LATVIAN NATIONAL HUMAN RIGHTS OFFICE

ANNUAL REPORT
OF THE NATIONAL HUMAN RIGHTS OFFICE 2000

RĪGA, 2001

TABLE OF CONTENTS

In accordance with the traditional understanding of human rights, the state guarantees human rights to its people. It is the responsibility of the state to ensure that it does not violate human rights and the individuals do not violate the human rights of other persons. The Latvian state has ensured the protection of human rights in the Satversme (Constitution), and has assumed the obligation top protect and promote the human rights norms embodied in the international treaties. The people of Latvia have at their disposal a mechanism for the protection of human rights, which consists of the police, the custody courts, the Prosecutors Office, the Satversme (Constitutional) Court, and an independent national institution for the protection of human rights – the National Human Rights Office. Although the residents of Latvia can apply to the human rights bodies of the Council of Europe and of the United Nations, it is important that effective mechanisms for the protection of human rights function at the national level. National institutions are more available to the people, they are able to review complaints faster – human rights issues are recognized and dealt with as soon as possible.

The mandate of the National Human Rights Office includes review of complaints on the possible human rights violations, analysis of the legislation, and educating the society. The Office receives and reviews applications regarding possible human rights violations in the areas that fall within the system of justice. These include the right to a fair trial without undue delay, the right to humane treatment and respect for human dignity, observance of the processual norms. The successful work of the National Human Rights Office promotes the respect for the rule of law and human rights in Latvia – both among the people and the government bodies whose duty is to ensure the observance of these rights.

Rīga, February 19, 2001

Ingrīda Labucka
Minister of Justice

INTRODUCTION

In 2000 the National Human Rights Office celebrated five years of activity. A glance at the accomplishments leads to the conclusion that the work on the protection and promotion of human rights in Latvia continues successfully in cooperation with other state institutions and non-governmental organizations.
The volume of work has not reduced and has to cover a broad range of issues. Nevertheless, the National Human Rights Office has managed to define the most topical human rights areas which are under a constant watch from the Office, and has also paid attention to deeper analysis of human rights issues.

If one has to characterize the development of human rights situation in Latvia this year, one would note the positive developments that have taken place with respect to improvements in the penitentiary institutions, as well as the progress with eradication of discrimination against the disabled through solving issues of accessibility of environment, information and services for disabled persons.
Significant work has been done by elaborating the Cabinet of Ministers regulations that establish the particulars of implementation of the State Language Law. Although there have been shortcomings in this work and the regulation is still controversial in separate areas, the Office appreciates the broad debate and the involvement of the mass media preceding the adoption of the regulations, and the cooperation among state institutions during the process of their elaboration.

At the same time one must mention the negative aspects in the protection of human rights where substantial progress has not been reached in comparison with the previous years.
Due to the length of legal proceedings individuals including minors have to wait for trial for several years under arrest; this amounts to a violation to a trial within a reasonable time. Furthermore, individuals whose guilt has not been proved yet are kept for long time in investigation prisons where they cannot enjoy a number of important rights and freedoms.
The other significant human rights issue is also connected with the institutions of law and order. Only six out of 29 short-term detention facilities of the State Police meet the standards of the Council of Europe. Unfortunately, the state has not solved this issue which leads to a violation of the rights of the detained individuals to humane treatment and respect for human dignity.

The Law on the National Human Rights Office establishes the three main functions of the Office – review of complaints regarding human rights violations, analysis of Latvia's legislation and human rights situation, and informing the public about human rights.

One of the most important areas of the Office's activities is the review of applications of residents regarding the violations of human rights protected by the Satversme and the international human rights treaties. In 2000 the Office reviewed 5163 applications; out of these there were 816 written applications, and 4347 oral consultations were provided. The majority of the applications deal with violations of the right to housing and social security, which attests to the topicality of social issues in our country. A significant portion of the applications relate to the right to a fair trial; the majority of applications in this area come from penitentiary institutions.
When reviewing applications, the Office checks whether they are grounded. The Office has the right to resolve the dispute by conciliation. If a friendly settlement is impossible, the opinion and proposals of the Office are advisory.

During the review of applications the representative of the Office contacts all parties involved in the dispute or situation and carefully examines the circumstances of the case and the relation to the norms of the Satversme and the international human rights norms before presenting an opinion. Although the opinion of the Office is non-binding, state institutions and private individuals heed it and cooperate with the Office to find a solution that corresponds to the individual's interests. However, this also signifies that often the individual cannot enjoy her/his rights guaranteed by law without the involvement of the Office.
The review of oral complaints and consultations constitutes a big part of the Office's work. Many of these complaints are resolved by the representative of the Office contacting the relevant institution or by providing detailed information to the individual who has turned to the Office. The Office consults visitors permanently; to save time the oral complaints are not entered into the database. Consequently, the solved oral complaints do not appear in the statistical breakdown although this is an important part of the daily work of the Office.
It should be recognized that many of the complaints are not human rights related; this is an indication that the national institutional mechanisms are not working efficiently and that often the individual has no institution to turn to for the protection of his/her specific rights. One can mention a few such issues – property rights, issues of apartment rent; the lack of information on the rights of the individuals in these areas is another issue. In such cases the Office indicates to the individual the legal avenues for solving the issue or provides a brief legal consultation.

The Office is also mandated to investigate the observance of human rights in the country, to analyze Latvia's legislation and its compliance with international human rights documents as well as to provide comprehensive information to the society on human rights. The experience of the Office shows that to be effective in the human rights field it is necessary to cover all these functions in a balanced manner, but the adequacy of resources is key.

2000 was the first year in the history of the Office when it worked only on funds from the state budget without the assistance of international donors. It should be recognized that with the state budget funding the Office cannot effectively fulfill all the tasks set

in the Law, for instance carry out information and education projects, but has worked in these areas to the maximum of the available resources.
The Office has an Information and Documentation Center which provides to all visitors – students, civil servants and others – a broad range of literature and documentation in the realm of human rights. The Office has contributed its comments from a human rights perspective on topical issues to the mass media, it has publicized its conclusions and opinions which have undoubtedly furthered the understanding of human rights among the general public.
The representatives of the Office have visited a number of penitentiary institutions and other organizations and have visited the regions of Latvia to evaluate the human rights situation and to make the Office more available to all residents of the country.

In order to ensure that human rights standards are included in the national legislation and to prevent the need to fight the consequences of gaps in the legislation the representatives of the Office sit regularly at the meetings of the Saeima Human Rights Commission; the representatives voice the views and comments of the Office on the compliance of the draft legislation under review with human rights norms and the real needs of the people for the protection of human rights.
The Office has addressed the top officials of the state indicating the issues which require significant input from the state.
Like in the previous years the Advisory Council of the National Human Rights Office has discussed topical human rights issues, and has organized a number of round-table discussions on particular issues thus attracting the attention of the responsible institutions and the broader public to these subjects.

It would be important for the state to place a higher priority on measures of protecting human rights, not least because human rights protection is also an important international commitment; soon there could be the first judgments of the European Court of Human Rights with respect to Latvia.

I would like to thank all my colleagues for the work and effort they have invested in the fulfillment of the mandate of the Office.

Olafs Brūvers
Director of the National Human Rights Office

CIVIL AND POLITICAL RIGHTS

RIGHT TO LIBERTY AND SECURITY OF PERSON

Article 94 of the Satversme of the Republic of Latvia[1]
Article 5 of the European Convention for the Protection of Human Rights and Fundamental Freedoms
Article 4 of the Universal Declaration of Human Rights
Article 9 of the International Covenant on Civil and Political Rights
The general principle of these rights implies that no person can be deprived of liberty; however, like most other human rights and freedoms, it is not absolute, i.e., these rights may be subject to concrete and legitimate restrictions. The state may not arbitrarily interfere with human rights, as human rights documents strictly determine the cases when these rights may be restricted. For instance, Article 5 of *the European Convention for the Protection of Human Rights and Fundamental Freedoms* establishes concrete cases in which the person may be deprived of her/his liberty, i.e., be arrested or detained. Article 94 of the Satversme of the Republic of Latvia determines: *"No one may be deprived of or have their liberty restricted, otherwise than in accordance with law."* The rights of the person to liberty and inviolability in the Republic of Latvia may be restricted only in cases established by the Code of Administrative Violations, Code of the Criminal Process and other legislative acts. A person who has been subjected to unlawful detention or arrest is entitled to a compensation.

In 2000 the National Human Rights Office (hereafter – the Office) received 59 written applications regarding possible violations of the rights to security, liberty and inviolability. The most common causes for complaints has been unfounded detention by the police, disagreements with the Traffic Police, disproportionate use of force against the suspects upon detention, violations of the respective mandates of private security companies.
Out of these applications the Office solved 2; in 41 cases the Office has established that the conflict situation described in the application may have constituted a human rights violation but in order to establish such a violation, an investigation by the Personnel Inspectorate of the State Police or the Prosecutor's Office, or a court decision[2]. The Office has concluded the review of these 41 applications with a recommendation to turn to the respective state bodies. The Office has deemed 18 applications as ungrounded; the review of the remaining applications continues in 2001. During the year the Office has provided 203 legal consultations regarding the right to security, liberty, and inviolability of person. The Office has organized round-

[1] Each of the subsections of the report is preceded by a list of the relevant articles of the Satversme (Constitution) and international treaties, as well as a definition of the respective rights.
[2] The statistical methodology used in the Office consists of the following sections – the number of complaints received within the year and complaints reviewed within the year (that have either been solved, refused, closed with a recommendation or are in the process of review). This means that the number or complaints received and reviewed may be different, because the within the given timeframe the Office has continued the review of cases that have been received during the previous period.

table discussions with representatives of different units of the police and the Ministry of Interior on separate human rights issues relevant to the work of the police. The topics for discussion have been chosen on the basis of the issues revealed in well-grounded written applications and in consultations regarding police-related issues and conflicts over a longer period of time.

On the basis of the evaluation of the situation in this sphere, the written applications received, the oral consultations conducted, and the opinions voiced at the meetings with police officials, the Office considers that the most serious human rights issue is the rather frequent refusal of police officers to intervene in violent family conflicts. The other problems that the Office has seen – unfounded detention and disproportionate use of force – constitute separate incidents that are uncharacteristic of the police system as a whole; the occurrence of such incidents is on decrease.

The applications that the Office has reviewed, found well founded and has solved during 2000, concern unfounded detention and disproportionate use of force upon the detention of a suspect. These well founded applications had been submitted against officers of the State police. The request of the claimant was that the police authorities acknowledge a violation of the law and apologize. These requests of the victims were met.

On 15 July 2000 a round-table discussion was held in the Office on the observance of human rights in the work of the Traffic Police. Both the office and other state bodies receive applications about the work of the Traffic Police which often are connected with human rights violations. The participants included all parties involved – the Traffic Police, drivers that have suffered from the actions of the Traffic Police, representatives from the Ministry of Interior and the Office for the Security of Road Traffic. The main focus was on the interaction between the Traffic Police and the drivers, and the issue of raising the authority of the Traffic Police, who, as the polls show, are one of the professional groups most frequently blamed for corruption. The applications received in the Office show that it is very complicated for the drivers to argue that they have not violated the Traffic Regulations when their car is stopped by the Traffic Police. When reviewing concrete situations, in most cases only the testimony of the police officers is taken into account. If the driver considers the fine to be ungrounded, he/she turns to the Department of Traffic Police and to the Office with an application, and if the case is not resolved positively, turns to the court. During the discussion, the Office requested the responsible officials of the Office for the Security of Road Traffic and the Traffic Police to pay particular attention to respect for the legal provisions during the review process of a possible violation of the Traffic regulations and to promoting mutual respect with the divers.

On 18 July 2000 the Office organized a round-table discussion *"Human rights and the Municipal Police."* Municipal Police is organized by the local government to ensure order in the respective administrative territory. The establishment of such an institution requires financing that is unavailable to many local governments. It was

established that the work of Liepāja and Ventspils Municipal Police authorities is particularly successful. The Liepāja Municipal Police has established good cooperation with the State Police; this enhances the efficiency of each of the bodies within their respective areas of responsibility. The participants of the discussion recognized that the biggest obstacles for the police to prevent or stop violent family conflicts is the lack of legal provisions that would protect the victims from the offenders, and the frequent unwillingness of the State Police authorities to intervene in such conflicts, and its refusal to accept and review the applications of the victims.

RIGHT TO HUMANE TREATMENT AND RESPECT FOR HUMAN DIGNITY

Article 95 of the Satversme of the Republic of Latvia
Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms
Article 5 of the Universal Declaration of Human Rights
Article 10 of the International Covenant on Civil and Political Rights

The Satversme of the Republic of Latvia provides that *"torture or other cruel or degrading treatment of human beings is prohibited"*. This prohibition is absolute, i.e., a violation of these rights cannot be justified under any circumstances. The case-law of the European Court of Human Rights has established a body of criteria to establish violations of the relevant article. Torture, inhuman or degrading treatment can be not only the infliction of physical pain but also moral suffering.

Different aspects of these rights are established in the ***European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment***, ratified by the Republic of Latvia on 10 February, 1998. This Convention has established the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment which regularly visits the States Parties to examine places where persons are deprived of their liberty. The Committee *"shall, by means of visits examine the treatment of persons deprived of their liberty with a view to strengthening, if necessary, the protection of such persons from torture and from inhuman or degrading treatment or punishment."*

In January 1999 a delegation of the Committee visited Latvia and visited short-term detention facilities of the State Police and prisons and found a number or substandard provisions.

The experts noted that the standards of the Council of Europe for short-term detention facilities require the following conditions:

- the premises of detention (if a person is held there for longer than 2 hours) shall be at least 4 m², and the ceiling shall not be lower than 2 m ;
- if there are 3 persons held in the premises, the size shall be at least 11 m²;
- the lighting of the premises shall be sufficient for reading;
- provision of ventilation is compulsory;
- if a person is detained for more than 24 hours, there must be a square for walks;
- the cells must be equipped with mats, blankets, etc.

In June 2000 the Office wrote a letter to the Prime Minister asking to rescind the status of confidentiality of the Report written by the delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment following the visit to Latvia.

The Report of the Committee is an important evaluation of the observation of the norms of the Convention in the detention facilities of the Member States of the Council of Europe. The recommendations of the experts contained in the Report may serve as the basis for improving human rights standards in the detention facilities. This was the first visit of a delegation of the Committee following Latvia's accession to the Convention. In accordance with Article 11 of the Convention the Report of the Committee is confidential, unless the State Party requests to make it public. Cases

when the States Parties do not request that the Reports be made public are rare. Only 4 of the 13 States Parties visited by the Committee in 1998 – Albania, Croatia, Russia and the Ukraine – did not request that the reports and recommendations be made public. The issue of rescinding the status of confidentiality was considered at the meeting of the Cabinet of Ministers on 12 December; it was decided to request the Committee to publish the Report on the visit to the detention facilities in Latvia. The Report is expected to be published in 2001.

Pretrial detention facilities of the State Police

The State Police has established 28 short-term detention facilities to ensure that the State Police can fulfill its duty to guard and convoy detained and arrested persons that are held on suspicions for having committed a crime for up to 10 days, or 20 days in exceptional circumstances.

During the year the Office has received nine applications from detained persons regarding the conditions in the short-term detention facilities. The claimants have indicated that the human rights to humane treatment and respect for human dignity of the detained have been violated. The representatives of the Office visited Liepāja, Talsi, Tukums and Ventspils State Police branches to investigate the situation, with a particular focus on short-term detention facilities. The Office found that the applications were well grounded.

The applications indicate the main areas of concern – the conditions in the short-term detention facilities are substandard, they lack normal bathrooms, the detainees cannot have walks and stay indoors for the whole 10 days, several detainees are kept in one small room. The air in the cells is stale, ventilation is not functioning, the possibilities to shower are limited, etc. During the visits it was established that there has been no financing for upgrading the facilities of the short-term detention facilities for several years, although the Head of the State Police and the heads of the local Branches have consistently indicated the need to solve this issue.

On 1 November 2000 the Director of the Office met Juris Rekšņa, Head of the State Police, who informed that for the last two years the State Police has requested financial resources for the Program of Investments amounting to 1 200 000 Lats, in order to repair all of the 28 short-term detention facilities which at present are in a critical condition. This sum would not be sufficient to ensure that the conditions of the detainees meet the Council of Europe standards, but it would ensure the protection of the fundamental human rights. Unfortunately, the request for this Investment Program was declined in both cases. There is no additional financing in the budget of the State Police for this purpose until 2003, so the situation may deteriorate further in the nearest future.

Likewise, the Prosecutor's Office has checked the short-term detention facilities in a number of regions and has determined that unless the shortcomings are corrected, it will prohibit the use of these short-term detention facilities for keeping detainees. The Prosecutor' Office of the Dobele region made the check on September 11 and determined that the shortcomings must be corrected by 31 December. The

Prosecutor's Office of the Jelgava region made the check on October 18 with November 1 as the deadline.

The Office expressed its opinion in a letter to the Prime Minister of 10 November, where it indicated that the conditions in the short-term detention facilities amount to inhumane treatment and are degrading for human dignity, and urged the Prime Minister to help resolve these violations and to pay the necessary attention to this issue and to the allocation of resources. The Office received the reply that the Prime Minister has tasked M. Segliņš, Minister of Interior to ensure the solution of this issue within the limits of the State budget allocation for the Ministry of Interior for 2001. The Office will continue to follow the elimination of the shortcomings in the short-term detention facilities mentioned in the letter to the Prime Minister, and will follow the actions taken pursuant to the decisions of the Prosecutor's Offices in Dobele and Jelgava regions, as well as the implementation of the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

Penitentiaries

Persons who have committed crimes which have brought along serious consequences are often punished by deprivation of liberty. Although the individual is deprived of liberty and consequently some of his/her other fundamental rights are restricted (for example, right to privacy, freedom of movement), the individual has the right to enjoy other fundamental human rights and freedoms like any other person. Does the state provide to the prisoners with the protection of these rights?

The Office has received 47 written applications regarding the possible violations of the rights to humane treatment and respect for human dignity in prisons; 38 of these have been closed with a recommendation. The Office has provided 81 oral consultations. The Office usually consults orally the relatives of the prisoners. During the year the representatives of the Office have visited six prisons[3]. This has been done both to investigate concrete applications and to monitor the general human rights situation to evaluate if the prison conditions meet the binding human rights standards with respect to prison inmates.

Violence in prisons – both among the inmates and violence of the guards against the inmates – is the main challenge for the observation of these rights; this has been revealed both through the applications received by the Office and the monitoring of the situation in prisons by the representatives of the Office. Repeat offenders are violent against the first-time inmates, perpetrate disciplinary transgressions or even new crimes, leave the territory of open-type prisons often. The Law on Implementing Penalties has been amended; the amendments envisage very strict division of inmates according to both the type of crime committed and the personality of the particular

[3] February 4 – Olaine Prison, February 18 – Vecumnieki Open Type Prison, March 6 – Šķirotava Prison, March 16 - Iļģuciema Prison, March 28 – Central Prison, August 24 – Liepāja Prison.

individual. This has been done to guarantee the security of both the inmates themselves, the prison staff and the society as such. This new procedure has produced a substantive improvement of the situation but has not eliminated the issue of prison violence. The Penitentiary Board pays much attention to the issue of violence, but substantial financial input from the state budget is necessary to achieve radical improvements. Additional financing would allow for faster modernization of the penitentiaries and for the repairs of the cells. This, in turn, would reduce the number of inmates per cell and the overcrowding of cells – the main cause for violence and spread of diseases.

The limited financing explains the inadequate medical care in the prisons, and the consequent inadequacy of protection of inmates against infections, incurable diseases or diseases which require complex treatment. The rate of occurrence of tuberculosis, HIV, syphilis, and drug dependency is at least ten times higher among prison populations than in Latvia in general. A positive trend in 2000 has been the stabilization of cases of tuberculosis among the inmates due to improvements in living conditions. Unemployment is still a big issue which the inmates usually stress during the visits to prisons; there are particularly many inmates willing to work in the prisons for women. The inmates need the services of a psychologist whose number is insufficient due to the limited budget. The limited opportunities of inmates to achieve secondary or professional education is another issue highlighted in 2000. It is less related to the limited financing but to the difficulty of administering the process of education in the penitentiary system. The wish of the inmates to obtain secondary and professional education is a new trend in prisons. The limited opportunities for work and education adversely affects the following re-integration of the ex-inmates in the society.

The observations of the Office during the visits to the prisons, the information provided by the Penitentiary Board, and the analysis of the applications received by the Office leads to the conclusion that the prison conditions improve considerably each year, which is conductive for the observation of the human rights of the inmates. Several prisons are being renovated; this improves the living conditions of the inmates, a key condition raised in the international human rights documents for considering the states' attitude towards the persons deprived of freedom to be humane and respectful of their human dignity. During the year renovations in several buildings or significant part of the buildings in the Jelgava Prison and in the Central Prison have been finished. During the renovations of the Iļģuciems Women's Prison particular attention has been paid to the building which houses the inmates with children up to the age of one year, because the newborn children particularly need comfort. The renovations in the penitentiary institutions will continue in 2001 with the financing from the state budget and support of foreign charitable organizations.

Opportunities for education in prisons

Article 112 of *the Satversme* of the Republic of Latvia guarantees the right to education - the state ensures free primary and secondary education; primary education

is compulsory. Obtaining education in prisons is still an issue which is particularly complicated in closed-type prisons. During the year the Office has learned of several cases when inmates that have been moved form one penitentiary institution to another could not continue their studies. In most cases the reason has been that in different types of prisons the administrations have different experience in providing opportunities for education and the interest of inmates in continuing education has also varied. Article 67 of *the Latvian Penitentiary Code*, *"the general education, professionally-technical education and professional training is organized in accordance with the procedures established by the Cabinet of Ministers."* The Cabinet of Ministers has not determined such procedures yet, so the education of convicts is carried out under the general procedures. Article 127.5. of *the Regulations on the Internal Order of Penitentiary Establishments* provides that the convicts have the right to acquire general and professional education, to take part in vocational training, and to use for these purposed the materially-technical means, the library, study premises and workshops of the penitentiary institution.

> The Office received a written application from the parents of the convict A. that their son does not have the opportunities to acquire education in the Jelgava Prison. The application mentioned that A. had committed the crime as a juvenile, and that he has uncompleted elementary education. A. had the opportunities to learn at the evening school through a correspondence course while in the Brasa Prison, but he could not continue his studies after being transferred to the Jelgava Prison, which is a higher security prison. During the investigation of the application the Office found out the two prisons had differing security levels and differing procedures for administering education; this fact had not been explained to A. There are very few cases in Jelgava Prison when inmates wish to continue studies; consequently, the representatives of the prison staff who had to review the issue of A.'s continuation of studies could not offer a solution in his case. After the Office had found out the procedure that would allow A. to continue his studies, the Office informed A.' parents who had written the application and the administration of the Jelgava Prison. The Jelgava School Board proposed to A. to continue his studies through a correspondence course; A. accepted this offer and continued his education in the Jelgava Prison.

Procedure for arrested persons in penitentiary institutions

The Office receives applications from arrested persons who are dissatisfied with the instruction of the Ministry of Interior *"On the Procedure how Suspects, Arrested Persons and Convicts are kept in the Investigation Prisons of the Ministry of Interior"*[4].

The rights and the possible restrictions on the rights of persons under arrest during the time of arrest have not been clearly spelled out in Latvia. At present the Instruction of

[4] The responsibility for all penitentiary institutions was transferred from the Ministry of Interior to the Ministry of Justice in 1999. The review and evaluation of regulations of the functioning of the penitentiary institutions continued in 2000.

the Ministry of Interior establishes the procedures and conditions for keeping the arrested persons. Any possible restriction on the rights must be spelled out in normative acts. Obviously, such restrictions are necessary but they must be well-founded and proportionate. The restrictions on the correspondence and private life of arrested persons are much more stringent than the restrictions for convicts. The Instruction prescribes that the arrested persons may be granted short meetings with the relatives only with the written consent of the official or institution examining the respective criminal case. This official or institution receives for checking the letters sent to or from the arrested person. The Office receives applications from the arrested persons that judges frequently do not allow them to meet their relatives with the motivation that such meetings would hinder the review of the case. However, due to the case overload of the court and the consequent backlog of cases, the arrested persons may spend several years in the investigation prisons, and such restrictions should be viewed as a human rights violation. At present a working group at the Ministry of Justice is elaborating a new normative act for arrested persons; representatives of the Office take part in its work. The work of the working group will continue in 2001.

Situation in Psychoneurological clinics

Individuals are placed in clinics of this type to be treated; in separate cases the treatment is combined with isolation from the environment where the individual would be dangerous for others, which is a legitimate ground for restricting the liberty of these persons. Often the individuals disagree with such a decision of the doctors or the relatives. It is important from a human rights perspective to ensure that such decisions are taken on the basis of a comprehensive review of all circumstances of the case, and that such patients are not subjected to violence.

In 2000 the Office received 5 written applications regarding the possible violations of the right to humane treatment and respect for human dignity in psychoneurological clinics. The Office has solved 2 of these applications, and has closed with a recommendation six cases[5]. Apart from these, the Office has provided 44 oral consultations on the legal aspects of the related issues. On the basis of analysis of the applications and consultations the Office considers that the most serious issues in this area of human rights is the unavailability of information for the patients of the psychoneurological clinics about their rights. The former patients frequently complain about their relatives that have placed them in psychiatric hospitals against their will. In most cases these individuals have no information about their rights, who can they complain to, the procedure of appeals on the complaints and what information they have the right to receive about their health and the process of treatment.

The other challenging area which the Office has seen is related to situations when the hospitals refuse to inform the patient about the process of treatment and the diagnosis.

[5] The number of complaints received and reviewed does not coincide in this case because in 2000 the Office continued the review of complaints received in 1999.

Restrictions on the rights to receive information about the process of treatment, the diagnosis, and the procedure for appealing decisions cannot be considered a violation of the right to humane treatment and respect for human dignity but, while problems persist in this area (in which the human rights aspect is *"the right to receive and impart information"*), there persists a serious risk that an individual is placed in a psychoneurological clinic against her/his will due to the lack of information, which can be qualified as a violation of *the right to humane treatment*. It should be noted, however, that the Office does not have documented evidence that any such cases would have taken place during 2000.[6]. Apart from review of applications the representatives of the Office has organized in 2000 a round-table discussion with the representatives of psychoneurological clinics and the Center of Psychiatry, and have visited in September the psychoneurological clinics for children in Ainaži and Vīķi.

During the roundtable discussion in the Office with the leading Latvian experts of psychiatry the aspects of possible violations of the rights of the mentally ill persons. The restricted information regarding the diagnoses and the process of treatment was recognized as one of the patients' problems. The representatives of the medical professions had differing opinions on revealing the diagnoses to the patients as some of them considered that such information could lead to unforeseeable effect on the behavior of the patients. Nevertheless, the Office still considers restrictions on the access of information for these individuals to be discriminating. In 2000 the court received a claim on a similar case from Mr. S., whose application had been examined by the Office without achieving results, regarding the refusal to acquaint him with his medical case-record. A court decision in favor of the ex-patient may establish a precedent for similar cases. The Office will follow the developments of the case, which will be decided by the court in 2001. During the meeting with the experts in psychiatry at the Office it was further noted that the regulation on mental illnesses in the Law on Medical Assistance is insufficient and does not cover all issues related to this specific area. Therefore, a special law is necessary which would determine all the related ambiguities in detail. The Ministry of Welfare has concluded the drafting of *the Law on Psychiatric Assistance* but the Cabinet of Ministers had not accepted it yet by the end of 2000.

[6] In the activities of the Office, in the process of collecting information on the review of complaints and legal consultations, the Office considers any activities that are directly related to the rights of individuals in psychoneurological clinics, as well as limitations to the right to access to information that constitute serious risk of violations in this area, as falling within the scope of "The rights of the individual to humane treatment and respect for human dignity in psychoneurological clinics".

RIGHT TO A FAIR AND PUBLIC TRIAL WITHIN A REASONABLE TIME

Article 92 of the Satversme of the Republic of Latvia
Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms
Articles 10 and 11 of the Universal Declaration of Human Rights
Articles 14 and 15 of the International Covenant on Civil and Political Rights
Everyone has the right to protect his/her rights and legitimate rights in a fair court. These rights entail different aspects – fair, public, independent hearing within a reasonable time by an impartial tribunal established by law, which makes a public judgment, where the accused is presumed innocent until proved guilty and where all parties enjoy the legitimate guarantees.
Everyone shall be presumed innocent until proved guilty according to law. The state has to ensure that the presumption of innocence is observed both by the judicial authorities, and the mass media and the general public.
In cases of miscarriage of justice everyone has the right to a fair compensation.
Everyone has the right to legal assistance. The state must ensure that persons belonging to vulnerable groups receive a free lawyer and must take measures that indigent persons can fully realize their right to a fair court.
It is very important to ensure the right to a fair court, as this right affects the possibilities to protect the other human rights. Only such state where individuals can rely on lawful, impartial and prompt action of the judiciary can be considered as a democratic state of rule of law.

The number of complaints in this area, in particular the number of oral consultations, has grown in comparison with the last year. In 1999 the Office provided 95 consultations but in 2000 - 230 consultations on the rights of the individual to fair trial. During 2000 the Office has received 94 written applications; 82 of these the Office were closed with a recommendation – the plaintiffs were informed about the appeal procedure and the procedure for changing the composition of the court. In accordance with Article 5 of *the Law on the National Human Rights Office*, the Office *"does not investigate a complaint, if a Court verdict has already come into legal effect in a civil, criminal or administrative case concerning the violation of human rights indicated therein"*; therefore, the Office explains to persons who complain regarding court rulings – in fact, on the possible violation of the right to a fair court – the appeal procedure and the possibilities to achieve successful outcome under the procedures prescribed by law.

The issue of the right to a trial within a reasonable time has been topical for already several years. The Office has repeatedly tried to attract the attention of the society and in particular the legislative and executive branches of power to one of the most topical human rights issues in Latvia – the right to a review of criminal and civil cases by an independent and fair court within a reasonable time. The statistics of the Penitentiary Board shows that more than 40 % of the persons in the penitentiary institutions await a court judgment in the respective case, although Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms

establishes the principle of review *"within a reasonable time"*. The topicality of this issue is attested to by the fact that the number of individuals who complain not only to the Office but to other state institutions and the European Court of Human Rights regarding the length of time spent in penitentiary institutions before receiving a court verdict.
The Office considers applications where the persons deprived of liberty claim unreasonable length of time before the examination of the case in court to be well founded. The Office has tried to achieve a solution to this widespread and serious human rights issue by repeatedly addressing the top state officials and the Human Rights and Public Affairs Commission of the Saeima. During the oral consultations the visitors express their indignation at the seemingly dishonest actions of the judges when deciding on the cases – the explanations of the accused are not taken into account, interpretation services are not provided, the attitude of the judges is intolerant. The Office has informed Mr. A.Guļāns, the Chairperson of the Supreme Court of the Republic of Latvia about this issue.

With the increasing number of applications from persons who have been waiting for a review of their case for months or even years, the Office has continued to search for solutions to the difficulties faced by the judiciary in 2000 through the mass media. Among the key measures the Office took in 2000 are:

- On February 1, 2000 the Office sent to the Saeima Human Rights and Public Affairs Commission its opinion that the state not only does not observe the time limits set in Article 241 of *the Criminal Process Code*[7], but consequently it violates the principle of review within a reasonable time which has been spelled out in the international human rights documents that are binding for Latvia. The Office urged the institutions of state power to pay more attention to improving the work of courts;

- On July 5, 2000 the Office sent an open letter on the principle of review of civil and criminal cases within a reasonable time to the President V. Vīķe-Freiberga, Prime Minister A. Bērziņš, Minister of Justice I. Labucka, Chairperson of the Saeima J. Straume and to the representatives of the mass media. In the letter the Office repeated its call to the state institutions to take the necessary measures to observe the principle of review within a reasonable time in the Latvian courts and to stop human rights violations.

- On October 11, 2000 the Office organized a meeting of the Advisory Council on the issue of the principle of review within a reasonable time in courts. To address the issue in substance, the Office invited a number of officials and experts (Chairperson of the Court Department of the Ministry of Justice Dz. Kulla, Chairperson of the Board of Sworn Attorneys A. Niedre, Chairperson of the Supreme Court A. Guļāns and representatives of other organizations). The

[7] The Criminal Process Code of the republic of Latvia determines in Article 241: "The review of a case by a court must be started not later than twenty days, or, in exceptional circumstances, not later than one month, from the day when the case has been received by the court".

Advisory Council decided to address the Prime Minister with a request for additional funding for the operation of the courts to prevent human rights violations with respect to the principle of review of cases within a reasonable time.

- On October 20, 2000 a letter was sent to the Prime Minister A. Bērziņš which said that *"the present situation in the court system of the Republic of Latvia violates the human right to a fair court review within a reasonable time which may be harmful to the image of Latvia internationally"*. The letter asked for support for the solution of a number of issues, among them the issue of additional funding for courts.

The reply received from the Ministry of Justice on November 11, 2000 gives grounds to conclude that the situation with respect to the right to a review within a reasonable time in civil and criminal cases may improve in 2001 because courts have been granted additional premises and additional funding has been granted to increase the number of judges. One of the most important measures for the improvement of the court system is the moving of the Rīga Regional Court to new premises which have been transformed to the needs of court; after renovations the Court of the Latgale Region of Rīga could be moved to these premises as well. Nevertheless, the Office considers than the Government of Latvia must still do much to observe the rights of individuals to a review of a case by a fair court within a reasonable time, which in turn would reduce the number of applications to the European Court of Human Rights. It is possible that the state will devote more attention to the right to a fair trial after the European Court of Human Rights will hand down the first decisions in favor of claimants from Latvia.

FREEDOM OF RELIGION

Article 99 of the Satversme of the Republic of Latvia
Article 9 of the European Convention for the Protection of Human Rights and Fundamental Freedoms
Article 18 of the Universal Declaration of Human Rights
Article 18 of the International Covenant on Civil and Political Rights
Article 1 of the UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief
The right to freedom of thought, conscience and religion includes *"freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance"*.
The Law on Religious Organizations is the most important legislative act which establishes the right to freedom of religion at the national level. Article 2.2 spells out the aim of the Law: *"to guarantee the residents of Latvia the right to freedom of religion which includes the right to freely choose ones attitude towards religion, to profess a religion alone or in community with others or not to profess any religion, freely change ones religious or other beliefs, in accordance with the existing legislation"*. Thus the state must ensure the implementation of this aim by guaranteeing each resident of Latvia freedom of religion.

In 2000 the Office received ten written applications regarding possibly unlawful restrictions on freedom of religion. One application was solved, three have been closed with a recommendation, and six are still under consideration. The Office has on several occasions given its views to religious groups which have criticized the procedure of *the Law on Religious Organizations* that affects their activities. The dissatisfied groups belong to a category of groups which, under the Law have to re-register every year and which cannot form a group of religious organizations that could call itself a church, etc.
The dissatisfaction of these religious groups with *the Law on Religious Organizations* has affected the activities of the Office during the year:

- on February 1 the Office submitted to the Saeima Human Rights and Public Affairs Commission proposals for amendments to *the Law on Religious Organizations*,
- on May 26 the Office organized a broad round-table discussion on the right to freedom of thought, conscience and religion, in which representatives of 16 religious organizations and groups took part,
- on August 18 the Working Group on Religious Issues started to work at the Office.

One of the applications reviewed by the Office relating to the exercise of the freedom of religion concerned the services held by a congregation regularly which were very loud and disturbed the daily lives of the people living in the adjacent houses. At the initiative of the Office and with the involvement of the members of the local municipality and the police, the disturbances were ceased.

During the year the debate on the need to introduce alternative (non-military) service in Latvia has continued; the representatives of the Office have presented its views on this issue no a number of occasions.

In its letter to the Saeima Human Rights and Public Affairs Commission of February 1 the Office asked it to review the *draft amendments to the Law on Religious Organizations* prepared by the Office. The Office's proposals were as follows: to grant the right to form religious unions (churches) to the new religious organizations, and to reduce the ten-year period determined by the Law during which the new religious organizations have to re-register. The respective Saeima Commission declined these proposals of the Office. The Office's proposals were based on the consideration that the restrictions set by the law are disproportionate and therefore should be raised.

On May 26 the Office organized a round-table discussion on the right to freedom of thought, conscience and religion in which representatives of 16 religious organizations took part[8] – both the representatives of the traditional denominations and the new religious organizations and unregistered religious groups, as well as representatives of the Ministry of Justice and the Faculty of Theology of the University of Latvia. The discussion focused on the legislation governing the activities of religious groups and the cooperation between state institutions.

On August 18 the Working Group on the rights to freedom of conscience and freedom of religion was organized at the National Human Rights Office. The Working Group has a consultative role for the decisions taken by the Office. Its members represent the Office, the Faculty of Theology of the University of Latvia, the Institute of Philosophy and Sociology of the University of Latvia, the Ministries of Culture and Education and Science, and the Bible Society. At the meetings of the Working Group in 2000 it analyzed *the Law on Religious Organizations*. This work will be continued in 2001 when the Working Group will present its conclusions to the religious organizations and the Saeima Human Rights and Public Affairs Commission.

By the end of the year the appeal against the Military Drafting Center of a Latvian citizen who refuses to do the military service on religious grounds at the Rīga District Court had not been heard yet. He has lost the case in the court of first instance, for which the Office had presented its opinion in 1999.
As a parallel development, the Office informed in August the President's Chancellery on the need to establish alternative service in Latvia; a similar view had been voiced around that time by the representatives of the Ministry of Defense. The representatives of the Office have been invited to participate in the Working Group of

[8] The participants included representatives of the Latvian Dievturi Community, the United Methodist Church of Latvia, the Latvian Christian Mission, the Latvian Union of Baptist Congregations, the Latvian Union of Congregations of the Seventh Day Adventists, the Baltic Conference Union of the Seventh Day Adventists, the Rīga Center Congregation of Jehovah's Witnesses, the Christian congregation "The Message of Joy", the Rīga Pentecost Congregation "The Message of Joy", the Rīga Grebenščikova Old Believers Congregation, the Messianic Congregation "Jeshua", the Consistory of the Latvian Evangelically Lutheran Church, The Christian Congregation of the Full Gospel "The New Generation", the Krishna Conscience Union, the Confessio Augustana Lutheran Congregation, the Latvian United Evangelical God's Congregation un and the Latvian Autonomic Orthodox Church has submitted its proposals in writing.

the Ministry of Defense which is drafting the amendments to *the Law on Compulsory Military Service* necessary for the introduction of the alternative service. Already on November 9, 1999 the Saeima Human Rights and Public Affairs Commission supported the idea that the Law be changed to guarantee the right to refuse military service because of religious convictions. It is expected that the Saeima Commissions would repeatedly debate this issue in 2001 when the abovementioned Working Group at the Ministry of Defense will have presented its conclusions.

FREEDOM OF EXPRESSION

Article 9 of the Satversme of the Republic of Latvia
Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms
Article 19 of the Universal Declaration of Human Rights
Article 19 of the International Covenant on Civil and Political Rights

Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms provides that *"everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers."* This right is also guaranteed by Article 100 of the Satversme of the Republic of Latvia, which is the basis for the enjoyment of the freedom for any individual to voice his/her opinions without the fear of restrictions, punishments or persecutions. It should be noted, however, that this human right as guaranteed by the Convention and the Satversme does not mean absolute liberty of expression, and the state may subject it to certain restrictions prescribed by law because the exercise of this freedom carries with it duties and responsibilities. The most important conclusion of the European Court on Human Rights with regard to cases relating to the freedom of expression is that this freedom is one of the fundamental and far-reaching elements of a democratic society and that restrictions on this freedom is permissible only in extreme exceptional cases. It is important that *this freedom does not relate only to "information" or "ideas" that are favorable or neutral and is not insulting but also which is offensive, shocking or disturbing*[9]. At the same time it is important to recognize that the exercise of the freedom of expression may not restrict the rights and freedoms of others, for example their rights to private life, inviolability of person or to be entail discrimination.

During 2000 the Office has not conducted regular and deep analysis of the situation of press and the freedom of expression in Latvia. However, several telling events and the general trends in the society motivated the Office to evaluate the observance of the freedom of expression in Latvia. In two cases the representatives of the mass media requested the Office to prepare explanatory opinions on the freedom of expression in concrete situations when, following the publication of information by the mass media, warning had been voiced that court action could be taken or court action had been initiated. The Office also submitted to the Saeima Human Rights and Public Affairs Commission its opinion on *the draft amendments to the Law on Press and Other Mass Media*.

Criteria for restricting the freedom of expression: illustration on the front cover of the August issue of the magazine "Kapitāls" and the article "Jews rule the world" therein

The illustration on the front cover of the August issue of the magazine "Kapitāls" and the article by N. Lisovskis "Jews rule the world" published in the magazine caused sharp reactions from the state authorities – the Satversme Protection Office asked the Prosecutor's Office to start criminal proceedings against the Editor-in-Chief of the

[9] *Oberschlick v. Austria,* Ruling of the European Court on Human Rights, #2

magazine, Guntis Rozenbergs. At the request of the editorial board of the magazine the Office evaluated the publication and the following reaction by the Satversme Protection Office and the Prosecutor's Office; the Office looked at the issue from several human rights aspects and the interaction thereof. This meant that the analysis had to take into account the conditions set for the freedom of expression and the freedom to hold opinions, the prohibition of racial discrimination, and the feelings of persons who consider that their ethnicity had not been respected. It is of utmost importance that the reaction of the state institutions is adequate, so that the rights and freedoms of all parties are observed to the maximum. Following the investigation the Prosecutor's Office decided not to start criminal prosecution; however, this decision was appealed and at the end of the year the decision on the appeal was pending.

During the analysis of the contents of the article the Office concluded that the author had exercised his right to freely receive and impart information guaranteed by the Satversme and the right to freely voice his opinions. If any individual considers that the opinions voiced in the article offend his/her dignity or honor, she/he can turn to court and protect his/her rights and interests there. The Office indicated that the use of the word "žīds" (Yid) to denote the Jewish ethnicity in a publication may offend the Jews living in the contemporary Latvia. Although the author does explain the reasons why this word is used, the author and the editor had to take into account at present this word carries pejorative undertone, and the reaction to the use of this word could be foreseen beforehand. The Office considers this to be a violation of journalist ethics and it should be welcomed that the Editor-in-Chief recognized his fault and showed his attitude by resigning.

With regard to the illustration on the front cover of the magazine, which drew sharp objections from Latvia's Jewish community, it should be stressed that freedom of visual art is protected in democratic society as one of the means for voicing one's opinions, and that burlesque depicting of popular persons, separate ethnic groups, etc. is popular throughout the world and is not criminally punished. Furthermore, the understanding of visual art is subjective to a great extent.

From a criminal law perspective, there must be a number of elements of the corpus delicti for a person to be persecuted criminally in accordance with *Latvia's Criminal Law*. One of the elements of crime – the objective element – as outlined in Article 78 of the Criminal Law of the Republic of Latvia[10] would be *actions directed at causing ethnic or racial animosity or ethnic or racial disharmony;* as it has been mentioned, such actions cannot be seen in this case. Furthermore, to charge somebody with regard to this article, equally important is the subjective element – *consciously desired intent or aim* to cause ethnic animosity, create ethnic disharmony, etc. The article in question which uses the historical argumentation, economic data and author's own conclusions to discuss the survival of the Jewish people and striving for welfare throughout centuries despite cruel repressions that have been directed against the Jews by different regimes, does not contain depreciatory remarks or abasement

[10] "actions directed at causing ethnic or racial animosity"

against the people, it does not contain direct or indirect instigations to ethnic animosity, violence or discrimination.

Thus the Office concluded that the article "Jews rule the world" does contain separate denotations offensive to the ethnic identity that contradict journalist ethics but carrying out criminal prosecution against the former Editor-in-Chief would be disproportionate to the offense, and such restriction on the press freedom cannot be considered as necessary in a democratic society. It is also difficult to understand why the responsibility is laid solely on the Editor-in-Chief of the magazine without mentioning either the author of the article or of the illustration; the fundamental principle flowing from the case-law of the European Court on Human Rights is that the principal responsibility for the publication of news lies with the author. The editor, publisher etc. can be found co-responsible but such responsibility flows from their internal relations and the duties to supervise the work of the authors.

Mentioning the ethnicity of criminals and suspects in information publicly aired by mass media: story in the news program "Panorāma" of the Latvian Television of June 4

A similar case to the abovementioned one relates to the reproduction of stereotypes by mass media and stimulates the debate on the difference between freedom of expression, stirring racial animosity and common stereotypes and separation thereof. The story broadcast in the news program "Panorāma" of the Latvian Television of June 4 told about a criminal action when a woman who apparently was a Roma, had wangled the family jewelry from a fan of fortune telling. The news story emphasized the ethnicity of the criminal and the viewers were warned about the hypnotic powers of Roma and the negative consequences thereof. The negative wording was used not about the suspect but about the whole people.

Again, like in the previous case, the aim of the authors of the news story had not been to create animosity and disharmony and it cannot be considered a crime, this is one of the cases which reveals the tendency that the limits to the press freedom are misunderstood. In this case it would be important to establish whether the aim of the authors – to help discover the perpetrator of a crime – is proportionate to the means – hurting a particular ethnic group. The *principle of proportionality* must be applied – the benefit gained by the society must be greater than the harm created by the restriction on an individual[11]. Therefore it should be carefully weighted whether the damage to the rights of an individual or the group of individuals created by denigrating an ethnic group is not greater than the benefit that the society gained from the warning. If this is the case, elements of a violation of human rights are visible.

On June 9, 2000.g. the Office called an extraordinary meeting of the Advisory Council which discussed the human rights aspects of this case.

The representatives of the TV company apologized for hurting the feelings of the Roma and said that the ethnicity had been mentioned with the aim to warn the general

[11] *Keegan v. Ireland,* Ruling of 26.05.1994.

public and to restrain criminality, and that their intention had by no means been to stir ethnic animosity, and that they had not foreseen such results of the news story.
The debate came to the following conclusions:

- Mass media must be careful to hear both parties when preparing information and must be neutral and tolerant when presenting it. Mass media have to be more careful when preparing news items that may be offensive to the honor, dignity or national feelings to a part of the society.
- Mass media have an important role to counter the negative stereotypes about Roma; the media should talk more often about the positive examples and activities of the Roma. Roma themselves should be more active and participate in the life of society.
- Society and the journalists in particular must understand the boundary between the freedom of expression and stirring animosity and must be able to separate the two.
- Recognizing the existence of a stereotype is the first step in the right direction, because during the consequent debate solutions can be looked for that would help to avoid strengthening the stereotype.

In this regard it would be to explore the trend why the press when writing about crimes mention the ethnicity of the perpetrator in some cases and do not mention it in others. Thus some ethnic groups are discriminated against, since there are different people in any ethnic group and particular traits or social strata should not be associated with a particular ethnic group or vice versa, as this stimulates stereotyping and intolerance; the society is indirectly urged to be "more suspicious" against all persons belonging to the particular ethnic group, which worsens the situation and does not promote tolerant coexistence between the majority and the ethnic minorities.

Another aspect of the freedom of press which is very important for the comprehensive and objective reflection of information is **protection of sources of information.**
The state can have a two-fold role in guaranteeing human rights. First, with respect to the civil and political rights, to which the freedom of expression belongs, the state traditionally has the duty not to interfere and not to restrict the freedoms of the individual[12], for instance, refrain from censorship. To attain a higher level of protection of human rights the state has another obligation – to promote through concrete measures the observance of a particular right[13]. The protection of the sources of information is one of the ways how the state can promote the freedom of press through active measures, in particular, through legislation.

The European Court on Human Rights has interpreted Article 10 of *the European Convention for the Protection of Human Rights and Fundamental Freedoms* in its ruling on the case "Goodwin v. the United Kingdom"[14], where it recognized that *"the protection of the sources of information of journalists is one of the fundamental principles of the freedom of press".* The Court motivated its ruling on the necessity of

[12] i.e. - *negative state's obligation*
[13] i.e. - *positive state's obligation*
[14] *Goodwin v. the United Kingdom,* 1997

such protection by indicating that insufficient protection of the sources may be the grounds why sources would refrain from providing interesting information to the public; this might weaken the role of the press as a significant observer of the social processes, and would adversely affect its capabilities to provide precise and reliable information to the public. Therefore, the protection of the sources of information must be guaranteed in the national legislation and the disclosure of the sources is permissible only under exceptional circumstances for the protection of public interests.

Although the Court on Human Rights did not determine in the abovementioned case which state institutions may request the disclosure of the source of information, the Office took into consideration the need to protect the freedom of the press to the maximum and therefore supported the amendments to Article 22 of *the Law on the Press and Other Mass Media* which determines that: *"The source of information shall be revealed only at the demand of the court, if it is necessary for the interests of state security and justice, or to prevent disorders or crimes."* By limiting the number of entities which may lawfully request that the source of information be revealed the legislature would promote the protection of sources of information and the freedom of press.

As has been mentioned above, the protection of journalist's sources of information is not absolute and may be restricted in particular cases to protect the interests of the society. The existing part 2 of Article 22 of the Law on the Press and Other Mass Media provides unrestricted possibilities for the court to request to reveal the source of information; therefore, the Office suggests to use the experience of the United Kingdom and to spell out in the Law the cases in which the court may request that the source of information be revealed. This would determine the limits as to how far can the courts interfere with the exercise of the freedom of press.

FREEDOM OF ASSEMBLY AND ASSOCIATION

Articles 102 and 103 of the Satversme of the Republic of Latvia
Article 11 of the European Convention for the Protection of Human Rights and Fundamental Freedoms
Article 20 of the Universal Declaration of Human Rights
Articles 21 and 22 of the International Covenant on Civil and Political Rights

Article 102 of *the Satversme of the Republic of Latvia* provides that *everyone has the right to form and join associations, political parties and other public organizations* while Article 103 protects *the freedom of previously announced peaceful meetings, street processions, and pickets*. The essence of theses rights is to provide everyone with the right to join with others in order to voice and protect common interests. If such unions are directed at the political realm, the freedoms of assembly and association are the key features of a democratic society, which must be protected to the utmost against arbitrary state interference. The right to form trade unions is an essential constituent part of these rights which ensures the protection of the individual both in the political and social (labor) spheres. The national legislation incorporates a number of acts which protect the freedom of association and freedom of meetings.

Like all freedoms, these freedoms may be subject to restrictions which are determined by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. (Article 11, paragraph 2, of the European Convention for the Protection of Human Rights and Fundamental Freedoms). Imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State is permissible.

In November 2000 the Saeima Human Rights and Public Affairs Commission reviewed *the draft amendments to the Law on Meetings, Marches and Pickets*, submitted by several MPs from the faction "Tēvzemei un Brīvībai/LNNK". As the proposed amendments would have affected the freedom of assembly the Office analyzed the draft amendments in the context of the Satversme and the international human rights documents that are binding for Latvia.

The proposed *draft amendments to the Law on Meetings, Marches and Pickets* contained some restrictions on the freedom of association which the Office found disproportionate and incompatible with the human rights standards. For instance, the draft amendments proposed to limit the maximum number of participants in a picket to 50 persons, although Article 1, paragraph 4[15] of the current *Law on Meetings, Marches and Pickets* does not restrict the number of participants. Article 14 of *the Law on Meetings, Marches and Pickets* determines what information has to be submitted *"to the local government of the town or territory in whose territory the event is planned"* (Part 2 of Article 12 of the Law). The Law requires the organizer of the picket to indicate the expected number of participants and the necessary support from the local municipality and the police to ensure undisturbed event. Thus the local governments have the opportunity to ensure the public order and security regardless

[15] "A picket is an event during which one or several persons voice ideas or opinions by means of placards, slogans or banners but during which speeches are not made"

of the number of participants of the picket. Therefore the Office stated that limiting the number of participants in a picket to 50 persons cannot be justified in a democratic society and would constitute an unjustified restriction on the freedom of association.

The Saeima Human Rights and Public Affairs Commission took the opinion of the Office into account and rejected *the draft amendments to the Law on Meetings, Marches and Pickets*; the maximum number of participants in pickets will not be restricted.

CITIZENSHIP AND RIGHT TO BE RECOGNIZED AS PERSON BEFORE THE LAW

Article 101 of the Satversme of the Republic of Latvia
Article 6 of the Universal Declaration of Human Rights
Article 25 of the International Covenant on Civil and Political Rights
Protocol No. 7 of the European Convention for the Protection of Human Rights and Fundamental Freedoms

It is a general principle of human rights that any individual, no matter where she/he is, has the right to be recognized as a person before the law, i.e., that the state grants to the individual a particular status, a body of rights and obligations flowing from this status, and personal identification documents. The body of rights and obligations may differ depending on whether the person is a citizen of the state, permanent resident or immigrant, but it is essential that there exists a system for legalization and granting of some status to persons, and that this system does not discriminate against a particular group and that the norms of national and international law are observed.

In setting any restriction on non-citizens, the state must observe the principle of nondiscrimination, so that no unfounded restrictions on the rights of non-citizens are created. The state must ensure as far as possible that there are no differentiation between the rights of citizens and those of permanent residents, in particular in such areas as social welfare and labor rights. International law does find permissible some restrictions on the political rights of non-citizens, for instance on the right to elect and be elected to the legislature or executive offices.

Last year the Office received 63 applications on issues relating to recognition as a person before the law; the Office has solved 14 of these.

The largest number of applications in this category relate to the difficulties of non-citizens to legalize in Latvia. Although the exchange of the passports of the former USSR with the non-citizen passports for the permanent residents of Latvia has been concluded, and in general it has been possible to solve the difficulties that authors have encountered with the Citizenship and Migration Affairs Board, the Office still receives separate applications on these issues. The most common type of applications come from grownup children who permanently reside in Latvia and who encounter administrative and financial obstacles when they wish to obtain permanent residency for their single parents who live on the territory of the former USSR and who cannot take care of themselves anymore. In such cases, and in cases when deciding on the expulsion of individuals from the country, it is important that the authorities do not put unfounded restrictions on family life. With respect to a persons legal status the Office has found that sometimes situation is created in which a person is forced to take the citizenship of another state without the choice to remain in the status of non-citizen, or citizenship of another state is granted to an individual who is not aware of this.

The applications that the Office has managed to assist finding solution to, dealt with inaccuracies in the documents that had been the fault of either applicants' or the officials of the Citizenship and Migration Affairs Board, and which had hindered the acquisition of legal status. Ten applications regarding the procedure of legalization for non-citizens were declined because they were ill-founded or the authors had

entered false information in their applications to the Office and the Citizenship and Migration Affairs Board and had wanted to receive the status of non-citizen on the basis of this false information.

There have been applications received by the Office regarding expulsion from the Republic of Latvia and regarding the conditions in the Center for Illegal Immigrants (Rīga, Gaiziņa iela 7). The statistics of the Office shows that the number of applications in this area has a trend to decrease. It can be explained by the fact that the Center for Refugees in Mucenieki has successfully started to operate. However, it is unfortunate from a human rights perspective that persons have to stay in the Center for Illegal Immigrants for long period of time without knowing their future while the national authorities and the embassies of the country of origin prepare all the necessary documents and guarantees for return to the country of origin. The living conditions in the Center have not improved in comparison with the previous years.

FREEDOM OF MOVEMENT

Article 98 of the Satversme of the Republic of Latvia
Article 13 of the Universal Declaration of Human Rights
Articles 12 and 13 of the International Covenant on Civil and Political Rights
Protocol No. 7 of the European Convention for the Protection of Human Rights and Fundamental Freedoms

Anybody lawfully residing in a territory has the right to freedom of movement in this territory and free choice of residence. Everybody has the right to leave any country, including his/her own. The Satversme of the Republic of Latvia sets the fundamental principles of freedom of movement in Article 98 – *"Everyone has the right to freely depart from Latvia. Everyone having a Latvian passport shall be protected by the State when abroad and has the right to freely return to Latvia. A citizen of Latvia may not be extradited to a foreign country."* Thus the Satversme provides the right to freely leave and return to Latvia not only to the citizens of Latvia but also to non-citizens who have received non-citizen's passport in the procedure prescribed by law.

There is a new trend of applications regarding the refusals of Embassies of foreign countries, in particular the Embassies of the USA and the United Kingdom, to grant visas with a motivation which concerns, for instance, the social or family status of the applicant. There are also applications about cases when individuals are not let into a country on the border or at the airport without any grounds and without any explanations; the individuals in question have received stamps in their passports banning entry into the country and have been transported back to Latvia without covering the incurred material or moral losses.

The Office can only close these applications with a recommendation because even if the complaints are true the examination and effective remedy of the cases is the competency of the foreign office of the state whose embassy has refused visa to the individual in question.

RIGHT TO HAVE A REVIEW OF AN APPLICATION AND RIGHT TO RECEIVE A MATERIALLY RESPONSIVE REPLY FROM STATE AND LOCAL AUTHORITIES

Article 104 of the Satversme of the Republic of Latvia
Article 21 (2) of the Universal Declaration of Human Rights
Everyone is guaranteed the said rights in Article 104 of the Satversme of the Republic of Latvia: *"Everyone has the right to address submissions to State or local government institutions and to receive a materially responsive reply."*
The individual can realize this right by addressing a complaint, application or proposal to a state or local government institution, whereas the institutions must review and reply to these submissions in accordance with the procedures and deadlines set in *the Law on Procedure for Review of Applications, Complaints and Proposals in State and Local Government Institutions* and *the Regulations on the Administrative Process* of the Cabinet of Ministers.

The Saeima has in Article 201.46 of *the Administrative Violations Code* (AVC) envisaged an administrative penalty – a fine of up to 25 Lats on the responsible official - for not replying in writing to the author of submission, complaint or proposal within the timeframe set by law. Although the AVC does determine the person who is mandated to review cases of respective violations and to determine the fine, this norm is not applied in practice because of shortcomings in the legislation – the AVC requires that an administrative protocol is written in order to fine an official for violating Article 201.46 of the AVC. However, the Saeima has not determined which institution or official would have the right to write this protocol. Consequently this norm of the AVC which should protect the interests of the individuals is not applied in practice.

In 2000 the Office received ten written applications and provided 160 oral consultations regarding the right of individual to have a review of an application and to a materially responsive reply. Out of these applications the Office has solved 5 and has closed 5 with a recommendation. Four applications were refused as unfounded (the Office was reviewing several applications submitted in 1999).
The Office solved the issues raised in the applications by contacting the institution which had failed to reply to an application for a long time; after receiving an admonition from the Office the individual received a materially responsive reply.
With regard to applications that have been closed with a recommendation, the Office found that the individuals had received materially responsive replies within the timeframe prescribed by law but the decision had been unfavorable to the author. The individuals had submitted applications to the Office with a request to change the decision. The Office explained to the individuals the appeals procedures or recommended the most effective way for solving the issue.

The experience of the Office with applications regarding the nonobservance of time limits for review of applications or lack of materially responsive reply it can be concluded that this constitutes a relatively significant problem. Furthermore, the responsible officials cannot be administratively fined because of the reasons outlined

above. This is not the case if the violation is done by a civil service institution because a disciplinary punishment can be applied to its officials.

Some positive developments have taken place in this area in 2000. The Office would single out the following:

1) work on *draft Law on the Administrative Process*; it can be expected that the Law would be adopted in 2001;

2) *the draft amendments to the Law on Procedure for Review of Applications, Complaints and Proposals in State and Local Government Institutions* that envisage the right of individuals to submit oral submissions to these institutions, have been accepted by the commissions of the Saeima. It is expected that the amendments would be adopted in 2001.

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

RIGHT TO WORK

Articles 106, 107 and 108 of the Satversme of the Republic of Latvia
Article 6 of the International Covenant on Economic, Social and Cultural Rights
The Republic of Latvia has acceded to several international treaties that protect the right of individual to work and to just and favorable working conditions. For instance, Article 6 of the International Covenant on Economic, Social and Cultural Rights provides that *"The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right."* Latvia has signed but has not ratified yet the European Social Charter which determines in detail the responsibilities of the states parties in securing different labor rights.

Latvia's legislation does not provide for an absolute right to work for everybody; however, Article 106 of the Satversme of the Republic of Latvia determines that everyone has the right to freely choose their employment and workplace according to their abilities and qualifications. Satversme in Articles 106, 107 and 108 declares that " Forced labor is prohibited. Participation in the relief of disasters and their effects, and work pursuant to a court order shall not be deemed forced labor. Every employed person has the right to receive, for work done, commensurate remuneration which shall not be less than the minimum wage established by the State, and has the right to weekly holidays and a paid annual vacation. Employed persons have the right to a collective labor agreement, and the right to strike. The State shall protect the freedom of trade unions.

The right to work and to just and favorable working conditions is one of the most essential rights in the realm of social rights because work is an important element in the life of any individual. The level of protection of this right directly or indirectly affects other rights of individual, for instance, the right to adequate standard of living, including adequate food and housing, the right to education, right to social welfare in old age, during unemployment, etc.

To achieve the highest attainable level of protection of the right to work the state must elaborate and implement a balanced and consistent employment policy aimed at reducing the level of unemployment and guaranteeing the right to gain ones living by work which one has freely chosen. It is the obligation of the state to ensure favorable and safe work conditions and fair remuneration both in the public and private sector by means of effective legislation, social policy and by ensuring the effective functioning of institutions where one can turn to in cases when the rights of the individual have been violated. Although the guarantees of these rights depends to a large extent on the material resources available for their implementation, it is essential

that the state sets priorities and consistent measures are taken to achieve these goals. One must recognize that in Latvia the state institutions are often passive and inconsistent in protecting the social and labor rights of the residents.

The Office has in 2000 received 38 written applications on the possible violations of the right to work and has provided 325 oral consultations. The Office has solved 5 of the written applications, has closed with a recommendation 20 applications and has refused as unfounded 4 applications. The majority of the applications come from employees (as well as job applicants and former employees) regarding violations of labor legislation and arbitrariness of the employer. The five solved applications dealt with disputes of the plaintiff with the employer regarding the changes to the provisions of the labor contracts. The majority of the applications were about unfounded dismissals, unpaid wages and social tax, which has implications also on other social rights and guarantees of the employees. Issues such as refusal to let the employee take the vacation guaranteed by law, unpaid overtime work, refusal to give to the employee the work record card upon the completion of work and similar disputes and labor conflicts do not fall within the mandate of the Office; however, these issues are still topical and one has to conclude that the present labor legislation and the institutional mechanisms are insufficient for the prevention of violations. The largest portion of oral consultations deal with violations of the legislation and differentiated treatment in labor relations. Unfortunately, the Office frequently cannot provide real assistance because the individuals were afraid to lose their jobs and did not wish to write a written application. In such cases the representatives of the Office provide consultations on the rights of the employees and the possible solutions to the problem.

Guaranteeing equality in labor relations is an important aspect of human rights; the Office pays special attention to this issue when reviewing applications regarding labor rights. Discrimination on such grounds as sex, age and social status (for instance, former prisoners and disabled persons) or family status are among the most topical issues in Latvia. The Office sees several interconnected challenges for effective prevention and eradication of discrimination:

- the present Labor Law Code does not cover such important stages of labor relations as job advertisements, job interviews; there are no concrete norms in the Code regarding fair and equal pay, burden of proof, responsibility of the employer and the possible sanctions in cases of discrimination;
- indirect discrimination which is harder to prove, is more widespread;
- employees lack information on and understanding of their rights, the possible forms of discrimination and possibilities for protection; as a result, a portion of violations is not noticed and are not prevented;
- out of fear to lose job, or wish to preserve good relations with the employer or colleagues, and because of other reasons, the employees do not object to discriminating attitudes and do not report violations to the competent state authorities to have their rights protected.

It can be hoped that the draft Labor Law which is expected to enter into force in 2002 will solve the normative issues, as it includes important guarantees for the employees that would help avoid discrimination at any stage of labor relations.

The protection of the right to form and join trade unions is closely related to the protection of human rights; the Office has not received any relevant complaints in this realm. It should be noted, however, that trade unions are an important means for protecting the social rights and for voicing opinions in a democratic society which the employees in Latvia have underused until now. Increased activity in forming trade unions and participation in their activities would be important for effective social dialogue in the country and for the representation and protection of the rights of the employees.

RIGHT TO SOCIAL SECURITY

Article 109 of the Satversme of the Republic of Latvia
Article 9 of the International Covenant on Economic, Social and Cultural Rights
When the Republic of Latvia regained its independence changes occurred in all spheres of the life of society – politics, economy, and particularly in the sphere of social welfare. Social stratification became more pronounced and such issues as existence of unemployment, low-income groups and vulnerable groups entered the daily life. The Republic of Latvia has ratified the International Covenant on Economic, Social and Cultural Rights which sets the minimum standards that the state should ensure to everyone in the social and economic spheres. Article 109 of the Satversme determines that everyone has the right to social security in old age, for work disability, for unemployment and in other cases as provided by law. To guarantee the implementation of these rights a number of legal acts at the national level have been adopted. The most significant laws in the social sphere are *the Law on Social Security, the Law on Social Assistance, the Law on State Pensions, the Law on the State Social Security, the Law on State and Municipal Assistance in Solving Housing Issues* and other normative acts.

Out of the written applications – the total of 131 – the majority deal with the problems of low-income residents and insufficient extent of social services. The Office has solved 18 of the applications. 66 more applications can be considered well-grounded, and the Office has closed these with a recommendation to the applicant. By solving applications with respect to the right to social security, the Office has removed the violations of the rights in cases when the residents had been refused social benefits, tax relief, or social assistance without reason. The Office has received 14 applications about the possible violations of the right to social security from penitentiary institutions.
The statistics on the applications reviewed by the Office in 2000 shows that the percentage of resolved cases is the highest with regard to applications about the right to social security.

Although the municipalities have the obligation to provide assistance to individuals who cannot sustain her/himself and cope with the difficulties they have encountered, the local governments are not always able to provide the necessary assistance to all residents due to lack of resources. Most of the assistance is granted to the lowest-income households. Families with children where one of the parents is unemployed, and single parent families have very low incomes. Unfortunately, the Cabinet of Ministers Regulations *"On Social Assistance Payments and Evaluation of the Material Situation of Low-income Families"* state that a family is recognized as low-income family if their income during the last three months has not exceeded 75% of the official crisis subsistence minimum per household member per month - 28,67 Lats. If this sum is exceeded, no assistance is granted.
The only official "poverty threshold" is established by the Cabinet of Ministers Regulations *"On Changes in the Minimum Wage"* of 19 April 1994, which determines that:

- as of 1 April 1994, the crisis subsistence minimum is 38,23 Lats per month;

- the share of the crisis subsistence minimum for food is 22,31 Lats.

Since then, the "poverty threshold" has not changed despite inflation and other processes. For the third quarter of 2000 the value of "full basket" of goods and services per person was 84,66 Ls, as calculated by the Central Statistics Office of the Republic of Latvia.

Taking into account the big difference between the actual social benefits and the statistical calculations on the subsistence minimum one can conclude that the social welfare payments allocated by the state and municipalities to the low-income families can only partly solve the problems of the people and that the crisis subsistence minimum as established by the Cabinet of Ministers regulations is inadequate to the needs of the people.

> Social assistance is most frequently granted as grants for payment of rent, buying foodstuffs and medicines, home care for the disabled. A typical example of an application reviewed by the Office in this realm of social rights is the application of Mrs. B - a single disabled person who belongs to disability group 1. She had addressed the local government asking for assistance with repairing her stove, as the winter was approaching and the stove was out of order. The local government had declined her request with the motivation that such form of assistance has not been established for low-income persons, and social assistance payment was refused because the pension of Mrs. B was 52 Lats, and therefore she had not been included in the list of low-income households. During the review of the application the Office indicated to the local government in question that Article 3 of *the Law on Social Assistance* provides that *"a person who cannot take care of him/herself or cannot cope with specific difficulties and who does not receive sufficient assistance from anybody else, is entitled to the necessary personal and material assistance that would enable them to self-help and to participate in the life of society"*. After the intervention of the Office the local government repeatedly reviewed the application of Mrs. B and found it possible to offer her material assistance for the repair of the stove.

One of the fundamental principles of the system of social security is an individual approach, and a person is entitled to the necessary assistance that would enable them to self-help, as prescribed by *the Law on Social Assistance*. Unfortunately, this principle does not always work and social assistance is provided formally without due regard to the individual needs of a person.

Social rights of the inmates

During the year the Office has received 14 applications from arrested persons that they cannot enjoy the social rights guaranteed by the state which should be available also while under arrest. These are social issues with respect to the receipt of pension and accumulation of pension funds while in prison, determination and renewal of the status of disability. The Office has found these applications to be well founded.

To establish the causes of violations and to examine the possible solutions, the Office organized a meeting on the social security of prisoners and inmates on July 20. Representatives of the Office, the Citizenship and Migration Affairs Board, the Ministry of Justice, the Penitentiary Board and the Ministry of Welfare. A representative of the Office has participated in the Working Group established by the Ministry of Justice in 2000 which is drafting a new version of the instruction *"On the Procedure how Suspects, Arrested Persons and Convicts are kept in the Investigation Prisons of the Ministry of Interior"*. Special attention is paid to ensure that the new instruction would provide that the inmates could realize their rights to social security. The final draft of the instruction will be completed in 2001.

Only a small part of the convicts are employed in the penitentiaries. As a result, the majority of the convicts who need to obtain personal identification documents cannot cover the expenses for processing the documents. To process documents more effectively, it would be desirable that the normative acts determine that convicts are persons fully funded by the state. This would make it possible to process their passports free of charge. Each prison should have an inspector whose task would be to deal with processing the personal documents of the convicts and to take other measures of resocialization. Unfortunately, there is no such staff unit in the prisons.
After the release from prison the ex-convicts who do not have passports cannot register in their place of residence or apply for the social guarantees of the state. Working convicts for whom the compulsory social insurance payments have been made in accordance with Article 55 of the Latvia's Penitentiary Code but who have not been entered into the Population Register of the Republic of Latvia cannot receive unemployment benefits after the release from prisons and the receipt of personal ID code. When calculating the pensions, the social insurance payments that have been made prior to the registration in the Population Register are not taken into account.

In accordance with *the Law on the Medical and Social Assistance to the Disabled* and the Cabinet of Ministers *Regulations Nr.263/96*, the State Medical Commission on Medical Disability reviews documents for determining a disability group only if the person applying for the status of a disabled has a personal ID document.

The Cabinet of Ministers Regulations *"On Medical Assistance to Convicts and Arrested Persons in Penitentiary Institutions"* does not foresee that the Commission on Medical Disability would review documents for disability for arrested persons for whom the sentence has not entered into force free of charge. As the arrested persons wait for the passing of sentence for a long time – up to several years, - they cannot receive disability pension. For many of the convicts it is also not possible to prolong the status of a disabled person because in many cases not all medical examinations can be carried out in prison which means additional expenses.

RIGHT TO HOUSING

Article 11 (1) of the International Covenant on Economic, Social and Cultural Rights determines that *"The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right (...)"*
The Satversme of the Republic of Latvia does not include this right in the catalogue of human rights; however, *the Law on the Protection of the Rights of the Child* in its Article 10 (3) protects the right to permanent housing for one of the vulnerable social groups – the children. Furthermore, Article 66 (2) 1 of the Law foresees the obligation of the local government to guarantee *"to every child living in the territory of the municipality housing, heating, clothing (...)"*.

For several years already the right to housing is one of the most topical issues; many people complain or ask the Office to consult them on this issue. This leads to the conclusion that it still is an important social issue that has to be solved at the national level.
In 2000 the Office received 145 written applications (17.8% of the total number of applications) and provided 1122 oral consultations (25.8% of the total number of oral consultations) on the right of individual to housing. Several categories of applications and consultations may be singled out which are the most frequent in the daily work of the Office:

1) eviction from apartment without providing other accommodation (23 written applications and 377 oral consultations);
2) granting of accommodation (15 written applications and 185 oral consultations);
3) rights of persons whose place of residence is not registered in their passports (4 written applications and 170 oral consultations);
4) other issues (for instance, disputes of tenants with the owners of privately owned houses, calculation of communal costs, privatization of apartments and other issues) - 86 written applications and 251 oral consultations.

The mandate of the Office with regard to right to housing is fairly limited because *the Law on the National Human Rights Office* provides the Office with the right to investigate complaints on human rights violations while the majority of the complaints in this area flow from the civil law relations between the tenant and the owner. Consequently, the majority of the complaints have been closed with recommendation to the applicant regarding the most appropriate way how to solve her/his problem.
The Office can help individuals in cases when a person has been refused housing groundlessly; however, in practice such cases are rare.
Often an element of human rights violation can be found in the applications, but for the removal of the violation actions by the applicant would be sufficient. However, as

the persons did not have the information how to solve the housing issue before them, they applied to the Office.

In 2000 the Saeima continued to work on several draft laws whose adoption would partly solve several important issues that are related to the right to housing. Among the most important changes that may enter into force already in 2001, one can note:

1) *the draft amendments to the Law on the Rent of Accommodation* which would establish in a legal document social guarantees for particular groups with whom rent contracts are terminated without providing other accommodation. The present Law does not determine exceptions or categories of persons to whom other accommodation must be provided. The draft amendments prescribe that families with underage children, low-income pensioners and disabled persons must be provided with other accommodation if evicted.

2) *the draft Law on Declaring the Place of Residence*; its entry into force would eliminate one of the last elements of the "Soviet legacy" – the system of registering the residents, and would establish the declaration of place of residence. The Office has pointed out several times that the system of registration restricts human rights (for instance, the right to freely choose the place of residence); persons whose stamp of registration has been nullified (for instance, as a result of eviction) are restricted in their right to work and have other difficulties. The adoption of the draft Law would abolish the many hurdles which create difficulties for people who cannot receive social benefits, find work and realize other rights; therefore, the Office hopes that the system of declaration of the place of residence will be implemented already in 2001.

RIGHT TO OWN PROPERTY

This right which was included already in *the Universal Declaration on Human Rights* (Article 17) is legally guaranteed in Article 105 of *the Satversme of the Republic of Latvia*: *"Everyone has the right to own property. Property shall not be used contrary to the interests of the public. Property rights may be restricted only in accordance with law. Expropriation of property for public purposes shall be allowed only in exceptional cases on the basis of a specific law and in return for fair compensation."* and in Article 1 of the Protocol No. 1 of *the European Convention for the Protection of Human Rights and Fundamental Freedoms*: *"Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.*
The preceding provisions shall not, however, in any way impair the right of the State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

In 2000 the Office received 52 written applications and provided 253 oral consultations regarding the right of individual to own property. Out of the written applications the Office resolved 3, closed with a recommendation 15 and refused as unfounded 20.

Most of the applications like in 1999 are about illegalities and injustices that have taken place in the process of restitution of inherited property. The common denominator for these applications is the fact that the applicants have interpreted the right to own property in a much broader sense than provided for by the Satversme and the international human rights documents. Human rights norms do not include the right to restitution of property, they cover only the right to enjoy the existing property without interference. One can see this interpretation in the case-law of the European Court on Human Rights which constitute a source for interpretation of legal norms, for instance, the case *"Marckx v. Belgium"* (1979).

It is quite often that the people hope to receive assistance of the Office in disputes between private persons regarding property, borders of land lots, rent issues and issues like these. The Office refuses these cases because the Office does not have the mandate to review disputes of this sort; furthermore, disputes between subjects of private law should be dealt with through the civil law procedures. Human rights instruments should be used to resolve disputes between an individual and the public authorities.

RIGHTS OF PARTICULAR SOCIAL GROUPS

EQUALITY BEFORE THE LAW AND PUBLIC AUTHORITIES – RIGHT TO NONDISCRIMINATION

Article 91 of the Satversme of the Republic of Latvia
Articles 1 and 2 of the Universal Declaration of Human Rights
Article 2 (1) of the International Covenant on Civil and Political Rights
Article 14 of the European Convention for the Protection of Human Rights and Fundamental Freedoms

Article 91 of *the Satversme of the Republic of Latvia* establishes that *all human beings in Latvia shall be equal before the law and the courts. Human rights shall be realized without discrimination of any kind.*

Differentiated attitude to a person or group of persons on any kind of distinction, such as race, color, sex, age, language, religion, political or other opinion, national or social origin, property, birth or other status if there is no legitimate aim and objective reason necessary in a democratic society, is considered as discrimination. In accordance with *the UN International Covenants* and *the European Convention for the Protection of Human Rights and Fundamental Freedoms* which are binding for Latvia, the States Parties determine to guarantee that the rights of individuals would be realized without discrimination of any kind – regardless of any of the mentioned subjective criteria.

GENDER EQUALITY

Women are one of the groups of society, to whose discrimination human rights defenders pay special attention throughout the world. In addition to the abovementioned norms, Latvia has undertaken obligations of gender non-discrimination and protection of the rights of women since it has joined *the UN Convention on the Political Rights of Women* of 20 December 1952 and *the UN Convention on the Elimination of All Forms of Discrimination against Women* of 18 December 1979. Both Conventions are in force in Latvia since 1992.

The Office has in its activities several times emphasized the need to adjust the gender equality mechanisms in Latvia. Although gender equality is guaranteed in the legislation of Latvia, already in 1999 the Office in cooperation with non-governmental organizations developed recommendations for legislation amendments in order to strengthen the non-discriminating and equality principles in our country more consistently. The developed proposals mainly related to the sphere of social assistance and the norms of the Labor Law Code. It is satisfying that several of these recommendations have been included into the draft legislation during this reporting period; e.g., the Labor Law Code has been amended to allow fathers to use child care leave; thus the possible discrimination in labor relations is eliminated. Furthermore, at the Ministry of Welfare a Working Group was organized, which developed *the National Gender Equality Concept*, which envisages the integrated approach and serious collaboration among the ministries in the solution of gender equality issues.

Although there is practically no gender discrimination in the legislation of Latvia, the formal equality guaranteed in the local and international legal acts, is only the framework for development of real gender equality in all spheres of life. In this sphere particular attention should be focused on embodying of the legislation norms and implementation mechanisms. The Office has found that ensuring of actual gender equality is one of the most topical issues in Latvian society.

Gender equality means state responsibility to ensure for both genders equal rights and equal responsibilities, to ensure equal access to resources and possibilities to use them, to set equal social value of women and men, to ensure that issues of both genders are regarded as equal, and not to preserve a view in society that the equality is an invented requirement of some international organizations to regard men and women as similar beings.

For this report the Office would like to emphasize several topical trends of discrimination against women in our society; they are mostly related to the fact that the roles in labor market, politics, family and elsewhere are not determined by objective factors, - e.g., qualification, level of knowledge, competence, - but by the traditional perceptions of genders, which are no more realistic for the modern society. The negative consequences of these stereotypes could find their expression as violations of human rights and legislation; therefore attention to the issue should be paid.

Trends of discrimination against women in political representation and participation

There are no formal obstacles for political activities of women in Latvia. At the same time, politics is one of the spheres where the principle of gender equality is not fully observed. Since the restoration of independence there has not been gender balance among the Members of Parliament of Latvia. In the Cabinet of Ministers the gender disproportion is constant. A The number of women among civil servants exceeds the number of men. However, men more often have positions of higher level decision making; women more often have roles of deputies, substitutes and decision executors. Although in the local municipalities the women representation is slightly more balanced, the balance of gender representation in this level is not adequate, either.

Because of the lack of equal gender representation decisions that hinder the development in separate spheres could be made; confidence in state administration and appropriateness of their decisions is not promoted. E.g., it is has been recognized in many countries that men in administration do not have sufficient understanding of needs of households and families and their relation to economy. Therefore, it could be supposed that the family policies, health care system and educational system realized at the state level is not sufficiently effective.

Aspects of economical discrimination against women

Economical discrimination of women in society finds expression in indirect form, which is most often encountered in:

- The gender segregation of the labor market – employment of women in the so-called "women sectors" – education, culture, health care /medicine, social care;

The average earnings and career possibilities in these sectors are less than in the sectors where men dominate.

- Additional evaluation of female job applicants, that is not related to the professional sphere;

When applying for job women are more often than men evaluated according to discriminating criteria. e.g., age, civil status or appearance.

- Unequal distribution of duties between genders;

Statistical data confirm that the majority of women choose to be employed at state/municipal enterprises, where there are certain social guarantees although the remuneration is not so high because the women mostly take care of children, they have to take care of the social guarantees for the family; so because of family duties women have less possibilities to approach the branches of higher remuneration.

- Lack of the state demographical policy .

In calculation of the poverty risk for different sociodemographic groups, it has been calculated that poverty in Latvia has a marked gender dimension. If the number of family members increases, the poverty risk for women grows. Women with children are poorer than women without children. So it can be concluded that the economical possibilities of women are restricted when they take care for children. The single-parent families with under-age children where a woman is head of household are under the biggest exposure of poverty risk: the father of children often does not pay for the children's maintenance, although there has been a court decision in this respect. The institutions of law and order. are not able to ensure that the decision is implemented; thus the state enhances the legal nihilism and in fact discriminates not only against the women, but against the children as well.

Domestic violence – one of the most widespread trends of discrimination against women in the private sphere

The spread of violence in Latvia is closely related to the gender roles accepted in the society.

Although both genders suffer from violence, the causes, specific expressions and self-defense possibilities are mainly different for men and women; the state responsibility for the elimination of violence against women is currently different. There is one explanation for such discrimination–men mainly suffer from violence in the streets, from strangers, while women are mostly victims of violence in their own families.

Although the legislation envisages criminal liability for physical violence in the Latvian institutions of law and order do not pay enough attention to the expressions of the physical violence in families, when bodily injuries afflicted to the woman cannot be qualified as serious or at least medium serious. Furthermore, the legislation does

not cover psychological violence at work or at home at all, not speaking about elaborated prevention mechanism.

These aspects only add to women's mistrust and disinclination to report cases of violence to the institutions of law and order. There are some cases when women who have been victims of permanent violence and who have not received adequate assistance from institutions of law and order, resolve to such socially dangerous solutions as murdering the despot or inflicting serious injuries on him.

In the latest years there have been several attempts to educate the society about the phenomenon of violence and to collect statistics and to estimate the current volume of violence. However, it would not be possible to gain a real understanding of the issue in Latvia if there is no sufficient state support and significant amendments to *the Criminal Law* and if the police officers do not change the attitude to domestic violence which is still regarded as a family argument, not as a criminal offence; it is also important to ensure that there is state and municipal social aid to the victims of violence in critical moments. Although the Office has not received serious number of applications about the helplessness of women in cases of domestic violence, even some separate applications or tragic events described in press about cases of violence that have not been dealt with in due time, gives ground to consider that discrimination against women with regard to security exists as a topical issue in Latvia.

RIGHTS OF THE CHILD

Article 24 of the International Covenant on Civil and Political Rights
The preamble of *UN Convention on the Rights of the Child* of 20 November 1989, which entered into force in Latvia in 1992 states that childhood is entitled to special care and assistance; thereforeø the protection of rights of the child is one of the main tasks of the Office in accordance with the UN conventions and other international treaties.
The rights and freedoms of the children, as well as the rights, obligations and responsibilities of others in the protection of their rights are established in *the Law on Rights of the Child* of the Republic of Latvia, adopted in 1998. The child, by reason of his/her physical and mental immaturity, needs special safeguards and care; the law establishes that in juridical relations which affect the child, the rights of the child take priority. A child is a person under 18.

In 2000 the National Human Rights Office paid constant attention to children in educational institutions, especially in children's homes and boarding schools, where the situation was also analyzed during visits to these places. The living conditions of the children in boarding schools, where 10-24 children live together in one room; constant insularity from the family and society, the children are uninformed of their rights and duties – these are only few of the reasons which cause cases of violence. The Office found that the children do not know where to look for help in critical situations; the staff of the educational institutions do not work as a team in order to eliminate the causes of violence.

In early December 2000 the Aleksandrova special boarding school of Krāslava district was in the center of attention of the mass media and the institutions of law and order. There were several interrelated issues - first of all, violence among the students.
On 13 December the representatives of the Office visited the boarding school and found that besides widespread violence, there was another significant problem - children had been placed into the school without the respective conclusion of the Pedagogically Medical Commission. The boarding school is envisaged for the mentally handicapped children, but there were children in the school, who had to learn there only for some time; their state of health and antisocial behavior did not correspond to the school's profile. Nevertheless, repeated inspection of the Pedagogically Medical Commission was not made; consequently, the children were located with no reason in the school of special needs. Taking into account the different behavior and development level of the students, contradictions among the children and pedagogues arose; the school administration was not able to deal with them. In order to prevent such situations it should be determined at the state level which institution supervises the decisions of the State Pedagogically Medical Commission.

The National Human Rights Office found that the teachers often informed the school principal about the cases of violence, but no further action followed. It is important to recognize the rights and responsibility of the teacher and to inform the institutions of law and order on the cases of violence in the educational institutions in a timely manner.

In 2000 the Working Group of the Protection of the Rights of the Children of the Advisory Board of the Office continued its work. It was created in July 1999 to investigate the issues of the adoption of children in Latvia. The reason of creation of the Working Group was to examine the information published in the press in summer of 1999 on possibly illegal adoption of children to abroad and possible irregularities during a visit of three Latvian children's home students to France. On 23 March the Working Group submitted the Final Report to the Advisory Board. In its final conclusions the Working Group declared that the published information and statements on the blatant violations of the rights of the children in the adoption of children of Latvia abroad and organized trips of children from children's homes abroad are false.

The UN Convention on the Rights of the Children recognizes that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country or origin.

The adoption of children abroad began in the beginning of nineties; the percentage of children adopted abroad has increased in the total number of the adopted children from 7% in 1993 up to 50% in 1996. The rate has remained similar till 2000. In order to get facts on possible illegalities and violations of the rights of the child, the Working Group met the officials working with the protection of the rights of the children, adoption and guardianship. The authors of the incriminating statements published in the press were invited to the meeting of the Working Group. Since 1993 the adoption of children has to be accepted in a civil court proceeding. No judgment on child's adoption has been annulled. In order to ascertain whether the adoption of children abroad corresponded the law of Latvia, the prosecutors of cities and regions conducted an inspection of the cases of the children adoption abroad since 1996 till 1999. During the investigation no violations of laws were found. On the basis of the investigation of the Prosecutor's General Office and Interpol the Working Group stated that information published in the press on the illegal children trafficking abroad and the adoption of children abroad with the aim to use them for transplantation of viscera and to involve the children into pornographic business is false.

On the subject of the visit to France of three students from Latvian children's home in summer 1999, the Working Group ascertained that the children's leave in France was arranged in accordance with the legislation of Latvia. No evidence was found for the published information on alleged endangering of health and moral, when the children of Latvia stayed in separate host families in France.

RIGHTS OF ETHNIC GROUPS

Article 114 of the Satversme of the Republic of Latvia
Article 27 of the International Covenant on Civil and Political Rights
Persons belonging to ethnic, religious or linguistic minorities shall not be denied the right, in community with the other members of the group, to enjoy their own culture, to profess and practise their own religion, or to use their own language. *The Satversme of the Republic of Latvia* guarantees to persons belonging to ethnic minorities the right to preserve and develop their language and their ethnic and cultural identity.
The issue of state language affects the rights of ethnic minorities but it also relates to the right of any individual to the freedom of opinion and freedom of expression which is protected both in Article 100 of *the Satversme of the Republic of Latvia*, and in Article 19 (2) of *the International Covenant on Civil and Political Rights*, and in Article 10 of *the European Convention for the Protection of Human Rights and Fundamental Freedoms*. The individual's choice of language for the realization of her/his freedom of expression is an intrinsic part of this freedom because the protection of the freedom of expression covers not only the content of the communication but also the means of communication – the language.

In the sphere of state language the Office considers that the most important event has been the **elaboration of the Cabinet of Ministers regulations for the implementation of the State Language Law** (hereafter – the Regulations) that were adopted on August 22, 2000.
During the elaboration of the Regulations the Office had the opportunity to participate in the discussions on the content of the Regulations with the experts from the State Language Center, the Ministry of Foreign Affairs and the Ministry of Justice and to propose concrete proposals with regard to several draft Regulations.
The Office pointed the attention of the experts and the general public to the most important issues and separate provisions of the Regulations where contradictions could be seen and where improvements would be necessary to protect the rights of the individuals effectively, as well as to formulations which might create ambiguity when applying the Law.
One of the potential problems which the Office saw was the attempt to regulate and set restrictions on the private sphere through the Regulations.
The private sector is an important area where the fundamental rights must be protected and where maximum protection from state interference should be guaranteed. Regulation of the use of language in the private sphere undoubtedly affects the rights of individuals to private life, cultural rights and freedom of expression.

Spelling and use of names and surnames

The Office had the biggest objections regarding *the Regulations on Spelling and Identification of Names and Surnames*. These issues relate both to human rights and international private law.

1) In accordance with the Article 11.1 of the Council of Europe *Framework Convention for the Protection of National Minorities* which Latvia has signed and thus has undertaken to implement the standards of this convention in legislation and

in practice, in order to ratify it in the future, *the Parties undertake to recognise that every person belonging to a national minority has the right to use his or her surname (patronym) and first names in the minority language and the right to official recognition of them, according to modalities provided for in their legal system.*
Article 96 of *the Satversme of the Republic of Latvia* and Article 8 of *the European Convention for the Protection of Human Rights and Fundamental Freedoms* determine that *everyone has the right to inviolability of their private life, home and correspondence.*
Transformation of the names and surnames affects the private life of the individual, his/her ethnic identity, freedom of expression of culture. The only yardstick for restrictions on these rights can be *"legitimate public interests"*. This is a term that can be interpreted broadly; to balance the interests of individual and the society the primary criterion should be the principle of proportionality which establishes that the benefit gained by the society must be greater than the restriction on the right of individual. In this case the restriction on the rights of individual is greater than the gain of the society from having the personal names transformed into Latvian, and consequently cannot be justified.
The Office does not question that transliteration of personal names with the letters of the Latvian alphabet, which is the practice also in other countries; however, transformation of the name or surname which may result in changes in the meaning, pronunciation and spelling should not be done.

2) The other significant issue flows from the sphere of private law. Different spelling of personal names in different documents may create difficulties for proving ownership or inheritance, whereby the individual would have to prove her/his identity. The international aspect should be taken into account; for instance, if a child is born in Latvia in a family of a Latvian citizen and a foreigner and the child is issued a birth certificate where his/her name and surname is spelled in accordance with the rules of transcription of the Latvian language, the family may have difficulties proving the link between the child and his/her parent or with obtaining other documents for the child if they move to a different country.

3) The Office considers that the demand contained in **Article 3.3.** of the Regulations that *every name and surname shall have an ending in masculine or feminine gender according to the person's gender* is disproportionate. In several original forms of surnames there is a historic trend to write the surnames of both genders in one form. The Office regularly receives applications from individuals regarding violations of their human rights by transformations of their surnames (for instance, changing the surname of a person of Estonian origin from *Tint* to the feminine form *Tinte*) or about the transformation of a tipically masculine surname, for instance *Akmens,* to the feminine form (*Akmene*), or about changing a surname which has for several generations been used in one gender only into a form in another gender, for instance *Bernis - Berne*. In most cases the change of surname affects surnames in the feminine gender which can be considered discriminating, because there is no demand to change surnames with a feminine ending to masculine, for instance to change the surname *Egle* to the masculine ending (*Eglis*).

The Office considers that the state interference should be more limited in this area because legitimate public interests cannot be seen in such restriction on the rights of an individual. The individual should retain the option to preserve ones surname in accordance with the family traditions. Consultations with linguists has revealed that the changing of surnames in accordance with gender was established during the Soviet rule and there is no strong argumentation why it should be continued.
Language is an area which develops constantly; the changes are inevitable due to universal trends and processes of globalization. The Office fully supports the aim to preserve, protect and develop the Latvian language; however, it is the hope that the approach of linguists would become more flexible and that the aspect of individual rights would be seen as the priority when elaborating regulation in one of the most private spheres – the sphere of personal names.

The authors of the Regulations partly took into account the argumentation and suggestions of the Office, and certain compromise was found by providing the possibility to enter the historical form of the surname in a designated page of the passport. Nevertheless, the Office considers that there still are problems for individuals and contradictions with human rights norms. The applications received by the Office attest that individuals must accept the transformation of surname when changing passport or when registering a new family member.

Submitting documents to state and local authorities

The Office indicated that the implementation of the provisions of Article 10 of *the State Language Law* which provides that *any institution, organization and enterprise (or company) shall ensure acceptance and review of documents prepared in the state language* may be problematic. The *Regulations on the Procedure of Certifying Document Translations into the State Language* only partly facilitates the complex procedure for certifying translations. The material aspect is very relevant in this case, as neither the Law or the Regulations foresee any discounts for translations or notary certifications. In essence these norms decreases the availability of the state institutions to the individuals. In the current situation in Latvia this amounts to a significant restriction on rights. It constitutes a discrepancy with Article 104 of the Satversme of the Republic of Latvia which establishes that *everyone has the right to address submissions to State or local government institutions and to receive a materially responsive reply.*
After the entry into force of these norms the Office has received several written and oral complaints that the applications of individuals in foreign languages are not reviewed and as a result the individuals have not had the possibility to protect their rights and obtain information from state and local authorities. Several representatives of state institutions who consider that this amounts to a restriction on the rights of the persons requesting information, have asked the opinion of the Office on this issue. The right to information is particularly limited for persons who do not speak Latvian and who are in penitentiary institutions, since they do not have the material means to pay for a translation. In a situation when a large part of the population have not mastered the state language and cannot afford to pay for private translations it would

be advisable that the state establishes an institution of interpreters that would translate in such cases. This would allow to introduce uniform fees for translations and introduce discounts for low-income persons.

Setting the necessary state language proficiency degree

With respect to *the Regulations on the Proficiency Degree in the State Language Required for the Performance of the Professional an Positional Duties and on the Procedure of Language Proficiency Tests* and Appendix 1 to these Regulations *Breakdown of Positions and Professions According to the Necessary State Language Proficiency Level and Degree* the Office indicated that by these normative acts the state would interfere too much in the private sphere by regulating and setting demands on employees of private enterprises.

The Office considered that it would be disproportionate if the Regulations would delegate responsibility to the employer because she/he would have to *determine the level and degree of the state language proficiency necessary for employees to fulfill the duties of their professions or positions* (Article 6) and *she/he would be responsible for using the state language in compliance with the requirements of the Regulations* (Article 8). In order to ensure the proportionality and to prevent fining on the basis of subjective evaluation, the Office recommended that criteria be elaborated (similar to Appendix 1) which the private employer could take into account when requiring state language proficiency from the employees.

The Office supported the transition to a six level state language proficiency system as it allows to evaluate knowledge more precisely and allows the applicant to apply for a higher degree sooner as she/he improves the knowledge of the language. At the same time the Office advised that it would be preferable not to list particular professions for which state language proficiency at a certain degree is necessary, whenever possible, but to establish the area of activity, level of professional activity, relation to the public sphere and to legitimate public interest.

At the recommendations of the OSCE experts and the suggestions of the Office it was decided to elaborate a separate list determining proficiency degrees for employees in the private sphere. A representative of the Office took part in the Working Group which drafted the list for private sphere.

When elaborating the list emphasis was laid on balancing the freedom of employees in the private sphere and the legitimate public interests. It was envisaged that *employees of private institutions, organizations and enterprises (or companies) who have direct contacts with consumers in their work, must ensure to the consumers the possibility to receive comprehensive and general information about the goods or services provided. The employer is responsible, in conformity with the existing legislation, to ensure that the employees know the security information that is necessary for the fulfillment of their professional or positional duties.* As a result the regulation in the public and private spheres differs, which may restrict the employees and the employers in the private sphere.

RIGHTS OF THE DISABLED

Article 91 of the Satversme of the Republic of Latvia
UN Model Rules on Equal Opportunities for the Disabled
Law of the Republic of Latvia "On Social and Medical Protection of the Disabled"
Concept Document accepted by the Cabinet of Ministers of the Republic of Latvia "Equal Opportunities for All"

The disabled are one of the socially less protected groups, and the state has to pay special attention to the protection of their social and economical rights. In Latvia *the Law On Social and Medical Protection of the Disabled* protects the social rights of this group. The Office has received applications from the disabled regarding possible violations of rights in such spheres as rights to the social security and recognition of the status of the disabled. In 2000 the number of written applications of the disabled in penitentiary institutions (these applications and the related issues are examined in the chapter "Right to Social Security" of this report) received by the Office has increased.
In 2000 the continuous and comprehensive cooperation of the Office with non-governmental organizations of the disabled continued. During the year the representatives of the Office have taken part in several activities of the non-governmental organizations; the implementation of general principles of non-discrimination of the disabled was the aim of these activities. In the project *"Facilitation of Partnership in Ensuring Accessible Environment"* guidelines for the accessibility of the environment for the disabled were developed; a round-table discussion *"Participation of Persons with Special Needs in the Elections"* was held in the Office; analysis of the legislation *"Human Rights of the Disabled"* was conducted.
The research allows to conclude that during the year the situation with the rights of the disabled has improved – the newly-built and renovated public buildings are accessible to the disabled in accordance with *the Law on Social and Medical Protection of the Disabled*. The renovated building of the State Art Museum could serve as a positive example. After the reconstruction it is accessible to the disabled visitors. The issues mentioned in the applications of the disabled on the rights to social security received by the Office amount to separate cases of violations, not a common phenomenon. The situation of the disabled in imprisonment is an exception; there violations are common and the decisions at the level of the Ministry of Justice are necessary to eliminate them.

Disabled-friendly environment

The international disabled organization "Disabled People International" had proclaimed the year 2000 as the Year of Accessibility for the Disabled. The term *"accessibility for the disabled"* means both the physical accessibility for the disabled, e.g., to possibility to get into buildings, and the possibilities to gain education, to work, to establish a family and the opportunity to contribute to the society as full

members. Accessibility guarantees equal rights for all members of the society, therefore it is very important to enforce it in the practical life.
During one year the Association of the disabled and their friends "Apeirons" in collaboration with the UN Development Program in Latvia, Soros Foundation and the Information Office of the Council of Ministers of the Nordic Countries implemented the project *"Facilitation of Partnership in Ensuring Accessible Environment"*. The main idea of the project was establishment of partnership among different interested and responsible parties. The attention was focused on the employees of the state administration bodies, whose direct responsibilities include ensuring accessibility of environment, and on the private sector – architects, whose projects often are determinant in the ensuring the accessibility, and business people who are the potential clients wishing to erect buildings. An Action Committee of the project was established, and the Office took part in its work. The task of the Action Committee was to work out the strategic guidelines of the development of surrounding environment, friendly to the disabled.

On 15-16 June 2000 in the framework of the project the conference *"Accessibility for Everyone"* took place. The aim of the conference was to strengthen the existing partnerships and to find new ways how to facilitate development of the accessible environment in Latvia. On 30 August the conference *"Accessibility of Surrounding Environment"* was organized in cooperation with the State Building Inspection. At the conference all the Chief Architects and representatives of the Building Inspection of Latvia were introduced to the accessibility issues and possible solutions. The conference put a great emphasis on the development of deeper understanding on the importance of the accessibility for the disabled. In cooperation with the Welfare Department of the Riga City Council a round-table discussion was organized with the aim to understand the importance of accessibility in the solution of social issues.

A Subcommittee on the Accessibility Standards of the Building Environment has been established at the Ministry for Environmental Protection and Regional Development whose task is to study and implement the accessibility standards of the Member States of the European Union.

Accessibility of information for the disabled with communication difficulties
Information accessibility is one of the manifestations of accessibility; information should be presented in a way accessible for different groups of the disabled with communication difficulties because of a disease. The people with problems with mental health, people who are functional illiterates and elderly people who are not able to perceive information fully, belong to this group. The state is responsible that also these groups of population would be guaranteed voting rights; that they could understand the voting procedures and could adequately realize their will in the elections. When the municipal elections approached, the issue of ensuring the voting rights in the neurological care centers became topical; primarily the residents of the centers are mentally capable people who have difficulties with adequate perception of information because of the state of their mental health. The Satversme declares that

every citizen of Latvia has the right, as provided for by law, to participate in the activities of the State and of local government, and to hold a position in the civil service. The voting rights may be restricted only in cases prescribed by law; for instance, persons recognized as incapacitated, have no voting right.

Only a small portion of the residents of the neurological care centers – approximately 20% - are recognized as incapacitated; therefore for most residents the realization of the voting rights must be ensured. How advisedly and well-motivated is the participation of these people in the elections? What issues do the employees of the care centers encounter? These issues were discussed at he round-table discussion *"Participation of People with Special Needs in the Elections"*, which the Office organized on 15 November. Representatives of the Central Election Commission, Ministry of Education, Care Centers and Easy Language Agency took part in the discussion. It was clarified in the discussion that people with problems of mental health are can easily impressed; the social workers of the Center provide help to make a choice and receive information on the elections but the number of the workers is insufficient. The Easy Language Agency offered an alternative possibility to receive accessible information on the elections (*What does elections mean? How to vote?*). The Easy Language Agency with the help of the Soros Foundation has published a booklet on elections in the easy language. The Chairman of the Central Election Commission was interested in the project and offered further cooperation with the Easy Language Agency. The participants of the discussion came to a common conclusion that the residents of the care centers should receive as much accessible information as possible in a language they understand, in order to motivate them to participate in the elections; if they do participate, participation in the elections may be regarded as well-informed.

Research "Human Rights of the Disabled"

In cooperation with the non-governmental organization "Apeirons", the Office analysed legislation for the research *"Human Rights of the Disabled"*. Analysis made in the framework of the research allows to conclude that there are normative acts in each of the relevant areas (right to work, right to social security, right to education, right to receive physical and mental health care, right to marriage and family creation, right to form independent associations, right to freedom of expression and right to participate in running of public affairs, right to vote and right to be elected). These normative acts meet both the requirements of the international human rights norms and the real human needs although it is not always possible fully implement the legislation requirements. The most critical issue is the lack of the implementation and supervision mechanisms.

It is essential to ensure accessibility of the normative acts and adequate interpretation of these at the level of local municipalities. The responsible institutions and officials are not always informed about the most recent normative documents; consequently their provisions are not met.

The survey of the disabled persons led to several conclusions:

1. The people are interested in the processes of society.

2. The disabled people themselves are not always ready to participate in the processes of integration.
3. Though the rights of the disabled are protected in different legal, the disabled often do not know the mechanisms and procedures of the responsible institutions.
4. The trust in non-governmental organizations; whose aim is to advocate the interests of a specific target audience constantly grows. People who are involved in NGO activities, have more possibilities of improvement of their situation and growing capacity in the social sphere at the local level.
5. If people actively pay attention to the implementation mechanisms of their human rights the level of responsibility of the state and municipalities raises.

The qualitative methods of the survey allowed to understand that the disabled have deeply rooted mistrust in the implementation of the state and municipal decisions in the real life. Dialogue is the only means how to satisfy the needs of the disabled with optimal use of resources. Projects of non-governmental organizations cannot always improve the situation in this sphere because a long-term strategy for the development and implementation of different projects has not been elaborated yet. The Concept Document *"Equal Opportunities for Everyone"*, accepted by the Cabinet of Ministers on 30 June 1998 envisages cooperation of the state authorities and non-governmental organizations but there is no corresponding state financed program for its implementation.
In order to acquire comprehensive information on the situation of the disabled in the country it would be necessary not only to survey the disabled but to study the activities of the state, municipalities and non-governmental organizations and run comparative research on the needs of the disabled and possibilities to realize them democratically in the framework of the civil society.

This is the first research in Latvia based on *the UN Model Rules on Equal Opportunities for the Disabled* in which seven of the rules were examined. In the future deeper research of the other rules and preparation of a separate report on realization of these *Model Rules* in Latvia would be necessary.

SOCIOLOGICAL SURVEY *HUMAN RIGHTS*

In December 1999 and January 2000 the Office commissioned a sociological survey *Human Rights* from the market and social research center *Baltic Data House* (BDH). The Survey covered seven questions regarding the attitude of the residents of Latvia to the protection of human rights and the activities of the Office. This is the third survey of this kind that the Office has run in cooperation with the BDH. The Survey provides the picture that allows the Office to evaluate its work, priorities and whether these priorities correspond to the opinion of the people. The Survey provides a good basis for argumentation in various debates, it is a useful tool for the users of the Information and Documentation Center of the Office.

When evaluating the work of the Office, 2% of the respondents evaluated it very positively, 41% - mostly positively, 15% - mostly negatively and 3% - very negatively. When evaluation the activities of the Office in particular areas, the most positive evaluation (63%) was given to the Office's work in the area of protecting the freedom of religion. During the last year the Office had on several occasions voiced its opinion in defense of the right to refuse from military service on grounds of religious convictions - the Office had reviewed and successfully resolved several applications, had prepared an opinion for a court, and had submitted its proposals for the amendments to *the Law on the Compulsory Military Service* to the Saeima Human Rights and Public Affairs Commission. This area of work remained a priority in 2000 - the Office continued to receive calls from religious organizations to review the procedure for activities of religious organizations set in *the Law on Religious Organizations*, and to evaluate the possible unlawful restrictions on the activities of these organizations.
The other areas of the Office's activities which have received the most positive evaluation are the protection of the rights of the child (59%), protection of the rights of the disabled (54%), protection of the rights of refugees (53%) and the review of the first claim submitted by the Office to the Satversme (Constitutional) Court (50%).

Along with an evaluation of the work of the Office, the respondents were asked to evaluate the human rights situation in the country, the causes of problems and to propose suggestions for solving human rights issues. Among the priority issues to be dealt with first, the respondents mentioned ensuring social guarantees (47%), right to work, just and fair work conditions (41%) and the right to education (34%). Article 109 of *the Satversme* establishes that everyone has the right to social security in old age, for work disability, for unemployment and in other cases as provided by law. To guarantee the implementation of these rights a number of legal acts have been adopted. The most important laws in this area are *the Law on Social Security, the Law on Social Assistance, the Law on State Pensions, the Law on State Social Security, and the Law on State and Municipal Support for Solving Housing Issues*. Along with review of applications regarding violations of rights to social security, the Office has participated in the public debate on the envisaged changes to *the Law on Pensions*.

The Office submitted its opinion to the Saeima and to President. Although the Saeima repeatedly adopted amendments to *the Law on Pensions*, the Office has not changed its critical opinion that the law restricts the rights of the people to social security.

There are some alarming elements in the responses of the respondents regarding the possible solutions to the human rights issues – a relatively small number of respondents sees the possible solution through participation in a non-governmental organization (4%) or volunteer work (3%). The idea of supporting a political party which stresses the particular human rights issue is slightly more popular, while the majority of the respondents consider that the best solution to the human rights problems would be increased financing from the state budget (69%). The survey does not specify, however, if the supporters of this solution would also favor a corresponding tax increase. A similar negative trend can be seen in the responses regarding what have the individuals done to deal with a violation of their human rights – 78% of the respondents have not sought any assistance; the most popular active choices – applying to the municipality or court – has been used by only 7% of the respondents. The inactivity in countering human rights violations the respondents have explained by reasons such as lack of trust in the corresponding institutions (38%) or are unable to explain the reason for inactivity (30%). When replying to this question, the respondents had the following other options – "the conflict was insignificant", "I did not have the money to pay for court procedures", "I did not have the time".

The Survey showed that 45% of the respondents are not satisfied with the human rights situation in the country. The Survey also clarifies the opinion of the people about the reasons why human rights are insufficiently protected, establishes the professional and social groups which need human rights education, finds whether the human rights of the respondents have been violated during the past three years, and the areas of violations.

ADVISORY COUNCIL OF THE NATIONAL HUMAN RIGHTS OFFICE

The Advisory Council was established on 23 March, 1999 and continued its work in 2000. The Advisory Council works as an permanent forum; the organizations represented on the Council evaluate the Office's work and provide their recommendations and agree to cooperate within the Advisory Council for reaching particular objectives. On 21 March, 2000 Mr. Juris Radzevičs, the representative of the Latvian Free Trade Unions Association was elected the Chairperson of the Advisory Council.

The Advisory Council has at its meetings reviewed several human rights issues where the opinion of the experts sitting on the Council was necessary to assess the situation and to provide advice on the possible solutions. In 2000 the Working Group on the Rights of the Child of the Advisory Council continued its work; on 21 March the Working Group submitted to the Advisory Council the Final Report on the activities of the Working Group. From July 1999 to March 2000 the Working Group was investigating the substance of claims of illegalities in the process of adoption to abroad that had been widely publicized in the press.
During the year the members of the Advisory Council on two occasions sent joint letters to the top Latvian officials about particular aspects of human rights situation. In June the Advisory Council wrote a letter to Mr. Antons Seiksts, Head of the Saeima Human Rights and Public Affairs Commission with a request to propose to the Government to rescind the status of confidentiality to the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment on Latvia. The other letter of the Advisory Council was submitted to the Mr. Andris Bērziņš, Prime Minister. The Advisory Council asked the Prime Minister to solve the issue of violations related to the right to a fair and public trial and to increase funding for attorneys who have to ensure the defense in cases where a state-financed attorney must be provided to the suspect, the accused or the defendant.

The Advisory Council has reviewed the following issues in 2000:

- March 21 – the Report of the Working Group on the Rights of the Child of the Advisory Council;
- April 18 – legalization of non-citizens,
- May 25 – the implementation of the recommendations contained in the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment on Latvia, issues related to the system of Population Register;
- June 9 – upholding human rights standards in mass media reports on criminal crimes;
- June 28 – protection of data of physical persons;

- July 27 – draft Cabinet of Ministers Regulations implementing *the State Language Law*;
- October 11 – review of civil and criminal cases without undue delay, restrictions on the rights of arrested persons, financing of attorneys, when fulfilling the duty to provide legal assistance financed by state.

All issues reviewed by the Advisory Council experts have been important for improving the quality of work of the Office – both for the review of individual applications and for the analytical research conducted by the lawyers of the Office and the recommendations to the state bodies on upholding human rights standards. The work of the Advisory Council has improved the exchange of information among experts and organizations working in one area. The agenda of the Advisory Council is formed by its members.

In 2000 the permanent members of the Advisory Council have been representatives from the following institutions – Senate of the Supreme Court, Pardons Service of the President, the Saeima Human Rights and Public Affairs Commission, Office of Prosecutor's General, Appeals Council of Refugees Issues of the Ministry of Justice, Union of Latvia's Local Governments, Institute of Human Rights of the University of Latvia, Latvian Free Trade Unions Association, NGO Center, Latvian Center for Human Rights and Ethnic Studies, Latvian Human Rights Committee, Latvian National Committee of the UNICEF, Latvian UN Association, OSCE, UNDP, Baltic office of the UNHCR and mass media.

STATISTICS ON THE APPLICATIONS OF THE RESIDENTS OF LATVIA TO THE NATIONAL HUMAN RIGHTS OFFICE IN 2000

	Written applications					**Oral consul-tations** in 2000
Subject	Received in 2000	Solved in 2000	Refused in 2000	Closed with a recommendation in 2000	Under review 31.12.	
		/including applications received during the previous period/				
1. Right to be recognized as person before the law:						
A. Legalization of non-citizens;	30	6	10	12	17	255
B. Rights of foreigners.	17	5	4	25	5	66
C. Determining the status of refugee or asylum seeker;	2	1	-	6	1	33
D. Passport issues	12	2	3	4	3	62
E. Right to freedom of movement	2	-	1	1	-	31
2.Rights of the child	28	6	4	6	15	283
3. Right to humane treatment and respect for human dignity:						
A. In penitentiary institutions;	47	1	3	38	28	81
B. In psychoneurological hospitals;	5	2	-	6	-	44
C. In rest-homes and wards;	1	-	-	-	2	37
D. In institutions of law and order.	12	2	1	1	8	100
4. Right to nondiscrimination	1	2	1	1	2	60
5. Right to liberty, security and inviolability of person	40	-	16	26	17	49
A. In police institutions	19	2	2	15	6	154
6. Right to a fair and public trial within a reasonable time	94	2	5	82	32	230
7. Right to freedom of thought, conscience and religion	10	1	-	3	6	34
8. Right to a review of an application and right to receive a materially responsive reply from state institutions	10	5	4	5	4	160
9. Right to receive and impart information	1	1	3	1	2	67
10. Right to social security:						
A. Granting of pensions and benefits;	49	4	7	32	13	220
B. Social guarantees	67	14	6	34	16	287
11. Right to work and to just and fair work conditions	38	5	4	20	11	325

12. Right to property	52	3	20	15	26	253
13. Right to housing: **A.** Registration at the place of residence; **B.** Eviction from apartments; **C.** Rights of ex-convicts; **D.** Granting apartments; **E.** Other issues	 4 23 17 15 86	 1 1 1 2 6	 8 7 1 3 28	 4 14 17 2 57	 5 27 10 7 69	 170 377 139 185 251
14. Right to healthy environment	7	-	1	5	4	30
15. Requests for opinion	15	2	-	3	9	36
16. Politically repressed	3	-	-	1	2	48
17. Miscellaneous **17 A** Applications with unclear content	104 5	14 -	37 1	40 1	73 4	224 41
Total	**816**	**91**	**183**	**476**	**424**	**4347**

STAFF OF THE NATIONAL HUMAN RIGHTS OFFICE

In 2000 the staff of the Office consisted of:

Director of the National Human Rights Office - Olafs Brūvers
Deputy Director - Sandra Vilcāne
Assistant to Director for Documentation - Evija Zepa
Assistant to Director for Administrative Matters - Alda Bļodone
Accountant - Vanda Saulīte

Complaints Department:
Lawyers –
Lolita Andersone
Ineta Vaivare
Dace Bunka
Rolands Beļevičs
Zeltīte Kurzemniece
Santa Jansone

Information and Analysis Department:
Lawyers –
Līga Biksiniece
Jānis Butkevičs
Sarmīte Biļēviča
Head of the Information and Documentation Center - Inga Misiņa
Project Coordinator - Andris Paparinskis

VALSTS CILVĒKTIESĪBU BIROJS
Elizabetes iela 65-12, Rīga LV 1050; tel. 7287210; Fax: 7244074; e-mail: vcb@vcb.lv