

Latvia¹

IHF FOCUS: elections and political rights; freedom of expression and the media; peaceful assembly; judicial system and domestic safeguards; torture, ill-treatment and police misconduct; prisons; national and ethnic minorities; citizenship; asylum seekers and immigrants; intolerance, xenophobia and racial discrimination; mental health care institutions; patients' rights.

2003 was Latvia's final year before accession to the EU and much attention was paid to outstanding pre-accession requirements. In the 2003 monitoring report by the European Commission the focus on work to be done was mainly on administrative and judicial capacity, corruption, as well as "four issues of serious concern": mutual recognition of qualifications for certain professions, certain agricultural questions, and issues related to the taxation and customs union system. Although the need to "make enhanced efforts" was established as regards anti-discrimination in the area of social policy and employment and some issues in justice and home affairs (migration, asylum, data protection), anti-discrimination and human rights issues were not prioritized by the EU.

However, several international recommendations by the UN treaty committees and Council of Europe representatives helped focus attention on the main human rights problems, namely those in closed institutions. In addition to the problems in prisons (pre-trial detention and conditions and procedures), mental health institutions and the illegal migrants camp, attention was also given to issues of police brutality and the lack of independent complaints mechanisms. Furthermore, the citizenship issue remained unresolved, with only slow progress in the rate of naturalization and a status quo or even some signs of regression concerning the rights of non-citizens. Minority rights concerns remained much the same as in previous years—including the non-ratification of the Council of Europe Framework Convention for the Protection of National Minorities. Tension over the reform of minority education increased throughout the year.

Elections and Political Rights

The main electoral event in 2003 was the referendum on Latvia's accession to the EU, which took place on 20 September. Citizens aged 18 and over were eligible to vote. Latvia was the last of the accession countries to hold a referendum and opinion polls before the elections showed increasing skepticism towards the EU. However, with 72.5% of eligible voters participating and 67% voting yes, the results were unexpectedly favorable towards accession. The referendum was accepted as free and fair, with only some minor transgressions reported, such as one voter voting twice.

On 5 March, the Constitutional Court removed a restriction on the right of pre-trial detainees to vote in the national election laws. The referendum was the first time this ruling was to be implemented. The prohibition to vote for pre-trial detainees remained in the law on municipal elections.

Non-citizens did not have the right to vote in local elections, and despite recommendations by several international institutions that these rights should be granted, the prevalent mood among most politicians did not provide any indication that this would even be considered. Meanwhile, at the end of the year amendments to the Constitution and the law on municipal elections were proposed to allow for the participation in local elections by EU citizens.

¹ Based on the report from the Latvian Centre for Human Rights and Ethnic Studies to the IHF, February 2004.

Discussion on the lustration laws continued. The leader of the party “Equality,” Tatjana Zhdanok, who had been denied the right to stand as candidate for elections in 2002 based on her participation in Communist Party activities after the legally prescribed cut-off date of 13 January 1991, filed a complaint with the European Court for Human Rights (ECtHR). It was declared admissible, but no decision had been issued by the end of 2003.

In summer, the Saeima (parliamentary) Committee for Legal Affairs suggested prolonging the prohibition to stand as candidates in elections for former KGB staff, which would otherwise expire in 2004. The amendments providing for a twenty-year lustration period instead of the initial ten were passed in a second reading in parliament by the end of the year. In January 2004, however, the parliament removed the prohibition to run for political office for KGB staff and Communist Party members in the Law on Elections to the European Parliament.

Freedom of Expression and the Media²

In January, the daily newspaper *Diena* submitted a complaint to the Constitutional Court challenging the constitutionality of articles 91 and 271 of the Criminal Law, which provided for a harsher punishment, including possible prison term, for the defamation and violation of the honor of a parliamentarian or a state official than of other persons. In June, the parliament abolished article 91, and the Constitutional Court thus considered only article 271. The court argued that the goal of protecting a state official was legitimate, but it found the definition of an official in the Criminal Law too broad. Hence, the restrictions were not proportional to their legitimate aim. The court decided that the norm in the present form violated freedom of speech and would lose force on 1 February 2004 if the legislature had not until then defined more precisely which officials needed Criminal Law protection in order to exercise their position.

The dispute over the line between defamation and freedom of speech also appeared in civil law cases.

- In one case, a civil suit was initiated against a *Rigas Balss* journalist and the owner of the newspaper by a former head of the 11th Riga Criminal Police Department for an article questioning his ability to legally acquire seven apartments on the salary he was receiving. The defamation case was founded on the fact that he was owner of six apartments, not seven. Although the Riga City Kurzeme District Court had ruled in favor of the claimant’s demand for compensation of LVL 20,000 (€30,306), and the Riga Regional Court had on appeal lowered the compensation to LVL 12,000 (€18,184), the Supreme Court’s Senate overturned the ruling and sent it back for review. On 24 April 2003 the Riga Regional Court dismissed the claim.

Peaceful Assembly

Freedom of peaceful assembly became an issue of concern as 2003 saw an increasing number of public protest actions, mainly against the education reform. After the large-scale demonstration in May 2003,³ several demonstrations that were pre-registered following the legal procedures in place were banned.

² See also section on National and Ethnic Minorities: Constitutional Court ruling on the language restrictions in private media stipulated in the Law on Radio and Television.

³ See also section on National and Ethnic Minorities.

On 2 June, following the denial to organize a protest event, the public action was announced as a meeting of MPs with voters. This was rightfully perceived as a way to circumvent the legal requirements for demonstrations. Another initiative to restrict the continued demonstrations was presented to parliament by Fatherland and Freedom/LNIM in September, proposing that meetings by parliamentarians with their voters could only take place freely indoors. The proposed amendments were accepted for review by parliamentary committees.

At the end of the year, also in Riga City Council, the Administrative Committee's proposal was supported by the Committee on Security and made a proposal to determine specific places where public political events could be held. A decision on the proposal had not yet been made by the end of 2003.

Judicial System and Domestic Safeguards

Constitutional Court

In 2003, the Constitutional Court received 452 complaints from individuals. Of those, 331 were rejected as inadmissible, 14 were declared admissible and the rest were referred to court collegia. Cases were also initiated on the submission of MPs (1), prosecutor general (1), the National Human Rights Office (2), local governments (4), and a legal person (1). Thus, the Constitutional Court initiated 23 cases and issued 16 rulings, several of which referred to specific human rights issues (freedom of expression, right to a fair trial, etc.)

Criminal Procedure

Although a new draft Criminal Procedure Code (CPC) was elaborated, little progress was made on its adoption as hundreds of suggested amendments were received at the first reading in parliament.

However, some amendments to the existing CPC were made. On 1 November 2002 a new provision (section 77) came into force establishing that the period of pre-trial detention from the receipt of a criminal case in court until trial by the first instance court shall not exceed 18 months. This period could be extended by the Supreme Court Senate only in exceptional cases, such as especially serious crimes.

Three applicants filed a complaint with the Constitutional Court challenging the constitutionality of the provision with article 92 (right to a fair trial) of the Constitution. Among several things, they claimed that the provision did not guarantee the defendant the possibility to present his views on the extension of pre-trial detention. In its judgment on 27 June the court ruled that the provision violated the principle of equality and the detainees' right to be heard, a central prerequisite of a fair trial. The ruling led to amendments of the CPC adopted on 1 October 2003, stipulating that the maximum term of detention may be extended by a higher instance court if the right of the detainee to be heard on the extension of pre-trial detention is guaranteed.

Another applicant challenged section 96(2) of the CPC, which stipulated that only a barrister can act as a defense counsel. On 6 October, the Constitutional Court ruled that the legal notion "the counsel" shall be interpreted in a broader sense, including the right to receive legal assistance by any qualified lawyer, and, in cases provided for by law, also from a range of other persons. The court acknowledged that as criminal procedure is a special procedure it requires qualified lawyers as defense counsels. However, it found that the provision that limited defense counsel to barristers only violated article 92 of the Constitution as the Bar Association

was not able to fully guarantee due, accessible and qualitative defense to all persons under criminal procedure, and thus, the right to a fair trial. The court ruled that the challenged norm was not in compliance with article 92 of the Constitution and that it should be declared null and void from March 2004 if the legislator failed to amend the relevant legal regulation.

International Human Rights Recommendations

In the second half of 2003, Latvia reported to the respective UN committees on its compliance with the UN Convention on the Elimination of Racial Discrimination, International Covenant on Civil and Political Rights (ICCPR), and the Convention against Torture. The Human Rights Committee and the Committee against Torture (CAT) expressed concern that Latvia's second report on the ICCPR and initial report under the convention were submitted with a four and nine-year delay respectively.

National Human Rights Office

In 2003, the National Human Rights Office budget increased from 96,000 LVL (about €160,000) to 140,000 (about €235,000). A new department on the protection of the rights of the child with five staff positions was established. The office received over 1,400 written complaints and 3,300 oral complaints, most of them concerning the right to a fair and effective trial. The next most frequent types of complaints were inhuman treatment and lack of respect for dignity, but a large part of the cases also concerned socio-economic questions.

Proposal for an Ombudsperson Law

In June 2003, an official working group was established with the aim of elaborating by 1 December a proposal for a law on ombudsperson and its institutional implementation. The proposal foresaw the broadening of the mandate and field of work of the existing National Human Rights Office, as well as strengthening its independence. Any conclusions and suggestions of the ombudsman would be recommendations of a non-legally binding character. A novelty in the proposal was the suggested right of legislative initiative for the ombudsman.

Administrative Procedure

On 1 July, the new Law on Administrative Procedure was to come into force, but there was a lack of resources for its implementation—instead of the necessary 4 million LVL (€ 6,058,260), only about a fifth was allocated in the budget. As a result, the implementation of the law was postponed until 1 February 2004. However, the selection and training of administrative judges took place in 2003, and in 2004 the administrative courts should start work, thus providing a legal function hitherto missing.

European Court of Human Rights (ECtHR)

In 2003, 254 complaints against Latvia were filed with the ECtHR, and 133 of those were registered. During that year, there was one decision against Latvia (*Slivenko vs. Latvia*), and two decisions were expected shortly.⁴ Another six cases against Latvia had been accepted for review on substance.

Although Latvia had previously paid compensation in a friendly settlement, 2003 was the first time the state had to provide compensation based on a decision against it. Thus, in

⁴ *Tatjana Zhdanok vs. Latvia* challenging the inability of the complainant to stand as a candidate for elections based on her Communist Party membership after 13 January 1991, and *Sisojeva vs. Latvia*, based on the right to family unity and challenging the annulment of her permanent resident permit.

April the government decided to confirm the payment of compensation to the amount of 8,985 LVL (€15,000) to Aleksandrs Lavents, as had been decided by the court in 2002, and in December Latvia gave Tatjana and Karina Slivenko, the amount of €10,000 each in compensation.

The case of Tatjana Slivenko, whose husband had to leave the country as an ex-Soviet military personnel (based on the Latvian-Russian troop withdrawal agreement) was accepted for review under the right to respect for private life and home, article 8 of the European Convention on Human Rights (ECHR) and the prohibition of discrimination (article 14 of the ECHR) in connection with the right to liberty and security (article 5 of the ECHR). Although the court confirmed the legitimacy in denying residence to former military personnel of another country, it decided that Latvia had violated article 8 in that it had not attempted to individually evaluate the case in terms of the danger to national security. Thus Latvia had to pay compensation to Tatjana Slivenko and her daughter Karina.

Torture, Ill-Treatment and Police Misconduct

Police brutality continued to raise concern during 2003, drawing harsh criticism from the UN Human Rights Committee and the CAT. Both expressed concern about allegations of ill-treatment by the police, CAT noting that in some cases they could be considered as amounting to torture. Both committees called upon Latvia to take firm measures to prevent all forms of ill-treatment by the police, ensure prompt and impartial investigation of allegations of ill-treatment, prosecute perpetrators and provide effective remedies to the victims. The Human Right Committee urged Latvia to establish an independent complaints body with relevant investigative powers. CAT drew attention to the allegations of denial of and delays in access to a lawyer and the practice that defendants had to pay back legal aid if their case was lost. It called upon Latvia to guarantee police detainees the right to contact their families and to have access to a doctor of their choice and a lawyer.

In early 2003, Interior Minister Maris Gulbis appealed to the population not to be afraid to complain about “the abuse of power by members of police forces.” Gulbis admitted that he had “received confirmation that the method of obtaining evidence or testimonies in the relevant cases is now and then applied unlawfully, and is a legacy of the Soviet times.” Although section 294 of the Criminal Code criminalized the forcing of a person to testify during a police interrogation through violence, threats of violence or humiliation, only one such crime was registered in 1995-2003.

In 2003, for the first time the State Police began keeping statistics on complaints about alleged police violence against individuals. Internal investigations were initiated in 183 cases, in nine cases the allegations were confirmed and 12 police officers were disciplined. In the capital Riga, out of 71 complaints concerning police violence, not one was confirmed.

- A 2002 case of alleged ill-treatment by four police officers was pending in the Riga Regional Court. The officers had privately received information about an alleged rape, upon which they unlawfully entered a private home in Riga and beat up two men. One of them died. All officers were dismissed in August 2002 for exceeding their authority and a criminal case was initiated for intentionally causing serious bodily injury leading to the death of one victim. On 5 June 2003, the Latgale District Court found all officers innocent for lack of evidence as it could not be established that the man had died as a consequence of the injuries inflicted by the police. The prosecutor appealed the decision.

Conditions in most of Latvia's 28 short-term police detention centers fell short of international standards. Centers in Ventspils, Daugavpils, Liepaja, Jelgava, Aizkraukle, and most police stations in Riga remained in a critical condition.

By the years' end, the government had not authorized the publication of the report on the second periodic visit by the European Committee against Torture to Latvia in 2002.

Prisons

The incarceration rate in Latvia remained high—355 prisoners per 100,000 inhabitants. On 1 January 2004, the number of prisoners in Latvia's 15 prisons was 8,231. Of those, 40% were in pre-trial detention, an insignificant drop by 3% from 2003. Throughout the year, the proportion of juveniles and women in pre-trial detention fluctuated between 45 and 50%.

Both the UN Human Rights Committee and CAT expressed concern especially about the length and frequency of pre-trial detention of juvenile offenders. They called on Latvia to shorten the pre-trial detention period and address the problem of overcrowding. Latvian authorities denied that there was prison overcrowding as living space per prisoner, on average, was 2.5 m² per adult, which complied with national norms while international norms recommended 4 m².

In May, the Ministry of Justice allocated funding for the posts of an additional 15 judges to reduce backlogs (for both criminal and civil cases) in the notoriously slow Riga Regional Court. While the move speeded up the review of cases, it had a limited effect on the numbers of pre-trial detainees.

The only women's prison remained seriously overcrowded. In autumn, 478 women prisoners were being held in the prison with an official capacity of 350 places. The pre-trial section with an official capacity of 130 places was holding 215 detainees.

2003 saw a slight decrease in the number of incarcerated juveniles from 4.5% to 3.9% among the overall prison population. While some purposeful activities were introduced for juvenile boys on remand in several prisons, out-of-cell activities remained limited. Adult pre-trial detainees continued to remain 23 hours a day in a cell.

Prison renovation was continued in several prisons. Prison demilitarisation (prisons had been guarded by military recruits) was finally completed on 1 November when guarding of the last prison, Skirotava Prison, was taken over by professional prison guards.

In 2003, prison medical services received only 20% of the requested funding. Health facilities in many prisons remained in a dilapidated state, including the notorious prison hospital in the Central Remand Prison. Following the visit to the hospital in early October, Alvaro Gil-Robles, Council of Europe High Commissioner for Human Rights asked the authorities to close down the facility. No government funding was allocated to refurbish the hospital premises and the opening of a new TB hospital in Olaine was again postponed: due to lack of funding it did not meet the standards for a health care facility and was denied the necessary certification.

The number of HIV patients in prisons decreased to 468 patients, while the number of AIDS patients nearly doubled (from 19 to 32) compared to 2002. A prisoner with AIDS filed a civil suit against the Central Prison hospital alleging that he had become infected with HIV and Hepatitis C through the failure of a nurse to use a disposable syringe when performing a blood

test in 1999. He demanded 100,000 LVL (€151,448) in compensation. In November, the Riga District Court dismissed the case.

There were no treatment programs for drug addicts, despite the claims of the prison administration that around a quarter of prisoners had drug addiction problems.

The coming into force of a new Educational and Correctional Measures Act allowing for more alternatives to imprisonment for juveniles was postponed until January 2005 due to lack of funding. At the same time, a National Probation Service began operating on 1 October and the Law on Probation Service was adopted on 30 December. The establishment and the takeover of probation functions will take place gradually. In 2003, a central office and probation offices were set up in six districts. The probation service will mostly work with offenders sentenced to community-based sanctions and ex-prisoners. However, the functions ought to be expanded and should also include bail supervision. In December, with the assistance of foreign funders, the first bail supervision pilot project was launched in Liepaja.

National and Ethnic Minorities

The establishment and development of the Secretariat of the Special Task Minister for Society Integration, a post created only in November 2002, seemed to indicate that social integration would be given greater priority by the new government. By the end of 2003, the number of staff reached some 30 persons and the secretariat was the only state institution where staff roughly reflected the proportion of ethnic minorities in society. Apart from implementing the governmental society integration program, the secretariat was also made responsible for the implementation of the EC Directive 2000/43/EC (the Race Directive) and for relations with the Latvian diaspora. However, due to an intra-governmental lack of consensus on social integration, in the fall, the minister and the secretariat came under intense political criticism by coalition partners. While charges of ineffectiveness and questionable policy priorities were levied, the work of the secretariat was hampered by the need to repeatedly defend its positions. The increasing conflict between the New Era party and Latvia's First Party, did not secure the necessary support for the priorities of the secretariat or indeed the position itself.

On 5 June, the Constitutional Court ruled on a case submitted by 24 MPs from opposition parties that a provision in the law on Radio and TV that limited the use of language other than Latvian in private electronic media to 25% of broadcasting time. The court stated that, while the restriction had the legitimate aim of strengthening the position of the Latvian language in society, it was disproportional and thus an infringement on freedom of speech. It declared the relevant article of the Law on Radio and Television as null and void from the day of the decision. Other limitations on the use of minority language in the media remained in force under the Law on Radio and Television.

Despite public discussions on the Council of Europe Framework Convention for the Protection of National Minorities, no progress was made on the ratification of the convention, which was signed by Latvia in 1995. The main issues of concern regarding the convention related to language and the potential problems with Latvian language legislation and practice—especially the use of minority language in relations with administrative authorities, topographical and street signs, and media.

As the year progressed, however, it was the minority education reform of secondary schools that increasingly came to dominate minority concerns. The reform of state-funded schools had as its declared goal ensuring minority students' competence in the state language, while providing for the minority identity and language through minority education programs. Although the reform had been legislated in 1998 and was to be implemented in September of

2004, in the beginning of 2003, the Ministry of Education had not yet regulated the transition of Russian-language secondary schools to schools carrying out minority education programs. Ethnic Russians voiced concerns over the problems schools faced when trying to prepare for the transition to a larger, but for a long time unknown share of state language, and over the possible decrease in quality of schooling.

In addition, minority representatives and NGOs concerned with minority education were growing increasingly restless with the lack of transparency and effective minority participation in the planning of the reform. In spring they announced the formation of a new, more radical informal anti-reform grouping—the Headquarters for the Defense of Russian-language Schools. Together with the more established NGO Latvian Association for Support of Schools with Russian Language of Instruction (Russian acronym LASHOR), the Headquarters made preparations for a large-scale anti-reform demonstration. Government regulations were hurriedly passed that determined the ratio of education in the state-language to 60% and that in the minority language to 40% in secondary schools to be implemented in September 2004. However, on 23 May a large-scale demonstration of 6,000 -10,000 people in Riga charged the government of attempts to entirely eliminate Russian schools and demands for free choice of language of instruction were made. Although all necessary permits had been obtained for the demonstration and it was orderly and non-violent, government representatives made statements questioning the legitimacy of the event, which was portrayed as directed against the state as such. The Ministry of Education pressed ahead with its plans for implementation and the Minister of Education—initially publicly favoring an individual and flexible approach to the Russian-language schools—became increasingly adamant in his statements against the protesters. Protest actions continued throughout the year. The ministry organized discussions with school directors, but many students, parents and even teachers were poorly informed about the content of the reform.

Citizenship

Naturalization continued at a slow pace in 2003 and by 1 January 2004, statistics indicated that 69,288 individuals had become citizens of Latvia by naturalization since the beginning of naturalization in 1995, while there were still 481,352 non-citizens in Latvia - representing 20.8% of all residents. Almost 70% of these non-citizens were ethnic Russian, 13% Belarusian and 9% Ukrainian, while the remaining 8% were composed of Latvians, Lithuanians, Estonians, Poles, Jews and others.

In 2003, 11,268 applications for naturalization were received, which was an increase by 3,000 from 2002. The accession to the EU and the project providing free-of-charge language courses for naturalization applicants explained the increase.

Other positive steps taken by the government to facilitate naturalization during 2003 included the further reduction of fees for some categories of residents, adopted in the Minister of Cabinet Regulation No. 525 in September 2003. Instead of the regular fee of 20 LVL (about €3), a fee of 3 LVL (about €) was to be applied for applicants with a low income.

Children born after 21 August 1991 of non-citizen parents, who since 1999 had held the right to be registered as citizens without having to naturalize, continued to be registered at a slow pace. By the end of December 2003, 1,367 applications for such children had been received. However, some 16,000 eligible children remained non-citizens.

Non-Citizens Rights

The requirement to be a citizen of Latvia in order to serve as a ship's captain on a Latvian ship was abolished in the new Law on the Sea adopted by parliament on 29 May.

Suggestions by Fatherland and Freedom/LNIM that non-citizens should not be allowed to be teachers were later openly supported by some politicians from other, larger governing parties. They proposed that school teachers should become civil servants, which would make non-citizens ineligible for the job. This measure would affect a significant number of minority school teachers who held such jobs.

The amendments to the law “On Privatization of Land in Rural Areas” were adopted on 3 April 2003. The amendments provided for the right of EU citizens to profit from the privatization of rural land (certain transitional conditions), a right previously granted only to Latvian citizens. During the penultimate readings of the amendments in parliament there were attempts to extend the same rights also to Latvian non-citizens, but these proposals were rejected, thus leaving in place the restrictions for Latvian permanent residents.

Intolerance, Xenophobia and Racial Discrimination

Racism and Intolerance

Organized extremist groups were still marginal in Latvia, but they continued to participate in public activities.

- The three National Bolshevik “Pobeda” (Victory) members who had been detained in November 2002 on charges of an attempted violent overthrow of state power and illegal storage of explosives were released pending trial on condition of police supervision in April and June, respectively. The leader of the organization, Vladimir Linderman, who was also charged, was reported to be in Russia, where he had applied for political asylum. In July, Linderman’s asylum request was denied. In a mysterious twist to the story, at the end of September Linderman was reported missing. Allegedly he had been arrested by the Russian Federal Security Service in preparation for his extradition to Latvia. However, through an initiative in the Duma, Linderman was instead released. In October, the Russian prosecutor general announced the refusal to extradite Linderman. In November, Latvia’s prosecutor general sent a renewed request to Russia to extradite Linderman.

Latvian nationalist extremists were also active.

- On 17 June, Aivars Garda’s radical national organization, the Latvian National Front, held a demonstration at the Freedom Monument, which assembled about 100 persons, calling for the “decolonization of Latvia.” Simultaneously the organization “Visu Latvijai” (All for Latvia) had gathered some 50 demonstrators outside the Russian embassy. At the end of 2002, a criminal case had been initiated against Aivars Garda for statements made against Dzintris Kolats, head of Latvia’s Radio and radio staff in the homophobic book *Homosexuality – the Shame and Destruction of Humanity*. In December, the Riga District Court prosecutor dismissed the case on the grounds that the requested expertise had provided contradictory evaluations of the statements.

The Latvian National Front with Aivars Garda continued to publish their newspaper *DDD* (Deoccupation, Decolonization, Debolshevization). During the spring/summer the *DDD* republished the infamous anti-Semitic *Protocol of the Elders of Zion*. After an article appeared in the paper, which blamed world war two on “rich Jews” and included a denial of the Holocaust, the Special Task Minister for Society Integration Affairs Nils Muiznieks filed a complaint of incitement to racial hatred, but the security police concluded that there was no ground for initiating a case.

Following several controversial contests in the preceding years, in December the *DDD* announced another radical essay competition for children and pupils on the theme “Does the Latvian state, paying pensions to occupants, rob your grandmother, grandfather and yourself?” and a similar theme for pensioners.

Throughout the year, the *DDD* published a series of extensive interviews with several MPs from five out of the seven parties represented in parliament. None of the politicians apparently considered the consequences of participating in a public dialogue within an extremist forum.

The case of a racist TV advertisement clip that was produced as Freedom Party election campaign material in 2002 continued in 2003. The clip showed an African man dressed in Latvian military uniform in front of the Freedom Monument, followed by an image of a black man kissing a blond girl in Latvian national costume, while the background text was: “Today—a guard of Latvia, tomorrow—perhaps your son-in-law.” Anti-EU images followed, while subtitles of the clip claimed that some 20 million economic migrants from Africa and Asia will come to the EU within the next few years. The musicians who were featured in the clip without knowing the purpose to which it would be put, won a civil case against the Freedom Party in 2002, but the case was appealed. On 9 April 2003, the Supreme Court partially confirmed the lower court ruling in favor of the musicians, requiring that Freedom Party issue an apology on prime time TV before the same program that had included the contested clip and pay 3,000 LVL (€5,000) as moral compensation, and court expenses of 150 LVL (€250) to the musicians. By the end of 2003, the musicians had not received any compensation.

At the end of 2002, George Steele filed a civil suit against the Freedom Party in connection with the same election campaign TV clip. On 8 September, the Riga Latgale Court agreed with the argument of George Steele, who pointed to the fact that since he was a black American, living in Latvia with his fair-skinned Latvian wife, he was therefore personally affected by the incitement in the clip. The court decided in favor of George Steele and ordered the Freedom Party to pay the requested symbolic compensation. Despite the court decisions against the Freedom Party, the racist TV advertisement clip continued to be displayed on the party’s home page.

Discrimination

The Labor Law that came into force in 2002 included the most extensive anti-discrimination clauses to date in Latvia. Still, there had been no court cases on discrimination based on that law by the end of 2003.

The Secretariat of the Special Task Minister for Society Integration Affairs was made responsible for implementation of the EC Race Directive, and a work group was formed to identify and elaborate the necessary legislative amendments to transpose the directive as well as the 2000/78/EC (Employment Directive) into Latvian legislation. However, there were no attempts to develop an overall, comprehensive law against discrimination.

Although no systematic overview of the situation regarding discrimination had been made by the end of 2003 neither by the state nor by NGOs, information gathered in 2003 clearly suggested widespread discrimination against the Roma. Extremely high rates of unemployment, low level of education and socio-economic problems indicated the need for state action. The schooling of Romani children mostly took place in special classes which had the status of correction classes.

Asylum Seekers and Immigrants

As in 2002, no person was granted refugee status in Latvia in 2003, and the total number of refugees in the country remained at eight. Only five asylum applications were filed in 2003. Alternative status was granted to six persons, bringing the total number of such persons to nine.

The Department of Citizenship and Migration Affairs explained that the low numbers were due to good cooperation with State Border Guards. However, the application review under the accelerated asylum procedure at the border evoked serious concern. If a border guard deemed the information provided by the asylum seeker to be contradictory or unrealistic in principle, or if prior to the arrival in Latvia the asylum seeker had resided in a “safe country,” the border guard could forward the case to the Department of Refugee Affairs for an accelerated procedure, i.e., a decision within two days. The asylum seeker was able to appeal the decision within 24 hours. The UN Human Rights Committee called for the extension of time limits for the submission of an appeal as it raised concerns regarding cases of *refoulement*.

There also appeared to be no uniform criteria according to which asylum seekers were allowed to remain in Latvia. Two weeks prior to the start of war in Iraq a decision was taken to deport an Iraqi Kurd who, fleeing the regime of Saddam Hussein, had arrived illegally in Latvia five years previously. His common-law wife and their nine-month-old child remained in Latvia.

A new Law on Immigration came into force on 1 May. This gave the police the right to detain an illegal migrant for three hours before being handed over to border guards, who in turn are able to detain him for up to ten days. Further detention has to be authorized by a court for two months, and may later be extended to six months and a maximum of 20 months pending expulsion. The old law did not foresee a time limit for detention pending expulsion. However, the new law provides no legal status to persons who cannot be extradited after the 20 months (e.g. because no country would receive them). As a result, it is possible to detain a person repeatedly for another 20-month period.

The new law also provided for the right of appeal to a higher court. A decision on detention can be revoked by a judge or a senior judge of a higher instance court. The decision of forced expulsion can be appealed to the Head of the Department of Citizenship and Migration Affairs within seven days. If it rejects an appeal, the applicant can in some cases appeal in court within seven days.

With the coming into force of the new law on 1 May, a large group detainees from the Olaine camp were brought to the Ziemeļi District Court on a Saturday. The court, without a single exception, authorized the extension of detention for another six months. The time the detainees had already spent in detention was not included in the assigned period of detention.

The law in force in 2003 did not define the precise procedure to be followed by the court in deciding on the extension of detention. It is doubtful whether persons with long established links with Latvia—including a permanent place of residence, family ties and employment—should remain in detention before their legal status is clarified. Detainees included persons who had resided in Latvia for several years or even decades, but following the collapse of the former Soviet Union were registered in countries outside Latvia. According to Latvian law, they could not be granted the status of non-citizens even if it was difficult to establish any significant links with other countries for these persons. The length of detention in such cases was often excessive.

- A Romani woman in her last month of pregnancy was placed in the Olaine camp together with her two-year-old child. The woman was born in Soviet Lithuania and had moved to Latvia at an early age. She had a permanent residence permit. As she had never had any identity documents, she had no legal status, and the Registry Office refused to register her child on the same account, despite the fact that the child's father was a citizen of Latvia. Prior to the birth of the second child, the court released the woman allowing her to return to the family on the condition that she settled her identity paper matters, but it remained unclear how this was achievable in practice.

Access to legal aid was limited as many detainees could not afford a lawyer. In several cases, detainees were denied the right to examine documents related to their detention. Visits by State Border Guard inspectors were irregular and, on occasions, the inspectors failed to provide complete information to the detainees about their case. The detainees had the right to lodge a complaint with the prosecutor, but they claimed that the prosecutor had never visited the camp.

Restrictions placed on detainees, including contacts with family members, approximated those in prison.

Mental Health Care Institutions

In 2003, the authorities again failed to adopt the draft Law on Psychiatric Assistance. In March, the Latvian Centre for Human Rights and Ethnic Studies and the Mental Disability Advocacy Centre (Budapest) submitted recommendations on the draft law to the Ministry of Health. The organizations drew attention to the fact that the review procedure for detention on grounds of mental disability failed to meet human rights standards; the criteria for compulsory admission into psychiatric institutions were too broad; and that the foreseen right to information did not meet international standards. In response to the above recommendations the Ministry of Health created a working group to revise the draft law.

The government did not address the development of community-based services for the mentally disabled. In 2003, around 1,000 persons in mental hospitals were on the waiting list for a place in a social care home. Latvia had only one day-care center for mentally ill and the development of community-based services was mainly funded by foreign donors.

In 2003, the issue of data protection relating to psychiatry became a serious concern. In February the regional psychiatrists' unit of the Latvian Psychiatrists' Association called for the annulment of Instruction No. 24 of the Ministry of Welfare of 28 January 1998, "On the Establishment of the National Register on Psychiatric Disorders and Mental Illnesses." The instruction required a psychiatrist or a general practitioner to forward sensitive data to the national register on each patient who was diagnosed with any—even mild short-term—mental disorder. The information must include the patient's name, identity code, home address, ethnicity, assessment of living conditions, education, sources of income, social status, basic diagnosis and other side diagnoses. Thus the information allowed for the identification of a patient concerned, his/her diagnosis and social problems. The National Human Rights Office deemed the amount of requested sensitive data as disproportionate and the setting up of such a register as discriminatory towards persons with mental disabilities and infringing on their right to privacy. In November, the Ministry of Health decided to set up a working group to develop new regulations on the National Register.

Patients' Rights

The number of complaints on violations of patient's rights increased in 2003. Health Ministry's Medical Care and Work Ability Expertise Quality Control Inspection (MADEKKI) received and reviewed 486 complaints. Seventy percent of the complaints were recognized as well-founded and 95 doctors were fined. An NGO, the Latvian Patients' Rights Office (LPRO), received 1,071 complaints. In response to its activities, the Physicians' Rights Protection Office was created to provide legal aid to doctors in cases of conflict situations.

In October the draft law on patients' rights was placed in the public domain. Until recently, Latvia had no separate law on patients' rights, except for a small chapter in the Law on Medical Treatment. The draft law foresees a patient's right to information and the procedure for receiving such information, the principles for patients' data and privacy protection, and the rights of a third party to access such information.

In 2003 two cases of patient's rights came before the court.

- In June, a patient lodged a claim with the Riga Regional Court against the Riga City Maternity hospital. The plaintiff demanded a 2,000,000 LVL (€3,300,000) compensation for damages inflicted to her child's health. In April 2002, the plaintiff had been admitted to the maternity hospital, and her son was born through a difficult delivery. His condition was identified as medium severe, and two weeks later he was placed in intensive care and later received continuous treatment in Children's Clinical Hospital where he was diagnosed disabled for life. The plaintiff alleged that her child had become disabled as a result of doctor's malpractice and turned to MADEKKI, which identified several violations. The doctor was fined, while the maternity hospital's administration was asked to improve documentation regarding the delivery. The court hearing was scheduled for October, but was postponed until February 2004.
- In 2003 a person, with the support of NGOs, lodged a claim with the Riga Regional Court against the medical company ARS. The plaintiff requested compensation from the medical company to the amount of 30,000 LVL (€50,000) for medical expenses and expenses related to contraception. In 2000, the patient had started to use contraception suggested by the gynecologist during a medical check-up. Shortly thereafter she began to experience complications. Although her health deteriorated, the doctor failed to react to her complaints. Emergency surgery was performed in the Latvian Oncology Centre and the patient's life saved, but some bodily functions were lost. The patient's correspondence to the chief of the board of the medical company ARS requesting compensation remained unanswered. In 2001, MADEKKI identified substantial violations of the Law on Medical Treatment and decided to fine the gynecologist. Latvian Patients' Rights Office has accused ARS of causing bodily injuries, resulting in mutilation.