



## Latvian Centre for Human Rights

### Shadow Report to the UN Committee on the Elimination of Racial Discrimination July 2018

#### Selected issues

##### 1. Roma education

Since 2016, there are no longer specialised Roma classes in Latvia. Seven educational institutions had Roma classes in 2003-4, but these were gradually closed by 2014-15. However, the rate of **Roma enrolment in special primary education programmes** (particularly for students with learning disabilities and mental development disorders) has significantly increased and is **disproportionally high** compared to the national average.

According to the Ministry of Education, in 2016-17, 900 Roma children attended school. In **2011/2012 - 11, 6%**, in 2013-2014 - **26 %** of Roma children were involved in special primary education<sup>1</sup> programmes; in **2016-2017, their share had already increased to 34 %**.<sup>2</sup>

The decision about which school to attend theoretically rests with the parents, who are given recommendations from state and municipal pedagogical-medical commissions. In practice, it is difficult to fight their recommendations. Parents can appeal the municipal commission's recommendations to the state commission, but the possibilities of obtaining a different outcome are slim. Concerns have been raised about the quality of the decisions of these commissions.<sup>3</sup> The Ministry of Education and Science has also acknowledged that the system of establishing diagnosis in Latvia is outdated and that special education needs to undergo serious reforms.<sup>4</sup> Unofficial information also suggests that the placement of children in special boarding schools which run such

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<sup>1</sup> Primary education is mandatory in Latvia.

<sup>2</sup> Ministry of Culture, Informative Report on Latvian Roma Integration Measures in 2016 (*Informatīvais ziņojums par Latvijas romu integrācijas pasākumu īstenošanu 2016.gadā*), 5 April 2017. Available in Latvian at: [https://www.km.gov.lv/uploads/ckeditor/files/KM\\_050417\\_romi.pdf](https://www.km.gov.lv/uploads/ckeditor/files/KM_050417_romi.pdf)

<sup>3</sup> Kamenska, A. (2017), Country Report. Non –Discrimination Latvia. Published by: EU Directorate-General for Justice and Consumers. ISBN 978-92-79-68849-2, p. at <https://www.equalitylaw.eu/downloads/4451-latvia-country-report-non-discrimination-2017-pdf-1-96-mb>

<sup>4</sup> LVPORTALS.LV (2016), 'Long Awaited Changes for Special Education', 5 May, at <http://m.lvportals.lv/visi/likumi-prakse/278771-speciala-izglitiba-jau-sen-gaida-parmainas/>.

programmes is to some extent supported by Roma parents who are unable to provide for their children due to poverty.

## 2. Hate Crimes/Hate Speech

Recent years have seen some **positive**, but at the same time **insufficient developments in combatting and preventing hate crimes in Latvia**. Changes have predominantly taken place in the legislation, largely as a result of Latvia's international obligations. In Latvia, more attention is paid to the incitement of hatred issues, particularly on the internet, which have also been impacted by different foreign and domestic political events, while public information about hate crimes (racially motivated violence, etc.) is rare.

In 2014, Criminal Law was amended and in addition to racist, also national, ethnic, and religious motives were added as aggravating circumstance (Article 48). In Section 78 (incitement to racial, national, ethnic, religious hatred) sanctions were diversified depending on the gravity of crime. If earlier, incitement to hatred on the internet was punishable only by imprisonment for up to ten years and offenders received suspended imprisonment from half a year to two years, then now it is also punishable by fine and community service.

The 2014 Criminal Law amendments which envisage criminal liability for incitement to social hatred on grounds of gender, age, disability and other characteristics, should be generally viewed positively as they expand the protection of vulnerable groups against hate crimes and hate speech, including migrants. Although migrants are not mentioned among protected characteristics, they may be subsumed under "other features." Thus, on 15 February 2017, Tukums District Court sentenced a 24-year-old man to 160 hours of community service for posts on Facebook calling for violence against migrants,<sup>5</sup> which was the first case dealt by the Latvian courts concerning anti-migrant hate.

While **racist motive** was made **aggravating circumstance** already in 2006, and "national, ethnic and religious motive" was added in 2014, allegedly to bring the Latvian legislation in line with Article 4 of Framework Decision 2008/913/JH on combatting certain forms and expression of racism and xenophobia by means of criminal law, this provision **has never been applied in practice**. Thus, the transposition can be considered as formal.

Training of police officers to identify and investigate hate crimes has increased. The signing of an agreement between the OSCE/ODIHR and the State Police in Latvia in December 2014, trainings organized by the State Police College and NGOs, as well as the adoption of the guidelines on hate crime identification and investigation by the State

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<sup>5</sup> Tukums District Court, Case Nr. 11390001416, K 37-0083/17, 15.02.2017

Police in August 2018, are welcome developments. **However, the training of the representatives of law enforcement bodies and judiciary is irregular and not accorded sufficient priority.** There is insufficient understanding among the law enforcement that hate crimes can strike at the very fundamentals of the Latvian society.

Official data about hate crimes and incitement to hatred cases are limited, the number of opened criminal proceedings during the year remain small.

Despite the small number of cases in Latvia, **statistics concerning the number of investigations, prosecutions and convictions vary in different reports**, including those in government reports submitted to different international organisations.<sup>6</sup> **Individual cases are difficult to follow through at different stages of criminal proceedings. The statistics do not distinguish between hate crimes and incitement of hatred cases.**

Unofficial data compiled by NGOs, such as the Latvian Centre for Human Rights indicate a higher number of crimes motivated by race and xenophobia than those that come to the attention of national authorities. **There remains very serious concern about the unwillingness of hate crime victims to report hate crimes to the law enforcement authorities.**

In autumn 2016, the Latvian Centre for Human Rights interviewed the representatives of 11 NGOs, migrants and conducted an anonymous online survey of 135 foreign students in Latvia about their experiences concerning different manifestations of intolerance (hate speech, hate crimes, discrimination, etc.).<sup>7</sup> Almost 2/3 of the respondents or 68% have been either victims (33 %) or witnesses of hate speech, hate crimes or discrimination, or have heard about such incidents from the others. The most common form of intolerance is verbal insults/harassment (62%), such as name calling, using denigrating names, asking to leave Latvia, offensive comments about people's ethnic background, skin colour, language, religion, etc.

NGO/migrant representatives and students indicated that such attitude is frequent in public places, such as streets (44%), public transport (23%), cafes and bars (10%), in higher educational establishments (9%), including by staff, shops (6%). In 13% of cases, respondents were victims of a physical attack or an attempted attack or they had heard that other were victims of such attacks. Victims include foreign students and asylum seekers with darker skin. Hate incidents have allegedly occurred due to victim's skin colour/race (36%), ethnic origin / xenophobia (25%), language (22%), religion (6%). Most students did not report hate incidents. Asylum seeker are reluctant to report violence and threats of violence due to fears that such claims would impact on the outcome of their case.

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<sup>6</sup> See data submitted to the OSCE, Universal Periodic Review.

<sup>7</sup> 135 foreign students from EU, EEA member states and third countries) took part in the survey.

Although the legislation provides for a significant range of victims' rights which have also been expanded through the adoption of the EU's Victims' Rights, support to victims in practice remains inadequate. Latvia has no special support programmes for hate crime victims and overall, the country falls behind in general victim support structures and programmes compared with most EU Member States. It was only in 2015 that the Latvian government granted state funding for social rehabilitation services to adult victims of crimes.

### *Hate Speech*

Although, the Ministry of Culture prepared a report "About Proposals on Preventing the Dissemination of Information Containing Calls to Hatred and Violence in Public Space, Including the Internet<sup>8</sup>", reviewed at the Cabinet of Ministers on 27 September 2016, **there is no accompanying action plan and no dedicated state funding to combat online hate.**

Combatting online hate is mostly undertaken by NGOs with the support of foreign funding (EU, EEA funds). E.g., in 2017 and first half of 2018, the Latvian Centre for Human Rights made over 300 notifications of hateful content (in Latvian and Russian) to *Facebook*, *twitter*, and *youtube*, which led to the removal of 70% of such content.<sup>9</sup> The hate motive in the majority of reported cases was ethnic origin (anti-Latvian, anti-Russian, anti-Roma), followed by xenophobia (anti-migrant), racism (skin colour, people of African origin) and anti-Semitism. LCHR is one of the two NGOs in Latvia that enjoy the so-called "trusted flagger" status with all the three IT companies.

### **3. Anti-discrimination body**

The budget of the Ombudsman's Office has been increased to have the number of staff. In 2014 it was EUR 1 157 884,<sup>10</sup> in 2015 - EUR 1,168,466 and in 2016 it was EUR 1,339,112.<sup>11</sup> In 2017 the estimated budget was EUR 1 374 956.<sup>12</sup> While the budget has

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<sup>8</sup> Ministry of Culture (*Kultūras ministrija*) (2016). Informatīvais ziņojums "Par priekšlikumiem, lai novērstu informācijas, kas ietver aicinājumu uz naidu un vardarbību, izplatīšanu publiskā, tostarp interneta, vidē", 27 September, available in Latvian at:

<http://tap.mk.gov.lv/lv/mk/tap/?pid=40393096&mode=mk&date=2016-09-27>

<sup>9</sup> European Commission (2018). Code of Conduct on Countering Illegal hate Speech Online. Results of the Third Monitoring Exercise. Factsheet. January, at [http://ec.europa.eu/newsroom/just/item-detail.cfm?item\\_id=612086](http://ec.europa.eu/newsroom/just/item-detail.cfm?item_id=612086)

<sup>10</sup> Latvia, Ministry of Finance (2014). Law on State Budget, Explanatory Report (Likuma "Par valsts budžetu 2014.gadam" paskaidrojumi), p. 164, available in Latvian at:

[http://www.fm.gov.lv/files/valstsbudzets/budzetapaskaidrojumi/FMPask\\_L\\_270114\\_bud2014\\_lab.pdf](http://www.fm.gov.lv/files/valstsbudzets/budzetapaskaidrojumi/FMPask_L_270114_bud2014_lab.pdf).

<sup>11</sup> Republic of Latvia Ombudsman (2016). Annual Report of 2016.

<sup>12</sup> Latvia, Ministry of Finance (2017). Budget of the Office of the Ombudsman. Protection of human rights of private individuals, in Latvian at [http://fm.gov.lv/lv/sadalas/valsts\\_budzets/valsts\\_budzeta\\_vizualizacija/budzets2017/tiesibsarga\\_birojs/14-1-privatpersonu-cilvektiesibu-aizsardziba/](http://fm.gov.lv/lv/sadalas/valsts_budzets/valsts_budzeta_vizualizacija/budzets2017/tiesibsarga_birojs/14-1-privatpersonu-cilvektiesibu-aizsardziba/)

been increased after the financial crises, it has never reached the pre-crises level. The number of staff is 46.

The mandate of the Ombudsman's Office remains broad with children and socio-economic rights receiving priority attention. Except for the monitoring of UN CRPD and related activities, the equality and anti-discrimination mandate is considerably less of a priority than children's rights and good governance mandate, and topical issues under NHRI mandate. There is no separate budget line for equality and diversity function.<sup>13</sup>

**The anti-discrimination capacity of the Office has decreased.** In March 2015, its Legal Equality Department was closed down and the staff were assigned to other departments. The reasoning behind the closure of the department was that non-discrimination is not free standing, hence should be integrated in other departments. Although the Ombudsman is entitled to bring discrimination cases before civil and administrative courts, no such case has been taken to court since 2007. The Office no longer publishes statistics on discrimination (See Annual Reports 2015, 2016, 2017). Although the Office claims that all legal staff deal with non-discrimination issues, there are no staff members working exclusively on non-discrimination issues, hence there is no longer specialisation on non-discrimination issues.

In May 2011, a person (a Roma) was hired by the Ombudsman's Office who was tasked with the promotion of Roma integration, organising the office's activities in the realm of non-discrimination and consulting Roma on various issues, including facilitating Roma access to law enforcement institutions. As of 1 January 2017, there is no longer such a Roma consultant post, allegedly due to lack of any visible results. A Roma Advisory Council was set up in 2013, however, there is no public record of its activities apart from regulations, and the Council seems to have ceased its activities.

The Advisory Committee on the Framework Convention for the Protection of National Minorities of the Council of Europe noted in its Second Opinion in 2014 that, despite expressing his concern about the situation of Roma in Latvia who continue to face discrimination in many spheres of life, the Ombudsman is considered to have made only limited concrete contributions to promoting their full and effective equality in society.<sup>14</sup> Since the publication of a 2015 survey, whereby 82.3 % of Roma alleged that they or their relatives had been refused work due to their ethnic origin,<sup>15</sup> there have been no activities by the Ombudsman to address the concerns.

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<sup>13</sup> Latvia, Ministry of Finance (2017). Budget of the Office of the Ombudsman. Protection of human rights of private individuals, in Latvian at [http://fm.gov.lv/lv/sadalas/valsts\\_budzets/valsts\\_budzeta\\_vizualizacija/budzets2017/tiesibsarga\\_birojs/14-1-privatpersonu-cilvektiesibu-aizsardziba/](http://fm.gov.lv/lv/sadalas/valsts_budzets/valsts_budzeta_vizualizacija/budzets2017/tiesibsarga_birojs/14-1-privatpersonu-cilvektiesibu-aizsardziba/)

<sup>14</sup> Advisory Committee on the Framework Convention for the Protection of National Minorities (2014). Second Opinion on Latvia, adopted on 18.06.2013, paragraph 35, p.12. ACFC/OP/II(2013)001, [https://www.coe.int/t/dghl/monitoring/minorities/3\\_FCNMdocs/PDF\\_2nd\\_OP\\_Latvia\\_en.pdf](https://www.coe.int/t/dghl/monitoring/minorities/3_FCNMdocs/PDF_2nd_OP_Latvia_en.pdf).

<sup>15</sup> Latvijas Fakti Market and Social Research Centre (2015). Roma in Latvia (Romi Latvijā). p 44. The research was conducted under the project 'Different people. Diverse experience. One Latvia II', No.

#### 4. Non-citizen children

Attempts in autumn 2017 by the Latvian President R.Vējonis to launch legislative amendments for the automatic granting of Latvian citizenship for children born to non-citizen parents<sup>16</sup> failed as there was insufficient support in the Parliament.<sup>17</sup> After the Citizenship Law amendments in 2013, the number of such children remains small – 82 in 2015, 52 in 2016 and 58 in 2017<sup>18</sup> as the majority of newborn non-citizen children now get registered as Latvian citizens. **Despite their small number, the situation continues to persist that 23 years after the adoption of the Citizenship Law stateless children are born in Latvia.**

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JUST/2013/PROG/AG/4978/AD, p.5. Available at:

[http://ec.europa.eu/justice/newsroom/files/summaries\\_selected\\_2013\\_ag\\_prog\\_ad\\_en.pdf](http://ec.europa.eu/justice/newsroom/files/summaries_selected_2013_ag_prog_ad_en.pdf)

<sup>16</sup> Latvijas Valsts prezidents (2017). Letter nr. 428 to the Saeima Presidium (*Saeimas prezidijam*), 11 September, in Latvian

<https://www.president.lv/storage/items/PDF/2017/V%C4%93stule%20Saeimas%20prezidijam%2012092017.pdf>

<sup>17</sup> LSM.LV (2017). Saeima noraida Vējoņa iniciatīvu izbeigt bērniem piešķirt nepilsoņa statusu, 21 September, in Latvian at, <https://www.lsm.lv/raksts/zinas/latvija/saeima-noraida-vejona-rosinato-nepilsonu-bernu-likumu.a250901/>

<sup>18</sup> Pilsonības un migrācijas lietu pārvalde (2018). Latvijas iedzīvotāju sadalījums pēc dzimšanas gada un valstiskās piederības, in Latvian at [http://www.pmlp.gov.lv/lv/assets/documents/1aaaa/ISVG\\_Latvija\\_pec\\_DZGada\\_VPD.pdf](http://www.pmlp.gov.lv/lv/assets/documents/1aaaa/ISVG_Latvija_pec_DZGada_VPD.pdf)