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SECOND REPORT ON LATVIA

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Foreword

The European Commission against Racism and Intolerance (ECRI) is a body of the Council of Europe, composed of independent members. Its aim is to combat racism, xenophobia, antisemitism and intolerance at a pan-European level and from the angle of the protection of human rights.

One of the pillars of ECRI's work programme is its country-by-country approach, whereby it analyses the situation as regards racism and intolerance in each of the member States of the Council of Europe and makes suggestions and proposals as to how to tackle the problems identified.

At the end of 1998, ECRI finished the first round of its country-by-country reports for all member States. ECRI's first report on Latvia is dated 19 June 1998 (published in March 1999). The second stage of the country-by-country work, initiated in January 1999, involves the preparation of a second report on each member State. The aim of these second reports is to follow-up the proposals made in the first reports, to update the information contained therein, and to provide a more in-depth analysis of certain issues of particular interest in the country in question.

An important stage in ECRI's country-by-country work is a process of confidential dialogue with the national authorities of the country in question before the final adoption of the report. A new procedure in the second round of country reports is the organisation of a contact visit for the ECRI rapporteurs prior to the drafting of the second report.

The contact visit to Latvia took place on 11-14 September 2001. During this visit, the rapporteurs met with representatives of various ministries and public administrations responsible for issues relating to ECRI's mandate. ECRI warmly thanks the Latvian national authorities for their wholehearted co-operation in the organisation of the contact visit, and in particular would like to thank all the persons who met its delegation each of whom provided much valuable information on their own field of competence. ECRI would also like to thank the Latvian national liaison officer whose efficiency and collaboration were much appreciated by ECRI's rapporteurs.

Furthermore, ECRI would like to thank all the representatives of non-governmental and inter-governmental organisations with whom its rapporteurs met during the contact visit for the very useful contribution they made to the exercise.

The following report was drawn up by ECRI under its own responsibility. It covers the situation as of 14 December 2001 and any development subsequent to this date is not covered in the following analysis nor taken into account in the conclusions and proposals made by ECRI.

Executive summary

Since the publication of ECRI's first report, Latvia has taken a number of steps towards addressing issues of racism, intolerance and discrimination. Such steps include measures to facilitate access to citizenship, moves to improve non-Latvian mother tongue population's knowledge of the Latvian language and the recent adoption of an integration strategy with a potential to favour mutual integration of the different parts of Latvian society, while maintaining and protecting linguistic and cultural diversity.

However, serious problems remain, particularly as regards the Russian-speaking population¹, many members of whom are still non-citizens. This part of the population of Latvia is at risk of exclusion and marginalisation from the structures of society and the decision-making processes. Imbalances in the position of the Russian-speaking population vis-à-vis the rest of the population of Latvia in different fields may tend to deepen the separation between these communities and create a climate where social tensions could arise. The lack of a comprehensive body of anti-discrimination legislation and the need to increase the effectiveness of the criminal law provisions aimed at combating racist and intolerant expressions are also noted.

In this report, ECRI recommends that the Latvian authorities take action in a number of fields. These recommendations cover, *inter alia*: the need to enlarge the take-up of Latvian citizenship through the naturalization process, the need to monitor the effects of legislation in the field of language and access to mother tongue education and to take the necessary corrective action, the need to increase the non-Latvian mother tongue population's knowledge of the Latvian language and the need to ensure that the concrete implementation of the integration strategy will be beneficial to the cohesion of the whole population of Latvia.

¹ In this report, ECRI uses the term "Russian-speaking population" to refer to those minority groups which generally use Russian as their first language of communication within Latvian society and do not have proficiency or have insufficient proficiency in the Latvian language. However, this category is composed of many different minority groups, including some of a mother tongue other than Russian.

SECTION I: OVERVIEW OF THE SITUATION

A. International Legal Instruments

1. Latvia has ratified different international legal instruments relevant in the field of combating racism and intolerance. ECRI welcomes the signature by Latvia of the Additional Protocol N°12 to the European Convention on Human Rights. ECRI understands that the preparatory work for ratification of this instrument is underway and encourages the Latvian authorities to complete this process and ratify the Protocol as soon as possible.
2. In its first report, ECRI recommended that Latvia ratify the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages. The authorities have stated that one of the obstacles to the ratification of the Framework Convention for the Protection of National Minorities is the possible non-conformity of specific domestic legislation with the provisions contained in this convention, especially in the field of the use of languages. ECRI strongly urges the Latvian authorities to introduce the necessary changes in domestic legislation which would allow ratification by Latvia of the Framework Convention for the Protection of National Minorities and to promptly ratify this instrument. ECRI furthermore reiterates its call for ratification by Latvia of the European Charter for Regional or Minority Languages.
3. ECRI notes the ratification by Latvia of the European Social Charter. ECRI welcomes this development and encourages the Latvian authorities to consider ratification of the Revised European Social Charter. ECRI furthermore encourages the authorities to consider ratification of the European Convention on the Legal Status of Migrant Workers.
4. In line with the recommendation formulated below² to confer eligibility and voting rights to resident non-citizens in local elections, ECRI urges the Latvian authorities to ratify the Convention for the Participation of Foreigners in Public Life at Local Level.
5. ECRI welcomes the signature by Latvia of the European Convention on Nationality in May 2001. ECRI understands that ratification of this convention has now been submitted to the Parliament and hopes for a successful outcome of this process.
6. As already suggested in its first report, ECRI furthermore encourages the Latvian authorities to make the declaration under Article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination, which allows individual communications to be considered by the Committee for the Elimination of Racial Discrimination.
7. International instruments ratified by Latvia become part of the domestic legal system and the provisions contained therein can be used directly in the Latvian courts. The practice in Latvia is not to ratify international instruments until domestic legislation has been brought into conformity with their provisions. If, however, statutory law is found to contradict the provisions of a ratified

² *Reception and status of non-citizens – “Non citizens”*

international instrument, the provisions of the international instrument prevail. If the Constitutional Court finds any international agreement signed or ratified by Latvia to be incompatible with the Constitution of Latvia, the State authorities must amend, denounce or suspend the agreement or suspend accession to such agreement according to the Latvian legislation.

B. Constitutional provisions and other basic provisions

8. In October 1998, a new section devoted to “Fundamental Human Rights” was added to the Constitution of Latvia. At the same time, the 1991 Constitutional law “on the Rights and Obligations of Citizens and Individuals” was repealed. The Constitution, as amended, provides for the principle of equality of all human beings before the law and stipulates that human rights shall be realised without discrimination of any kind (Article 91). ECRI welcomes the fact that the right to equality before the law is recognised to all persons. In ECRI’s view, however, an effective constitutional protection from discrimination should not be limited to the enjoyment of human rights but should encompass the enjoyment of all rights.
9. The right of persons belonging to ethnic minorities to preserve and develop their language and their ethnic and cultural identity is enshrined in Article 114. Article 105 guarantees to everybody the right to own property and makes property rights subject to restrictions only in accordance with the law. The right to hold a position in the civil service and the right to vote are limited to citizens (Articles 101 and 8). In this respect, ECRI draws the attention of the Latvian authorities to its recommendations formulated in section G of this report.
10. ECRI notes with interest that, since July 2001, the Constitutional Court can receive individual complaints alleging non-compliance of any legislation with superior legislation. ECRI encourages the Latvian authorities to ensure that the general public is informed about the existence of this possibility.

- Citizenship legislation

11. When Latvia regained its independence, only those persons who enjoyed citizenship prior to 1940 and their descendants were automatically considered citizens. All other (approximately 740,000) persons, including mostly persons who settled in Latvia after that date, could only obtain Latvian citizenship through naturalisation. The 1994 Citizenship law set out the timetable and criteria for naturalisation. Since the process of naturalisation started in Februar 1995, the number of non-citizens residing in Latvia has decreased from approximately 740,000 to approximately 535,000³. However, naturalisation accounts for only a part (about 46,000 persons) of such decrease in the number of non-citizens, while other reasons include death, emigration, acquisition of citizenship of another country and acquisition of Latvian citizenship through registration.

³ This figure refers to persons having acquired the official “non-citizen” status (see below, *Reception and status of non-citizens – “Non citizens”*). However, residents of Latvia without Latvian citizenship reportedly include also an uncertain number of persons who have not yet exchanged their Soviet passports for Latvian non-citizen passports.

12. As already noted in the first report, in November 1998 Latvia adopted amendments to the Citizenship Law aimed at facilitating acquisition of citizenship. Such amendments abolished the so-called "window system" -- which provided that non-citizens had to apply for naturalisation according to a specific time frame -- thereby allowing all non-citizens to apply for naturalisation at any time. Furthermore, these amendments granted Latvian citizenship to children born in Latvia after the re-establishment of independence on 21 August 1991. In June 2001, further liberalizing amendments were adopted. These included : the reduction by a third of the standard naturalisation fee ; the further reduction of this fee for specific categories of people (including the unemployed, disabled people and school children) ; and the simplification of the language testing provisions, whereby graduates who have successfully passed the centralized Latvian language graduation exam are exempted from taking the Latvian language proficiency exam normally required for naturalisation.
13. ECRI welcomes these developments. However, it also expresses concern at the still slow pace of naturalisations. While, on the one hand, almost 94% of naturalisation applicants are successful, on the other, the numbers of those applying are still low. For example, 15,183 applications were received in 1999 and 10,692 in 2000. ECRI considers that measures are urgently needed to enlarge the take-up of Latvian citizenship through the naturalisation process. Provision of inexpensive Latvian language courses for non-citizens appears particularly important in this respect. ECRI therefore welcomes the recently adopted programme, financed by international donors, which will enable 2,000 non-citizens to receive Latvian language courses free of charge. ECRI notes, however, that further considerable efforts in this field are necessary to meet the non-citizen community's demand for inexpensive Latvian language training. ECRI urges the Latvian authorities to ensure that Latvian language training constitute a priority area for projects to be undertaken in the framework of the National Program "Integration of Society in Latvia"⁴. Other measures to facilitate naturalisation could include the removal of any remaining unnecessary difficulties in the testing procedure. Moreover, ECRI stresses the importance of initiatives which would provide information on the content of the naturalisation exam, reduce apprehension about its content and, more generally, increase awareness among non-citizens of the importance of acquiring Latvian citizenship in order to participate fully in the life of the country and be an integral part of its society. In this respect, ECRI notes with interest the advertising campaign which is being undertaken by the Naturalisation Board in collaboration with the Organisation for Security and Cooperation in Europe (OSCE) and encourages the Latvian authorities to extend such initiatives.

- ***Language law***

14. The new Latvian State Language Law (adopted in December 1999) entered into force on 1 September 2000. According to its Article 1, the purpose of the law is to ensure: the preservation, protection and development of the Latvian language; the preservation of the cultural and historical heritage of the Latvian nation; the right to use the Latvian language freely in any spheres of life on the whole territory of Latvia; the integration of national minorities in the society while observing their right to use their mother tongue or any other language; and the increase of the influence of the Latvian language in the cultural environment of

⁴ See Section II below

Latvia by promoting a faster integration of society. Article 5 of the Law, stipulates that any languages used in Latvia other than Latvian, with the exception of the Liv language⁵, shall be considered as “other” languages. ECRI regrets that this provision appears to contribute to the creation of an atmosphere of antagonism in language policy with regard to the use of all other languages on the territory of Latvia which might qualify as regional or minority languages.

15. The State Language Law contains provisions regulating the use of language in different areas, including employment, contacts with public institutions, public events, names of places and personal names. In addition, further legislation regulates the use of language in other areas, such as elections to the Parliament and City Councils, electronic mass media and education. ECRI will address these areas in other Sections of this report⁶.
16. It is a general principle of the State Language Law (Article 2) that the use of language in private institutions, organisations and companies is regulated only where there is a legitimate public interest (public safety, health, morals, health care, consumer and labour rights protection, safety at work and public administrative supervision). ECRI strongly urges the Latvian authorities to ensure that implementation of the Law is strictly in accordance with this principle. As will be mentioned below, employment is an area that ECRI considers of particular importance in this context⁷.
17. The State Language Law explicitly prohibits state, municipal and judicial institutions from accepting documents from individuals in any language other than Latvian, except for some special situations (e.g. personal statements submitted to the police and medical institutions, rescue services and other institutions when urgent medical assistance is summoned, when a crime or other violation of the law has been committed or when emergency assistance is requested in case of fire, traffic, accident or any other accident). Documents submitted in other languages are accepted only if accompanied by a notary-certified translation into Latvian. Although translators have reportedly been hired in some municipalities, these provisions adversely affect the possibility for the members of the non-ethnic Latvian community to access public institutions. Many of these persons do not master the Latvian language sufficiently to submit documents to public institutions in Latvian, and, for some, the costs of translation and notary certification are particularly burdensome. Some of the most vulnerable groups amongst Russian-speakers, such as prisoners and persons under investigation, are reported to be particularly negatively affected by these provisions, which have resulted in their petitions, complaints and other documents submitted in Russian not being accepted. ECRI strongly urges the Latvian authorities to keep the Law under review and to ensure that provisions regulating the use of language in contacts with public institutions do not result in reduced access to such institutions, particularly by people with poor command of Latvian and limited resources⁸.

⁵ *The Liv language is the language spoken by the Livs, an ethnic long-established group on the territory of Latvia.*

⁶ *See Constitutional provisions and other basic provisions - Laws on election to Parliament and City Councils; Access to public services – Access to education; and Media*

⁷ *See Employment below*

⁸ *See below, Problems relating to the integration of the Russian-speaking population into the Latvian society*

18. The Law stipulates that personal names and surnames in identification documents must be reproduced according to the Latvian language tradition and spelling, although it is possible for the individual to add the original name in Latin transliteration on request. ECRI urges the authorities to ensure that the public is made aware of this possibility and that the right to use the original name in concrete situations is thoroughly respected.
19. The Administrative Violations Code contains fines for different violations related to language policy. ECRI strongly urges the Latvian authorities to ensure that, in cases involving the private sector, sanctions are limited to cases where there exists a “legitimate public interest” and to ensure that this principle is strictly abided by in the implementation of the Code. ECRI notes that the formulation of certain violations, such as the one establishing a fine for “disrespect towards the state language”, lend themselves to a potentially arbitrary application. ECRI urges the Latvian authorities to carefully monitor the implementation of these provisions. Furthermore, noting that the fines established for violations related to language policy can be as high as 250 Lats (450 Euros), ECRI urges the authorities to keep the amount of the fines under review. More generally, ECRI doubts whether fines are the most appropriate tools to ensure implementation of language legislation in Latvia and stresses in this respect that more positive measures to ensure implementation ought to be made widely available and applied.
20. The State Language Centre is the institution responsible for implementing language policy, including controlling compliance with normative acts, such as the State Language Law. Although they may act on their own initiative, the inspectors of the Centre work mainly on the basis of complaints. The Centre is reported to have been active in ensuring compliance with language provisions. The Latvian authorities have reported that, since July 2001, 26 administrative cases have been initiated. ECRI notes that the Centre is collaborating with the OSCE for the preparation of manuals containing guidelines for inspections.

- ***Laws on election to Parliament and City Councils***

21. Latvian laws on election to Parliament and City Councils establish Latvian language proficiency requirements which must be met by citizens to qualify as candidates for elections. On the basis of these provisions, some candidates for election to Parliament or City Councils who have been found by the electoral commissions not to fulfil such requirements, have been removed by the lists of candidates. These cases involved persons with Latvian language certificates, whose knowledge of Latvian was re-tested by the State Language Centre. ECRI notes that an individual communication and a complaint have been filed before the United Nations Human Rights Committee and the European Court of Human Rights. Noting that the political representation of non-ethnic Latvians is rather low, however, ECRI expresses its concern that the linguistic requirements for elected representatives may prove an additional barrier to the participation of such groups in public life in Latvia.

- ***Law on the Unrestricted Development and Right to Cultural Autonomy of Latvia's National and Ethnic Groups***

22. The 1991 Law "on the Unrestricted Development and Right to Cultural Autonomy of Latvia's National and Ethnic Groups" reaffirms the guarantee of equal human rights, and equal right to work and wages, for all residents of Latvia, irrespective of their ethnicity (Articles 1 and 3), and declares punishable any actions directed towards discrimination on the basis of ethnic origin or promotion of ethnic superiority or hatred (Article 16). According to the Law, permanent residents are guaranteed the right to establish their own national associations, whose functioning and development the Latvian Government promotes.
23. ECRI notes that, in 2001, the Latvian authorities have allocated 14,500 Lats for different national cultural associations and 10,000 Lats to support the functioning of an Association for Cultural Societies.

C. Criminal law provisions

24. Article 78 of the new Criminal Code, which entered into force in April 1999, prohibits incitement to national or ethnic hatred or enmity as well as the direct or indirect restriction of economic, political or social rights of – and the direct and indirect creation of privileges for – individuals on the basis of their racial or national origin. Compared with the corresponding provisions contained in Article 69 of the previous Criminal Code, Article 78 contains an improvement in that protection from discrimination (i.e. restriction of rights and creation of privileges) is extended to all individuals and not just limited to citizens. However, ECRI regrets that Article 78 does not contain a provision explicitly prohibiting acts aimed at degrading the national dignity or self-respect of a person, as was the case in Article 69 of the previous Criminal Code. In this respect, ECRI notes that, as is the case in other countries, racist speech in Latvia often takes the form of degrading or humiliating expressions based on characteristics such as national or ethnic origin.
25. Under Article 78, prosecution for racist expressions is therefore only possible through the provisions prohibiting incitement to racial hatred. However, in practice, the investigating, prosecuting and sentencing authorities rarely identify the intention to incite to racial hatred. Very few prosecutions and convictions have been secured under Article 78. Under Article 156 of the new Criminal Code, offending the honour of a person is prohibited. However, this Article does not appear to be suited to cover expressions targeting groups of persons, nor has it ever been tested for offensive behaviour committed on ethnic or national grounds. ECRI encourages the Latvian authorities to provide further training on the subject of racist expressions to all actors involved in the criminal justice system, from the police to the prosecuting authorities and the judges, and to further raise their awareness of the need to actively counter manifestations of such phenomenon. At the same time, ways should be considered to encourage victims of such acts to come forward.
26. No criminal provisions exist defining ordinary offences with a racist element as specific offences, and there are no provisions explicitly enabling the racist or xenophobic motives of the offender to be taken into account by the courts as an aggravating circumstance when sentencing. In accordance with its general

policy recommendation No 1, ECRI encourages the Latvian authorities to introduce such provisions.

D. Civil and Administrative Law Provisions

27. Latvian legislation contains some very general provisions prohibiting discrimination in different fields, such as employment and education. The new Labour Law of June 2001 contains more detailed anti-discrimination provisions⁹. However, there is no comprehensive body of anti-discrimination legislation covering all fields of life, including education, housing, access to public and social services, access to public places and contractual relations between individuals and providing for effective mechanisms of enforcement and redress. ECRI strongly encourages the Latvian authorities to consider the adoption of such a body of legislation. As will be discussed below¹⁰, ECRI stresses the fundamental role that a specialised body responsible for combating racism and intolerance could play in supervising the implementation of such anti-discrimination legislation. ECRI furthermore believes that the debate around the adoption of such legislation would stimulate research covering the phenomena of direct and indirect discrimination and discrimination in the private sphere as well as the extent to which these may be present in Latvia, as there appears to be a lack of awareness of these issues in society in general.
28. Mention of nationality has been removed from identification documents, including non-citizen passports¹¹, but there are reportedly delays in the issuance of the new documents. ECRI encourages the Latvian authorities to speed up this process.

E. Specialised bodies and other institutions

29. The National Human Rights Office (NHRO) is an independent institution established by law with the following main functions: to educate and inform the general public about human rights; to examine the existing human rights situation and make recommendations on ways to improve it; and to receive and handle individual complaints on alleged human rights violations. The NHRO has issued recommendations in areas relevant to ECRI's work, including language legislation and the list of professions to be open to non-citizens¹². As concerns individual complaints, very few cases connected with racism and discrimination have been dealt with. The number of complaints against the former Department of Citizenship and Migration Affairs (now Citizenship and Migration Issues Board), inter alia responsible for registration of "non-citizens", has reportedly dropped.
30. ECRI welcomes efforts aimed at raising awareness of all residents of Latvia of the possibility of filing their claims with the NHRO and hopes that such efforts will be intensified in the future. Although at present there are no plans to set up a specialised body with specific responsibility in the field of combating racism

⁹ See *Employment below*

¹⁰ *Specialised bodies and other institutions*

¹¹ See *Reception and status of non-citizens – "Non-citizens", below*

¹² See *Reception and status of non-citizens – "Non-citizens", below*

and intolerance as recommended in ECRI's general policy recommendation No 2, ECRI encourages the Latvian authorities to address this issue, either by considering the creation of a specialised body dedicated to combating racism and intolerance, or by allocating additional funds and personnel to the NHRO in order to establish a specialised section in this area. The establishment of such a body should be considered in the context of the possible adoption of a comprehensive framework of anti-discrimination legislation, as suggested above¹³, and the functions to be entrusted to this body could include, inter alia, supervision of the implementation of such legislation and assistance in providing an effective means of redress for individual grievances.

F. Education and training/awareness-raising

- School education to combat racism and intolerance

31. Compulsory teaching of subjects directly touching upon questions of interest to ECRI include a programme called "Society and I" which was incorporated into national standards for elementary schools in 1998, ethics (in grade 7), economics (in grade 8) and civics (in grade 9). In secondary schools (from grade 9 to 11), social sciences is not a compulsory subject. ECRI encourages the Latvian authorities to consider the introduction of compulsory courses providing education in respect for diversity and human rights in secondary education. While these standards apply to all schools, irrespective of language of instruction, adequate textbooks are reportedly not always available, especially for Russian-speaking students and teachers. ECRI encourages the Latvian authorities to address this problem. At the same time as they ensure availability of teaching material, ECRI encourages the Latvian authorities to concentrate on providing incentives for teachers to use such material effectively through teacher-training.
32. As regards history teaching, compulsory until grade 12, ECRI encourages the Latvian authorities in their efforts to provide balanced textbooks in all schools in Latvia, irrespective of main language of instruction. ECRI notes the progress made in teaching about the Holocaust, and encourages the Latvian authorities to continue their efforts in this field.

G. Reception and status of non-citizens

- "Non-citizens"

33. As mentioned above¹⁴, 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" provided 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 therefore created a special legal status, that of "non-citizen", and defined the basic rights and obligations attached to such status, which include many fundamental social and

¹³ Civil and administrative law provisions

¹⁴ Citizenship legislation

economic rights, the right of exit and entry and the right to family reunification. As mentioned above, the number of “non citizens” is currently approximately 536,000 or 23% of the total registered population.

34. “Non-citizens” do not enjoy eligibility and voting rights in neither national nor local elections. Noting that most non-citizens have resided in the country for most or all of their lives, ECRI recommends to the Latvian government to confer eligibility and voting rights to resident non-citizens in local elections. In its first report, ECRI noted that legal provisions exclude non-citizens from certain property rights, the right to work in a number of professions in the state and private sector and the right to receive certain social benefits. Following the results of a study carried out by the NHRO indicating that ten such restrictions were contrary to international standards, some of these restrictions were removed. ECRI urges the Latvian authorities to remove all other unjustified restrictions.
35. In its first report, ECRI noted cases of improper behaviour by the then Department of Citizenship and Migration Affairs, responsible, inter alia, for state recognition of residents. Since then, the situation appears to have considerably improved, as reflected in the decreasing number of complaints filed with the courts and the NHRO in this domain¹⁵. ECRI notes, however, some remaining reports of unjustified refusals to issue residence permits or non-citizens passports and threats of deportation and encourages the Latvian authorities to continue their efforts to improve the work of the Citizenship and Migration Issues Board (which has replaced the Department of Citizenship and Migration Affairs).

- ***Asylum seekers and refugees***

36. To date, Latvia has received very few asylum applications. Out of 96 applicants since 1998, 8 persons (6 adults and 2 children) have been granted refugee status.
37. ECRI notes that a draft new Asylum Law is pending before the Parliament. This law addresses some of the shortcomings of the legislation currently in force (i.e. the “Law on Asylum Seekers and Refugees in the Republic of Latvia”). In particular, the new draft law introduces complementary forms of protection for persons not qualifying for refugee status under the 1951 Geneva Convention; establishes safeguards concerning the use of detention during the initial review of a claim; and redefines the notions of safe third country and safe country of origin. However, ECRI notes that the draft law also provides for an accelerated procedure whereby applications will be submitted to border control officials. ECRI is concerned that such procedure may enhance the risk of violation of the principle of non-refoulement and expresses particular concern at the fact that children are not excluded by this procedure. ECRI is also concerned that safeguards concerning the use of detention pending expulsion have still not been introduced, which results in the possible detention for indefinite periods of time of asylum seekers who cannot be deported for technical reasons. ECRI considers that the practice of extending the detention of such persons for indefinite periods of time is unacceptable, and that in those cases where

¹⁵ See above, *Specialised bodies and other institutions*

deportation cannot be carried out for one reason or another, measures should be taken to regularise the situation of the persons involved.

- **Immigration**

38. ECRI understands that a new law on immigration is being elaborated. Although ECRI is not familiar with the content of this law, the authorities have stated that it widens the range of persons who will be entitled to receive temporary and permanent residence permits and that it contains detailed provisions on family reunification and expulsion procedures.
39. The authorities have stated that the number of people crossing the border into Latvia without legal status is decreasing. Since the lack of safeguards on the use of detention pending deportation apply to this category of persons as well, ECRI reiterates here its concerns expressed above¹⁶.

H. Access to public services

- **Access to social services such as health care, welfare and housing**

40. As mentioned above, “non-citizens” are excluded from some rights in the economic and social sphere. For instance, ECRI notes a case where the time spent by a “non-citizen” working for a Soviet enterprise in Latvia was not included into her length of service record for the purposes of calculating her pension, whereas such time is taken into account for Latvian citizens¹⁷. The Latvian authorities have stated that the Law on State Pensions includes the time spent by a “non-citizen” working for a Soviet enterprise in Latvia into his/her length of service record. ECRI reiterates, in the context of access to services, its call for the elimination of all unjustified restrictions of the rights of “non-citizens”¹⁸.

- **Access to education**

41. In the years after the restoration of independence, Latvia developed a system of public education in minority languages, which maintained the Soviet-era schools with education in Russian and supported the creation of schools in other minority languages. In 1999, however, the process towards the establishment of bilingual education in public primary schools (grades 1 to 9) started. This process implies that minority-language schools must gradually introduce subjects taught in two languages and a greater proportion of Latvian-Language education in their curricula . As regards the time frame for this transition, bilingual education is being introduced in primary schools at the pace of one grade per year. According to this timetable, the process should therefore be completed by 2007/2008.

¹⁶ *Reception and status of non-citizens – Asylum seekers and refugees*

¹⁷ See «*Monitoring the EU Accession Process: Minority Protection in Latvia*», *Open Society Institute, 2001, Appendix B*

¹⁸ *Reception and status of non-citizens – “Non-citizens”*

42. As concerns public upper secondary education (grades 10 to 12), the 1998 Education Law establishes the transition to Latvian-only education. While implementation of this process will be phased in over a certain number of years, some class levels will have to switch to Latvian-only instruction in 2004. Languages other than Latvian will be allowed as the language of instruction in private schools (which are currently attended by a very limited number of pupils in Latvia) or in schools working with “minority education programmes”¹⁹. It is, however, for the Ministry of Education and Science to determine the range of subjects which are to be studied in Latvian in the schools working with minority education programmes, although the selection of the precise subjects to be covered within that range is left to the individual schools. The Ministry of Education and Science has elaborated four different models for schools working with minority education programmes, which differ according to the proportion of classes to be held in Latvian.
43. ECRI strongly urges the Latvian authorities to ensure that the introduction of Latvian as the language of instruction in all public secondary schools is carried out in such a way as to leave adequate scope for teaching in minority languages in the curricula of these schools.
44. Furthermore, the Latvian authorities should ensure that this process is underpinned by sufficient resources and methodological preparation so that the quality of teaching will not suffer. In this respect, ECRI welcomes the work carried out by National Programme for Latvian Language Training in the field of training minority-language teachers to teach their subjects in Latvian and in the field of training Latvian teachers to teach Latvian to non-Latvian mother tongue children²⁰. However, ECRI notes reports that the number of Latvian language teachers for minority school pupils is decreasing. The Latvian authorities do not have data which would confirm this. ECRI strongly encourages the Latvian authorities to ensure that there is an adequate number of Latvian language teachers for minority school pupils.
45. In any event, to avoid putting excessive strain on this very delicate and complex transition process and help reducing tensions, ECRI believes that the timetable for the introduction of a system with Latvian as the language of instruction in upper secondary schools should be reviewed. A postponement of the date will also be in line with the completion of the transition process to bilingual education in primary schools, which, as mentioned above, is scheduled for 2008.
46. The Law on Education imposes on municipalities the duty to provide children with the possibility to acquire pre-school, primary and secondary education. However, the Law does not require municipalities to establish or maintain minority schools or classes when this corresponds to the wishes of the parents. ECRI notes that a number of Russian-language schools have been closed. Although this phenomenon is partly linked to demographic changes (a number of Latvian-language schools have been closed as well) and to the increased propensity of minority parents to send their children to Latvian-language schools, ECRI notes reports that some of these schools have been closed

¹⁹ A separate Law on General Education stipulates, in its Article 42(2), that general secondary education programmes may be combined with minority education programmes, including teaching minority languages and subjects related to the identity of the minority and the integration of the society of Latvia.

²⁰ See Section II below

despite their viability and the desire of the parents to maintain them. ECRI urges the Latvian authorities to consider requiring local authorities to open or maintain minority schools and classes when there is an adequate demand.

47. ECRI notes that, according to the Education Law, state and municipal authorities are allowed to participate in the financing of private educational institutions only on condition that the institutions concerned implement their education programmes in Latvian. While ECRI recognises that Latvia has no obligation to provide funds for private minority schools, it believes that excluding by law this possibility is not in line with existing international standards.

I. Employment

48. Article 6 of the State Language Law requires all employees in the public sector to have a command in the State language which corresponds to their duties. According to the general principle mentioned above²¹, employees in the private sector are subject to the same requirement to the extent that there exists a “legitimate public interest”. ECRI strongly urges the Latvian authorities to ensure that such principle is strictly abided by and that only professions where an interest of this type is clearly present be subject to language regulations. There have been complaints, for instance, that this is not the case for some of the professions included by government regulations in the list of professions in the private sector to be subject to language regulation. Monitoring of the strict application of the “legitimate public interest” principle is also important in consideration of the fact that this principle is contained in many of the administrative violations related to language policy contained in the Administrative Violations Code, for which considerable fines are established²².
49. In general, ECRI is concerned that the implementation of the language provisions in the employment sector may lead to a situation where individuals face labour discrimination. For example, employers may tend to offer employment to Latvian mother-tongue speakers or dismiss employees with a limited command of the Latvian language to avoid difficulties in respect of the law. ECRI notes steps taken by the Latvian authorities to ensure that minority school graduates can use their language certificates for employment purposes. However, ECRI stresses that requirements concerning the knowledge of the Latvian language should be accompanied by increased efforts to provide high quality and inexpensive language training courses across the country, as suggested in other parts of this report²³.
50. Official figures indicate that the ethnic breakdown of the unemployed population reflects, broadly, the overall composition of the population. Thus, for instance, in the first six months of 2001, around 51% of the total unemployed population were ethnic Latvians and 35% ethnic Russians. There have been reports, however, that non-ethnic Latvians tend to be disproportionately represented amongst unemployed persons not officially registered as such and that the real situation as concerns unemployment in Latvia presents imbalances along ethnic lines. According to a 1999 survey, for instance, unemployment was twice as

²¹ See *Constitutional provisions and other basic provisions – State Language Law*

²² See *Constitutional provisions and other basic provisions – State Language Law, above*

²³ *Section II, below*

common among ethnic Russians of working age than amongst their ethnic Latvian counterparts. ECRI encourages the Latvian government to conduct further research on the real levels of unemployment in Latvia, including employment of women belonging to minority groups.

51. Although the disadvantaged position of minority groups in Latvia is linked to a range of factors, including in particular limited knowledge of the official language, ECRI believes that discrimination also plays a role in their problems in the labour market. ECRI therefore stresses the importance of the existence of effective legal provisions prohibiting discrimination in employment and providing for easily accessible mechanisms of redress. In this respect, ECRI notes with interest the adoption, in June 2001, of a new Labour Law which contains a number of important provisions in the field of combating discrimination, including a definition of direct and indirect discrimination, the possibility for compensation, and the sharing of the burden of proof in discrimination cases. ECRI encourages the Latvian authorities to closely monitor the application of this law, due to enter into force in 2002, and to provide training on its content to the different members of the legal community.

J. Vulnerable groups

This section covers certain minority groups which may be particularly vulnerable to problems of racism, discrimination and intolerance in the country in question. It is not intended to provide an exhaustive overview of the situation of all minority groups in the country, nor to imply that groups not mentioned face no problems of racism and discrimination.

- Russian-speaking population

52. The issue of Russian-speaking population is dealt with below under “Issues of particular concern”.

- Roma/Gypsies

53. According to official figures, there are approximately 8,000 Roma/Gypsies in Latvia. Representatives of the Roma/Gypsy community, however, estimate the number of Roma/Gypsies in Latvia to be around 16,000. The vast majority are reportedly citizens of Latvia.
54. As is the case in many other European countries, the Roma/Gypsy population of Latvia is faced with a particularly difficult economic situation. Only 2% of this population is reported to have regular jobs, and unemployment is extremely widespread. This situation is due to several factors which include particularly, in many cases, lack of education and professional training as well as lack of awareness of the members of this community of their rights. However, societal prejudice and discrimination also play a role.
55. ECRI notes a number of initiatives aimed at improving the situation of the Roma/Gypsy communities on different fronts. These include pilot projects aimed at providing education and vocational training to a number of young persons and adults from the Roma/Gypsy community; the establishment of classes in which education is carried out in the Romany language; and the establishment at the regional level of information centres servicing the Roma/Gypsy

communities. ECRI encourages the Latvian authorities to multiply such initiatives and draws the attention of the Latvian authorities, in this respect, to its general policy recommendation N°3 on combating racism against Roma Gypsies, which proposes a range of legislative and policy measures governments can take. ECRI urges the Latvian authorities to distribute this widely among local administrations in areas where Roma/Gypsies live and to promote its implementation. In particular, noting reports that negative stereotyping of members of the Roma/Gypsy community in the media sometimes surfaces, ECRI draws attention to its recommendation “to encourage awareness-raising among media professionals, both in the audiovisual field and in the written press, of the particular responsibility they bear in not transmitting prejudices when practising their profession, and in particular in avoiding reporting incidents involving individuals who happen to be members of the Roma/Gypsy community in a way which blames the Roma/Gypsy community as a whole”.

K. Antisemitism

56. Manifestations of antisemitism are reportedly not prevalent within Latvian mainstream society and media. However, ECRI notes that some antisemitic incidents have taken place, including the bombing of a synagogue, antisemitic inscriptions on Jewish public buildings and desecration of graves. In addition, there have been cases of publication of antisemitic articles in the press. ECRI notes that the Latvian authorities have publicly condemned such incidents and prosecutions have in some cases been initiated, although only one conviction has so far been secured. ECRI urges the Latvian authorities to bring to justice the persons found responsible for these incidents and to closely monitor the situation as concerns manifestations of antisemitism. ECRI furthermore reiterates, in this context, its recommendation formulated above to ensure that legislation against hate speech and degrading speech is adequate and implemented effectively²⁴. ECRI is pleased to note that, as mentioned above, considerable progress has been made in the field of teaching and research about the Holocaust²⁵.

L. Monitoring the situation in the country

57. In its first report, ECRI noted the work of the Central Statistical Bureau of Latvia. However, there appears to be a lack of reliable data concerning the relative situation of the various groups in society across a number of fields of social and economic life, and concerning the incidence of discrimination. ECRI considers that in order to evaluate the evolving situation of minority groups in Latvia, it is necessary to set up a system of data collection and monitoring, in order to uncover and remedy any problems, including differences related to direct or indirect discrimination.

²⁴ *Criminal law provisions*

²⁵ *Education and training/Awareness-raising – School education to combat racism and intolerance*

M. Conduct of Law enforcement officials

58. ECRI understands that there have been no formal complaints of discriminatory behaviour on the part of Latvian law enforcement officials. Investigations of complaints against the behaviour of the police are carried out by the head of the police unit concerned, or by the state police inspection. ECRI notes that complaints against unlawful, including discriminatory, behaviour of the police may be filed with the NHRO and before the courts. However, ECRI recommends the creation of an independent mechanism, separate from the police structures, for investigating allegations of police misbehaviour.
59. In addition, ECRI encourages the Latvian authorities to provide law enforcement officers with further initial and on-going training to promote awareness of all aspects related to discrimination.

N. Media

60. ECRI is concerned at the considerable separation existing between Latvian-language and Russian-language media in Latvia, which, in ECRI's opinion, runs counter to efforts to favour mutual integration of all groups constituting Latvian society. Although, as mentioned below, the situation of separate access to sources of information also concerns the electronic media, it is particularly apparent in the printed media. Latvian-language and Russian-language press report on different issues and events or on the same issues and events in a strikingly different fashion. A part of the Latvian-language press tends to ignore the point of view of minority groups and sometimes portrays members of these groups in a negative fashion, while Russian-language media are reported to be critical of the Latvian authorities and to tend to focus on minority issues. The only nation-wide newspaper published in both languages ended its Russian edition in 2000.
61. As concerns public electronic media, the Law on Radio and Television provides that one of the two public TV channels must broadcast only in Latvian, while the second may allocate up to 20% of time for programmes in other languages. In consideration of the large proportion of non-Latvian mother tongue speakers in Latvia, ECRI considers that instead of a limit not to be exceeded for programmes in languages other than Latvian, 20% of time could be considered as a share to be compulsorily allocated to such programmes. ECRI notes the work of the National Council on Radio and Television -- the body responsible for enforcement of the Law, in this respect. As regards the private electronic media, the Law stipulates that no more than 25% of airtime can be allocated to programmes in languages other than Latvian. ECRI notes that the National Council on Radio and Television has frequently intervened to ensure compliance of broadcasters with these provisions; sanctions which the Council imposes on broadcasters for exceeding the permitted 25% ceiling include cautions, fines and temporary closure. The Council may also file a case against a broadcaster demanding withdrawal of their license in case of repeated violations. ECRI notes that the constitutionality of the provision limiting the time available for broadcasting in languages other than Latvian to 25% of the total time has been questioned, although the Constitutional Court has dismissed the application on procedural grounds. ECRI is concerned that, in practice, this provision contributes to perpetuating the situation of separate access to media and information described above, as members of non-Latvian speaking groups,

and notably members of the Russian-speaking population, tend to turn to Russian-language channels originating from other countries.

62. ECRI considers that the media has an important role to play in building contacts and understanding between the majority and minority communities in Latvia, and encourages in this respect initiatives aimed at reaching both communities simultaneously, for example, printed press presenting the same articles in both languages, and more provision of television broadcasting of interest to both communities and made accessible to all residents in Latvia through translations and sub-titling. ECRI hopes that these areas will be addressed as a priority by the projects to be undertaken in the framework of the National Programme for Integration of the Society in Latvia²⁶.
63. ECRI notes that negative stereotyping of minority groups sometimes takes place both in the broadcast and in the printed media and encourages the media professions to adopt and implement codes of self-conduct which would cover these issues. ECRI notes that the National Council on Radio and Television is working to conclude an agreement with broadcasters whereby, in reporting, unnecessary mention of a person's personal characteristics such as race and nationality must be avoided.

O. Extremism

64. ECRI is concerned at the presence of Latvian and Russian racist extremist groups, including neo-Nazi groups, and at their activities in Latvia. Such activities include the publication of racist and antisemitic material, through which exponents of these groups incite to racial hatred and advocate the use of violence, as well as damage to property. ECRI notes that prosecutions have been initiated against some of the persons responsible for these acts. In a few cases, these prosecutions were followed by convictions. ECRI calls for a more vigorous response on the part of the Latvian authorities to the activities of such organisations.
65. In addition, ECRI underlines that it is fundamental that mainstream political parties take a clear stance against any extremist groups operating in Latvia. Although this has been the case in many instances, there have also been cases where the position of politicians vis-à-vis extremist views and initiatives have been more ambiguous or even supportive. ECRI believes that a clear stance of political parties against all extremist groups and their initiatives would not only help the marginalisation of such groups, but also provide the necessary lead for law enforcement and civil society responses to extremism. In addition, the Latvian authorities may consider the adoption of provisions allowing for the partial or total suppression of public financing for those political parties whose members are responsible for racist or discriminatory acts.

²⁶ See Section II below

SECTION II: ISSUES OF PARTICULAR CONCERN

In this section of its country-by-country reports, ECRI wishes to draw attention to a limited number of issues which in its opinion merit particular and urgent attention in the country in question. In the case of Latvia, ECRI would like to draw attention to the situation of the Russian-speaking population within Latvian society.

P. Problems relating to the integration of the Russian-speaking population into the Latvian society

66. As highlighted in different sections of this report, the members of the Russian-speaking population²⁷ of Latvia experience difficulties in various areas of life. ECRI has illustrated some of these difficulties, especially those originating from laws, regulations and practice concerning the use of languages and education in languages other than Latvian. In addressing these issues ECRI recognises the pressing historical and political factors underlying the policies of the Latvian Government in seeking to protect the Latvian language. ECRI also recognises the importance of such an objective in safeguarding the identity and cohesion of the country. ECRI's concern is that such policies should not, in the way they are implemented and in the way they impact on other areas of policy, work in a way that is counter productive to this end.
67. Although a number of the members of the Russian-speaking population are Latvian citizens²⁸, the non-citizen population of Latvia is composed almost exclusively by members of the Russian-speaking population. As a result, many of them are excluded from the exercise of rights which, according to Latvian legislation, are attached to citizenship. As mentioned above²⁹, apart from eligibility and voting rights at the national and local level, these include, inter alia, the possibility to occupy certain State and public positions, the possibility to exercise certain professions in the private sector, and the exercise of certain property as well as social and economic rights.
68. In proportion to their numerical size, members of the Russian-speaking population are seriously under-represented at various levels in Latvian society, such as its political life and its administrative structures, including the civil service, the judiciary and State enterprises. ECRI notes that representation of the Russian-speaking population appears to be well below even the share of Russian-speaking population within the citizenry of Latvia (approximately 23%). For example, out of 100 Members of Parliament, only 16 are non-ethnic Latvians. In Riga, where non-ethnic Latvians constitute the majority of the population, the City Council counts, amongst its 60-strong membership, 12 persons belonging to the Russian-speaking population, with three high-rank executive positions entrusted to Russian speakers -- an improvement from the situation prior to the last municipal election of March 2001. ECRI notes that this situation seriously impacts on the possibility for this part of the population to influence the decision-making processes leading to legislative and policy

²⁷ As mentioned above, ECRI uses the term "Russian-speaking population" to refer to those minority groups which generally use Russian as their first language of communication within Latvian society for reasons of political history and in some cases lack of take-up of Latvian language learning opportunities. Such groups include groups of a mother tongue other than Russian. These include approximately 158,000 Belarussians, Ukrainians and members of other smaller groups. Approximately 122,000 are non-citizens.

²⁸ Official statistics indicate that 43% of ethnic Russians are Latvian citizens.

²⁹ Reception and status of non-citizens – "Non-citizens"

developments. Language regulations governing political representation, difficult access to public employment, lack of citizenship as well as lack of proficiency in the Latvian language are amongst the factors explaining the current limited participation of members of the Russian-speaking population in public life in Latvia.

69. In addition, it has been reported that social problems, such as unemployment, have tended to impact disproportionately upon the Russian-speaking population, although, as mentioned above³⁰, official figures do not necessarily reflect this situation. Once again, language skills appear to play an important role in determining this situation. For instance, a survey recently carried out under the auspices of the Latvian Naturalisation Board, indicates that, of those whose native language was not Latvian, 38% of all non-citizens and 22% of all citizens felt they could not work in a job requiring Latvian language knowledge and 28% and 30% respectively felt they could work but with problems.
70. A sociological survey commissioned by the NHRO in January 2000 also indicates that 24% of all respondents to the survey (i.e. 18% of all Latvians and 31% of all non-ethnic Latvians) felt they had experienced discrimination in the last three years, especially in the field of employment and access to social services. Ethnicity and language were the two main grounds of discrimination mentioned by all respondents, especially by non-ethnic Latvians and non-citizens (respectively 40% and 43% of all those who claimed discrimination).
71. Although severe or violent manifestations of racism and intolerance do not appear to be prevalent in Latvia today, ECRI believes that the difficulties experienced by one part of the population of Latvia and the imbalances between its situation and that of the rest of the population should be addressed and remedied as a matter of priority. This would not only improve the enjoyment of civil, political, social, cultural and economic rights by a substantial part of the Latvian population and counter its possible marginalisation and disaffectedness from mainstream Latvian society, but also avoid, in the long term, the creation of a climate where social tensions could arise. In this respect, ECRI considers the area of access to education to be one of the most potentially divisive and draws the attention of the Latvian authorities to the urgent need to address this issue along the lines suggested above.
72. In order to achieve this, ECRI stresses the importance of a clear public recognition of the fact that Latvia is a multicultural society, of which all minority groups are an integral part. It should be made clear that, given the current imbalances in the situation of minority groups, and notably the Russian-speaking population, time and resources must be devoted to providing this part of Latvian society with increased opportunities, including for participation in the public life of the country. Such recognition should be reflected in consistent policies at legislative and other levels.

³⁰ *Employment*

73. In this respect, ECRI welcomes the National Programme for Integration of the Society in Latvia, as an instrument which may potentially be very useful to promote participation of all persons in Latvian society as well as mutual integration among its different composing parts. The Programme, adopted by the Latvian Government in February 2001, sets out goals and lines of action in the following fields: civic participation and political integration; social and regional integration of society; education, language and culture; information. Although not specifically designed to address the situation of the Russian-speaking population nor that of other specific minority groups, the Latvian authorities have stressed that the Programme has been established to support the consolidation of a democratic civil society on the basis of common values such as Latvia's independence and respect for human rights (including the right of persons belonging to minorities to preserve their identity), to coordinate the existing efforts aimed at integration of society in different areas, such as Latvian language training, naturalisation and education, as well as to establish the framework for new initiatives in these areas.
74. The Programme is to be implemented through projects designed by civil society organisations and the regions. ECRI notes that the necessary laws and regulations for the creation of the implementing machinery of the Programme have now been adopted. Thus, the Social Integration Foundation, through which government and donor money is to be channelled to support integration-related projects, has now been established and the relevant regulations governing the interaction among the different implementing agencies (the Foundation Council, the Committees and the Secretariat) have also been adopted.
75. ECRI expresses the hope that a high level of priority will be attributed to projects in the areas highlighted in this Section. ECRI is aware that Ministries, municipalities and non-governmental organisations are to be equally represented in the Foundation Council, which is the body responsible for the administration of the Foundation and for the final approval of any integration projects upon recommendations made by the different Committees. ECRI strongly encourages the Latvian authorities to ensure that minority groups are represented in the non-governmental component of the Foundation Council and, more generally, that they are thoroughly involved in the implementation of the Programme, both at the level of supervision and at the level of organisations receiving funds for projects. ECRI encourages the Latvian authorities in their efforts to integrate both ethnic Latvians and minority groups into one society, and hopes that this issue will be given the necessary political support as well as adequate resources. ECRI recognises that such a programme on the part of Government calls for a corresponding commitment to its goals and objectives and to the cohesion and integration of Latvian society from all sections of the community, irrespective of their origin.
76. As mentioned above, ECRI believes knowledge of Latvian language to be of particular importance to ensure successful mutual integration of all members of the population of Latvia. In this respect, ECRI welcomes the work done by the National Programme for Latvian Language Training (NPLLT), a Programme designed by the United Nations Development Programme (UNDP) at the request of the Latvian Government. Running for a ten year period (1996-2006), the Programme focuses mainly on: training of teachers in Latvian as a second language and in bilingual teaching; adults' language training; and development of teaching material. The authorities have stated that more than 42,000 persons

have benefited from the Programme between 1996 and 2000. ECRI notes that, in 2001, the Latvian Government has started co-financing and co-ordinating the NPLLT, which was previously financed solely by international donors and co-ordinated by UNDP. ECRI strongly urges the Latvian authorities to provide all possible support, including adequate human and financial resources, to the NPLLT and to ensure, in this respect, that an adequate portion of the State budget allocated for the implementation of the National Programme for Integration of the Society is devoted to the NPLLT.

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