

**IHF FOCUS: elections; freedom of expression and media; judicial system and independence of the judiciary; torture, ill-treatment and police misconduct; conditions in prisons and detention facilities; right to privacy and family life; national minorities; citizenship; intolerance, xenophobia, racial discrimination and hate speech; asylum seekers and immigrants; women's rights; rights of the child; rights of the disabled and mentally ill.**

In 2001 the primary human rights problem in Latvia remained the same as in previous years: a huge backlog in the courts resulting in long pre-trial detention periods. However, Latvia also faced new and dangerous challenges to freedom of the media and the judicial system posed by the murders of a journalist and a judge. As in previous years, language policy and its effect on the rights of minorities, the right to private life and freedom of expression remained a concern. The most positive developments concerned adoption of a new Labour Law with strong anti-discrimination provisions and the implementation of several measures to facilitate the naturalisation of Latvia's large non-citizen population. Legal strategies for promoting human rights gained importance, as the European Court of Human Rights began to issue rulings on applications from Latvia, and Latvia's Constitutional Court began to review cases submitted by individuals. Moreover, Parliament adopted a new Administrative Procedure Law providing new opportunities for human rights defenders.

### **Elections**

In 2001 controversy erupted over Latvia's practice of requiring Latvian language knowledge of candidates for public office. According to the *Saeima* (Parliamentary) Election Law and the Law on City Council, District Council and Parish Council Elections, a person who had not finished a Latvian language school must provide a state language proficiency document of the third (highest) level to stand for office. While this requirement has been in force since the mid-1990s, the issue was thrust

on the political agenda by several cases submitted to international human rights institutions and by the Organization for Security and Co-operation in Europe (OSCE). One of the provisions in the guidelines for successfully closing the OSCE Mission to Latvia was "removal of language requirements to stand for public office." These guidelines were adopted by the Austrian OSCE Chairmanship in November 2000, but were hotly debated only at the end of 2001 when pressure built to close the Mission.

On 25 July, the UN Human Rights Committee published its views<sup>2</sup> on a case from Latvia challenging the language requirements as discriminatory. The complainant Antonina Ignatane had been a candidate in Latvia's 1997 municipal elections, but had been struck off the electoral list for insufficient language proficiency. Ignatane claimed that Latvia had violated Articles 2 (non-discrimination) and 25 (right to vote and be elected) of the International Covenant on Civil and Political Rights. The UN Human Rights Committee concurred, noting that it "considers that the author is a victim of a violation of Article 25, in conjunction with Article 2 of the Covenant." However, the decision focussed not only on the substance of the case, but also on procedure.

The issue of language proficiency requirements remained controversial at year's end, as the President announced on 6 December that the language requirements were "undemocratic" and that she would propose legislative amendments to remove them in the near future. In mid-December the President convened a group of legal and human rights specialists to evaluate the

compatibility of language requirements with Latvia's Constitution and international treaty obligations. By year's end Parliament had not yet adopted the requisite legislative amendments. Moreover, the European Court of Human Rights had not yet delivered a much anticipated ruling on a case (*Podkolzina vs. Latvia*) involving a former candidate for Parliament who was barred from running for office in 1998 because of insufficient language proficiency.

On 11 March, municipal elections took place throughout Latvia. While voter turnout was high (62% of eligible voters took part), election officials and independent observers recorded serious irregularities in a number of electoral precincts.

- ◆ In the fourth Majori electoral district in Jurmala voters' lists disappeared the night of the elections, though a subsequent investigation found that no falsification took place.

- ◆ More serious problems were discovered in Preili district, Viestura parish near Bauska and Ilukste where allegations of vote buying and other irregularities led the courts to annul election results and schedule repeat elections in these locales.

Members of Latvia's large non-citizen community<sup>2</sup> were not eligible to vote or run for office in the elections. During a visit to Riga in early May, Council of Europe General Secretary, Walter Schwimmer, urged Latvia to grant non-citizens voting rights in local elections. Previously, the Council of the Baltic Sea States Commissioner on Democratic Institutions and Human Rights had made similar calls.

### Freedom of Expression and Media

The murder of a journalist and restrictions on media activity in the city of Daugavpils evoked concern about freedom of expression in 2001.

- ◆ On 15 November unknown assailants severely beat criminal affairs reporter of the

Liepaja-based newspaper *Kurzemes Vards*, Gundars Matiss, who died of his wounds on 28 November. Police, who had not solved the crime by year's end, have suggested a possible link to organized crime. At the time of his attack, Matiss was preparing an article on alcohol contraband in Liepaja.

After municipal elections in March and the victory of populist businessman Rihards Eigims, the newly elected City Council in Daugavpils took a number of steps that evoked concern about freedom of the media.

- ◆ On 3 April the Daugavpils City Council decided to repossess all television equipment belonging to the municipality from Daugavpils Television Studio, Ltd., an insolvent broadcaster of which the City Council was the largest stakeholder. The City Council based its decision not only on the financial status of the company, but also on the fact that it reflected "insufficiently" city events and the work of the City Council. In October the director of the station was replaced by a city official. Several local journalists claimed that a July City Council decision "On the Accreditation of Journalists" made it virtually impossible to receive information from officials in the municipality or in municipally owned businesses, who refer to the City Council's code of ethics, which states that "City Council workers must observe confidentiality."

Latvia's Constitutional Court rejected on procedural grounds the first legal challenge to language restrictions contained in the Law on Radio and Television. Article 19 of the law stipulated that private radio and television stations could broadcast in languages other than Latvian only 25% of the total volume of broadcasting time in a twenty-four hour period. Vladimir Gurov, the head of the Bizness & Baltia media group, lodged a complaint with the Constitutional Court on 9 August challenging the constitutionality of the language restrictions and their compatibility with freedom of ex-

pression norms contained in the European Convention on Human Rights and the International Covenant on Civil and Political Rights. The Radio and Television Council had imposed several fines on Bizness & Baltia radio and applied to the courts to annul its broadcasting license for violating the language restrictions. On 29 August the Constitutional Court rejected the application, arguing that the author had not exhausted all other remedies.

### Judicial System and Independence of the Judiciary

In an extremely disturbing development, Latvia witnessed the first murder of a judge in 2001.

◆ On 15 October an unknown assailant using a home-made machine gun and a pistol murdered Janis Laukroze, chairman of the Criminal Case Collegium of the Riga Regional Court. Laukroze had been in charge of organizing the review of criminal cases within the Riga Regional Court by dividing cases among other judges. Officials asserted that the murder was probably a work-related contract killing. On 16 October the Government announced a 10,000 lat (18,000 Euro) award for information leading to the apprehension of the perpetrator and allocated 50,000 lats (90,235 Euro) to the victim's family. By year's end law enforcement agencies had discovered four large weapons caches, but had not yet detained any suspects.

In 2001 the importance of the Constitutional Court as a human rights mechanism increased because individuals could lodge applications with the court as of 1 July about violations of their basic rights. In the second half of 2001, the Constitutional Court received 314 applications from individuals, of which 121 were given to the Court's Collegium for review. Only 14 were given over for trial and, by year's end, the Court had adopted rulings on three cases. The first was from Juta Mentzen regarding the Latvianisation of

proper names<sup>4</sup>; the second was from Andris Kiploks (a member of Thundercross who had been convicted) regarding compensation for time spent in prison, and the third was from Kaspars Zandbergs and Aivars Andersons regarding the banning of food parcel deliveries in prisons.<sup>5</sup>

The large number of cases submitted to the Constitutional Court suggested that heretofore individuals had not had adequate opportunities to defend their rights. The Constitutional Court rejected many complaints by persons trying to use the Court as a last court of appeal. While this suggested a lack of understanding among many lawyers about the functions of this Court, it also illuminated certain problems in the Law on the Constitutional Court. Article 19 said that a "constitutional complaint may only be submitted if all other opportunities for defending one's rights have been exhausted", but also stated that the Court "may review" a case before then "if review of the constitutional complaint is of general importance." It was very unclear what the criterion of "general importance" meant, which led the Court to reject certain complaints on questionable grounds.<sup>6</sup>

Problems in guaranteeing the right to a fair trial within a reasonable time within Latvia has prompted many individuals to lodge applications before the European Court of Human Rights, which passed its first judgments on cases from Latvia in 2001. While the Court had received over 200 complaints from Latvia, it had asked the Latvian Government to comment on about one tenth of those, ruling the remainder inadmissible. The largest number of cases declared admissible regarded possible violations of Article 6 (right to a fair trial) and Article 8 (right to respect for private and family life).

The first decision from the European Court of Human Rights came on 18 October and was a friendly settlement in which Nina Kulakova received 5,000 lats (9,23 Euro) compensation for an applica-

tion based on Article 6. This decision was a wake-up call to the judiciary and political elite about the importance of the Court and the possible financial implications of inaction regarding judicial reform.

After three years of discussions, on 23 October Parliament finally adopted a new Administrative Procedure Law, which will enter into force on 1 July 2003. The task of the new law is to defend private persons from violations of their rights and legal interests by public bodies. Effective implementation of this law will require considerable training and awareness raising among the public and the legal profession.

### **Torture, Ill-Treatment and Police Misconduct**

In November the Council of Europe's Committee for the Prevention of Torture (CPT) made public its report on Latvia's closed institutions prepared following a visit in January 1999.<sup>7</sup> The most striking sections pertained to the police. The report notes that "in some cases, the ill-treatment alleged - severe beating, asphyxiation using a plastic bag, strangulation using a guitar wire, infliction of electric shocks, in the course of questioning - could be considered as amounting to torture."

Interior Minister Mareks Seglins reacted sharply to the report, suggesting to the press that the CPT "has provided information which it cannot verify." Foreign Ministry State Secretary Maris Riekstins called the information in the CPT report "quite fantastical." The CPT announced at year's end that it would be making another visit to Latvia in 2002.

### **Conditions in Prisons and Detention Facilities**

The large number of prisoners in remand prisons (3,76 or 43% of all prisoners) continued to evoke concern, as did long pre-trial investigation periods and delays for appeals for adult prisoners. In

February a number of prisoners in Matisa Prison began a hunger strike against slow criminal investigation of their cases. On 31 December Latvia's prisons contained 8,31 inmates, which is 300 fewer than a year before. Based on measures of prisoners per 100,000 inhabitants, Latvia fell in the world rankings from 14<sup>th</sup> place to 17<sup>th</sup> place.

In 2001 progress was made towards renovating decrepit detention facilities. At the end of April, the second ward of the Central Prison was reopened after being renovated for the first time since its construction in 1905. In November a renovated ward in the Matisa Prison was also reopened, having been altered into a remand detention centre. Cells in the new wards have two to six prisoners, each of whom is allocated 4 square metres. Head of the Prison Administration, Vitolds Zahars, announced that now about half of all prisoners live in civilised conditions.

On 14 May "Temporary Regulations Governing the Procedure for Holding Suspected, Accused, Indicted and Tried Persons in Remand Prisons" entered into force. The regulations contained provisions aimed at liberalizing contacts with the outside world for remand prisoners, but also forbade the delivery of food parcels to convicted and remand prisoners from outside the prison. The Prison Administration claimed that the supplementary food deliveries were a relic from the war years and that illicit drugs were being smuggled into prisons along with food. However, when the new restrictions entered into force, hundreds of prisoners went on hunger strike or refused food, demanding a renewal of food parcels. The prisoners pointed to high prices in prison stores, the inability of poor relatives to help prisoners, as well as insufficient food provisions in prisons. On 19 December the Constitutional Court adopted a ruling on an application challenging the compatibility of the regulations with constitutional guarantees against torture and ill treatment. The Court ruled that

any restriction on the fundamental rights of prisoners must be based on law and not internal instructions or regulations.

In 2001 there were 243 new cases of HIV among prisoners, of which 89% were intravenous drug users and 14 were minors. HIV patients in prisons accounted for 30% of all new cases registered in Latvia in 2001. In 2001 a pilot project on harm reduction was began in Parlielupe Prison.

### Right to Privacy and Family Life

On 21 December the Constitutional Court passed a controversial ruling on the compatibility of language regulations regarding the rendering of personal names with constitutional guarantees of the right to private life.

◆ The complaint was lodged by Juta Mentzen who had acquired her surname through marriage to a German national. When Latvia's Citizenship and Migration Affairs Board provided her with a passport, her surname had been Latvianised as "Mencena", while the original spelling was indicated on page 14 of the passport under "notes". The Latvianised surname does not correspond with that in her marriage license and differs from her husband's surname in essential ways, not only causing practical difficulties, but also infringing on private life. In the application, Ms Mentzen indicated that Article 116 of the Constitution permits limitations on the inviolability of private life only "in order to protect the rights of other people, the democratic structure of the state, and public safety, welfare and morals." The applicant argued that changing a surname does not reach any of the aforementioned goals, and therefore is not legitimate or proportional.

The Constitutional Court ruled that rendering foreign names according to Latvian traditions and grammatical rules is a restriction on private life, but that this practice has a legitimate aim: "to protect the rights of other inhabitants of Latvia to use the

Latvian language on all of Latvia's territory and to protect the democratic order." The Court did not elaborate on its bizarre linkage of Latvianised names and democracy, but ruled that the State must secure the stability of proper names. At year's end, Mentzen had lodged an application before the European Court of Human Rights.

### National Minorities

Language policy continued to be the most controversial issue affecting the rights of minorities in 2001, though the Government finally began funding language training benefiting minorities and to implement an integration policy framework.

On 14 June the Parliament amended the Administrative Violations Code to envisage fines for twelve different violations related to language policy: signing a work contract with an employee whose Latvian proficiency is insufficient for performing his/her professional duties; failure to use the state language on the level necessary to perform one's professional duties; failure to provide translations in meetings if the law so requires; failure to ensure the use of Latvian in office records; failure to use the state language in contracts on the provision of medical treatment, health care, public safety and other public services; refusal to accept documents written in the state language; failure to ensure translation in events if the law requires translation; failure to ensure translation of radio and TV programmes and films if the law provides for translation; failure to create titles and names in the state language; failure to create the texts of stamps, seals and letterheads in the state language if the law provides for creating these texts in the state language; failure to observe the regulations on providing information to the public; and "disrespect towards the state language."

Many of the provisions were subject to the limiting clause contained in the State Language Law ("when there is a legitimate public interest"), but much will depend on

implementation. Several of the provisions were problematic. For example, the provision making an employer liable for hiring someone with insufficient language skills unjustifiably involved businesses in enforcing the language law. Some provisions were vague and therefore open to varying interpretations. For example, the precise meaning of demonstrating “disrespect towards the state language” was unclear and was left up to the courts to interpret. For several of the violations, the size of the fines was disproportionately high – up to 250 lats (450 Euro).

The National Programme for Latvian Language Training, an ambitious, multi-year effort to assist minorities to acquire the Latvian language, was brought under the Ministry of Education at the beginning of the year. While the Programme was initially funded almost solely by foreign donors such as the United Nations Development Programme, the European Union and bilateral partners, in 2001 the Government itself became an active funder of the programme, allocating it 428,000 lats (772,419 Euro). In the 2002 state budget, the Government also allocated the programme 426,000 lats.

After several years of delays, on 6 February the Government finally adopted the National Programme for the Integration of Society in Latvia, a policy framework which laid out the goals and means for minority policy and promoting social cohesion in realms such as civic participation, education and culture. On March 8 another effort by the parliamentary opposition to push ratification of the Council of Europe’s Framework Convention for the Protection of National Minorities failed, as 17 members of Parliament voted for ratification, 19 voted against and 46 abstained. Latvia signed the Convention in 1995, but has yet to ratify it.

### **Citizenship**

While the number of non-citizens in Latvia remained huge and decreased very slowly, the Latvian authorities took a num-

ber of steps in 2001 to promote naturalisation. In 2001 the number of non-citizens decreased from 551,064 at the beginning of the year to 523,095 or 22% of the total population on 31 December. Most of the decrease derived from deaths or emigration, as only 10,637 became citizens through naturalisation. The monthly average for naturalisation applications in 2001 was 723, down from 891 in 2000 and 1,265 in the peak year 1999. Since the beginning of the naturalisation process in 1995, slightly fewer than 50,000 individuals have become citizens through naturalisation.

On 5 June 5 the Government adopted two changes to facilitate naturalisation: it reduced the naturalisation fee and rationalised the examination procedure. According to the results of a recent sociological survey commissioned by the Naturalisation Board, of those non-citizens not planning to naturalise in the next year, 47% mentioned a lack of money for the basic fee, which for most categories of applicants has been 30 lats (54 Euro). The new regulations reduce the basic fee to 20 lats and even lower for a number of other categories – 10 lats for pensioners, partially disabled persons, and students; 3 lats for the unemployed, families with more than three children and those whose income does not exceed the state set subsistence level. Politically repressed persons, first category disabled, orphans and those under state or municipal social care are exempt from the fee.

A major initiative in 2001 was a naturalisation information campaign aimed at non-citizens. The USD 275,000 campaign was initiated by the OSCE Mission to Latvia in cooperation with the Naturalisation Board. Funding came from international donors, including Great Britain, United States, Sweden, Canada, Germany and Norway and UNDP. While the information campaign was official policy and in line with the mandate of the Naturalisation Board, some politicians were unhappy with the initiative. A clear majority of members in the

Parliamentary Citizenship Implementation Committee, including all members of two out of the three parties in the governing coalition, severely criticised the Naturalisation Board for “advertising” citizenship in Russian and stressing material advantages instead of lofty ideals.

On 30 May Latvia signed the Council of Europe’s 1997 Convention on Nationality. A proposal for ratification was prepared by the Ministry of Justice and was being debated in parliamentary committees at year’s end. However, the proposal includes six reservations, including one regarding the prohibition of dual citizenship even for persons who cannot give up their previous nationality for objective reasons, thus effectively barring the naturalisation of refugees. Other reservations include the right to demand language proficiency of nationalising children over the age of fifteen, as well as limiting of the possibility for children to naturalise automatically together with their parents to children under the age of fifteen. The value of ratification with such substantial reservations was questionable.

### **Intolerance, Xenophobia, Racial Discrimination and Hate Speech**

In a disturbing development, in 2001 various courts eased penalties earlier imposed on members of the violent neo-Nazi Thundercross group.

◆ On 16 January the High Court rescinded an earlier sentence levied on several members of Thundercross requiring them to pay a civil penalty of over 20,000 lats (36,100 Euro) for damaging the Victory Monument in an explosion in 1997. The decision was based on the lack of any documentation for the sum provided by the proposed beneficiary, the Riga City Council.

The High Court also reduced the sentences of several of the defendants (the maximum sentence had been three years in prison), ruling that the lower court had made mistakes in its indictments. Similarly, on 4 December the Riga Regional Court re-

duced the sentence of Thundercross leader Juris Recs from the previous three years in prison to two years and nine months.

◆ On 12 January a court in Liepaja found Guntars Landmanis, the editor of a violently anti-Semitic and racist newsletter called *Patriots*, guilty of incitement of national hatred and sentenced him to 8 months in prison. Landmanis appealed the verdict, but the case had not been reviewed by the end of the year.

◆ In September the Kurzeme Regional Court solicited the opinions of six experts on the case, including that of linguist Janis Kuskis, a professor at Latvia University and regular contributor to the neo-Nazi newspaper *A Latvian in Latvia*.

A fringe right-wing publishing house Vieda and its leader Aivars Garda created controversy by organising three different actions in 2001: an essay contest for youth on the theme “Latvia’s liberation from 700,000 colonists,” a competition for writing a “Law on Decolonisation,” and an essay contest on “Latvia Free of Homosexuality.” The essay contests generated considerable publicity, as several parliamentary deputies expressed open or tacit support for Garda. Moreover, the Catholic Archbishop Janis Pujats and Lutheran Archbishop Janis Vanags sent entries to the anti-gay contest.

### **Asylum Seekers and Immigrants**

While Latvia had only granted refugee status to 8 persons, at the end of 2001, the Parliament adopted a number of changes to legislation affecting the rights of refugees and asylum seekers.

On 8 November Parliament adopted amendments to the law “On Asylum Seekers and Refugees” granting the State Border Guards the sole right to monitor travel to and stay within Latvia, a function previously fulfilled together with the Immigration Police, the Citizenship and Migration Affairs Board, and the State Police. On 15 November Parliament held a first reading of

amendments to the law "On Civil Status Acts" which laid out the procedure for registering the marriage of a person granted refugee status.

In order to comply with EU directives in the realm of asylum, the Government drafted and on 13 December Parliament held a second reading of a new Law on Asylum, which will broaden the notion of a refugee by introducing temporary protection and alternative protection. Thus, the draft law determines the legal protection of those asylum seekers who do not fall under the criteria of the 1951 UN Geneva Convention or the 1967 Protocol on the Status of a Refugee. The draft law also envisages the possibility to review an asylum application at the border (short procedure) without having the person enter the country, as well as criteria for recognising a country as a "safe country", which will replace the list of "safe countries" currently in force. The draft law applies the principle of *non-refoulement* to asylum seekers, refugees, as well as persons under alternative protection. The Parliamentary Commission on Human Rights and Public Affairs rejected a number of amendments proposed by UNHCR regarding Latvia's very strict criteria for granting refugee status, the necessity of permitting family reunification, and the short time (two working days) given to appeal an initial status decision by the Refugee Affairs Centre.

### Women's Rights

On 16 October the Government adopted a Framework Document for Gender Equality, the first policy document in this sphere. The document envisaged the adoption of a state strategy for implementing gender equality in the year 2002 with the Welfare Ministry playing a coordinating role.

On 21 October the Riga Latgale District Court ruled on a case of gender discrimination.

◆ Inga Muhina, the plaintiff, had responded to a job advertisement for a position as a guard in the Central Prison. The director

of the prison rejected her job application because she was a woman. The Court ruled that the prison's decision was discriminatory, violating the plaintiff's right to equality, equal conditions for a career and professional development, including the Convention on the Elimination of All Forms of Discrimination Against Women, the Constitution, and the Labour Code. The Court ruled that the Central Prison must pay Muhina 600 lats (1,080 Euro) compensation (10 minimal monthly wages). At year's end, the Central Prison had filed an appeal.

On 20 June the Parliament adopted a new Labour Law containing a number of important anti-discrimination clauses. Article 7 enshrines the principle of equal rights and the prohibition of discrimination on the basis of gender and other grounds. Article 29 enshrines the prohibition of differential treatment based on gender in creating a labour contract, i.e. if the employee indicates conditions that may serve as the basis for direct or indirect discrimination, the burden of proof shifts and the employer must demonstrate that differential treatment is based on objective circumstances. Indirect discrimination is said to exist if ostensibly neutral conditions, criteria or practices create disadvantageous circumstances for a large majority of one gender. The new law also forbids job advertisements aimed at only one gender or setting age restrictions. Article 60 creates the responsibility for employers to set equal wages for men and women for the same work. The law will enter into force on 1 June 2002.

In March police detained three persons on suspicion of trafficking women for purposes of prostitution abroad. Among the victims were girls between the ages of 12 and 15. In May the Prosecutor's Office filed charges of pandering.

### Rights of the Child

As in previous years, long pre-trial detention of minors and violence against children

remained serious human rights concerns. In early April President Vaira Vīķe-Freiberga visited Brasas Prison and harshly criticised long pre-trial detention of minors, calling detention periods “abnormally long.” In early April Brasas Prison contained 192 minors of whom 36 had been held in pre-trial detention for less than 6 months, 68 from 6 months to a year, 57 from one to two years, and 31 persons more than two years.

After her visit, the President submitted proposals to the Parliament on amending the Criminal Code and Criminal Procedure Code. The amendments, which were adopted on 20 June, envisaged applying speedy trial (20 days) to cases involving minors for serious crimes not linked to violence or serious consequences. Previously, speedy trial could only be applied to crimes for which the penalty was deprivation of liberty of up to 4 years. Most minors awaiting trial faced charges of violating Article 175, Paragraph 2 of the Criminal Code (theft exceeding 50 lats committed by a group or repeatedly), but the penalty for this crime could be a maximum of 6 years. The norm that called for extending pre-trial detention beyond two months only as an exception was preserved. However, the judge may extend detention for a maximum of only two months each time. The amendments also envisaged that for lesser crimes not linked to violence or serious consequences, deprivation of liberty could not exceed 5 years. Previously, the maximum had been 10 years.

While the changes resulted in a small improvement in the pace at which cases involving minors were reviewed, the issue of long pre-trial detention of minors remained urgent. At the end of 2001, 383 minors remained in prison, of which an intolerable share - 62.4% - were on remand.

In early April the first centre for child victims of violence was opened in Riga. The “Dardedze” Centre is intended to serve 20 child victims of physical or sexual violence, providing up to one month of rehabilitation. The centre has the first specially equipped

room for interrogating child victims of violence, which makes it possible to interview a child only once and have the proceedings broadcast directly to the Riga Regional Court. In a related development, the Parliament amended the Law on the Press in August, outlawing the media from publishing any information which might permit the identification of a child victim of violence, a juvenile offender, a victim or a witness.

On 26 January the UN Committee on the Rights of the Child adopted its concluding observations on Latvia.<sup>8</sup> The Committee made a number of recommendations addressing issues such as protecting children who have been victims of violence from having to testify repeatedly, long pre-trial detention periods for minors, and the need for rehabilitation programmes for children dependent on alcohol or narcotics. The Committee “reiterates the recommendation of the Committee on the Elimination of Racial Discrimination to reconsider the requirement to record ethnic origin in passports.”

### **Rights of the Disabled and Mentally Ill**

In 2001 the most serious concerns in the realm of mental disability rights were conditions in some facilities and the lack of state support for medicines required by some mental patients.

A number of serious problems in the Vegi social care home for children with mental disabilities came to light. A review by the Welfare Ministry’s Social Assistance Department begun in 2000 found that procedures for dealing with possible cases of violence in the facility were not in place, that there was no documentation on conflicts within the centre, and that the facility did not have a psychologist. In February the Welfare Ministry fired the director and the Talsu district prosecutor initiated criminal proceedings against facility staff for cruel or violent treatment of children. By year’s end, prosecutors had not yet brought any charges.

Controversy erupted over which expenses for medicines the State would compensate for disabled persons, an issue which affects, among others, around 2,000 persons of first and second group disability suffering from depression.

◆ After learning she was no longer entitled to state funded anti-depressants, a woman attempted to commit suicide and entered Riga Mental Hospital on 11 January.

Patients with depression spent between 8 and 40 lats for medicine a month. Given the low level of social support for persons with disabilities, the majority of patients were unable to purchase medicine. On 20 November the Latvian Association of Epilepsy Patients and the Patient Support Group "Gaismas Stars" organised a protest against the lack of access to medicine and the removal of 14 different drugs for various mental illnesses from the list of state compensated medicines. The Welfare Minister promised to bring the matter before the Government, but by year's end no decisions had been taken.

In November the Council of Europe's Committee for the Prevention of Torture (CPT) made public its report on Latvia's closed institutions prepared following a visit in January 1999.<sup>9</sup> The report also contained information and recommendations regarding Riga Neuropsychiatric Hospital. The CPT recommended taking "immediate measures" to "clearly identify voluntary patients at the hospital and to complete their individual files with their written consent for hospitalisation." This affected a crucial right of persons with mental illnesses – protection against unnecessary compulsory treatment. Unfortunately, the CPT report did not mention the need for introduction of community based services and de-institutionalisation – priorities highlighted by the World Health Organization in its 2001 report *Mental Health: New Understanding, New Hope*.

◆ On 14 November the Riga Vidzeme District Court examined the appeal of Alberts Sirmulis, a former mental patient who had sued the Welfare Ministry to gain access to his medical records and lost in a first instance court in September 2000. The appeal was also denied. A final appeal has been filed with the High Court and a review of the case is scheduled for early 2002. This is the first high profile case concerning access to information in the realm of mental disability rights in Latvia.

### Patient's Rights

The core development in the realm of patient's rights was landmark cases in the courts regarding malpractice and medical negligence. On 7 February the High Court reviewed the case of Edijs Filipsons, who became disabled after an unsuccessful back operation in 1997 and sued the State Hospital of Traumatology and Orthopedics and operating surgeon Egils Strauss. In a landmark ruling, the court found in favour of Filipsons and required the hospital to pay 32,741 lats (60,000 Euro) in compensation and pay for missed work from 1997 through 2001. The hospital decided not to appeal to the Senate of the High Court, but planned to review contracts carefully with patients before each operation.

In 2001, a number of incidents involving access by patients to information about their case history were reported. For example, one case involved dentistry and false information in the patient's case history. According to the law on medical treatment, a case history was the property of the medical facility and was not to be given to the patient. A patient could only receive a brief summary, and only other medical facilities or medical personnel may receive the full case history. Thus, patients encountered difficulties in proving the falsification of data. The law did not state whether a patient may receive a copy of his medical history or only a summary. Medical institutions

routinely gave only a summary. In March 2001 the Welfare Ministry prepared amendments to a new draft law on health protection envisaging the patient's right to become acquainted with his/her case history and to read it, but the amendments were yet to be approved by the Cabinet and the Parliament.

The growing number of persons with HIV/AIDS has given rise to a number of patient's rights issues. In early 2001, the head doctor of Rezekne Hospital Jazeps Korsaks suggested that staff should have the right to test a patient for HIV without the patient's permission. Medical professionals and human rights experts harshly criticised this suggestion, pointing to its incompatibility with a Welfare Ministry order as well as numerous international standards (the International Covenant on Civil and Political Rights, the European Convention on Human Rights and Biomedicine). In April the media reported on a homosexual person who had turned to the NHRO with a complaint that he had been barred from donating blood on the grounds that homosexuals are a high risk group. These two incidents point to the

widespread ignorance about HIV/AIDS, as well as to the need to work with medical personnel to combat prejudices.

In 2001, for the first time in Latvian history, a doctor was punished with deprivation of liberty for medical negligence.

◆ On 18 November 2000 a two-year old girl died in the surgical ward of Rezekne hospital because the responsible doctor, Tatyana Guryanova did not fulfil her professional duties. Though the girl had entered the hospital on the evening of 17 November, the doctor did not examine her or treat her, but slept throughout the night. In March 2001 the Latvian Medical Society's review board annulled for one year Tatjana Guryanova's surgeon's license. On 4 December the Rezekne City Court found Guryanova guilty of violating Article 132, part 2 of the Criminal Code regarding non-fulfilment of professional duties by medical personnel and sentenced her to 3 years in prison, and banned her from medical practice for 5 years. The court also ruled that the Rezekne hospital should pay 2,057 lats (3,711 Euro) in burial expenses to the victim's family.

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## Endnotes

- <sup>1</sup> Based on Latvian Centre for Human Rights and Ethnic Studies, *Human Rights in Latvia in 2001*, February 2002.
- <sup>2</sup> CCPR/C/72/D/884/1999
- <sup>3</sup> See Citizenship.
- <sup>4</sup> See Right to Private Life.
- <sup>5</sup> See Conditions in Prisons and Detention Facilities.
- <sup>6</sup> See, e.g., the *Gurov* case described under Freedom of Expression and the Media.
- <sup>7</sup> See also Rights of the Disabled and Mentally Ill.
- <sup>8</sup> CRC/C/15/Add. 142
- <sup>9</sup> See also the section on Torture, Police Misconduct.