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# INTERNATIONAL HELSINKI FEDERATION FOR HUMAN RIGHTS

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## Extract from the IHF report

### *Human Rights in the OSCE Region: Europe, Central Asia and North America, Report 2005 (Events of 2004)*

#### Latvia<sup>1</sup>

**IHF FOCUS: national human rights protection; elections and political rights; freedom of association and peaceful assembly; ill-treatment and police misconduct; conditions in prisons; rights of persons with disabilities; national and ethnic minorities (integration); citizenship; racism, intolerance and xenophobia; discrimination; migrants and asylum seekers.**

The main politically and historically contextual events in 2004 were undoubtedly Latvia's joining NATO on 2 April and the country's accession to the EU on 1 May. Although a large number of structural, institutional, legislative and policy changes had been taking place over the pre-accession years, at the beginning of the year there still remained a substantial amount of EU required legislation to be passed. In mid-March it was announced that there were still 36 draft laws and 200 regulatory acts that had to be adopted before accession. Although the week before accession the EU Commission declared that Latvia had fulfilled the requirements, the post-accession period revealed that many EU directives had either not or only partially been transposed into national law.

On the domestic political scene, 2004 continued the tendency for governments to have short political lives, while the ruling coalition and main lines of implemented policies only changed marginally. The coalition government of New Era, in power since November 2002, was replaced in March by a minority government coalition led by the Union of Greens and Farmers, and, following political crisis, a new government coalition was again formed on 2 December under the People's Party. Despite the new government's declared commitment to integration issues and its insistence on the formation of a new governmental post for integration, the Society Integration Secretariat was relinquished and the position of minister of education was taken by an advocate of strict state language policies.

In the first days of January 2005, a voting-related language issue emerged. Fatherland and Freedom/Latvian National Independence Movement challenged the Central Election Committee (CEC) for having produced informative video clips on how to vote for broadcasting in Russian on Latvian Television channel LTV7. The use of Russian for public state information was claimed to be in violation of Latvian law, and the CEC withdrew the video clips a couple of days later.

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<sup>1</sup> Based on Latvian Centre for Human Rights and Ethnic Studies (LCHRES), *Human Rights in Latvia in 2004*. The full report is available at <http://www.humanrights.org.lv/html/>.

## **National Human Rights Protection**

### *Courts*

In 2004, the Constitutional Court received 339 complaints. Of those, 246 were referred to court collegiums. The Constitutional Court reviewed 26 cases and issued a ruling in 12 cases. Cases were initiated on the submission of individuals (11), courts (9), members of parliament (3), legal persons (2), and National Human Rights Office (1). 2004 saw the first cases accepted for review by the Constitutional Court on the submissions of courts of general jurisdiction and administrative courts. Several court rulings referred to the principle of equality (prohibition of discrimination), and the right to a fair trial.

In 2004 the newly established administrative courts began their work with the entry into force of the new Administrative Procedure Law on 1 February, which introduced a special procedure for judicial review of administrative actions. Administrative courts reviewed cases where an individual had appealed written administrative acts or action or inaction by state or local administration institutions.

The Administrative District Court received 2,658 submissions and ruled in 1,030 cases, nearly twice as many as ordinary district courts, while the Administrative Regional Court received 1,111 submissions and ruled in 406 cases. The largest number of submissions and reviewed cases related to the decisions and conduct of the State Revenue Service (729) and local governments (649), and many cases were also referred to state police (249) and municipal police (100).

Due to a lack of funding and shortage of qualified judges, the Administrative District Court was staffed by only 12 judges out of the 20 envisaged posts, which partly accounted for the significant case overload.

### *National Human Rights Office*

In 2004, the National Human Rights Office (NHRO) received 5,092 complaints. Most of them concerned housing rights, social issues, and humane treatment and respect for dignity of persons. On 16 June, the draft Law on Ombudsperson envisaging the broadening of the mandate and the field of work of the NHRO and strengthening its independence was submitted by the president to parliament, but had not been adopted by the year's end. Additionally, according to the draft amendments to the Law on National Human Rights Office submitted to the State Secretaries Meeting on 2 December, the NHRO will be the designated institution responsible for the promotion of equal treatment in Latvia.

### *Draft Law on State Guaranteed Legal Aid*

On 25 November, the parliament adopted a draft Law On State Guaranteed Legal Aid in the first reading. It aims at developing a uniform procedure and broadening access to justice for individuals in civil, administrative and criminal cases by providing free legal aid to persons without adequate income. It also envisages free legal aid to refugees and persons under temporary protection by Latvia, and broadens the scope of legal aid and legal providers, as well as envisages the establishment of Legal Aid Administration.

## **Elections and Political Rights**

The first elections to the European Parliament (EP) were held on 12 June, with a relatively low turnout at 41%. In a surprise result, out of the nine members of the EP from Latvia, four were elected from the nationalist party Fatherland and Freedom/Latvian National Independence Movement (FF/LNIM) with 30% of the vote, which in the previous parliamentary elections just barely made the 5% barrier. The additional seats went also to center-right parties.

### *Lustration Legislation*

The candidate elected from the left-leaning radical opposition party For Human Rights in United Latvia (FHRUL) to the EP, Tatjana Zhdanok, was prohibited from participating in national elections by lustration laws on account of her membership in the Communist Party after 13 January 1991. This was the result of a heated debate in parliament, which decided not to include the lustration clause in the new EP election law, adopted at the end of January.

In June, the European Court of Human Rights (ECtHR) issued a Chamber judgment in a complaint submitted by Zhdanok protesting the move. The court ruled that there was a violation of article 3 of Protocol 1 (free elections) of the European Convention on Human Rights (ECHR) and article 11 (freedom of assembly and association) of the convention and awarded pecuniary and non-pecuniary damages to be paid to the plaintiff by the state. However, the Latvian authorities decided to appeal the decision in the Grand Chamber. The hearing had not yet been scheduled at the end of 2004.

Another lustration law issue became urgent as the existing law determining the ascertainment procedure and the use of information on a person's collaboration with the KGB, which had been adopted for ten years in 1994, was about to expire. This law, in combination with a series of special laws, restricts former KGB staff and collaborators from standing for state and municipal elections, from holding certain professional and public positions and from acquiring citizenship through naturalization.

The prohibition to stand as a candidate for elections was in effect prolonged for another ten years after the parliament adopted amendments to the Law on Former KGB Document Storage, Use and the Order of Ascertainment of a Person's Collaboration with the KGB. Twenty *Saeima* (parliament) deputies submitted a challenge to the amendments to the Constitutional Court, but the case had not been reviewed by the end of the year.

### *Non-Citizens*

The rights of permanent residents who have the legal status of Latvian non-citizens (that is, former Soviet citizens) became a more visible issue in 2004, as legislation was amended to comply with the EU *acquis* (see section on citizenship). In preparation for the municipal elections in 2005, the Constitution was amended in September to extend the right to participate in local elections to EU citizens residing in Latvia. The right to vote and stand as a candidate in elections was extended beyond Latvian citizens to include resident EU citizens in the Law on European Parliament Elections (adopted in January) and the Law on the Election of City, District and Parish Councils (adopted in November). No such rights for non-citizens were included.

In the first days of January 2005, a voting-related language issue emerged. Fatherland and Freedom/Latvian National Independence Movement challenged the Central Election Committee (CEC) for having produced informative video clips on how to vote in favour of broadcasting in Russian on Latvian Television channel LTV7. The use of Russian for public state information was claimed to be in violation of the Law on State Language as well as the law On the Central Election Committee, since state institutions should provide information for the general public only in the state language. Although the CEC head Arnis Cimdars explained that the Russian-language clips had been provided as the result of voter demand, since some Russian-speaking voters get their information exclusively from Russian-language media, the CEC withdrew the video clips a couple of days later, well in advance of the March 12 municipal elections.

### *Election Law and Law on Political Parties*

The amendments to the local election law included the broadening of voting rights by eliminating the prohibition to vote for persons in pre-trial detention. Similar provisions had been ruled unconstitutional by the Constitutional Court before the last parliamentary elections in the law on parliamentary elections, but had remained unchallenged in the law on local elections.

Under legislation in force in 2004, political parties were regulated by the 1992 Law on Social Organizations and Their Associations. It required a minimum of 200 founding members who are citizens to register a party. Half of the required 200 founding members were allowed to be non-citizens.

In November, the Cabinet of Ministers submitted to parliament a proposal for a Law on Political Parties. The draft law rectifies the problem concerning EU citizen membership in political parties by allowing both citizens, non-citizens and EU member state citizens to be members of a party, but requires that at least half of the membership and a minimum of 200 members at all times consist of citizens, thus making the law more stringent. The barring of non-citizens as well as EU citizens from participating in founding a party restricts previously existing political rights of non-citizens and arguably narrows the possibility for EU citizens from other countries in the exercise of their political rights.

### **Freedom of Association and Peaceful Assembly**

In late autumn a group of police officers began collecting signatures for a petition demanding that they be allowed to form trade unions. On 30 November the NHRO turned to the Constitutional Court with a submission challenging the compliance of section 23 (5) of the Law on Police that explicitly prohibits the formation of police trade unions with articles 102 (freedom of association) and 108 (the right to form trade unions) of the Constitution. On 2 December, the parliament lifted the ban on the formation of trade unions by police officers but prohibited them the right to strike. No similar legislative initiatives were taken in respect of state border guards and prison officers who are still prohibited from forming trade unions.

As a result of the anti-reform public activities involving both parliamentarians, school children and other minority representatives, the parliament in February adopted amendments to the Law on Marches, Meetings and Manifestations. The amendments abolished the provision that had required parliamentary and local government deputies and deputy candidates to seek authorization by the municipal authorities to hold public meetings with voters.

A lively public discussion was triggered when Riga City Executive Director Māris Tralmaks refused permission to radical youth organization Club 415 to organize a march and a demonstration on 16 March, observed by the national radicals as Legionnaire's commemoration day. Legionnaires were fighters for Latvian independence but also an integral part of the Nazi German military forces. The Riga permit was not issued upon the recommendation of the security police who warned of possible provocations and the risk of clashes between opposing camps, but a similar demonstration in Liepāja was permitted. The decision was later successfully challenged in court.

### **III-Treatment and Police Misconduct**

According to the Internal Security Office of the National Police, a total of 3,022 complaints were received about police misconduct and internal investigation was started in 1,740 cases. Of those, 193 investigations were related to police violence against individuals. In 12 cases the violence was confirmed and 13 police officers received disciplinary punishment. Of 88 investigations in Riga, in one case the occurrence of

violence was confirmed and one police officer was disciplined. No statistics were gathered on the number of investigations involving deaths in police custody and no detailed statistics were available as to the number and outcome of criminal cases brought against police officers on violence against individuals.

From 12 to 15 February, the Latvian Centre for Human Rights and Ethnic Studies (LCHRES) and the Centre for Public Policy "Providus" organised an anonymous hotline aimed at encouraging the public to report police brutality. Of almost 300 calls received alleging police misconduct, nearly half were about police violence, including during interrogations in police stations.

- On 11 October the Criminal Court Collegium of the Riga Regional Court acquitted defendant V.C., charged with murder in aggravating circumstances, deeming that evidence acquired during pre-trial investigation was obtained unlawfully. The defendant alleged that he had confessed to the crime after he had been beaten by police officers from the Bureau on Combating Organised Crime and Corruption and Criminal Police of the Riga District Police Department and State Police officers. The injuries V.C. had sustained were confirmed by experts. V.C. had also been kept on the premises of the Riga District Police Department for 29 hours, thus exceeding the statutory limit, instead of being transferred to a police short-term detention facility. In addition, the court ruled that article 95 of the Constitution (prohibition of torture or other cruel or degrading treatment) and article 3 (prohibition of torture) of the ECHR had been violated. The prosecutor appealed the decision. In parallel, the State Police opened a disciplinary investigation into the conduct of the officers from anti-corruption unit, but decided not to initiate criminal proceedings against them on account of insufficient evidence on police abuse.
- An appeal hearing was twice suspended at the Riga Regional Court in the case of four police officers charged with intentionally causing serious bodily injuries to a Romani man resulting in his death. Riga Latgale District Court had dismissed the case on 5 June 2003 on the grounds of lack of evidence.

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) carried out a third, *ad hoc* visit to Latvia from 5 to 12 May 2004, paying particular attention to the treatment of persons detained by the police, conditions of detention in police establishments and prisons, and the regime and security measures applied to life-sentenced prisoners. By year's end the government had not authorised the publication of the report of the second CPT visit in 2002.

The Law on the Execution of Detention in Police Cells was not adopted in 2004 and short-term police detention continued to be governed by an internal regulation of the State Police, which remained classified. Informing police detainees of their rights remained a problem. Conditions in many of the police detention cells, notably, Ventspils, Aizkraukle, Krāslava, Daugavpils, and Liepāja State Police Departments remained dilapidated and inhuman.

### **Conditions in Prisons**

2004 saw a decrease in the overall number of prisoners and the share of adult pre-trial detainees, especially among women. The decrease in the number of pre-trial detainees could be attributed to the increase in the number of judges at the Riga Regional Court in 2003; introduction of statutory limits on the length of detention at various stages of the criminal procedure; and the increasing awareness among judges of international standards governing pre-trial detention.

At the same time, the incarceration rate remained high – 326 prisoners per 100,000 inhabitants. Of all offenders sentenced in 2004, 26% received a prison sentence, and the average length of imprisonment increased to around 4.5 years.

At the end of 2004, the number of prisoners in Latvia's 15 prisons was 7,796. Of those, 35% were in pre-trial detention, a decrease by 5% compared to 2003. The number of incarcerated women stood at 416 prisoners, of whom 33 % were remand prisoners. There were 229 juvenile prisoners (aged 14-18) of whom an alarming 59% were pre-trial detainees. Throughout 2004, pre-trial detention as a security measure was imposed by courts in 3,518 cases.

The only prison for convicted juvenile boys at Cēsis remained seriously overcrowded. In December, 175 juveniles were being held in the prison with an official capacity of 125 places. Conditions in the pre-trial section of the prison remained appalling and could only be described as inhuman and degrading.

In October, Minister of Justice Vineta Muižniece announced plans to build a new prison with 3,000 places, and at the end of December, published a poorly drafted Framework Document on the Development of the Prison System, which offers to expand the existing prison estate. It remained unclear whether any of the existing prisons would be closed down.

On 9 December, amendments to the Sentence Enforcement Code came into force. They stipulate that correspondence of sentenced prisoners with the UN bodies, *Saeima* Human Rights and Public Affairs Committee, prosecutors' offices, courts, sworn advocates, the National Human Rights Office, and, in the case of a foreign prisoner, the relevant diplomatic or consular mission, may not be subject to censorship. With the exception of sworn advocates, the postal expenses are to be borne by the prison authorities. However, it remains to be seen whether the concept of "court" is understood broadly by the prison authorities to also encompass the Constitutional Court and the ECtHR.

The amendments also liberalize contacts with the outside world for convicted juveniles who are now entitled annually to up to 12 long-term visits by relatives for 36-48 hours. The amendments also regulate the stay of children up to the age of four with incarcerated mothers if requested by the mother and approved by the child custody court.

Conditions in the central prison hospital continued to be regularly criticized by international and domestic organisations. In November the government allocated 630,000 LVL (EUR 896,000) for the continuation of the protracted construction work of the Olaine Prison Hospital, begun in 1999. In 2004, the total number of prisoners with active TB declined (278), while the number of HIV patients and AIDS patients increased compared to 2003 (55). Seven hundred prisoners were infected with HIV. While there is no official segregation policy of HIV prisoners throughout the Latvian prison system, it appeared that the majority of HIV positive prisoners were being accommodated in one prison – the Parlielupe Prison.

According to the Prison Department, in 2004 there were nine prison suicides, including the suicide of a juvenile in Matīsa Prison. Inter-prisoner violence continued to raise concern.

- On 23 December, a 21-year-old prison inmate R.R. from Valmiera Prison died from injuries inflicted by fellow prisoners after being transferred from Valmiera City Hospital to the Central Prison hospital. A fellow prisoner was charged with inflicting bodily injuries, and an internal investigation was started by the Prison Department.
- In early April, a convicted prisoner in the Valmiera Prison diagnosed with acute hepatitis C and with TB pneumonia, received six disciplinary punishments and was four times consecutively (15

days each time) placed into a disciplinary punishment cell, in total 60 days without a break. He alleged he had not been allowed to take one hour daily outdoor exercise during the entire period of disciplinary punishment.

Throughout the entire prison system, adult prisoners placed in disciplinary punishment cells were prohibited from daily outdoor exercise.

In 2004, of 15 prisons, nine offered some education, but only 8% of prisoners were engaged in general educational programs, and less than 5% took accredited vocational training programs. The overwhelming majority involved in educational activities were juveniles.

## **Rights of Persons with Disabilities**

### *Mental Health Care Institutions*

2004 saw some progress concerning the draft Law on Psychiatric Assistance, which now provides for a court as a final decision maker on compulsory admission and treatment, and also envisages that in each case on compulsory admission the court will be required to ask the Council of Sworn Advocates to appoint a patient's legal representative. The law was reviewed by the cabinet of ministers meeting of state secretaries, but had not reached the Cabinet of Ministers stage as of the end of 2004.

- In October, TV 3 drew attention to possible human rights violations in the specialized social care home for mentally disabled "Iecava." Several clients and former employees had asked the Ministry of Welfare to evaluate the professionalism of the institution's director Jevgenijs Razumnijs. The ministry found that procedures for managing the clients' money had been inappropriate and that the director had made clients work during the period envisaged for rest. During another inspection, the ministry found that the clients had not been adequately informed about their rights and duties. In addition, in November, Bauska District Police filed criminal charges against a staff member for violence against a client. The staff member was suspended from duty pending investigation results.

In 2004, there was no significant development concerning community-based services for people with mental illness and people with intellectual disabilities. On 21 July, the Welfare Ministry's National Program on Improvement of Infrastructure and Equipment of Social Care and Rehabilitation Institutions was adopted, which envisages the development of half-way houses within six existing social care homes for mentally disabled. However, the program appears to focus more on the improvement of conditions in six social care institutions, as half-way houses will be built within existing buildings. Moreover, the program fails to provide for a joint policy on the development of community based services as it concerns only clients of some social care homes under the Welfare Ministry and not the long-term clients of mental hospitals managed by the Health Ministry and hundreds of mentally disabled on a waiting list for a place in a social care home. Neither does the program envisage a mechanism of re-training staff to facilitate the transition to community based facilities, nor how the transition will be carried out.

## **National and Ethnic Minorities**

### *Integration*

In January, amendments to the Law on Education concerning the provisions on language use in minority education were passed in the second reading in parliament. Although the Cabinet of Ministers had adopted

regulations and repeatedly made public promises that the possibility for minority secondary schools to use a language ratio of 40% minority language would be guaranteed by law, the second reading instead reverted to a general formulation that minority language could be used in the teaching of the language itself or in a subject relating to minority identity and culture.

Following controversy, the president stated that she would return the law to parliament if passed with this wording in a third reading. On 5 February, after long and heated debates, the amendment including the above-mentioned ratio was passed. The transition was foreseen for all tenth grades, starting on 1 September 2004.

The unexpected second reading vote in parliament by the governing coalition stirred up distrust in the good intentions of the government with regard to minority language usage in schools. As a result, the education issue remained the foremost topic regarding minorities for the rest of the year. In June, 20 opposition parliamentarians submitted a claim to the Constitutional Court, challenging the secondary school minority education reform on grounds of being discriminatory, anti-democratic and in contradiction to several binding international norms. The court accepted the claim but did not review it by the end of the year.

Protests were organized on a regular basis, frequently involving opposition parliamentarians, the unofficial association Headquarters for the Defence of Russian-Language Schools as well as school children and others. In some cases, local authorities failed to issue permits for such demonstrations. As a result, the organizers were at times brought to court and charged with breaking the regulations for public meetings.

In February, FHRUL and anti-reform activists organized a protest action in Riga involving some 5,000 persons, including hundreds of school students. The march ended at the president's castle, where the youth threw snowballs at the castle windows and engaged in other petty disorders. On 1 May, when Latvia celebrated EU accession, one of the largest protest demonstrations to date took place in Riga. Tens of thousands protested the minority education reform. On the same day in Liepāja, some 500 protestors, organized by the extremist party LNDP, participated in a march against the education reform, for which the municipal authorities had not issued a permit. Throughout the year, smaller-scale public protests were organized in several other towns as well. On 23 August, six persons started a hunger strike aimed at a moratorium of the education reform. It lasted three weeks. After 1 September, occasional protests continued, but the momentum slowed down.

On the other hand, in September for the first time there was an attempt to establish an umbrella organization purporting to unite Russians in Latvia. The United Congress of the Russian Community in Latvia (OKROL in its Russian acronym) was founded and later officially registered. While claiming to be non-political, it still proclaimed as its aim to pursue the interests of Russian-speakers on various issues, including economic, political and linguistic. Public calls for Russian as an official language and automatic citizenship for all non-citizens were made at the founding congress, which was addressed by video by Russian Duma member Dmitry Rogozin, who had been denied a visa to enter the country for the event. Although much attention was paid to the organization initially, reports of infighting and tensions marred its launch.

Other minority rights issues also mainly concerned questions of language law and regulations. Although the discussions surrounding an eventual ratification of the Council of Europe Framework Convention for the Protection of National Minorities, signed by Latvia in 1995, had been ongoing the entire year and a parliamentary sub-committee for societal integration was formed in February to deal with this issue, at the end of the year there was still very little progress, except the formal formation of a working group on the



issue under the minister for foreign affairs. The new minister Ainars Latkovskis, upon assuming his post in December, publicly stressed that the ratification would be a long-term process.

Amendments to the Law on Radio and Television adopted on 5 November included, among other changes, potentially restrictive provisions on the use of languages other than Latvian in electronic media. This was a follow-up to the 2003 ruling by the Constitutional Court, whereby a language quota of maximum 25% of broadcasting time in a language other than the state language was declared unconstitutional and null and void. The norms adopted in November include the stipulation that the Cabinet of Ministers is entitled to determine specific provisions concerning the usage of language in the private electronic media if the usage of state language in the area of the broadcaster is restricted or endangered. However, no criteria upon which to determine the potential threat to the state language were adopted. The president returned the law for additional review, saying that the authority given to the Cabinet of Ministers was too broad. The amendments adopted on 16 December slightly narrowed down the same concept but still provide much leeway for government action in restricting the use of other languages in private media.

2004 also saw several legal challenges to the official “Latvianization” of minority last names.

- In July, Leonid Raihman made a claim to the District Administrative Court, asking to repeal the decision of 10 February by the State Language Centre, which turned down his request to transliterate his name as “Leonid Raihman,” without adding the ending “s”, as Latvian grammar rules require for masculine names. He argued that the spelling violated article 91 (non-discrimination) and article 114 (right to preserve cultural and ethnic identity) of the Constitution, as well as international human rights norms. He also referred to problems due to the fact that various official documents including his name had various spellings. The Administrative Court refused the claim, arguing that the State Language Centre had made its decision based on the legal norms in force. In December, Leonid Raihman appealed the decision to the Regional Administrative Court.
- On 7 December, the ECtHR decided the claim of Lidija Kuharec *alias* Kuhareca to be inadmissible. The claim was based on ECHR article 8 (private life) in combination with the Latvian Constitution article guaranteeing the right to preservation of ethnic identity as well as article 13 (effective remedy). The court argued that the addition of such an ending did not constitute a change of the name, that “linguistic liberty” is not per se part of the convention, that states differ widely on the usage of language, but that the legitimacy of a constitutionally determined state language is unquestionable and that the margin of appreciation of the state, taking into account specific circumstances, is especially wide on this issue. The court also ruled that there was no procedural violation of the convention.

## **Citizenship**

2004 became a record year both in terms of applications for naturalization and persons actually naturalized: 21,297 applications were submitted – almost double that of 2003, with a monthly rate of over 2,000 since September. The marked increase in applications started in September 2003 (EU accession referendum) and continued unbroken, clearly pointing to the EU accession as the reason for the increase.

By 31 December, 85,352 persons had become citizens of Latvia through naturalization since the beginning of the naturalization process in 1995. Still, there were 452,033 non-citizens as of 1 January 2005, i.e., almost 20% of the population. Although nearly all non-citizens are minority representatives, more than half of the Russians living in Latvia are citizens (340,000), while some 300,000 are non-citizens. The

Belarussian minority has twice as many non-citizens than citizens, while for the ratio of the Ukrainian minority is even higher: 43,000 non-citizens and 13,000 citizens of Latvia.

In April, the Special Assignment Ministry for Society Integration Affairs, the Special Assignment Minister for Child and Family Affairs and the Naturalization Board implemented an information campaign addressing 15,000 direct mail letters to parents of non-citizen children born after 21 August 1991, who have the right to be registered as citizens without going through the naturalization process. As a result, the applications for children to be registered as citizens increased significantly: the Naturalization Board received over 2,000 applications and granted citizenship to almost 1,800 children of non-citizen parents in 2004. The number of applications received in 2004 was higher than all the previous years since 1999, when registration became possible. Still, the total amount of registration applications until 31 December 2004 was 3,440, while the number of eligible non-citizen children still remained high at about 15,000. In addition, as the law does not foresee automatic citizenship for children of non-citizen parents, children falling under the non-citizen status continue to be born.

There were also negative developments in state action on naturalization. On 20 May, the parliament adopted amendments to the Law on the Status of Those Former USSR Citizens Who Do Not Have Citizenship of Latvia or Any Other Country, which included the stripping of the non-citizen status of persons who have received permanent residency in a country other than CIS after 1 June 2004. The provision *de facto* makes such persons stateless and encumbers their right of return to Latvia, which is guaranteed by the Constitution to all holders of Latvian passports, including non-citizen (or “alien”) passports. In June, a case was submitted by opposition parliamentarians to the Constitutional Court, challenging the constitutionality of the amendments. The court had not ruled on the case by the end of 2004.

On 16 November, the Cabinet of Minister made an unprecedented move, vetoing the granting of citizenship to Jurijs Petropavlovskis, as proposed by the Naturalization Board, on the grounds of Petropavlovskis’s alleged disloyalty to Latvia. He had been active and outspoken regarding the minority education reform. On 8 December, he submitted a claim to the District Administrative Court.

### *Non-Citizens Rights*

There were a few, mixed signals regarding the rights of non-citizens. The main differences concern the right to hold certain professional positions and the political rights granted only to citizens. Some of these issues have become particularly salient with the EU accession, with the requirement to provide non-citizens with certain rights now enjoyed by EU citizens.

In May, amendments were passed to the Law on Advocacy which determine that lawyers, sworn lawyers, and assistants to sworn lawyers must be EU citizens who have fulfilled the requirements for practicing as a lawyer in a EU member state. Latvian non-citizens continue to be barred from becoming sworn advocates.

## **Racism, Intolerance and Xenophobia**

### *Extremist and Radical Groups*

The extremist groups that had made headlines in previous years in Latvia continued to be active in the public sphere, and a few new groups surfaced in 2004. Nevertheless, the number of adherents of these groups remained low, generally ranging from several dozens to a couple of hundred. At the same time, a new tendency emerged with some formerly marginal extremist groups making efforts to join in

mainstream politics. However, the arguably most worrisome new signs of radicalism and intolerance appeared in mainstream politics, including in parliament.

The Nationalist Bolsheviks, whose organization *Pobeda* had been banned through a court ruling in 2003, continued to make headlines. The last three of the former *Pobeda* members who had been arrested in November 2002, charged with the attempt to violently overthrow the state order, were released due to lack of evidence. The former *Pobeda* leader Vladimir Linderman was still avoiding prosecution by remaining in Russia. At the same time, Moscow's responses to Linderman continued to be contradictory: while his application for citizenship was rejected and he was refused political asylum, the Russian prosecutor general in January again refused to extradite him to Latvia, citing alleged politically motivated persecution in Latvia. Linderman remained in Russia as of the end of 2004.

Meanwhile, National Bolshevik activities continued in Latvia, many led by the new leader Aijo Beness. The activities included demonstrations against the education reform and painting anti-Chechen graffiti, and the organization claimed responsibility for a fire outside the Ministry of Education. The organization also tried to officially register a new organization, NBD. However, registration was rejected on the grounds that the working methods of the NBD may lead to heightened social tensions and that its goals and activities could constitute a threat to the security of society and the democracy of the state. In December, the security police initiated a criminal case against the National Bolsheviks on charges of incitement to a violent overthrow of state power (article 81 of the Criminal Law), after the daily *Diena* in October had received a letter, which was evaluated by the security police as containing such calls.

The Latvian National Democratic Party (LNDP), whose leader Evgeny Osipov had in previous years worn uniform-like dress with an open display of swastikas and other Nazi symbols and had prided themselves with practicing for physical battle, was most clearly working toward establishing themselves in a more mainstream niche. They mainly voiced increasingly militant opposition to the minority education reform, or criticized rising municipal costs for utilities and living.

- On 1 May, approximately 500 persons participated in an unsanctioned protest march against the education reform. The protest had not been approved by the municipal authorities. Two LNDP representatives were detained and sentenced to seven and eight days of administrative arrest for petty hooliganism and resistance to police demands. A couple of days later, Osipov himself was arrested, detained for two months, and after that remained under police supervision and barred from leaving Liepāja, as well as from attending demonstrations. He faced several charges, including for serious assault on police officers.

In November, Osipov announced the party's intention to participate in the upcoming municipal elections and also declared their intention to collaborate with the left-oriented party For Human Rights in a United Latvia – an unexpected political coalition.

Latvian national radicals were also active. *Visu Latvijai* actively participated in demonstrations, and its leader Raivis Dzintars frequently appeared in the press and wrote articles. The contacts with parliamentary parties FF/LNIM and New Era, whose representatives Kārlis Šadurskis and Ina Druviete publicly praised the organization, were another sign of closer ties between radical organizations and some mainstream politicians.

Most strikingly, however, Latvian National Front (LNF) made strides in accessing and gaining support from parliamentarians. Its newspaper's (*DDD*, or “Deoccupation, Decolonisation, Debolshevisation”) deputy editor Liene Apine was hired as a technical secretary to the *Saeima* Foreign Affairs Committee. The chairperson of the committee, Aleksandrs Kiršteins (People's Party), had been giving regular

interviews to the LNF newspaper and was himself increasingly vocal about promoting “deoccupation” and the departure of a large number of the non-citizens of the country. *DDD* continued to publish radical nationalist, anti-Semitic and homophobic articles. In addition, well-known public persons and politicians from New Era, Union of Farmers and Greens, Latvia’s First Party and People’s Party continued to collaborate by giving extensive interviews to the paper.

In October, the Secretariat of the Special Assignment Minister for Social Integration parliamentary secretary and Latvia’s First Party member Aleksandr Brandavs submitted a request to the prosecutor general to investigate on charges of ethnic hate incitement a publication in *DDD*, in which members of parliament were asked to answer the question “When will Jewish race hatred inciters such as Zhdanoka, Cilevics and Pliners be deported from Latvia?”<sup>2</sup> In November, the prosecutor general’s office requested the security police to determine whether there were grounds for initiation of a criminal case.

In November, the LNF published a calendar for 2005, with a call for “deoccupation,” which on its first page displayed a picture taken in the *Saeima* of eight parliamentary deputies posing with the LNF activists, including Liene Apine. The parliamentarians were members of five supposedly mainstream parties: Fatherland and Freedom/Latvian National Independence Movement, New Era, Union of Farmer and Greens, People’s Party and Latvia’s First Party.

In October, the national radical Union for National Strength (*Nacionāla Spēka Savienība*), consisting of some 30 members and led by Aigars Prūsis, printed envelopes with the image of Herberts Cukurs, a famous Latvian pilot and a war criminal, who during World War II served in the local Nazi Latvian commando and actively participated in the mass murders of Jewish civilians. The envelopes provoked a wave of protests and condemnations.

### **Racism and Intolerance in the Internet**

At the end of November, the state security police began a criminal investigation into alleged incitement of ethnic hatred by the Internet portal [www.latvians.lv](http://www.latvians.lv), which is connected to the radical nationalist organizations, after receiving a complaint from FHRUL MP Jakovs Pliners.

The security police are also investigating alleged incitement to ethnic hatred by a Russian-language Internet website. This offers free download of songs in MP3 format, which allegedly call for physical violence against ethnic Latvians. The investigation was scheduled to be completed by the end of January 2005.

In a modest but positive beginning in the fight against racism, the Secretariat of the Special Assignments Minister for Social Integration finalized the National Program for Tolerance, heeding the call made in 2001 at the Durban World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. A working group of representatives of ministries, experts and NGOs was set up, and in August 2004, the Cabinet of Ministers adopted a five-year program. Although the program is mostly declarative in character, it does set a precedent in officially acknowledging, albeit carefully, the existence of prejudice, intolerance and discrimination in the country. Many grounds for possible discrimination are mentioned, but ethnic and religious minorities are singled out as especially relevant groups to include in the plan to promote tolerance. Special mention is made of the Roma as a particularly vulnerable group. The plan includes various activities such as public awareness-raising events, seminars, brochures, travelling exhibitions, work with media and stresses the need to involve civil society and NGOs.

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<sup>2</sup> Tatjana Zhdanok, Boriss Cilvevičs and Jakovs Pliners are three well-known opposition party members, Zhanok is member of the European Parliament and the two latter are members of Latvian parliament.

## Discrimination

There were no known court decisions on discrimination in 2004. Two applications alleging discrimination were submitted and court hearings were scheduled for 2005.

- In one case under review by the Riga Regional Court, a disabled young man R. in a wheelchair was denied entry into a nightclub, while his friends were allowed to enter the club. The nightclub explained that it was holding a private party.
- In another case in November, an ex-communicated Lutheran pastor M. submitted a claim to the Riga City Ziemeļi District Court against a Riga school alleging discrimination on the grounds of sexual orientation after the school decided not to hire him as a teacher of history of religion. M. contended that the applicant who was hired did not possess better professional qualifications than him and that his homosexuality was the main reason why his application was turned down. The court hearing was scheduled for February 2005.

In 2004, the number of complaints about discrimination to the National Human Rights Office (NHRO) increased to 85 complaints, compared to 58 in 2003. The majority of complaints concerned discrimination on the grounds of gender (25), age (13) and disability or state of health (12) and race or nationality (10).

Despite the requirement to complete the transposition of the EU anti-discrimination directives by EU accession, adequate anti-discrimination legislation was not adopted in 2004. Amendments to the Labor Law in line with Directives 2000/43/EC and 2000/78/EC were adopted on 22 April and came into force on 8 May. The law now defines direct and indirect discrimination, includes harassment as a form of discrimination, and deems instruction to discriminate as discrimination. While the law prohibits discrimination on the grounds of gender, race, skin color, age, disability, religious, political or other beliefs, national or social origin, property or family status, and other grounds, the law fails to explicitly name sexual orientation as a ground for discrimination. The amendments provide for the right to effective remedy, as well as payment of moral compensation in cases of illegitimate differential treatment. Employers are required to provide reasonable accommodation for disabled persons. However, no amendments were made to other laws regulating labor relations (e.g. the Law on Public Service).

A working group formed under the Secretariat of the Special Assignment Ministry for Social Integration in autumn 2003 to identify and elaborate the necessary legislative amendments to transpose the Race Directive into Latvian legislation, initially developed a package of draft amendments to eight different laws, including the Criminal Law and the Code of Administrative Offences. Following the objections of the Ministry of Justice, a comprehensive anti-discrimination law was drafted within two weeks, taking into account also other binding international obligations on anti-discrimination, thereby extending the list of grounds of discrimination mentioned in the law. On 7 April, the *Saeima* passed the draft law in an accelerated procedure.

Subsequently the legislation was again narrowed to cover only the EU Race and Employment Directives, but excluding sexual orientation as a ground for discrimination. In autumn the idea of a comprehensive anti-discrimination law was abandoned. On 2 December, the Secretariat of the Special Assignment Ministry for Social Integration submitted a new package of draft amendments to several laws to the state secretaries. Amendments to the Law on the National Human Rights Office stipulate that in line with the EU Race Directive, the office will be the designated institution for the implementation of the principle of equal treatment in Latvia.

## **Migrants and Asylum Seekers**

In 2004, only seven persons requested asylum in Latvia and none was granted refugee status. Since 1998, when Latvia began reviewing asylum applications, only eight persons have received a refugee status, the last of them in 2001.

The Administrative Regional Court challenged in the Constitutional Court the provision of the Immigration Law section 61 (6), which stipulates that the decision by the minister of interior to include an individual in the list of persons banned from entry into Latvia cannot be subject to an appeal. On 6 December, the Constitutional Court ruled that the provision disproportionately limited the right of a person to a fair trial as provided by article 92 of the Constitution. It was declared null and void from 1 May 2005.

In 2004, the Olaine Camp for Illegal Immigrants accommodated a total of 146 persons (down from 174 in 2003). It provided accommodation to around 10-20 persons on any given day. Most of them were persons who had illegally crossed Latvia's border or had otherwise violated the procedure of entry, but some were people whose identity had not been established yet, or whose asylum request had been rejected and who were awaiting expulsion.

The group of those who had arrived in Latvia illegally continued to include persons who had in the past entered Latvia legally and had long established links with the country, including a fixed residence and a family, but for various reasons had failed to settle the necessary documents. As a result, they cannot declare their place of residence, register a marriage nor have legal employment. Many of these people landed in the camp after the death of a spouse (Latvian citizen or non-citizen). In one such case a woman was placed in the camp together with her child who was born in Latvia and had been attending a school in Latvia.

In cases when it is impossible to establish a detainee's link with any country, the detainee is released, however, he/she is not assigned any legal status, and the Board of Citizenship and Migration Affairs issues a document, a form with personal data and a photograph, that neither grants the right to legally reside in the country, nor serves as a travel document.

The Immigration Law stipulates that immigration detainees have the right to submit a complaint to a prosecutor, receive legal aid, to get acquainted with their case file concerning their detention on their own or with the assistance of a representative, communicate in a language they understand, and, if necessary, with the assistance of an interpreter. In practise, the majority had limited opportunities to exercise their rights as they lacked the means to afford a lawyer, and there was no *ex-officio* legal aid. In several cases, detainees were denied the right to get acquainted with their case files under the pretext that the files contained classified information. The detainees alleged they could contact authorities only at their own cost, and that possibilities for correspondence depended on whether the camp authorities could cover postal expenses and that there were no opportunities to purchase stamps, envelopes, and phone cards on camp grounds. According to detainees, the prosecutor's office did not carry out any inspections of the Olaine camp in 2004.