

GOVERNMENT COMMENTS ON THE REPORT ON LATVIA

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 course¹ 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

¹ See http://www.valoda.lv/Papildus_Materiالي/eapmaciba2/default.htm.

employment measures. The Latvian language learning courses are provided by the State Employment Agency also in the framework of the lifelong learning programme.

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 researches².

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

² See http://www.valoda.lv/Petijumi/Petijumi/mid_509.

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.

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.³ 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.⁴ 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.

³ 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.

⁴ See <http://www.rs.gov.lv/index.php?top=0&id=904>.

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.

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.