

ECRI REPORT ON LATVIA

(fourth monitoring cycle)

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ECRI Secretariat
Directorate General II - Democracy
Council of Europe
F-67075 STRASBOURG Cedex
Tel.: + 33 (0) 388 41 29 64
Fax: + 33 (0) 388 41 39 87
E-Mail: ecri@coe.int

www.coe.int/ecri

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FOREWORD

The European Commission against Racism and Intolerance (ECRI) was established by the Council of Europe. It is an independent human rights monitoring body specialised in questions relating to racism and intolerance. It is composed of independent and impartial members, who are appointed on the basis of their moral authority and recognised expertise in dealing with racism, xenophobia, antisemitism and intolerance.

In the framework of its statutory activities, ECRI conducts country-by-country monitoring work, which analyses the situation in each of the member States regarding racism and intolerance and draws up suggestions and proposals for dealing with the problems identified.

ECRI's country-by-country monitoring deals with all member States of the Council of Europe on an equal footing. The work is taking place in 5 year cycles, covering 9/10 countries per year. The reports of the first round were completed at the end of 1998, those of the second round at the end of 2002, and those of the third round at the end of the year 2007. Work on the fourth round reports started in January 2008.

The working methods for the preparation of the reports involve documentary analyses, a contact visit in the country concerned, and then a confidential dialogue with the national authorities.

ECRI's reports are not the result of inquiries or testimonial evidences. They are analyses based on a great deal of information gathered from a wide variety of sources. Documentary studies are based on an important number of national and international written sources. The in situ visit allows for meeting directly the concerned circles (governmental and non-governmental) with a view to gathering detailed information. The process of confidential dialogue with the national authorities allows the latter to provide, if they consider it necessary, comments on the draft report, with a view to correcting any possible factual errors which the report might contain. At the end of the dialogue, the national authorities may request, if they so wish, that their viewpoints be appended to the final report of ECRI.

The fourth round country-by-country reports focus on implementation and evaluation. They examine the extent to which ECRI's main recommendations from previous reports have been followed and include an evaluation of policies adopted and measures taken. These reports also contain an analysis of new developments in the country in question.

Priority implementation is requested for a number of specific recommendations chosen from those made in the new report of the fourth round. No later than two years following the publication of this report, ECRI will implement a process of interim follow-up concerning these specific recommendations.

The following report was drawn up by ECRI under its own and full responsibility. Except where expressly indicated, it covers the situation up to 22 June 2011 and any development subsequent to this date is not covered in the following analysis nor taken into account in the conclusions and proposal made by ECRI.

SUMMARY

Since the publication of ECRI's third report on Latvia on 12 February 2008, progress has been made in a number of fields covered by that report.

Latvia has introduced in its Criminal Code a new provision criminalising the justification or public glorification or public denial of genocide, crimes against humanity, crimes against peace and war crimes and has included ethnicity as one of the grounds on which incitement to hatred is prohibited. The grounds on which discrimination is prohibited in certain laws have also been broadened. Associations and foundations whose mandate includes advocacy of human rights are now authorised under the law to represent individuals before court with their consent. A few activities have been organised on monitoring hate speech on the Internet. Much effort has been invested in training the police on non-discrimination and combating hate crime.

Various activities promoting the integration of society have been carried out under the programme of Integration of Society of Latvia in the course of 2007 and 2008. A number of EU funded initiatives have been launched to promote the social inclusion of migrants. Several municipalities have implemented separate local integration programmes.

The authorities now collect information on employment disaggregated by ethnicity and nationality.

Measures have been taken in order to improve education in Latvian for children of ethnic minorities. There has been an increase in the participation of national/ethnic minorities in political life. Efforts have been made in order to ensure that Roma pupils attend mainstream classes. Various initiatives were taken, including courses on integration and classes in Latvian language, in order to facilitate the integration of asylum seekers and refugees. A new memorandum has been signed between the Border Guards and the UNHCR, according to which the latter will train the former on international standards related to asylum.

ECRI welcomes these positive developments in Latvia. However, despite the progress achieved, some issues continue to give rise to concern.

Incitement to racial hatred is the only form of racist speech prohibited under criminal law. There are no specific provisions in the Criminal Code punishing the production, distribution, acquisition, transportation or storage of items that incite hatred on ethnic, racial or similar grounds or the creation of/support/leadership of/participation in a group which promotes racism. There is a low number of investigations and prosecutions of racially motivated offences and the article of the Criminal Code on racist motivation as an aggravating circumstance of an offence has never been applied. Incitement to hatred is interpreted narrowly. Civil and administrative anti-discrimination legislation remains deficient.

The Ombudsman's budget has been drastically cut and this has greatly impacted on the effectiveness and outreach capacity of this institution. The number of complaints lodged on grounds of racial, linguistic and religious discrimination has significantly decreased.

The Ministry for Special Assignments for Society Integration (IUMSILS) was dismantled. The renewal of the programme Integration of Society of Latvia has stalled for over two years and its newly adopted guidelines do not promote respect for the diversity of Latvian society. The National Programme on Tolerance and the 2007-2009 National Action Plan on Roma in Latvia (Plan on Roma) were not renewed upon expiry.

The Latvian authorities have significantly hardened their policy on the use of the state language, including in the employment sector, and sanctions for breaches of the Law

on State Language have been made stricter. Resources for teaching Latvian to non-native speakers have decreased. Further to amendments to the Law on the Status of Members of the City and Regional Councils, as of 2013 a regional court will be entitled to terminate the mandate of elected Council members who have been found not to master the state language to C1 level.

A few statements made by public authorities and certain public events which have been authorised cast a shadow on the general climate of opinion in Latvia.

The Roma remain one of the most discriminated groups in Latvian society, notably in the fields of employment, education and access to services. A few schools maintain separate classes for Roma. There is a high representation of Roma children in special needs' schools. Out of 20 Roma teachers' assistants trained under the Plan on Roma, only eight remained in the education system as at 2011. There has been a decline in the number of naturalisations of "non-citizens". No measures have been taken in order to simplify the naturalisation process for children born in Latvia after 1991, from "non-citizen" parents. There are concerns of unequal treatment as concerns the calculation of "non-citizens'" pensions. Persons with temporary residence permits enjoy a lower level of protection than Latvian citizens and persons with a permanent residence permit in a number of fields.

In this report, ECRI requests that the Latvian authorities take further action in a number of areas; in this context, it makes a series of recommendations, including the following.

The criminal law legislation aimed at combating racism should be amended and should punish: racist speech (other than incitement to hatred which is already a criminal offence); the production, distribution, acquisition, transportation or storage of items that incite hatred on ethnic, racial or similar grounds; and the creation of/support/leadership/participation in a group which promotes racism. A comprehensive body of civil and administrative law prohibiting racial¹ discrimination in all fields of life and on grounds provided for under ECRI's General Policy Recommendation No. 7 should be adopted. The principle of the sharing of the burden of proof and the victim's right to compensation should be provided for explicitly and be applicable in all cases.

The Ombudsman's Office should be endowed with sufficient funds and human resources and the present trend of cutting its budget should be reversed. The accessibility of this institution in different languages and in the different regions of Latvia should be improved*.

The Policy Guidelines for the Integration of Society in Latvia should be finalised after consultation with the Minorities' Consultative Council. The guidelines in question should pave the way for a broad based programme providing for an open and integrated society and concrete measures to implement it. Coordination should be ensured between all relevant actors who are involved in its implementation, including civil society and local authorities*. The Plan on Roma should be renewed and designed as a long-term national strategy to combat social exclusion in multiple fields. The group concerned should be associated to its drafting and implementation.

¹ ECRI, in its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination defines "racism" as the belief that a ground such as "race", colour, language, religion, nationality or national or ethnic origin justifies contempt for a person or a group of persons, or the notion of superiority of a person or a group of persons. It defines "racial discrimination" as any differential treatment based on a ground such as "race", colour, language, religion, nationality or national or ethnic origin, which has no objective and reasonable justification.

* The recommendations in this paragraph will be subject to a process of interim follow-up by ECRI no later than two years after the publication of this report.

The policy on state language should be reconsidered and should provide for an obligation to use it only in cases where a legitimate public interest can be clearly discerned. Latvian language courses provided by the Society Integration Fund should be resumed and the demand for language training in Latvian should be fully met. The legal provisions under which the regional court may terminate the mandate of an elected member if he/she does not meet set language requirements, should be abrogated.

All attempts to commemorate persons who fought in the Waffen SS and collaborated with the Nazis, should be condemned. Any gathering or march legitimising in any way Nazism should be banned.

Any remaining special classes for Roma should be closed and Roma students should be integrated in mainstream classes. To facilitate this, Roma teachers' assistants trained under the Plan for Roma should be reinstated. The high representation of Roma children in special needs' schools should be addressed*. Children who were born of "non-citizen" parents in Latvia after its independence should be granted Latvian citizenship automatically. Language courses should be provided, free of charge, for "non-citizens" who wish to naturalise. The judgment of the European Court of Human Rights in *Andrejeva v. Latvia* should be implemented in a manner that will not have a negative impact on interethnic relations, namely by using it to reduce existing pension entitlements of citizens. Access to State-funded health care, social services, social assistance and the legal aid scheme should be extended to persons with a temporary residence permit.

* The recommendations in this paragraph will be subject to a process of interim follow-up by ECRI no later than two years after the publication of this report.

FINDINGS AND RECOMMENDATIONS

I. Existence and Implementation of Legal Provisions

International legal instruments

1. In its third report, ECRI reiterated its recommendation that Latvia sign and/or ratify the following international instruments as soon as possible: (a) Protocol No. 12 to the European Convention on Human Rights (ECHR); (b) the European Social Charter (Revised); (c) the European Charter for Regional or Minority Languages; (d) the European Convention on Nationality; (e) the Convention on the Participation of Foreigners in Public Life at Local Level; (f) the European Convention on the Legal Status of Migrant Workers; and (g) the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.
2. ECRI notes that, with the exception of the European Social Charter (Revised), no progress has been made in the signature and/or ratification of the above international legal instruments. As regards specifically those indicated in letters (e)-(g), the authorities have stated that their signature and ratification is not on the Government's agenda. More generally, the authorities have not provided any argument that sheds light on possible incompatibilities of the above agreements with Latvian policies/legal framework. ECRI expresses regret over the authorities' position and encourages the latter to resume dialogue with ECRI as concerns these instruments in view of the shared goal of combating racism², xenophobia, antisemitism and intolerance.
3. As regards the European Social Charter (Revised), a draft law on its ratification was submitted to the Parliament on 22 January 2009 and was adopted in its first reading on 12 March 2009. Following parliamentary elections³, however, the issue was considered anew; the relevant bill was adopted in its first reading in December 2010. On-going discussions around this instrument indicate willingness to accept the following provisions: Articles 2, 3, 10, 20, 21, 22, 24, 25, 26, 28 and 29. Furthermore, the Latvian authorities have informed ECRI that they are considering whether to accept Articles 7 and 27 of the above-mentioned instrument. The date of the second reading is yet to be determined.
4. ECRI reiterates its recommendation that Latvia sign and/or ratify the following international instruments: Protocol No. 12 to the European Convention on Human Rights, the European Social Charter (Revised), the European Charter for Regional or Minority Languages, the European Convention on Nationality, the Convention on the Participation of Foreigners in Public Life at Local Level and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.
5. In its third report ECRI reiterated its recommendation that Latvia make a declaration under Article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).
6. ECRI has been informed that the Latvian authorities do not intend to make such a declaration as they deem that the review provided by the European Court of

² ECRI, in its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination, defines "racism" as the belief that a ground such as "race", colour, language, religion, nationality or national or ethnic origin justifies contempt for a person or a group of persons, or the notion of superiority of a person or a group of persons. It defines "racial discrimination" as any differential treatment based on a ground such as "race", colour, language, religion, nationality or national or ethnic origin, which has no objective and reasonable justification.

³ Parliamentary elections were held in Latvia on 2 October 2010.

Human Rights (ECtHR) and ECRI in the field of discrimination is sufficient. In this connection, ECRI points out that the protection under Article 14 of the ECHR with regard to equality and non-discrimination is limited in comparison with provisions of other international instruments, including ICERD, as it only concerns the enjoyment of rights and freedoms set forth in the ECHR⁴. Further, whereas the Latvian authorities have not accepted CERD's competence to receive individual complaints, they have ratified the Optional Protocol to the ICCPR. As a result, any person subject to Latvia's jurisdiction may raise, with the Human Rights Committee, issues concerning the principles of discrimination and equality before the law. Given that ICERD gives expression to and further develops the same principles, in ECRI's view, making a declaration under its Article 14 should be seen as a complementary step, in respect of which there should not be any major legal or practical obstacles.

7. ECRI reiterates its recommendation that the Latvian authorities make a declaration under Article 14 of ICERD.

Criminal law provisions

8. In its third report, ECRI encouraged Latvian authorities to review and fine-tune criminal law provisions aimed at combating racism, in particular with respect to racially motivated speech.
9. ECRI is pleased that on 21 May 2009 a new Article 74(1) criminalising the justification/public glorification/public denial of genocide, crimes against humanity, crimes against peace and war crimes was introduced in the Criminal Code. Breach of this article is sanctioned with community service or a prison term of up to five years. ECRI also welcomes the amendment of Article 78, effective as of 17 July 2007, which included ethnicity as a prohibited ground of discrimination.
10. On the other hand, no specific provisions dealing with racist speech other than incitement to racial hatred have been introduced in the Criminal Code since ECRI's third report⁵. ECRI notes that, given the absence of such provisions, certain cases of racist speech are exempt from punishment, including cases in respect of which direct intent to instigate national, ethnic or racial hatred is difficult to prove (see paragraph 16).
11. ECRI further notes that there are no specific provisions punishing the production, distribution, acquisition, transportation or storage of items that incite hatred on ethnic, racial or similar grounds or that contain otherwise manifestations of racist speech (as per paragraphs 18 a to e of ECRI's General Policy Recommendation No. 7, hereafter GPR No. 7). The authorities have stated that Article 78 of the Criminal Code encompasses all activities which aim to instigate hate, including the distribution, production, acquisition, transportation and storage of items. They consider that spelling out the prohibited activities would limit the scope of application of this Article. ECRI however, is of the opinion that the wording of Article 78 of the Criminal Code is not broad enough; it does not cover the distribution, production, acquisition, transportation and storage of items that contain manifestations of racist speech that go beyond instigating, with direct intent, national, ethnic or racial hatred. Various incidents support this view (see paragraph 117) and show that in

⁴ Nor, as mentioned in paragraph 2 of this report, has Latvia ratified Protocol No. 12 of the ECHR, which would broaden the scope of protection of the Convention as regards equality and non discrimination.

⁵ More specifically, there are no provisions prohibiting public insults, defamation or threats on grounds such as "race" and ethnic origin or sanctioning public expression with a racist aim of an ideology which claims the superiority of/depreciates/denigrates a group of persons on grounds such as race, or national/ethnic origin, see ECRI's General Policy Recommendation No. 7, § 18, points (a)-(d).

practice the distribution and storage of material with a racist aim is not prosecuted.

12. Lastly, whereas under Article 78 activities carried out by organisations aimed at discriminating or inciting hatred are sanctioned more vigorously than if carried out by an individual, Latvian criminal legislation does not sanction the creation of/support/leadership of/participation in a group which promotes racism. Latvian authorities have informed ECRI that Article 89 sentence 1 prohibits, in general, the setting up of a criminal organisation. ECRI is, in general, of the opinion that due to the insidious nature of racist crime, a specific provision targeting racist organisations should be included in criminal law. The case for doing so is particularly strong in a country such as Latvia where many instances of racist speech (as well as the production, distribution, acquisition, transportation or storage of items that incite hatred on ethnic, racial or similar grounds) do not constitute criminal offences.

13. ECRI recommends that the Latvian authorities amend the criminal law legislation aimed at combating racism by criminalising: racist speech (other than incitement to hatred which is already a criminal offence); the production, distribution, acquisition, transportation or storage of items that incite hatred on ethnic, racial or similar grounds; and the creation of/support/leadership/participation in a group which promotes racism. In this connection, ECRI refers to its GPR No. 7.

14. In its third report, ECRI strongly recommended that Latvian police and judicial authorities fully investigate and prosecute racially motivated offenses by acknowledging and taking into account the racist motivation of an offence.

15. As regards the application of the provisions against racism and racial discrimination between 2007 and 2011, ECRI notes a marked decrease in the number of investigations opened for breach of Article 78 (incitement to hatred)⁶. During the same timeframe, no investigations were opened for breach of Article 149 of the Criminal Code (prohibition to discriminate), whereas two investigations were opened for breach of Article 150 of the Criminal Code (incitement to religious hatred)⁷. Five investigations were opened for breach of Article 74(1) of the Criminal Code, since its entry in to force. Finally, racist motivation has never been found to constitute an aggravating factor. ECRI notes that the figures are negligible; however, various cases described in this report show that racist motivation is not always taken into account (see paragraph 18) and point to persisting low awareness and sensitivity towards these types of offences.

16. In ECRI's view, the lack of consolidated case-law on Article 78 and the narrow interpretation given to incitement to hatred, contributes to hindering its application. Only two cases brought under this provision have reached the highest instance at the domestic level⁸. In one case, in the course of an anti-fascist meeting, a neo-Nazi⁹ had stated that Jews and Roma are not human beings and should be exterminated. He was initially sentenced to imprisonment for breach of Article 78, which, prior to 17 July 2007, prohibited incitement to hatred only on national and racial grounds. The Senate of the Supreme Court finding that the incriminated action constituted incitement to hatred on ethnic

⁶ With 16 investigations opened by the police in 2007 (8 were referred to the prosecutor); 9 investigations opened in 2008 (2 were referred to the prosecutor); 6 investigations opened in 2009 (3 were referred to the prosecutor); and 6 opened in 2010 (2 referred to the prosecutor).

⁷ This was also the case for the period covered by ECRI's third report.

⁸ The Senate of the Supreme Court.

⁹ Case of A.J of 22 February 2007.

grounds acquitted the defendant. In a second case, the editor-in-chief and two journalists of a fringe newspaper¹⁰ were charged with breach of Article 78 for, inter alia, anti-Russian statements made in articles published in 2004 and 2005 (stating, inter alia, that “occupiers” should be deported). Three experts were called in order to verify whether these statements were apt to incite hatred. Certain experts concluded that the word “occupier” could not offend intellectually and linguistically advanced persons¹¹. The regional court accordingly ruled that these statements were covered by freedom of speech and that direct intent to incite hatred could not be proved. The Senate of the Supreme Court maintained the ruling. Both judgements indicate that incitement to hatred is interpreted in a very narrow manner. More specifically, the second judgement shows that, for an action to qualify as incitement to hatred, very high evidence requirements are imposed.

17. Furthermore, in ECRI’s view, the calling of experts to qualify an act as incitement to hatred also hinders the application of Article 78 (see paragraph 26 of ECRI’s third report on Latvia and paragraph 22 of this report). Some sources have highlighted that the criteria for the selection of external experts are insufficiently developed and that, in this connection, the expertise of well known extreme right-wing activists have been sought in certain cases.
18. ECRI notes that racist motivation as an aggravating circumstance has never been applied even when the existence of such motive was self-evident. One egregious example is a case brought under Article 228¹² of the Criminal Code concerning the desecration of graves in an old Jewish cemetery and of tombs of Soviet army soldiers (in Talsi). In this case, racist motivation was not applied as an aggravating circumstance even though the defendants had stated that they had been motivated by nationalist sentiment (see also paragraph 78). Another case concerned a website registered in the United States which published a “car occupants’ list” revealing personal data of persons living in Latvia whose cars were decorated with Russian symbols¹³; criminal proceedings were started for unlawful disclosure of private data and are on-going; however hateful motivation, as in the previous case, was not taken into account in the charges.
19. Lastly, with the exception of few violent hate crimes which were punished with prison sentences, sanctions ordered for breach of provisions against racism and racial discrimination remain too lenient, consisting in most cases in suspended prison sentences or fines.

Civil and administrative law

20. In its third report, ECRI strongly encouraged the Latvian authorities to adopt a comprehensive body of civil and administrative legislation prohibiting racial discrimination in all fields of life and providing for the shared burden of proof and the victim’s right to compensation in racial discrimination cases.
21. ECRI notes that, since its third report, some positive steps have been taken in the field of anti-discrimination legislation. Notably, in March 2010 a new provision prohibiting discrimination on grounds of (...) race, nationality and religious beliefs was introduced in the Law on Education. Moreover, further to amendments, the grounds on which discrimination is prohibited were broadened in the following laws: Law on Consumer Rights Protection; Law on Social Security; and the Law on Support for Unemployed Persons and Persons

¹⁰ The publication is called DDD (*De-Occupation, De-Colonisation, De-Bolshevisation*).

¹¹ The same conclusion was reached in respect of a word used for Jews.

¹² *Desecration of graves*.

¹³ Such as *St. George’s Ribbon* or *Russian national emblems or colors*.

Seeking Employment. In May 2009, a new law extending the prohibition of discrimination to persons who are self-employed¹⁴ was enacted. Provision for the sharing of the burden of proof and for the payment of compensation for material and moral damages was also made in this law, as well as in the Law on Consumer Rights Protection¹⁵. Further, under Article 10 of the Law on Associations and Foundations, associations and foundations whose mandate includes advocacy of human rights are now authorised to represent individuals before court with their consent.

22. Notwithstanding these developments, ECRI maintains that the civil and administrative anti-discrimination legislation remains deficient. Although provisions prohibiting discriminatory treatment are included in over 30 legal acts and provide for varying degrees of protection, none of them covers the entirety of grounds provided for under ECRI's GPR 7¹⁶. In particular discrimination on grounds of nationality/citizenship (i.e. differential treatment that has no objective and reasonable justification) is not prohibited under any of the above acts. The questions of instruction to discriminate, harassment and victimisation and the possibility to award moral damages are covered only in certain laws¹⁷. The same applies for the sharing of the burden of proof¹⁸. The authorities state that this principle is respected and applied in all cases; however, certain official interlocutors have conceded that it would be preferable to provide for it in all relevant acts explicitly.

23. ECRI reiterates its recommendation that Latvia adopt a comprehensive body of civil and administrative law prohibiting racial discrimination in all fields of life and on grounds provided for under ECRI's GPR No. 7. The principle of the sharing of the burden of proof and the victim's right to compensation should be provided for explicitly and be applicable in all cases.

24. ECRI is pleased that associations/foundations may now represent individuals in court, inter alia, in case of breach of anti-discrimination legislation. However, ECRI, as established in its GPR No. 7, encourages the authorities to recognise this right even if a specific victim is not referred to¹⁹.

25. ECRI recommends that the Latvian authorities amend the Law on Associations and Foundations so that associations having a legitimate interest in combating racism and racial discrimination are entitled to bring civil cases, intervene in administrative cases or make criminal complaints even if a specific victim is not referred to.

26. ECRI notes that under the new Law on the Founding and Financing of Political Parties, the anticorruption office refuses or terminates funding of any party

¹⁴ *Law on the Prohibition of Discrimination of Natural Persons Conducting Commercial Activity. The law was enacted because the anti-discrimination provisions of the Labour Law do not cover persons who are self-employed.*

¹⁵ *Further to these amendments, direct and indirect discrimination, harassment, instruction to discriminate and victimisation have also been prohibited.*

¹⁶ *"Race", colour, language, religion, nationality (citizenship) or national or ethnic origin.*

¹⁷ *The Labour Law, the Law on Social Security and the Law on Consumer Protection contain provisions prohibiting instruction to discriminate, harassment and victimisation. The possibility to award moral damages is provided for under the Labour Law, the Law on Consumer Protection and the Law on the Prohibition of Discrimination of Natural Persons Conducting Commercial Activity and in cases in which Administrative Procedure Law is applicable.*

¹⁸ *Notably provision is made under the Labour Law, the Law on Consumer Protection, the Law on the Prohibition of Discrimination of Natural Persons Conducting Commercial Activity and in cases in which Administrative Procedure Law is applicable.*

¹⁹ *This is essential for addressing cases of discrimination where it is difficult to identify such a victim or cases which affect an indeterminate number of victims.*

which is criminally liable, irrespective of the type of offence. ECRI deems that this development is positive to the extent that it also covers racist offences. However, it is not convinced about the need to rely on evidence collected in criminal proceedings in order to terminate the above-mentioned funding, as the burden of proof in civil cases is not the same as in criminal ones. Further, due to the insidious nature of racism, ECRI encourages the authorities to introduce in the law an express obligation to suppress public financing of organisations, including political parties, which promote it.

27. ECRI recommends that the Latvian authorities introduce in the law an obligation to suppress public financing of organisations, including political parties, which promote racism, in line with ECRI's GPR No. 7.

Training of law enforcement officials, prosecutors and judges and awareness raising on national legislation against racism and racial discrimination.

28. In its third report, ECRI recommended that the authorities provide adequate training to judges, prosecutors and the police on criminal law provisions against racism and racial discrimination as well as sufficient funds for such endeavours.

29. ECRI is pleased that since ECRI's third report much effort has been invested in training the police on non-discrimination and combating hate crimes. In this connection, good cooperation has emerged between NGOs and the police; however NGOs have highlighted that their efforts are contingent on funding, which is irregular. Furthermore, the statistics mentioned in paragraph 15 and the problems experienced with experts (paragraphs 16 and 17), show that continuing efforts must be made in order to raise the police's awareness and sensitivity towards racist crime and their capacity to qualify racist crime independently, without referring the matter to an expert. In this connection, ECRI deems that, if in exceptional cases specific knowledge is required, the relevant authorities should have recourse to the Ombudsman's expertise on the matter (see paragraph 42). As regards the training of prosecutors, ECRI is aware that a few training sessions on anti-discrimination legislation have been organised; however, they mainly consisted in "one-off" events. As for the training of judges, ECRI has been informed that since its third report (2007), no specific training on provisions against racism and racial discrimination has been organised. Given the recent amendment of Article 78 Criminal Code and the much discussed judgements on incitement to hatred (see paragraph 16) ECRI deems that specific efforts need to be made on this issue.

30. ECRI strongly recommends that the authorities step up their efforts to train judges, prosecutors and police officers on the provisions in force against racism and racial discrimination and that training be conceived as a periodic recurrence rather than a "one-off" event. ECRI further strongly recommends that the training be carried out with a view to raising the capacity of police officials and judges to qualify independently racist crime, without referring the matter to an expert. If in exceptional cases specific knowledge is required, the relevant authorities should have recourse to the Ombudsman's expertise.

31. In its third report ECRI recommended that the authorities provide the public with information about the existence of criminal law provisions sanctioning racially motivated acts and that they take steps to encourage victims and witnesses to report such acts.

32. ECRI is not aware of any steps taken by the authorities that go in this direction.

33. ECRI reiterates its recommendation that the Latvian authorities provide the public with information about the existence of provisions prohibiting racial discrimination, through, for instance, awareness-raising campaigns. ECRI

further recommends that they take steps to encourage victims and witnesses to report acts of racial discrimination.

34. ECRI also recommended that the Latvian authorities take further steps to train judges and lawyers in order to encourage the full implementation of the new civil and administrative law provisions concerning the prohibition of racial discrimination. Further, it recommended that the authorities provide the public with information on these new provisions.
35. ECRI has been informed that in 2010, three workshops, co-financed by the European Commission, were organised for lawyers and judges by the Ministry of Justice on discrimination, the relevant EU directives (2000/43/EC and 2000/78/EC) and differential treatment. ECRI is not aware of any steps taken by the authorities to raise the public's awareness of these provisions.
36. ECRI encourages the Latvian authorities to step up efforts to train judges and lawyers on civil and administrative law provisions prohibiting racial discrimination.

Anti-discrimination body

37. In its third report, ECRI recommended that the Latvian authorities continue to provide support to the Office of the Ombudsman and carry out awareness-raising campaigns throughout the country on its powers in general and on its functions concerning fighting racial discrimination. ECRI also recommended to endow the Ombudsman with sufficient funds and human resources and to improve the accessibility of this institution in different languages and in the different regions of Latvia.
38. ECRI notes that a new Ombudsman was appointed in office on 3 March 2011. ECRI is concerned that since its third report, the Ombudsman's budget was drastically cut – by 30% in 2009 and by a further 38% in 2010. These measures appear to have greatly impacted on the effectiveness and outreach capacity of the Ombudsman. In this last respect, the Ombudsman's Office does not have the funding to translate the full content of its website (thereby making its functions known to non Latvian speakers) or to set up offices in other regions in Latvia. Further, while in recent years the Ombudsman's Office had commissioned a study on integration²⁰, participated in projects/programmes (such as the Roma programme) and carried out training of the police on how to recognise racist offences, ECRI was informed that it is no longer in a position to carry out these activities for lack of funds. ECRI realises that the financial crisis has impacted Latvian society as a whole. However, ECRI is concerned that the extent of the Ombudsman's Office budget cuts puts at risk the ability of this office to fulfil its mandate.
39. ECRI strongly recommends that the Latvian authorities endow the Ombudsman's Office with sufficient funds and human resources and reverse the present trend of cutting its budget. It further reiterates its recommendation to improve the accessibility of this institution in different languages and in the different regions of Latvia.
40. In ECRI's view, the significant reduction of the complaints received on grounds of racial, linguistic and religious discrimination is also indicative of the Ombudsman's limited outreach capacity. In 2007, the Ombudsman received 53 complaints (written and oral) on grounds of racial and ethnic discrimination, against 57 in 2008, 14 in 2009 and 6 in 2010 (until September). In 2007, the Office received 20 complaints (written and oral) on grounds of language

²⁰ *Notably on relations between Roma and the police.*

discrimination, against 66 in 2008, 13 in 2009 and 3 in 2010 (until September). In 2008, the Ombudsman received 5 communications concerning discrimination on the ground of religious beliefs. The previous Ombudsman had stated that this decrease was to be ascribed to the worsening of the economic situation, which had led persons to focus more on social and economic rights. On the other hand, ECRI is not aware of any initiatives having been undertaken in order to sensitise the public on the role and importance of the Ombudsman in fighting racial discrimination.

41. ECRI reiterates its recommendation that the Latvian authorities carry out awareness-raising campaigns throughout the country on the Ombudsman's functions concerning fighting racial discrimination.
42. ECRI has been informed by various sources that the Ombudsman's Office is perceived as weak and ineffective. While the Ombudsman has taken up discrimination cases in various instances and addressed recommendations to the party or the relevant institution in order to remedy the discriminatory action, this body does not have the power to enforce its recommendations. On the other hand, ECRI was pleased to learn that the Ombudsman may make recommendations on the existence of racist motivation with respect to a criminal offence which is being investigated. It may do so on its own²¹ or on the victim's initiative or upon request by the investigating authority. ECRI regrets that the investigating authorities have never had recourse to this possibility, as the Ombudsman's expertise in human rights and discrimination could prove to be a very useful tool in assessing racist motivation (see paragraph 29).
43. The Ombudsman's Office has also been criticised for not monitoring and taking a more vigorous stand with respect to articles of the media conveying racist stereotypes. ECRI is aware that the Ombudsman has in the past addressed both the media and the relevant authorities and informed them that racial stereotyping is not acceptable; however the Ombudsman has recognised that such recommendations went unheeded. Moreover, ECRI notes that the Ombudsman has been criticised for not intervening in cases of racist political discourse.
44. Finally, ECRI notes that the Ombudsman's mandate does not encompass the provision of independent assistance to victims of racism and racial discrimination, as per ECRI's standards and the EU Racial Equality Directive.
45. ECRI recommends that the authorities expand the Ombudsman's Office mandate to include provision of independent assistance to victims of racism and racial discrimination.

Government policies and integration/anti-discrimination programmes

46. In its third report, ECRI strongly recommended that the Latvian authorities maintain and reinforce efforts to promote integration of society on a long-term basis, notably by advancing inter-ethnic relations and the reception of immigrants, asylum seekers and refugees. ECRI also recommended that coordination and co-operation in the implementation of integration measures be ensured both within the Government and between the public authorities involved and the relevant partners from civil society.
47. ECRI expresses its regret that in the course of 2009, the Ministry for Special Assignments for Society Integration (IUMSILS), previously responsible for

²¹ *It did so, for instance, after having received a complaint concerning the violent racist attack of two underage Roma girls. The Ombudsman addressed the police, which had started investigations for hooliganism and stressed the importance of clarifying whether the attack had a racist motive.*

society integration, was dismantled and its functions were transferred initially to the Ministry of Justice and then, to the Ministry of Culture. In its third report, ECRI had expressed appreciation for the expertise of this institution and the message that it conveyed – that social integration was high on the political agenda.

48. ECRI commends the various activities carried out under the programme Integration of Society of Latvia in the course of 2007/2008, under the aegis of the IUMSILS and with the co-financing of the EU Commission²². On the other hand, ECRI notes that the renewal of the above programme has stalled for over two years. In this connection, since ECRI's third report, various drafts of the Policy Guidelines for the Integration of Society in Latvia (the Guidelines) have been proposed and then shelved. According to the authorities, the most recent draft, of 3 January 2011, was due to be adopted by the Cabinet of Ministers in autumn of 2011, and thereafter be disseminated to the public and the minority consultative councils for comments. ECRI has been informed that the Guidelines were indeed adopted on 11 October 2011 by the Cabinet of Ministers; however, ECRI has not been provided with a translation in English language of the relevant text²³. According to the information provided by the authorities during the reporting period, the Guidelines focus on: state/national identity, pluralism in the media, strengthening the role of Latvian language as the official language, civil society, education, strengthening relations with Latvians abroad, anti-discrimination measures and the integration of immigrants. ECRI was informed by the authorities that they intend to set up an institutional mechanism to monitor the implementation of the Guidelines by the various implementing stakeholders. Various sources, including representatives of minorities and NGOs, have highlighted that the integration programme will be based on Latvian culture and identity and will require minorities and non-Latvians to identify with the latter. Further, representatives of minorities have expressed regret that the guidelines were drafted without consulting the minorities' consultative councils. ECRI is convinced that an integration programme should promote respect for the diversity of Latvian society; it further considers that consulting minorities after the adoption of the Guidelines is not a sufficiently inclusive approach. Moreover, ECRI is concerned with the persisting absence of a programme targeting the integration of national/ethnic minorities, migrants and asylum seekers/refugees and urges the authorities to place integration once again on the political agenda.
49. On the other hand, various municipalities are supporting activities aimed at society integration. The Riga City Council, for instance, has established a new Society Integration and Project Department and is conducting its own integration programme. In this context a population survey on integration and attitudes towards migration has been carried out. Further, various public tenders for NGOs have been launched in order to finance projects on society integration. ECRI commends these initiatives; however it understands that cooperation with the national authorities could be improved and strengthened.
50. ECRI recommends that the authorities ensure that the newly adopted Policy Guidelines for the Integration of Society in Latvia pave the way for a broad based programme focusing on anti-discrimination, an open and integrated

²² Including: a series of activities for students aimed at strengthening their understanding of diversity and tolerance ; a campaign on « Media diversity » ; and a project on monitoring hate speech on the Internet. Further, in the context of the 2008 European Year of Intercultural Dialogue seminars on diversity were organised for university professors and teachers. Information sessions on discrimination, including role plays were also organised in the context of the 2008 International day against racism.

²³ Although this report covers the situation up to 22 June 2011, ECRI considered it important to include this subsequent development.

society and concrete measures to implement it. ECRI further recommends that sufficient financial resources be allocated in a timely manner to implement the Guidelines and that civil society, national/ethnic minorities and local authorities be involved in its implementation. Coordination between all relevant actors who are involved in its implementation should be ensured.

51. Also, worthy of mention is the Latvia Long-term Development Strategy until 2030 (the Strategy). The Strategy indicates tolerance as one of its strategic principles and aims to improve access to the labour market by supporting companies and NGOs which implement measures to prevent discrimination and by providing information about diversity. The Strategy has been made public in Latvian, Russian and English and an implementation plan detailing competencies and activities, should be adopted in the course of 2011. ECRI encourages the authorities to take all measures in order to implement the Strategy, particularly with regards to the chapter aimed at fighting discrimination at the work place.
52. ECRI is also concerned that the National Programme on Tolerance and the 2007-2009 National Action Plan on Roma in Latvia (Plan on Roma) were not renewed upon expiry. As concerns the latter programme, the authorities have informed ECRI that it will not be renewed; however certain activities are being continued and others are funded with EU funds. This issue is analysed in paragraph 102.

II. Discrimination in Various Fields

Official identification documents

53. In its third report, ECRI recommended that the Latvian authorities examine the impact of the optional mention of ethnic origin of a person on Latvian identification documents, including passports and recalled that any mention of ethnic origin should not only respect the principle of voluntary identification but also the principle of self-identification of the person as belonging to a particular ethnic group.
54. On this issue, the information provided in ECRI's third report on Latvia, is still valid (see paragraph 13). Notably, persons who choose to have their ethnic origin mentioned in identification documents may indicate the ethnicity recorded in the Population Register²⁴. However, only ethnicities contained in a list established by law as well as the categories of "undetermined" and "unknown" may be recorded therein. In this connection, ECRI has been informed that the said list is not exhaustive and that, as a result, certain groups are *de facto* impeded from exercising the right to self-identification by having their ethnicity mentioned in identity documents.
55. Should the authorities wish to maintain the optional mention of persons' ethnic origin in identification documents, ECRI recommends that the principle of self-identification of the person as belonging to a particular ethnic group be respected by making it possible to have any ethnicity recorded; otherwise, ECRI recommends to remove all mention of ethnic origin in identification documents.
56. As regards the identification documents issued when ethnic affiliation was a mandatory field under the law, the authorities as well as other sources have ensured ECRI that they are promptly replaced upon request by the individual concerned.

²⁴ Under Article 10 of the Law on the Population Register (1998), recording individuals' ethnic origin in the population register was mandatory. However, ECRI was informed by the authorities that, further to Regulation 225 of the Cabinet of Ministers of 10 March 2009, point 14, this provision is no longer in force.

57. ECRI in its third report also encouraged Latvian authorities to reinforce their efforts to inform and explain to the persons concerned the language rules applying to names in official documents and to guarantee the right to reproduction of the original form of a name in addition to the Latvian version.
58. ECRI is not aware of any specific measures having been taken by the authorities in order to inform and sensitise the public on the language rules applying to names in official documents. However, ECRI has been informed that the right to reproduction of the original form of a name in addition to the Latvian version in official documents is respected in practice²⁵.

Employment

59. As noted in paragraph 183 of this report, the authorities collect information on employment disaggregated by ethnicity and nationality. ECRI has been informed that this data shows higher levels of unemployment for national/ethnic minorities²⁶. Further, according to the Migrant Integration Policy Index (MIPEX) Latvia ranks 29th out of 31 participating States in immigrants' access to the labour market. In this connection, although only a limited number of official complaints have been lodged for discrimination in the field of employment, an increase of informal complaints, inter alia to trade unions, has been recorded. ECRI further notes that no training aimed at raising employers' and trade unions' awareness of discrimination at work has been carried out.
60. ECRI recommends that the Latvian authorities carry out training aimed at raising employers' and trade unions' awareness of racial discrimination at work.
61. In its third report, ECRI urged the Latvian authorities to take all necessary measures to ensure a balanced implementation of the State Language Law by the state language inspectors, particularly by giving due regard to human rights principles.
62. ECRI notes with concern that the Latvian authorities have significantly hardened their policy on the use of the state language, including in the employment sector, despite ECRI's and other international bodies' recommendations to provide for the obligation to use the state language only in cases when this serves a legitimate public interest. While language proficiency requirements were relaxed for categories such as border guards and firemen (for want of staff), the list of professions in the private field in which a public legitimate interest has been detected has been repeatedly expanded²⁷ and now includes over 1 000 professions. This list will be further expanded in autumn 2011 to include 33% of all professions in the private field, and, as a result, will require state language proficiency at C1 and C2 levels for 603 professions. Further, following amendments in 2009 to the Code of Administrative Offences, the sanctions for breaches of the Law on State Language have been made stricter and are now also applied to employers who fail to determine the necessary level of language proficiency. In 2010, for instance, 425 persons were fined for not mastering the state language to the extent necessary to perform their professional duties. ECRI has been informed that the Parliamentary Committee on Legal Affairs has expressed its support for further raising the fines. ECRI understands the authorities' wish to protect and promote Latvian as the official language; however, the progressive tightening of the regulations on language

²⁵ For instance, upon request, the original form of the name may be inserted on page four of passports issued by Latvia.

²⁶ Allegedly, by 7% in 2011.

²⁷ To include professions such as piercing specialist, sports instructor, photographer, electrician, kitchen chef etc.

use and raising of the sanctions is creating an inquisitorial climate which is very likely to deteriorate inter-ethnic relations (notably with the Russian speaking population), as well as affect migrants' ability to integrate in Latvian society. ECRI considers that imposing language requirements is legitimate and does not constitute discrimination, when, by reason of the nature of the occupational activity concerned or of the context in which it is carried out, such requirement constitutes a genuine and determining occupational requirement, provided that the objective is legitimate and the requirement proportional²⁸.

63. ECRI has also been informed by the authorities that they are planning to amend the labour law in order to forbid employers from imposing proficiency in Russian as a mandatory qualification, as this has hampered many non-Russian speakers from obtaining employment. Once again, ECRI considers that such language requirements would not amount to discrimination if, in a specific occupational activity knowledge of Russian represents a genuine and determining occupational requirement.
64. In its third report, ECRI recommended to give priority to constructive and non-obligatory measures, inciting the Russian-speaking population to learn and use Latvian in all cases where it should be used according to the law and to ensure accessible and quality language training. It further recommended that the National Agency for Latvian Language Training be given all the necessary human and financial resources to maintain and develop its activities.
65. As of July 2009 the National Agency for Latvian Language Training, previously responsible for organising Latvian language courses (see paragraph 123 of ECRI's third report), merged with the Latvian Language Agency, responsible for sociolinguistic analysis of the Latvian language. ECRI notes that the resources for the teaching of Latvian allocated to this institution have decreased. Furthermore, the language courses for adults organised by the Society Integration Fund (SIF) were suppressed as of 2009. ECRI recalls that the SIF has trained thousands of persons over the last years and a decrease in the percentage of Latvian residents who have almost no knowledge of Latvian has been registered. Furthermore, it would appear that demand for language training exceeds the supply²⁹.
66. ECRI recommends that the Latvian authorities reconsider their policy on the use of state language and provide for an obligation to use the state language only in cases where a legitimate public interest can clearly be discerned.
67. ECRI strongly recommends that the Latvian authorities resume the Latvian language courses provided by the Society Integration Fund and ensure that the demand for language training in Latvian is fully met.

²⁸ See, by analogy, Article 4 of the Council Directive 2000/78/EC.

²⁹ The authorities have informed ECRI that the State Employment Agency provides Latvian language courses to unemployed persons/persons seeking employment and in the context of a programme of "life-long learning".

Exercise of political rights

68. ECRI is also very concerned about the amendments to the Law on the Status of Members of the City and Regional Councils. Further to these amendments, as of 2013, a regional court will be entitled to terminate the mandate of elected Council members who have been found not to master the state language to C1 level. The procedure is the following: the Latvian Language Centre³⁰ deems that the councillor's knowledge of Latvian is insufficient; the councillor is obliged to undergo language training paid by the municipality and then sits a language test within a six month period. ECRI fears that terminating the mandate of democratically elected national/ethnic minority representatives for not mastering the official language at C1 level, will contribute to fuelling the interethnic tensions evoked in paragraph 62. In ECRI's view, in such cases genuine democratic representation prevails over the interest to promote the use of the state language.
69. ECRI recommends that the Latvian authorities abrogate the provisions of the Law on the Status of a Member of the City and Regional Councils, under which the regional court may terminate the mandate of an elected member if he/she does not meet set language requirements.

Education

70. In its third report ECRI strongly recommended that the Latvian authorities maintain their efforts to improve education in Latvian for children of ethnic minorities, and particularly Russian-speaking children, in order to guarantee that when they leave school they will have equal access to higher education and employment. At the same time ECRI strongly recommended that adequate room be left for teaching minority languages and cultures and that the Latvian authorities ensure that the new system of bilingual education in minority schools is not perceived by the ethnic minorities as a threat to their culture and languages.
71. As regards the provision of education in Latvian, whereas basic schools implementing minority education programmes may choose the number of subjects to be taught in Latvian and in the minority language, secondary schools are obliged by law to teach 60% of subjects in Latvian. Further, since 2007, pupils taking the secondary school final examination are given the option to answer the examination questions in Latvian or in their minority language. The authorities have informed ECRI that in order to improve education in Latvian, in 2008-2010 the State funded school textbooks and other material on Latvian language for grades 4 to 7 and 10 to 12. ECRI's attention has also been drawn to a number of projects on Latvian language training which have been launched by the authorities with the support of EU structural funds. As a result of these projects, for instance, a book on teaching methodology on Latvian as a foreign language and a bilingual didactical dictionary were published. Furthermore, in areas where a large national/ethnic minority population resides, the Latvian Language Agency, in cooperation with local government, has organised Latvian language courses for pupils' parents. While the preceding measures are positive, representatives of national/ethnic minorities stress the continuing lack of sufficient qualified staff for bilingual teaching and the shortage of educational resources for minority education schools (see paragraph 53 of ECRI's third report), which have an impact on the quality of education. Although according to the authorities, teachers of minority schools have benefited from

³⁰ The Latvian Language Centre is responsible for applying the State Language Law and, in cases of breach, imposing fines.

extensive training in Latvian language and bilingual education since 2008³¹, representatives of national/ethnic minorities claim that these courses are short-lived, do not prepare them sufficiently and that greater competence would be achieved if higher education courses on bilingual teaching were set up. ECRI is concerned that the fact that minority teachers are increasingly asked to teach in the official language rather than in their mother tongue, coupled with an insufficient preparation in teaching bilingually, may frustrate the right of minorities to receive quality education.

72. ECRI recommends that the Latvian authorities introduce a higher education bilingual training degree, in order to improve the preparation of teachers in bilingual education.

73. As concerns the teaching of national/ethnic minority language and culture in bilingual schools, the authorities have stated that the recommended number of lessons in primary schools has increased. However, ECRI has been informed by other sources that the total number of minority classes/schools has decreased. While it is true that this reflects a general trend, as many educational establishments have been closed down in recent years due to demographic reasons, it would appear that minority schools have been the ones mostly affected in some municipalities³². ECRI further notes that under Latvian law there is no provision establishing the right to set up classes providing national/ethnic minority education and the number of pupils required (although the recommended number would appear to be 12) and that it is entirely left to the local government's discretion to authorise or not such classes³³. Lastly, ECRI was informed that state universities may no longer impart courses in minority languages, unless they are EU languages, and that a proposal to make Latvian the sole language of education in State-funded schools has been presented. While ECRI considers that these issues can best be addressed under the Framework Convention for the Protection of National Minorities (FCNM), ECRI is concerned that the discretionary nature of decisions on the opening of minority classes, coupled with the move to make education in minority languages increasingly difficult, may strengthen minorities' sentiment of not being treated fairly and ultimately exacerbate tensions with the majority of the population.

74. ECRI reiterates its recommendation to Latvian authorities that adequate room be left for teaching minority language and culture so that the new system of bilingual education in minority schools is not perceived by the ethnic minorities as a threat to their culture and language.

75. In its third report, ECRI recommended that all measures concerning the schooling of children of ethnic minorities, particularly measures to promote the teaching of Latvian, are taken progressively, in consultation with the minorities concerned and with due regard for their interests.

76. ECRI has been informed by the authorities that consultation with national/ethnic minorities on issues that concern the schooling of their children is ensured via

³¹ In 2008, 16 courses on state language were financed by the State for teachers of minority schools. In 2009, 10 courses on bilingual teaching were financed, whereas in the academic year 2010/2011, 50 teachers should benefit from such training.

³² For instance in Riga, out of 16 schools which were planned to be closed down between 2009 and 2011, 11 are of Russian language.

³³ This has led to the refusal to set up a minority class further to the request of parents of 15 pupils in Tukums.

the Consultative Council for Minority Education³⁴. ECRI has been informed by the latter that it meets regularly, that it was consulted both on the 2004 reform³⁵ and on the proposal to make Latvian the sole language of education in state schools and that its opinions have been taken into consideration. ECRI stresses the importance of consultation with national/ethnic minorities on issues that concern the schooling of pupils of a national/ethnic minority background.

III. Racist Violence

77. In its third report, ECRI urged Latvian authorities to make further efforts to take a more comprehensive approach to the phenomenon of racist violence, inter alia, focusing on the implementation of criminal law provisions aimed at combating racist violence and identifying/addressing the causes underlying this violence.
78. According to NGOs, racist violent attacks are underreported, particularly when the victims are Roma, out of fear of the police. Since its third report, three racist violent attacks have been registered officially by the police and were directed against representatives of visible minorities, mostly Roma. In all three cases the defendants were identified as affiliated to a skinhead movement. Two incidents were committed by the same culprits and were joined and tried together by court. They concerned the attack of two Roma girls and of an Armenian couple, mistakenly perceived as of Roma origin. According to the authorities, the defendants were sentenced to suspended imprisonment because the leader of the group was a minor at the time, the defendants had no previous record and one of them had recently given birth. The third incident concerned the beating of a Roma man in Riga's central bus station. As regards violent racist acts against property, on 4 July 2007 a memorial dedicated to Janis Lipke (J.L - who saved 55 Jews during the Nazi occupation), was vandalised. Part of another memorial dedicated to J.L was stolen from a graveyard in Riga. In this connection, two persons were convicted in March 2008 for vandalism³⁶ and sentenced to three years in prison. On 27 February 2008, at the Rumbula Forest Memorial, swastikas were painted on certain monuments dedicated to the victims of the Holocaust. The Riga City Council intervened immediately and removed the swastikas; however, the culprits were not found. In December 2010, ten graves in the Jewish cemetery and the monument to J.L in Riga were vandalised. In the first case, the suspects were identified in January 2011.
79. In its third report, ECRI also urged the Latvian authorities to monitor the situation as regards the presence and activities of the right wing extremist and skinhead groups in Latvia and to address this problem in a proactive way including through educational initiatives at school.
80. The criminal activity described in paragraph 78 demonstrates the need for Latvian authorities to continue monitoring the activity of skinheads and counter these groups' growth. ECRI has been informed by the authorities that skin head groups are considered a great threat; 200 people have been identified as affiliated to such groups and that their contacts with other European or Russian groups of the same type, are growing. Further, ECRI was informed by representatives of NGOs, that a surprising amount of ammunition was confiscated from one such group in connection with investigations into recent

³⁴ *The authorities have informed ECRI that the majority of the members of this Council (principals of schools) are employees of the Municipalities. This council has been criticised by civil society for not being sufficiently representative of national minorities and for lack of independence.*

³⁵ *See paragraph 54 of ECRI's third report on Latvia.*

³⁶ *This represents another example where the racist motive of the crime does not appear to have been considered.*

grave desecration. ECRI is not aware of any specific educational activities having been carried out by the authorities to counter right wing extremism (see footnote 22 for an indication of some activities carried out aimed at raising the public's awareness of discrimination). However, one project aimed at identifying signs of radicalisation, and involving the police, has been implemented.

81. ECRI reiterates its recommendation that the Latvian authorities monitor the situation as regards the presence and activities of right wing extremist and skinhead groups in Latvia and address this problem, inter alia, through educational initiatives at school and awareness raising activities.

IV. Climate of Opinion, Public Discourse and Media

Climate of opinion and public discourse

82. In its third report, ECRI recommended that the Latvian authorities adopt ad hoc legal provisions targeting the use of racist discourse by representatives of political parties, including legal provisions allowing for a ban in the pre-election period on free access to public radio and television for those political parties whose members are responsible for racist acts or speech. ECRI also recommended that the Parliament amend its Code of Ethics (the Code) to expressly ban incitement to racial or religious hatred by Members of Parliament (MPs) and provide for adequate sanctions.
83. ECRI has been informed by the authorities that in 2010, a provision was introduced whereby an MP's speech may be interrupted in case of breach of the Code. As stated in ECRI's third report (paragraph 105), the Code contains a general prohibition on the use of, inter alia, "race", gender, skin colour and nationality to support MP's arguments and sanctions the violation of this norm with the exclusion from one or more parliamentary sessions, subject to a vote of the Parliament. According to the authorities, the sanction has been applied twice - albeit not for racist statements. However, other sources have highlighted that the above provision has frequently been breached by MPs who have directed intolerant statements against particular groups in society, especially Russian speakers, non Latvians and "non-citizens". Further, it would appear that in recent elections racist remarks about Slavic culture were made when referring to certain political opponents.
84. ECRI reiterates its recommendation to amend the Parliament's Code of Ethics to ban expressly incitement to racial or religious hatred by Members of Parliament. ECRI further recommends that the Parliament's Code of Ethics be enforced more vigorously.
85. ECRI is concerned about a few statements made by public authorities and certain public events which were authorised since ECRI's third report, which, in ECRI's view, cast a shadow on the general climate of opinion in Latvia. Recalling the importance for ECRI of multiculturalism in the context of any integration policy (paragraph 48), ECRI regrets the statement made by the former Minister of Culture, claiming that multiculturalism cannot be the foundation for the integration and cultural policy in Latvia, which, on the contrary, needs to be founded on Latvian language and national symbols.
86. Further, ECRI expresses concern as regards the authorisation of certain public events to commemorate two incidents and the authorities' reaction in this connection. As concerns the first incident, every year, on 16 March, a gathering commemorating soldiers who fought in a Latvian unit of the Waffen SS is held in the centre of Riga. In this connection, ECRI regrets that, in spring 2010, an administrative district court overruled a decision of the Riga City Council

prohibiting this march³⁷. Moreover, ECRI is concerned that the speaker of the Latvian Parliament allegedly publicly expressed regret for the formal prohibition of this event and that certain MPs have voted for the restoration of March 16 as day of remembrance³⁸. Further, the former Minister of Foreign Affairs did not condemn the march, stating, on the contrary, that there was nothing wrong with former soldiers gathering together privately to remember their fallen comrades-in-arms and that any attempt to characterise this commemoration as the glorification of Nazism is unacceptable. ECRI understands that part of Latvian public opinion considers that: the legion did not fight for Nazism but to restore Latvian sovereignty (further to Soviet occupation); they did not commit atrocities against Jews; and that, although many individuals joined the legion willingly, many others were conscripted. However, ECRI cannot but express concern about any attempt to justify fighting in the Waffen SS and collaborating with the Nazis, as it risks fuelling racism, xenophobia, antisemitism and intolerance³⁹. As regards the second incident, ECRI, on the one hand, expresses its dismay at the authorisation by the competent courts of an event set to celebrate the Nazi occupation of Riga (on 1 July). On the other hand, ECRI is pleased that its principal organiser was summoned for questioning and that a criminal investigation was opened for the glorification of Nazi crimes.

87. ECRI recommends that the Latvian authorities condemn all attempts to commemorate persons who fought in the Waffen SS and collaborated with the Nazis. ECRI further recommends that the authorities ban any gathering or march legitimising in any way Nazism.

Media, including the Internet

88. In its third report, ECRI urged Latvian authorities to take steps to counter the use of racist discourse in the media, ensuring, inter alia, an effective implementation of the legislation against incitement to racial hatred. ECRI further recommended launching a debate on the need for self-regulatory mechanisms in the field of media as concerns intolerant speech.

89. ECRI notes that the majority of criminal cases registered for breach of Article 78 of the Criminal Code are cases of racist speech on the Internet⁴⁰. Although the authorities have informed ECRI that certain officials of the security police are trained to work on cases of racist speech on the Internet, ECRI notes that there is no dedicated capacity specifically tasked with monitoring continually the Internet for instances of racism or discrimination and empowered to act ex officio in case of breach of anti-discrimination legislation/provisions against incitement to hatred. As stated in paragraph 43, the Ombudsman has in a few instances asked the media to abstain from racial stereotyping; however, in ECRI's view, in addition to the Ombudsman's action in this field, a self-regulatory body is needed. ECRI further notes that concern has been expressed about the fact that the current regulation does not oblige Internet providers to filter/delete racist comments.

³⁷ The Latvian authorities have informed ECRI that the administrative district court did not consider the gathering as an event having the aim to glorify Nazism, nor did the participants of the march announce this to be the gathering's objective. Furthermore, the authorities state that, in its judgment of 13 March 2009, the administrative district court indicated that in the last 10 years the events commemorated on 16 March are used to fuel ethnic tension in Latvia.

³⁸ Established as an official day of remembrance in the mid 90s.

³⁹ In this connection, the General Assembly of the United Nations has adopted a resolution (A/RES/63/162) warning against "certain practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance".

⁴⁰ Frequently consisting in comments on articles on Internet news portals, inciting hatred towards Latvians, Russians, Jews and visibly different minorities.

90. ECRI recommends that the Latvian authorities create a law-enforcement unit with dedicated capacity to monitor the Internet for instances of racism or racial discrimination. It also recommends that the Latvian authorities encourage the setting up of a self-regulatory mechanism by the media which would ensure, inter alia, respect for the principles underlying ECRI's mandate.
91. In its third report, ECRI encouraged the Latvian authorities to impress on the media, without encroaching on their editorial independence, the need to ensure that reporting does not contribute to creating an atmosphere of hostility and rejection towards members of any minority groups.
92. As stated above in paragraphs 43 and 89, the Ombudsman has addressed the media on the above issue, to some extent. In addition, under the aegis of the IUMSILS and with the co-financing of the EU Commission (see paragraph 48, footnote 22), two activities on media diversity and on monitoring hate speech on the Internet were organised. ECRI, however, notes that, in addition to problems related to racial stereotyping, another important issue that needs to be tackled is the deep divide between media addressing the majority of the population and media addressing Russian speakers. ECRI was informed that the same event is frequently reported in a biased fashion depending on the target audience and in a way that fuels tension with respect to the other community. ECRI believes that additional efforts should be invested in addressing these problems.
93. ECRI recommends that the Latvian authorities, while respecting editorial independence, encourage those media addressing exclusively either the majority of the population or the Russian speakers to engage in objective reporting of events, which does not contribute to creating an atmosphere of hostility towards and rejection of the other community.

V. Vulnerable/Target Groups

National/ethnic minorities

94. According to data of the Population Register⁴¹, the largest national/ethnic communities in Latvia include the following: Russian (27.4% of the population), Byelorussian (3.53%), Ukrainian (2.45%), Polish (2.3%), Lithuanian (1.32%), Jewish (0.43%) and Roma (0.38%); 20 195 people did not affiliate to any ethnicity (0.9%).
95. In its third report, ECRI recommended that the Latvian authorities encourage and ensure the participation of ethnic minorities in the political process, in political elected bodies and in the public service.
96. As regards the participation of national/ethnic minorities in political life, ECRI was informed that during the 2009 local elections, 20.3% of the elected members belonged to minority groups or did not indicate their ethnicity. By comparison, in 2005 such representation was at 17.4%. Further, for the first time, on 2 July 2009, an ethnic Russian was elected Mayor of Riga. On the other hand, it would appear that non ethnic Latvians are rarely members of supervisory and controlling bodies, such as the Council of the Social Integration Foundation – body responsible for allocating financial resources to projects on integration. ECRI has been further informed that several minorities' consultative councils have been set up, albeit most are considered to be a mere formality and some have ceased to exist further to the dismantlement of the IUMSILS (see paragraph 47). In this connection, ECRI regrets that the Nationalities and Social Integration Consultative Council and the Participation Council of

⁴¹ As at 1 January 2011

Minorities NGO Representatives are no longer operating⁴². To ECRI's knowledge, the consultative councils that are currently active are the recently reinstated President's Minorities' Consultative Council⁴³, the Consultative Council for Minority Education (already discussed in paragraph 76) and the Riga City's consultative council. The authorities have informed ECRI that the Ministry of Culture also has an advisory council; however, according to other sources, it is a working group of four national/ethnic minority representatives and ECRI is not certain of the extent to which it is consulted. Whereas the President's Minorities' Consultative Council is regularly consulted on issues of concern to national/ethnic minorities, ECRI has been informed that it was not sufficiently heard in the drafting process of the Guidelines (see paragraph 48).

97. ECRI recommends that the Latvian authorities regularly consult the national/ethnic minority councils on issues that are of concern to them. ECRI further recommends to the Latvian authorities to strengthen the Ministry of Culture's minorities' consultative council, ensuring that national/ethnic minorities are adequately represented.

98. Another issue that has been brought to ECRI's attention is the adoption in 2010 of a new law on electronic media which restricts the broadcasting of languages other than Latvian in both public and private media⁴⁴. ECRI has also been informed that the strict application of the State Language Law (see paragraph 119 of ECRI's third report on Latvia) has hindered the distribution and broadcast of information on elections in other languages, as well as other public information, thereby hampering, in particular, Russian speaking minorities' ability to be informed on state/local elections and other public matters. Moreover, national/ethnic minorities have informed ECRI that funds for national/ethnic minority programmes on state radio and TV have been cut and that many programmes have been discontinued. ECRI is concerned that these measures may contribute to fuelling national/ethnic minorities' perception of being assimilated.

99. ECRI urges the Latvian authorities to review the new law on electronic media in so far as it restricts the right to broadcast in minority languages. It also urges them to refrain from hindering the use of minority languages during the election campaigns.

Roma

100. According to the Office of Citizenship and Migration Affairs, as at July 2009, there were 8 582 Roma in Latvia. However, according to Roma representatives and other sources, the actual number is likely to total 15 000 to 20 000, as many persons of Roma origin do not identify themselves as such out of fear of discrimination. The Roma remain one of the most discriminated groups in Latvian society⁴⁵, notably in the fields of employment, education and access to services. ECRI notes that in the course of 2007 and 2008 there was a surge in

⁴² The first provided advice to the IUMSILS on ethnic policies, social integration of national/ethnic minorities and national/ethnic minority rights. The second, the only council in which members were nominated by NGOs and representatives of national/ethnic minorities, provided support to the IUMSILS in securing implementation of obligations under the FCNM.

⁴³ It was reinstated on 22 December 2008. It is not a representative body and the members of the council are appointed by the President. It is tasked, inter alia, with: promoting dialogue with the authorities who draft policies and with the public on issues of relevance to minorities; informing the President of problems faced by the minorities; submitting opinions about minority issues, on the President's request.

⁴⁴ Notably, under the amended law, national and regional electronic media must ensure that at least 65% of all their programmes are in the state language.

⁴⁵ Research shows very high levels of intolerance towards Roma. Notably, in Riga, 53% of respondents stated that they "definitely do not want to live next to" Roma.

racist attacks against Roma or persons perceived to be Roma (see paragraph 78). Further, the frequent negative portrayal of this group by the media, led the Ombudsman to request that the latter abstain from racial stereotyping (see paragraph 43).

101. In its third report, ECRI strongly recommended that the Latvian authorities implement and reinforce the Plan on Roma (2007-2009) and endow it with the necessary human and financial resources to this end. It further recommended that they adopt a long-term national strategy to combat the social exclusion of Roma.
102. ECRI regrets that the information provided by the authorities and other sources runs counter to ECRI's recommendation. Initially geared to address discrimination of Roma in education and employment and on promoting tolerance towards this group, in practice, the Plan on Roma only focused on education. Further, ECRI was informed that in 2008 only 36% of the planned financial resources were allocated; in 2009 around 17% of the funds were disbursed; finally, after 2009, the Plan on Roma was left to lapse without any attempt made to have it renewed. The authorities have reassured ECRI that, although there are no plans to continue the Plan on Roma, the integration of this group will be addressed in the context of the programme Integration of Society of Latvia (see paragraph 48). Further, certain activities are continuing, especially with the help of EU funds. ECRI, however, notes that the renewal of the programme Integration of Society of Latvia, including its Guidelines, has stalled. Consequently, since 2009, no long-term strategy capable of tackling in a decisive way the marginalisation of this group has been in place.
103. ECRI strongly recommends that the Latvian authorities renew the National Action Plan on Roma in Latvia and design it as a long-term national strategy to combat the social exclusion of Roma in multiple fields. ECRI further recommends that the Roma population and its representatives be associated to its drafting and implementation.
104. In its third report, ECRI urged Latvian authorities to encourage regular school attendance by Roma children and to tackle the problem of the high school drop-out rate. ECRI further recommended to: (i) take steps to close any remaining special classes for Roma and integrate Roma pupils in mainstream classes; and (ii) step up efforts to promote Roma culture and the Romani language among teachers and pupils.
105. According to the authorities, as at 2011, 1 182 Roma pupils were enrolled in Latvian schools; however those attending would appear to be far lower. Although the authorities do not collect any statistics on drop-out rates of Roma pupils, they have indicated that 13.7% do not complete basic education⁴⁶. For instance, ECRI's delegation was informed that out of 45 Roma pupils enrolled in a school it visited, at least ten were not attending and that, in the past, only five had completed the entire course of study⁴⁷. One reason invoked by the authorities for such poor attendance was the lack of attendance of compulsory pre-school by Roma children, as reading and writing skills are introduced at this level. In addition, the following reasons were invoked by the above mentioned school: seasonal migration of parents; early marriage age for girls; and lack of sufficient transportation arrangements⁴⁸.

⁴⁶ The education system in Latvia is divided in primary (grades 1-4), basic (grades 4-9) and secondary (grades 10-12) school.

⁴⁷ One of whom enrolled in higher education.

⁴⁸ Notably, many children lived at a 30 minute walking distance, which represented a very long distance for young children, especially at winter time.

106. ECRI strongly recommends that the Latvian authorities take steps to collect statistics on Roma pupils' school drop-out rates. It further recommends that the authorities tackle this problem, inter alia, by: raising parents' awareness of the importance of pre-school education; providing "success stories" through young Roma who have completed their education; and improving transportation services.

107. ECRI is pleased that efforts have been made in order to integrate Roma pupils in mainstream classes. According to civil society, the number of separate classes for Roma pupils has decreased in recent years and in 2008/2009 only few schools maintained separate classes for Roma⁴⁹. However, ECRI notes that one of these classes was held in the afternoon, thus contributing to Roma pupils' segregation⁵⁰. ECRI was informed that, in order to facilitate the inclusion of Roma pupils in mainstream classes, 20 Roma teachers' assistants were trained under the Plan on Roma in order to assist the latter with learning. However, as at 2011, out of those trained, only eight remained in the education system, apparently due to lack of funds. ECRI was further informed by the authorities that 10.6% of Roma children attend special needs' schools. According to other sources, however, this percentage is higher in certain municipalities.

108. ECRI reiterates its recommendation to close any remaining special classes for Roma and integrate Roma students in mainstream classes. To facilitate this, ECRI recommends that the authorities reinstate the Roma assistant teachers trained under the Plan for Roma. Finally, ECRI recommends to the authorities to address the high representation of Roma children in special needs' schools.

109. As concerns specific measures taken by the authorities to promote Romani culture and language among teachers and pupils, it appears that bilingual education in Latvian and Romani is provided. Further, ECRI's delegation noted a satisfactory degree of integration of Roma pupils in the school it visited.

110. In its previous report ECRI strongly encouraged Latvian authorities to continue to assist Roma in obtaining employment and to take measures to prohibit any discriminatory conduct by employers.

111. ECRI was informed that in 2007, under the Plan on Roma, the authorities financed driver training courses and Latvian language training in certain cities; however, no measures were carried out in the field of employment since then. The authorities have informed ECRI that Roma may register with the State Employment Agency and benefit from the training offered by the latter. However, it would appear that participation in such training is not always possible in practice, due to educational requirements they do not meet. According to information provided by the authorities, in 2011, 977 Roma⁵¹ registered with the State Employment Agency as unemployed - several of whom participated in some kind of training activity. ECRI notes that, considering the very low level of employment in the Roma community⁵² and its size, this number should be higher. Further, given that eligibility for social assistance depends on such registration, ECRI is of the view that more efforts should be invested into sensitising Roma to the importance of registering with the State Employment Agency. On the other hand, ECRI was informed that those who are registered may receive up to 12 different social benefits and that this dissuades them from seeking employment. In this connection, it would appear

⁴⁹ However, the authorities state that as at 2011 no such separate classes existed.

⁵⁰ The authorities, however, contest this fact.

⁵¹ This figure refers to persons who explicitly indicated their ethnicity as Roma.

⁵² Estimated at around 5 to 10%.

that in certain cases, under Latvian law, it is possible to grant assistance against an obligation to work in the public service. ECRI deems this a very good practice susceptible to introduce Roma into the employment market. Furthermore, ECRI is of the opinion that, in addition to the services provided by the State Employment Agency, specific measures aimed at assisting Roma in obtaining employment should be adopted, given the specificity of their social condition. ECRI is not aware of any activity having been carried out in order to sensitise employers to preventing discriminatory conduct.

112. ECRI recommends that the authorities encourage the Roma population to register with the State Employment Agency and explore ways in which employment will not be considered financially less attractive than welfare benefits.

113. In its third report, ECRI strongly recommended that the authorities combat racial discrimination against Roma with regard to access to public places and access to goods and services and that they sanction racial profiling and any other form of racial discrimination by the police against Roma.

114. ECRI has been informed that Roma continue to face discrimination in access to services. The European Union Agency for Fundamental Rights' (FRA) Thematic Study on Housing Conditions of Roma, states that Latvian Roma have access to social housing; however, according to Roma effective access depends on the attitude of the mayor of the town or on whether Roma are present in the committee which takes these decisions. ECRI was informed that civil servants of the Riga City Council and of Government agencies have received some training on making their services more easily available to Roma and minorities; however, more needs to be done. As concerns relations with the police, a study commissioned by the Ombudsman shows that 58% of Roma respondents considered such relations to be negative. Further, ECRI has been informed that many Roma fear the police and would deem useful having an independent institution to address complaints to, free of charge. Finally, it would appear that informal racial profiling by police is still frequent. ECRI commends the training provided to police officers by the Ombudsman in 2008 and 2009 on human rights, covering also racism and the treatment of Roma and considers that these efforts should continue.

Jewish communities

115. According to official statistics, as at 1 January 2011, out of a population of approximately 2.2 million, there were 9,571 Jews residing in Latvia. The Holocaust, as well as the major sites in which mass killings were carried out by the Nazis, are commemorated and education on the Holocaust forms part of the school curriculum.

116. ECRI discusses public marches commemorating a Nazi legion and the arrival of the Nazis in Latvia in paragraph 86 of this report. Violent acts against Jewish property or Jewish memorials and the authorities' reaction are discussed in paragraph 78.

117. There have been incidents involving antisemitic remarks and hate speech on the Internet and during public meetings (see paragraph 16). In addition, ECRI was informed that the Protocols of the Elders of Zion⁵³ and other antisemitic books⁵⁴ have been sold in one of the largest bookstores in Riga. ECRI

⁵³ *The Protocols of the Elders of Zion is a fraudulent, antisemitic text purporting to describe a Jewish plan for achieving global domination. It was first published in Russia in 1903.*

⁵⁴ *Including the book Beilisiad (on the 1913 trial against Beilis, a Ukrainian Jew accused of ritual murder), speculating and building on an antisemitic myth of Jewish ritual murders.*

discusses the absence of legal provisions prohibiting the distribution/production of written works with a racist aim in paragraph 11 of this report.

118. As concerns Jewish property confiscated during WWII, ECRI has been informed that the general law on property restitution adopted in the 90's provided for the restitution of religious property of all confessions and private property in respect of which claims had been lodged by 1996. ECRI has been informed that although a small fraction of Jewish religious communal property was restored under this law, in many instances claims could not be lodged in time due to the absence of a successor community (further to The Shoah)⁵⁵. Furthermore, the question of non-religious communal property⁵⁶ was not addressed under this law. ECRI considers that this state of affairs, which raises issues under its mandate, should be remedied. In 2006, a draft law on the restitution of Jewish religious, communal and private⁵⁷ property was rejected; although a new law is being discussed in Parliament, it would appear that the prospects of its approval are meagre. ECRI has been informed that discussions on the above law have spurred populist and antisemitic reactions and that the population does not understand why specific provision for the restitution of Jewish property is needed.

119. ECRI recommends that the Latvian authorities make provision for the restitution of the religious and communal property of the Jewish community and dispel any antisemitic sentiment that may stem from such action. The authorities could provide, for instance, a clear explanation of the reasons behind the ad hoc law.

Non-nationals

“Non-citizens”⁵⁸

120. In its third report, ECRI urged Latvian authorities to further facilitate the naturalisation process for “non-citizens”, making the requirements of the procedure more flexible. It further recommended encouraging the take-up of Latvian citizenship by “non-citizens” through the naturalisation process.

121. The number of “non-citizens” as at 1 January 2011 was 326 735⁵⁹ or 14.6% of the total population. The “non-citizen” population therefore decreased by around 2.4% since ECRI's third report. ECRI has been informed that in recent years there has been a decline in the number of naturalisations due to: “non-citizens” feeling of disconnect from the authorities; the old age and limited education, including in Latvian, of many of the remaining “non-citizens”; the limited number of test centres (present in 3 cities); and the fees associated to the test. The authorities, however, claim that they have made significant efforts to facilitate the naturalisation process; in 2010, for instance, more than 61% of the applicants paid a reduced fee or were exempt from paying it and persons over

⁵⁵ Whereas prior to WWII there were around 70 Jewish communities in different cities, only 9 communities have remained/been reconstituted. Some of these have accordingly been in a position to claim the religious property of their town.

⁵⁶ Such as, for instance, schools and hospitals.

⁵⁷ Concerning specifically the private property of persons who were exterminated during WWII and in respect of whom there were no living relatives.

⁵⁸ As indicated in ECRI's third report on Latvia, in 1995 there were approximately 740 000 persons living in Latvia who did not hold Latvian citizenship. The Law on the Status of Former Soviet Union Citizens who are not citizens of Latvia or any other State provides that this group of persons could exchange their former USSR passports or other personal documents containing the personal code of resident of Latvia, for Latvian non-citizen passports. The law has therefore created a special legal status, that of “non-citizen”, and defined the main rights and obligations attached to this status.

⁵⁹ Including 114 000 persons above the age of 60 and 17 000 persons born in Latvia after the restoration of independence.

65 were exempted from taking the language test. Further, amendments have been proposed in order to exempt persons who have taken a state language exam for professional or residence purposes and have attained B or C proficiency levels in the language test; as well as students who have obtained at least a D in the 9th or 12th grade school exam on Latvian language in accredited minority schools. On the other hand, other sources highlight that the naturalisation procedure has not been made more flexible as applicants are increasingly failing naturalisation tests⁶⁰. ECRI notes in particular, that no measures have been taken in order to simplify the naturalisation process for children born in Latvia after 1991, from “non-citizen” parents⁶¹. Currently, under the law, both parents of the child must submit a citizenship application before his/her 15th birthday in order for him/her to acquire citizenship⁶². ECRI notes that this requirement may create practical problems, in a number of circumstances. ECRI therefore deems that it is not an adequate measure apt to prevent the creation of new “non-citizens”. Lastly, ECRI regrets that language courses are no longer provided free of charge to persons who wish to naturalise (see paragraph 111 of ECRI’s third report). On a general note, ECRI observes that the “non-citizen” population is a reality which will not go away; they need to be integrated in the interest of the cohesiveness of society.

122. ECRI recommends that the Latvian authorities provide for the automatic recognition of citizenship for the children who were born in Latvia from “non-citizen” parents after the country’s independence. ECRI further recommends that the authorities provide language courses, free of charge, for “non-citizens” who wish to naturalise.

123. In its third report, ECRI reiterated that the imbalance between the rights afforded to “non-citizens” and Latvians should be addressed and remedied as a matter of priority. It recommended in particular, that the Latvian authorities review the list of professions which are accessible to “non-citizens”.

124. In September 2008 the Ombudsman completed an investigation on disparities in the rights afforded to “non-citizens” as opposed to those afforded to Latvian citizens and found that certain restrictions were not proportional⁶³. ECRI has been informed by various sources that the disparities indicated by the Ombudsman only represent the tip of the iceberg. Nonetheless, ECRI considers that appropriate follow-up should be given to the Ombudsman’s findings. It further notes with concern that since its last report, no significant progress has been made in redressing the above imbalance. On the contrary, further to the amendments to the Law on Police (in force since 1 November 2010), “non-citizens” who were previously working in the municipal police have had to resign as at 1 March 2011, unless they had applied for naturalisation. ECRI finds that this measure amounts to direct racial discrimination as it involves differential treatment based on grounds of nationality which has no objective and reasonable justification. ECRI in fact fails to understand why persons who were deemed fit to work and serve for Latvia are no longer seen as such, in the absence of any change in the relevant circumstances.

⁶⁰ In particular, in 2009, 17.7% of the applicants did not pass the test on Latvian history and 38.9% of applicants did not pass the test on Latvian language.

⁶¹ A draft law proposing such measures was rejected by Parliament on 11 December 2008.

⁶² The minor may also submit such an application between his/her 15th and 18th birthday, if he/she can prove proficiency in the state language

⁶³ Such as the non-eligibility to work as lawyers, patent attorneys, to receive the first category licence for security work and to be head or member of the board in detective agencies. He further found disproportional restrictions with respect to the acquisition of land property.

125. ECRI strongly recommends to the authorities to abrogate the recently introduced provisions providing for the ineligibility of “non-citizens” to serve in the municipal police.

126. In its third report, ECRI urged Latvian authorities to confer eligibility and voting rights to resident “non-citizens” in local elections.

127. ECRI notes that no progress has been made in this area and that discussion of this issue is not on the Government’s agenda.

128. ECRI reiterates its recommendation that the Latvian authorities confer eligibility and voting rights to resident “non-citizens” in local elections.

129. ECRI would also like to express its concern in connection with certain measures taken by the Latvian authorities further to the European Court of Human Rights’ (ECtHR) judgment in *Andrejeva v. Latvia*, which found a breach of Article 14 of the ECHR taken in conjunction with Article 1 of Protocol No. 1 and of Article 6 § 1 of the ECHR. The applicant, a “non-citizen” of Latvia, was employed in Latvia from 1973 to 1990 by entities registered in Kiev and Moscow. The Social Insurance Board calculated her retirement pension only for period before 1973 and after 1990, as, according to the Latvian State Pensions Act, only periods of work in Latvia could be taken into account in calculating retirement pensions of “non-citizens” of Latvia, while the entire period of employment (including in other republics of the USSR) were to be taken into account in calculating pensions of citizens of Latvia. The Court found that the Latvian authorities had discriminated against the “non-citizen” by failing to recognise her employment between 1973 and 1990 by an organisation legally registered in a former Soviet republic other than Latvia, as counting towards her pension. ECRI was informed that further to this judgment, the authorities submitted amendments to the State Pensions Act which “levelled down” the pension entitlements for both citizens and “non-citizens”, thus treating citizens less favourably than before. These amendments are still pending. ECRI once again stresses the negative impact that the amendments, should they be adopted, may have on interethnic relations.

130. ECRI notes that in February 2011, the Constitutional Court declared that the provision of the State Pensions Act that was of issue in *Andrejeva v. Latvia* was not in breach of the Latvian Constitution. The court rejected the claims of the applicants (similar to those of *Andrejeva*) on grounds that Ms *Andrejeva*’s case was exceptional for she was physically working in the territory of Latvia. ECRI observes that the Constitutional Court’s decision, at best, gives a very narrow interpretation of the ECtHR’s judgement.

131. Furthermore, ECRI has been informed that bilateral agreements have been signed with Russia, Ukraine and Belarus in order to cover “non-citizens” pensions for employment periods spent in former USSR republics. ECRI notes that this approach, while positive for those who have worked in the above republics and who would otherwise have received a curtailed pension, fails to address the “non-citizens” who have worked in the remaining 9 former USSR republics, in respect of which a bilateral agreement has not been signed. This, according to the ECtHR’s *Andrejeva* judgment, amounts to discrimination.

132. ECRI recommends that the Latvian authorities implement the judgment of the ECtHR in a manner that will not have a negative impact on interethnic relations, namely by using it to reduce existing pension entitlements of citizens.

Migrants

133. As at January 2009, there were around 50 000 foreign residents – 34 354 with permanent residence permits and 14 715 with temporary ones. ECRI notes that

although this group represents only 2% of the total population, it faces many obstacles which hinder its ability to integrate into society (see paragraph 59 as concerns the index of integration).

134. In its third report, ECRI recommended that the Latvian authorities reinforce their efforts to adopt an immigration policy which contains measures to promote the integration of immigrants in Latvia, notably through combating stereotypes and prejudice among the general public against immigrants.
135. ECRI has been informed by the authorities of a number of EU funded initiatives that have been carried out in the field of integration of migrants. As concerns combating stereotypes, a project was organised to promote tolerant and welcoming attitudes towards third country nationals⁶⁴. In this context, an information campaign was launched through the mass media and advertisements/billboards were posted in Riga and cities with high rates of immigration. Under another EU funded project, activities aimed at integrating migrants' children and teaching them Latvian were carried out. Further, under the project Foundation of Centre for National Integration, activities were developed to facilitate migrants' access to state/private services⁶⁵. Furthermore, although language courses are no longer provided by the SIF, an e-course in Latvian language, culture and history is now available. ECRI has been informed, however, that besides these EU-funded initiatives, a comprehensive migration policy is missing for the time being (see paragraph 48 of this report). In the light of the important emigration flux that Latvia has experienced in recent years and the growing role that immigration is likely to play in the Latvian labour market, ECRI deems that it is in the country's interest to adopt a forward looking immigration policy geared to integrate newcomers.
136. ECRI reiterates its recommendation to adopt an immigration policy which contains measures to promote the integration of immigrants in Latvia and to step up efforts to combat stereotypes and prejudice among the general public against migrants.
137. ECRI further recommends that the authorities provide and fund Latvian language courses to help migrants integrate in Latvian society.
138. ECRI has been informed by the authorities that procedures for the granting/renewal of residence permits have been simplified as they now enable migrants to submit all relevant documents to one office. However, other sources highlight that the relevant administrative proceedings are still very complicated and require applicants to assemble almost the same set of documents that were needed to apply for a residence permit the first time. It would also appear that written instructions on the procedure to extend or register a temporary residence permit are not provided.
139. ECRI recommends that the Latvian authorities make efforts to simplify the procedure for requesting/renewing residence permits and provide clear written instructions to the applicants.
140. ECRI notes that persons with temporary residence permits can stay in the country as long as their employment contract lasts. ECRI further notes that this category of migrants enjoys a lower level of social protection in a number of fields. As regards access to health care, temporary residents are required to purchase a health insurance policy; the cost of such policy is rather high (even

⁶⁴ *Informing Latvian society on third country nationals.*

⁶⁵ *For instance the webpage www.integration.lv was created and a toll free number to seek information was set up. Language courses were also apparently provided.*

when it only covers emergency services)⁶⁶. Moreover, social services and social assistance are available only to persons who, after at least a five year stay in the country, have secured a permanent residence permit. Finally, persons with a temporary residence permit are not covered by the legal aid scheme. Notwithstanding all the above, they are subject to the same income tax and pay the same social security contributions as citizens.

141. ECRI recommends that the Latvian authorities extend access to State-funded health care, social services, social assistance and the legal aid scheme to persons with a temporary residence permit.

142. As concerns employment opportunities and conditions, most training programmes are only accessible to persons with permanent residence permits. Further, a study shows that many companies require foreigners (in particular persons with a temporary residence permit) to work overtime without any additional compensation. Some respondents of this study claimed to be working 72 hours a week. ECRI considers that the authorities should monitor closely the working conditions of this category of migrants.

143. As concerns access to health care, ECRI has been informed that, while the leaflets of medicine are often translated in other languages, they are not translated in Russian. Further, as regards migrants in an irregular situation, while access to emergency services is ensured, all related costs must be borne by them. ECRI notes that this may represent a problem for those who do not have the means and raises doubts as to their effective access to such services.

144. ECRI recommends to Latvian authorities that emergency services be provided free of charge to all those who do not have the means to pay for them.

145. ECRI notes that the Law on Immigration allows the authorities considerable scope for ordering the return/forced return of third country nationals (including long-term residents)⁶⁷ In addition, ECRI notes that the authorities enjoy a wide margin of appreciation as concerns the inclusion of a third-country national (including a long-term resident) in the list of “third country nationals for whom entry into Latvia is prohibited”⁶⁸ and the list of *personae non gratae* and that such inclusion represents a legal ground for revoking a residence permit. In this connection, ECRI has been informed of the expulsion of a Russian citizen, activist for the protection of Russian schools. Born in Latvia, he left in the early 1990s to work in Russia and received Russian citizenship. He later married a Latvian citizen and received a permanent residence permit to stay in Latvia. One month after the death of his wife, he was informed that his residence permit had been revoked and that he had been placed on Latvia’s list of *personae non gratae*. He was subsequently detained and expelled. Although the Senate of the Supreme Court of Latvia found in favour of the above-mentioned person, the Minister of Foreign Affairs maintained his name in the list of *personae non gratae*. Consequently, he cannot visit Latvia despite the fact that his elderly mother lives in the country; nor can he appeal against the decision as this is not provided for under Latvian law. ECRI has not been provided by the authorities with any details as concerns the reasons justifying

⁶⁶ Furthermore, a study shows that 66% of migrants who have had health problems while in Latvia, have experienced difficulties receiving health care services. Notably 39% of respondents highlighted that only expensive services had been made available to them and 17% complained that medical services had not recognised their health insurance policy.

⁶⁷ The Law on Immigration was amended in 2011. The authorities have informed ECRI that, further to these amendments, these decisions may now be appealed against.

⁶⁸ Under Article 61, sentence 6 of this law (prior to the 2011 amendments), a person may be included in such list, if his/her entry or residence in the country is not desirable for other reasons (other than those already listed in the relevant provisions) on the basis of an opinion delivered by the competent authorities.

the Ministry of Foreign Affairs' decision and notes that the circumstances around this case are unclear and raise doubts as to their reasonableness and proportionality.

146. ECRI recommends that the Latvian authorities clearly define by law the cases in which third-country nationals may: be included in the list of "third country nationals for whom entry into Latvia is prohibited" and the list of "personae non gratae"; be returned and/or forcibly returned. ECRI further recommends that the authorities provide for the right to appeal against decisions on forcible return as well as decisions to place persons on the list of "personae non gratae".

147. As concerns migrants in an irregular situation, prior to the 2011 amendments of the Law on Immigration, the maximum period for detention pending expulsion provided for under Latvian law was 20 months (the latter are detained in the same centre as asylum seekers; in this connection, ECRI refers to its conclusions in paragraphs 168 and 170 of this report). This exceeded the maximum period of detention provided for under the relevant European Union directive⁶⁹, notably six months, which may be extended by a further 12 months. ECRI welcomes the fact that, further to the above-mentioned amendments, the maximum duration of detention pending expulsion of migrants in an irregular situation has been brought in line with the relevant Directive. Notwithstanding these amendments, ECRI has been informed of cases in which the previous 20 month limit had been exceeded. Notably, in one case, an African whose asylum application had been rejected, was detained and freed repeatedly beyond the 20 month limit. It would appear that the Border Guards (BG) found ways of circumventing the court's release orders. This does not appear to be in line with the ECHR safeguards aimed at protecting migrants from indefinite detention when their expulsion and/or identification proves to be impossible. Further, ECRI is also concerned about the legal status of the said migrant, who does not have access to any form of social or assistance when he is not detained.

148. ECRI recommends that the Latvian authorities set a limit to detention pending expulsion, in line with the relevant European Union directive. ECRI further recommends to the authorities to comply with their human rights obligations not to subject to detention pending expulsion persons who cannot be expelled.

149. ECRI recommends that a humane solution be found and social assistance be provided in all cases in which a person cannot be expelled from the country and thereby finds him/herself in a "legal limbo".

Refugees and asylum seekers

150. Latvia receives a relatively low number of asylum applications; however, since its third report, an increase in the number of asylum claims lodged has been registered⁷⁰. The overall recognition rate has fluctuated to a great extent: while in 2008 and 2009 it was very low, it was higher in 2010⁷¹.

151. In its third report, ECRI recommended that the authorities further improve the legislation on asylum, in particular as regards the criteria and conditions for the

⁶⁹ Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals.

⁷⁰ According to statistics provided by the authorities, 34 applications were received in 2007, against 51 in 2008, 52 in 2009 and 61 in 2010.

⁷¹ In 2010, out of 61 applicants, 7 obtained refugee status and 18 alternative protection ; in 2009, out of 52 applicants, 5 obtained refugee status and 6 alternative protection, while in 2008, out of 51 applicants, 2 obtained refugee status and one alternative status.

detention of asylum seekers, the insufficient time frame for submitting an appeal under the accelerated procedure and access to free legal aid.

152. ECRI notes that in June 2009, a new Law on Asylum came into force. Under its Article 9(1), in certain cases specified by the law, BG have the right to detain an asylum seeker for a period of up to seven days and nights, before a court can intervene⁷². The above term has been shortened (previously it was 10 days) and reflects, according to the authorities, the time needed to collect the necessary documentation. However, ECRI deems this term to be excessively long. Court review in most other cases of apprehension by police is provided for after 48 hours, notwithstanding the fact that in these cases relevant documents and information need to be collected as well.

153. ECRI recommends that the authorities shorten the timeframe in which the detention of an irregular migrant must be reviewed by a court and bring it in line with other cases provided for under Latvian law.

154. While under Article 13 of the new law, asylum seekers may not be detained longer than the time needed to process their asylum claims (while the orders may be renewed, the law provides for a twelve month ceiling), ECRI has been informed that this time-limit has not been respected. Furthermore, no alternative measures to detention are provided for under Latvian law and in most cases BG order the detention of asylum seekers on grounds of national security.

155. ECRI recommends that the Latvian authorities ensure that the detention of asylum seekers is used only as a last resort and that measures alternative to detention are introduced for all other cases. The authorities should ensure that when detention is ordered, the time-limit provided for by law is respected in practice.

156. ECRI further notes that the Latvian authorities may refuse asylum on grounds of national security and public order, in violation of the Convention relating to the Status of Refugees⁷³.

157. ECRI recommends that the Law on Asylum be amended so as to remove national security and public order as grounds for refusing refugee status.

158. ECRI is pleased that under the new Law on Asylum, the time-limit to appeal against decisions on asylum claims examined under the accelerated procedure has been extended from two to ten days. Further, under Article 10, sentence 3 of the above law, asylum seekers who do not have sufficient funds may exercise the right to receive State-funded legal aid.

159. As concerns more in particular the examination of asylum claims under the accelerated procedure⁷⁴, the authorities have informed ECRI that it has never

⁷² If 1) the identity of the asylum seeker has not been established; 2) there is reason to believe that the asylum seeker is attempting to use the asylum procedure in bad faith; or 3) competent state authorities, including the BG, have reason to believe that the asylum seeker represents a threat to national security or public order and safety.

⁷³ Article 1F of the 1951 Convention relating to the Status of Refugees (the exclusion clause) provides an exhaustive list of cases whereby persons are not eligible to be recognised as refugees. Threat to national security and public order are not mentioned in this Article. According to the UNHCR (see Guidelines on International Protection: Application of the Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees, HCR/GIP/03/05, 4 September 2003), the exclusion clause is not to be confused with Article 33(2) of the Convention which deals with the withdrawal of protection from recognised refugees who pose a danger to the host State (notably, Article 33(2) provides that the benefit of the non-refoulement provision "may not [...] be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he [or she] is, or who, having been convicted by a final judgement of a particularly serious crime, constitutes a danger to the community of that country").

been applied and that persons applying for asylum at the border are transferred in all cases either to the reception centre or the Olaine detention centre⁷⁵. However, other information would indicate otherwise. More specifically, there have been reports of persons whose asylum claims have been immediately reviewed by BG at the border and who have been refused entry or returned to their country. There is also information indicating that some asylum seekers have been denied access to the asylum procedure, particularly at the border and at the International Airport in Riga⁷⁶. The authorities have informed ECRI that they collect statistics on the number of asylum applications lodged at the border and the number of appeals against negative decisions, in the context of the BG annual report. However, ECRI notes that such statistics are not clearly laid out and are difficult to interpret. The provision of clear statistics on the asylum applications lodged at the border and the number of subsequent appeals are important in order to monitor the situation and problems encountered in this paragraph.

160. ECRI recommends to the authorities that all persons, including asylum seekers who present themselves at the border, be granted effective access to the asylum procedure. ECRI further recommends that the authorities systematically collect statistics on the number of asylum applications lodged at the border and the number of appeals lodged against negative decisions. These statistics should be broken down in a clear and reader-friendly manner.

161. ECRI has also been informed that BG undertake an initial interview only upon an explicit asylum request. Information leaflets on the asylum procedure are distributed only on an ad hoc basis or upon request and many asylum seekers claim that they have received little or no information. The authorities on the other hand have informed ECRI that, once asylum seekers lodge an asylum application, they are provided with a form indicating the rights and duties associated to such status.

162. ECRI recommends that the authorities step up their efforts to make information on the asylum procedure widely available to potential applicants and visible at all relevant state entry points.

163. ECRI has also been informed that, while interpretation is provided under Latvian law when the asylum seeker does not speak the state language, in practice, there are cases where the acts of the asylum procedure, including the court decision, are not translated or are translated insufficiently. Further, it would appear that there is an insufficient amount of interpreters in Arabic.

164. ECRI recommends that the authorities ensure that the provisions on translation and interpretation services in the Law on Asylum be applied in practice.

165. In its third report, ECRI encouraged the Latvian authorities to facilitate the integration of asylum seekers and refugees through combating stereotypes and prejudice among the general public against them. It also recommended that they provide all officials in contact with asylum seekers and refugees with

⁷⁴ Under Article 19 this is the case when an asylum seeker: 1) is from a safe country of origin; 2) has entered Latvia, crossing a country which is not a EU Member State and is regarded as a safe third country in relation to the asylum seeker; 3) has submitted another application, indicating other personal data; 4) without justified reason, has not submitted an application earlier, although he or she had such opportunity, including in order to delay or prevent his or her return from Latvia; or 5) poses a threat to national security or public order and safety.

⁷⁵ The authorities have informed ECRI that during the first 7 months of 2011, 56 persons applied for asylum at border crossing points and that no application was rejected.

⁷⁶ Notably, ECRI has received information that in 2009 a group of 10 Afghan nationals were denied the possibility to apply for asylum; the authorities have not been able to confirm this.

training on human rights, including the principle of non-discrimination, and on the procedure to grant asylum.

166. ECRI has been informed that in 2008, in the context of the Integration of New Society Members project supported by the European Refugee Fund, various initiatives were launched, including courses on integration and classes in Latvian language. ECRI welcomes these initiatives and urges the authorities to continue funding activities of this type. However, NGOs have highlighted that funds from the European Integration Fund, which are disbursed by the authorities, are frequently made available with long delays and do not permit NGOs and associations which work in this field to make full use of them. It would also appear that while in the past activities aimed at the integration of refugees/asylum seekers were mainly entrusted to NGOs, authorities and less experienced civil servants are increasingly taking over.
167. Refugees and persons with subsidiary protection are granted an allowance covering living expenses and the costs of Latvian language courses. Education is ensured to children of asylum seekers, refugees and persons who have been granted subsidiary protection, free of charge. As concerns health care, while asylum seekers and refugees are provided emergency and primary health care, persons who have been granted subsidiary protection must bear such costs themselves. The obligation to provide emergency health services is an obligation of absolute character.
168. ECRI has been informed that the living conditions in the Olaine detention centre, where asylum seekers are kept together with irregular migrants, are not satisfactory and that a new centre will be opened in Daugavpils as of June 2011. While the improvement of conditions of detentions is a positive step, ECRI has been informed that the new centre will be at a four and a half hours drive from Riga and, that, accordingly NGOs will no longer be able to ensure regular legal and other assistance. Further, courts in Daugavpils may not be trained and prepared to deal with asylum-related issues.
169. ECRI strongly recommends that the authorities extend State-funded primary health care and emergency services to persons who have been granted subsidiary protection.
170. ECRI strongly recommends that the authorities make available the necessary funds in order to ensure that: NGOs providing legal and other assistance continue to do so at the Daugavpils detention centre; and judicial authorities in Daugavpils receive training, if needed, on asylum-related issues.
171. As concerns training of officials in contact with asylum seekers and refugees, ECRI is pleased that under the newly signed memorandum between BG and the UNHCR, the latter will provide training to the former on international standards related to asylum. However, NGOs have highlighted that more could be done in this field, in particular, if funds were made available to them once again.

VI. Conduct of Law Enforcement Officials

172. There is no independent authority (from the police) which examines complaints on abuse of power related to racism perpetrated by law enforcement officials. Complaints about police misconduct (including complaints about abuse of power related to racism) can be submitted to the territorial police divisions' personnel-inspection units. The Internal Security Bureau of the State Police investigates cases of police misconduct and breaches of professional ethics. Further, the Ministry of Interior Personnel Inspection Board may conduct investigations in cases of misconduct by the Ministry of Interior Central Office

personnel and of staff of subordinate units of the Ministry of Interior (police, BG, fire-fighter service)⁷⁷.

173. The national statistics on the number of disciplinary investigations opened against police officers do not specify the number of investigations opened for abuse of power related to racism⁷⁸. However, ECRI was informed that in the period under review, no such complaints were registered.

174. ECRI recommends that the authorities set up an independent mechanism, separate from police structures, for investigating allegations of police misconduct, including racist behaviour. ECRI further recommends that the statistics on the number of disciplinary investigations against police officers specify the number of investigations opened for racist conduct. ECRI draws the authorities' attention to its General Policy Recommendation No. 11 on combating racism and racial discrimination in policing.

175. In its third report, ECRI recommended improving training of the police in human rights and raising their awareness of racism and racial discrimination issues and on cultural diversity.

176. As concerns training of police officials, ECRI has already expressed its support in paragraphs 29, 38 and 114 of this report for certain activities that have been carried out. ECRI further commends: the training carried out in collaboration with the Czech, as well as the Swedish police on the identification, investigation and collection of data on hate crime; and the project culminating in the issuing and distribution of a handbook for police on hate crimes.

177. In its third report, ECRI urged the authorities to take steps to prohibit racial profiling by the police.

178. Other than training on hate crime, racism and racial discrimination, ECRI did not receive any information indicating that initiatives have been taken in the reference period in order to prohibit and prevent racial profiling. Further, no statistics are collected on the representation of national/ethnic minorities in the police force.

179. ECRI strongly recommends that the Latvian authorities clearly define and prohibit racial profiling by law enforcement personnel and strengthen police training on this issue and on the use of the reasonable suspicion standard, as recommended in Section I of its General Policy Recommendation No. 11 on combating racism and racial discrimination in policing. ECRI further recommends to the authorities to collect statistics on the representation of national/ethnic minorities in the police force and to encourage the recruitment of members of the latter.

VII. Monitoring Racism and Racial Discrimination

180. In its third report, ECRI strongly encouraged the Latvian authorities to continue supporting and financing studies, surveys and polls on subjects which are of relevance to the fight against racism and racial discrimination, including work on interethnic relations, on integration and how minority groups are perceived by the majority population.

⁷⁷ *Complaints about BG and immigration officials can also be submitted to the Central Board of the State Border Guard, which exercises internal inspection functions.*

⁷⁸ *Under Article 7 of the Police Ethics and Conduct Code, police officers must respect the principle of equal treatment.*

181. ECRI has been informed about a few studies/surveys that have been carried out by the Latvian authorities in the reference period, including the population survey on integration and attitudes towards migration carried out by the Riga City Council and the 2008 study carried out by the Ombudsman on relations between Roma and the police. ECRI supports these initiatives and encourages the authorities to increase the financial support for these types of studies, in order to gauge and tackle more effectively racism and racial discrimination in Latvian society.
182. In its third report, ECRI recommended that the Latvian authorities consider introducing a coherent and complete data gathering system for monitoring the situation of vulnerable groups by collecting relevant information broken down according to categories such as ethnic origin, language, religion and nationality. in different policy areas, with due respect for the principles of confidentiality, informed consent and the voluntary self-identification of persons as belonging to a particular group.
183. ECRI has been informed and is satisfied that, in the context of the 2011 census that has been carried out, it will be possible to analyse information on employment, housing, education and migration in conjunction with data related to citizenship, ethnicity and language; on the contrary, information concerning religion has not been collected. Further, the Central Statistics Bureau carries out labour surveys, in the context of which information on employment, education, housing, income, ethnicity and nationality is collected. However, while most of this information is published on a quarterly basis, the information on ethnicity and nationality is only published upon request. ECRI notes that, while these two initiatives are positive, it is important to collect and publish information broken down also on the basis of religion and language, in policy areas such as employment, housing and education, on a continual basis. In this connection, ECRI reminds the authorities that collecting information as described above, is an indispensable tool for understanding whether persons belonging to vulnerable groups (be it ethnic/linguistic/religious) are discriminated in their every day life in employment, education or housing.
184. ECRI recommends that the Latvian authorities ensure that relevant information broken down according to the categories of ethnic origin, language, religion and nationality is collected and published in different policy areas, on a continual basis, with a view of monitoring the integration of Latvian society. This exercise should be carried out with due respect for the principles of confidentiality, informed consent and the voluntary self-identification of persons as belonging to a particular group.

VIII. Education and Awareness Raising

185. In its third report, ECRI recommended that the authorities continue and reinforce their efforts to promote diversity in school education. In particular, ECRI encouraged the Latvian authorities to ensure that the issues of mutual respect, racism and racial discrimination are properly addressed in school curricula and in teacher training on human rights. It also recommended that the authorities: pursue their work on quality control of school curricula and textbooks making sure that they do not contain any racist prejudice or stereotypes concerning any minority group; and revise school curricula and textbooks, so as to make pupils aware of the advantages of a multicultural society.
186. As concerns education on diversity, according to the authorities, human rights, anti-racism and minorities' culture, are still taught in the context of other subjects (such as history, civic education and social studies). According to the 2010 annual report of the FRA, there is a reported lack of educational material

depicting ethnic, religious and linguistic diversity in Latvia and the majority of minority teachers are concerned about the manner in which school textbooks represent ethnic minorities. ECRI examines the teaching of the Holocaust in paragraph 115 of this report. With regards to teacher training, according to the authorities, 158 teachers were trained in 2009 on intercultural communication and tolerance; further, multiculturalism, democratic and civic education have been incorporated in the compulsory curriculum for social science teachers. However, other sources have highlighted that teachers are still not sufficiently trained to teach in a diverse classroom. ECRI has been informed that Latvian textbooks are regularly checked by the authorities on the issue of discrimination and respect for human rights.

187. ECRI recommends that human rights and knowledge about the culture of national/ethnic minorities be made a separate compulsory subject at school. ECRI further recommends that the Latvian authorities continue and strengthen the training on intercultural communication and tolerance provided to teachers.

188. As concerns awareness raising activity on discrimination and intolerance, this has been described in paragraphs 29, 35, 38, 48, 80 and 176. ECRI regrets that the National Programme for the Promotion of Tolerance in Latvia, described in ECRI's third report, was not renewed.

INTERIM FOLLOW-UP RECOMMENDATIONS

The three specific recommendations for which ECRI requests priority implementation from the authorities of Latvia, are the following:

- ECRI strongly recommends that the Latvian authorities endow the Ombudsman's Office with sufficient funds and human resources and reverse the present trend of cutting its budget. It further reiterates its recommendation to improve the accessibility of this institution in different languages and in the different regions of Latvia.
- ECRI recommends that the authorities ensure that the newly adopted Policy Guidelines for the Integration of Society in Latvia pave the way for a broad based programme focusing on anti-discrimination, an open and integrated society and concrete measures to implement it. ECRI further recommends that sufficient financial resources be allocated in a timely manner to implement the Guidelines and that civil society, national/ethnic minorities and local authorities be involved in its implementation. Coordination between all relevant actors who are involved in its implementation should be ensured.
- ECRI reiterates its recommendation to close any remaining special classes for Roma and integrate Roma students in mainstream classes. To facilitate this, ECRI recommends that the authorities reinstate the Roma assistant teachers trained under the Plan for Roma. Finally, ECRI recommends to the authorities to address the high representation of Roma children in special needs' schools.

A process of interim follow-up for these three recommendations will be conducted by ECRI no later than two years following the publication of this report.

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APPENDIX: GOVERNMENT'S VIEWPOINT

The following appendix does not form part of ECRI's analysis and proposals concerning the situation in Latvia

ECRI, in accordance with its country-by-country procedure, engaged into confidential dialogue with the authorities of Latvia on a first draft of the report. A number of the authorities' comments were taken on board and integrated into the report's final version (which, unless otherwise indicated, only takes into account developments up until 22 June 2011, date of the examination of the first draft).

The authorities also requested that the following viewpoint be reproduced as an appendix to the report.

**Comments of the Government of Latvia
on the European Commission's Against Racism and Intolerance (ECRI)
fourth report on Latvia**

I. Existence and implementation of legal provisions

International legal instruments

Paragraph 3

On-going discussions regarding ratification of the Revised European Social Charter indicate towards the willingness on the part of Latvia to accept the following provisions: Articles 1-3, Article 4 Paragraphs 2-5, Articles 5-6, Article 7 Paragraphs 1-10, Articles 8-11, Article 12 Paragraphs 1-2, Articles 13-14, Article 15 Paragraphs 1 and 2, Article 16, Article 17 Paragraph 1, Article 18 Paragraphs 1 and 4, Article 19 Paragraph 1 and 4-12, Articles 20-22, Articles 24-26, Article 27 Paragraphs 1-3, Articles 28-29, Article 31 Paragraph 1.

Paragraphs 6-7

Latvia reiterates that it gives preference to the binding international monitoring mechanisms.

Criminal law provisions

Paragraph 10

Latvia believes that ECRI should respect explanations provided by the national authorities regarding existence and/or interpretation of national legal provisions. Even international law does not go as far as to oblige States to provide responsibility for a particular offence in a separate article of the criminal law; it confines itself to an obligation to criminalise while leaving a wide margin of appreciation on the part of the State to determine the means to attain this aim. Latvia would like to reiterate that Article 78 of the Criminal Law is to be read in conjunction with Article 20 of the Criminal Law.

Paragraph 11

Article 78 of the Criminal Law provides criminal liability for a person who commits acts intentionally directed towards triggering national, ethnic or racial hatred or enmity. There is no listing of acts but the wording „acts intentionally directed towards” covers all the possible acts with the particular intent, including production, distribution, acquisition, transportation, storage of items that incite hatred on ethnic, racial or similar grounds. Latvia considers that the listing of specific acts does not ensure the flexibility of legal provisions. Therefore, the legislator has chosen such wording to avoid situations where one or another act has been left outside the listing.

According to the Article 78 of the Criminal Law the penalty for committing the acts listed above is deprivation of liberty for a term not exceeding three years. For a person who commits the same acts, if they are associated with violence, fraud or threats, or where they are committed by a group of persons, a State official, or a responsible employee of an undertaking (company) or organisation, or if it is committed utilising automated data processing systems, the applicable punishment is deprivation of liberty for a term not exceeding ten years.

Participation in a group which promotes racism of items that incite hatred on ethnic, racial or similar grounds is covered by Article 78 of the Criminal Law - for a person who commits acts intentionally directed towards triggering national, ethnic or racial hatred or enmity where they are committed by a group of persons the applicable punishment is deprivation of liberty for a term not exceeding ten years.

Violation of religious feelings of persons or incitement to hatred in connection with the attitudes of such persons towards religion or atheism is covered by Article 150 of the Criminal Law by a penalty of deprivation of liberty for a term not exceeding two years or community service, or a fine not exceeding forty times the minimum monthly wage. For a person who commits the same act, if substantial harm is caused by such act or it is associated with violence, fraud or threats, or where it is committed by a group of persons or a State official, or a responsible employee of an undertaking (company) or organisation, or if it committed utilising automated data processing systems, the applicable punishment is deprivation of liberty for a term not exceeding four years or community service, or a fine not exceeding eighty times the minimum monthly wage.

Paragraph 12

Liability for participating in a group that promotes racism is covered by Section 78 of Criminal Law. For a person who commits acts intentionally directed towards triggering national, ethnic or racial hatred or enmity where they are committed by a group of persons the applicable punishment is deprivation of liberty for a term not exceeding ten years.”

Civil and administrative law

Paragraphs 22-23

Latvia does not agree with the conclusions made by ECRI which state that Latvian civil and administrative law in anti-discrimination is insufficient. Latvia has chosen an approach to lay down the prohibition of discrimination in all laws of the sector. Even though all the laws do not contain provisions regarding the right to receive compensation in the case of breach of the article on prohibition of discrimination, this right is provided for in general laws. Article 1635 of the Civil Law states that every delict, that is, every wrongful act *per se*, as a result of which harm has been caused (also moral injury), shall give the person who suffered the harm there from the right to claim satisfaction from the infringer, insofar as he or she may be held at fault for such act. The term ‘act’ is used within the widest meaning, including not only acts, but also the failure to act, that is, inaction. By moral injury is understood physical or mental suffering which is caused as a result of unlawful acts committed to the non-financial rights or non-financial benefit delicts of the person who suffered the harm. The amount of compensation for moral injury shall be determined by a court at its own discretion, taking into account the seriousness and the consequences of the moral injury.

Article 92 of the Administrative Procedure Law provides that everyone is entitled to claim due compensation for financial loss or personal harm, including moral injury, which has been caused him or her by an administrative act or an actual action of an institution.

Therefore, the principle of the right to claim satisfaction for violation of one’s rights, including compensation for moral injury, is fixed in the administrative and civil law systems of Latvia. This is a fundamental principle of the Latvian legal system. The Latvian legal system does not specify every single means of violating rights that would entitle to claim compensation. The right to claim compensation is derived from general legal acts.

Paragraphs 32 and 35

In 2010 the Ministry of Justice lead informative campaign for promoting diversity and non-discrimination “Be tolerant!”, which envisaged shooting and broadcasting reels by the first channel of the national TV, and placing thematic posters in the public transport stops in 4 Latvian cities.

Numerous informative and educational activities were implemented within the Third Countries Nationals Integration Fund projects and the European Commission co-financed projects “Latvia - Equal in Diversity” in 2009-2010. The projects’ activities contained:

training on diversity issues for young politicians; forums for the ethnic NGOs on racism, Roma discrimination on labour market; multiculturalism studies and lectures on discrimination prevention in study programs to school pedagogues (several school projects); seminars to the third country nationals on their rights and obligations in Latvia, Latvian legislation; workshops on professional skills improvement for public institutions' employees, medical and social workers, dealing with immigrants and visual minorities. Informative and methodological materials, as well as handbooks and internet resources to politicians, social workers, teachers, and public employees were developed in the framework of the mentioned projects.

The Latvian Centre for Human Rights and other outstanding NGOs with financial support from the European Commission have published brochures on diversity in the media, possibilities to receive support in cases of discrimination, legislation analysis and police practical issues survey in discrimination cases, handbook for social workers and public employees on communication with diverse clients.

Anti-discrimination body

Paragraph 38

Further, during the period covered by the report Latvia underwent economic crisis that implied drastic cuts in the public sector funding and therefore budgets of all the public institutions had been reduced several times to overcome the economic crisis. The overall cuts of the Ombudsman's Office budget comprised 57% instead of the total 68% as stated in the report. While Latvia understands the impact of such cuts onto the institution of Ombudsman, however, it should be noted that cuts were applied to all public institutions. When drawing up the State budget for 2012, additional Ls 100 000 were allocated to the Ombudsman's Office to raise the capacity of the institution.

Government policies and integration/anti-discrimination programmes

Paragraph 48

The Guidelines on National Identity, Civil Society and Integration Policy 2012-2018 (hereinafter - Guidelines) were announced at the meeting of State Secretaries on 1 September 2011. Numerous public discussions of the Guidelines' project were held between 10 August and 19 September with different society groups (national minorities, secondary school history teachers, media representatives, Latvian nationals abroad, human right activists and NGO specialists) in Riga and Latvian regions.

The draft Guidelines was presented and discussed at the National Minorities NGO Committee on the Framework Convention for the Protection of National Minorities (2 meetings were dedicated to the question of the new integration policy document), at the Consultative Committee on National Identity and Social Integration established by the Minister of Culture (3 meetings), the Civil Society Committee (1 meeting). Various recommendations from NGOs, private persons and state institutions were received and taken into account. The draft Guidelines were available at the Ministry's webpage where the summary of public discussions is also made available. The Guidelines were adopted by the Cabinet of Ministers on 11 October 2011.

Paragraph 52

The priorities and tasks defined after expiration of the National Programme for Promotion of Tolerance 2004-2009 and the Programme 'Roma in Latvia 2007-2009' were integrated into the Guidelines on National Identity, Civil Society and Integration Policy 2012-2018 that were adopted by the Cabinet of Ministers on 11 October 2011. Special tasks and activities promoting Roma education and employment, as well as combating Roma discrimination are foreseen within the Action Plan of the Guidelines.

II. Discrimination in various fields

Employment

Paragraph 59

Active employment measures and preventive measures intended for unemployed persons, persons seeking employment and persons subject to the risk of unemployment are provided to foreigners for as long as their temporary residence permit does not expire before the end-date of the planned measure.

Paragraphs 62 and 66

Regarding the statement in this Paragraph that "the Latvian authorities have significantly hardened their policy on the use of the state language, including in the employment sector, despite ECRI's and other international bodies' recommendations to provide for the obligation to use the state language only in cases when this serves a legitimate public interest", Latvia would like to reiterate that all the relevant provisions have been issued and adopted in accordance with ECRI's and other international bodies' recommendations and giving due consideration to legitimate public interests.

Further, Latvia does not agree to the statement made in this paragraph of the report that the policy on State language "is creating an inquisitorial climate". The policy on State language, inter alia, provides for supervision of use of the State language. Latvia considers that describing supervision of the use of the State language as "creating an inquisitorial climate" is an overstatement and does not reflect the actual situation in Latvia, and, therefore, usage of such a phrase in the report or otherwise should be avoided.

Latvia would like to note that the Action Plan of the Guidelines on National Identity, Civil Society and Integration Policy 2012-2018 foresees numerous activities on popularisation of the Latvian language and language training courses.

Paragraph 65

Latvia would like to inform that after the reorganisation of the National Language Agency and the National Agency for Latvian Language Training and merging of these two institutions into the Latvian Language Agency in 2009 the functions of both previously separate agencies were retained. Priority in providing educational content reforms from the State budget was the support for minority education. New teaching and methodological resources are being elaborated for grades 4-9 of the elementary schools. The minimum necessary materials for the State language learning for adults were provided: electronic Latvian language course⁷⁹ was elaborated as well as animators for bilingual education and teachers for adult Latvian language courses were trained. The Latvian Language Agency has been providing free courses for national minority school teachers (courses for professional duties performance in bilingual education) and for parents of national minority pupils.

Latvia would like to inform that in accordance with Section 3 of the Law on the Support to the Unemployed Persons and Persons Seeking Employment the State Employment Agency provides Latvian language learning courses as one of the active employment measures. The Latvian language learning courses are provided by the State Employment Agency also in the framework of the lifelong learning programme.

⁷⁹ See http://www.valoda.lv/Papildus_Materiali/eapmaciba2/default.htm.

Exercise of political rights

Paragraph 68

Latvian authorities are convinced that for the elected members of municipalities to be able to effectively defend the interests of their electorate and of the residents of the respective municipality as a whole, mastering the State language at a sufficient level so as to be able to freely communicate with other elected members and the residents is of an utmost importance. Otherwise, interethnic tensions might actually be promoted by the inability of an elected member of a municipality to freely communicate and effectively contribute to the work of the municipality.

The mechanism provided for in the law sets a fair balance between important State and society interests on the one hand and an individual's fundamental human rights on the other.

It should be noted that ECRI makes inaccurate reference to the functions of the Latvian Language Agency in the report. The Latvian Language Agency is responsible for implementing the State language policy; it is not the institution responsible for supervising the use of the State language. The Latvian Language Agency provides high quality Latvian training courses for State and municipal officials if State and/or local government resources are allocated for this purpose. Testing the correspondence of the State language proficiency to a certain degree and issuing a document attesting to that is not the function of the Latvian Language Agency (the responsible institution is the National Centre for Education Content), neither is testing a person's ability to use the official language to the extent required for the performance of their professional and official duties (here the responsible institution is the State Language Centre).

Education

Paragraphs 71 and 72

Please refer to the information provided under paragraph 65 on activities of the Latvian Language Agency to improve education in Latvian.

Latvia would like to note that all the materials elaborated in the framework of the EU structural funds projects' have been provided free of charge to schools implementing programmes for national minorities as well as schools where teachers work in linguistically heterogeneous environment.

The Latvian Language Agency cooperates with Latvian and foreign universities and thus promotes the development of the methodology of teaching Latvian as a second and as a foreign language and of bilingual education methodology.

Furthermore, it should be noted that since 2007 pupils taking secondary school final examinations are given the option to provide answers to the examination questions in Latvian or in Russian. As regards the quality of education it should be noted that the education reform is progressing successfully and the attitude of the general public towards the reform is positive. The implementation of education reform has not affected the quality of education in minority schools. 2009/2010 was already the fourth school year that passed the exams according to the 60/40 model.

The results in minority schools show that the education reform has had no negative impact on results of pupils graduating from minority schools, for example, according to data the results of graduates from minority schools in such complex subjects as biology, physics, chemistry, and mathematics, are even better than in schools with Latvian as language of instruction.

Moreover, these results have been achieved notwithstanding the fact that more than half of pupils in minority schools had chosen to reply in final exams in Latvian, that is, not in their native language. In 2008/2009 school year 60% of national minority pupils had chosen to reply in Grade 12 centralised exams in Latvian, and 40% - in Russian, but in 2009/2010 already 72% of national minority pupils replied in centralised exams in Latvian and 28% - in Russian. The OSCE High Commissioner for National Minorities Knut Vollebeak during his visit to Latvia in February 2011 acknowledged Latvia's continued progress in the field of integration and noted the important role of successful education reform in this positive development.

Latvia believes that the State support for education reforms is purposeful and effective which is attested by the results of the centralised examinations as well as the outcomes of the Latvian Language Agency's socio-linguistic researches⁸⁰.

Paragraph 73

Due to demographic reasons the number of pupils in schools decreases. Therefore, in order to optimise the educational system in the context of the economic crisis a principle "Money follows the pupil" was introduced. Following application of this principle part of the educational institutions were reorganised or at times even closed down. It should be mentioned that schools with bilingual education programmes are as equally provided for as schools with education programmes in Latvian, while in applying the same principle, "Money follows the pupil", several municipalities provide preferential treatment as concerns funding to national minorities' educational institutions.

Paragraph 76

As regards the footnote 33 made under this paragraph in the ECRI report, Latvia would like to note that all the national minorities in whose language State financed secondary education minority programmes are provided in Latvia - Russians, Poles, Jews, Ukrainians, Estonians, Lithuanians, Roma and Belarusians - are represented in the Ministry of Education and Science Consultative Council for Minority Education. The members of the Consultative Council are assigned to work at the Council by educational institutions, NGOs, universities, institutions and associations.

IV. Climate of opinion, public discourse and media

Climate of opinion and public discourse

Paragraphs 86 and 87

As regards the two examples referred to in the paragraph Latvia would be hesitant to call them 'incidents' since this term is usually used to describe events involving disturbance of public order. This is not the case in these two examples.

Latvia would also like to reiterate that it is a democratic country with all the freedom guarantees provided for in the Constitution. Any totalitarian ideology is unacceptable for Latvia, and it has always condemned and will condemn the crimes of Nazism and communism, and the Holocaust, which do not have and cannot have a statute of limitations. Contrary to interpretations by certain radical groupings, 16 March is by no means a festive day; it is a day when former soldiers come together privately for remembrance gatherings dedicated to their fallen comrades-in-arms. The European Convention for Human Rights provides for the right of everyone to a peaceful assembly and these gatherings are spent in a democratic and peaceful atmosphere, notwithstanding attempts by certain small radical groupings to use this day for their agenda and for boosting their political capital.

⁸⁰ See http://www.valoda.lv/Petijumi/Petijumi/mid_509.

In this regard the Latvian authorities are of the view that court independence and human rights granted in the Constitution should be respected, while no toleration should be paid to abuse of the freedom of speech when it is related to the propaganda of Nazism. The Administrative District Court in its decision of 29 June 2010 satisfied a claim regarding organisation of gatherings, marches and pickets. The organisation of such events is regulated by the Law on Gatherings, Marches and Pickets. According to Article 3, Part 2 of this law the right to assemble shall not be subjected to restrictions except in cases provided for by law and necessary in a democratic society, to protect security interests of the State and the society, to preclude disorders or criminal offences, to protect health and morals of the society, as well as other persons' rights and freedoms.

It does not derive from the decision of 29 June 2010 of the Administrative District Court that the event is to be regarded as glorification of the regime of the Nazi Germany or celebration of Nazi occupation. According to Article 103 of the Administrative Procedure Law the substance of administrative procedure in court is court control of the legality and validity of administrative acts issued by institutions or actual actions of institutions within the scope of freedom of action, as well as the determination of public legal duties or rights of private persons and the adjudication of disputes arising from public legal contracts.

In the course of an administrative proceeding the court determines whether the administrative act and the actual action of the institution complies with the provisions of the Administrative Procedure Law and other norms of law, whether the norms of law and public legal contract give specific rights to or impose duties on the participants in an administrative proceeding; and the compliance of the public legal contract with the norms of law, the fact of its being in force and the correctness of fulfilment.

Taking into account all the above mentioned, the Latvian authorities would like to point out that the court when adjudicating a case does not express its opinion about the event, nor does it pursue analysis of historic events; the court examines legality of the appealed decision.

Prior to the event the Prime Minister and Minister for Foreign Affairs reiterated that Nazism has no justification and its crimes against humanity are painful still today.

Latvia would also like to point out that the organiser of this event does not represent any organization, nor is he a leader of any movement and by no means were his personal remarks reflective of general Latvian public opinion.

V. Vulnerable/target groups

National/ethnic minorities

Paragraph 96

In May 2011 the Ministry of Culture restored the National Minorities NGO Committee on the Framework Convention for the Protection of National Minorities, which was created in 2006 under the Secretariat of the Minister for Special Assignments for Society Integration Affairs and then functioned under the Ministry of Justice in 2009-2010. Two meetings of the committee have taken place in 2011.

Paragraph 98

In accordance with the Electronic Media Law, national and regional broadcasting channels are obliged to observe the rule which states that not less than 65% of the broadcasting time should be provided in the official language.

The Guidelines on National Identity, Civil Society and Integration Policy 2012-2018 envisages to promote creation of broadcast programmes for national minorities and immigrants, as well as cooperation with national minorities' journalists. The aim is to

observe the needs of national minorities' groups when creating programmes for broadcasting channels.

Roma

Paragraph 107

Latvia points out that there are no separate classes for Roma, while a few schools maintain integrated classes.

Further, the paragraph contains an incorrect description of the system of Roma teacher's assistants. Eight out of 20 Roma teachers' assistants trained under the Plan on Roma in school years 2007/2008 and 2008/2009 were working at schools in regions. Also in 2009/2010 school year eight teacher's assistants were employed, out of whom two were paid from the municipal budgets and six from the State budget.

Paragraph 109

With the help and mediation of Roma teachers' assistants Romani children are provided the possibility to get acquainted with their native language in several secondary schools. Some informal afterschool classes on the Romani culture and traditions are also made available.

Paragraph 111

Two projects financed by the European Social Fund on social rehabilitation of Roma were launched in Ventspils and Jurmala in 2011. These projects aim to elaborate and introduce special programmes as well as to promote employment of young Romani people with insufficient education.

Paragraph 114

Any form of racial profiling is utterly condemned by all the law enforcement institutions in Latvia, including the State Police. The Law on Police and Professional Ethics and Conduct Code of the State Police prohibit racial profiling. A control and awareness building system for zero tolerance towards racial profiling has been established and is improved and updated on a regular basis. During the reporting period the State Police does not have any evidence (has received no complaints) regarding racial profiling by police officers. In any case, persons of Roma ethnicity may turn to the Ombudsman's Office free of charge, and this provision is frequently used.

Jewish communities

Paragraph 116

Please refer to the information provided under paragraph 87.

Contrary to what has been stated in this paragraph, no activities commemorating Nazi legion have ever taken place in Latvia.

Paragraph 117

As regards the book of Mr Andris Grūtups 'Beilisāde', it is a historic retrospect into the case of Beilis and its analysis from a legal point of view. It should be noted that the book did not cause any official reaction on the part of the Jewish community in Latvia. Further, a consultant involved in the making of the book was a lawyer from Israel.

Paragraph 118

Since restoration of its independence in 1991 Latvia has addressed the issue of restitution of immovable property confiscated and nationalized during and after the World War II, including Holocaust-related confiscations, to its rightful owners, with the greatest possible political responsibility. Latvia's restitution legislation is among the most liberal in the Central and Eastern Europe. Latvia has established legal framework for the restitution of the real estate properties regardless of the previous owner's or his/her heir's current citizenship and place of residence. Currently Latvia is undergoing the last and the most complicated phase of the process - restitution of heirless communal property.

Non-nationals

Latvia points out that this sub-section of the report (as well as its indication in the table of contents of the report) is unnecessary since it is presented as a sub-section next to the other section on vulnerable/target groups and does not contain any information whatsoever.

„Non-citizens”

Paragraph 121

Three permanent naturalisation testing commissions (centers) work in Riga, Liepaja and Daugavpils; visiting sessions of the commissions take place also in Jekabpils, Valmiera and Ventspils. Thus, naturalisation applicants have the opportunity to take the naturalisation tests in six cities.

Paragraph 124

Latvia would like to point that the Ombudsman of Latvia in his opinion of September 2008 on the differences between the rights of citizens and non-citizens, has acknowledged that the restrictions applied on the non-citizens' right to work in the State sector are well-founded and proportional. The Ombudsman welcomed the improvements made in national legal acts in this sphere during the last years. As concerns the right to work in certain professions in the private sector, the Ombudsman concluded that only in five professions restrictions applied on the rights of non-citizens are not proportional to the aim pursued.

Furthermore, the Ombudsman concluded that the goal of the State is to decrease the number of non-citizens and, by applying this policy, the State does not aim at merging the two statuses (of citizen and of non-citizen) and equating them in the rights possessed, but rather the purpose of the State is to motivate persons to obtain citizenship which would provide them an exhaustive legal link to the state and a broader scope of rights and obligations.

Latvia would like to note that the Ombudsman's opinion regarding non-citizens' rights to occupy certain positions is not the overall opinion of the State and need not be unequivocally agreed to.

In accordance with all the above said, Latvia emphasises that legislation does not foresee a complete exclusion of persons without Latvian citizenship from the public sphere, only restricts them with regard to employment in the State civil service, special civil service, court, prosecution, State security system and home guard. The legality of restrictions to non-citizens in employment and in the right to engage in certain forms of entrepreneurship is to be assessed by separating the public (State) sector from the private sector.

According to the Article 5 of the Advocacy Law, advocates are persons belonging to the court system, however, the court system forms part of national public authorities. Latvia believes that in these fields of rights the obligation of the State is to ensure equal treatment irrespective of one's citizenship, except in cases when differential treatment is

set by law, it has a legitimate aim and it is proportional. When establishing such a requirement with regard to advocates the legislator deemed such a requirement to be proportional and necessary. The citizenship requirement for an advocate is justified since the State has granted the advocate, especially in criminal proceedings, exclusive rights to serve as a State guaranteed defender of individuals' rights.

Latvia would like to draw attention to the fact that the aim of the State, which is also derived from international law, is to reduce the number of persons without citizenship and also of non-citizens. Therefore the State policy with the aim of promoting naturalisation and reducing the numbers of non-citizens is legitimate. Given that the status of non-citizen is not a form of citizenship, in applying this policy the aims of the State is not to merge the status of citizen with that of non-citizen and equate them in the rights possessed but rather motivate persons to become full-fledged citizens. Latvia has implemented a number of activities aimed at facilitating the acquisition of citizenship, which in turn provides the opportunity to occupy positions which have the citizenship requirement.

Besides, the citizens of the EU with advocate qualifications obtained in one of the EU member states, as well as foreign advocates are authorised to work in Latvia in accordance with binding international treaties on legal aid and in compliance with the provisions of the Advocacy Law.

According to the Law on State Civil Service, officials of the State civil service, including the State Police, are to be Latvian citizens. Taking into account that on many occasions the duties carried out by the Municipal Police overlap with those of the State Police, the respective Law on Police had to be adjusted in order to eliminate gaps in legislation and its application.

Paragraphs 126-128

The position of Latvia with regard to the electoral rights of non-citizens at the local level remains unchanged: the right to vote is an integral right of citizenship. The main goal of Latvia's integration policy is to promote naturalization and increase the number of citizens possessing full set of rights, rather than increasing the number of non-citizens possessing many rights. Granting the right to vote to non-citizens at local elections would have a negative effect on the implementation of the State integration policy and would lessen the motivation of non-citizens to naturalize and thus to integrate.

Paragraphs 129-132

Latvia would like to indicate that following the entry into force on 11 June 1999 of the Agreement on Cooperation on Social Security between Latvia and Ukraine, the pension of Ms Andrejeva was recalculated, including pension for the accumulated employment from 1973 to 1981 in Ukraine. The Agreement on Cooperation on Social Security between Latvia and the Russian Federation has also entered into force. In this context Latvia would like to point out that the importance of bilateral agreements in social security has been acknowledged by the European Court of Human Rights itself in the case Andrejeva vs. Latvia.

The Court reiterated at the outset that the respondent State remains free to choose the means by which its legal obligation under Article 46 of the Convention shall be discharged, provided that such means are compatible with the conclusions set out in the Court's judgment. Having regard to the special circumstances of the case, in particular the recent Agreement on Cooperation in Social Security between the Russian Federation and Latvia, the Court considered that it is was required to indicate precisely what would be the best means of ensuring the effective implementation of its judgment in the applicant's individual situation.

Migrants

Paragraphs 140 and 141

The social and health services paid by the State are normally available to permanent residents; still there are exceptions, in particular, for persons with alternative status and their families in the cases foreseen in the Social Services and Social Assistance Law. Social rehabilitation to non-EU citizens is offered in accordance with the Law on Residence of a Victim of Trafficking in Human Beings in the Republic of Latvia.

There is a residency based State health insurance policy for third country nationals in Latvia. Based on that, if a third country national with a temporary residence permit issued by a Latvian competent institution does not qualify as:

- 1) a family member according to the Directive 2004/38/EC of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC;
- 2) a researcher according to the Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third country nationals for the purposes of scientific research;
- 3) a person who is staying illegally in the Member State pending the return according to the Directive 2008/115/EC of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third country nationals
- 4) a third country national who resides for the purpose of highly qualified employment as the EU Blue Card holder, or his family member according to the Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third country nationals for the purposes of highly qualified employment,

this third country national has to possess sickness insurance in respect of all the risks normally covered for nationals. There is no regulation that would restrict purchasing the health insurance only from companies established in Latvia. The person has the right to freely purchase health insurance in any other State including his/her country of origin.

Third country national who has received a permanent residence permit has access to all State covered health care services irrespective of his/her tax contributions.

Paragraphs 143-144

Latvia cannot and may not request pharmaceutical enterprises to ensure information in Russian. The issue related to the translations of leaflets on medicines into other languages (mostly into Estonian and Lithuanian) is related to the plans of pharmaceutical companies to develop a common production for the whole Baltic market. Nevertheless, the Latvian authorities do not have any information that any person would not receive or would be prevented from receiving health care services or information related to health care due to the fact that this person does not speak or understand Latvian language.

According to the Law on the Rights of Patients any kind of different treatment that would be based on a person's race, ethnic origin, skin colour, gender, age, disability, state of health, religious political or other persuasion, national or social origin, property or marital status or other circumstances (including ban of different treatment towards patient's right to receive information regarding the possibilities to receive health care services and their payment procedures) is prohibited.

Emergency health care services are provided free of charge for persons who are recognised as insolvent according to the Law on Insolvency.

Paragraph 146

It must be said that the Immigration Law of Latvia contains an exhaustive list of criteria, fulfilling which a third-country national may be included in the list of “Third country nationals for whom entry into Latvia is prohibited”, them being:

1) competent State institutions have a reason to believe that a foreigner participates in anti-state or criminal organisations or is a member thereof;

2) competent State institutions have a reason to believe that a foreigner causes a threat to national security or public order and safety or, by entering Latvia, may hinder pre-trial investigations or the work of law enforcement institutions in discovering a criminal offence;

3) competent State institutions have a reason to believe that a foreigner has committed or is planning to commit a serious or extremely serious crime;

4) a foreigner has committed a crime against humanity, an international or war crime or has participated in mass repression if such has been determined by a court judgement;

5) competent foreign authorities have provided information which prohibits a foreigner from entering and residing in the Republic of Latvia; or

6) the entry and residence of a foreigner into the Republic of Latvia is not desirable for other reasons on the basis of an opinion delivered by competent State institutions;

7) a foreigner has been sentenced for a criminal offence committed in Latvia, the applicable punishment for which is deprivation of liberty at least for one year.

If a foreigner is an undesirable person for the Republic of Latvia (*persona non grata*) a decision regarding his or her inclusion in the List shall be taken by the Minister for Foreign Affairs.

Concerning the right to challenge decisions on forcible return, Section 50 of the Immigration Law provides for the right to challenge both a decision on voluntary return and a decision on forcible return, including the entry prohibition specified therein. First, decisions may be challenged to the Head of the Office for Citizenship and Migration Affairs within seven days after their entry into force; lodging of a complaint having a suspensive effect. Further, decision may be appealed against before the administrative courts. In such case, the submission of an application to a court does not suspend the operation of the decision. However, the foreigner may request the court to adopt interim measures pursuant to Chapter 22 of the Administrative Procedure Law.

Paragraph 147

With regard to the African person referred to in the report whose asylum application had been rejected, Latvia would like to inform that the said person has not yet revealed his real identity and his legal status is still not determined although he is not detained and is living in a charity mission. Social assistance is available and provided, if necessary, to the said person without any question or delay.

Refugees and asylum seekers

Paragraphs 156 and 157

Latvia notes that refusal to grant asylum in case a person concerned poses a threat to national security is fully compatible with Article 1(F) of the 1951 Convention Relating to

the Status of Refugees and existing practice thereunder.⁸¹ This does not contradict the Guidelines on International Protection: Application of the Exclusion Clauses: article 1F of the 1951 Convention relating to the Status of Refugees, HCR/GIP/03/05, 4 September 2003 referred to in the footnote 72 of the ECRI report on Latvia.

Paragraphs 159 and 160

Latvia notes that statistics concerning asylum seekers, including asylum applications at the border, are collected and are made publicly available in the annual reports of the State Border Guard.⁸² Further, this information is also provided on annual basis to Eurostat and the UNHCR.

In addition, detailed data is available on asylum-related decisions:

Year	Asylum applications	Refugee status	Alternative status	Withdrawn asylum applications	Final negative decisions	Appeals against first instance negative decisions	First instance decisions that have not been appealed against
2008	51	2	1	7	21	13	8
2009	52	5	5	9	16	12	4
2010	61	7	18	8	27	16	11

The State Border Guard ensures that all persons, including asylum seekers who present themselves at the border, receive effective access to the necessary information concerning the asylum procedure. Latvia notes that ECRI in its report does not define which particular issues or measures should be included in the statistics on the number of asylum applications lodged at the border and the number of appeals lodged against negative decisions.

Paragraphs 161 and 162

The State Border Guard organises special trainings for the officials of the State Border Guard who are dealing with asylum matters. These trainings are organised as a role-play reflecting real situations in order to improve practical knowledge of the State Border Guard's officials including on issues related to the rights and duties associated to such status. In all border crossing points there are various brochures and booklets in order to make the information on the asylum procedure widely available to the potential applicants.

Paragraphs 163 and 164

In accordance with the provisions of the Latvian legislation the State Border Guard ensures that the legal acts on the asylum procedure, including court decisions, are translated to the language understandable to the asylum seekers. Official translation agencies are involved in situations when intermediation of persons who are able to communicate in Arabic proves to be insufficient. It should be noted that all the relevant information is translated sufficiently.

⁸¹ See, e.g. *Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees*, HCR/IP/4/Eng/REV.1 Reedited, Geneva, January 1992.

⁸² See <http://www.rs.gov.lv/index.php?top=0&id=904>.

Paragraph 167-170

According to the Medical Treatment Law refugees and persons who have been granted alternative status (subsidiary protection) have equally the same right as nationals to access health care services including services that are paid from the State budget.

While the Latvian authorities acknowledge that state-funded primary health care and emergency services could be extended, however, it should be noted that such a step depends on the State budget and availability of the allocated financial means for such purposes, and it can be presumed that State funded primary health care will be extended as soon as the necessary funding is available.

Latvia would like to note that judicial authorities in Daugavpils have been provided with training and are prepared to deal with asylum related issues, as well as special training for the court authorities has been provided.

VI. Conduct of law enforcement officials

Paragraph 176

The State Police continues its efforts in awareness building on prevention and fight against racist violence and racial discrimination. Police training is conducted by the State Police College both within police initial training programme and within the plan of professional qualification's improvement, including by providing a course 'Hate Crime and its Legal and Psychological Aspects'. The State Police cooperates with the International Office on Migration in Riga in training police officers aiming to improve police work in relation to third country nationals and prevention of discrimination and racism. Training of police officers is carried out also in cooperation with the Latvian Human Rights Centre.

Paragraphs 177-178

Please refer to the information provided under paragraph 114 above.

Section 5 of the Law on Police (organisation of work and principles of police operations) defines, inter alia, that the police shall protect the rights and lawful interests of persons irrespective of their citizenship, social, economic and other status, race and nationality, gender and age, education and language, attitude towards religion, political and other convictions.

Furthermore, Professional Ethics and Conduct Code of the State Police defines that a police officer performing his/her duties ensures observation of human rights of every individual, irrespective of his/her nationality, race, sex, language, religion, political or any other opinion, age, education, social status.

Control and investigation of any breach of these standards is carried out by personnel management officers in the regional police departments and by Internal Security Bureau of the State Police.

The Latvian authorities would not support introducing a system of gathering data and statistics on national/ethnic background of the recruits in the State Police since requesting to declare ones national or ethnic background can be interpreted as a possible threat to discriminate the particular person. The Latvian Police service is open to any applicant who corresponds to the criteria defined by law.

VII. Monitoring racism and racial discrimination

Paragraphs 183-185

The Latvian authorities note the recommendations of ECRI on the level of detailed elaboration of the information in the Labour Force Survey in respect to specific groups of population. However, it is important to consider that from the point of view of statistical practice and quality standards in the results of the sample surveys, and the Labour Force Survey is only one of such, and, hence, it is not always possible to acquire sufficient representation of specific groups of population. Moreover, in accordance with provisions of the relevant EU regulations, determining the subjects to be included in Labour Force Survey, the target variables not having direct relation with the labour market are not to be included.

The Latvian authorities express concerns with regard to the recommendation on possible inclusion of the question on religious affiliation in the survey. Section 2 of the Law on Natural Persons' Data Protection classifies religious affiliation as sensitive data, compilation of which implies certain restrictions.

In respect to Population and Housing Census carried out in 2011 Latvia would like to inform that the field work has currently been finished, and issue on the inclusion of additional target variable in its programme may be discussed only in with regard to the next Population and Housing Census.

