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**ALTERNATIVE REPORT TO THE UNITED NATIONS
ON SITUATION IN AREA OF PROTECTION
ON THE RIGHTS OF THE CHILDREN IN LATVIA
1998–2002**

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- ◆ The Mission "Steps"
- ◆ Latvian Single Mother's Society
- ◆ Latvian Foster Families Society
- ◆ Martina Foundation
- ◆ Children's and Adolescent's Diabetes Association of Latvia
- ◆ Latvia Children's Fund
- ◆ Latvian Union of Large Family Associations
- ◆ ECPAT representative in Latvia
- ◆ Latvian Save the Children – 44 local branches and support groups
- ◆ Association for Protection of Consumer's Interest

**RESEARCH OF THE LATVIAN SAVE THE CHILDREN
WITHIN THE FRAMEWORK OF THE UNITED NATIONS
PROJECT "STATE VIOLENCE AGAINST CHILDREN".
PREVENTION OF VIOLATION OF THE RIGHTS OF
CHILDREN
LEFT WITHOUT PARENTAL CARE IN CHILDCARE
INSTITUTIONS
2000–2002**



Latvian Save the Children
Independent Child's Ombud
Latvia, 2002

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PREFACE

People in a democratic society have the chance to influence state authorities by using the power of public opinion. The reports to the UN prepared by Save the Children about the situation of children in Latvia are such a mechanism because they include information gathered by many non-governmental organizations.

Only truly open discussion will give Latvia's children the desired outcome – national and international assistance on various levels in accordance with Paragraph 4 of the UN Convention on the Rights of the Child.

State Office for Human Rights

Olafs Bruvers

Recently in America, a UN session about children took place. In order for the UN to know how to help children, it has to survey the children's situation in each country.

Latvia's government is scared about not becoming part of the European Union, and so it does not tell the truth about the situation of children in Latvia. The Latvian Save the Children and other children's organizations try to tell the UN the real situation. If the UN and other countries see that the government is hiding the truth, they will decide against accepting us into the European Union for five more years as they did with Bulgaria and Romania.

My suggestion is that before exaggerating the good side, the government should ask the children themselves if they want to pass up the chance to get aid from the UN and rich countries just to make the government look good.

Danute Razuka-Ebela (11 years old)

It is in the interest of every state to improve the living conditions of children. So far, the government of Latvia has successfully hidden from other countries the bleak reality and true state of affairs. The main reason for this blameworthy and selfish attitude is the fear that Latvia might not be accepted into the European Union.

The chief problems are childrens' dissatisfaction with life, caused by schools or the educational system, deplorable living conditions, hunger, poverty, inadequate health care and ostracism.

School is the place where children should feel safe, but that is not the case and it won't be until this outdated system is changed.

Latvian children are smart, but often they are intimidated and ridiculed, and thus they do not want to show their level of development or to study to the best of their ability. There are many talented young people in our midst; unfortunately, because of a lack of funds, they cannot afford to attend a suitable educational institution.

You could help us-we long for justice and support. I believe that we will succeed if our government stops putting obstacles in our path. The situation will definitely improve!

Karolina Freimantale (17 years old)

For financially supporting this publication we sincerely thank the Baltic American Partnership Program, the Charity Society of Roskild Music Festival (Alternative Report), Soros Foundation – Latvia, the Embassy of the United Kingdom (Survey on Violence).

For information that was used in preparing this publication, we thank our long-term co-operation partners – from the NGO's mentioned under the titles as well as to the Union of Local Governments, the Latvian National Committee of UNICEF, the Free Trade Unions Confederation, the NGO Center.

On behalf of the children of Latvia, we express heartfelt thanks to those MP's of our Saeima who regard that solving children's problems is a priority, who have responded to requests of the NGO's when, on specific occasions, support from the highest decision power was needed. Many thanks to those MP's who consistently, in several successive convocations, have lobbied for Save the Children and have reviewed and supported proposals by NGO's to supplement laws.

We would like to thank especially Janis Straume, Aija Barca, Antons Seiksts, Vaira Paegle, Helena Soldatjonoka, Aida Predele, Silva Golde, Jakovs Pliners, Andrejs Klementjevs, Kristiana Libane, Karlis Greiskalns, Olegs Denisovs, Andrejs Pantelejevs, Andris Berzins, and Romualds Razuks.

On behalf of the children, we are thankful for exempting patients from co-payments and waiving payment for home visits, for granting guardianship allowances to orphans' grandparents who are sick and have no one to support them, for granting pensions to those children who have lost one of their parents during the days of the barricades, for emergency social assistance to children wherever they may be, for banning corporal punishment, for eliminating discrimination in granting benefits to children on the basis of the year of their birth.

In the name of children who were tortured, humiliated and subjected to sexual violence at the Aleksandrova special boarding school and at the Social Care Centre "Vegi", we thank you. Without a firm support by the MP's, officials would not have solved the problems, and the children would not have been saved.

Our sincere gratitude to our President, Vaira Vike-Freiberga, Prosecutor General Janis Maizitis and Head of the President's Clemency Service, Rita Aksenoka, for their response to the SOS signals by Save the Children with a request to help the children who, for years in child care institutions suffered from unbelievable violence to which officials turned a blind eye.

Our warm thanks to the Director of the Human Rights Office, Olafs Bruveris, who has consistently supported the constructive initiatives by NGO's in the area of the rights of the child.

Very special thanks to all the journalists who, responding to the information provided by Latvian Save the Children about child abuse problems in various parts of Latvia, have done an enormous job in influencing the public opinion with a view to help those children who, for one reason or another, have not received help from officials, ministers, and MP's.

As a matter of fact, all those to whom we have expressed our gratitude in the Preface have helped numerous children by doing someone else's job, the job of those officials whose responsibility is to protect the rights of the child. It is not the job of the Saeima, the Prosecutor General, the President or journalists to stop violence against children. It was not the duty of Latvian Save the Children or other NGO's to draft laws. Appropriate ministries and institutions, as well as officials of state child protection agencies were responsible for this work.

Unfortunately, the situation in our country is what as it is. When you come to the last chapter of the materials prepared by the NGO's, you will, probably reach the same conclusion which we, the publishers, have reached – the norms of the UN Convention on the Rights of the Child are ignored in Latvia because of low level of knowledge, lack of initiative and lack of responsibility

on part of most of our officials. Neither in Estonia nor Lithuania, to say nothing of Slovenia, Hungary, the Czech Republic and Slovenia, is the situation of children as bad as it is in Latvia. Eventually, we have to ascertain why it is so and what is to be done lest Latvia be excluded from the EU enlargement process until 2007 because of violations of children's right, as was the case with Romania and Bulgaria. Unfortunately, we are very close to such an outcome because of the 27 Central and Eastern European countries, regarding candidate states for EU, only the two aforementioned countries rank below Latvia in terms of health and welfare indices of children.

Chairperson of Latvian Save the Children

Inguna Ebela Dr. Med.

Sworn advocate, Board member of Latvian Save the Children

Anita Rektina LL. M.

INTRODUCTION

What is the Alternative Report on the Situation on the Protection of the Rights of the Child in the Country and the Way Society can Use it to Influence the Legislative and Executive Power of Latvia with the Mediation of the United Nations

The Alternative Report on the situation on the protection of the rights of the child in the state means a commentary prepared by public organisations upon the official Government Report. The Government Report is an overview of the implementation of the UN Convention on the Rights of the Child in the country.

Both the parties have to prepare the alternative and the official Country Report in accordance with the basic provisions of the UN Convention on the Rights of the Child.

The official report of the state is based upon the analyses of statistical data, but the non-governmental Alternative Report covers also those spheres of the life of children that are not included into statistics, as well as non-governmental studies and unofficial data.

The UN Human Rights Committee is of the opinion that “the Alternative Report is of utmost importance. States in their official reports predominantly try to show the life of children as being much better than it is in reality. The NGOs, in their turn, tend to dramatise the situation. Very often both the reports are biased. The truth lies somewhere in between the two. The more democratic the country, the more realistic the official report is. If the country has suffered from totalitarian regime, then the Alternative or the NGO Report tends to be closer to the truth.”

The UN Convention provides that the aim of the UN Human Rights Commission, to which the UN Committee on the Rights of the Child belongs, is to find out the real conditions of children in a state, by comparing both the reports, to analyse the problems and to provide Recommendations how to solve problems in order to improve the life of the children in the country concerned. Furthermore, following from Article 4 of the Convention, Latvia might even receive assistance for its children from more prosperous member states of the Convention, but in order to do so the country has to identify specific needs in its report.

The Alternative Report prepared in 1998 by Latvian Save the Children jointly with the Mission “Steps”, Centre of Single Parent Families, Latvia Children’s Fund, Latvian Foster Families Association, Latvian Union of Large Family Associations, Association of Oncologically Sick Handicapped Children and Their Families, The Union of Local Governments of Latvia, Free Trade Union Confederation of Latvia, 42 local branches and support groups of Save the Children was recognised by UNICEF representative to be one of the best ever submitted to the UN Human Rights Commission.

Since the government of Latvia submitted its report to the UN with a delay of 5 years, the Commission decided to review the Government Report only at the beginning of 2001. The decision was taken to review or Alternative Report before that – in October 2000. Since a long period of time had already passed after the two reports were submitted in 1998, the UN High Commissioner of Human Rights invited Save the Children and the Government of Latvia to prepare an additional report covering the time period from 1998 till 2001. That was the reason why this Interim Report to the UN was prepared by Save the Children that collected the information provided by the above mentioned NGOs, which was supplemented by the Martina Foundation, Latvia Single Mothers’ Society, Children’s and Adolescent Diabetes Association of Latvia, ECPAT Representative in Latvia and Latvian Save the Children 44 local branches and support groups.

This edition consists of:

◆ **Introduction. What is the Alternative Report on the Situation on the Protection of the Rights of the Child in the Country and the Way Society can Use it to Influence the Legislative and Executive Power of Latvia with the Mediation of the United Nations.**

◆ **An Interim Report to UN Commenting the Initial Report on the Implementation of the UN Convention on the Rights of the Child submitted by the Latvian Government and the Alternative Report drafted jointly by Latvian Save the Children representing an independent Children's Ombud and other NGOs. *Additional information requested by the UN to the 1998 Alternative Report.***

◆ **NGO's Information on the 2001 UN Recommendations to the Government of Latvia and Information on Implementation Measures Taken since the Receipt of the Recommendations.**

◆ **The 2001 UN Recommendations to the Government of Latvia on improving the conditions of children.**

◆ **Some Trends in the Protection of the Rights of the Child in Latvia 2001/ 2002, Health and Welfare.**

◆ **Overview of Some of the Indices Characterising the Conditions of Children in the Context of the Baltic and the other 24 Central and Eastern European Countries within the Framework of the Transition Decade.**

◆ **The Study performed by Save the Children within the framework of the UN project State Violence against Children – the analyses of facts of violence in 29 Latvian childcare institutions.**

◆ **State policy for the implementation of the rights of the child in Latvia and the reasons for violations of the UN Convention on the Rights of the Child.**

Short information on preparation of this edition, activities related to and caused by the Alternative Report

Chronological overview:

◆ In 1991 the Latvian Parliament accedes to the UN Convention on the Rights of the Child.

◆ In 1992 the Parliament ratifies the Convention.

◆ In 1994 according to the Convention the Latvian Government had to present the UN Initial Report on the conditions of children in state.

◆ In 1995 the Report is prepared but was not submitted "because it might harm the image of Latvia abroad".

◆ In 1995 Latvian Save the Children involved mass media to exert pressure on the government in order to achieve the submission of the Report to the UN.

◆ In 1997 the Latvian Government (represented by the State Centre for the Protection of Children's Rights – SCPCR) prepares a new variant of Initial Report, presented it at presence of the President and misinforms society that the report has been submitted to the UN.

◆ In 1998 Latvian Save the Children jointly with several other NGOs – the Mission "Steps", Centre of Single Parent Families, Latvia Children's Fund, Latvian Foster Families Association, Latvian Union of Large Family Associations, Association of Oncologically Sick Handicapped Children and their Families, the Union of Latvian Local Authorities, Free Trade Union Confederation of Latvia, 42 local branches and support groups of Save the Children prepares the Alternative Report, presents it and submits to the UN. Foreign diplomats and representatives of the press, MPs, highest church officials and local press representatives participate in this presentation.

◆ In 1998 the UN informs Latvian Save the Children about the receipt the Alternative Report, thanks for it, but informs that, regretfully, the comparison work cannot begin, because the Latvian Government has not submitted the official report.

◆ In 1998 Latvian Save the Children submits protest to the Parliament and the Government, as well as inform society through mass media that the Latvian Government misinformed society and has not submitted to the UN the Government Report on the conditions of children in state.

◆ In 1998 the Alternative Report of Latvian Save the Children causes heated discussions in the press, some ministries, for instance, the Ministry of Education and Science and especially, the Ministry of Welfare publish offensive articles that the Alternative Report does not conform to real situation and is slandering of state. Latvian Save the Children is repeatedly invited to the Parliament in order to provide explanations on specific data in the Alternative Report.

MPs are surprised and shocked about information offered by society on violations of children rights, however Latvian Save the Children and other members of NGOs – professionals in their specialities, convince MPs that facts of the Alternative Report conform to real situation.

With references to specific orders of the Government, representatives of Latvian Save the Children “overthrow” also offensives of the Ministry of Welfare and the Ministry of Education and Science in press, because truth is on the side of society.

◆ In 1999 the Latvian Government “improves” official report, as if submitted to the UN in 1997, and really submits it to the UN.

◆ In the beginning of 2000 Latvian Save the Children receives invitation from the UN High Commissioner for Human Rights to prepare an additional report to the Alternative Report submitted in 1998 (because data are already outdated) and arrive at the UN in order to discuss the comparison of the Government and the Alternative Report.

The UN invites Latvian Save the Children and the other group of NGOs, which have worked on the Alternative Report, to influence public opinion so that the Latvian Government would also submit the latest data and send a delegation of competent specialists to the UN to discuss it.

◆ In summer of 2000 the SCPCR announces that it is preparing a new Initial Report, because the old is already too old. Latvian Save the Children requests this report in order to prepare already the comments for the UN session in October. Head of the Centre promises to prepare fourth Initial Report and submit it to the group of NGOs in order to prepare the Alternative comments till October.

◆ September 2000 the SCPCR announces that the Government Report has been lost in computer of the Ministry of Education and Science and has to be restored.

◆ October 2000 the Government Report is not prepared!

◆ In 9 October 2000 within a confidential and closed session in Geneva the UN Human Rights Commission listens to the report of Latvian NGOs' Convention's group representatives: Latvian Save the Children chairperson Inguna Ebela and a member of the board, lawyer Anita Rektina on implementation process of the UN Convention on the Rights of the Child in Latvia. The Commission analyses and compares the information provided by the state and by NGOs. The aim of the session is to prepare additional questions for the Latvian Government, which will have to be answered by state delegation in January 2001. Members of the UN Human Rights Commission express regret that the Latvian Government has not submitted latest data albeit they were requested to do so. The representatives of “Latvian Save the Children” are advised to submit to the Parliament and the Prime Minister a request to provide information on conditions of children in Latvia 1998–

2000 till 1 December 2000; the Government again has failed to do that in time, contrary to the NGOs.

◆ In October 2000 NGOs' coalition of the Convention of Latvian Save the Children submits to the Parliament and the Prime Minister a request to fulfil the requirements of the UN and submit till 1 December data on conditions of children in state and to send a competent state delegation to the UN session.

◆ In 9 January 2001 the UN Human Rights Commission in Geneva listens to the Latvian state delegation and puts questions about conditions of children in the state (building on information of the Save the children and of other NGOs' Coalition, as well as data provided by the WHO, the UNDP, the UNICEF a. o.). About the way Government delegation was able to answer on questions see press release of Latvian Save the Children (Press release in annex). It is interesting that Latvian Save the Children this time took part in the session as observers. We have all audio records of the session, which confirm that the state delegation was unable to answer approx. 30% of questions, apart from that a number of answers contained mistakes and were misleading (enclosed).

It was very pleasant that a number of these questions referred to the facts provided by Save the Children and other NGO's, as well as amendments to the legislation, concerning which the UN was of the opinion that these should be urgently implemented into the existing legislation (see chapter on legislation).

◆ In February 2001 the UN forwards Recommendations to the Latvian Government on specific measures that are needed for the improvement of the conditions of children in the state in compliance with the provisions the UN Convention on the Rights of the Child. The Recommendations are drafted on the basis of comparative analyses of the Governmental and the Alternative report a. o. (WHO, the UN DP, UNICEF).

◆ In March 2001 Latvian Save the Children and other NGOs' coalition of the UN Convention invites the Parliament and Prime Minister to prepare and actions plan for implementation of the UN Recommendations. The Recommendations are discussed in joint session of Children Rights sub commission of Human Rights commission and Social Affairs commission in The Parliament.

◆ June 2001/March 2002 amendments to the legislation worked out by "Latvian Save the Children" and supported by the NGOs' Coalition of the UN Convention are discussed in the Children Rights sub commission of Human Rights commission, the Social Affairs commission, the Defence commission, the Internal Affairs commission and the Legal commission in The Parliament. Unfortunately, lawyers of the SCPRC do not support a number of them, although they are professionally prepared and approved by the UN.

◆ March/May 2002 the Report prepared by NGOs has been rejected as slandering of state, exaggeration, and falsification in number of "Home blessing" broadcasts in the Latvian State radio.

◆ March 2002 Latvian Save the Children submits to the Parliament and the Prime Minister President of Ministers an appeal to identify whether and how the Latvian Government implements the UN Recommendations on improvement of children conditions received a year ago, and question – why they are not published in press according to requirements of the Convention and why the Government has not worked out a specific actions plan for implementation of the Recommendations.

Except the discussion of the amendments to legislation worked out by the Latvian Save the Children in the Parliament, other systematic and purposeful measures for implementation of the Recommendations are not taken by the agency which is officially responsible for the rights of the child in this country – the SCPCR.

◆ March 2002 MPs of the Parliament and the Prime Minister after initiative of Latvian Save the Children requests from the Interministerial Committee on the Rights of the Child information on implementation of the UN Recommendations.

◆ April 2002 Head of the Interministerial Committee on the Rights of the Child minister of education K. Greiskalns answer, mentioning a number of measures taken by NCPRC for implementation of the Recommendations.

◆ April 2002 Latvian Save the Children jointly with other NGOs and specialists analyse the answer of the head of the Interministerial Committee on the Rights of the Child, minister of education K. Greiskalns on implementation of the Recommendations and conclude:

– The UN Recommendations have not been published in the official gazette *Latvijas Vestnesis*, therefore the general public has not had an opportunity to acquaint itself with them.

– In the course of one year SCPCR has failed to draft an actions plan for the implementation of the UN Recommendations, it has not been approved by the Cabinet of Ministers.

– The only concrete measures taken – the submission to the Parliament of the amendments to the legislation that follow from the UN Recommendations, prepared by NGOs, discussions at the parliamentary committees and implementation of these into laws.

– The work of SCPCR regarding implementation of the Recommendations is unsatisfactory.

The above information is a brilliant example of the possibilities in a democratic country to improve the policy processes and relations with international institutions (UN) with the help of public opinion, this is an example from a specific sector – the rights of the child and the welfare of children.

Latvian society has the possibility to submit Alternative Reports on 7 other spheres that determine public life and fate of people, but, regrettably, no other organisation has made use of this opportunity.

Save the Children is an independent ombudsman on the rights of the child, and so we perceive it as our duty to prepare the Alternative Reports, because only honest information about children in Latvia will be able to attract the support of other UN Convention Member States, as it is impossible to solve our problems without extensive international support.

Yes, indeed, to tell the truth about the positive and negative aspects of your own state, you need perseverance, courage and knowledge, but the NGO sector does not lack in these. Only public opinion with the support of mass media and talented journalists is able to ensure the development of the state with guaranteed human rights and international

support to these processes, and therefore the numbers of those who call the NGO Reports to the UN and other institutions slandering of the state are diminishing, since these agencies are only interested in rendering assistance to this country. And yet, some of them remain, nearby, part of civil servants and officials who care only for today, their own salaries, who want to avoid any extra work, who do not want to implement foreign experience that would demand meeting efficiency criteria at work and change of attitude towards those who suffer from violations of the rights of the child. On the other hand, part of truly honest, educated people suffer from the disease, fatal to Latvians, the wish to “sweep everything under the carpet”, which in this case has turned into political shortsightedness. If Latvia won't admit that something is wrong, no one will be able to help us.

Therefore we would like to express our gratitude once again to all the children and their relatives who shared their pain with us and asked the help of Save the Children Ombudsman office, because no one else had helped them, to thank all the NGOs that worked in order to collect information on the violations of the rights of the child, to thank all who financially supported this edition.

The information that we have submitted to the UN in the materials of all the previous and the present Report are confirmed by studies performed by Latvian Save the Children with its 44 regional branches and support groups, all the other mentioned NGOs, as well as the UN Development Program, the World Bank, UNICEF, the World Health Organisation, Central Statistics Board, the National Centre for the Protection of the Rights of the Child, the Statistics Department of the Ministry of Welfare, Irish Society for the Prevention of Violence against Children, Latvian Narcology Centre. (Bibliography enclosed.)

December 2001 in Geneva a Regional meeting of NGOs from 27 EU/CE countries and Baltics was organised by UN/UNICEF. The goal was to establish a Regional NGO Network as part of Global Movement for children. Latvian Save the Children was confirmed in Geneva as temporary National focal point – Latvian coordinator for children's rights. On the other hand the Latvian NGO coalition for implementation of the UN Convention on the Rights of the Child (CR Coalition) has elected Latvian Save the Children as organisation of Presidency of the mentioned coalition as well as the focal point of Latvia in Regional Network for children until year 2005.

Since middle of the 90ties Latvian Save the Children regularly gathers information from other NGO's dealing with children's rights.

At the beginning of 2002 thanks to the support of the NGO Centre Save the Children invited all NGO's interested in well-being of children to submit supplementary information regarding the Alternative Report about children to UN. NGO's were asked to comment process of implementation of UN Recommendations to Latvian government concerning necessity actions to improve situation of children in the country as well.

Therefore we will thank for the response Association for street children, Diabetes society, Dundaga custody court, Department for youth of the Council of Daugavpils and Union of NGO's for social and health care.



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**Representatives of the Latvian Save the Children Report from Geneva about the
Session on the Status of Children in Latvia held by UN Commission on Human
Rights on January 9, 2001**

As we will report in more detail at the press conference held on Thursday, January 11 at 12.00 in our bureau, and prior to that all the questions asked by the UN to the government representatives and unanswered, as well as the correspondence of the responses to reality have to be summarized, at present we are reporting in brief:

Comparing the information, submitted by the government and the reports, presented by Latvian Save the Children, the UN Commission on Human Rights had many issues which were unclear in respect to the children's status in Latvia, and our government delegates were asked questions by the members of the commission. Latvian Save the Children was interviewed by them already on October 9, we were also asked to submit the translations of several laws, the description of the case of a sexually harassed girl, who did not receive help from the state, as well as to report how Latvian Save the Children had informed the mass media, the government and the Saeima after the meeting on October 9 with UN about the questions we were asked and the need to appoint an adequate, competent government delegation, which would really be well versed about the situation of the children.

It has to be admitted that although at the end of the meeting the commission expressed appraisal for the composition of the delegation and active response, nevertheless, during the meeting the independent observers from Latvian Save the Children noted the following:

- representatives of the Latvian government did not respond to 30% of the questions, especially those, which were asked, based on data, provided by Latvian Save the Children;
- the government representatives provided several faulty responses, for instance the representative of Ministry of Welfare in the response to the question "Is it true and why, according to the data of Latvian Save the Children, that the majority of children have no access to the inoculation against tick encephalitis, because it is necessary to pay for it" said the following: "Every child in Latvia can get a gamma globulin inoculation."

Comment from Latvian Save the Children: gamma globulin is not inoculation, but medicine used to combat the consequences after the bite of an infected tick. Moreover, in many places according to the reports of the doctors of our departments even the mentioned gamma globulin is not available.

The ambassador of the Republic of Latvia in Geneva for the UN J. Karklins, while commenting upon the data, provided by Latvian Save the Children and the data from the official statistics and other studies, that approximately 87% of the families with children live below the actual survival minimum, responded that he was in favor of a completely different study, according to which only 20% of the people in Latvia lived in real poverty, 20% were well off and the income of the remaining 60% was sufficient .

“20% in need, 20% wealthy, and other 60% between – their incomes are sufficient, I think that it is a real situation.”

Government representative from the Ministry of Welfare made a mistake, while responding to the question as to whether primary health care is available practically to all the residents, she confirmed it. This a major mistake, because Latvian Save the Children mentioned already in the report of 1998 that ~ 50% of the families with children cannot afford a visit the doctor because of lack of money, the later statement evoked a lot of screams from the Ministry of Welfare, and in the year 2000 the state – commissioned investigation confirmed the data of Latvian Save the Children, that even 54% of the families cannot get timely medical help.

In response to the question “Is it true that in concordance with Paragraph 4 of the UN Convention the previous Latvian governments have not asked for international help and specifically for assistance from the World Bank for the children of their country?” our delegation did not respond, as well as it did not respond to many other questions on which UN had received information from Latvian Save the Children and other NGOs (see the questions in the Supplement).

In more detail about all of this at the press conference materials in the Latvian version of the edition.



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INFORMATION FOR THE PRESS

Conclusions ensuing from the comments of the UN Commission concerning serious violations of children's rights in Latvia during the 9th of January session in Geneva, attended by the government delegation and independent observers from the Latvian Save the Children and the UNICEF Latvian Committee.

◆ Latvia has the highest mortality rate of maternal women and small children (under 5 years of age), irrespective of the large number of physicians which, evidently, must be explained by the low quality of the knowledge of the medical personnel (in particular, that of midwives).

◆ Primary medical care must be really available to the majority of children, however according to studies conducted by the Save the Children and the state, 54% of the population cannot visit a doctor in due time due to lack of financial resources (Representative from the Ministry of Welfare maintained that it was available to everybody).

◆ During the 10 years the situation of families (poverty) has not been improved although the GDP has increased, child allowances have not been increased.

◆ There is no system to protect children against violence in the family and at public institutions – schools, childcare institutions etc. The continued presence of an individual accused of violence near children is impermissible.

◆ Children are kept in prisons for months and years although the term of their detention must not exceed 3 months, after that all children must be released from prison irrespective of the circumstances.

◆ There is no independent public agency capable of action in Latvia that could exercise real control and monitoring over the situation of children's rights in the country. Neither the State Centre for Children's Rights nor the Commission on Children's Rights is able to perform these tasks.

◆ Free vaccines against various dangerous contagious diseases (tick encephalitis) are not available to all children.

◆ Latvian legislation does not include many important amendments which have been proposed by the Save the Children, neither have they been included in the Criminal Law (Representative from the Ministry of Foreign Affairs noted that everything was fine in this area).

◆ The national report describes legislation at great length, however the actual situation what the government has done to improve the situation of children and what it intends to do, has almost not been reflected at all.

◆ Previous governments of Latvia have not been active in requesting assistance for children from the World Bank and other international foundations which is a serious violation in a situation when the need for assistance is so great.

◆ Children have no access to information about their rights and possibilities of receiving assistance. Although Save the Children published the UN Convention for 3 age groups already in the 90ties and disseminated it among children, until now the government of Latvia has not provided it to every child.

Members of the UN Commission based their question, to a large extent, on the information provided by the Save the Children and other non-governmental organisations and often quoted the Save the Children, as well as the World Health Organisation and other organisation as the source of information.

The Latvian delegation tried to provide answers to convince members of the UN Commission about the contrary – that the situation was not so bad, however they were not successful. The government delegation failed to answer 30% of questions not only due to lack of time because several questions were repeated.

Unfortunately, some members of the commission deceived the UN with incorrect information – for example, that all children in Latvia received vaccination against tick encephalitis free of charge, that there were only 20% of poor people in Latvia, 20% of rich people, thus the income of 60% of the population was sufficient, that Latvia had a sufficient amount of computers as there were only 30 children per computer, besides all children had access to the Internet, that all children in Latvia really received timely medical care, that international conventions provided full protection to children although the legislation of Latvia was imperfect, that the police and court followed international conventions.

The impression was that some delegates from Latvia were more interested in praising their own country than in giving a true depiction of the situation to be able to receive international assistance for the improvement of the situation of children.

The Save the Children has at its disposal an audio – recording of the UN meeting which confirms the information we have provided. Under the regulations of the Commission we will be able to present this material after the 20th of January when the Commission has already prepared official recommendations for the government of Latvia.

The UN Commission gave a positive evaluation not to the report of the government and its activities in improving the situation of children but to the fact that the government had sent an active and competent delegation. Unfortunately, the Latvian delegation confuses these two notions.

The Save the Children will inform Prime Minister, the Saeima and President of the State about its impressions concerning the 9th of January session in Geneva. The Save the Children will also express its gratitude to them for the active contribution to the formation and preparation of the Latvian delegation.

The Save the Children holds the opinion that Ambassador Janis Karklins, representatives of the Ministry of Education and Science Nils Sakss and Guntis Vasilevskis as well as the representative of the Ministry of Welfare Daina Podzina coped with their duties in Geneva.

The information provided by others was not always correct.

UNANSWERED UN QUESTIONS

Questions from the UN Children's Rights Commission which the Government delegation of the Republic of Latvia could not answer while comparing the data provided in the Report on Children's Rights in the country and the data provided by the NGOs at the UN session in Geneva on January 9, 2001

1. Who co-ordinates the planning of budget for children? Is it really true that the state benefits for families with children have not been recalculated according to the increase of the Gross National Product for 10 years? How big in percentage is the part of the budget used for children?

2. Specific examples as to how the UN Convention is applied in the courts as a higher legislative act in cases when the state legislation does not guarantee the child's rights were asked for.

3. In respect to Paragraph 4 of the Convention – is it true that none of the previous governments had applied for International assistance in order to resolve the issues of protection for children's rights and implementation of the Convention?

4. As regards the Ombud – in 1997 the Saeima turned down the project submitted by Latvian Save the Children, on the basis of the fact that the Human Rights Bureau and the State Center for the Protection of Children's Rights carry out the work of the Ombud. I would like to ask for comment as to whether these institutions can be independent.

5. I would like to ask for explanation on how SCPCR can carry out the functions of monitoring and co-ordination simultaneously, thus exercising the control over itself? How can a unit subordinated to one ministry (the Ministry of Education and Science, under the supervision of which SCPCR operates) issue directions as regards children's rights to the top management of another ministry, given both ministries have equal status, furthermore – only at the level of the ministers?

The issue was partly responded to.

6. What specific authorisation in respect to the defence for children's rights has been granted to the NGOs?

7. Why no liability for physical punishment of children and exercising of any corporal punishment has been envisaged by the Criminal Law?

8. How can the fact that 5% of Jurmala residents (3000 people) are waiting for the court trials on eviction from their apartments, because they have not paid the rent, be explained from the point of view of observing the children's rights?

9. How can an unemployed mother of 3 children survive, if the father lives in Russia and does not pay the alimony? Can she survive with her 3 children on the allowance assigned by the state?

10. How is the local adoption and the number of foster families being stimulated?

11. As regards repeated interrogating of the child during the investigation, is it not considered that a child could be interrogated once, taking a video and using the recordings in the further investigation and trial process?

12. As regards lengthy confinement of a child – partly responded.

13. Is it not considered that the children could be protected from sexual contacts up to the age of 18, because the consent given at the age of 16 cannot be considered binding – the child is not capable of estimating the significance and consequences of his/her actions?

14. Why has the legislation of Latvia not been improved in correspondence with the demands of the UN Convention, and the amendments to the legislation, submitted by Latvian Save the Children, which would grant the observation of children's rights, have not been adopted?

15. Is it true that many children in Latvia have no access to the necessary medical care?

16. Is it really true that, as Latvian Save the Children reports, the majority of children in Latvia have no access to inoculation against tick encephalitis due to the lack of funds?

17. Is it true that, as Latvian Save the Children reports, 87% of the families with children live below the actual survival income minimum?

18. Is it true that all children have access to the information on children's rights, access to the Internet?

And many other questions.

**PRINCIPAL ASPECTS
CONCERNING CHILDREN'S RIGHTS IN LATVIA
BETWEEN 1998 AND 2000***

***with several amendments regarding 2000/2002**

AN INTERIM REPORT

**to United Nations Commenting the Initial Report on the
Implementation of the UN Convention on the Rights of the
Child
submitted by the Latvian Government and the Alternative
Report drafted jointly by Latvian Save the Children
representing
an independent Children's OMBUD and other NGO's**

The information included in the Interim Report was submitted to Latvian Save the Children or expressed in mass media by:

- ◆ The Mission "Steps";
- ◆ Latvian Single Mother's Society;
- ◆ Latvian Foster Families Association;
- ◆ Martina Foundation (leukaemia society);
- ◆ Children's and Adolescent Diabetes Association of Latvia;
- ◆ Latvia Children's Fund;
- ◆ Latvian Union of Large Family Association;
- ◆ ECPAT representative in Latvia;
- ◆ 44 local branches of Latvian Save the Children.



**Latvian Save the Children
Independent Child's Ombud
Riga, 2000/2002**

**PRINCIPAL ASPECTS
CONCERNING CHILDREN'S RIGHTS IN LATVIA
BETWEEN 1998 AND 2000**

AN INTERIM REPORT

**to United Nations commenting the Initial Report on the implementation of the UN
Convention on the Rights of the Child
submitted by the Latvian Government and the Alternative Report drafted jointly by
Latvian Save the Children representing
an independent Children's OMBUD and other NGO's**

*Presented by: Inguna Ebela, M. D., chairperson of Latvian Save the Children, at the
presessional working group meeting of the UN Human Rights Commission on
October 9, 2000.*

*Co-author of the Report: Anita Rektina, sworn advocate, Board member of Latvian Save
the Children, advisor to the Parliament (Saeima) of the Republic of Latvia.*

Honourable members of the UN Human Rights Commission,
Honourable representatives of the World Health Organisation,
the United Nations Children's Fund,
Commission for Refugees and other international organisations,

On behalf of the Board of Latvian Save the Children and other organisations which have participated in the drafting of the Alternative Report for the UN on the Situation in the Protection of the Rights of the Child in Latvia (hereafter called Alternative Report), let me express my gratitude for the opportunity to participate in the work of the UN Human Rights Commission and, in particular, at the meetings devoted to the discussion of the children's situation in Latvia as reflected in the Report submitted by the Latvian Government and also reflected in the Report prepared by Latvian Save the Children in compliance with the provisions included in the UN Convention on the Rights of the Child. The 1000 members of Latvian Save the Children who form a network of 44 support groups in the whole of Latvia are deeply gratified with this opportunity, because Latvian Save the Children was the first organisation which introduced the idea of children's rights in Latvia and spread information about these rights to the general public and the children themselves.

In 1990 Latvian Save the Children translated into Latvian the UN Convention on the Rights of the Child and submitted the text to the Latvian Parliament, thus urging Latvia to sign this Convention. Following a mass media campaign organised by Latvian Save the Children, Latvia signed the Convention in 1991 and ratified it in 1992. At that time, after a 50-year-long period of occupational regime, the Latvian society had regained freedom of expression, and Latvian Save the Children invited the Government of Latvia to describe in a report the actual situation of children in the country, and the report was drawn up in 1994 with an active participation of Latvian Save the Children which at that time was a body representing the general public in a governmental Committee dealing with the rights of the child. Regretfully, the Government did not send the report to the UN because, according to the opinions expressed by some of the Ministries, the report was not

compiled in conformity with international standards. Unofficially it was heard that such a frank description of the situation would stain the international reputation of the country.

In the time period between 1994 and 1996 when the old system of children's rights protection was discarded, there was no system to replace the old one. Volunteers of Latvian Save the Children who included such professionals as medical doctors, lawyers, teachers and children's rights inspectors created a new system. On a regular basis, supplements and amendments to the existing legislation were proposed by Latvian Save the Children; it also provided legal counselling to local governments, members of bodies working in the field of children's rights and also to families; it created new types of social aid centres, made TV broadcasts devoted to the rights of the child, and invited public opinions, thus exerting influence on decision-makers and executives and stimulating them to work more effectively for the benefit of children by renewing such institutions of the independent pre-war Latvian state as custody courts and social assistance services. Latvian Save the Children made proposals for putting in place laws, which would help to solve problems according to Scandinavian or Canadian models, which are not alien to the Latvian mentality.

In 1993 Latvian Save the Children organised a General Assembly to lay the foundation for the UNICEF National Committee in Latvia. Latvian Save the Children has also done a lot of work producing videos and films, which have been distributed in other countries, thus implementing Article 4 of the UN Convention, namely, inviting more prosperous Member states to render assistance to the children of Latvia. As a result of the pressure exerted by Latvian Save the Children, the State Centre for the Protection of Children's Rights was founded, and finally, after a delay of four years, an Initial Report on children's rights situation was drawn up on behalf of the Government; it was presented and given wide publicity in 1997, with the President of the State participating in the ceremony.

In 1998 Latvian Save the Children prepared comments to the Initial Report drawn up by the Government, and sent them to the United Nations. To our disappointment, the UN Human Rights Commission replied that they had not received such a report from the Latvian Government and were unable to make any comparison between the two reports. After lengthy discussions held by the Ministry of Foreign Affairs and the Ministry of Education and Science it was decided to send the Initial Report to the UN, but, as the Ministries learned that an Alternative Report had been sent to the UN by Latvian Save the Children, they started revising their Initial Report – already for the third time. It must be said that the publication of the Alternative Report by Latvian Save the Children created a scandal: the authors of the Report were called to account and had to explain their action to the Parliament; some of the Ministries, the Ministry of Welfare in particular, publicly criticised Latvian Save the Children for tarnishing the image of the country, incompetence and presentation of outrageous lies. For instance, the Alternative Report came as a surprise to quite a few of the MPs as they learned that tuberculosis patients had not been treated free of charge in Latvia before 1998, and aliens in Latvia were entitled to free medical aid only in cases of emergency, which included only three days after surgery; everybody was shocked to learn that about 50 percent of families postponed visits to doctors as long as they could because they could not afford to pay for the visits; that the chances of development, health and even life of about 15 to 17

thousand children were endangered in their families but the children could not be removed from their families because no alternative placement was available for them; the majority of children from such risk groups did not attend school on a regular basis; and that the income per family member of more than four-fifths (85%) of families with children was below the actual subsistence level.

It may be stated with satisfaction that in the year 1999/2000 the government institutions of Latvia have recognised as truthful the facts included in the Latvian Save the Children Report, and they have done even more: they have supplemented the information by making government-financed public surveys. In addition to that, in 1999 the Latvian Government submitted its final version of the Initial Report. But alas! Now the comments prepared by Latvian Save the Children in 1998 are not compatible with this version, and no thorough analysis or item-by-item comparison between the two documents is possible any more. The purpose of the present meeting is to prepare for the session in which representatives of the Latvian Government will participate and to be ready to ask them about 30 questions about the children's situation in Latvia. For this purpose we may offer you a concise Interim Report covering the time period from 1999 to 2000, which highlights shortcomings and identifies problems which remained unsolved during the previous years (by 1998) as well as violations of children's rights and those problems which have appeared during the past few years or have intensified to a great extent, and, of course, the areas where some improvements have been made.

This Interim Report has been drawn up by summarising opinions offered by the 44 Latvian Save the Children support groups and local branches, which recently held a two-day seminar; early in October other NGOs, which had offered information for the drafting of the Alternative Report also gave their comments about the material prepared by Latvian Save the Children. The legislative part of the Interim Report has been drawn up by sworn lawyer Anita Rektina, who is the organisation's Board member and advisor to the Parliament, in consultation with other members of the legal profession; you will be able to ask her questions during the meeting, and it would be no exaggeration to say that she together with Latvian Save the Children has participated in the drafting of all the relevant legislation before it is reviewed by the Parliament and has also participated in the Parliamentary debate on children and family matters. So, for instance, during its meeting of April 1, 1992 the Parliament of the Republic of Latvia adopted seven legislative amendments drafted by Latvian Save the Children. Currently we are focussing on the proposed version of the Law on Reproductive Health which includes a provision violating the rights of pregnant teenagers and which the Parliament is planning to adopt. Work is also under way to draft amendments to the Law on Custody Courts in order to eliminate provisions, which hinder and complicate the procedure of international adoption of children. Another task is to introduce amendments to the Criminal Law and the Criminal Procedure Code.

The information provided here is named Interim Report because it covers the time period after 1998, when the Initial Report and the first Alternative report were already submitted, but according to Article 44 of the Convention the next report must be submitted only after five years – in 2002/2003.

Since 1998 numerous significant changes have taken place in the area of children's rights protection, and issues to be dealt with have also changed, therefore we consider it is necessary to present this short Interim Report. It has also become known that the

Latvian Government has authorised the State Centre for the Protection of Children's Rights to draw up a new report on behalf of the Government describing the current situation. This is going to be the fourth (!) version of the Government's Initial Report, and it will be submitted to the UN Human Rights Commission for review in its January session of the year 2001, even though, in compliance with the Convention, such a report has to be submitted only in 2002/2003. In this situation Latvian Save the Children has to start collecting material from its local branches and other NGOs in Latvia for a new (Second) Alternative Report in the way of comments about the Government Report II. Immediately we would like to ask a question: shall we draw up the Second Alternative Report now for the Commission to be able to review it together with the official Government Report? Or perhaps the Commission intends to consider only the first Initial Report submitted by the Latvian Government (which is outdated for any practical purposes and inadequate in the moral sense – because the submission of the Report containing data of 1997 was delayed until 1999)? Our NGOs are eager to know the answer because then they may decide if it is worthwhile continuing work on the Second Alternative Report. If we must do this work, it cannot wait another week because the analysis of the Government Report will take time, and not much time is left before the January session.

If the Commission is going to consider only the first version of the Government's Initial Report, which contains data relating to 1997 and earlier years, we have to discard our project and inform the Prime Minister that in January no reports submitted at a later date (for example, December) will be considered.

Now I am going to devote some time to the Alternative Report itself. The legislative part of the Report is available in a larger number of copies. I will dwell upon some of the most important aspects characterising the children's rights situation in Latvia.

A COMPARATIVE EVALUATION OF CHILDREN'S SITUATION BEFORE 1998 (WITH SOME OBSERVATIONS RELATING TO 1998–2000)

I. Positive changes in the situation and factors promoting improvements

1. Considerably larger childbirth benefits and allowances granted to families with children under one and a half years of age.
2. Increasing birth rates since the second half of 1999.
3. Inflation curbed since the middle of 2000; a rise in the minimum salary level and higher average earnings.
4. Less frequent occurrence of tuberculosis.
5. Improvements in the system of children's rights protection on the national and local government levels (lack of money is the problem) achieved due to the efforts of the State Centre for the Protection of the Rights of the Child and owing to some legislative amendments made by the Latvian Parliament.
6. The mortality rate of infants during the first year of life has fallen, credit for this must be given to paediatricians and gynaecologists who work in a hard economic situation (this mortality rate, however, is still one of the highest in Europe).
7. Remedial classes opened at schools and the general level of education improved.
8. Better coverage in mass media of children's problems and rights.
9. Higher legislative activity in the field.

II. Violations of the rights of the child which continue to persist

1. 80% of families have income which is lower than the actual full subsistence level (according to the Social Report issued by the Ministry of Welfare 2000).
2. ~85% of families with children are living under adequate subsistence minimum (data of Latvian Save the Children), ~93% if there are 3 and more children (UNDP).
3. The real number of children not attending school on a regular basis (children left without a standard education) remains unknown; according to Latvian Save the Children it is about 15 thousand – 4–5% of the school age children.
4. 54% of inhabitants cannot afford visits to doctors when required because of lack of money.

5. The chances of development, health and life of 21 thousand children are endangered in their families but the children cannot be removed from their families because no alternative care is available for them as local governments do not have funds.

6. There is no foster family network in country (only a few foster families exist); no support for the development of a foster family network; the reasons why there is a lack of foster families and why children remain in danger have not been investigated.

7. Children's homes (orphanages) are filled with "artificially created" legally not free for adoption children but in 86–93 % of cases they never return to their native homes (observation by Latvian Save the Children); the Parliament has deleted the Civil Law provision which had been included on the basis of a recommendation of Latvian Save the Children stating that parental powers are automatically terminated if the parents have not been paying attention to their child for six months.

8. No support is given to the practices of adoption, guardianship or fostering of pre-school, school age or teenage children;

9. Opportunities of foreign (inter country) adoption have been made complicated and are actually hindered by involving in the adoption process a number of bureaucratic institutions – two ministries, the Civil Records Department and many others, at the same time excluding the local custody courts from the decision-making – a function delegated to custody courts by law (Cabinet of Ministers Regulations Regarding Adoption).

10. A child who has suffered from violence is not entitled to a free-of-charge assistance of a lawyer, because the relevant draft amendments to the Criminal Law and the Criminal Procedure Code submitted by Latvian Save the Children have not been approved by the Parliament.

11. An abused child is not protected against a psycho-emotional shock; it is allowed to interrogate the child several times (see also the reference to the desired legislative amendments in item 10).

12. The amount of family allowance for families with children remains to be small (its relative value has fallen several times); the Government has not kept its promise to increase this amount by January 1, 2000, as required by the Law on Social Assistance.

13. Thousands of families with children are under threat of eviction because they have not been able to pay their rent and utility costs and have debts.

14. It is hard to apply social guarantees to those children who have left school, have reached the age of 15 and are unemployed, because the State Employment Service has no funds for training under-age unemployed.

15. Children born in families of aliens after 1991 are not entitled to social guarantees and free medical care; medical care providers are not remunerated for services given to aliens' children; such care may be provided by paediatricians out of kindness.

16. Handicapped children are not regarded as invalids any more when they reach the age of 16.

17. Breast-feeding is provided only to 20–25% of infants under the age of 6 months.

18. No adequate health education is provided by schools; up to 33% of girls under 18 years of age do not use any protection to prevent pregnancy (9% in Finland and only 2% in France).

19. State has not implemented adequate system of statistics regarding data about children at risk.

20. State does not solve problems of children at risk sufficiently, leaving solution for NGO's.

III. Declining welfare and violation of children's rights

1. Tic-induced encephalitis is epidemic in Latvia and causes the highest morbidity rate in Europe (with a statistics of nearly 1000 cases of illness leading to severe invalidity or death but vaccination against it is not available to all children because of the high cost of the vaccine).

2. A large part of children is excluded from qualitative vaccination against diphtheria and other contagious (if the parents are with low responsibility) diseases because

schools practically do not provide vaccination (the capital city of Riga will be an exception soon: when information was received from the City School Board that 40% of children in Riga had not been vaccinated, the Mayor of Riga ordered to resume vaccination at schools in 2001).

3. There is a diphtheria epidemic in the country in spite of the suspicions that vaccination has been carried out by using a weak vaccine; free-of-charge diphtheria immunity tests are not available to children;

4. The number of drug-addicted, alcoholic and smoking children has risen dramatically because the Government has not paid due attention to inspections and prevention; no national anti-drug action programme has been adopted; the cost of drug tests for children are not sufficiently covered by the state budget funds of the year 2000; heroin prices are 5 to 10 times lower in Latvia than elsewhere in Europe; surveys at discotheques show that 75% of the children visiting discotheques have tried to use drugs.

5. There are limited opportunities to provide diagnostics, treatment and rehabilitation of children; compulsory anti-drug, anti-alcohol and anti-venereal treatment of children is not required by law.

6. The courts issue inadequate judgements justifying or imposing light sentences on parents or other adults who have been charged with sexual or other abuse of children; within the competence of the Prosecutor General's Office it should be investigated if such judgements are rooted in public opinion or are caused by corruptive practices.

7. Children who have suffered from violence are not guaranteed immediate and adequate rehabilitation.

8. The existing system for protection of children's rights and legislation are not able to guarantee rights of children to be protected from any kind of sexual, physical, emotional violence and maltreatment. Children who suffer under violence have no real access to be protected on all levels – family, school, child rights protection system, police, prosecutor office, court.

9. Pregnant teenagers are not offered shelters paid for by the central or local government.

10. There are plans to delegate the financial responsibility for general-education boarding-schools to local governments instead of the existing central government responsibility; this may lead to closures of boarding-schools or sharply limited enrolment possibilities resulting in deteriorating health and education levels of the local children from low-income families.

11. There are no alternative care opportunities for children who have been removed from their families because their health or life has been in danger.

12. A large number of children in single-parent families suffer from poverty; Latvian Save the Children had submitted an amendment to the Law on Social Assistance providing that the state should compensate the amount of alimony after divorce in cases when it was impossible to recover this amount from the divorced parent, usually the child's father, but the Parliament deleted this provision from the Law.

13. The maximum pre-trial imprisonment period of minors has been prolonged up to one year (because the courts cannot cope with the work) which is in contradiction and in violation of the Criminal Procedure Code.

14. In Latvia a state-financed Parliamentary OMBUD of the Child has not been created, and its functions are fulfilled by Latvian Save the Children which is an independent non-governmental organisation listening to grievances of children and parents but not receiving any support from the state; a state-supported OMBUD is required under international law and is necessary because of the seriousness of the situation in the country; the Parliament of Latvia has not responded to the request made by Latvian Save the Children which submitted a Draft Law on OMBUD already in 1997.

15. Only 5% of all TV broadcast time and 0.5% of radio broadcast time is devoted to children or teenagers.

16. The number of children involved in prostitution is growing up, there is some not proofed information about sex-tourism to Latvia from Scandinavia but there is no serious state program in prevention, special rehabilitation does not exist at all.

17. The statistic system continues to be incomplete, especially regarding children at risk.

18. Solutions for children at risk are mostly left by state/community for NGO's with lack of support (street children, drug users, drop out of school, involved in prostitution, after imprisonment).

The above statements illustrate only in a fragmentary way the situation described in the Interim Report and submitted for the attention of the UN; further analysis will follow when the Second Alternative Report is prepared as soon as we receive the one prepared by the Government. Nevertheless, these statements do lead to some conclusions:

- ◆ As a result of reforms and due to some creative efforts frequently resorted to in extreme situations the condition of children in Latvia has been improved in several ways (see Part I of the Report).

- ◆ There are numerous violations of the rights of the child which have remained unaffected; the violations could be classified into those which are hard to eliminate in principle because of the economic situation in the country, and those which actually could have and should have been eliminated and still are there because of negligence of civil servants, officials, local and central government members and MPs. Among these categories of violations there are such that can be averted without any costs by applying appropriate standards of intelligence and education plus good will;

- ◆ The statements included in Part III illustrate the worsening of some parameters that can mainly be attributed to the low professional skills of certain officials, decision – makers and executives.

As positive achievements made last year in the area must be mentioned the work of the State Centre for the Protection of the Rights of the Child, involvement of mass media and improved legislative activity. The President of Latvia has increased interest in children in contradiction to the previous one supporting children on verbal level mostly.

A comparative analysis of children's situation in various rural areas of Latvia shows that applying appropriate knowledge can do a lot, by displaying initiative and good will, and that personal kindness has an essential role to play in the process.

Honourable members of the UN Human Rights Commission,

We are well aware of the importance of the procedure where, on one hand, the Government is requested to submit its report, which usually does not reveal the whole truth and suppresses some of the sharp contrasts, and, on the other hand, a report is drawn up by a voluntary organisation, which very commonly involves too much bitter criticism. Latvian Save the Children as an independent Children's OMBUD has tried to

avoid extreme statements, and hopefully you will be able to use the information provided by us to prepare for the question time with the Latvian Government in January 2001.

We realise that part of children's problems are caused by the miserable economy of the country (poverty and unemployment), but we also believe that a great part of the violations referred to in our Report could have been and should have been curbed, and they must be curbed, and we have come to a realisation that violations of the rights of the child are committed on account of the limited knowledge, poor education and low cultural level of one part of local and central government officials and MPs, and even on account of their negligent attitude, laziness and resistance. We express a hope that our co-operation will be continual, and we are convinced that the January session will profoundly affect the minds of the Latvian Government members by making them analyse the work done by themselves and by their subordinates, and their attitude to children, and we also believe that this change could grow into a tangible effort for the benefit of children in Latvia.

Therefore we kindly ask your support for all proposals to Latvian Government which are based on conclusions made during comparative analysis of two submitted reports – the Government Report and Alternative one prepared by NGO's, conclusions about what actually has not been done on the right way by our Government to improve situation of children in Latvia significantly.

NB! The information included in this part of the text is related to the period of time 1998–2000. The further development of the situation in the rights of the child you can see in the department:

◆ **Some trends in the protection of the rights of the child in Latvia 2001/2002, health and welfare.**

◆ **Overview of some of the indices characterising the conditions of children in the context of the Baltic and the other 24 Central and Eastern European countries within the framework of the transition decade.**

◆ **NGO's information on the 2001 UN Recommendations to the Government of Latvia and information on implementation measures taken since the receipt of the Recommendations.**

◆ **Measures taken/not taken by the state. Measures taken by the NGOs.**

JURIDICAL PART OF THE INTERIM REPORT

After government of Latvia worked out, published and presented to official authorities and NGOs and further distributed *Initial report on the implementation of the Convention on the Rights of the Child* (hereinafter referred to as – *Initial Report I*) Latvian Save the Children worked out *Alternative Report on Situation in area of Protection of the Rights of the Children in the Country* in which it tried to reflect the real situation in the country especially in questions where the organisation could not accept the official point of view of the Government reflected in the *Initial Report*.

After Latvian Save the Children received the invitation to meet with the pre-session working group of the Committee, the organisation obtained the information that the *Initial Report I* was not sent to UN Committee, but was redrafted and without informing society

about the new version of the *Initial Report* (hereinafter referred to as – *Initial Report II*), without publishing and presentation to society, was sent to UN Committee.

The *Initial Report II* differs from the *Initial Report I*, which was presented to society and therefore there could arise some difficulties in understanding the comments of *Alternative Report*. Latvian Save the Children will try to give brief information on present children's situation in Latvia and comment on the *Initial Report II* submitted by the Latvian government.

I. INTRODUCTION

11. According to the amendments to the law "On Constitutional Courts" an individual has a right to submit a complaint to the Constitutional Court.

II. GENERAL MEASURES OF IMPLEMENTATION OF THE CONVENTION

25. On 09.03.2000 the Parliament accepted **amendments to the Children's Rights Protection Law**. The amendments were necessary to specify the responsibilities of state and municipal institutions in the area of children's rights protection as well as to define the rights of the child according to UN Convention.

27.–28. The **Commission for the Protection of Children's Rights** at the Cabinet of Ministers is working with interruptions, has not submitted proposals for amendments to the laws regarding protection of children's rights. The results of the work of the mentioned Commission have not been presented to society.

29. The **Department of Youth Affairs** at the Ministry of Education and Science has been liquidated and now the State Centre for Protection of the Rights of the child (hereinafter referred to as – Centre) takes some attempts to co-ordinate the issues regarding children's rights protection. According to Article 65 p. 2 of the Children's Rights Protection Law the Centre should have regional inspections (inspectors) for children's rights protection with the responsibility to supervise the execution of the laws in the concrete administrative territory.

There is no **ombudsman** for children's rights protection in Latvia. Latvian Save the Children submitted to the Parliament draft law "On Ombudsman" in 1997–1998 and it was discussed, but declined as the State Bureau for Human Rights and the Centre are supposed to perform all the actions required for protection of children's rights. Unfortunately the Centre is under the supervision of the Ministry of Education and Science and practically to a certain extent is dependent from the mentioned ministry. The State Bureau for Human Rights lacks resources to perform the needed actions for real protection of children's rights.

The President of Latvia has initiated the activities for introducing the institution of ombudsman as the Bureau of the President is not able to answer all received letters on violation of children's rights and the President has made conclusion from the received information that in reality the facts of violation of the rights of the child happen more frequently as it was supposed previously. Though the law has been drafted, there is still unjustified hesitation with submitting of the law "On Ombudsman" to the Parliament.

31. There is a certain delay with alignment of legislation regarding **adoption**. More than two years ago the Ministry of Welfare organised a working group that consisted of experts from ministries, Supreme Court, NGO's to work out new Adoption regulations as the previous one does not guarantee protection of the child's rights and does not correspond existing laws. Until now the draft is not approved by the Cabinet of Ministers motivating that at first all the amendments to the Civil Law should be accepted by the Saeima.

The Civil Law of the Republic of Latvia is a fundamental law regulating the basic civil principles and it has not been amended since its acceptance. The Civil Law is renewed law from 1937 and many articles are out-of-date and should be amended (not only those regarding family law) therefore the process may last 1–2 years. The draft of new Adoption regulations is not in contradiction with the basic principles of the Civil Law, they make municipalities more responsible for the protection of the rights of orphans and is in accordance with European and Hague Conventions on adoption.

It is logical that the Parliament is not in a hurry with the amendments to the Civil Law regarding adoption as there are going to be submitted a number of other amendments to the law, but in this situation the legislator has not decided on the policy of implementation of the international documents on adoption. Ministry of Justice has grounds to be worried about the mechanism of implementation of the Conventions on adoption and unreasonable delay with the acceptance of new Adoption regulations, which cannot be approved before the acceptance of amendments to the Civil Law.

At present:

- two ministries are responsible for foreign adoption procedure;
- the Adoption regulations does not correspond to the demands of the law “On Custody Courts” and demands of international conventions;
- hundreds of orphans are permanently for years living in orphanages;
- local people are inactive in adoption because of economic reasons;
- foreign adoptive parents are waiting for 3–4 years in order to adopt orphans from Latvia and they have a number of restrictions for adoption.

The motivation for local authorities to set a number of restrictions for foreign adoptive parents in comparison with local adoptive parents is fear that Latvian children may be abused in foreign families, sexually exploited in foreign country or other unforeseen consequences may happen. In our opinion the fear are without any grounds because we cannot accept the theory that the reason for a foreign family undergoing long family study period in their home country and waiting for years for adoptive child may be the intention to abuse the child. Then the local families may be suspected to have the same intention as well. The other motivation is – the child can be adopted when his/her parents have lost their custody rights, but according to foreign practice authorities have to try to return the child to the family but not to place for adoption. In reality Latvia has no resources and social workers capable to work with families (parents) and after the child is taken away from social risk family and is placed in the orphanage practically no one works with the family, and the child for years is living in the orphanage. The attempts for placing the

child in a foster family are so faint that do not essentially influence the situation on the whole.

From November 1998 to January 1999 a survey in Latvian orphanages was carried out by Save the Children with the aim to find out how many years children live in institutions and how many children do return to their families. The result – at the time of investigation 1380 children were living in state institutions, 62% of them have been there more than 2 years, 8% were returned to their families and there were a number of children which have grown up in the orphanages and after leaving them are practically on the streets as the state cannot provide jobs and flats for these children so that they are able to live a normal life independently.

Currently there are 57 state and municipal institutions taking care of orphans and those abandoned by their parents – orphanages and shelter centres. On 1 January 2001 3605 children permanently lived there. The number of adopted children is constantly decreasing from year to year. In 1998 two hundred and fifty seven children were adopted in Latvia (55 local and 202 foreign adoptions), in 1999 two hundred and one child was adopted from institutions (49 local and 152 local adoptions), but in 2001 only 102 adoptions took place (39 local and 63 foreign adoptions).

It is proved that children having lived in an orphanage until they come of age are hardly able to integrate into society – nearly half of them are unemployed, approximately 50% of the orphanage leavers are not able to form stable families, and 20% have committed crimes and are engaged in prostitution (Researches on integration in the society of the children coming from Latvian orphanages, NGO “Hope for Latvian Children”, 2000).

It is absolutely clear that the above mentioned data are well known to the authorities responsible for protection of child’s rights in Latvia, but there exists the public opinion that adopted children may be seriously endangered in their adoptive families, especially in foreign families. The activities taken by state officials for a couple of years have not really promoted placement of orphans in families instead of orphanages.

The policy of the Latvian government to maintain orphanages instead of supporting families is in apparent contradiction with the SCRC, Children’s Rights Protection Law and the Resolution (77) 33 “On Placement of Children” of the Committee of Ministers of the Council of Europe stating that any placement outside the family:

- should be avoided as far as possible through preventive measures of support for families;

- child’s needs should not be separated from the problems of his family and arrangements for the child should not be separated from helping the parents;

- the arrangements made for the child should ensure the highest possible degree of satisfaction of the child’s developing emotional needs and his physical well-being including respect of his individuality, integration into a local community and stability of care;

- long term placement of very young children in residential units should be avoided as much as possible and adoption in the light of the European Convention on the Adoption of Children should be facilitated and encouraged to the greatest possible extent.

III. DEFINITION OF THE CHILD

37. The affirmation that an advocate has responsibility to guarantee **legal assistance** to a child at any age on his request is misleading. The law "On Advocates" does not stipulate the responsibility of an advocate to provide legal assistance for children free of charge. The lawyer's fees are practically not accessible for children and therefore children have opportunity to receive legal assistance only in case somebody is paying for it, or if an advocate agrees to work free of charge but these may be rare exceptional cases and not a system. According to Latvian laws only the lawyer for the accused in criminal process is paid by the state (the underaged victims in criminal process may receive legal assistance free of charge only in exceptional cases if the rights of the child is not sufficiently protected in the opinion of investigation authorities).

The qualified, free of charge legal assistance is offered to children by Latvian Save the Children, the Centre and maybe by some other organisations and institutions, but there is no information about it. Approximately 500–600 families or children every year are provided with qualified legal assistance in Latvian Save the Children (1992–1997 about 900–1000 families a year, the last years Latvian Save the Children budget has decreased and therefore the reception hours of the lawyer have also decreased).

Official state institutions when discussing draft laws or taking political decisions practically do not clear up the point of view of a child, but are requiring the conclusion of experts from children's rights protection organisations.

39. We cannot agree that the state ensures **schooling according to the abilities** of the child. Formally education is free of charge, but practically demands certain financial resources. In case the family is living under minimum subsistence level the parents or legal guardians are not able to ensure the education in accordance with child's abilities as not always the educational establishment is close to child's home (transport expenses) and parents have enough money to purchase the needed books, to pay for music or art lessons, etc.

Note – Primary education includes grades 1–9 and secondary education includes grades 10–12, but not as indicated in the *Initial Report II* –1–8 and 9–12.

Until now the precise number of not-attending-school children is not known. Every autumn some activities are taken to find out and register these children with the aim to return them to school and to give the necessary support to their families. Unfortunately the figures are not exact, not always the municipalities have information about all the families living in their territory, the data are not included into Inhabitant Registry and therefore even the data on the number of the children in school-age received from Registry and the municipalities are different. In fact, no one exactly knows how many children live in Riga and how many of them do not attend the school.

40. According to the **Labour Code** children under 18 (but not 15) are not allowed to work full time. Children under the age of 15 are not allowed to be employed in a permanent work and children at the age of 13–15 may be employed with the consent of their parents or guardians and only in time free from studies.

44. According to Latvian Criminal Procedure Code the **children-witnesses and victims** are subjected to questioning during preliminary investigation and court proceeding an unlimited number of times even if such questioning could cause sufferings or psychological trauma. Often in dealing with a criminal offence against the child, especially in sexual abuse cases, the parents decide not to inform the police to avoid numerous questionings of the child and unprofessional attitude to him from the side of judicial authorities. Unfortunately, Latvian Save the Children proposals on determining a special status for minor victim and witness in criminal procedure were left without response until 1999 when the issue became topical in connection with initiating criminal cases on paedophilia. On December 9, 1999 Criminal Procedure Code was amended, stating that repeated questioning of witnesses (victims) under 14 is acceptable only when necessary in the presence of psychologist. If the court does not agree to the decision of psychologist, the court determines psychological expertise for the witness (victim). Such a provision seems rather strange as Criminal Procedure Code determines that only necessary procedural actions are acceptable as well as does not set any limits for questioning – law states that in case of dispute the expertise should be appointed but keeps silent how binding for investigation or court is the conclusion of expert.

In fact the wording of the amendments did not provide even a slightest improvement in favour of the minor participants of the process as unlimited repeated questionings may continue despite of the opinion of the Ministry of Justice that repeated questioning of children is ineffective. Only investigators, police authorities, prosecutors and courts benefit from the present situation as they do not care much for the quality of their work – it is guaranteed by the legislator that in case of negligence there always is possibility to subject a child to repeated questioning and additionally ask the questions that were forgotten to ask. It is not an exceptional situation that a child undergoes even 4–6 questionings during the preliminary investigation and often is subjected to confrontation with the accused person.

Presently the Ministry of Justice has worked out a draft for amendments to the Criminal Procedure Code in connection with establishing special suitable premises for questioning of children who have suffered from the violence permitting the use of technical means in the criminal procedure.

At present a draft law stating that repeated questioning of the child under 14 may be performed only with a consent of a judge, in the presence of the psychologist (Article 160 of the Criminal Procedure Code) is undergoing adoption procedure in the Saeima. Unfortunately the question about the children at the age of 14–18 remained unsolved and these children still will be unprotected.

45. Until April 1, 1999 **criminal liability** was applicable to persons from the age of 16, but for committing a heavy offence – from the age of 14. The new Criminal Law (in effect since April 1, 1999) provides that criminal liability for all kind of offences was applicable from the age of 14.

Latvian Save the Children submitted to the Parliament the draft law on increasing age of criminal liability to the age of 16, but proposal was rejected.

The proposal was submitted because in Latvia the rights of imprisoned children are not guaranteed according to the international standards and quite often children at the

age of 14–16 are imprisoned for the offences, the main reason of which is heavy social situation, lack of needed help and support to the family in the result of which the child starts criminal activities. There is not also effected and up-to-date juvenile crime prevention program. Therefore Save the Children is sure that decreasing the age of criminal liability is not the right way to fight against criminality and other measures of social character should be taken, especially regarding children.

We should mention the fact that minor offenders often are under custody for a long period of time waiting for court proceeding. The Criminal Procedure Code states that the maximum term of keeping of minors in custody during preliminary investigation should not exceed 6 months and court proceeding should be started not later than one month after a criminal case is brought to court (Article 241 of Criminal Procedure Code). In reality courts are overloaded with cases and cannot manage to observe the provisions of the law; the minors like any other offenders are sometimes spending in closed custody 1–2 years before the court can take a decision in the criminal case. The process of appeal is not much faster and in the result a serious violation of human rights occurs.

At the present time some complaints from Latvia on the long pre-trial detention terms had been registered by the European Human Rights Court, but none from the minors. It is a straight evidence that children's rights are not sufficiently protected. The submitting of the claim depends on child's parents or custodians. The children as a general rule have no money to pay for the legal services and in case their parents are not interested in the case, the interests of the children will not be protected. The state paid lawyers are not obliged to submit the claims to the International Courts and the state pays only for representing client's interests in the national courts.

49. The legislation states administrative liability for selling **alcohol and cigarettes** to children, but there is not available information how often and how many shop-assistants have got penalty. According to criminal files a great number of children have committed various kinds of demeanour, delinquency or offence after using alcohol.

IV. GENERAL PRINCIPLES

57. See commentaries to p. 109.

64. See commentaries to p. 44.

V. CIVIL RIGHTS AND FREEDOMS

92. See p. 135.–137.

94. and 97. – In many cases the parents or guardians are not able to fulfil their obligations **to raise the child respecting his/her individuality and abilities**. This happens mainly because of lack of possibility to receive the needed social assistance. It is quite unfair to set in the law an obligation for a guardian (grandmother or mother with low income level) to perform responsibilities if the needed social assistance could not be provided. Certainly the persons not able to perform their duties for objective reasons are not called to liability. The position of Latvian Save the Children – if the state cannot provide the needed social assistance declared in the law to economically disadvantaged

families and children, it is not fair and proper to define administrative liability for not fulfilling the actions the person is not able to perform for objective reason.

Latvian Save the Children cannot affirm that children's rights to development in accordance to their abilities and individualities are not restricted to some extent.

VI. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

98. See commentaries to p. 103.

101. According to Article 177 of the Labour Code women, who have up to 18 months old children, should be granted an **additional pause for child feeding**. The affirmation in the *Initial Report II* that such breaks are granted to women with children until 3 years of age is incorrect.

103. There are certain contradictions in terminology regarding **custody** issues. According to the Civil Law of the Republic of Latvia in case the parents of the child live separately the custody rights depend on the domicile of the child, but the other parent has only visiting rights and obligation to support him materially. Under such conditions child often suffers when the parents start to fight for determination of child's domicile knowing that the losing party (parent) is automatically deprived of custody rights. Such conception greatly differs from the concept of custody in West European countries as well as does not correspond to the provisions of the European Convention *On Recognition and Implementation of the Decisions Concerning Custody of Children and Restoration of Custody of Children*, Luxembourg 20 May 1980, as well as the Hague Convention *On Civil Aspects of International Child Abduction*, 25 October 1980. The Latvian courts do not decide on custody limits between parents but solely decide on domicile of the child. Also the term "parents power" is not acceptable from the point of view of children's rights as the term comes from 1937 when the Civil Law was worked out. During last 63 years the understanding about children's rights has changed significantly and it is important to make the required amendments to Latvian national legislation. In spring 2000 the Parliament formed a working group for formulating the needed amendments to the law and currently the draft law has been submitted to the Parliament Committees.

The draft law provides exclusion of the chapter "The Determination of the Origin of Illegitimate Children" from the Civil Law as being in apparent contradiction with the provisions of the CRC which are based on the principle of non-discrimination, formulates the new concept of custody, regulates the adoption procedure according to the international legal norms, etc.

107. See commentaries to p. 31.

109. According to Article 17 of the law "**On Medical Treatment**" until 1 June 2000, only the persons with identity code in their passports could receive the state guaranteed medical treatment. Several times Latvian Save the Children submitted to the Parliament

the amendments to the law and only after serious negotiations the law was amended stipulating:

- a) the right of any child living in Latvia to receive the minimum of medical treatment;
- b) the rights of the child to receive the state guaranteed medical treatment free of charge.

In 2000 Ministry of Welfare worked out and the Cabinet of Ministers submitted to the Parliament the draft law "On Reproductive Health and Artificial Conception". Article 26 of the draft law provided that in cases of teenage pregnancy the doctor has to inform about the fact the girl's parents and the local custody court. In case of a dispute over the termination of pregnancy the custody court has to take the final decision. The above Article was in contradiction with:

1) Article 4, part 1 of the draft law, providing that reproductive health care should be provided on a confidentiality basis. It is evident that confidentiality in this case would be violated;

2) Article 5, part 1, providing that pregnancy may be terminated at the request of the woman for medical or social reasons without any restrictions. In this case the principle of equal rights would be violated.

It was unclear why special restrictions were imposed on persons under 18 if the law provides for the rights of any person above 16 to have sexual relationships, and it also means to take responsibility for the consequences of such relationships and either to use contraceptives or decide on pregnancy.

The approach of the Ministry of Welfare is in inherent contradiction with:

1) Convention for the Protection of Human Rights and Fundamental Freedoms, 1950 (European Convention on Human Rights), Article 8, and Universal Declaration of Human Rights, 1948– Articles 2, 7;

2) Children's Rights Protection Law, 20 November 1998, Article 9;

3) law "On Custody Courts", 1995, Article 14 which provides that custody courts settle disputes of parents about educational issues.

Taking into consideration the statement of the House of Lords (UK) in case *Glick v. West Norfolk Area Authority & Another (HL 1985)*

"Parental rights are derived from parental duty and exist only so long as they are needed for the protection of the person; parental rights yield to the right of the child to make his own decision when he reaches a sufficient understanding and intelligence to be capable of making his own mind on the matter."

and in order to guarantee the conformity of the draft law with the demands of international standards Latvian Save the Children suggested the following:

a) to decrease the age of the persons mentioned in Article 26 of the draft law from 18 to 16 years;

b) to exclude from the text of Article 26 the obligation of doctors to send information about the person's pregnancy to the custody court;

c) to determine that in cases when pregnancy of a person under the age of 16 is discovered, the doctor has to inform the trustee indicated by the patient, but in case the person has no such a trustee, the patient's parents or guardian.

The law was adopted by the Saeima on 31 January 2002 and shall become effective on 1 July 2002. The proposals of Save the Children were partly accepted and the final wording of the law states that in case of pregnancy of a person under the age of 16 the doctor should inform the parents or guardians of the child.

116. See commentaries to p. 31.

121. It was already mentioned in connection with adoption issues that the institute of **foster families** is not working, the responsible authorities do not promote the foster family movement, most people have no information on it and the result is poor. It is not enough to work out the regulations on foster families and to say that we have them – it is necessary to start the movement and to have results.

135. and 137. On the initiative of Latvian Save the Children in 1993 a special article in the Criminal Code was introduced concerning **violence against a child** as it was not common to initiate criminal proceeding in case of violence from the side of parents or other persons on whom the child is dependant (Article 111–1). Unfortunately when passing a new Criminal Law in 1998 the legislature narrowed the Article 111–1 supposing that there are not enough grounds to point out the criminal liability in case of violence towards the child as the liability may enter on general basis. This approach was criticised by the “Latvian Save the Children” as until now Courts, Prosecutor Office and Police do not pay enough attention to the protection of the rights of the child and not always accept that the parents like any other persons are not allowed to beat their children as it is amoral and prohibited by the Children's Rights Protection Law (1998). When discussing amendments to Criminal Law in 1999–2000 the initiative of Latvian Save the Children to introduce criminal liability for corporal punishment of the child was rejected, motivating that such prohibition is stated by Children's Rights Protection Law and it is not necessary to repeat it and any person could be accused for beating the child according to Articles of Criminal Law stipulating liability for corporal damages. Unfortunately practise shows that due to previous stereotypes that strapping the child is natural right of a parent and such actions cannot be punishable, sometimes the physical punishment of the child has grave consequences. **Example** – In 1999 the Court of first instance sentenced N.J. for beating his 3 years old son who afterwards was placed in the hospital with serious corporal damages for 1 year and 6 months imprisonment. The Court of appeal changed the sentence and acquitted N. J. motivating that N. J. only punished his son as he did not want to wash his hands and even if the child would not be placed in the hospital he would recover his health. The Court stated that strapping could not be considered as violence.

According to the present legislation in case the child has light corporal injuries as the result of actions of the adults, which are not parents or other persons the child is dependent on, the criminal case is initiated only on demand of the victim. Submitting

such claim is dependent from the good will of the child's parents and in most cases such claims are not submitted. The child is not receiving automatically legal assistance from the state in such cases and cannot protect himself.

139. The mentioned decision of three ministries on the information of the facts of violation of children's rights was really accepted in 1992 on aggressive initiative of Latvian Save the Children but unfortunately the absolute majority of the authorities are not informed about such decision.

Latvian Save the Children submitted draft law introducing criminal liability for medical personnel, tutors, policemen, teachers and social workers for not reporting on child abuse facts. The proposal received negative reaction from the side of politicians and also from Prosecutor General, ministries and municipalities, arguing that it is not acceptable to promote such reporting and it is against the interests of the persons subjected to criminal liability. For the first time the mentioned draft law was rejected in 1999–2000 when the proposal was discussed in several Parliament commissions and received the support from only separate deputies (mainly members of Subcommittee for Children's Rights protection), but not from ministry civil servants and invited experts. The arguments of NGO representatives that in a number of European countries and in Canada such reporting is a strict obligation for professions dealing with child issues were not accepted by the politicians.

When Latvian Save the Children in 2001 repeatedly submitted to Saeima the above mentioned proposals after long discussions the deputies adopted the law providing administrative liability of the state and municipal officials for violation of their obligation to report about the facts of violation of a child's rights.

Social aid

The proposal of Save the Children and the State Centre for the Protection of the Rights of the Child to determine that local governments should provide children with food, clothing, housing and medical services when parents are not capable to do so was almost unanimously rejected because of the lack of resources.

According to the data of the Ministry of Welfare (letter of the Ministry of Welfare No 2/16-503 to the Saeima Subcommittee for the Children's Rights Protection, 26 February 2001) 41.1% of all Latvian children (182, 000 children) live in the poorest families in which the total income per family member is below the official critical subsistence minimum – Ls 38.23 per month). Only 26.8% of families can maintain their children themselves. According to the State Statistics Office data, Ls 142.74 per child a month is necessary to provide protection of child's rights – food, housing, clothes, medical assistance and education. Further the Ministry of Welfare offers various methods for determining the child welfare level required by the Children's Rights Protection Law. Lasting poverty without receiving the needed assistance increases the number of children placed in orphanages, each year about 2000 children are placed in childcare centres.

Some attempts to prevent eviction of the families with children from the flats for failure to pay rent and utilities were made by adopting amendments to the law "On Lease of Premises" (adopted on 7 May 2001) which provides some protection against forced eviction from their flats only for those whose incomes do not exceed the minimum level stated by the Cabinet of Ministers, currently Ls 21.00 per month. It means that if the total income of a single mother with 2 children is Ls 65 (~ 70 santims per day per one family member for food, clothing, medicine, education plus rent and utilities) per month, she will not fall within the group supported by the state and municipality. The law also determines the obligation of custody courts to supervise whether evicted children have been provided with other suitable housing. Custody courts as one of the structural units of the municipalities cannot give any instructions or orders to the municipality to provide children with housing and therefore the only guarantee from the side of the custody court may be the child's placement in an orphanage. The wording of the said law serves as a clear example of purely formal and uninterested approach to the children's rights protection issues, because the law protects house owners better than the evicted children.

CONCLUSIONS

To guarantee the rights of the children serious work is necessary in legislation, in order to ensure the following:

- ◆ **for orphans and children who have lost parental care – the opportunity to be adopted according to international standards;**
- ◆ **children should not be evicted from their housing because of debt for rent and housing services without provision of a different living place;**
- ◆ **harassed children should be granted an attorney, whose salary has to be covered by the state, the children should not be interviewed repeatedly during the pre-trial investigation and trial, children should receive witness protection;**
- ◆ **the children from needy families should receive the necessary social and medical help;**
- ◆ **true protection from corporal punishment has to be granted, indicating this in detail in the Criminal Law;**
- ◆ **children should not be incarcerated for the pre-trial period;**
- ◆ **Children's Ombud has to be established;**
- ◆ **treatment and rehabilitation has to be provided for children, who have developed addiction to drugs, alcohol and tobacco;**
- ◆ **state policy in any area has to have priority for children;**
- ◆ **the risk group children have to be provided immediate quality help including alternative care for the time necessary (street children, children who do not attend school, children involved in prostitution, children harassed in families, addicted to toxic substances etc.);**
- ◆ **and many other things.***

**THE UN 2001 RECOMMENDATIONS TO THE GOVERNMENT
OF LATVIA AND INFORMATION ON THEIR IMPLEMENTATION**

RC/C/15/Add.142

26 January 2001

**UN COMMISSION FOR HUMAN RIGHTS
COMMITTEE ON THE RIGHTS OF THE CHILD
TWENTY-SIXTH SESSION
CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE UN CONVENTION ON THE RIGHTS OF THE CHILD**

**Draft Concluding Observations of the Committee on the
Rights of the Child: Latvia**

1. The Committee considered the initial report of Latvia (CRC/C/11/Add.22), received on 25 November 1998, in its 671st and 672nd meetings (see CRC/C/SR. 671-672), held on 9 January 2001 and adopted¹ the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the State party's initial report and the written replies to its list of issues (CRC/C/Q/LAT/1). The Committee notes with appreciation the broad ranging delegation sent by the State party and welcomes the frank discussion and the positive reactions to the suggestions and recommendations made during the discussion.

B. Positive aspects

3. The Committee welcomes the recent adoption of new laws, as well as the amendments to the domestic legislation in a view to bringing it into conformity with the principles and provisions of the Convention. In particular, it welcomes the amendment of 1998 of the Citizenship Law according to which all children born in Latvia since 1991 are automatically entitled to citizenship. It also takes note with appreciation of, inter alia, the Law on the Protection of the Rights of the Child of 1998 and the Law on Custody and Local Courts of 1995.

4. The Committee notes the establishment in 1998 of the Commission for the Protection of Children's Rights at the Cabinet of Ministers, in 1996 of the Sub-commission for the Protection of Children's Rights within the Parliament, in 1995 of the State Centre for the Rights of the Child within the Ministry of Education and Science, which was revised in 1998, and in 1995 of Custody Courts dealing with the protection of the rights of children in relation with their parents and third parties.

5. The Committee notes with appreciation the National Programme for Preventing Sexual Violence against Children for 2000–2004 and the 1999 Programme of the Ministry of Interior for the Elimination of child crime and the protection of children against criminal offences.

C. Factors and difficulties impeding the implementation of the Convention

6. The Committee acknowledges that the economic and social difficulties facing the State party, caused mainly by the transition to a market economy, including increased unemployment and poverty, have had a negative impact on the situation of children and have impeded and are still impeding the full implementation of the Convention.

D. Subjects of Concern and Committee Recommendations

D.1. General Measures of Implementation

Legislation

7. While noting that the Law on the Protection of the Rights of the Child of 1998 reflects some principles and provisions of the Convention, the Committee nevertheless remains concerned that other relevant laws, such as inter alia some outdated provisions regarding family and adoption in the 1937 Civil Law, are not in full conformity with the Convention and that disparities exist between law and practice.

8. The Committee recommends the State party to continue its efforts in the field of law reform to ensure full compatibility of its legislation with the provisions and principles of the Convention, and with a child rights approach, and to take effective steps to ensure that these measures are fully implemented.

Coordination

9. The Committee notes with appreciation the establishment of the State Centre for the Rights of the Child and its role in coordinating the work of state and municipal institutions on issues regarding children's rights protection, but remains concerned at the Centre's capacity to perform this important role in a satisfying manner.

10. The Committee recommends the State party to provide the State Centre for the Rights of the Child with the financial and human resources necessary to effectively coordinate the various activities related to the implementation of the Convention at the national level and between the central government and the local administration level.

Allocation of budgetary resources

11. The Committee expresses its concern that, in light of article 4 of the Convention, not enough attention has been paid to the adequate allocation of budgetary resources for the implementation of existing child rights legislation, in particular to local governments,

and that the amount and proportion of the State budget spent on children policies is not clearly prioritised.

12. In light of article 4 of the Convention, the Committee encourages the State party to clearly identify their priorities with reference to child rights issues in order to ensure the full implementation of economic, social and cultural rights of children through budget allocation to the maximum extent of available resources, in particular to local governments and children belonging to the most vulnerable groups in society. It further recommends the State party to single out in the budgetary analysis the amount and proportion spent on children at national and local level in order to evaluate the impact of the expenditures on children.

Independent monitoring structures

13. The Committee emphasizes the importance of setting up an independent mechanism with the mandate of periodically monitoring and evaluating progress in the implementation of the Convention both at the national and local level and notes that the State party has started to take steps in this direction.

14. The Committee encourages the State party to continue working up at the establishment of an independent body easily accessible to children such as an Ombudsperson for children or a national commission for children's rights in light of the Paris Principles (GA Resolution A/RES/48/134), to monitor the implementation of the Convention and to deal in an expeditious and efficient way with individual complaints concerning children's rights. In this regard, the Committee further recommends that the State party may consider seeking technical assistance from, inter alia, UNICEF, the Office of the High Commissioner for Human Rights and the United Nations Development Program (UNDP).

Data collection

15. The Committee expresses its concern at the fact that a systematic and comprehensive collection of disaggregated data for all areas covered by the Convention and in relation to all groups of children is not fully developed yet.

16. The Committee recommends that the State party continues to develop a system of data collection and indicators consistent with the Convention. This system should cover all children up to the age of 18 years, with specific emphasis on those who are particularly vulnerable, including children victims of abuse, neglect, or ill-treatment; children with disabilities; non-citizen children; children belonging to minorities; children in conflict with the law; children who work; adopted children and children living in the streets and in rural areas. It further encourages the State party to use these indicators and data in the formulation of policies and programmes for the effective implementation of the Convention.

Dissemination of the principles and provisions of the Convention

17. While noting the efforts of the State party in disseminating information about the Convention, the Committee is concerned that the principles and provisions of the Convention are not disseminated at all levels of society and in particular in the rural areas.

18. The Committee recommends that the State party develop more creative methods to promote the Convention, including through audiovisual aid such as picture books, and posters. The Committee also recommends adequate and systematic training and/or sensitization of professional groups working with and for children, such as judges, lawyers, law enforcement personnel, teachers, school administrators and health personnel. The State party is encouraged to fully integrate the Convention into the curricula at all levels of the educational system.

Civil society

19. The Committee notes with concern that the participation and involvement of relevant non-governmental organisations and civil society at large in the formulation and implementations of policies and programmes relating to children is not systematic.

20. The Committee emphasises the important role civil society and non-governmental organisations in particular play as partners in implementing the provisions of the Convention and recommends the State party to consider a methodical approach to involve civil society, especially children's associations and advocacy groups, throughout all stages of the implementation of the Convention, including policy-making.

D. 2. General Principles

General principles

21. The Committee is concerned that the principles of non-discrimination (article 2 of the Convention), best interests of the child (article 3) and respect for the views of the child (article 12) are not fully reflected in the State party's legislation, administrative and judicial decisions, as well as in policies and programmes relevant to children both at national and local level.

22. The Committee recommends that the general principles of the Convention, in particular the provisions of its articles 2, 3 and 12, should be appropriately integrated in all relevant legislation concerning children and applied in all political, judicial and administrative decisions and in projects, programmes and services which have an impact on all children, including non-citizen children, and should guide the determination of policy-making at every level and in particular actions taken by social and health welfare institutions, courts of law and administrative authorities.

Non-discrimination

23. The Committee is concerned that the principle of non-discrimination (article 2 of the Convention) is not fully implemented for non-citizen children, children belonging to minorities, including Roma children, and poor or dysfunctional families; children with disabilities and children living in rural areas, especially with regard to access to adequate health and educational facilities. In this context, it notes with interest the State programme for the improvement of the condition of children in the country for 1999. It further takes note with concern of the requirement to record ethnic origin in passports.

24. The Committee recommends the State party to collect disaggregated data to enable monitoring of discrimination against all children, in particular those belonging to the above mentioned vulnerable groups, with a view to developing measures in order to put an end to any form of discrimination. It further reiterates the recommendation of the Committee on the Elimination of Racial Discrimination to reconsider the requirement to record ethnic origin in passports (A/54/18, para.407).

D. 3. Civil Rights and Freedoms

Right to nationality

25. The Committee is deeply concerned that, although all children born in Latvia after 1991 are automatically entitled to citizenship according to the amendment of 1998 of the Citizenship Law, there is still a high rate of children who are without Latvian nationality. Further it expresses its concern at the slow pace in general of the process of naturalisation of Latvian non-citizens.

26. In light of article 7 of the Convention, the Committee concurs with the recommendation of the Committee on the Elimination of Racial Discrimination to streamline the process of naturalisation for all those who apply for citizenship (A/54/18, para.404) and, in particular, it encourages the State party to provide more information and support to the parents of non-citizen children to enable them to apply for citizenship on behalf of their children.

Corporal Punishment

27. While noting that the Law on the Protection of the Rights of the Child of 1998 explicitly prohibits corporal punishment, the Committee expresses its concern at the still widespread use of corporal punishment, in particular within the family and in school and other institutions.

28. In light of articles 19 and 28(2) of the Convention, the Committee encourages the State party to develop measures to raise awareness on the harmful effects of corporal punishment and engage in the promotion of alternative forms of discipline in families to be administered in a manner consistent with the child's dignity and in conformity with the Convention. It also recommends the effective enforcement of the ban on corporal punishments in school and other institutions.

D. 4. Family Environment and Alternative Care

Children living in institutions

29. The Committee expresses its concern at the high number of children living in institutions, due mainly to the fact that children living in vulnerable families or with very low income cannot be supported because of the lack of alternative care and of social assistance.

30. In light of articles 18 and 26 of the Convention, the Committee encourages the State party to develop comprehensive measures to support vulnerable families with a view to assisting them in their child-rearing responsibilities, for instance by increasing various forms of social assistance to families or by securing child-care services and facilities to help them with their child-rearing.

Child abuse and neglect

31. While noting the “National Program of Sexual Violence Prevention” for 2000–2004, the Committee expresses its concern about the lack of data, appropriate measures, mechanisms and resources to prevent and combat domestic violence, including child sexual abuse. Further, child victims do not have the right to a free of charge legal assistance, the judicial procedure is not child-friendly, in particular because the child victims are exposed to repeated questioning.

32. In light of article 19 of the Convention, the Committee recommends that the State party undertake studies on domestic violence, ill-treatment and abuse, including sexual abuse, to understand the extent, scope and nature of these practices, adopt adequate measures and policies, and contribute to changing attitudes. The Committee also recommends that cases of domestic violence and ill-treatment and abuse of children, including sexual abuse within the family, be properly investigated within a child-friendly inquiry and judicial procedure in order to ensure a better protection of child victims, including the protection of their right to privacy. Measures should also be taken to ensure the provision of support services to children in legal proceedings, the physical and psychological recovery and social reintegration of the victims of rape, abuse, neglect, ill-treatment and violence, in accordance with article 39 of the Convention.

Adoption

33. The Committee expresses its concern at the fact that the current legislation regulating adoption is out of date and does not guarantee an adequate protection of the child involved as recognised in the Convention. Further, as the procedures for adoption, in particular intercountry adoption, are complicated and as there is nearly any foster system available, it notes that a significant number of children are obliged to live in orphanages and institutions for long periods.

34. In light of article 21 of the Convention and of other related provisions, the Committee encourages the State party to adopt the new legislation regarding adoption in order to simplify and expedite the procedures for adoption. Further, it recommends the State party to undertake measures to facilitate the creation of a foster care system with sufficient financial support. It also encourages the State party to continue the process for the ratification of the Hague Convention of 1993 on the Protection of Children and Cooperation in Respect of Intercountry Adoption.

D. 5. Basic Health and Welfare

Health and health services

35. While noting that the State party started a process focusing on preventive health care, the Committee is however concerned about the fact that the situation of maternal, child and reproductive health is poor. In particular, it notes with concern the high rates of infant mortality, even though it has been decreasing in recent years, and of child morbidity, in particular the high incidence of tick-induced encephalitis and diphtheria. It also takes note that the programme of immunisation has been delayed because the necessary financial means were not adequate and that it is no longer available in schools.

36. The Committee recommends the State party to allocate appropriate resources and develop comprehensive policies and programmes to improve the health situation of all the children without discrimination. With reference to the immunisation programme, the Committee encourages the State party to look to international cooperation for support in the manufacturing and procurement of vaccines.

Children with disabilities

37. The Committee expresses its concern about the fact that children with disabilities are granted additional State benefits only up to the age of 16 and that children with disabilities living in rural areas do not have access to the same level of services and medicines as children living in other parts of the country. Further, it is concerned at the high rate of children with disabilities who are institutionalised. It also notes with concern that the integration of children with disabilities into the normal educational system is problematical due to the lack of specialised teachers and the fact that schools are not easily accessible for children with motor impairment.

38. The Committee recommends that the State party allocate the necessary resources for programmes and facilities for all children with disabilities up to the age of 18, especially the ones living in the rural areas, and develop community-based programmes in order for the children to stay at home with their families. In light of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly Resolution 48/96) and the Committee's recommendations adopted at its General Day of Discussion on "The Rights of

Children with Disabilities” (CRC/C/69), it is also recommended that the State further encourage their integration into the educational system and inclusion into society, including by providing special training to teachers and by making schools more accessible.

Adolescent health

39. The Committee expresses its concern regarding the rise in number of children and youth using drugs, alcohol and tobacco, the increase of cases of sexually transmitted diseases (STDs) and HIV-AIDS among youth and the growing use of abortion as a method of birth control. Further, it notes the limited availability of programmes and services in the area of adolescent health including mental health, in particular treatment and rehabilitation programmes for alcohol and drugs addicted and of prevention and information programmes, in particular on reproductive health, at school level.

40. The Committee recommends that the State party increase its efforts in promoting adolescent health policies including mental health, particularly with respect to alcohol consumption, substances abuse and reproductive health and develops a programme for health education in schools. The Committee further suggests that a comprehensive and multi-disciplinary study be undertaken to understand the scope of adolescent health problems, including the negative impact of sexually transmitted diseases (STDs) and HIV/AIDS in order to develop adequate policies and programmes. Additionally, it is also recommended that the State party undertake further measures, including the allocation of adequate human and financial resources, to evaluate the effectiveness of training programmes in health education, in particular reproductive health, and to develop youth-friendly counselling, care and rehabilitation facilities that are accessible, without parental consent, when in the best interests of the child.

Adequate standard of living

41. The Committee expresses its concern at the high rate of families, in particular those with three and more children, living under minimum subsistence level and the high number of families who are under threat of eviction from their homes, because the social welfare system as a whole was affected by the transition to the market economy.

42. In light of articles 3, 4, 6, 26 and 27 of the Convention, the Committee encourages the State party to take all appropriate measures to the maximum extent of its available resources, in particular at local level, to support families with a difficult economic and/or social situation in order to ensure to the maximum extent possible the survival and development of all children living in Latvia.

D. 6. Education, Leisure and Cultural Activities

Education

43. The Committee notes with concern the high number of children not attending compulsory primary school. Further, it expresses its concern at the fact that a number of

schools in rural areas have been closed and that the quality of education provided in rural areas is inferior to the one in urban areas.

44. In light of article 28 of the Convention, the Committee recommends the State party to undertake appropriate measures to ensure regular attendance at schools and the reduction of drop-out, including by continuing the campaign carried out by the State Centre for Protection of Children's Rights "School is waiting for you" to inform society of the need to ensure that all children attend primary schools and to assist local governments in their work to implement regulations on registration of children. Further, it encourages the State party to undertake measures to facilitate the regular attendance of children coming from poor and/or dysfunctional families in community schools.

D. 7. Special Protection Measures

Administration of juvenile justice

45. The Committee is concerned that the juvenile justice system is not fully in compliance with the Convention and that the justice system is not fully efficient. In particular it expresses its concern at reports of juvenile offenders spending long periods in pre-trial detention because the justice system is overloaded. Further, it expresses its concern at cases of juvenile offenders kept in adult prison facilities and at the fact that there are no programmes for their rehabilitation and reintegration into society.

46. The Committee recommends the State party to review the law and practices regarding the juvenile justice system in order to bring it in full compliance with the Convention, in particular articles 37, 40 and 39, as well as other relevant international standards in this area, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), with a view to ensuring child-friendly practices by the police and other levels of the juvenile justice system and the separation of juvenile and adult offenders in prison. In particular, it reminds the State party that juvenile offenders should be dealt with without delay and that pre-trial detention, not to be longer than the period prescribed by law, should be used only as a measure of last resort and for the shortest time possible. Alternative measures to prevent pre-trial detention should be used whenever possible. With reference to children deprived of liberty, the Committee recommends to the State party to incorporate into its legislation and practices the United Nations Rules for the Protection of Juveniles Deprived of Liberty, in particular with a view to guaranteeing them the access to effective complaints procedures concerning all aspects of their treatment and to take appropriate rehabilitative measures to promote the social reintegration of the children involved in the juvenile justice system. Finally, the Committee recommends the State party to seek assistance from, *inter alia*, the Office of the High Commissioner for Human rights, the United Nations Centre for International Crime Prevention, the International Network on Juvenile Justice, and UNICEF

through the United Nations Coordination Panel on Technical Advice and Assistance on Juvenile Justice.

Sexual exploitation and trafficking

47. The Committee notes with concern that prostitution is rapidly spreading among minors and that the rehabilitation programmes available are only short-term ones.

48. The Committee recommends the State party to implement the National Program for Sexual Violence Prevention for 2000–2004, in particular its rehabilitation and reintegration aspect. Further, it recommends the State party to undertake a study on the issue of commercial sexual exploitation and abuse of children in order to understand the scope and causes so to enable effective monitoring of the problem and to develop all necessary measures and programmes to prevent and combat them taking into account the Stockholm World Congress against Commercial Sexual Exploitation Agenda for Action. In particular it encourages the State party to prevent the criminalisation and stigmatisation of the victims.

Children living in the streets

49. The Committee expresses its concern at the significant number of children living in the streets and notes that, even though the Law on the Protection of the Rights of the Child includes the protection of children living in the street, no specific mechanisms have been established for its implementation and that assistance to the children living in the streets is generally provided only by non-governmental organisations.

50. The Committee recommends the State party to support existing mechanisms to ensure that children living in the streets are provided with nutrition, clothing, housing, health care and education opportunities, including vocational and life-skills training, in order to support their full development. Moreover, the State party should ensure that these children are provided, whenever necessary, with rehabilitation services for physical, sexual and substance abuse; protection from police brutality; and services for reconciliation with families.

Children belonging to minority groups

51. The Committee notes with concern that the Education Law of 1998 foresees that, as of 2004, all state-funded schools will provide secondary education in Latvian only while bi-lingual education will be available only until 9th grade. Further it notes the slow pace of the National Programme for Integration of Society in Latvia, due in particular to the lack of funding.

52. The Committee encourages the State party to ensure that children belonging to minorities can use also their own language in secondary education in accordance with article 29 and 30 of the Convention. Further it encourages the

enforcement of the integration process in particular at community level, also by providing more information about the process.

Optional protocols

53. The Committee takes note of the fact that the Latvian Government has started internal procedure of accession to the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography and the Optional Protocol on the Involvement of Children in Armed Conflicts.

54. The Committee invites the State party to continue the process in order to ratify the two Optional Protocols.

D. 9. Dissemination of Documents from the Reporting Process

55. Finally, **the Committee recommends that, in light of article 44, paragraph 6, of the Convention, the initial report and written replies presented by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and the concluding observations adopted thereon by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within the Government and the general public, including NGOs.**

21.05.2001

**To the Chair of the Saeima of the Republic of Latvia Janis Straume,
To the Chairs of Commissions and Fractions of the Parliament,
To the Deputies of the Parliament,**

Honourable Deputies!

This is a special time for all participant states of UN because they actively are preparing for special session on the Children Rights of the UN General Assembly which is to take place in New York from 19th till 21st September. The General Secretary of the UN Kofi Anan has appointed the UN Children Trust UNICEF in cooperation with the strategic partner International Alliance Save the Children to be the coordinating institution.

We ask you to involve actively in the scope of your competence to improve the Children Rights situation in Latvia.

The NGO which have signed this letter are asking you to pass and make amendments to several laws concerning the Children Rights which have been worked out by specialists of Latvian Save the Children according to recommendations given by the UN. The necessity and quality of these improvements have been highly evaluated by

members of the UN Committee of Human Rights during the meeting in Geneva in 2000./2001.

The guarantee of the Children Rights is not only the UN requirement, but it is also the requirement to the UN candidate states as it was stated by Copenhagen agreement in 1993.

The passing of these Laws would be important demonstration of good political will of Latvia and the fulfilment of UN recommendations to the government of Latvia.

We are asking to pass the necessary amendments till the UN session in New York in September. These amendments refer to Criminal Law of RL, the Code of Criminal Process, the Laws of Local councils, social aid, and this will guarantee children's protection against violence and social isolation.

In this connection we ask you to organize meetings of deputies from all fractions with representatives of UN in order that our Lawyers could give necessary explanations of new bills.

I. Ebela	Latvian Save the Children
I. Doskina	UNICEF Latvian National Committee
P. Leiskalns	Jurmala Union of Large Family Association
L. Druktiene	Latvian Single Mother's Society
J. Salmins	Latvian Orphan Association
M. Skilina	Latvian Foster Families Society
L. Mucenieks	Latvian Union of Large Family Associations
U. Zarins	Union of Large Family Association
V. Sulcs	The Mission "Steps"
I. Rulle	Latvian Association "Rupju berns"(Child of Care)

All other documents are available in the Latvian version of the edition.

On January 26, 2001, the UN Committee on the Rights of the Child, which functions within the framework of the UN Human Rights Commission, sent to the government of Latvia proposals how to improve the conditions of children in the country in general and about measures to be taken in order to solve specific problems in relation to children. The UN Recommendations see in before.

The Congress of Latvian Save the Children decided that the organization will prepare all necessary amendments to the existing legislation concerning demands included in UN Recommendations 2001 to improve guaranties for children's rights. In May 2001 Latvian Save the Children together with many other NGO's submitted all the prepared legislative acts to the Chairmen of Latvian Parliament Mr. Janis Straume. The amendments were worked out for Criminal Law, Code of the Criminal Process, for the Law about self-governments and Law on Social assistance. The Chairmen of the Parliament accepted them with gratitude and during the years 2001/2002 they are continued to be discussed among several Commissions of the Parliament.

The UN recommendations to the Latvian Government in 2001 may be found in the previous text, but Latvian Save the Children and other UN `s drafted and submitted legislation supplements and pres conferences materials may be found below.

◆ March, 2002, Latvian Save the Children sends to the Parliament and the Prime Minister a request to find out if and in what way Latvian government was implementing the UN Recommendations on the improvement of the conditions of children in the state that had been sent to it a year ago, as well as a question – why these, as stipulated by the Convention, had not been published in the press and why the government in the course of one year had not developed a concrete actions plan for the implementation of these Recommendations.

◆ Apart from discussions at the Parliament of the amendments to legislation drafted by Save the Children no other planned or purposeful measures regarding the implementation of these Recommendations have been taken by the institution which is responsible for it as the agency developing state policy regarding rights of the child – SCPCR.

◆ March 2002, the deputies of the Parliament of the Republic of Latvia and the Prime Minister send a request to the Interministerial Committee of the Rights of the Child regarding implementation of the UN Recommendations.

◆ April 2002. The head of the Interministerial Committee on the Rights of the Child, the Minister of Education Karlis Greiskalns sends an answer, mentioning several measures taken by SCPCR in order to implement the Recommendations.

◆ April 2002, Save the Children together with other NGOs and an expert analysed the answer provided by the Committee on the Rights of the Child regarding the implementation of the Recommendations.

Conclusions:

– The UN Recommendations have not been published in the official gazette *Latvijas Vestnesis*, so general public had had no real possibility of acquainting itself with these;

– SCPCR in a year's time has not drafted and actions plan for the implementation of the UN Recommendations, and it has not been approved by the Cabinet of Ministers.

– The only real measures taken – the amendments to the legislation, that follow from the Recommendations, have been submitted to the Parliament by NGOs; these have been discussed at Parliamentary committees, as well as adopted into the laws;

– The work done by SCPCR (as responsible body to build state policy) in order to implement the Recommendations is unsatisfactory.

The expert conclusion on the report of SCPCR on the measures taken by the Centre in order to implement the Recommendations is included.

After assessing the information provided by SCPCR “On Final Conclusions of the UN Committee of the Rights of the Child regarding Initial Report of Latvia”, it can be concluded that SCPCR has not started serious work for the implementation of the Recommendations. In its report SCPCR enumerates activities performed by the ministries concerned, but not activities done by SCPCR in co-operation with state, local government and non-governmental institutions regarding implementation of these recommendations. It is proven by the activities mentioned in the SCPCR report:

The work done by the Ministry of Education and Science to develop the curriculum of civil studies at school; development of the subject “Politics and rights”.

The work of the Ministry of Justice by setting a task to the Juridical Training Centre to plan and to organise training of judges. A letter sent by the Minister of Justice Ingrida Labucka, asking the presidents of courts to set up a working group for drafting regulations on adoption.

The program developed by the Ministry of Interior “Prevention of Child Criminality and the Protection of Children against Criminal Offences”.

The concept developed by the Ministry of Welfare “On the Development of Social Care Services”, “On Support to Families with Children”, training of psychologists and therapists, and others.

The work of SCPCR regarding implementation of the Recommendations, in its turn, is limited to organising a meeting of NGOs, organisation of the days of children's views, occasional lectures, distribution of the Recommendations and the like. It is proven by the terms used in the SCPCR report, for instance: published, discussed, sent, assessed, a meeting organised, letters sent, etc. So the question arises – which of the items of the Recommendations have been implemented and what the role of SCPCR has been in the implementation of these Recommendations?

SCPCR has come up with a really surprising statement that for the implementation of the Recommendations there is no need to develop and actions plan or program by involving state and local government institutions, as well as NGOs. Even though the Recommendations suggest that SCPCR should be more active as a co-ordinator of activities, a responsibility is defined to set priorities within the issues of protection the rights of the child, envisage data collection in correspondence with the UN Convention on the Rights of the Child, in order to identify the real situation of children, which the Centre has not up till now set up; they envisage alignment of Latvian legislation to the UN Convention on the Rights of the Child; no activities of SCPCR have been observed as regards this issue; to facilitate amendments to the Civil law; drafting of Regulations of Adoption, etc. Recommendations suggest setting up of an independent institution for

supervision and monitoring of the rights of the child, however, SCPCR has not supported this idea and has even expressed the view that the existing, inefficient system should be kept and that SCPCR should remain under the supervision of the Ministry of Education and Science.

SCPCR has asked the institutions concerned to review the Recommendations, and they have provided their assessment. This assessment has been discussed at the meeting of the Interministerial Committee on the Protection of the Rights of the Child; however, no decisions have been taken. The Recommendations have been discussed at some other institutions as well, however, no specific measures followed.

The Centre has not submitted qualified amendments to the legislation in order to align the legislation with the UN Convention on the Rights of the Child.

The draft laws submitted by Save the Children, in their turn, and at the Parliamentary Committees have been rejected by the lawyers of the Centre, even though these were approved by the management of the Centre.

Still no data are available regarding the conditions of children in this country, data are not systematically collected. The Centre has not set up a database. The Centre has not submitted to the Central Board of Statistics the requested information on specific violations of the rights of child, which the Board wanted to include into statistical information system, it has neither suggested what kind of information should be included in the official statistics to meet international demands and regulations.

The Centre has not prepared proposals to the courts about abiding by the norms of the UN Convention on the Rights of the Child, recognizing them as ruling accepting status dealing with child's interests in cases where Latvian legislation does not guarantee the Children's Rights.

SCPCR in its information regarding implementation of Recommendation states that public is being regularly informed that law forbids corporal punishment. This has not been done on the necessary level. The Centre did not support the amendment of Latvian Save the Children to the Criminal Law regarding inclusion of criminal liability concerning any physical punishment towards children. In the summer of 2001 was reviewed in Saeima Committee sessions. SCPCR Lawyers these Latvian Save the Children proposals, which were supported in UN sessions as well as UN recommendation, refused to support.

The Centre was not active creating state policy concerning promotion of adoption, foster families. The Centre has not undertaken any initiative to change state policy regarding healthcare for children, ignoring facts that the indices of children's health's and morbidity are catastrophic.

Nothing has been done to eliminate inequality of handicapped children after they reach the age of 16, despite that UN Committee for Children's Rights has recommended to do that even during the UN Session where our Government was questioned. To this date SCPCR has not exerted pressure on the Ministry of Welfare so that this question may be resolved. There has been no consistent Centre activity in view of studies radical political changes to help risk children (drug addicts, AIDS infected, abused in their own families).

Health studies at school are mostly low quality and quantity.

There is no real help offered to HIV infected children.

In the whole of Latvia there is only one rehabilitation centre for drug dependant teenagers (the centre is not supported by a state program, the majority of such teenagers have no place in it).

The Centre has given no adequate, planned and coordinated contribution by taking these or other necessary measures to implement the UN Recommendations. The biggest mistake was that the Centre has not drafted an actions plan and has not been developing state policy for the implementation of the UN 2001 Recommendations.

This is the expert assessment of the report prepared by SCPCR on the measures taken by SCPCR to implement the UN Recommendations.

More detailed information about implementation of the UN Recommendations in legislation thanks work of NGO's see the Interim Report Chapter on Legislation and Save the Children Study of Violence against Children in Child Care Institutions Chapter on Legislation.

OVERVIEW OF SOME OF THE INDICES CHARACTERISING THE CONDITIONS OF CHILDREN IN THE CONTEXT OF BALTIC AND OTHER 24 CENTRAL AND EASTERN EUROPEAN COUNTRIES WITHIN THE FRAMEWORK OF THE TRANSITION DECADE

The writing of an analytical overview of the condition of children in Latvia demands comparison with the situation of the other two Baltic countries. At the moment when independence was restored as regards welfare Estonia and Lithuania were in a similar situation with us. By comparing Latvia with the closest neighbouring countries, it will become clear which country has treated the protection of the rights of the child as a priority. It will also be an indirect indication as to the ability of one or another country to ensure adequate development of state economy with practically the same initial positions at the moment when independence was restored.

Comparison with the indices of the other 24 Central and Eastern European countries is necessary, mainly with those which suffered from the occupational regime to a considerably lesser extent than the former USSR republics and to which the Baltic States belonged geographically and politically till World War II.

Such a Regional Monitoring Report on the changes of the transition decade in 27 SE/EE countries was carried out by UNICEF Research Centre.

Looking into this report and the data collected by Baltic NGOs, we have to come to conclusions that are very unpleasant for this country. As regards healthcare we find data indicating that:

◆ **Latvia has the highest rate of infant mortality in the Baltics** (11.4‰ – 1999; 10.4‰ – 2000), but comparison with Western countries shows that only Bulgaria has higher newborn mortality rate.

◆ **Latvia has the highest rate of maternal mortality** (41.2 per 100 thousand) – **3 times larger than in Lithuania or Estonia! This rate is lower even in the backward Rumania.** At the end of the independence decade of Latvia the mortality of mothers is as high as in the absolutely ruined Russia!

◆ **Mortality rate of children in the age group 0–5 years is 13.6‰ – the highest among the Baltic States** (almost reaching the level of Rumania, Bulgaria). Till 1999 Latvia has “fallen far behind” Lithuania and Estonia.

◆ **The mortality rate of boys in the age group 5–14 (45 per 100 thousand) – higher than in Lithuania and Estonia, it is higher only in Rumania and Bulgaria.**

◆ **Since 1996 Lithuania and Estonia have made an admirable progress in reducing infant mortality.** Situation in Latvia is a total disgrace – the mortality rate is dramatically higher than in the neighbouring countries, the break came only in 1999 when the mortality rate rapidly decreased. **However, it still remains higher than in Lithuania and Estonia (not to mention the Balkans).**

◆ **The mortality rate of children in the age group 15–19 years per 100 thousand is the highest in the Baltic States**, even 2 times higher than in Bulgaria, Rumania.

◆ **The incidence of suicides among boys of the age groups 15–19 years – higher in Lithuania than in Latvia, 16.6 per 100 thousand.**

Latvia is notable, in a negative sense of the word, also as regards rapid spread of HIV/AIDS. The number of incidents of getting infected **since 1998** has increased 5 times, out of these - **10 times among children.** These data correlate with the increase of drug abuse. Already in 2000 there were 3 times more heroin users than in 1998. It is

the result of the lack of appropriate state policy. 80% of the infected take drugs intravenously.

The morbidity with tuberculosis, in comparison with developed countries of the Region, is still very high, notwithstanding the decrease that has been observed since 1999.

Save the Children surveys show that already in the mid 90ies at least 50% of families with children were not able to provide for themselves a timely health service because of the lack of means. These data were later confirmed by a survey commissioned by the State. It turned out that Save the Children had not been mistaken, as 2/3 of the families with 2 and more children are forced to without, for instance, dental care. **Save the Children lobbying of the Parliament resulted in** abiding by the provisions of the Law on Protection of Children's Rights in the Laws on Medical Care, etc., and **since 2001 patient's fees for children and the fee for a home visit of a doctor were abolished.** Regretfully, in some regions there are health care workers who take the liberty not to abide by the law and to demand payment from children.

Health care professionals should not be blamed for this situation, since they have been working on the brink of despair for a long time. Latvian health care system has come close to a total collapse, in fact, it is already collapsing.

The fact that more than half of Latvian children cannot receive health care in time and, when they receive it, they predominantly get healthcare that does not meet contemporary criteria and is of poor quality, is on the consciousness of those politicians and ministers who implemented the reform of the health care system in this country.

Health care receives 3.6% of the GNP from the state budget; therefore there is no hope for real improvement.

And yet the previously quoted data show that the **main indices of health care in Lithuania and Estonia** (also quite poor countries) **are much more optimistic than in this country.** Even more, as regards decreasing the mortality rates of newborns, infants and parturient women, as well as some other indices, Lithuanian and Estonian specialists have been continuously progressing already starting with mid 90ies. In Latvia very slow positive changes started only in 1999/ 2000.

Similar situation can be observed in other spheres of life. **Latvia has been notorious** in international circles because of the fact **that in the course of the last 10 years the number of children in childcare institutions has increased 4 times.** Foster families, SOS temporary place of shelter for a child in a situation of crises practically do not exist, there are no alternative family care forms for temporary situations of crisis.

The number of adoptions, in their turn, **during the last decade has sharply decreased –decreased twice.** **As the survey done by Latvian Save the Children revealed** at the end of the 90ies, **7–14% of children from orphanages** - “orphans” of live parents, **never return back to their families.** However, they are not provided with alternative care either.

All these issues were brought to the attention of Latvian government in the 2001 UN Recommendations, which asked to eliminate these problems and offered a number of possible courses of action. Adequate measures by the state have not been taken.

Lithuanian government increased 5 times the funding allocated to foster families. In Latvia obstacles are being created all the time, any new development is being for many years grinded in the bureaucracy mills of the ministries and thrown into this bureaucratic linen ready to rot away. If someone takes in 1 foster child he/she receives 38 Ls for carrying out the responsibilities of a foster parent, if 5 children – the same 38 Ls. Here let's remind us of how many years Save the Children had to fight with the Ministry of Welfare and the Parliament to convince the civil servants that also elder sisters and brothers should be given financial help in order to help them bring up children without parent care. Up till then the state could never agree to give this money to the old, the sick and poor people, or those hungry brothers and sisters for bringing up orphans. At the institutions of social assistance and the like the relatives had to listen to cynical suggestions like – “Send these children to children's homes or give them to strangers in foster care, then at least they will not be hungry and won't go without clothes.”

Therefore Latvia has given rise to certain concerns, by being among the countries in which (notwithstanding the sharp decrease of birth rates) increasingly more small children (age group 0–3) are placed in child care institutions.

Estonia, a neighbouring country, closed all childcare institutions for infants already 5 years ago and established smaller family homes, etc.

Latvia has been mentioned as a negative example in the Regional monitoring report also regarding the fact that childcare institutions are in a very dilapidated state, so because of all renovation works the children in these institutions receive only 90% of the previous funding.

Lithuanian and Estonian Parliaments, Ministries and child care services are not afraid to talk openly about most acute problems of children in their countries and abroad, even more, they work very seriously and in a well-planned manner in order to solve these problems. Latvian Ministry of Education and Science in fact has not yet revealed to the general public and to international structures the true formidable number of children who regularly or not at all do not attend school (approximately 15 thousand), but Lithuania already in 1994/1995 openly announced that 24 thousand children do not attend school. As a result in Lithuania solutions of this problem were seriously sought for, and the situation improved.

Latvia is still groping for its way, the Ministry has been counting for 7 successive years, but thus far has not managed to count the number of children not receiving education in Latvia. **Even though in 2001 at the Interministerial Committee on the Rights of the Child finally the number of 15 000 children was mentioned, it was never announced to general public.**

At the conceptual level the solutions to the problems of children are sought by the Interministerial Committee on the Rights of the Child, in which the only person of power is the Minister of Education, but the State Centre for the Protection of the Rights of the Child has been entrusted with the drafting of state policy, and this structure is totally subordinated to the Ministry of Education and Science, so we should not be surprised on not seeing any kind of serious work being done. Neither the one, nor the other of the above mentioned structures are able to influence the decision making on the level of ministers, because of the simple reason that they have not been given this kind of empowerment.

In Lithuania for many years the problems of children at a conceptual level and the state policy in the field of children's rights has been defined by a strong independent team with the Office of the President of Lithuania, it has as its members ministers and the head of public children's rights organisations. The institution of Ombudsman of the Rights of the Child has also been set up in Lithuania. These structures have been given powerful authorisation, so that they are in a position to exert real influence upon the decisions taken by the Lithuanian Cabinet of Ministers and the Parliament.

At the same time Latvian Interministerial Committee on the Rights of the Child and SCPCR may only "ask to take into account" and "to recommend".

If we look at the indices mentioned in the text that characterise the development of the countries within the framework of 27 Central and Eastern European countries, which countries are worse than Estonia and Lithuania, we see that only Bulgaria and Rumania look worse than Latvia, so we have well-grounded suspicions that Latvia might be excluded from the EU enlargement process like Rumania and Bulgaria till 2007 to a large extent because of the violations of the rights of the child. Both these countries had not implemented the UN Recommendations as to the necessary measures that should be taken by Rumanian and Bulgarian government in order to improve the situation of children.

For more than a year Latvian government has not taken into serious consideration the UN Recommendations. Even though the situation is quite tragic, caused by the failure of Latvian state to protect the rights of the child and to ensure the welfare of children, even though this country in the context of the 27 Central and Eastern European countries is the worst among the Baltic States, still a purposeful adequate state policy in the field of welfare of children is not being developed.

All information regarding the activities of the state and the public organisations in the field of legislation see in the Interim Report Chapter on Legislation and Save the Children Study of Violence against Children in Child Care Institutions Chapter on Legislation.

SOME TRENDS IN THE PROTECTION OF THE RIGHTS OF THE CHILD IN LATVIA, 2001/ 2002, HEALTH AND WELFARE

Eighteen months have passed since the additional report of Latvian government and Latvian Save the Children Alternative Interim Report 2000/2001 were compared in UN, Geneva.

The Interim Report submitted by Save the Children examined the situation of children in 1998–2000.

Latvian government had also prepared additional information regarding this period. The additional information was provided following the request of the UN High Commissioner for Human Rights, because Latvian government submitted the report with 5 years' delay, so the Initial Report was already quite outdated.

Save the Children, in its turn, in the Interim Report of 1998–2000 indicated the tendencies to improve, remain at the previous level or to deteriorate regarding the main indices of the protection of the rights of the child.

Now almost eighteen months have passed since Latvian government reported to the UN and received the UN Recommendations with suggestions about ways of limiting human rights violations against minors. **There are no indications that the UN Recommendations have resulted in visible positive improvement as regards protection of the rights of a child.** During this period several studies have been published that show that Latvia in the context of the Baltic and the other 24 Central and Eastern European countries is quite backward as regards the sphere of the rights and welfare of the child.

In recent years Latvia because of some negative parameters has come very close to Rumania and Bulgaria, countries that have been excluded from the EU enlargement process till 2007. One of the most essential reprimands these countries have received is – violations of the rights of the child, delays in the implementation of the UN Recommendations.

During the transition decade in the context of Central and Eastern European region it seemed that the situation in Latvia was improving. For instance, the beginning of the 90ies brought slight increase in birth rate, mortality of newborns and infants was decreasing, morbidity with tuber **Save the Children mentioned with hopes to the UN on October 2000 in Geneva. However, these positive tendencies have stopped and the situation in this state has again deteriorated.**

The general economic conditions of the state have not become worse, but vice versa – the increase of GNP in 2001 was 8%, but the number of registered unemployed had decreased from 9.1 to 7.7%. **And yet, the year 2001 was marked by a number of negative changes in almost all of the important health statistics.**

Rather poor quality concepts, programmes and strategies for the improvement of the conditions of children are being continuously produced in this country, these basically have not brought any significant improvements. So alongside a series of other ideas, put in a written form, in 2001 the Cabinet of Ministers approved Strategy of Health Care for Mother and Child, as well as State Immunisation program 2001–2005.

The Priorities of the Ministry of Welfare for the year 2002 do not even mention children.

During the last two years birth rate has been decreasing again and mortality rate increasing.

In 2000 mortality exceeded birth rate 1.6 times.

In 2001 mortality exceeded birth rate 1.7 times.

The mortality of mothers (pregnant women, parturient women) has again increased, and is one of the most dramatic in the network of 27 Central/ Eastern European countries.

Maternal mortality, index:

2000 – 24.8 (per 100 000)

2001 – 25.4 (per 100 000)

All the cases of death were pregnancy related, mothers have limited possibilities to visit doctor frequently enough and to receive diagnostic services meeting the criteria of technologically developed countries.

At the end of the transition decade, thanks to enormous effort made, the infant mortality rate had decreased, but in 2001 the situation again deteriorated, coming close to the situation in undeveloped European countries.

Infant mortality has increased from 10.4 ‰ in 2000 to 11.04‰ in 2001.

Academic studies carried out in the USA indicate that the health of newborns and infants to a great extent depends upon the quality of mother's nutrition. For mothers who consume nutritious food approximately 65% of the infants are born in a good condition, and vice versa.

The mortality of infants and children is also influenced by use of mother's milk in feeding. Breast-fed children develop infections and other diseases more seldom, and their convalescence period is easier and infant cot death syndrome is also observed more rarely. **Regrettably, welfare and health care systems professionals are to blame that in this country only approximately 20% of infants are fed only with mothers' milk till the mandatory age of six months.**

◆ **The number of congenital anomalies is growing.**

◆ **The number of foetal intranatal death is growing** (42 cases in 2000; 46 cases in 2001).

The number of anomalies and intranatal deaths to a great extent indicate poor diagnostic possibilities and the inaccessibility of high quality care to pregnant women in this country.

Regrettably, Latvian government Report that was prepared for the UN regarding the transition decade (for the Special Session on Children in May 2002, in New York) **does not mention these facts**. The respective chapters on prenatal diagnostics create an impression that in this country everything in this sphere is in perfect order.

The following numbers also prove the fact that the conditions of children and their health care have significantly deteriorated:

◆ **Infant mortality from "cot death syndrome" has increased** (18 children in 2001).

◆ **Infant mortality from malignant tumours has increased** (2000 – 0; 2001 – 4 children).

◆ **Infant mortality from pneumonia has increased** (2000 – 3; 2001 – 7).

◆ **The number of children who died at home has increased** (3.7% of children died without being hospitalised).

The increase in the above mentioned ratios is natural, as more than half of the families with children do not have the possibility to receive timely medical help. In 2001 the number of visits to doctor has decreased by 16%, by 28.8% – consultations with the mid-level health care professionals, the number of cases when emergency medical help was rendered has decreased for 20.6%. **In comparison with 2000 the instances of tick-borne encephalitis has decreased for 42.9%.** Nevertheless, the situation of Latvia as regards morbidity with tick-borne encephalitis in comparison to other European countries remains quite unfavourable.

At the same time because of the poverty of people the delayed visits to doctors have more often resulted in emergency operations performed related to bleeding and ruptures of stomach and intestines. The families with 2 and more children in 63% of cases cannot afford even dental treatment.

The deterioration of children's health and delayed diagnostics has resulted in increase of numbers of handicapped children. Every year the number of health problems diagnosed at regular medical check-ups of 3 to 14 years old is growing – impaired hearing, impaired vision, disorders of speech and posture.

Indices, unthinkable for developed European countries:

- ◆ Since 2000 the morbidity with HIV/AIDS has doubled. But this is only a period of one year. The morbidity of children since 1998–2000 has increased 10 times. **In the period of 5 years – 1998–2002 the number of children infected with HIV/AIDS has increased 20 times. In 1998–2000, when there was no rational state actions plan for the prevention and treatment of juvenile drug addiction, when our authorities apparently were convinced that the regularities of the world do not influence the children in Latvia.**

- ◆ **The number of users of intravenous drugs (heroin) increased for 300%, including children. With clearly dumping prices and without serious police control over drug distribution places – schools, clubs, meeting points, the State police was ordered not to detain and not to send for tests children who had used drugs.** What was the reason? The Ministry of Interior did not have state money allocations to pay 30 LVL for the test of each suspicious kid.

- ◆ At schools, state radio and TV, internet portals that could have and should have been funded by the state, there are no quality education programmes for children, parents and teachers on issues of child health, HIV/AIDS, problems of drug abuse prevention and treatment. Nothing about rendering emergency help child to child.

- ◆ There is a certain correlation between the increase of intravenous drug users and the morbidity with parenteral virus hepatitis.

- ◆ A very important index characterising the education and culture level of general public and medical staff is morbidity with

acute intestinal infections, and in 2001 **this showed a tendency to increase, especially regarding dysentery. Morbidity with dysentery in comparison with 2000 has increased 4.5 times.**

These outbreaks of the disease undoubtedly are related to ignoring hygiene norms. The State Report to the UN again gives an emotional and kind evaluation the existing environmental control in Latvia, but Latvian Save the Children experts have opposite views in this regard. People involved in Latvian Save the Children environment and health safety project carried out a survey of child care institutions and shops, they managed to identify many violations of the demands set to food hygiene. Quite a number of people indicated that food safety services “are ready to overlook invalid use-by dates on food stuffs and regulations on the preparation of foodstuffs sold unpacked – for a certain remuneration in cash or in kind”.

In 2001 the public health agency concluded that 5.8% of almost 40 thousand sampled food products did not meet food safety hygiene standards.

Among the micro-organisms extracted from food products more than two thirds contained staphylococcus. These microbes cause severe vomiting and diarrhoea in infants.

The decline of “medical culture” among people is also characterised by the spread of contagious dermatological diseases. One promising piece of news in this regard is the fact **that at least morbidity with scabies in 2001 has decreased by 13.2%.**

Vaccine dependant infant diseases

The situation with vaccine dependant contagious diseases in the state for the past few years has been quite grave.

Even though in January 2001 Latvian government delegation during the UN Human Rights Committee session in Geneva proudly announced that the results of immunisation in this country were excellent and that the primary health care was 100% accessible to all children, our publication clearly shows that such a dramatic situation in health care could appear only under the conditions when at least half of the population in practice are unable to receive medical help at the moment when they need it.

Since 1998 the number of children with tuberculosis is again increasing. If in 1998 there were 149 children diagnosed with the disease for the first time, then in 2001 the number of such cases was already close to 200.

The tendency to visit doctor late with advanced stages of tuberculosis is spreading. More than a half of patients with lung tuberculosis pose a danger to the people around them, since they exude bacteria.

In 2001 the morbidity of children with epidemic parotitis rapidly increased, reaching the highest morbidity rate of the past 10 years. Similarly, **morbidity with rubella and whooping cough has increased;** diphtheria cases have slightly decreased. Regretfully, this country has not yet managed to achieve the 95% immunisation level recommended by the World Health Organisation and UNICEF. It will be very difficult to achieve it, since “the high and the mighty” of our health care system have deprived tens of thousands of children of their only real chance to take care of their health and receive treatment by school doctors and nurses. When this kind of system existed at schools, children received their vaccine

shots in time; also all kinds of abnormalities and infant diseases were diagnosed timely. Under the present conditions in Latvia it was not correct to destroy this system, leaving everything at the care of goodwill and sense of responsibility of parents. As it was already mentioned, 54% of families with children have no financial means to visit doctor in time and as often as necessary.

Diphtheria. An insufficient number of children have been immunised, and the level of adult immunity is not sufficient. Also the immunity of teenagers and young people against diphtheria because of unsuitable vaccines seems to be dubious. **In 2000 Latvia had the highest diphtheria morbidity rate in Europe. The spread of diphtheria will not be stopped, unless the WHO recommended immunisation level against diphtheria – 90% – is reached.**

Whooping-cough: 2000–2002 morbidity increases.

Rubella: In 2001 the morbidity with rubella in comparison with 2000 increased by 600% (6 times). Rubella is a highly dangerous infection for pregnant women, as it almost always leads to severe foetal abnormalities, therefore, even though the official statistics indicates that 95% of population has been vaccinated, the quality of the vaccines should be evaluated to find an explanation for such a sharp increase.

The numbers related to the spread of epidemic parotitis in Latvia are scandalous. Children started falling ill in 1999, moreover, vaccinated children were contracting the disease, which raises serious doubts about the quality of the vaccine. **In 2001 6834 cases of parotitis were found, which is 3.5 times more than in the previous year.** 72% of the patients were children. According to the WHO demands 95% of children should be vaccinated against parotitis with high quality vaccines. Apparently vaccines produced in Russia, as well as part of vaccines acquired in the independence period have been of poor quality.

The data on alcoholism among children and teenagers continue to be upsetting, even though in 1999 the number of registered children has decreased, the problem is still huge, and there are no signs of serious state efforts to solve the problem – neither regarding prevention, nor treatment or legislation.

The existing statistical data show that in 2001 the health of families and children deteriorated, and that was caused by the inaccessibility of medical care, the causes of these problems should be analysed by the organisers of health care. Indices of health were so poor only in 1994, and it was possible to explain this by the fact that health care reform and corresponding amendments to the legislation had been initiated only in 1994. Where to look for causes now? The condition of children in Lithuania and Estonia continues to improve. But Latvia at the same time is sliding downwards on the scale towards Rumania and Bulgaria, countries that were excluded from the EU enlargement process.

All information regarding the activities of state and public organisations in the field of legislation – see the Interim Report Chapter on Legislation and Latvian Save the Children Study of Violence against Children in Child Care Institutions Chapter on Legislation.

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**DESCRIPTION OF SOME ASPECTS* AND A REPORT
ON THE PROJECT IMPLEMENTED BY THE LATVIAN SAVE THE
CHILDREN WITHIN THE FRAMEWORK OF THE UN PROJECT
“STATE VIOLENCE AGAINST CHILDREN”.**

**PREVENTION OF VIOLATION OF THE RIGHTS OF CHILDREN
LEFT WITHOUT PARENTAL CARE IN CHILDCARE INSTITUTIONS
AND BOARDING SCHOOLS**



Latvian Save the Children
Independent Child's Ombud
Rīga, 2001/2002

* The office of sworn lawyers *Rektina & Mieze* will provide an evolution of all the above said and analyse the outcome of the survey from the legal point of view. The present report will be limited to the description of project in general but in details mostly in developments in three regions of Latvia: the Aleksandrova Special Boarding School in Konstantinova municipality, the Kraslava District, the Vegi Social Care Centre in the Talsi District, and some of the childcare institutions in the Liepaja District.

**DESCRIPTION OF SOME ASPECTS AND A REPORT ON THE PROJECT
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WITHIN THE FRAMEWORK OF THE UN PROJECT
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BOARDING SCHOOLS**

GENERAL PART

In 2000/2002 the UN called on national governments and NGOs to curb violence against children. The project was named “State Violence against Children”, which means that violence against children occurs in state-owned and municipal institutions and also in families – in every place where the government fails to meet its obligation to protect the child from any kind of violence in compliance with the UN Convention on the Rights of the Child. In 2000, in response to this initiative of the United Nations Organisation, the Latvian Save the Children launched the project “Prevention of violation of the rights of children left without parental care in childcare institutions and boarding schools”.

The aim of the project was to reduce violence in children’s institutions. To achieve this, it was necessary to do the following:

- ◆to educate children and employees working at children’s institutions about the right of the child to be protected against violence, about violence as such and about ways of seeking help;
- ◆to reveal violations of children’s rights, to document them in audio and video records, to analyse them and submit materials to procurators for investigation;
- ◆by using mass media, to involve society in eliminating violation of children’s rights in children’s institutions;
- ◆to analyse the obtained data and to establish which are the factors preventing elimination of violation of children’s rights in institutions – faults in laws, in the system of the protection of the rights of the child, or in the work of law enforcement institutions, so that children suffering from violence could receive help.

Participants in the project were representatives of Save the Children:
Inguna Ebela, M. D., Chairperson of the Latvian Save the Children;
Valentina Eihenberga, Director, sociologist;
Peteris Mezulis, consultant of confidence calls, psychologist, journalist of Save the Children broadcast programmes;
Edmunds Paulavics, cameraman.

Save the Children had invited to participate the following experts:

- ◆Sworn lawyers’ office *Rektina & Mieze*;
- ◆Maija Valce, *mag. paed.*, psychologist;
- ◆Ilze Veitnere, psychologist, expert in forensic medicine;
- ◆Aida Predele, MP;

- ◆ Vaira Paegle, MP;
- ◆ Aija Barca, MP;
- ◆ Una Brenca, prosecutor of the Prosecutor General's Office;
- ◆ Ilze Sipola, representative of the municipal police;
- ◆ Aija Korneva, journalist of TV Panorama broadcast programmes;
- ◆ Iveta Baskevica, psychologist, and
- ◆ The Latvian Association of Orphans – Chairman Janis Salmins.

During the implementation of the project 29 institutions accommodating children left without parental care were surveyed (see Annex), including:

- orphanages – 7;
- boarding schools – 5;
- special boarding schools – 4;
- elementary schools – 4;
- secondary schools – 3;
- social care centres – 3
- family care centre – 1;
- education and rehabilitation centre – 1;
- vocational school – 1.

During these visits many hours were spent in each of the 29 institutions, documenting stories and interviews in sound and video records.

The project received financial support from the Soros Foundation – Latvia and the Embassy of the United Kingdom in Latvia. The project consisted of two parts: education and research.

The **Embassy of the United Kingdom mostly supported the educational part**, and as a result experts from Save the Children were able to speak to children and staff members at 29 various institutions – boarding schools, children's homes, social care centres, shelters and schools. The subject of these conversations was children's rights and problems as well as the approach to the problems in the light of the UN Convention on the Rights of the Child. Violence was discussed as a form of children's abuse; the methods to establish facts of violence and punishments imposed under Latvian law and laws of other countries were explained. Staff members of children's institutions were requested to report cases of violence to the local institutions protecting the rights of the child, or, if the local structures were not found to be trustworthy, reports could be sent to the State Centre for the Protection of Children's Rights (SCPCR), or to Save the Children. If there was a confirmed suspicion about violation of children's rights that the management of the respective institution refused to deal with, a report should be delivered to the police or procurators. In cases of nepotism / corruption Save the children recommended notifying the Prosecutor General's Office.

The survey concerning violence part of the project was mostly covered by Soros Foundation – Latvia and included conversations with children and distribution of questionnaires among the children (main questions see enclosed). Information about the survey results and the revealed cases of violence was delivered to the Minister of

Education and Science and Inter-ministerial committee responsible for children's rights, Minister of Social Welfare, members of Parliament, mass media.

The conversations with children and the answers to the questionnaire showed that children were not clear about the meaning of violence as a term; physical violence for them predominantly meant beating that left more or less severe bodily injuries, and sexual violence was called rape. Only after lengthy and detailed explanations children agreed that violence should be understood according to internationally recognised standards.

Children had a very vague idea about such forms of violence as neglect and emotional violence. All this means that any questionnaires distributed to study the scale of violence in the post-communist countries should contain questions that are adapted to the local understanding.

The above said leads to the following conclusions:

- ◆ in all probability, surveys conducted up till now do not reflect the true situation, and statistics of violence is not reliable;
- ◆ it is necessary to educate children to understand that violence has different forms, and to teach them how to avoid it.

A survey made in Ireland in 2000 showed that >80% of all children had suffered from some kind of violence; studies made in the USA in the 1980s proved that every fourth girl and every tenth boy have been sexually abused.

The surveys conducted by Save the Children in 1998/1999 included questioning of 4,300 school children; answers to the questionnaires showed that on the average only 18% of the children had suffered from physical violence, and only 2% – from sexual abuse. But if we relate these figures to the total amount of children in the country we see that more than 10 thousand children have experienced sexual abuse and about 100 thousand children have suffered from physical violence. These figures might indicate that in Latvia neither the children nor the educators, nor parents have a clear understanding about what violence against children means in the broader sense of the word. Prohibition of violence against children may be found in several laws of the Republic of Latvia, e. g., in the Law on the Protection of Children's Rights and the Criminal Law; the general public, however, lacks deeper understanding about the terms incorporated in the legal provisions. Therefore it is not surprising that in their interpretation of Article 174 of the Criminal Law several lawyers have actually protected the culprits instead of the victims of violence, and the explanation was that beating could be classified as an act of violence only when the one who was beating the child had an intent to humiliate the child or cause physical or mental suffering.

The last of the surveys made under the auspices of the UNICEF in 35 countries included one conducted by *Latvijas fakti* in 2001 and involved questioning of 400 children in Latvia; it showed that Save the Children, the SCPCR and the Latvian National Committee of UNICEF have made efforts to explain the notion of violence in Save the Children TV programmes and schools, and this work has lead to a positive result. This year already 62% of children admitted that they had experienced violence and aggressive treatment in their families; 18%, which is a similar percentage to the one obtained by Save the Children survey of 1999, had experienced beating; 44% were already familiar with the notion "emotional violence". Further work is necessary to spread this understanding among children because these figures are incredibly smaller than the figures obtained, for example, in Ireland.

The survey of children in 29 children's institutions of Latvia, which was conducted by experts of Save the Children and volunteers, confirms the need for the Latvian Government to implement the UN Recommendation of 2001: the number of children in institutions should be reduced, children should have an opportunity to be brought up in foster families, the required legislation and the system of adoptions should be put in place to enable more and more children to be adopted; cases of violence should be revealed, victims and witnesses protected, and perpetrators punished.

Some of the questions included in the questionnaire are shown on a separately annexed sheet. The questionnaire was distributed to 170 children. The result shows that the children do not have a clear idea about violence, but 90% of them would like to leave the children's home or boarding school, if only they knew where to go. Only 10% of the children said they were happy in the childcare institution.

This is another proof that the changes demanded by the UN are needed: it is necessary to develop a network of foster families, to reduce the number of institutionalised children and to promote alternative ways of care.

We observed that children were spending many years in institutions without finding a new family, and 90% of them felt lonely. We also found out that the most painful realisation for them could be that they would never meet their parents (they would never have any family, biological parents or foster parents).

The third part in the Save the Children project was to find out the role of children's rights protection system, namely, the State Centre for the Protection of Children's Rights (SCPCR), School Boards (children's rights specialists), custody courts and municipal courts, the police (children's inspectors) and procurators, and the way these institutions were supervised by the respective Ministries, namely:

- ◆ the Ministry of Education and Science has to exercise supervision over School Boards, the State Inspectorate of Education and other education-related authorities, boarding schools, special boarding schools, the SCPCR etc;
- ◆ the Ministry of Welfare supervises custody courts and municipal courts; social care centres, children's homes and shelters.

During the survey Save the Children encountered two major precedent-creating situations, both linked with a wide range of violence against children, where two different supervisory bodies resorted to two different higher-level solutions, involving the local municipal court, an expert in the protection of the rights of the child, the police, and the relevant Ministry.

The first case, where a positive solution was found, was the Aleksandrova Special Boarding School in the Kraslava District, which is subordinated to the Ministry of Education and Science.

The second case, where negative outcome ensued, was the Vegi Social Care Centre in the Talsi District, which is subordinated to the Ministry of Welfare.

There was a third case that could create a precedent, which was encountered when Save the Children made a survey of several institutions and met an expert in children's rights and the police in Liepaja City.

The survey of 29 children's institutions showed that the occurrence of violence depended mainly on the management – the headmaster or director of the institution. Where the management exerted control over matters of behaviour and prevented violence, violence was rare or did not exist. Very much depended on the general level of education of the staff members. We found an excellent director in the

Pamusa Boarding School and marvellous staff and director in the Lielplatone Special Boarding School. A unique case was observed in the Bebri Boarding School in the Aizkraukle District: after the summer camps organised by Save the Children in that school the participants did not wish to return home. The Bebri Boarding School is home of the local branch of Save the Children, and educators from various parts of Latvia go to Bebri to gather educational experience. But alas! Not far from Bebri there is the Malpils Boarding School with another branch of Save the Children where also summer camps are organised for children, but everybody wants to get back home from these camps. Formally everything is organised for the benefit of the children, but the children do not feel at ease, and the attitude to them is not warm-hearted. Reserved attitude and formal kindness prevail.

In the Pamusa Boarding School the director is very respectable, and so is the director of studies, but there are some teachers who use violence against children. The existing legislation does not permit to dismiss them. The director had tried more than once to dismiss some of the teachers, but the State Inspectorate of Education had restored them to their former position due to **lack of evidence**.

In this connection Save the Children found a very serious fault in the Labour Code of Latvia. This Law does not provide for cases when a person should be dismissed because he/she is suspected of using violence. First it must be proved. But this Law does not prohibit to suspend a person from duty for the time of investigation, namely, the person may be transferred to another position and receive a salary. Currently this is often found unfeasible due to scarcity of municipal budgets. As a result the children who are victims of violence remain in contact with the tyrant, who will not hesitate to exert pressure on the witness, traumatize or frighten the child to make him reverse evidence.

POSITIVE EXAMPLES

Save the Children received a signal from the director of the Iecava Boarding School in the Bauska District: she had discovered that a teacher, who had been working in the school for many years, humiliated and tortured children on a regular basis. The director wanted to involve Save the Children because she feared the existing legislation and the attitude of society would prevent her from dismissing the violent teacher. The director also informed the District Prosecutor's Office. Having held interviews with the children and teachers, Save the Children also submitted a request to the Prosecutor General of the Bauska District to verify if the action of the said teacher was punishable under Article 174 of the Criminal Law and to decide if an action should be brought in a criminal case. After investigation a criminal case was initiated. It was possible to interrogate the children who had suffered because the guilty teacher had been suspended from duty for the time of the investigation and transferred to another salaried job in the same school. However, under the existing Labour Code, a person could be dismissed from the job only if his/her guilt had been proved. The director took the risk and assumed responsibility for isolating the suspected teacher from the victims and witnesses, otherwise the situation would have become a vicious circle – the teacher could continue bullying and blackmailing the victims, as often is the case, and the victims and witnesses would be afraid to give evidence. The Bauska District Prosecutors' Office has a special attitude to children's problems, and they respect the UN Convention on the Rights of the Child; all priority is given to matters of children. The prosecutors take up most of the cases related to

children instead of transferring the responsibility to the police because most of the police staff do not possess the required capacity and knowledge to handle cases where the victim is a child and where special attitude is required.

There is another example from the Bauska District, which may be also regarded as positive, but to a smaller degree.

Save the Children was asked to verify information concerning violence against children in the **Pamusa Special Boarding School** and **the Bauska Children's Home**. The prosecutors of the Bauska District responded immediately and verified the information. The acts of violence in the children's home turned out to have occurred only sometimes and the perpetrators appeared to be only some of the teachers, and for this reason no charges were made. The lawyer's comment gives a more detailed explanation why this was so: the educators "did not intend to humiliate the children or cause suffering". Unfortunately, the view that corporal punishment is beneficial for the child still is widespread in society. The UN Convention on the Rights of the Child, the Law on the Protection of Children's Rights and the Criminal Law essentially prohibit administration of corporal punishment and maltreatment of children where the child's dignity and honour is insulted, however, there are many police officers and procurators who still apply the morally outdated interpretation of Article 174 of the Criminal Law, thus ignoring the international standards (see the lawyers' opinion). The faults in the labour legislation became apparent when we became involved in the case of the Pamusa Boarding School: it is impossible for school directors to dismiss teachers who use violence against children for many years.

The most vivid example from the Save the Children survey concerning the elimination of violations of children's rights is the Aleksandrova Special Boarding School, which shows that even within the incomplete legislation it is possible to achieve a laudable result – if a co-ordinated effort is made for the benefit of children by a non-governmental organisation, the Ministry of Education, the press, the Prosecutor General's Office, the District Prosecutor's Office and the police, and if ties of nepotism and fear to harm the reputation of the region (Latgale in this case) do not come to the foreground, and if there is strong adherence to the UN Convention in cases when there are gaps in the national legislation.

This autumn Save the Children received information about emotional, physical and sexual violence against children, also neglect of children, in the Aleksandrova Special Boarding School. Save the Children started looking for possible witnesses and was able to contact them. They were the present and former employees of the Boarding School. Save the Children formed a working group and sent it to Aleksandrova. The situation there was the following: the schoolchildren were pale looking, thin, fearful and afraid to be open. Nevertheless, it was possible to learn from them that there was not enough food; electricity was turned off at 9 p.m.; the toilets had no doors and were common for girls and boys; the children could not go out for walks or watch TV; they could not play any games, and they were beaten for disobedience; the teachers praised those children who beat or humiliated other children. They also said that the school director sexually harassed girls in his office room when the girls wanted to use the telephone. The director was known to use the school car when he went hunting together with officials from regional and other institutions; he sold to the school kitchen the low-quality products grown on his farm. Anyone who tried to protect the interests of the children had been threatened and dismissed. On a regular basis the school provided entertainment for staff members of the District School Board and

executives of the local government council, therefore these officials never listened to complaints of the school staff.

A member of the local custody court was employed at the school, and she, for fear of losing employment, did not defend the children. The psychologist was the director's mother-in-law, and she paid no attention to the suffering of the children.

All this had been going on for years; the school director was an absolute dictator who felt he could never be punished.

Without any delay Save the Children informed the Minister of Education, the President of the State, the Prosecutor General's Office and mass media, and demanded that charges in a criminal case should be made.

The said institutions responded very favourably; however, the executive director of the Kraslava District Council, the Aleksandrova school management and partially the local district press organised vehement opposition to the initiative of Save the Children. The Minister of Education himself went out to Aleksandrova together with representatives of the Ministry. Unfortunately this visit proved the incapability of the children's rights protection structure and the Ministry officials to act efficiently in a situation of crisis. Those members of the school staff who were indicated as guilty by the children were not suspended from duty, victims and witnesses were not protected, but they received threats; psychological assistance was not provided at an early stage to enable the children to receive assistance in emotional crisis. All this would be completely different in a developed Western country.

Owing to the close co-operation of Latvian Save the Children with mass media and the Minister of Education Karlis Leiskalns, it became possible to build a model for future action in similar situations. Regardless of all faults in the existing labour legislation and other legislation, in spite of links involving corruptive practices and nepotism of the local officials and members of the school staff, **as a result of the Minister's operative action, though with certain delay, the children could receive help in a relatively short time.**

The solution to the problem took a positive turn after involvement of the chief prosecutor of the Kraslava District Malda Kristovska and SCPCR supervision section leader Faina Lomanova, as well the local police inspector of Dagda. The suspected teachers took sickness leave or went on annual holiday while the Ministry tried to achieve their dismissal, but it was hard under the existing legislation. Though late, psychological assistance was made available to the children. The work of the police and prosecutors was perfect.

As a result criminal charges were brought against several people for malpractice in their capacity of officials, for violence against children, sexual abuse etc.

When the Aleksandrova case came to light, the Ministry of Education and Science issued instructions to make a survey of all boarding schools in Latvia and to provide training to educators and children about identification of violence against children and prevention of such violence. A precedent was created that violence against children could be punished.

Already in 1999 the SCPCR published a schoolbook on prevention of violence, but unfortunately only a few of the boarding schools paid serious attention to the subject before Save the Children had not made the visits related to its survey.

The situation of children's rights protection in boarding schools proves the important role of non-governmental organisations and the huge impact of public opinion, which, with firm support provided by the press, can be mobilised for the purpose of solving a problem.

On October 24th, 2001, a court hearing was held and a sentence was pronounced to convict Olegs Lisjonoks, educator of the Aleksandrova Boarding School. This was an unprecedented case, where out of 33 suspected episodes of torturing children his guilt was proved in 32, involving 23 victims. In all probability, this is not a complete list of victims. The Dagda police and the Kraslava District prosecutors did a huge amount of work to find evidence; the court, however, sentenced Lisjonoks to two and a half years of imprisonment and conditionally discharged him from imprisonment; no statement prohibiting Lisjonoks from working with children was included in the verdict.

Latvian Save the Children made an appeal to the Prosecutor General requesting him to ask reviewing of the sentence for the above-mentioned reasons, and also because the verdict had not been made available to the 23 victims and their opinions had not been considered, which is a gross violation of the UN Convention on the Rights of the Child.

A few days later Save the Children received information that Lisjonoks was employed as an educator at the Tilza Primary Boarding School, and the director of this boarding school has been one who had provided written evidence of Lisjonok's "splendid personal character" to the court. The Kaiva Boarding School, where Lisjonoks had been employed for 12 years, provided another laudatory statement of his qualities.

Lisjonoks could not have used violence solely against children of the Aleksandrova Boarding School; the above facts cast doubts on the directors of Lisjonoks' both previous places of employment – people who by law represent the interests of schoolchildren and on whom the children fully depend. Directors employing such teachers should not be allowed to work with children. When this information became known, Save the Children requested the Prosecutor General's Office and the SCPCR to verify facts and also to inform mass media about it. In a few days Lisjonoks was forced to give notice. A normal procedure would have been dismissal from duty on the grounds that according to a court sentence he had tortured, harrassed and beaten 23 children at least on 32 occasions.

The last success of Save the Children is that after letter we wrote to the Prosecutor General, appeal against a sentence is made. Several other staff have been accused as well and lots of staff and witnesses are waiting for next court processes. Also the process of punishment because of violence against children in Aleksandrova still continues during 2002.

These are the "relatively positive" examples. They are to be regarded as positive in a relative sense because officials have responded and have helped the children according to their capacity and understanding, namely, there was no neglect of duty.

The relative nature of justice in these cases is explained by the following abnormal situations:

- ◆ violence against children was revealed, evidence gathered and charges made by a non-governmental organisation in spite of the fact that there are inspectors of children's rights protection, custody courts, school boards, state inspectors of education, social assistance services, the police and prosecutors' offices;

◆ structures responsible for the protection of children's rights are subordinated to local governments, where they cannot function with full responsibility because they are mutually linked with family and other friendly relations, and as a result:

– **no protection is provided for victims and witnesses, who are children (there is no place where such children could temporarily reside to be isolated from the suspected abusers);**

– **the accused persons are not suspended from duty for the time of investigation;**

– **children have actually no opportunity to report violence when it is necessary to do so without the knowledge of the institution's director.**

◆ there is no state-financed ombudsman's institution in the country – an independent body monitoring the observation of the rights of the child; such institution must be set up by the Latvian Government in accordance with the UN Recommendations, so that every child in the country would be given an opportunity to ask for help if such help is not provided by the local service institutions, which ignore the needs of the child;

◆ the faults in the existing legislation or misinterpretation of national law cannot guarantee compliance with the UN Convention on the Rights of the Child;

◆ a positive outcome in the cases described above was achieved not because the respective institutions, who are paid to do their work, had acted hand in hand for the benefit of the children, but due to interference of the Prosecutor General's Office (instead of the local procurators) or the Minister of Education (instead of the Ministry civil servants, members of local school boards and education inspectors), the SCPCR (instead of the local municipality experts in children's rights, municipal courts and social services – the latter two subordinated to the Ministry of Welfare!).

NEGATIVE EXAMPLES

The Liepaja Orphanage, the Liepaja Special Boarding School and the Vegi Social Care Centre in the Talsi District

The example of **Liepaja** has been discussed in greater detail in the lawyers' opinion. It should be added, however, that in Liepaja we encountered a classical example of a united front of face-saving attacks made by children's rights institutions, involving also the press, in order to defend the reputation of the District instead of analysing their own errors and trying to correct these errors. When several grave infringements of rights were disclosed in the childcare institutions of Liepaja, the working group discussed the situation together with Dace Linke, expert in children's rights, who was also interviewed and a video record made. The discussion was held in a calm atmosphere and was video-recorded. When Save the Children had informed the press about the outcome of the survey and the revealed cases of violations of children's rights, those concerned in the Liepaja case wanted to sue Save the Children for insult to their dignity and honour. The working group of Save the Children, which included a psychologist, a sociologist, a medical doctor and journalists, agreed that they should summarise their opinions and spread a press release stating that in some of the **Liepaja childcare institutions**, like

the Liepaja Boarding School and Orphanage, emotional violence as well as slight physical violence against children was found to be occurring, and there were serious indications of sexual violence used by the children of the boarding school against the inmates of the orphanage. All the video materials were delivered to the Prosecutor General's Office with the request to verify the facts and to issue a statement concerning the action of the staff of the childcare institutions and that of children's rights protection structures as possibly punishable under several provisions included in the Criminal Law.

After the Prosecutor General's Office demand the Liepaja police and the procurators verified the charges made by Save the Children (see the lawyers' opinion) and dismissed the charges.

To our regret, apparently the dismissal of the charges was a reaction of self-protection against an alleged insult made by a non-governmental organisation from Riga, as well as an outdated interpretation of Article 174 of the Criminal Law, which does not conform to international standards of human rights issues and views related to such standards.

It must be admitted, however, that the Liepaja children's rights protection services work efficiently, in a co-ordinated way and on a multidisciplinary basis by co-operating with the police for the benefit of the children; therefore the drawbacks disclosed by Save the Children could be eliminated comparatively fast. Regretfully, this was not done only because the service-providing institutions in Liepaja perceived the activities of Save the Children as insulting.

Wide-range, continuous and unpunished violence against children in the Vegi Social Care Centre

Early in 2001 Save the Children received the first signals about grave violations of children's rights in Vegi. The former music teacher and psychologist B provided the information. After this teacher had reported, without any success, cases of heavy beating and emotional violence against the children to the director, the police, experts in children's rights, the custody court and also the Ministry of Welfare, she was dismissed from her job. In her reports B. had mentioned names of about ten children who had suffered from beating, had been tortured, humiliated and sexually abused by employees of the Vegi Centre.

The working group of Save the Children invited psychologist Maija Valce, *paed. mag.*, who is one of the few experts in Latvia educated to work with mentally retarded children and works as an educational advisor in the Talsi District. During their first visit Save the Children interviewed the former inmates of the Vegi Centre who now reside in the Ziedkalne Social Care Centre in the Jelgava District. The collected facts were shocking. The director of the Ziedkalne Centre A.Nimanis was shocked as well. "*I knew that things were not so good in Vegi, that some pressure was exerted on the children, but I could never imagine or suspect anything like this,*" he commented.

Without any delay the video and audio records were sent to the Prosecutor General of the Republic of Latvia; a psychologist's opinion was attached stating that apparently the children in Vegi have been suffering for years from a wide-spectrum violence – physical, emotional and sexual, for which nobody has ever been punished. Save the Children requested the Prosecutor General to initiate a criminal case and to delegate a prosecutor from his Office to participate in the working group; also two MPs were invited to participate, and visit was made to the Vegi Centre. Children of the Vegi

Centre as well as some former and present employees were interviewed; several former inmates of Vegi were found in various towns of Latvia and questioned. **We discovered that all the signals that had been sent to the police and bodies of children's rights protection for many years, including the Ministry of Welfare, had not been considered and no action had been taken; the children never received help and nobody in the absence of Vegi employees, who had intimidated the children, had actually asked them any questions concerning violence.**

Both children and adults said that inmates' feet were beaten with a hose so that traces could not be seen, also with electric wire and belts; they had been handcuffed to radiators, their heads pushed against walls, they have been kicked with heels; drowned because of neglect; lethally poisoned with medicines; forced to do arduous work for the private benefit of the staff members; raped, involved in licentious acts, humiliated, etc.

All those who were or had been earlier employed at the Vegi Centre frantically feared that their names could be revealed, because they were afraid to lose their jobs or to be revenged by the Centre's director, the accountant or their relatives. This situation could last for so many years because family ties and friendly relations linked some of the staff members of the Vegi Centre, the Talsi District police and employees of the Ministry of Welfare. We had witnesses who confirmed facts about regular bribes from social centers to the social assistance Fund of Ministry of Social Welfare.

Regardless of the request expressed by Save the Children that the case should be investigated by authorities of another district or by the Prosecutor General's Office, the Prosecutor General assigned the investigation of the matter to the prosecutors of the Talsi District, which turned out to be incapable of coping with the assignment to investigate cruel treatment of children, and the reason was the already mentioned corrupt relations. Two months later the Talsi prosecutors had not interrogated any person in the case involving scores of victims and witnesses (from other regions) indicated in the official reports the Save the Children had repeatedly submitted to the Prosecutor General and the Chief Prosecutor of the Talsi District. We were informed by an official of the Talsi District Prosecutor's Office that the matter had got stuck completely: *the police actually did not want to do the work because of nepotism and friendly ties, but the Chief Prosecutor had not notified his superiors that he was not coping with the assignment.*

At the same time the children's rights protection institutions of the Talsi District were doing nothing to help the victims and witnesses in the Vegi case. The Talsi Education Department was expecting orders from the Ministry of Education and from the State Centre for the Protection of Children's Rights, but these were hesitant, because the Vegi Centre had another subordination. The Ministry of Welfare, however, to which the Vegi Centre is subordinated, did not act appropriately.

In a few days' time after the information was obtained, Latvian Save the Children made the materials available to the Head of Social Assistance Department O. Dzene. As no action followed, the materials were shown to A. Pozarnovs, Minister of Welfare, who promised to be operative.

Unfortunately, instead of being as operative as the Minister of Education when dealing with the case of the Aleksandrova Special Boarding School, where in response to the information on violence against the children provided by Save the Children the suspects were suspended from duty and investigation supported by sending psychologists and representatives of the SCPCR to the site, the Minister of Welfare made a press

announcement stating that the action taken by the Ministry in the Vegi Social Care Centre had nothing to do with the information provided by Save the Children.

The children who had been tortured for years, remained together with their torturers; as the local staff told the Ministry of Welfare appointed as assistant director the director's sister-in-law by civil marriage, who was also a relative to the secretary of the Ministry of Welfare. The Ministry of Welfare began a campaign of counteraction against Save the Children. Instead of giving support to the investigation, the Ministry hindered it.

In this situation the employees of the Vegi centre sued Save the Children for insult to their dignity and honour; however, eyewitnesses informed us that violence against children was not curbed. The court acquitted Save the Children and stated in the verdict that Save the Children had possessed sufficient and reliable information to bring criminal charges against the staff members of the Vegi Social Care Centre for violence against children.

At the same time, when speaking on the Latvian Radio, representatives of the Ministry of Welfare accused Save the Children of incompetence, tarnishing of the image of the country and of spreading misleading information about children's situation in Latvia at the UN Commission meeting.

Several months later when the Talsi prosecutors had been conducting the investigation without any success and had not achieved any result in the case of Vegi, Save the Children again requested the Prosecutor General to supervise the case. Once again Save the Children provided an explanation concerning the inability of the Talsi prosecutors and police to work efficiently, because there were ties of nepotism linking the Talsi police and the Vegi staff members. The Prosecutor General met the representatives of Save the Children and agreed that the state police should take over the investigation; in winter 2002 the investigation is being conducted and was handed in the Prosecutor General's Office. Investigation confirmed all of Save the Children cited facts about rape, torture, beating, humiliation, exploitation of children in heavy private works for the staff. In spring, the Prosecutor brought charges against 3 Vegi workers. Because scores of victims and witnesses from various regions of Latvia are involved the investigation lagged, the Prosecutor's Office and the police lack the means to hire court psychology and court psychiatry expertise treatment for children with mental problems.

The case of Vegi has captured the attention of the members of the European Parliament. Late in the summer of 2001 the Irish organisation *Shoe for Children* wrote to the Prosecutor General and the President of the Republic of Latvia about the continued violence against children committed by the Vegi staff members, who had plundered the charity parcels meant for seven children's homes. The Irish organisation is indignant over the attitude of the Talsi police, the director of the Vegi Centre and A. Pozarnovs, the Latvian Minister of Welfare, towards children and has made a complaint to the European Parliament that the Latvian state was admitting unpunished violence against children with special needs in a childcare institution subordinated to the Ministry of Welfare.

The Minister of Social Welfare has made a great mistake. After receiving all the information about violence in Vegi, the Ministry had to provide reorganisation of the centre. The moral and ethical climate in the institution without criticism and conscious of reality – if most of staff could keep silence and ignore all the horrible, long-term child abuse and their suffer in Vegi. During winter 2001/2002 Latvian dermatologists in the

capital suddenly discovered epidemic of long-term untreated scabies in 2/3 of children in Vegi. This situation shows that the Ministry of Welfare is not fulfilling its function to supervise the work of the custody court in the Talsi District and that there is no co-ordination among separate parts of the system of children's rights – the custody courts, which are subordinated to the Ministry of Welfare, and the SCPCR, which is supervised by the Ministry of Education and Science, and experts in children's rights who are accountable to local governments. Incomplete legislation is one of the reasons why the Vegi case could not be investigated with success; another factor is the misinterpretation and incorrect application of legal provisions by central and local government institutions and also by the police and prosecutors.

In its Recommendation of 2001 the UN strictly demanded the Government of Latvia to put an end to violence in children's institutions. The Government, however, has not issued an official order to the bodies supervising the rights of the child to implement the Recommendation.

CONCLUSIONS MADE AFTER THE SURVEY OF 29 CHILDREN'S INSTITUTIONS ACCOMMODATING CHILDREN WITHOUT PARENTAL CARE

1. The facts that children feel lonely in institutions and 90% of them would leave the institution immediately if they had some other place to go to actually mean that 90% of them suffer from emotional violence.

2. An enormous number of children suffer from violence, but it is impossible to learn the exact number because children understand violence in a narrow sense of the word.

3. The control and observation of possible violence against children becomes difficult in institutions where relatives of the local police, custody court members, inspectors etc. are employed, or where employees have relatives in the Ministry of Welfare.

4. About 85% of the children included in the survey had not heard from their teachers or supervisors about the rights of the child or about the essence of violence, or about opportunities to seek help.

5. Representatives of children's rights protection institutions or ministries have never asked children questions about violence in the absence of the staff members of the children's institution!

6. The major part of the institutions supervised by the Ministry of Welfare have not been visited by experts in children's rights protection or members of custody (municipal) courts. It is stipulated in the Law on the Protection of Children's Rights that custody courts should supervise the observance of the rights of every child in its territory. Experts in children's rights protection have not inspected the institutions supervised by the Ministry of Welfare because the experts themselves are subordinated to the Ministry of Education and Science. The local experts in children's rights protections, however, who are subordinated to the municipal councils and also represent the Ministry of Education and Science, are not admitted into institutions that are under supervision of the Ministry of Welfare.

7. Corruption and nepotism (when relatives support each other) are important factors leading to uncontrolled action and avoidance from punishment for violence against children in state-owned and municipal childcare institutions. Nepotism and corruption link people starting from low-ranking staff members up to the top management level, including municipal and government structures, custody (municipal) courts, education inspectors, regional executives, and high-ranking officials of the Ministry of Welfare – if we are to believe witnesses that have provided information to the participants in the Save the Children survey.

8. Legislation is incomplete and cannot effectively protect children from violence, and following analysis of the Report of 2001 submitted by the Latvian Save the Children, the UN has pointed to this fact in its Recommendations to the Government of Latvia.

9. The Latvian Save the Children has drafted and submitted to the Saeima (Parliament) of the Republic of Latvia all the necessary amendments to protect children from violence (see item 8 above), but, regardless of the Recommendations issued by the UN, they have been approved only in part.

10. Violence against children in childcare institutions of Latvia is generally not subject to any systematic and targeted control. There is no co-ordination between the various parts of the children's rights protection system. Departments of Ministries responsible for the prevention of violence do not fulfil their obligation to supervise the above-mentioned structures.

11. The incomplete legislation does ensure that violence against children can be revealed, victims and witnesses protected, suspects isolated, and a fair hearing in court held with the participation of counsel for the child.

12. In the sphere of prevention of violence against children Latvia does not comply with the UN Convention on the Rights of the Child and the Recommendations to the Government of Latvia issued by the UN in 2001.

13. All this information has reached the European Parliament and the UN, and this may become a serious obstacle to Latvia's movement towards accession to the EU as well as may limit the opportunities for Latvia's children to receive assistance from the international community.

14. Prevention of violence against children in institutions will be successful in case of reorganisation of system for protection of children's rights and establishing Ombud's institution for children.

JURIDICAL PART

OPINION

Concerning the documents submitted by the Latvian Save the Children as evidence of violence against children in institutions

The office of sworn lawyers *Rektina & Mieze* (hereafter – Lawyers' Office) examined the following documents submitted by the Latvian Save the Children (hereafter – Save the Children):

- 1) records of inspections made at 24 orphanages and childcare centres of Latvia;
- 2) a decision to dismiss charges in a criminal matter about violence in childcare institutions of the Bauska District;

3) a decision to dismiss charges about violence in the Liepaja Children's Home and the Liepaja Boarding School, and the letters exchanged between Save the Children, the Ministry of the Interior and the Prosecutor of the Liepaja District;

4) audio and visual materials concerning violence in the Vegi Social Care Centre and the letters exchanged with the Ministry of Welfare, Prosecutor General, the Police Department of the Talsi District and the District Prosecutor.

The conformity of the following national laws with the Convention on the Rights of the Child was examined:

- 1) the Law on the Protection of Children's Rights,
- 2) the Law on Custody Courts and Municipal Courts,
- 3) the Criminal Procedure Code of Latvia,
- 4) the Criminal Law, and
- 5) the Labour Code of Latvia.

Contents:

- 1. Violence in childcare institutions in the Bauska District.**
- 2. Violence in childcare institutions in Liepaja.**
- 3. Violence in the Vegi Social Care Centre.**
- 4. Laws regulating the protection of the rights of the child:**
 - 4. 1. the Criminal Procedure Code of Latvia;**
 - 4. 2. the Criminal Law;**
 - 4. 3. the Labour Code of Latvia;**
 - 4. 4. the Law on the Protection of Children's Rights;**
 - 4. 5. the Law on Custody Courts and Municipal Courts.**
- 5. Proposals to amend legislation submitted by Save the Children to the Saeima (Parliament) of the Republic of Latvia.**
- 6. Conclusions.**
- 7. Proposed measures.**

1.

On April 24th, 2001, A. Circens, the prosecutor of the Bauska District Procurator's Office, took a decision to dismiss charges in a case of alleged violence in the Bauska children's home "Annele" on the grounds that no signs of a criminal offence referred to in Article 174 of the Criminal Law could be found in the action of the child carers employed at the children's home. The prosecutor has motivated his decision as follows: "*the action of educators... at the children's home "Annele", who applied physical force against children under their care, show signs of a criminal offence, however, ... this has not been happening on a regular basis and was caused by the fact that the children, against whom physical force was applied, violated the generally accepted standards of behaviour and the internal rules of the children's home; the aim of the said educators was not to cause moral or physical suffering, and such suffering was actually not caused because the children were aware and are still aware that they have been punished for their wrongdoing.*"

2.

On February 16th, 2001, the Police Department of the Liepaja City and District took a decision to dismiss charges in a case of alleged violence in the Liepaja Boarding School and the Liepaja Children's Home. After an investigation of the matter it was established that some of the carers applied corporal punishment to children and did not regard it as violence. When psychotherapist A. P. was questioned, his comment was the following: *"Whipping may be thought of as violence unless it occurs on a regular basis; separate cases of whipping should not be regarded as physical violence if the educator has not intended to humiliate the child. Such individual cases should be classified as outbursts of emotion of the educator."*

Further the decision-maker has made a conclusion that whipping may be neither physical violence nor harm to the child's dignity and honour; the charges in a criminal case were dismissed because no signs of an offence could be found in the action of the child carers.

The Prosecutor's Office of the Liepaja City in its letter of March 9th, 2001 stated that *"in order to qualify a person's action as punishable under Article 174 of the Criminal Law, it is important that such action contains all the signs referred to in Article 174,... including the subjective aspect: the person's mental attitude to the offence."* Considering the investigation made by the Police Department, where the subjective attitude towards whipping expressed by the educators is recorded, namely, an oral assertion made by the educators that they never intended to cause suffering to the children, and their statement that *"many of the children come from the environment where corporal punishment has been used as a method of upbringing, and certain time is required before children learn to listen to words,"* there are really no legal grounds to bring an action to court in a criminal matter for violence against children.

3.

The lawyers of the said Lawyers' Office familiarised themselves with the submitted video and audio records concerning violence against children in the Vegi Social Care Centre, and also with the letters exchanged between Save the Children and public institutions, where the latter demonstrate an inert approach, indifference and over-formal attitude to violation of children's rights in the country, also in state institutions, where children should feel particularly protected.

The Prosecutor General in his letter No. 3/2-13-4-01 of March 13th, 2001 states that *"under the Law on Prosecutors' Offices and criminal procedures legislation, a prosecutor is not authorised to remove minor victims or witnesses from a social care institution and send them to another institution"*, and adds that a criminal investigation into the case has not proved that it was necessary to protect legal interests of either witnesses or victims, who are minors (to isolate the children from the allegedly guilty persons).

4.

For the purpose of preventing violence in state-owned and municipal childcare institutions and preventing violation of children's rights, and also for the purpose of

imposing punishment on officials, the police and the procurators should have applied the following legislative acts:

4. 1.

Article 106 of the Criminal Procedure Code of Latvia stipulates: *“if victims, witnesses or other persons who are participants in a case... are threatened with **murder, violence, damage or harm to property, or with other unlawful actions**, they have the right to request personal protection, protection of their rights and legal interests.”*

The Prosecutor General of the Republic of Latvia, the Police Department of the Talsi District, which is the chief prosecutor in the case, and the Ministry of the Interior hold the view that no threat had been explicitly made to the minors who are witnesses and victims and reside in the Vegi Social Care Centre; they have also concluded that no special measures were required to protect the rights of the children because of the children's close proximity to their educators against whom the charges have been made.

Article 155 of the Criminal Procedure Code of Latvia provides: *“When criminal charges are brought against an official, the prosecutor shall make a decision whether the official should be suspended from duty during the investigation of the case. The Prosecutor shall make a decision regarding the matter and send it to the place of employment of the accused person.”*

In the given case of Vegi, 8 months after a criminal case was initiated, no charges have been brought against anyone; besides, not all of the allegedly guilty persons are officials. If charges are brought against an employee, who is working in Vegi and is not an official, formally the prosecutor will have no legal grounds to suspend them from duty, and the person will continue to work in close proximity to the children who are victims.

4. 2.

Article 174 of the Criminal Law prescribes liability *“for cruel and violent treatment of a minor if physical or moral suffering has been inflicted on the latter and if the culprits are persons on whom the victim is dependent for material values or otherwise.”*

In the above cases of Bauska and Liepaja the officials of law enforcement institutions have misinterpreted legal norms by motivating the dismissal of criminal charges as containing no subjective signs of offence: it not possible to establish whether there has been intent to cause suffering.

The crime referred to in Article 174 of the Criminal Law may be committed only intentionally, and any crime should be regarded as intentionally committed if the person committing it has foreseen the consequences and wished to achieve such consequences. The assertion of the guilty person that there has been no direct intention to cause suffering to the child should be viewed with suspicion. Intentional action like beating, whipping or other physical abuse may only be done with the aim of causing some degree of suffering in order to make the child obey orders, discipline, perform certain actions etc. The explanation provided by the educators that the child would not obey words and corporal punishment was required proves that the educators wanted to achieve certain consequences. It is difficult to believe that an educator does not realise the harm done to the child. This realisation depends also on the person's (in this case, educator's) subjective traits of character – life experience, pedagogical knowledge,

education, including knowledge of issues related to the protection of the rights of the child, legal awareness etc. If a person does not possess these qualities, he or she may not be employed in a position of an educator, and the head of the institution should bear responsibility for employing an incompetent person.

In the cases discussed above, the law enforcement institutions have not applied legislative provisions correctly; such limited interpretation (in accordance with the grammatical principle alone) occurs frequently and is typical for the period of transition.

4. 3

Article 39 of the Labour Code of Latvia refers to suspension from duty and states: *“Employees may be suspended from duty, at the same time terminating their salary, in cases provided for by legislation, if so requested by appropriately authorised institutions.”*

The Ministry of Welfare of the Republic of Latvia applied the above Article 39 and did not take any measures to prevent the employees of the Vegi Social Care Centre from daily contact with children whom the children had mentioned as perpetrators of violence.

The Ministry has misinterpreted the legal provisions included in the Labour Code: the law provides that suspension from duty by **terminating the employee’s salary** is allowed if so requested by authorised institutions, but the employer may suspend employees from duty **without terminating their salary**. It is evident that the Ministry of Welfare had been reluctant to act in the interest of the children or has been unable to interpret law; in this specific case the Ministry has supported the interests of the management and employees of the Vegi Social Care Centre. Andrejs Pozarnovs, Minister of Welfare, in his letter No. 304-835/3.2 *jur* of April 5th, 2001, which was sent to the Chancellery of the President of the State, stated that the employees of the Vegi Social Care Centre would be dismissed immediately as soon as their guilt is proved (and criminal charges brought against them).

4. 4.

Article 9, paragraph 2, of the Law on the Protection of Childrens Rights includes a provision that *“a child must not be subject to cruel treatment, torture or **corporal punishment**, or insult to the child’s dignity and honour.”*

Article 32 of the same Law states that *“the aim of institutional care is to create a feeling of safety for the child and to provide conditions for the child’s development and welfare.”*

Article 52, paragraph 3, establishes the following rule: *“A child who has become a victim of violence (victim of unlawful actions) may not be confronted with the alleged perpetrator before the child is psychologically prepared for such confrontation.”*

In practice such confrontation occurs on a daily basis, because in the Vegi Social Care Centre the suspects continue to be employed as educators or perform some other social care duties.

Article 62, paragraph 2, obligates the Ministry of Welfare *“to ensure medical and social rehabilitation of children who have suffered from violence or have been otherwise abused”*. The Ministry does not fulfil this obligation: instead of being rehabilitated, the children on a daily basis have to contact the people whom they have charged with violence.

In accordance with Article 64, the Ministry of the Interior and the Prosecutor General's Office must organise training of their staff members to educate them in the rights of the child so that during the pre-trial process these rights should be respected and that their staff should be able to work with victims who are minors, and with their families.

On March 27th, 2001, in reply to a letter from Save the Children, the Chief of the Investigation Department of the State Police of the Republic of Latvia stated the following: *"within the limits of their own financial resources the police are trying to upgrade their knowledge of the rights of the child,"* and *"up till now it is not clear who will pay remuneration to psychologists invited to participate in the pre-trial process; for this purpose no funding has been allocated in the police budget."*

4. 5.

The Law on Custody Courts and Municipal Courts obliges the custody courts to defend personal and material interests of children in their relations with parents and other persons (Article 15), and to supervise the action of guardians (Article 17).

In the case of the Vegi Social Care Centre, its Director has been appointed as guardian of the children who reside in the Centre; therefore the custody (municipal) court had the right and duty to supervise the observance of the rights of the children living in the Centre, but, for various reasons, there was no such supervision.

Article 45 of the Law on the Protection of Children's Rights prescribes the procedure for exercising supervision over childcare in privately owned children's homes, but it does not set the procedure for supervising the observance of the rights of the child in state-owned and municipal children's institutions. The obligation of custody (municipal) courts to supervise childcare and observance of the rights of the child also in state-owned and municipal children's institutions is established by the general provision that these courts should supervise the action of guardians. This may have led to the uncontrolled action of the management of the Vegi Social Care Centre and continuation of grave violations of children's rights.

5.

Save the Children has drafted and submitted to the Saeima (Parliament) the following legislative initiatives:

1) Amendments to Article 106 of the Criminal Procedure Code of Latvia: a provision that prosecutors should ensure protection of victims and witnesses who are minors if there are grounds to believe that the victim or the witness is under pressure to reverse evidence.

2) Amendments to Article 155 of the Criminal Procedure Code of Latvia: a provision obliging the prosecutor to make a decision concerning suspension from duty of the alleged perpetrator for the time of investigation.

3) Supplementing the Criminal Law with a new Article stating that it shall be the obligation of any person to inform institutions protecting the rights of the child about cases when these rights are at risk or violence has been used against a child.

Regretfully, the legislative initiatives drafted and submitted to the Saeima by Save the Children have been only partly supported by the Parliament's Subcommittee for the Protection of Children's Rights, and only the proposal to establish administrative liability

for failure to report violations of the rights of the child was approved for further reviewing. The existing Ordinance "On Violations of Children's Rights" of December 3rd, 1992, issued by the Minister of Welfare and the Minister of the Interior, provides that staff members of both Ministries have to report any risks of such violations within 24 hours' time. Most of the staff members employed in both Ministries are not familiar with the text of the Ordinance, therefore this document has not been complied with, and there is no control over the implementation of the Ordinance.

6. Conclusions

1. The legislation enforced in the Republic of Latvia does not guarantee the protection of children who have suffered from violence as stipulated by the UN Convention and the Law on the Protection of Children's Rights.

2. The Recommendations issued in February 2001 by the UN Committee for the Rights of the Child to the Government of Latvia concerning improvement of children's conditions and implementation of the Convention in Latvia are not observed during the criminal investigation procedure.

7. Proposed measures

1. To adopt the legislative amendments initiated by Save the Children (by amending the Criminal Procedure Code of Latvia, the Criminal Law, and the Law on Custody Courts and Municipal Courts).

2. To ensure implementation of the existing laws by educating staff members of law enforcement institutions, with particular emphasis on interpretation of law.

3. To provide financing required for the implementation of the Law on the Protection of Children's Rights and of other relevant laws.

4. It is also necessary to amend and supplement the following legislative acts:

1) the Law on the Protection of Children's Rights, and

2) the Law on Custody Courts and Municipal Courts.

5. The following measures are recommended when a child has suffered from violence in a state-owned or municipal institution (under the existing legislation):

1) Violence must be reported in a written form.

2) The police shall verify the facts included in the report and bring criminal charges against the perpetrator (or dismiss charges if evidence cannot be found).

3) The prosecution shall immediately notify the head of the institution concerned and its supervisory body (the respective Municipal Council, Ministry, the State Centre for the Protection of Children's Rights, and the custody court) of bringing criminal charges against the suspect; a decision shall be taken concerning dismissal of the head of the childcare institution if violence became possible because of mismanagement or neglect of duty.

4) Under Article 39 of the Labour Code of Latvia, the alleged perpetrators shall be suspended from duty without terminating their salary, and the head of the childcare institution shall ensure that contact between the accused person and the victims is excluded.

QUESTIONNAIRE – 170

1. **Age:** between 10 and 17
2. **How long have you been in the children's home/boarding school?**

4–0 years	50%
less than 4 years	40%
do not remember	10%
3. **Have you ever wanted to run away from the children's home/boarding school?**

yes	10%
never	80%
not sure	10%
4. **Do you feel lonely?**

yes	80%
no	10%
not sure	10%
5. **Do you feel loved?**

yes	40%
sometimes	10%
never	20%
not sure, maybe	30%
6. **Are you maltreated?**

yes	20%
sometimes	15%
no	65%
7. **Do you know what violence is?**

yes	70%
no	25%
no answer	5%
8. **What would hurt you most deeply?**

if I never see my mum or dad	85%
if I have to part with my friends	5%
when I am called bad names because I live here	8%
when I am accused and I am not guilty	2%
9. **If you were given a chance to leave this place (to go to your parents, a foster family or some other people), would you go at once or would you be sorry to leave?**

I would go to my parents or some relatives at once	75%
I would, but I have nowhere to go (maybe to a foster family)	15%
I would be sorry to leave this place	10%

**PROJECT OF LATVIAN SAVE THE CHILDREN
ELIMINATION OF VIOLATION OF THE RIGHTS OF THE CHILD
IN STATE CARE INSTITUTIONS FOR CHILDREN LEFT WITHOUT PARENTAL CARE
AND IN BOARDING SCHOOLS**

List of state and self-government institutions visited, include:

orphanages – 7;
boarding schools – 5;
special boarding schools – 4;
elementary schools – 4;
middle schools – 3;
social care centres – 3
family care centre – 1;
education – rehabilitation centre – 1;
trade school – 1.

1. Orphanage Dzeguzite – Aizkraukles region
2. Boarding school of Bebri - Aizkraukles region
3. Orphanage Gaujaslici – Cesis
4. Boarding school of Jaunaglona – Preilu region
5. Trade school of Aglona – Preilu region
6. Special boarding school of Aleksandrova – Kraslavas region
7. Orphanage of Jelgava
8. Orphanage of Liepaja
9. Boarding school of Liepaja
10. Family Care Centre of Bulduri
11. Orphanage Apite
12. Boarding school of Iecava
13. Social Care Centre Vegi
14. Social Care Centre Ziedkalne – Jelgavas region
15. Education – rehabilitation institution Naukseni – Valmieras region
16. Special boarding school of Pamusa
17. Orphanage Annele - Bauskas region
18. Christian elementary school of Bauska
19. 3rd middle school of Jelgava
20. 5th middle school of Jelgava
21. Boarding school of Tilza
22. Elementary school of Upite – Balvu region
23. Elementary school of Piedruja – Kraslavas region
24. Social Care Centre Piltene - Ventspils region
25. Special boarding school of Lielplatone
26. Orphanage Incukalns
27. Elementary school of Raiskums – Cesu region
28. 2nd middle school of Bauska
29. Special boarding school of Rudzate

THE STATE POLICY IN EXERCISING THE CHILD'S RIGHTS IN LATVIA AND REASONS FOR VIOLATION OF THE CHILDREN'S RIGHTS CONVENTION (CRC)

There are several political reasons for insufficient implementing the CRC in Latvia.

Important in the states in transition, including Latvia, is the necessity to establish a depoliticised, non-corrupt and effective civil service (*Fogelklou A. Constitutional order in Russia: a new territory for constitutionalism? Review of Central and East European Law, W.B.Simons (eds). Volume 26, No 3, 2000, p. 236*). **Civil servants are responsible for the daily and routine functioning of the state. Their abilities, judgements, efficiency and integrity have a most important effect on the capacity of the state to respond to problems** and receive general support and trust from community. After the dissolution of its ties with the empire Latvia had to begin strengthening or building these institutions (*Dreifelds J. Latvia in Transition. Cambridge University Press, 1996, p. 103–109*). The low pay, the initially haphazard hiring practices and the generally low esteem of public employees have created problems of morals. The process of orientation of institutions from one set of values to another is slow and also the establishment of professionalism and routine administration is slow (*Dreifelds J. Latvia in Transition. Cambridge University Press, 1996, p. 103–109*). **One of the reasons preventing creation of a qualified and professional civil service in Latvia has been the lack of relevant and sufficient training among potential civil servants.** One legacy of Soviet education policies is that potential civil servants often have technical or humanitarian skills, while lacking knowledge and experience concerning the functioning of a Western type market economy and international cooperation and ability to draft and implement efficient policies. **Civil servants are accustomed to receiving and obeying political orders rather than taking personal initiatives.** In 1994 a new civil service reform in Latvia was implemented as an attempt to increase professionalism of the administration. One of the main goals of the reform programme was to ensure that appointments to administrative positions were independent of political patronage; nevertheless top-level appointments are still not free from political influence (*Norgaard O., Johannsen L. The Baltic States after Independence. Second edition, Edward Elgar Publishing Ltd., UK, Northampton, 1999, p. 162*).

The other reason for weak implementation of child's rights is the weak judicial system, which suffers from severe financial weakness. There are also additional factors creating disregard for the law. These include poverty, radical changes in society, lack of infrastructure and procedures for the application of the existing rights and laws. For example, the Administrative Procedure Law is adopted but not valid yet, and the Criminal Procedure Law has not yet been adopted by the Parliament. Even if the procedural questions have been worked out, there are no institutions, which could realise them (for example, no regional inspectors of the State Child Rights Protection Centre). If institutions are in place, these have a shortage of workers, but if there are workers, their level of knowledge is too low (*Dreifelds J. Latvia in Transition. Cambridge University Press, 1996, p. 103–109*). Putin (Russia) admitted in his Address to the Federal Assembly on 8 July "... the letter of law and real life are sometimes far away from one

another” and these words may be precisely referred also to Latvia and other countries in transition, even though none of the Latvian politicians have openly admitted it.

As the third reason for violation of the child’s right the weak political system can be pointed out. Political power in Latvia was transformed from the previous Russian dominated elite to a national elite with the Parliament as their power base. Political culture is focused on persons, and the parties are therefore identified by their leaders rather than their programmes. Voters do not participate in political life through membership of political parties and prefer informal group activities rather than participation in formal party structures. Only half percent of voters participate or act through some political party. Below 20% of voters believe that government activities have an impact on their day-to-day lives. As the majority of people have experienced impoverishment, the result is indifference to politics and concentration on efforts to make ends meet. As a result, power is slipping into the hands of a narrow elite and party bosses which in many cases are members of the former communist nomenklatura and they exercise power beyond democratic control (*Norgaard O., Johannsen L. The Baltic States after Independence. Second edition, Edward Elgar Publishing Ltd., UK, Northampton, 1999, p. 53–94, 100.,104*). Today the increasing political apathy presents a certain danger to further democratisation. **A welfare capitalist system can be developed only on the basis of comprehensive citizen participation structured through all-embracing networks of civil society organisations** (*Norgaard O., Johannsen L. The Baltic States after Independence. Second edition, Edward Elgar Publishing Ltd., UK, Northampton, 1999, p. 162, 206*).

A very striking example is the declarations of each new government where the protection of children’s rights has never been mentioned among the priorities.

Even if a market system is efficient, it may lead to distribution of wealth that the majority of citizens find unsatisfactory. Wealth may be distributed directly and indirectly through subsidies to areas like housing. That is the reason why there should be public interest in the control over decision taking. Politics has been defined as “who gets what, when and how” and in this sense all regulation and statutes are political. Regulatory decisions create groups of persons who will benefit and groups of persons who will lose, where each side competes concerning the outcome of the proposed policies. Competition for regulatory outcomes is normally conducted by interest groups who represent citizens affected by the proposed decisions. Interest groups demand more or less regulation according to the self-interest of their members, and public officials supply more or less regulation according to what would serve their own interest. When interest groups clash over whether new regulations should be adopted, the outcome will depend on which group can offer the greatest rewards to the legislators or administrators responsible for the decision. In the case of elected officials, activities that will affect the person’s chances for re-election are favoured. In the case of appointed administrators, the preference is given activities that will affect the person’s career objectives. As there are constant contradictions between self-interest and civic virtue a great weight should be carried by the civil service system, because adequately hired and trained specialists should be more acceptable as decision makers than those persons whose sole qualifications are their political contacts (*Pierce R. J., Shapiro S. A., Verkuil P. R. Administrative Law and process. Third edition, New York Foundation Press, 1999, p.13,*

16, 18–21). **It is clear, that the children do not belong to electorate, but their parents frequently concentrate on earning a living and even do not participate in the elections.** This is why most of the decisions are not taken in the best interests of the child as it is clearly declared by the law and the CRC. **Politicians and administrators cannot benefit from children and therefore taking any decision (for example, voting for postponing an increase in child benefits) the interests of other groups than those of children prevail.**

Implementation of the CRC in Latvia is closely connected with realisation of social and family policies. Straight after the renovation of independent statehood democracy as a term became associated with social welfare of the West European states. During the early stages of transition, democracy in Latvia became associated with the economic and social problems of the transition phase, and confidence in the institutions of democracy dropped dramatically. The explanation for the surviving democracy despite the widespread distrust and general dissatisfaction is the lack of alternatives and expectations that democracy will improve (*Norgaard O., Johannsen L. The Baltic States after Independence. Second edition, Edward Elgar Publishing Ltd., UK, Northampton, 1999, p. 95–98.*)

Irreversible serious consequences from violation of the rights of the child led to the UN Children's Rights Committee's Recommendations to the Latvian state.

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ACRONYMS

NGO	Non-Governmental Organization
CE	Central Europe
EE	Eastern Europe
UNICEF	United Nations Children's Fund
WHO	World Health Organization
UNDP	United Nations Development Program
RL	Republic of Latvia
EU	European Union
UN	United Nations
SCPCR	State Centre for the Protection of Children's Rights
ECPAT	End Child Pornography and Trafficking
CRC	Convention on the Rights of the Child