

Latvia¹

IHF FOCUS: elections; freedom of expression and the media; judicial system and domestic safeguards; conditions in prisons and detention facilities; right to privacy and family life; conscientious objection; national and ethnic minorities; citizenship; intolerance, xenophobia, racial discrimination and hate speech; asylum seekers and immigrants; international humanitarian law; rights of the child; the mentally ill; patients' rights.

As in previous years, the foremost human rights problem in Latvia remained the long pre-trial detention periods, and the large number of pre-trial detainees. Both legal and physical conditions in the Olaine detention facilities for illegal migrants raised concerns, despite the harmonization of law with European standards through the adoption of the new Asylum Law and Law on Immigration.

There were also new and disturbing social developments in 2002 relating to open expressions of xenophobia and intolerance. A political party used openly racist imaging in its anti-EU stance while campaigning for the parliamentary elections, and the first reported case of racially motivated violence was documented.

Issues of freedom of expression included language restrictions in commercial broadcasting as well as the struggle in courts to define the limits for defamation. State language requirements to stand for elections were abolished, but only after strong international pressure. The large number of non-citizen inhabitants was very slowly reduced through naturalization.

The continued lack of ratification of the Council of Europe Framework Convention for the Protection of National Minorities caused concern. However, in a positive development, the new government at the end of the year highlighted the importance of social integration by creating a Special Task Minister for Social Integration Affairs.

Elections and Political Rights

The main political event in 2002, after the historic invitations to join NATO and the EU, were the parliamentary elections held on October 5. Voter turnout was 72.5%, a couple of percentage points higher than in the 1998 parliamentary elections. The elections were deemed by the OSCE/ODIHR Election Observation Mission to have been conducted in accordance with international standards for democratic elections.

The controversial language requirement for electoral candidates was abolished in May. Preceding this was the European Court of Human Rights ruling in *Podkolzina .v Latvia* on April 9, 2002. Ingrida Podkolzina had been struck from the list of electoral candidates for parliament in 1998 on the basis of a decision of the State Language Centre finding that Podkolzina's language proficiency did not correspond to the highest level, as indicated by her official language certificate. Podkolzina alleged violations of the right to free elections (article 3, Protocol 1 to the European Convention on Human Rights, ECHR), the right to an effective remedy (article 13) and discrimination (article 14). Although not questioning the right of a state to require state language

¹ Based on the Latvian Centre for Human Rights and Ethnic Studies report, *Human Rights in Latvia in 2002*.

proficiency for work in parliament, the European Court found that the language proficiency re-examination procedures were in violation of article 3 of Protocol 1, and ruled that the state of Latvia must pay Podkolzina €7,500 damages and €1,500 for legal fees. The court found it “unnecessary” to examine possible violations of articles 13 and 14.

Meanwhile, the United States government and high NATO officials had clearly indicated the desirability of abolishing the language requirement in preparation for NATO accession. On 9 May 2002 the Saeima (parliament) adopted amendments to the Saeima Election Law and the Law on City Council, District Council and Parish Council Elections, lifting the state language proficiency requirement.

Latvia’s lustration clauses received renewed attention in the election year. The election laws both for the Saeima and the municipal elections barred persons from standing for elections who had been on the staff of the USSR or Latvian SSR security services or security services of other countries or intelligence or counterintelligence staff (article 5.5. and article 9.6., respectively).

- The case of long-term parliamentarian Janis Adamsons (Social Democratic Workers Party) brought the issue renewed public attention. The Central Electoral Commission struck him from the list of candidates for the upcoming parliamentary elections, on the basis of the ruling of the Riga City Zemgale District Court in 2000, which determined that Adamsons had been a “USSR KGB border guard staff member.” Adamsons appealed the decision to the Riga City Centre District Court, which ruled against him, as did the Supreme Court Senate in September. Adamsons has vowed to bring the case to the European Court of Human Rights.

Articles 5.6 and 9.5 of the Saeima Election Law stated that anyone who was a member of the USSR or Latvian SSR Communist Party after January 13, 1991 was barred from standing for elections. Although the legitimacy of lustration laws was not challenged, it was recommended that a time limit should be placed upon the restrictions. In 2000, the Constitutional Court noted that such limits should be set, but without suggesting a specific time-frame. The Council of Europe Parliamentary Assembly in 1996 suggested limiting the lustration process to five years.

- Tatjana Zhdanoka, leader of the Equality party, was also struck off a list of electoral candidates by the Central Electoral Commission. In her case, a previous Supreme Court ruling that she was a member of the Communist Party after January 13, 1991 effectively prevented her from standing for elections, in accordance with Article 5.6 of the Saeima Election Law. Zhdanoka announced her plans to bring the case to the European Court of Human Rights.

A serious issue restricting political rights of individuals was the legal norm forbidding pre-trial detainees from participating in elections.² Since the individuals concerned were not convicted and only awaiting trial, the principle of presumption of innocence was clearly ignored. In a curious twist, the laws did not bar these same individuals from standing as electoral candidates. Sentenced prisoners were barred from both activities.

² Saeima Election Law, article 2(2), Law on City Council, District Council and Parish Council Elections, article 6(2).

Freedom of Expression and the Media

Article 19.5 of the Law on Radio and Television limited the use of languages other than Latvian in commercial broadcasts to a maximum of 25% of broadcasting time. These restrictions came under increasing criticism in 2002.

- Russkoe Radio had been fined for violating the legislative provision. The “Biznes i Baltiia” media group’s (which owns Russkoe Radio constitutional) challenge had been dismissed in 2001 by the Constitutional Court on procedural grounds. In 2002 it took the case to the District, Regional and Supreme Courts, which all ruled against the plaintiff. In April 2002 the Senate of the Supreme Court rejected the latest appeal.
- On December 12, 24 MPs from the political coalition For Human Rights in United Latvia (FHRUL) submitted a complaint to the Constitutional Court, charging that the clause of the Law on Radio and Television was in violation of the articles on non-discrimination, freedom of expression, right to preserve minority languages (articles 91, 100, 114 and 89 of the Constitution, respectively), as well as incompatible with binding international instruments, notably freedom of speech and anti-discrimination articles of the European Convention of Human Rights (articles 10 and 14) and the ICCPR (articles 19 and 27).

Another topical freedom of expression issue in 2002 was the legal definition and application of defamation clauses.

- In 1999, former Economics Minister Laimonis Strujevics had initiated a defamation case against the daily newspaper *Diena*. At issue was a series of seven editorials written in 1998 by commentator Aivars Ozolins, who argued that Strujevics had acted in the interest of the Ventspils-based oil transit industry to the detriment of the state budget. On February 13, 2002, the Senate of the Supreme Court rescinded an earlier ruling of the Riga Regional Court which had ruled partially in favour of Strujevics and referred the case back to the same court with a different judge. The Senate of the Supreme Court also provided important guidelines in its judgment in the Strujevics case: it stated that adherence to the case law of the European Court of Human Rights was obligatory; that journalists enjoy wider latitude in criticizing politicians; and that news should be separated from opinion. Regardless of this, in early June the Riga Regional Court once again ruled in favour of Strujevics, requiring *Diena* to rescind the news items of a defamatory character and to pay 6000 LVL (€10,000) in damages. On November 14, the Senate of the Supreme Court rejected another appeal made by *Diena*.

A different debate concerning defamation that arose by the end of the year was the question of whether it was reasonable to have separate clauses in the Criminal Law for the defamation of state and government officials (article 271) and for the intentional spreading of untruthful information about members of parliament (article 91), foreseeing more severe punishment in the case of defamation of an official compared to other individuals, including deprivation of liberty for up to two and three years, respectively.

- In July, Prime Minister Andris Berzins filed a request with the prosecutor general to evaluate the *Neatkarīga Rita Avīze* articles by journalists Aldis Berzins, Ritums Rozenbergs and Uldis Dreiblat, in which the journalists accused the prime minister of being involved in corrupt dealings concerning the construction of a new ice-hockey hall.

Although the Prosecutor's Office did find "some elements" covered by Criminal Law article 271 in the case, no criminal proceedings were initiated due to lack of evidence of intent to cause harm. While Prime Minister Berzins declared his intent to file criminal charges against the authors, the media generally reflected this step in a negative light, questioning the appropriateness of defamation charges under criminal law, as opposed to civil law, as well as the special article for officials.

Just before the elections in the fall, a scandal concerning libelous flyers against the People's Party led to the arrest of Latvia's Way party office staff and the publisher's representative and allegation of criminal offenses under article 91. This again led to extensive public discussions on whether parliamentarians should be especially protected through the law and whether this is compatible with general norms of equality before the law. The Chairperson of the Legal Commission in parliament and Latvia's Way deputy Linards Mucins in October submitted a proposal to parliament, calling for the abolishment of article 91 of the Criminal Law. In a vote on October 17, the proposal was rejected by the Saeima.

In terms of practical restrictions placed upon journalistic activity, once again Daugavpils mayor Rihards Eigims made news in early 2002.

- On March 16, at the congress of Eigims' political party Latgale's Light, entry was denied to journalists from the daily newspaper *Diena*, the main nightly television news programme "Panorama," as well as Daugavpils newspaper *Nasha gazeta* and Daugavpils business journal *Kapital Latgalii*. In mid-April, following the request for review by *Diena*, Justice Minister Ingrida Labucka announced that the party had violated the law by excluding the journalists and that *Diena* had the right to turn to the courts. However, article 27 of the Law on Social Organisations and their Associations, which also regulates political parties, says that complaints about the illegal activity of social organizations are reviewed after submissions by the Justice Minister.
- In addition, there was one reported case in January 2002 of an assault on Ivars Abolins, then journalist at the daily newspaper *Neatkarīga Rita Avize*. The assailants themselves stated that the reasons for the attack were related to Abolins' work as a journalist. In February the police terminated the criminal investigation for lack of evidence.

Judicial System and Domestic Safeguards

A ruling against Latvia in the European Court of Human Rights highlighted the main human rights problem in Latvia, the long pre-trial detention periods.

- On November 28, the court ruled that Latvia had violated the rights of Alexander Lavents, former chairman of the board of Banka Baltija, based on several different articles of the ECHR. Lavents spent over six years in pre-trial detention before being convicted by the Riga Regional Court in December 2001 for sabotage and fraud connected to the collapse of the bank, and sentenced to nine years in prison. The European Court held Latvia responsible for violating the defendant's right to a fair and speedy trial, the presumption of innocence principle and the right to respect for private and family life. The court awarded the applicant €15,000 for legal expenses.

In domestic legal developments, the Constitutional Court issued a number of rulings that affected human rights in 2002. Two rulings concerned prison regulations. On June 12 the

Constitutional Court rescinded norms within cabinet regulations on the “Internal Order of Prisons” that banned food parcels to prisoners because they were incompatible with a normative act of higher force – the Sentence Execution Code. The second case challenged the constitutionality of the Internal Order Regulations of Pre-Trial Detention Prisons, adopted in 2001 by the head of Prison Services. The court ruled that several provisions, such as restricted access to food and health-related items while in punishment cells, were unconstitutional and declared them null and void with immediate effect. The remainder of the regulations were left in place for a transitional period while new ones are elaborated, but was declared null and void as of May 1, 2003.

Torture, Ill-Treatment and Misconduct by Law Enforcement Officials

In 2002, a considerable number of cases of police brutality came to public knowledge.

- In the beginning of the year, the Bauska District Prosecutor’s office initiated criminal charges against two police officers after receiving information that they had beaten a man in his house in Vecumnieki parish. The police officers were suspended for the period of investigation.
- Allegations of police brutality were also raised during the trial of the highly publicized murder case of a former employee of the Privatization Agency. In early June in Riga District Court, two youths testified that police officers had forced them to confess that they had committed murder. S.V. was a juvenile at the time of arrest, but there had been no lawyer present during his interrogation. After an hour and a half he had agreed to confess and was detained for 28 days by court order. The other juvenile was held for three days. However, he later recanted and was subsequently released. The police officers denied allegations of resorting to violence to extract a confession.
- In early August, four police officers from Police Department No. 2 of the Riga Central Police Board were dismissed from their posts on suspicion of beating an a 34-year-old man and leaving him with visible injuries without assistance, as a result of which, the man had died. The case was under investigation by the Office of the Prosecutor General at the time of writing.
- In late autumn, the case of a 42-year-old man who had been detained in the Police Department No. 1 of the Criminal Police Division of the Riga Central Police Board came to light. He had been held for three days, during which he was allegedly beaten, kicked and subjected to psychological torture by police in order to make him confess to a double murder. He was subsequently released without explanation by the police. He filed a complaint with the relevant body in the National Police.

Conditions in Prisons and Detention Facilities

On December 31, 2002, the total number of prisoners in Latvia was 8,358. Of these, 4,639 were convicts, while 3,719 were pre-trial detainees. The share of pre-trial detainees among prisoners thus remained appallingly high – 44.6% overall, but constituting 62% of all juveniles and 55.2% of all women prisoners. While the review of juvenile cases was speeded up after the adoption of amendments to the Criminal Procedure and Criminal Code in mid-2000, too many

juvenile offenders ended up in prison before trial. Bail hostels or shelters for juvenile offenders providing strict supervision before trial, to avoid the adverse effects of incarceration, had yet to be set up. Overcrowding also remained a serious concern: for example, in April, overcrowding in the pre-trial detention section of Ilguciems women's prison reached 150%.

There were cases where the protracted translation of court decisions accounted for lengthy periods in pre-trial detention facilities, even after court conviction. This practice was in violation of the provision according to which a copy of the court decision should be received by the convicted person within three days of the decision, and enters into effect ten days after it is received, if not appealed.

- In one case, although the Riga Regional Court had passed a decision on April 10, an inmate in a women's prison had still not received the Russian copy of the decision by December 3. Thus the sentence was not yet in force and she remained in pre-trial detention, enduring seriously restricted rights compared to convicted prisoners.

Concerns continued to be voiced over the dissatisfactory nature of health facilities for sick prisoners, notably in the prison hospital at the Central Pre-Trial Detention Prison. In October, the total number of HIV-infected prisoners reached 655, or nearly one third of all the registered HIV cases in the country. Of these, 154 had become infected while in prison.

Anecdotal evidence suggested that violence among prisoners was not uncommon in the Central Prison.

- In mid-September, prisoner E.K. was killed by four other cell-mates who tried to extort money from him in the Central Pre-Trial Detention Prison. They were charged with the deliberate infliction of bodily injuries that resulted in the victim's death.

The Criminal Procedure Code was amended in June to provide that, with the agreement of both the defendant and the prosecutor, the requirement of the court to review the evidence may be waived. Before the amendment, even if a defendant admitted his/her guilt in a court, a trial with witnesses was still necessary, thus aggravating the backlog problem and pre-trial detention periods. The new amendments will also give prosecutors the authority to suspend prosecution and divert minor cases away from the formal court system.

A governmental working-group began reviewing the Criminal Code with the aim of providing more alternatives to custody. A new Law on Educational and Correctional Measures was adopted in late 2002 and provides additional alternative measures for juvenile offenders. The government approved the Concept on Probation and in early January 2003 allocated 190,000 LVL (€17,000) for the establishment of a probation service.

In late 2002, the long-awaited draft Criminal Procedure Code was placed in the public domain for discussion.

Right to Privacy and Family Life

In mid-April, the State Language Centre attempted to widen its authority to regulate language use in the private sector by developing draft amendments to cabinet regulations No. 296 "On the State Language Proficiency Level Necessary to Perform Job and Professional Duties and on Examination Procedure of Language Proficiency" of the State Language Law, passed in 2000.

The amendment proposal extended the list of professions in local governments and the private sector that should be subject to Latvian language requirements, to include such professions in the private sphere as salespeople, sports coaches and referees, accountants, waiters, hairdressers and beauticians. After the State Language Centre submitted the draft amendments for review to the Council of State Secretaries, the Foreign Ministry intervened and quashed them.

In a positive development concerning personal identification, the new Law on Personal Identification Documents adopted on May 23 and entering into force on July 1 allowed for the possibility to include the person's name in its traditional form or original spelling as a separate entry in identification documents. The law also made it possible, but not mandatory as heretofore, to include an entry on nationality (ethnic belonging), if so requested.

The right to respect for private and family life (article 8 of the ECHR) has served as the basis for several claims against Latvia submitted to the European Court of Human Rights by families of former army personnel, who have lost their right to permanent residency. In March 2002, the European Court of Human Rights accepted for review the case of *Tatjana Slivenko and others v. Latvia* in the case of the wife and the daughter (based on articles 8, 14 and 5 of the ECHR), but ruled as inadmissible the claim by the husband, a former Soviet military member who was denied residency on the basis of Latvia's 1994 agreement with Russia on the departure of military personnel. Another case partially accepted for review was the complaint by another family of a former Soviet military member, *Sisojeva v. Latvia*. In this case, permanent residency in Latvia was cancelled on the grounds that the family had also registered as residents in Russia. In August, yet another case concerning residency was accepted for review by the court (the case of Ludmila Mitina).

Conscientious Objection

On May 30, parliament adopted a Law on Alternative Service, which entered into force on July 1, 2002. The law allowed obligatory military service to be substituted with alternative or community service for those conscripts whose beliefs do not permit them to carry weapons. This law should permit the resolution of several cases of conscientious objection involving Jehovah's Witnesses. However, nobody had yet applied for alternative service by the end of the year, according to the Ministry of Defense.

National and Ethnic Minorities

On April 30, parliament adopted a number of amendments to the Constitution, some of which may potentially impinge on the rights of minorities. For example, article 18 introduced an oath of office for new parliamentary deputies. Among other commitments, deputies pledged to "be loyal to Latvia, to strengthen its sovereignty and the Latvian language as the only official language, to defend Latvia as an independent and democratic State." Problems could arise if the pledge to strengthen Latvian as the only official language is interpreted such that deputies cannot submit any legislative proposals to strengthen the status of minority languages.

The State Language Centre continued its activities in 2002. In 2002 the centre employed 14 language inspectors, who traveled throughout the country to check on possible violations of state language law and regulations. It has levied fines, administratively punishing 421 persons in 2002. Most of the fines have been imposed for not using the state language in the fulfillment of

professional duties. The second most common reason for fines was the insufficient use of state language in the annotations and labeling of imported goods.

- According to media reports, the language inspection in December at a Rezekne hospital revealed that the majority of the staff was lacking the legally-determined state language proficiency and allegedly were given a deadline to pass the required (third) level of proficiency.

During 2002, increasing public attention was paid to education reforms and the planned switch to Latvian as the language of instruction in secondary schools in 2004. Although the Ministry of Education was elaborating the curriculum for schools following the minority education program in secondary schools, the official claim that this will allow for teaching 30-40% of classes in a language other than Latvian was questioned by monitoring experts. The main category, consisting of all mandatory classes, is to be taught only in Latvian, with the sole exception of foreign languages themselves. Elective classes allow for partial teaching in other languages. There has also been public concern that many schools will not be prepared for implementation of the reform by 2004.

Another outstanding issue of major significance was the lack of ratification of the Council of Europe's Framework Convention for the Protection of National Minorities, which Latvia signed in 1995. Ratification proposals have been submitted to parliament and voted against four times.

In a positive development, the government made some progress in implementing the National Program for the Integration of Society, a policy framework aimed at increasing social cohesion, participation and inter-ethnic cooperation. The Society Integration Fund, whose function is to allocate funds (state and Phare) for integration-related projects, confirmed funding for 120 projects in 2002.

In the arguably most significant development for minority rights and integration on the state level, the new post of Special Task Minister on Affairs of Social Integration was created. Nils Muiznieks, the former director of the Latvian Centre for Human Rights and Ethnic Studies (member of the IHF), was confirmed as the minister by the Saeima in November. In addition to social integration issues, this ministry will also oversee the implementation of the European Union Racial Equality Directive.

Citizenship

By the end of 2002, some 59,000 individuals had become citizens of Latvia through naturalization since the process was started in 1995. Still, c. 505,000 persons (22% of the country's permanent residents) remained holding non-citizen status. In early 2002, the number of naturalization applications increased compared to preceding years – apparently as a result of a Public Awareness and Promotion Campaign for Latvian Citizenship – but the rate thereafter declined rapidly and starting in July, the monthly application rate was consistently the lowest since the year 1998, before the window quota system was lifted. The application figure for the entire year was 8,370, well below the peak years of 1999 (15,183) and 2000 (10,692).

An additional cause for concern was the low figure of registration of children born in Latvia after August 21, 1991, to non-citizen parents: of almost 20,000 eligible children, only 995 had been registered and 1,011 registration applications received by the end of 2002.

Statements by recently appointed cabinet members, specifically the minister of integration and to some extent the foreign minister, encouraging non-citizens to naturalize, may be an indication that a more openly benevolent government position on the issue could be forthcoming.

Parliamentary committees have discussed ratification of the Council of Europe Convention on Nationality, which was signed by the cabinet in May 2001. However, at the end of 2002, deputies had not yet conducted a first reading of a ratification law.

Intolerance, Xenophobia, Racial Discrimination and Hate Speech

Latvian and Russian extremists continued to organize and spread hate propaganda, but faced legal troubles as well.

- On November 11, the Kurzeme Regional Court Criminal Court Department reviewed the appeal by Guntars Landmanis, who in January 2001 had been sentenced to an eight-month prison term for incitement of national hatred for publishing a violently anti-Semitic newsletter *Patriots*. The court upheld the ruling that found Landmanis guilty of violation of article 78.1 of the Criminal Law (incitement to national or racial hatred), but softened the sentence to one year suspended. The court also ruled that Landmanis pay damages in the amount of 600 LVL (€1,000). This was the first conviction in Latvia under the above-mentioned article.
- Right-wing publisher Aivars Garda continued his activities in early 2002, issuing a new fortnightly newspaper called *DDD* (Deoccupation, Decolonisation, Debolshisation) and publishing a collection of essays called “Homosexuality – the Shame and Ruin of Humanity.” The book provoked a criminal investigation on defamation charges from Latvian Radio Director Dzintris Kolats, whom Garda had characterized as being “infected with homosexual propaganda” and a “passionate defender of civil occupants and pederasts.” The Security Police initiated a case under article 271 of the Criminal Code (libel against an official of the state) which potentially carries heavy penalties, including prison sentences.
- Members of the most influential neo-Nazi organization in Latvia, Russian National Unity (RNU), continued to tangle with law enforcement authorities, but sought to enter the political arena as well. In April, the security police began a criminal investigation against the RNU for incitement after it published the second edition of its newspaper *Novy Poryadok*, which contained an anti-Semitic, Holocaust-denying article, as well as instructions for assembling a Kalashnikov machine gun. In May, the RNU took over a legally registered, small, right-wing political party called the Latvian National Democratic Party (LNDP) and elected RNU leader Evgeny Osipov (a non-citizen) as party leader. On May 30, 2002, the Kurzeme Regional Court sentenced a group of 15 youths, including three members of the RNU, on armed robbery and weapons charges. The three RNU members received the most severe penalties, up to 6 years and 10 months in prison.

The end of the year saw the intensification of activities relating to the National Bolshevik organization Pobeda (Victory), led by Vladimir Linderman.

- On November 20, security police raided several sites connected to Pobeda, reportedly finding explosives, weapons, ammunition and leaflets containing open threats to politicians. Seven persons were arrested, but most were soon released. Linderman himself was believed to be in Russia at the time. Reports indicated that Linderman had been taking over some leadership functions within the Russian National Bolsheviks as well. On December 2, Olga Morozova, Arturs Petrovs and Raimonds Krūmgolts were indicted on criminal charges of incitement to the violent overthrow of the state as well as unsanctioned storage of explosives. On 3 December, the Riga City Prosecutor of the North District indicted Linderman on the same charges.

In addition to these activities by extremists of various hues, some disturbing signs of xenophobia also emerged under the auspices of parties campaigning for seats in the upcoming parliament.

- At the end of June, controversy erupted over a racist election advertisement for a new political group called the Freedom Party. Leaflets and television advertisements featured black men dressed in Latvian army uniforms and hugging a woman in Latvian national costume while a voice read the text: “Today a guard of Latvia, tomorrow perhaps your son-in-law?,” within the context expressing fear about the influx of economic immigrants after EU accession. Although law enforcement authorities did not find sufficient grounds to bring a case based on incitement, the two black men (musicians from the band “Los Amigos”) featured in the ad claimed not to have been aware at the time of the filming about the content of the advertisements, and filed a claim against the Freedom Party. On December 2, the Riga District Court found the ad defamatory, and ruled that the Freedom Party must pay for and broadcast an apology during prime time viewing hours on Latvian Television, as well as distribute 180,000 copies of the apology to the musicians by mail in Latvia. In addition, the Freedom Party was ordered to pay damages to each of the musicians in the amount of 3,000 LVL (€5,000), and to reimburse 150 LVL (€250) in court expenses.

For the first time in Latvia, information came to light of a specific incident of assault on a foreigner because of his skin color. The incident took place in Old Riga. A group of attackers armed with chains shouted racist slogans during the assault. As the victim did not report the attack to the police at the time, no investigation into the case was possible.

International Humanitarian Law

Past Abuses

The process of bringing to court individuals suspected of war crimes and crimes against humanity continued during 2002. Although the two men formally accused of participating in Nazi war crimes (Konrads Kalejs and Karlis Ozols) had died, the Prosecutor General Office Department for Investigation of Totalitarian Crimes submitted a proposal for the new Criminal Procedure Code to resolve the question of how to proceed with the case after the deaths of the accused.

- The last of the three cases concerning war crimes was the case of Vasilij Kononov, a former Red Army partisan accused of ordering the killing of civilians in a village in 1944. Kononov had been sentenced to prison and then released for further investigation and

determination of the legal case against him in 2000. In May 2002, the Latgale Regional Court in Rezekne started to review the criminal case on war crimes charges.

Over the years, at least nine court cases charging suspects with crimes against humanity have been brought against officials participating in the deportations of Latvians in 1941 and 1949. There were some new developments in 2002 concerning some of these cases: Mihail Farbtuh, who on May 17, 2000 had been sentenced to five years in prison for genocide, was freed in March by the Riga Regional Court on health grounds. The case against Nikolajs Tess, charged with crimes against humanity and genocide, was postponed in February after the accused filed a complaint with the Constitutional Court alleging that the Criminal Law clauses do not correspond to international legal norms. Starting in June, attempts were made to bring Nikolaj Larionov to court. The case was postponed several times due to the ill-health of the accused, but the process continued through December 2002.

Asylum Seekers and Immigrants

In order to harmonize the Latvian legislation with the EU *acquis* on asylum and related international standards, on March 7, the Saeima adopted a new Asylum Law, which broadened the applicability of refugee status by introducing the concepts of “alternative status” and “temporary protection.” The law also allowed for a shortened asylum application review at the border. By the end of the year, alternative status had been granted to three persons. Together with the eight who had previously been granted refugee status under the Geneva Convention, this brought the total number of official refugees in Latvia to 11.

On October 31, the Saeima also adopted a Law on Immigration due to enter into force on May 1, 2003. Among its new provisions was the right of retirement-age parents of both citizens and non-citizens to receive a resident’s permit.

Conditions in Olaine Detention Camp for Illegal Migrants continued to evoke concern in 2002. Detainees were not provided with sufficient information on legislation or their rights, and on a number of occasion, detainees alleged they had been required to sign incorrectly dated expulsion orders or expulsion orders which were neither translated nor explained to them. Occasionally, expulsion orders lead to serious violations of the respect for family unity. Detainees’ requests to visit sick relatives as well as to receive medical assistance outside the camp facilities were rejected.

Women’s Rights

On January 31, the Saeima finally adopted a new Law on Sexual and Reproductive Health. The law guaranteed the right to abortion – a right previously granted only through a 1993 Welfare Ministry regulation.

On March 11, the government appointed the Gender Equality Council, an advisory body tasked with promoting unified policy development and the implementation of the Framework Document on Gender Equality. It was led by the welfare minister and included 12 additional members.

2002 saw the second court case in Latvia based on a complaint of gender discrimination.

- In mid-February, the Riga Regional Appeals Court upheld the ruling of the Riga Latgale District Court that the Central Pre-Trial Detention Prison had violated the civil rights of I. Muhina by refusing her a job as a prison guard on the grounds of her gender. The court ruled that the prison had violated the Latvian Labor Code, the Constitution, and the Convention on the Elimination of All forms of Discrimination against Women (CEDAW). The court maintained that the acknowledgement of the violation of Muhina's rights and public apology by the defendant to the plaintiff in the courtroom was in itself sufficient compensation and thus rejected her claim for compensation. The plaintiff appealed the decision with regard to the compensation, but the Senate of the Supreme Court upheld the ruling of the lower court.

On April 25, parliament amended the Criminal Code by strengthening norms against trafficking in human beings. The new amendments defined the notion of "trafficking in persons" (article 154) and stipulated that "human trafficking abroad" was punishable by deprivation of liberty for 3 to 15 years (article 154). The new amendments brought Latvia's anti-trafficking legislation in line with the new Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children adopted by the UN General Assembly as a protocol to the 2000 UN Convention against Transnational Organized Crime.

In 2002, charges on trafficking in human beings were filed in 13 criminal cases, bringing the total number of indictments to 25. However, only one person had been convicted by the end of 2002.

Rights of the Child

Media and the NGO "Save the Children" reported several cases of staff cruelty against children in facilities for children in 2002.

- Legal proceedings against a teacher at Aleksandrova special boarding school, continued. He was charged on 33 counts, in which 23 minors were allegedly victims of cruelty and violence. On January 14, the Latgale Regional Court referred the case back to the Kraslava District Court for a hearing with different judges. In March 2002, charges were filed against four more teachers at the facility.
- In April, following reports by parents, the Latgale Region Prosecutor's Office initiated criminal proceedings on cruelty and violence against children in Nagli kindergarten. The director of the kindergarten was fired in April, and the kindergarten was closed down in May. In July, the Rezekne District Prosecutor's Office brought charges against two other staff members.
- At the beginning of the new school year on September 2, an 11-year-old boy was not permitted to enter the school building because he was known to be HIV-positive.

In October, amendments to the Civil Law on child adoption procedures were adopted. The provisions stipulated that a child should spend at least six months in the care of prospective adoptive parent(s) before adoption. In mid-December the new parliament revoked the amendments, arguing that the provision would encumber the already slow adoption process. New cabinet regulations on adoption procedures, in line with the European Convention on the Adoption of Children and the 1993 Hague Convention on the Protection of Children and

Cooperation in Respect of Intercountry Adoption, were being elaborated by the Ministry of Justice at the end of the year.

The Mentally Ill

Latvia still lacked legislation ensuring the rights of the mentally disabled. The draft Law on Psychiatric Assistance contains serious shortcomings: for example, it fails to guarantee the right to challenge involuntary detention in a psychiatric hospital before an independent and impartial tribunal, and it fails to provide for a periodic court review of involuntary detention.

On October 31, parliament adopted the Law on Social Services and Social Assistance, which entered into force on January 1, 2003. The law also covers the care of mentally disabled or mentally retarded in long-term social care institutions. The law not only lists the rights of persons residing in long-term social care institutions, but for the first time also elaborates restrictions of these rights. For instance, if a client is deemed to pose a danger to himself or herself or others, the director of a long-term social care institution has the right to take a decision on isolation of the client for up to 24 hours. New aspects of the law also include community-based services as an alternative to institutional care.

Patients' Rights

Malpractice and medical corruption cases, the first of which were only recently successfully brought to court, also made headlines in 2002.

- The legal precedent case of Rezekne doctor Tatyana Guryanova, who was sentenced to a three-year prison term for causing the death of a two-year-old girl, was overturned by the Latgale Regional Court, which reduced the sentence to one year suspended with supervision. After the plaintiff's appeal to the Supreme Court, the case was referred back to the Latgale Regional Court. On 14 October, the court left in place the Rezekne City Court ruling with the three-year prison sentence.
- In July 2002, information was released on the case of a woman who died in June 2002 in Riga's Stradins Clinical University Hospital. The relatives requested an investigation of the surgeon, who allegedly refused to perform the surgery she needed unless the family paid 500 LVL (€335). Before the money could be collected, the patient fell into a coma and died a month later. The Welfare Ministry concluded that the patient's operation was delayed without reasonable grounds and that the delay had led to complications and caused the patient's death. The Prosecutor's Office of Riga City Zemgale District thereupon initiated criminal proceedings in the case.