne Laganovska. Background document commissioned by the European Union Agency for Fundamental Rights (FRA).

adding "sexual orientation" to the list of prohibited grounds for discrimination or incitement of hatred in audio and audiovisual commercial messages.

95. NGO representatives have raised concerns about frequent instances of homophobic discourse and insufficient efforts by the law-enforcement and judicial authorities to combat hate speech and hate crimes. Effective implementation of the above-mentioned legal provisions is further hampered by a general lack of data as well as low capacity levels for investigating and sanctioning the relevant violations among the authorities concerned.

96. The comprehensive Europe-wide study on Discrimination on Grounds of Sexual Orientation and Gender Identity in Europe covering the period from 2004 to 2010 referred to reports about the presence of web-based hate groups in Latvia.[84] The monitoring of on-line hate speech conducted from 1 July to 31 October 2014 by the Latvian Human Rights Centre, one of the leading local NGOs, showed that sexual minorities were among the main target groups of hate speech in Latvia.[85] Moreover, in the first nine months of 2015, the Mozaika NGO recorded 14 attacks against LGBTI people, which reportedly did not result in serious injuries. According to the NGO, the victims refrained from reporting the attacks due to low trust in the capacity of law-enforcement bodies to investigate human rights violations affecting LGBTI persons.[86] During the visit, civil society organisations indicated that hate speech and hate crimes against LGBTI persons continued to go unreported.[87]

97. The Commissioner raised those concerns during his meetings at the Ministry of the Interior and the Prosecutor General's Office, and discussed the application of the relevant legislation regarding all bias-motivated crimes. In this respect, the authorities referred to amendments to the Criminal Law introduced on 25 September 2014 prohibiting the incitement of social hatred and enmity based on "gender, age, disability of a person or any other characteristics, if substantial harm has been caused thereby" (revised Section 150). Section 149[1] of the same law establishes liability for violating the prohibition of discrimination on racial, national, ethnic, religious and other grounds, if substantial harm was caused thereby. The authorities considered those provisions as sufficient for protecting LGBTI persons, and that the definition of "substantial harm" was broad enough to encompass harm caused by non-physical abuse and violence. However, the officials indicated that the application of Section 150 of the Criminal Law was still limited, with only one criminal proceeding initiated in 2015 and two cases in the first nine months of 2016. The cases were still in pre-trial investigation and information was not available about the concrete anti-discrimination grounds invoked.

98. As regards hate crimes, Section 78 of the Criminal Law establishes liability for committing acts triggering national, ethnic, racial or religious hatred or enmity, and Section 48, paragraph 14, which concerns aggravating circumstances, expressly refers only to offences committed out of racist, national, ethnic or religious motives. The Prosecutor's Office transferred to courts five cases under Section 78 in 2015, and four in the first half of 2016. The authorities further noted that while the Criminal Law did not include a separate section directly establishing criminal liability for hate speech, it could be included as an element of a crime under Sections 78 and 150.

99. Based on the foregoing, the Commissioner considers that sexual orientation and gender identity should be explicitly included among the protected grounds in the legislation prohibiting discrimination and incitement of social hatred and enmity. He also recommends the inclusion of homophobic and transphobic motivation as aggravating circumstances in the Criminal Law.[88] Such legislative changes can bring clarity and provide better guidance for law-enforcement, prosecutorial and judicial authorities to correctly identify, investigate and sanction offenses targeting LGBTI persons.

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[84] Discrimination on grounds of sexual orientation and gender identity in Europe, 2nd edition, Council of Europe, September 2011.

[85] The other main target groups for hate speech were persons of dark skin colour, ethnic Latvians, Russians, and Jews. See The First Stage of Online Hate Speech Monitoring Project, Latvian Centre for Human Rights, December 2014.

[86] Latvia, Amnesty International Annual Report 2015/16

[87] Latvian Centre for Human Rights, UPR submission, January 2016.

[88] At the UN's Universal Periodic Review in January 2016, one of the recommendations Latvia received in this respect was to explicitly recognise homophobic and transphobic motivation for a criminal offence as an aggravating circumstance Latvia, Universal Periodic Review on 26 January 2016.

3.2 ENSURING A BIAS-FREE EDUCATION SYSTEM

100. The Commissioner is concerned about negative stereotyping of LGBTI in schools and the education system. According to a study by the EU Fundamental Rights Agency (FRA), the interviewed public officials and professionals reported that offensive language towards LGBTI persons and prejudiced attitudes were common in Latvian schools.[89] The UN Committee on the Rights of the Child expressed concern about the lack of official information on discrimination faced by LGBTI children as well as about reported incidents of bullying against those children in schools, and recommended Latvia to strengthen its efforts to combat negative attitudes and eliminate discrimination against LGBTI children.[90]

101. Civil society interlocutors expressed particular concern that homophobic bias affects policy planning, including as regards the education process. They also pointed out the lack of positive measures to provide objective information with respect to sexual orientation and gender identity in school curricula and educational materials, and inadequate access to information on sexual and reproductive health and rights. In this respect, particular reference was made to the amendment to the Education Law adopted on 18 June 2015, prescribing "morality education" in line with the values enshrined in the Constitution, especially as concerns family and marriage. The amendments also prescribed that educational establishments (except those at higher level) protect students from information and educational methodologies which did not conform to the development of virtuousness and moral standards of schooling.[91] Subsequent to the changes, on 15 July 2016 the government approved a regulation on general policy guidelines in this area.[92]

102. Latvia-based and international NGOs asserted that the amendments mirrored laws banning "gay propaganda",[93] thereby signifying a setback to equal treatment policies, and a possible restriction on children's access to sex and sexuality education.[94] The Commissioner was also informed that while some NGOs were consulted in the drafting of the guidelines, the process was not entirely inclusive as regards LGBTI organisations. Whereas the guidelines do contain a non-discrimination clause, some interlocutors criticised the absence of explicit guarantees against discrimination based on sexual orientation and, in light of the current social climate, felt that this could potentially lead to arbitrary interpretations of the notion of "morality", and adversely affect efforts to introduce LGBTI rights into the education process. The Commissioner also received concerns that the guidelines compromised the autonomy of educators by placing restrictions on their freedom to provide information on sexual orientation and gender identity.

103. The Commissioner raised the above concerns with his government interlocutors, in particular officials at the Ministry of Education, who affirmed their policy of respecting the autonomy of educators, and maintained that the amendments should not be interpreted as placing undue restrictions upon the education process.

104. The Commissioner would like to recall that as a matter of principle, educational polices and materials should be human rights compliant, promote diversity and exclude discriminatory and degrading content regarding gender equality and LGBTI persons. In this regard, it should be underlined that the 2012 FRA survey of LGBT persons in Latvia found that 52% of respondents strongly agreed that measures implemented at school to respect LGBT persons would allow for more comfortable living as an LGBT person.[95] The Commissioner therefore calls on the authorities to develop age-appropriate educational programmes, including on sexual and reproductive health and rights, to overcome prejudices in society, promote equality, and counter homophobic and transphobic stereotypes.

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[89] Professionally speaking: challenges to achieving equality for LGBT people, FRA 2016.
[90] Committee on the Rights of the Child: Concluding observations on the third to fifth periodic reports of Latvia, 14 March 2016.
[91] Amendments to the Education Law, Riga, 2 July 2015.
[92] Regulation N 480, Cabinet of Minister, Riga 15 July 2016.
[93] ILGA-Europe 19 June 2015.
[94] Dispatches: Double Speak in Latvia, Human Rights Watch, 23 June 2015. See also Amnesty International Annual Report, Latvia 2015/2016.
[95] LGBT Survey 2012, European Union Agency for Fundamental Rights (FRA).

3.3 LEGAL PROTECTION OF SAME-SEX COUPLES

105. The Latvian Constitution defines marriage as a union between a man and a woman, and the Civil Law expressly prohibits same-sex marriages.[96] The domestic legal order does not have any provisions on registered partnerships - including for different-sex couples - nor on any other forms of same-sex partnerships or cohabitation.[97]

106. Entry into and residence in Latvia of citizens of the European Union and their family members is regulated by the Cabinet of Ministers Regulation No. 675, adopted in August 2011, which transposed in Latvia the EU Directive 2004/38/EC on the right of citizens of the European Union and their family members to move and reside freely within the territory of the member states. Under that regulation, an extended family member can be a partner with whom the EU citizen has a relationship lasting for at least two years or a partner with whom the EU citizen has a registered partnership. According to the Latvian authorities, the term "partner" is used to safeguard the rights provided in the Regulation and does not entail recognition of the partnership which has been the basis for granting the right of entry and residence.[98]

107. In 2011 the Mozaika NGO, also known as the Latvian Alliance of Lesbian, Gay, Bisexual, Trans People and their Friends, submitted a proposal to legalise same-sex partnerships.[99] More recently, in January 2015, a gender-neutral civil partnership bill introduced to parliament was later rejected by the parliament's Legal Affairs Committee on 24 February 2015.[100]

108. During his visit, the Commissioner received information about litigation initiated by 5 same-sex couples after their applications to register marriage were rejected. The cases were appealed to the Administrative Court of First Instance, where one of the applications was accepted and four were refused. The negative decisions were then appealed to the Supreme Court. The Commissioner was informed that the Supreme Court returned the cases to the lower courts for re-examination. It would also appear that the Supreme Court indicated the need for a broader interpretation of the issue under the provisions on the right to private and family life as protected by the Latvian Constitution and the European Convention on Human Rights.[101]

109. In this regard, the Commissioner wishes to bring to the attention of the Latvian authorities the judgment of the Strasbourg Court in the case of *Oliari and Others v. Italy*,[102] in which the Court reiterated its position that relationships of cohabiting same-sex couples living in stable de facto partnerships fall within the notion of "family life" within the meaning of Article 8 ECHR. The Court also acknowledged that same-sex couples are in need of legal recognition and protection of their relationship and that the lack of recognition fails to provide for some basic needs fundamental to the regulation of a stable relationship between a couple, such as mutual material support, maintenance obligations and inheritance rights. There is also a conflict between the social realities of people living openly as couples, and their inability in law to be granted any official recognition of their relationship. The Commissioner also refers to the Court's finding of a growing trend among Council of Europe member states towards legal recognition of same-sex couples, with 24 of the 47 member states having already legislated in favour of such recognition in 2015.

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[96] Article 110, the Constitution of the Republic of Latvia; Section 35 of the Civil Law, English translation: State Language Centre, 2015.

[97] Latvia: The Status of Lesbian, Gay, Bisexual and Transgender Rights – Submission to the UN Human Rights Council for its Universal Periodic Review of Latvia (11th Session(2011)). ILGA Europe. (ILGA Europe, UPR 2011)

[98] Entry into Latvia by citizens of the Union and their family members; November 2015, Ministry of the Foreign Affairs of Latvia.

[99] See for example, Appeal to Latvian Leaders to Support Recognition of Same-Sex Partnerships, Human Rights Watch, 24 May 2011.

[100] Latvia, ILGA-Europe Annual Review 2016.

[101] The Review of separate rulings of the Supreme Court and other judicial institutions: the first half of 2016 (in Latvian). See also, Supreme Court rules same-sex marriage request will be considered, Public Broadcasting of Latvia, 27 May 2016.

[102] Judgment of 21 July 2015. See also the Court's case-law factsheet "Sexual orientation issues", July 2015

3.4 CONCLUSIONS AND RECOMMENDATIONS

110. The Commissioner welcomes the improved policies to protect the freedom of assembly and expression of LGBTI persons, notably in the context of organisation of gay pride events. He urges the Latvian authorities to build on this progress and ensure the protection of LGBTI persons in all areas of life. At the same time, he observes that currently there is an absence of specific polices to address the human rights of LGBTI persons in a comprehensive and systematic manner, and there remain certain gaps in the legal and institutional framework. He encourages the authorities to develop an action plan to comprehensively address the protection needs of LGBTI persons, and invites the authorities to seek relevant expertise through the available cooperation mechanisms with the Council of Europe.

111. Evidence-based research and data collection are important prerequisites for putting in place effective public policies. Therefore, the Commissioner encourages systematic research and disaggregated data collection concerning discrimination on grounds of sexual orientation and gender identity in all areas of life. In the collection of any sensitive data, the authorities should apply safeguards protecting the right to respect for private life. There is a particular need to raise awareness about the human rights of LGBTI persons in order to increase support for diversity and equal treatment. In that respect, the Commissioner wishes to emphasise the important role that political parties and public figures can play to promote social acceptance of the human rights of LGBTI persons and condemn any practice of stereotyping or denigrating on the basis of sexual orientation and gender identity.

112. The Commissioner recommends that the legal framework on hate speech and hate crime be revised to explicitly include sexual orientation and gender identity among the protected grounds in the relevant sections of Criminal Law in order to ensure effective investigation and accurate qualification of offences targeting LGBTI persons. Transphobic and homophobic bias should be included among the aggravated circumstances under Section 48 of the Criminal Law. The Commissioner would also like to highlight ECRI General Policy Recommendation 15, in particular clause 10, whereby member states are invited to take appropriate and effective action against the use, in a public context, of hate speech which is "intended or can reasonably be expected to incite acts of violence, intimidation, hostility or discrimination against those targeted by it" through the use of the criminal law provided that no other, less restrictive, measure would be effective. He further urges the authorities to build adequate capacity among police, prosecutors and judges to effectively investigate, prosecute and punish all instances of bias-motivated crimes. Moreover, it would be desirable to pursue further efforts to increase the trust of potential complainants in the commitment of law-enforcement bodies to combat such crimes.

113. The Commissioner welcomes the fact that there have been several initiatives to introduce legislation for equal recognition of same-sex couples under domestic law. In light of the case-law of the Strasbourg Court upholding the right of same-sex couples to enjoy equal recognition of their relationship under Article 8 of the European Convention on Human Rights, as well as the growing trend in Europe towards recognition of same-sex partnerships, the Commissioner invites the authorities to introduce legislation on registered partnerships.

114. The Commissioner takes note of the amendments to the Education Law regarding "morality in education" and the widespread concerns by civil society organisations that the amendments were triggered by homophobic bias. The Commissioner recalls his opinion expressed in other contexts that children have the right to receive factual information about sexuality and gender diversity. He also recalls the Recommendation CM/Rec(2010)5 of the Committee of Ministers of the Council of Europe on measures to combat discrimination on grounds of sexual orientation or gender identity and about the need for objective information with respect to sexual orientation and gender identity in school curricula and educational materials. He calls on the authorities to apply the policy guidelines concerning the above-mentioned amendments in line with the foregoing precepts. Finally, he encourages the Latvian authorities to enhance their cooperation with civil society in the area of human rights of LGBTI persons.