

Rights of People with Intellectual Disabilities

Access to Education and Employment

Latvia

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Preface

The **EU Monitoring and Advocacy Program (EUMAP)** of the Open Society Institute monitors human rights and rule of law issues throughout Europe, jointly with local NGOs and civil society organisations. EUMAP reports emphasise the importance of civil society monitoring and encourage a direct dialogue between governmental and non-governmental actors on issues related to human rights and the rule of law. In addition to its reports on the Rights of People with Intellectual Disabilities, EUMAP has released monitoring reports focusing on Minority Protection, Judicial Independence and Capacity, Corruption and Anti-corruption Policy, and Equal Opportunities for Women and Men. Reports on the Regulation and Independence of the Broadcast Media are also forthcoming in 2005. EUMAP is currently preparing reports on Equal Access to Quality Education for Roma; publication is expected in 2006.

EUMAP reports are elaborated by independent experts from the countries being monitored. They are intended to highlight the significance of human rights issues and the key role of civil society in promoting governmental compliance with human rights standards throughout an expanding Europe. All EUMAP reports include detailed recommendations targeted at the national and international levels. Directed at Governments, international organizations and other stakeholders, the recommendations aim to ensure that the report findings directly impact on policy in the areas being monitored.

The present reports have been prepared in collaboration with the **Open Society Mental Health Initiative (MHI)**, part of OSI's Public Health Programs. MHI seeks to ensure that people with mental disabilities (mental health problems and/or intellectual disabilities) are able to live as equal citizens in the community and to participate in society with full respect for their human rights. MHI promotes the social inclusion of people with mental disabilities by supporting the development of community-based alternatives to institutionalisation and by actively engaging in policy-based advocacy.

Throughout Europe people with intellectual disabilities still face serious stigma, prejudice and significant barriers to realising their fundamental human rights. Discrimination against people with intellectual disabilities is deeply rooted and widespread, standing in the way of positive change. Providing real access to education and employment for people with intellectual disabilities is key to ensuring their social inclusion, and enabling them to live and work in the community as equal citizens. The EUMAP reports focus specifically on these two areas because of their importance to people with intellectual disabilities and because of the existence of international standards, and national law and policy, relating to these areas.

Monitoring of the rights of people with intellectual disabilities was based on a detailed methodology (available at www.eumap.org), intended to ensure a comparative approach

across the countries monitored. The reports cover the eight Central and Eastern European (CEE) countries that joined the EU in May 2004 (the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, and Slovenia), Bulgaria and Romania, expected to join in 2007, one candidate country (Croatia), and three older EU member States (Greece, the Netherlands, and the United Kingdom).

The preparation of reports on both member and non-member States highlights the fact that international human rights standards apply equally, and provides an opportunity to comment on general trends in the development and the policy application of these standards. The States selected represent a geographical spread and illustrate a spectrum of policy, practice and implementation.

Reports on each of the 14 countries monitored, plus an overview report resuming the main findings across all the countries, will be published separately. First drafts of each of the country reports were reviewed at national roundtable meetings. These were organised in order to invite comments on the draft from Government officials, civil society organisations, self-advocates, parents, and international organisations. The final report reproduced in this volume underwent significant revision based on the comments and critique received during this process. EUMAP assumes full responsibility for its final content.

Foreword

This report is one of a series of 14 country reports prepared by the Open Society Institute's EU Monitoring and Advocacy Program and the Open Society Mental Health Initiative. The report presents an overview of the opportunities and challenges facing people with intellectual disabilities in accessing education and employment. It provides an important contribution to research on this group, one of the most vulnerable groups throughout Europe.

The initiative of producing this report fulfils important objectives. There is a clear need for comprehensive studies based on reliable research about the situation of people with intellectual disabilities in Europe. Without reliable information, the strategies and policies targeting this particular group of people are often inadequate in terms of meeting their real needs. The monitoring underlying the reports also aims to provide a comparative overview on the countries analysed. The present report goes far beyond previous reports that have brought this issue to the attention of European and national decision-makers.

Presenting a wider picture, this series of reports provides a thorough analysis of the situation of people with intellectual disabilities in their access to education and employment in eight new EU Member States (Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia), two accession countries (Bulgaria and Romania) and one candidate country (Croatia). To give a broader view of practice across Europe, Greece, the Netherlands and the United Kingdom have also been studied. The conclusions of the series of reports indicate that people with intellectual disabilities in Europe continue to face significant barriers as far as real access to education and employment is concerned. Discrimination also remains a major issue, despite measures taken at the national level and within a larger European context.

The reports also stand for the importance of civil society monitoring and the overall involvement of different stakeholders in dialogue regarding the human rights of people with intellectual disabilities. A local expert in each country prepared the monitoring report, while local NGOs were involved throughout the monitoring process, providing the basis for broad consultation wherever possible. A central goal of this monitoring is to promote greater awareness and discussion of the issues at stake for people with intellectual disabilities at the local, national, and international levels.

Across the countries monitored, common problems continue to block access to education and employment for people with intellectual disabilities. In many countries, data on the situation of this group is extremely limited or insufficiently disaggregated, making it difficult for Governments to develop policy tailored to their needs. What data there is, shows that while integration of children with intellectual disabilities in mainstream schools is generally increasing, a more fundamental process towards

inclusion, as presented in the 1994 Salamanca Declaration on Special Needs Education, has made little headway. Many children throughout the region are still segregated in special schools or denied an education altogether, leaving little hope that they will be able to find jobs as adults. In most countries monitored, there is only the most basic support for the transition from education to employment.

Existing incentive schemes in many countries, particularly hiring quotas, have not been successful in increasing the number of people with intellectual disabilities who have entered the work force. More specifically targeted programmes must be developed to meet the needs of this group. Throughout Europe, NGOs have piloted effective projects offering supported employment to people with intellectual disabilities, providing assistance such as job coaches, specialised job training and individually tailored supervision. However, this approach has not yet been adopted as Government policy and therefore the opportunities it offers cannot be extended to a much larger group of people.

The reports highlight numerous obstacles that people with intellectual disabilities face in accessing education and employment in various countries across Europe. Improved legislation still needs to be adopted and implemented nationally as well as at the EU level. Existing models of good practice in inclusive education and supported employment should be replicated on a more extensive scale. These reports should help domestic and European decision-makers to develop effective policies ensuring the inclusion of people with intellectual disabilities into society.

From the perspective of Inclusion Europe, the European Association of People with Intellectual Disabilities and their Families, this report makes a very important contribution to the present discussion on access to education and employment for people with intellectual disabilities. We only can encourage local, national and European decision-makers, service providers and disability and social NGOs to consider and follow the recommendations developed in this report.

Geert Freyhoff

Director
Inclusion Europe

I. Executive Summary and Recommendations

1. EXECUTIVE SUMMARY

Throughout Europe people with intellectual disabilities¹ face major stigma and prejudice and are confronted with significant barriers to realising their fundamental human rights. Discrimination against people with intellectual disabilities is deeply rooted and widespread, standing in the way of positive change. Providing real access to education and employment for people with intellectual disabilities is critical to ensuring that they can live and work in the community as equal citizens. There is a strong link between education and employment: without access to adequate education, people with intellectual disabilities cannot secure meaningful employment. This denial of access leads to life-long dependency, poverty and social exclusion, adding to the stigma of intellectual disability. This monitoring report focuses specifically on the areas of education and employment, because of their importance to people with intellectual disabilities, and because of the existence of both international standards and national legislation that specifically address them.

For people with intellectual disabilities in Latvia, access to inclusive education or any kind of employment remains highly limited. There is an increasing awareness of the need to improve the social inclusion of people with disabilities in Latvia, and the European Union (EU) accession process has encouraged many positive changes in terms of legislation and policy. However, while the number of children with all levels of intellectual disabilities in the education system is increasing, too few are able to receive education in an integrated environment. Most young people with intellectual disabilities do not receive the education or vocational training that they need to later gain access to employment, and the vast majority of people with intellectual disabilities are reliant on social benefits. To date, the Government has not adequately addressed the specific needs of people with intellectual disabilities in the labour market. There is no definition of supported employment² in existing legislation, and almost no provision of supported employment services for people with intellectual disabilities.

¹ The term “intellectual disability” (also described as “learning disability” or “mental retardation”) here refers to a life-long condition, usually one present from birth or one that develops before the age of 18. It is a permanent condition that is characterised by significantly lower than average intellectual ability and results in significant functional limitations in intellectual functioning and in adaptive behaviour as expressed in conceptual, social and practical adaptive skills.

² Supported employment is an employment option that facilitates competitive work in integrated work settings for people with disabilities. It provides assistance such as job coaches, transportation, assistive technology, specialised job training and individually tailored supervision.

Background

Latvia is party to most international human rights instruments, including those with provisions on people with disabilities, but has yet to sign and ratify the Revised European Social Charter. Latvia has also not ratified Protocol No. 12 to the European Convention on Human Rights and Fundamental Freedoms (ECHR) or the ILO Convention concerning Vocational Rehabilitation and Employment 1983 (No. 159).

Although the Latvian Constitution forbids discrimination, it does not specify the grounds on which discrimination is prohibited. In order to comply with EU directives, a comprehensive anti-discrimination law – the draft Law on the Prevention of Discrimination – was prepared by the Government. However, although this draft law passed its first reading in Parliament, it was subsequently abandoned, in June 2005, on the grounds of its poor legal quality. Instead, a number of existing laws will be amended in order to transpose EU anti-discrimination provisions, in particular the EU Race Equality Directive and EU Employment Directive, into national legislation. The Law on the Protection of the Rights of the Child (hereafter Child Rights Law) includes a chapter on the rights of children with special needs. The most important general law addressing the rights of people with disabilities is the Law on the Medical and Social Protection of Disabled Persons (hereafter, Law on People with Disabilities). The National Human Rights Office (NHRO), an ombudsman-like institution, currently receives and analyses complaints concerning discrimination, including any with respect to people with disabilities, but its recommendations are not enforceable. However, there has been an ongoing discussion as to whether or not Latvia needs an Ombudsman and in June 2005, the Law on the Office of the Ombudsmen passed its first reading in Parliament. According to the law, the NHRO will in future be reorganised and developed into a new Ombudsman's office, taking on additional functions.

The term “intellectual disability” is not used in Latvian legislation. The terms “mental retardation” and “persons with disorders of a mental nature” are the most widely used terms (although the latter is not defined in legislation, and there is no clear policy on whether it may also include people with mental health problems). More recent legislation increasingly uses the broader term “person with special needs”. There are different procedures for the assessment of intellectual disabilities for educational purposes (for children), for employment purposes (for adults), and for access to social benefits (for adults and children). For educational purposes, the assessment of the level of abilities of a child with intellectual disabilities is made by the State and Municipal Medical Pedagogical Commissions. It is based on diagnoses established by certified psychiatrists, who use the World Health Organization's ICD-10 as a reference. The State Medical Commission for Determining Health Condition and Working Ability (hereafter, State Medical Commission) carries out assessments of intellectual disability for employment purposes and for access to social benefits.

At the age of 18, adults with intellectual disabilities may be declared “lacking the capacity to act” and placed under trusteeship by the courts. However, this happens

relatively infrequently, mostly for people with *severe* intellectual disabilities. In law, the civil rights of a person under trusteeship are equivalent to those of a minor under guardianship. The Civil Law does not provide for the right to work of people with intellectual disabilities. However, a person with intellectual disabilities who is under trusteeship should retain the right to work, provided that his or her trustee signs the employment contract. As there have been no cases reported of people with intellectual disabilities who are under trusteeship working, it is difficult to establish if this is the case in practice. There is currently a shortage of suitable trustees for people with intellectual disabilities in residential institutions, which means that some have been unable to gain access to their social benefits. To address this situation, Riga City Council now provides a small monthly allowance to cover some of the costs associated with the trustee's responsibilities. The procedure for determining trusteeship is regulated by the Civil Law of 1937, in which the terminology used to describe people with mental disabilities is archaic and offensive.

In Latvia, there is no unified system of data collection on people with intellectual disabilities, and various official sources offer differing data. The most reliable source of data is the Mental Health State Agency (prior to 2004, called the Mental Health Care Centre), according to which, in 2003, there were 14,281 people with intellectual disabilities in Latvia, including 5,547 children and young people under the age of 18. The Ministry of Education maintains data on the number of children with intellectual disabilities in the education system. The process of deinstitutionalisation has been slow in Latvia. In 2004, there were 842 children with intellectual disabilities in State institutional care, and in private and NGO-run children's homes. For adults with mental disabilities, there is a lack of community-based alternatives to institutional care. In 2004, there were nearly 2,000 adults with intellectual disabilities in specialised State social care homes for adults with mental disabilities, and for the elderly. There were also a number of people with intellectual disabilities in eight psychiatric hospitals that also provide long-term care for patients.

Access to education

The Latvian Constitution guarantees the right to education. It is supplemented by the Child Rights Law, the Education Law and the Law on General Education. Latvian legislation provides for the right to education of children with intellectual disabilities, and addresses the provision of special education in both mainstream and special schools. Children with intellectual disabilities may attend a mainstream school if the school has the necessary provisions suitable for children with special needs, and if it offers a licensed special educational programme. However, the law does not provide for their right to attend a mainstream school that does not have a licensed special educational programme.

In Latvia, there is no national policy on the provision of early intervention services for children with intellectual disabilities under the age of six; the Government does not provide any early intervention services and has not allocated any funds towards making

such services available. One model that could be used for developing a clear Government policy in this area is the early intervention programme carried out by the Latvian Portage Association, an NGO. This programme offers a model of good practice that could be replicated at the national level given adequate State funding and support.

For educational purposes, the State and Municipal Medical Pedagogical Commissions assess children with intellectual disabilities with one of three levels of intellectual disabilities: A (*mild* intellectual disabilities), B (*moderate* intellectual disabilities) or C (*severe* intellectual disabilities). On the basis of this assessment, the Commissions then suggest the special educational programme that the child with intellectual disabilities should follow. Parental choice should be respected as regards the selection of the school that a child should attend. Based on the suggestion of the Commission, and in collaboration with the parents, the District Education Board recommends a local school providing the type of educational programme suggested by the Commission. If the parents do not agree to their child's attending a special school, they should be able to enrol their child in a mainstream school. Nonetheless, if that school does not have the recommended licensed special educational programme, their child may not receive the support needed to achieve his or her full potential.

At present, the integration into mainstream schools of children with special educational needs (in general) is not widespread in Latvia, although the Government is developing policy aimed at encouraging further integration. The 1998 "Equal Opportunities for All Concept" foresees the development of State and regional programmes to promote the early integration of children with intellectual disabilities into mainstream schools. However, as yet many of the education goals outlined in the Concept are yet to be implemented. The "Education Development Concept for 2002–2005" aims to reform the education system, in order to promote the integration of people with special needs into general, professional, higher and special education programmes. Supported by the Nordic Council, Latvia has increased the teaching level of its special educators and established greater cooperation between universities, special and mainstream schools and special and vocational training schools.

In Latvia, schools are responsible for developing the special educational curricula for students with special needs, which must be licensed by the Ministry of Education and harmonised with other programmes of the District Education Board. In addition, special individualised educational programmes are available for children with *severe* intellectual disabilities. The Ministry of Education has defined the level of education required of special educators, who have the opportunity to attend various training courses in addition to basic university education. However, the Ministry does not provide courses free of charge in continuing education for teachers already working in special schools; at present teachers have to pay half of the course costs themselves.

Education for children with intellectual disabilities is provided in mainstream schools (in special classes) and in special schools (day schools and boarding schools). Although there are no legal restrictions preventing children with intellectual disabilities from

being educated in integrated classes in mainstream schools, there are no known instances of this occurring in practice to date. At present, the majority of children with *mild* or *moderate* intellectual disabilities attend special schools; only a few attend mainstream schools. In the past, children with *severe* intellectual disabilities were considered “uneducable” or only received home schooling; however, an increasing number are now able to attend special schools.

The Ministry of Education and Science maintains detailed statistics on the number of children with special needs in the education system, including children with intellectual disabilities. According to the Ministry, in 2002–2003 there were 281 children with intellectual disabilities attending mainstream school, out of a total of 5,823 children with intellectual disabilities attending any kind of school. In 2003–2004, this figure rose to 322 children (out of a total of 5,662) and in 2004–2005, to 360 (from a total of 5,426). According to the Ministry of Education, 42 mainstream primary schools and 16 mainstream secondary schools have integrated children with intellectual disabilities. The number of integrated children in each school ranges from a minimum of four students, up to 40 students (at Nigrande Primary School) or even 50 students (at Auce Secondary School). A particularly good example is that of Sabile Secondary School, which has integrated a significant number of children with all levels of intellectual disabilities. Such examples need to be replicated more widely, on the national level, if children with intellectual disabilities in Latvia are to gain real access to inclusive education. The lack of assistants for children with special needs is one of the main reasons cited why mainstream schools might not be ready to create special education programmes.

In 2003–2004, there were a total of 5,574 children with intellectual disabilities studying in special schools, mainly in the 43 special schools for children and young people with intellectual disabilities. There are now five special schools in Latvia that have been assigned the status of development centre by the Ministry of Education and Science, and serve as resource centres for mainstream schools. However, very little information is available on the quality of education provided to children with intellectual disabilities in special schools, and there is a need for the Ministry of Education to carry out an evaluation on this subject. A main identified obstacle to the further integration of children with intellectual disabilities is inadequate funding for special classes in mainstream schools. Mainstream schools do not receive an earmarked subsidy from the Government for ensuring the special educational needs of students with disabilities, while children in special schools lose benefits such as free medication, food and transportation if they move to a mainstream school. This acts as a disincentive, and means that there are only a very small number of transfers between special and mainstream schools.

In Latvia, a relatively high number of children with intellectual disabilities still remain outside the educational system. In 2002–2003 over 1,400 children received home schooling, but there is no official data on the number of children with intellectual disabilities included in this total, and nor is there any available information on the

quality of education received by home-schooled children. There is no legislative framework or Government policy for the education of children in residential institutions. In Latvia the process of deinstitutionalisation is very slow, mainly due to a lack of State funding for alternative community care services for people with intellectual disabilities. In 2004, there were around 900 children with intellectual disabilities living in residential institutions (social care homes and orphanages). The Vegi Social Care Home in Talsu District (in collaboration with Sabile Secondary School) has developed good practice in enabling children from the home with all levels of intellectual disabilities to receive integrated education in a mainstream school. In addition, the Ainazi Psychiatric hospital for children (for long-term stay) started to provide education for 35 children from September 2005. However, in the other residential institutions, children have very limited access to any education.

Transition from education to employment

Young people with intellectual disabilities have great difficulty in finding work or employment of any kind after completing compulsory education. The main ways in which students with intellectual disabilities are prepared for the difficult transition from education to employment is through participation in “Life Skills” programmes or vocational training. However, although in principle every special school and mainstream school with a special programme should offer a life skills programme, often schools are unable to fully implement them. Similarly, due to a lack of resources and educators, the majority of special schools are also unable to offer vocational training classes. Those courses that are offered often do not correspond to the needs of the labour market. This means that most young people with intellectual disabilities leave school inadequately prepared for the challenges of leading an independent life. At present there are very limited opportunities or support for people with intellectual disabilities to receive professional rehabilitation, adult education, or life-long education.

Access to employment

The Latvian Constitution provides for equal opportunities in employment for all residents. The Labour Law has been amended to transpose the provisions of the EU Employment Directive into Latvian legislation, apart from specifically including sexual orientation as a prohibited ground for discrimination. However, with respect to the employment of people with intellectual disabilities, there are two important “gaps” in Latvian legislation – there is no definition of supported employment in existing legislation, and only inadequate provisions concerning sheltered employment.

The assessment of disability for employment purposes, carried out by the State Medical Commission for Determining Health Condition and Working Ability and its regional structural units, establishes disability status according to one of three disability groups: I (the most severe), II or III. In 2003, the automatic designation of people in disability groups I and II as “unfit to work” (i.e. with 100 per cent working incapacity) was eliminated, and the Commissions now evaluate the working capacity of people with

disabilities on an individual basis. Nonetheless, it seems that most people with intellectual disabilities are still being assessed as having no working capacity. This is important, in that only people with *some* working capacity can register as unemployed and gain access to the employment services of the State Employment Agency (SEA). In particular, they cannot apply for a subsidised workplace through the SEA, as this service is available only for registered unemployed persons.

The State disability pension is calculated as a function of the designated disability group of the person with disabilities. However, most people with intellectual disabilities have not worked, so are not eligible for this benefit, as a three-year working history is required. They instead rely on the State social security benefit, for which people in all three disability groups are eligible.

In Latvia, there is no quota system for people with disabilities and, as yet, no Government incentives to specifically encourage the employment of people with intellectual disabilities. The main implementing institution for labour market policy is the SEA. The most important way in which unemployed people with disabilities can gain access to employment is through active employment measures provided by the SEA, in particular subsidised employment programmes. However, few people with intellectual disabilities have the necessary training or professional education required for eligibility for such programmes. A Government pilot project on the provision of subsidised workplaces for unemployed people with disabilities, initiated in 2001, has been successful in enabling people with disabilities to subsequently find employment on the open market. However, due to a lack of relevant data, it is impossible to establish if – and, if so, how many – people with intellectual disabilities have been able to benefit from this programme. In future, it would be important that such initiatives collect and maintain data on the types of disabilities of the people with access to the programme or project.

The development of specialised programmes for people with disabilities was recognised as a priority in the “Joint Memorandum on Social Inclusion in Latvia” established between Latvia and the European Commission. Following its accession to the EU, Latvia is now eligible for EU Structural Funds. The Government intends to use these funds for the period 2004–2006 to provide employment opportunities and support for people with disabilities seeking employment. In particular, the EU’s European Regional Development Funds (ERDF) programme will be directed towards vocational training for people with disabilities and, of particular relevance to people with intellectual disabilities, will be used to create “specialised workshops”. To date, three projects have received funding for developing specialised workshops – at Strenči Psychiatric Hospital, in Limbazi District (targeting people with special needs) and in Rezekne (for people with both intellectual disabilities and physical disabilities).

In 2002, there were approximately 700,000 people with disabilities in Latvia, of whom only approximately 10 per cent were working. There are no figures on the specific employment situation of people with intellectual disabilities, but most do not have any kind of work or employment and are reliant on State benefits. Almost none are able to

gain access to employment on the open market. Since 2000, the NGO Rupju Berns has provided the only supported employment programme in Latvia for people with intellectual disabilities, now operating in Riga and Tukums. By 2003, a total of 28 people with intellectual disabilities were employed in supported workplaces through this programme. One of the main employers involved in this project, McDonalds in Latvia, has reported a positive experience in employing people with intellectual disabilities.

In Latvia, sheltered workplaces in the generally understood sense still do not exist. There are instances of good practices from the “specialised workshops” established for people with intellectual disabilities in day centres. However, here the main aim is to provide an “occupation” rather than employment, and so people do not receive any payment for their work. The “social firm” is another example of sheltered employment in Latvia. Social firms receive funding from the SEA to create jobs for small numbers of people with disabilities. However, to date few social firms have been established, and the interest on the part of employers is very low.

2. RECOMMENDATIONS

General recommendations:

International Standards

1. Latvia should sign and ratify the Revised European Social Charter of 1996 and should bind itself to Article 15 of the charter, on the right of persons with disabilities to independence, social integration and participation in the life of the community.
2. Latvia should ratify Protocol No. 12 to the European Convention on Human Rights and Fundamental Freedoms (ECHR).
3. Latvia should ratify the ILO Convention concerning Vocational Rehabilitation and Employment 1983 (No. 159).

Data collection

4. The Government should completely review the system for the collection, regular updating and public dissemination of relevant data on people with disabilities in Latvia in general, and on the specific situation of people with intellectual disabilities.
5. The Government should ensure that, at a minimum, reliable data is collected on the total number of people with intellectual disabilities, their disability group status and their age groups. Discussion should be initiated with the State Medical Commission for Determining Health Condition and Working

Ability on the possibility that the Commission in future be able to provide data for the relevant institutions.

6. The Government should ensure that data collected on people with intellectual disabilities is used as the basis for policy-making and for identifying areas where discrimination against this group occurs.

Guardianship

7. The Government should review the legal basis of trusteeship for adults with intellectual disabilities, and evaluate ways in which those determined by the courts to have limited “capacity to act” would be able to exercise as many of their civil rights as possible, including the right to work. The option of a form of partial guardianship for people with intellectual disabilities, as well as people with mental illness, should be discussed.

Cooperation

8. The Government should strengthen the collaboration among all the relevant ministries addressing the needs of people with disabilities, in particular the Ministry of Welfare, the Ministry of Health and the Ministry of Education and Science.

Deinstitutionalisation

9. The Government should allocate funds and other resources to ensure that community care alternatives to residential care are available throughout the country.
10. The Government should ensure the right of children with intellectual disabilities to grow up in their family by providing more support to families with children who have intellectual disabilities. This support should include advice and counselling, financial support, and access to community-based services.

Recommendations on access to education

Policy

11. The Government should develop a clear policy on improving the access of children with intellectual disabilities to inclusive education, in which they receive education in a mainstream class, along with children without intellectual disabilities.
12. The Ministry of Education and Science should promote the establishment of inclusive kindergartens throughout Latvia that would be accessible to children

with all levels of intellectual disabilities, and provide adequate support and funding.

Funding

13. The Government should include a special budget line at the State level for the inclusion of children with intellectual disabilities in mainstream schools, to cover the various expenses associated with their inclusion, such as teaching materials, classroom adaptations and additional staff.
14. The Government should provide additional funding and support (including training) for teachers in mainstream schools who are working with children with intellectual disabilities.

Early intervention services:

15. The Government should develop a strategy and implementation plan to support the development of early intervention services accessible to children with intellectual disabilities, and their families, throughout the country. The early intervention programme of the Latvian Portage Association, an NGO, should be used as one model for developing early intervention services in every local municipality in Latvia.

Home schooling

16. The Ministry of Education and Science should collect, and regularly update, data on the numbers of children with intellectual disabilities who are presently receiving home schooling, or are not receiving education.
17. The Ministry of Education and Science should develop a clear policy for integrating as many home-schooled children with intellectual disabilities as possible into mainstream schools, while ensuring that those who continue to need to be schooled at home receive high-quality education that addresses their real needs.

Recommendations on transition from education to employment

Vocational training

18. The Government should make vocational training, in a wide range of professions, widely available for people with intellectual disabilities.
19. The Government should initiate an analysis of the labour market, in order to better target the programmes of vocational training offered to young people with intellectual disabilities (in special schools, mainstream schools and vocational schools) towards the needs of the labour market.

20. The Ministry of Education and Science should cooperate with the Ministry of Welfare to develop a strategy for the training and continuing professional support of social workers in local municipalities, to enable them to provide high-quality support services to young people with intellectual disabilities. This training should focus on how to better assist young people with intellectual disabilities in finding a place to live and work and in accessing social benefits.
21. The State Employment Agency should implement vocational training programmes specifically for people with intellectual disabilities, so that they can obtain adequate vocational training to gain access to employment opportunities on the open market.

Recommendations on access to employment

Legislation

22. The Ministry of Welfare should, as a priority, define supported employment in law, and establish the necessary secondary legislation and regulations to ensure implementation of supported employment projects for people with disabilities.
23. The Ministry of Welfare should define sheltered workshops in law, and develop secondary regulations specifying their role and operation. This is particularly important as the Government plans to use EU Structural Funds for creating such workshops. The aim of such workplaces should be to provide training and support for people with intellectual disabilities, to enable them to later gain access to employment on the open market through supported employment. However, it should be specified in law that people working in sheltered workshops should receive a wage or payment for their work.

Active employment measures

24. The Ministry of Welfare should establish tax allowances, subsidies and other incentives specifically for employers who employ people with intellectual disabilities on the open market.

EU Structural Funds

25. The Ministry of Welfare and the Ministry of Health should evaluate the accessibility of projects funded by EU Structural Funds to all groups of people with disabilities. In particular, the ministry should review the accessibility of the rehabilitation services receiving support from EU Structural Funds, to the significant number of people with mental health problems who have not been assigned a designated disability group. At present, by law, only people who

have been assigned a designated disability group are eligible to receive rehabilitation services.

26. The Government should ensure that people with intellectual disabilities are able to benefit from projects funded by EU Structural Funds. In particular, these funds should be used to support projects providing supported employment.

Supported employment

27. The Ministry of Welfare should provide financial support for supported employment agencies throughout Latvia, similar to those already existing in Riga.

II. Country Overview and Background

Latvia is party to most international human rights instruments, including those with provisions on people with disabilities, but has yet to sign and ratify the Revised European Social Charter. Latvia has also not ratified Protocol No. 12 to the European Convention on Human Rights and Fundamental Freedoms (ECHR) or the ILO Convention concerning Vocational Rehabilitation and Employment 1983 (No. 159).

Although the Latvian Constitution forbids discrimination, it does not specify the grounds on which discrimination is prohibited. In order to comply with EU directives, a comprehensive anti-discrimination law – the draft Law on the Prevention of Discrimination – was prepared by the Government. However, although this draft law passed its first reading in Parliament, it was subsequently abandoned, in June 2005, on the grounds of its poor legal quality. Instead, a number of existing laws will be amended in order to transpose EU anti-discrimination provisions, in particular the EU Race Equality Directive and EU Employment Directive, into national legislation. The Law on the Protection of the Rights of the Child (hereafter Child Rights Law) includes a chapter on the rights of children with special needs. The most important general law addressing the rights of people with disabilities is the Law on the Medical and Social Protection of Disabled Persons (hereafter, Law on People with Disabilities). The National Human Rights Office (NHRO), an ombudsman-like institution, currently receives and analyses complaints concerning discrimination, including any with respect to people with disabilities, but its recommendations are not enforceable. However, there has been an ongoing discussion as to whether or not Latvia needs an Ombudsman and in June 2005, the Law on the Office of the Ombudsmen passed its first reading in Parliament. According to the law, the NHRO will in future be reorganised and developed into a new Ombudsman's office, taking on additional functions.

1. LEGAL FRAMEWORK

1.1 International standards and obligations

Following its declaration of independence from the Soviet Union, on 4 May 1990, Latvia has ratified or acceded to most international human rights instruments, including those with provisions on people with disabilities.³ The Law on International Agreements of the Republic of Latvia provides for the pre-eminence of international law over domestic legislation.⁴ Article 13 of the law states that if the international agreement is binding and Latvia provides different provisions of national law, the international agreement shall take precedence and shall be applied.

³ Ineta Ziemele (ed.), *Cilvēktiesības Latvijā un pasaulē (List of international agreements binding for Latvia/Human Rights in Latvia and in the World*, Riga, 2000, SIA ("Izglītības solī"), pp. 333–340.

⁴ Law on International Agreements of the Republic of Latvia of 13 January 1994, LV No. 11 of 26 January 1994.

In 1992, Latvia acceded to the International Covenant on Civil and Political Rights (CCPR),⁵ the International Covenant on Economic, Social and Cultural Rights (CESCR),⁶ and the Convention on the Rights of the Child (CRC).⁷ Article 23 of the CRC states that “children with mental disabilities should enjoy a full and decent life in conditions which ensure dignity, promote self-reliance and facilitate a child’s active participation in the community”. However, in 2001 the Committee on the Rights of the Child expressed concern about the large number of children residing in institutions in Latvia.⁸ The Committee also expressed concern that the integration of children with disabilities into mainstream schools was not moving forward, due to the lack of well-educated special educators. In spring 2004, Latvia again submitted its regular report on its implementation of these recommendations to the Committee.⁹

⁵ International Covenant on Civil and Political Rights (CCPR), 23 March 1976, 999 U.N.T.S. 171, available on the UNHCR website at http://www.unhchr.ch/html/menu3/b/a_ccpr.htm (accessed 5 May 2004).

⁶ International Covenant on Economic, Social and Cultural Rights (CESCR), 3 January 1976, 993 U.N.T.S. 3, available on the UNHCR website at http://www.unhchr.ch/html/menu3/b/a_cescr.htm (accessed 5 May 2004).

⁷ International Convention on the Rights of the Child (CRC), 2 September 1990, 44 U.N. GAOR Supp. (No. 49) at 167, UN Doc. A/44/49 (1989), available at <http://www.unicef.org/crc/crc.htm> (accessed 26 November 2004).

⁸ In 2001, Latvia submitted its first report on its implementation of the CRC to the UN Committee of Children’s Rights. In its concluding comments on this submission, the Committee on the Rights of the Child in Latvia expressed its concern at the high number of children living in institutions (point 29) and encouraged Latvia to develop measures to prevent the institutionalisation of children (point 30). The Committee also expressed its concern that children with disabilities are only granted additional State benefits up to the age of 16 and that children with disabilities living in rural areas do not have access to the same level of services and medicines as children living in other parts of the country. It also noted with concern that the integration of children with disabilities into the normal educational system is problematic, in part due to a lack of specialised teachers (point 37). Committee on the Rights of the Child, Concluding observations of the Committee on the Rights of the Child on Latvia, Twenty-sixth session, 21 February 2001, available at <http://www1.umn.edu/humanrts/crc/latvia2001.html> (accessed 5 June 2004).

⁹ The Representative of the Government of the Republic of Latvia before International Human Rights Organisations, *Latvijas Republikas kārtējais ziņojums par 1989.gada Berna tiesību konvencijas izpildi Latvijas Republikā laika posmā no 2001.gada līdz 2004. gada 1. martam*, available at <http://www.mkparstavis.am.gov.lv/lv/?id=128&parent=20> (accessed 19 July 2005)

Latvia ratified the European Convention on Human Rights and Fundamental Freedoms (ECHR)¹⁰ in 1997 and has signed, but not ratified, Protocol No. 12 to the ECHR.¹¹ In 2002, Latvia ratified the European Social Charter (ESC)¹² of 1961, but is not bound by Article 15, on the “right of physically or mentally disabled persons to vocational training, rehabilitation and social resettlement”. On 1 April 2004 Latvia submitted to the Council of Europe a first report on its implementation of the ESC.¹³ Latvia has not signed or ratified the Revised European Social Charter (RESC).¹⁴

Latvia has ratified five of the eight Fundamental Conventions of the International Labour Organization (ILO).¹⁵ Latvia has ratified the ILO Convention concerning Vocational Guidance and Vocational Training in the Development of Human Resources 1975 (No. 142), but has not ratified the ILO Convention concerning Vocational Rehabilitation and Employment 1983 (No. 159).

1.2 Domestic legislation

After regaining its independence from the Soviet Union in 1990, Latvia renewed its historical Constitution (*Satversme*) of 1922. As the 1922 Constitution did not contain any human rights provisions, in 1998 Parliament (*Saeima*)¹⁶ added a chapter to the

¹⁰ European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), 3 September 1953, E.T.S. 005, available on the COE website at <http://conventions.coe.int/Treaty/en/Treaties/Html/005.htm> (accessed 22 October 2004).

¹¹ Protocol No. 12 to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), not yet entered into force, available on the COE website at <http://conventions.coe.int/Treaty/en/Treaties/Html/177.htm> (accessed 25 November 2004).

¹² European Social Charter (ESC), 18 October 1961, C.E.T.S. 35, available at <http://conventions.coe.int/Treaty/en/Treaties/Html/35.htm> (accessed 22 October 2004).

¹³ Council of Europe, First report on the implementation of the European Social Charter, submitted by the Government of Latvia for the period 31 March 2001 to 31 December 2003, No. RAP/Cha/LA/I(2004), available on the CoE website at http://www.coe.int/T/E/Human%5FRights/Esc/3%5FRreporting%5Fprocedure/1%5FState%5FReports/Social_Charter/XVII-2/Latvia%201st%20Report-1.pdf (accessed 15 March 2004).

¹⁴ Revised European Social Charter (RESC), 1 July 1999, C.E.T.S. 163, available at <http://conventions.coe.int/Treaty/en/Treaties/Html/163.htm> (accessed 22 October 2004).

¹⁵ The International Labour Organization (ILO) has identified eight fundamental ILO Conventions: Convention on the Abolition of Forced Labour, 1930 (No. 29); Convention on Freedom of Association and Protection of the Right to Organize, 1948 (No. 87); Convention on the Right to Organize and Collective Bargaining, 1949 (No. 98); Convention on Equal Remuneration, 1951 (No. 100); Convention on Abolition of Forced Labour, 1957 (No. 105); Convention on Equality Discrimination (Employment and Occupation) 1958 (No. 111); Convention on the Elimination of Child Labour and Minimum Age, 1973 (No. 138); Convention on Worst Forms of Child Labour, 1999 (No. 182). Latvia has not ratified ILO Conventions Nos. 29, 138 and 182.

¹⁶ The *Saeima* is the Parliament of the Republic of Latvia and has 100 parliamentarians.

Constitution on “Fundamental Human Rights”,¹⁷ thereby “bringing Latvia’s constitution into line with European standards and ending uncertainty about the place of human rights in Latvia’s legislative hierarchy”.¹⁸ Article 91 of the Constitution states “All human beings in Latvia shall be equal before the law and the courts. Human rights shall be realised without discrimination of any kind.”¹⁹ However, the Constitution does not expressly state on what grounds discrimination is prohibited.

With its accession to the European Union, Latvia is required to fully transpose EU directives into national legislation. Particularly relevant are the EU Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (hereafter, the Employment Directive),²⁰ and Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (hereafter, the Race Equality Directive).²¹ The Labour Law has been amended to fully transpose the provisions of the EU Employment Directive into Latvian legislation,²² apart from specifically including sexual orientation as a prohibited ground for discrimination. However, Latvia has yet to transpose the Race Equality Directive into national legislation.

In order to comply with relevant EU directives and to ensure anti-discriminatory measures, the Government prepared a comprehensive anti-discrimination law, the draft Law on the Prevention of Discrimination. After a process of consultation with social partners – in the framework of a working group established under the Secretariat of Special Assignments of the Minister for Social Integration (SSAMSI) – the bill passed its first reading in Parliament. However, it was subsequently abandoned in June 2005.²³

¹⁷ Constitution (*Satversme*) of the Republic of Latvia, first adopted 15 February 1922; re-entered into force 1993, LV 43 of 1 July 1993 (last amended 23 September 2004), Chapter VIII (Fundamental Human Rights), (hereafter, Constitution). Available (in English) at <http://www.ttc.lv/New/lv/tulkojumi/E0013.doc> (in English) (accessed 10 December 2004).

¹⁸ N. Muiznieks, A. Kamenska, I. Leimane, and S. Garsvane, *Human Rights in Latvia in 1998*, Riga, Latvian Centre for Human Rights and Ethnic Studies, 1999, p. 33.

¹⁹ Article 91 on “Equality, Prohibition of Discrimination” states “All human beings in Latvia shall be equal before the law and the courts. Human rights shall be realised without discrimination of any kind.” Constitution, Chapter VIII, art. 91.

²⁰ European Union Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, available on the website of the European Commission at http://europa.eu.int/comm/employment_social/news/2001/jul/directive78ec_en.pdf (accessed 10 December 2004), (hereafter, EU Employment Directive).

²¹ European Union Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (hereafter, the Race Equality Directive).

²² See: Section IV. 1.1.

²³ Representatives of the SSAMSI announced to LETA (the national news service) in June 2005 that, together with the Parliamentary Human Rights and Public Affairs Committee, it had decided not to move forward with the current draft law in Parliament, due to its poor legal quality.

Instead, a number of existing laws (in total, 11 laws) will be amended, in order to transpose EU anti-discrimination provisions, and in particular the EU Race and Employment Directives, into national legislation. On 14 June 2005, the Cabinet of Ministers accepted the necessary amendments for four of these laws,²⁴ but at the time of writing these had not yet been adopted by Parliament.

The most important general laws on the rights of people with disabilities are as follows:

- the Protection of the Rights of the Child Law (hereafter, Child Rights Law);²⁵
- the Law on the Medical and Social Protection of Disabled Persons (hereafter, Law on People with Disabilities).²⁶

The Child Rights Law addresses the rights of children, including children with intellectual disabilities, and establishes the right to education.²⁷ It includes a special chapter on the “the child with special needs”.²⁸ Section 54 states that “a child with special needs has the same rights to an active life, the right to develop and acquire a general and professional education corresponding to the physical and mental abilities and desires of the child, and the right to take part in social life, as any other child.” Under Section 55, the law provides that “the State and local government shall assist a child with special needs to integrate into society and ensure for him or her medical and social services” in accordance with this law.²⁹

The Law on People with Disabilities is the most important law addressing the rights of people with disabilities in general. The law regulates the rights of people with disabilities, and states the obligations of the State and local municipalities with respect to the protection of people with disabilities. It includes a definition of disability,³⁰ and

²⁴ Civil Law, Law on Social Security, Law on State Civil Service and Law on Consumers’ Rights’ Protection.

²⁵ The Protection of the Rights of the Child Law, adopted 19 June 1998, LV No. 199/200 of 8 July 1998, last amended 20 May 2004, available (in English) at <http://www.ttc.lv/New/lv/tulkojumi/E0103.doc> (last accessed 8 December 2004), (hereafter, Child Rights Law).

²⁶ Law on the Medical and Social Protection of Disabled Persons, adopted 29 September 1992, *Zinotajs* No. 42 of 29 October 1992, last amended 31 March 2004, available (in Latvian) at <http://pro.nais.dati.lv> (accessed 5 June 2004), (hereafter, Law on People with Disabilities).

²⁷ Child Rights Law, Sections 11 and 12.

²⁸ Child Rights Law, Chapter VIII. Section 53 defines a child with special needs as “a child who in connection with an illness, trauma or functional impairment of an organ system caused by an innate defect has need of additional medical and social assistance irrespective of whether there is a determination of disability in accordance with procedures set out by law”. Child Rights Law, Section 53.

²⁹ Child Rights Law, Section 55(2).

³⁰ Law on People with Disabilities, art. 4.

also defines the three disability groups established for people with disabilities and the procedures for evaluation of their working capacity.³¹

Specialised bodies

No specific anti-discrimination body with adequate powers has been set up in Latvia, and there are no specialised bodies to address cases of discrimination against people with disabilities. Since 1996 the ombudsman-like institution, the National Human Rights Office (NHRO), has had the mandate not only to analyse the human rights situation in Latvia and draft recommendations regarding necessary legislative changes, but also to investigate complaints of human rights violations.³² At present, the NHRO's recommendations are not enforceable, and nor can it apply any punitive measures, such as fines,³³ but it has been active in initiating cases at the Constitutional Court in instances where some legal norms violate human rights.³⁴ There has been an ongoing discussion as to whether or not Latvia needs an Ombudsman. Finally, the Law on the Office of the Ombudsmen passed its first reading in Parliament on 22 June 2005. According to the law, the NHRO will be reorganised and developed into a new Ombudsman's office, and will in future take on additional functions in the field of anti-discrimination.³⁵

In 2003, the NHRO only received 14 written complaints about the rights of people with disabilities, and provided 49 oral consultations concerning the rights of this group.³⁶ In 2004, the NHRO received 17 written and 44 oral complaints concerning the rights of people with disabilities. Most of these complaints – for example, 14 of those received in 2004 – concern the work of the Medical Commission for

³¹ Law on People with Disabilities, art. 9. See also: Section II.B.1.

³² According to Article 2 of the Law on the National Human Rights Office 1996, the NHRO has the following competencies: “to provide information and raise public awareness on human rights; to inquire into individual complaints related to human rights violations; to take measures in cases of human rights violations and to identify situations causing human rights violations; to monitor human rights situation in the country; to prepare and promote programmes for the promotion of observance of human rights; to carry out an analysis of the legislation; to report annually to Parliament.” Law on the National Human Rights Office 1996, adopted 5 December 1996, LV No. 221 of 17 December 1996 (entered into force on 31 December 1996).

³³ Gita Feldhune, *Report on measures to combat discrimination in the 13 candidate countries. Country report: Latvia*, May 2003, Migration Policy Group and MEDE European Consultancy, available at <http://www.migpolgroup.com/uploadstore/LATVIA%20Final%20EN.pdf> (accessed 2 December 2004), p. 14, (hereafter, Feldhune, *MPG report – Latvia*).

³⁴ In 2002, the NHRO initiated three cases; in 2003, two cases, and in 2004, one case. Latvian Centre for Human Rights and Ethnic Studies, *Annual reports on Human Rights in Latvia*, in 2002 and 2003, available at <http://www.humanrights.org.lv> (accessed 14 August 2005).

³⁵ The Law on the Ombudsman's Office is available in Latvian at <http://www.saeima.lv/saeima8/reg.likprj> (accessed 14 August 2005).

³⁶ NHRO, *Annual Report of 2003* (in Latvian), Riga, 2004, p. 51, available at <http://www.vcb.lv/zinojumi/2003.g.zinojums.pdf> (accessed on 1 September 2005), (hereafter, NHRO, *Annual Report 2003*).

Determining Health Condition and Working Ability, which is responsible for disability assessments of adults, and grants disability status (see section IV.1.3). Complaints focus on the level of disability granted by the Commission – usually that the level granted was too low, or that disability status had not been granted at all³⁷ – as this in turn determines eligibility for social benefits. These complaints primarily concern some types of disability for which the criteria used to diagnose the degree of disability have not been sufficiently developed.³⁸ However, this is not the case for diagnosing intellectual disability, as the World Health Organization’s *International Statistical Classification of Diseases and Related Health Problems*, Tenth Revision (hereafter, ICD-10) is used as the standard reference in Latvia.

2. GENERAL SITUATION OF PEOPLE WITH INTELLECTUAL DISABILITIES

The term “intellectual disability” is not used in Latvian legislation. The terms “mental retardation” and “persons with disorders of a mental nature” are the most widely used terms (although the latter is not defined in legislation, and there is no clear policy on whether it may also include people with mental health problems). More recent legislation increasingly uses the broader term “person with special needs”. There are different procedures for the assessment of intellectual disabilities for educational purposes (for children), for employment purposes (for adults), and for access to social benefits (for adults and children). For educational purposes, the assessment of the level of abilities of a child with intellectual disabilities is made by the State and Municipal Medical Pedagogical Commissions. It is based on diagnoses established by certified psychiatrists, who use the World Health Organization’s ICD-10 as a reference. The State Medical Commission for Determining Health Condition and Working Ability (hereafter, State Medical Commission) carries out assessments of intellectual disability for employment purposes and for access to social benefits.

At the age of 18, adults with intellectual disabilities may be declared “lacking the capacity to act” and placed under trusteeship by the courts. However, this happens relatively infrequently, mostly for people with severe intellectual disabilities. In law, the civil rights of a person under trusteeship are equivalent to those of a minor under guardianship. A person with intellectual disabilities who is under trusteeship should retain the right to work, provided that his or her trustee signs the employment contract. However, as there have been no cases reported of people with intellectual disabilities who are under trusteeship working, it is difficult to establish if this is the case in practice. There is currently a shortage of suitable trustees for people with intellectual disabilities in residential institutions, which means that some have been unable to gain access to their social benefits. To address this situation, Riga City Council now provides a small monthly allowance to cover some of the costs associated with the trustee’s responsibilities. The procedure for determining trusteeship is regulated by the Civil Law of 1937, in which the terminology used to describe people with mental disabilities is archaic and offensive. In Latvia, there is no unified system of data collection on people with intellectual disabilities, and various official sources offer differing data. The most reliable source of data is the Mental Health

³⁷ The report does not state whether these complaints came from the individual concerned or from other parties (such as parents or NGOs), and nor does it stipulate the type of disabilities of the individuals concerned.

³⁸ NHRO, Annual Report 2003, p. 51.

State Agency (prior to 2004, called the Mental Health Care Centre), according to which, in 2003, there were 14,281 people with intellectual disabilities in Latvia, including 5,547 children and young people under the age of 18. The Ministry of Education maintains data on the number of children with intellectual disabilities in the education system. The process of deinstitutionalisation has been slow in Latvia. In 2004, there were 842 children with intellectual disabilities in State institutional care, and in private and NGO-run children's homes. For adults with mental disabilities, there is a lack of community-based alternatives to institutional care. In 2004, there were nearly 2,000 adults with intellectual disabilities in specialised State social care homes for adults with mental disabilities, and for the elderly. There were also a number of people with intellectual disabilities in eight psychiatric hospitals that also provide long-term care for patients.

2.1 Definitions

The Law on People with Disabilities includes a definition of the terms “disability” and “person with disabilities”. Article 4 states that a person with disabilities is,

a person who, due to the impairment of the functions of the system of organs caused by diseases, traumas or innate defects, needs additional medical and social assistance, and to whom a disability status has been attributed in the procedure set in this Law and other normative acts.

Article 5 defines disability as,

the continuous or ceaseless restriction of physical or mental abilities, which is not connected with changes in the human body because of old age and which prevents the integration of a person into the community, as well as completely depriving them of, or partially restricting, their ability to work and to take care of themselves.

Article 7 contains a distinction between physical disabilities and “disabilities due to mental illness”.³⁹

The term “intellectual disability” as defined in this report is not used in Latvian legislation.⁴⁰ In Latvia, the ICD-10 is the main reference for the diagnosis of

³⁹ The definition of “disability due to mental illnesses” includes the following: “disability due to endogenous psychosis; disability because of mental disorder caused by somatic illness, trauma or inherited damage of the central nervous system with deep mental retardation; disability due to mental disorder caused by addiction to alcohol, narcotics, psychotropic or toxic substances; disability caused by severe chronic neurosis (which is difficult to treat in the long term), as well as various other severe changes in personality”. Law on People with Disabilities, art. 4, 7.

⁴⁰ In this report, the term “intellectual disability” (sometimes also described as “learning disability” or “mental retardation”) refers to a life-long condition, usually one present from birth or one that develops before the age of 18. It is a permanent condition that is characterised by significantly lower than average intellectual ability and results in significant functional limitations in intellectual functioning and in adaptive behaviour as expressed in conceptual, social and practical adaptive skills.

intellectual disability, and, in line with the terminology employed in the ICD-10,⁴¹ psychiatrists mainly use the term “person with mental retardation”.⁴² Another widely used term is “person with disorders of a mental nature”; although not defined in legislation, professionals understand that this term refers to people with intellectual disabilities.

More recent legislation uses the broader term “person with special needs”, which is rather new in Latvia. For example, the Child Rights Law was amended on 9 March 2000, in order to include a definition of “a child with special needs” as,

a child who in connection with an illness, trauma or functional impairment of an organ caused by an innate defect has need of additional medical and social assistance, irrespective of whether there is a determination of disability in accordance with procedures set by law.⁴³

This definition is very broad and is therefore understood to also include children with intellectual disabilities.

2.2 Diagnosis and assessment of intellectual disability

There are different procedures for the assessment of intellectual disability for educational purposes (for children), for employment purposes (for adults), and for access to social benefits (for adults and children).

For children and young people with disabilities (under the age of 18), the State and Municipal Pedagogical Commissions are responsible for assessing and evaluating the kind of educational programme that they should follow and the school that they should attend. The Commission evaluates children with disabilities according to a Regulation set out by the Cabinet of Ministers.⁴⁴ Following this evaluation, children

⁴¹ The ICD-10 uses the term “mental retardation” rather than “intellectual disability”. See: World Health Organization, *ICD-10 Guide to Mental Retardation*, available on the WHO website at http://www.who.int/mental_health/media/en/69.pdf (accessed 1 November 2004), pp. 10–12.

⁴² The Regulation governing disability assessment for children aged under 16 includes a chapter on “Mental and Behavioral Disorders”, which is based on the definitions used in the ICD-10. This chapter explains, for example, that *mild* intellectual disability (the exact term used is “mental retardation”) can be combined with other type of disabilities, and that children with *mild, moderate, severe* or *profound* intellectual disabilities should each be educated according to an individual programme. Regulation No. 650 of the Cabinet of Ministers, of 2003 on the Procedure of Disability Expertise in State Medical Commission for Determining Health Condition and Working Ability, LV No. 165 of 25 November 2003, last amended 1 April 2004, (hereafter, Regulation on Disability Expertise).

⁴³ Child Rights Law, Section 53.

⁴⁴ Regulation No. 480 of the Cabinet of Ministers of 20 November 2001, on the Responsibilities of the State Pedagogical Medical Commission and Municipal Pedagogical Medical Commissions, LV No. 171 of 27 November 2001 (entered into force on 28 November 2001), available at <http://pro.nais.dati.lv> (accessed 7 March 2005), (hereafter, Regulation on Pedagogical Commissions).

and young people with disabilities are assessed with one of three levels of disabilities (A, B or C), according to the severity of the individual's disabilities. Another Regulation of the Cabinet of Ministers outlines three levels of disabilities (A, B or C), based on ICD-10 definitions.⁴⁵ For children with intellectual disabilities, these three levels correspond to the following three levels of intellectual disability:⁴⁶

- Level A: *mild* intellectual disabilities – equivalent to F-70 (ICD-10);
- Level B: *moderate* intellectual disabilities – equivalent to F-71;
- Level C: *severe* intellectual disabilities – equivalent to F-72 (*severe* intellectual disabilities) and F-73 (*profound* intellectual disabilities).

For adults – and also for children, for access to social benefits – disability is established by the State Medical Commission for Determining Health Condition and Working Ability and its regional units. In determining disability, the Commission takes into account the individual's limitation of physical or mental abilities, their opportunities for integration into society, and their ability to work and take care of themselves.⁴⁷

For adults aged 16 and over, the Commission establishes disability, on an individual basis, according to one of three disability groups (I, II or III), based on the level of restriction of an individual's physical or mental abilities. The Law on People with Disabilities provides the following general definitions of the three disability groups (other Regulations provide more detailed definitions):⁴⁸

- Disability group I (the most severe) is designated if a person has a very severe restriction of physical or mental abilities. Integration into society without permanent assistance is impossible, and work and self-care abilities are very restricted.
- Disability group II is designated if a person has severe restriction of physical or mental abilities. Integration into society without appropriate assistance is impossible, and work and self-care abilities are restricted.

⁴⁵ Regulation No. 490 of the Cabinet of Ministers of 20 November 2001, on Admission to Boarding Schools, Special Schools and Pre-school Educational Establishments' Special Classrooms, published in *Latvijas Vestnesis* No. 171 on 27 November 2001 (entered into force on 28. 11.2001), available at <http://pro.nais.dati.lv> (in Latvian) (accessed 7 March 2005), (hereafter, Regulation on Admission Procedures), Appendix.

⁴⁶ However, these three levels (*mild*, *moderate* and *severe*) are not defined in the Regulations. Interviews with Ludmila Zilbermane, Chief Psychiatrist, Children's Department, Jelgava Mental Hospital, Jelgava, 25 March 2004, and Rasma Vigante, Senior Officer, General Education Department, Ministry of Education, Riga, 4 March 2004

⁴⁷ Law on People with Disabilities, art. 10; Regulation on Disability Expertise.

⁴⁸ Law on People with Disabilities, art. 9.

- Disability group III is designated if a person has moderate restrictions in physical or mental abilities. Integration into society without appropriate assistance is restricted, and work and self-care abilities are restricted as well.

The Commission also carries out assessments of an individual's loss of working abilities,⁴⁹ but such assessments are not carried out for cases where disability has been established since childhood (which is the case for most people with intellectual disabilities).

It is important to note that in Latvia the legal interpretation of the term “disability” is very narrow. Only those persons for whom a disability group has been designated by the Medical Commission are officially considered as “persons with disabilities”.

2.3 Guardianship

In Latvia, guardianship (*aizbildnība*) is only established for minors aged under 18. Adults with mental disabilities (including intellectual disabilities) who have been declared by the courts to be “lacking capacity to act” are instead placed under “trusteeship” (*aizgādība*).⁵⁰ However, most adults with intellectual disabilities are not placed under trusteeship. In 2002 there were a total of 1,187 people under trusteeship in Latvia.⁵¹ This is a general figure, because statistics do not differentiate between trusteeship for people with intellectual disabilities and trusteeship for other reasons.

In Latvia, the procedure for placing an adult with intellectual disabilities under trusteeship is regulated by the Civil Law of 1937.⁵² The terminology used in this law to describe people with intellectual disabilities (“the mentally deficient”) is archaic and offensive, and needs to be updated in line with current international standards.

According to the Civil Law, only the courts can declare an adult with intellectual disabilities to be “lacking the capacity to act”.⁵³ A petition for trusteeship can be initiated by family members, a prosecutor, or “any other person who can prove his/her interest in a particular case” (and this includes, for example, the director of a social care

⁴⁹ Regulation on Disability Expertise.

⁵⁰ Civil Law of 28 January 1937, *Zinotajs* No. 22/23 in 1993, last amended 11 October 2004, available at <http://www.ttc.lv/lv/publikacijas/civillikums.pdf> (in English and Latvian) (accessed 2 December 2004), Part 1, Chapter 4.2, II (Trusteeship of the mentally ill), art. 217 (hereafter, Civil Law).

⁵¹ Interview with Sigita Rozentāle, representative, Social Assistance Foundation, Riga, 19 January 2004. The Social Assistance Foundation (since November 2004 renamed as The Social Services Board), organises and coordinates State-financed social care and social assistance services in Latvia. The Foundation is responsible for institutional care as well as providing funds on an annual basis for opening day centres for people with intellectual disabilities.

⁵² Civil Law, Part 1, Chapter 4.2 II.

⁵³ Civil Law, art. 359.

institution in which the person resides).⁵⁴ The case is initiated by application directly to the court. The court issues a requirement for a psychiatric evaluation, which can be carried out on an out-patient basis or in a psychiatric hospital.⁵⁵

If the court finds that an individual with intellectual disabilities is “lacking the capacity to act”,⁵⁶ it must notify the orphans’ court,⁵⁷ which should appoint one or more trustees for that person. The trustee is entrusted with the administration of the property of the individual and with “special care of his or her person”.⁵⁸ The orphan’s court must also examine the trustee(s) appointed, to ensure that the person(s) is/are able to perform the role of trustee.⁵⁹ Once a trustee has been appointed, the orphan’s court is obliged to prepare a report on the state of the ward’s affairs, and must subsequently monitor the actions of the trustee.⁶⁰

The civil rights of a person with intellectual disabilities placed under trusteeship are equivalent to those of a minor under guardianship, in particular with respect to administration of property and representation of the individual under law.⁶¹ The Civil Law does not provide for the right to work of people with intellectual disabilities under trusteeship.⁶² However, in principle, a person with intellectual disabilities under trusteeship should be allowed to work, provided that his or her trustee signs the employment contract. As there have been no reported cases of a person with intellectual disabilities under trusteeship working, it is difficult to assess if this is in fact the case, though.

Social care homes are responsible for initiating trusteeship procedures for residents who are declared to be as lacking the capacity to act. However, according to directors of

⁵⁴ Civil Law, art. 359.

⁵⁵ Section 267(1) of the Civil Procedure Law states “The Court shall decide the issue as to ordering a court psychiatric and, if necessary, a court psychological, expert examination.” Civil Procedure Law, adopted 14 October 1998 (entered into force 1 March 1999), last amended 2 September 2004, LV No. 326/330, available (in English) at <http://www.ttc.lv/New/lv/tulkojumi/E0044.doc>.

⁵⁶ Section 268 of the Civil Procedure Law states the following: “(1) If a court, on the basis of the findings of the court expert-examination and other evidence, determines that a person, due to mental illness or mental deficiency, lacks all or most of their intellectual capacity and this person is incapable of controlling their actions or of understanding the significance of these actions, the court shall render a judgement regarding this person as found to be lacking capacity to act, and for trusteeship to be established. (2) After the judgement has come into lawful effect a true copy of the judgement shall be sent to the Orphans’ Court (Parish Court) for the appointing of a trustee for such person and his or her property [...]”.

⁵⁷ In Latvia the Orphans’ Court is basically the same as a custody court. Orphans’ courts are not a part of the judicial system, but are created by local municipalities for adoption, guardianship and trusteeship procedures.

⁵⁸ Civil Law, art. 360.

⁵⁹ Civil Law, art. 240.

⁶⁰ Civil Law, art. 331.

⁶¹ Civil Law, art. 356.

⁶² Civil Law, art. 1405, 1546, 2184.

social care homes, there is a significant number of residents with intellectual disabilities who should be evaluated in order to determine if they lack capacity to act. The main reason for this is that until 2003, only a small proportion of the residents of social care homes had been recognised as lacking legal capacity, as the institutions were not experienced in initiating the cases. In 2003, the Ministry of Welfare called upon the heads of institutions to consider taking steps to have the courts deprive residents of legal capacity, in those cases where it was deemed necessary. There are many adults in social care homes who, in practice, are not able to make their own decisions and take care of themselves, and who the directors consider should be placed under trusteeship.⁶³ In 2003, several social care homes resorted to sending 20 cases at the same time to the court, requesting a decision on legal incapacity so that trusteeship could be established.⁶⁴

As it is very difficult to find willing and suitable trustees, the Ministry of Welfare suggested that social care homes should appoint trustees from among their staff. However, from a human rights perspective the Latvian Centre for Human Rights and Ethnic Studies (LCHRES), an NGO, recommends that great care should be taken in appointing staff members as trustees, due to possible conflicts of interest.⁶⁵ The same draft LCHRES report also recommends that the trusteeship system and procedures for appointing trustees needs to be reviewed by the Government.

It is also worth considering the experience of Riga City Council,⁶⁶ which pays a monthly allowance for guardians and trustees,⁶⁷ in cases where the person under trusteeship was a resident of Riga when the case for initiating trusteeship was submitted

⁶³ The Latvian Centre for Human Rights and Ethnic Studies (LCHRES) is an NGO that has been operating since 1993 with a view to promoting human rights and tolerance in Latvia through monitoring, research, advocacy, legal assistance and training activities. Since 1998, LCHRES has been a member of the International Helsinki Federation for Human Rights. LCHRES regularly monitors the human rights situation in mental health care institutions. In 2003, LCHRES monitored 16 social care homes for people with mental disabilities. The information referred to in this paragraph was gathered by representatives of LCHRES during monitoring visits in August 2003 and June-November 2004. Further information is available on the LCHRES website at <http://www.humanrights.org.lv> (accessed 15 March 2005).

⁶⁴ Ieva Leimane-Veldmeijere and Uldis Veits, *Conditions in Social Care Homes for People with Mental Disabilities*, unpublished draft report, LCHRES, Riga, 2004, (hereafter, Leimane and Veits, *Conditions in Social Care Homes*).

⁶⁵ Leimane and Veits, *Conditions in Social Care Homes*; also Latvian Center for Human Rights and Ethnic Studies (LCHRES), *Human Rights in Latvia in 2004*, Riga, 2005, available at http://www.humanrights.org.lv/upload_file/Parskats2004_en.pdf, p. 20, (accessed 19 July 2005), (hereafter, LCHRES, *Human Rights in Latvia in 2004*).

⁶⁶ Regulation No. 29 of Riga City Council of 5 November 2002, on the Allowance for Trustees of Legally Incapable Persons with Mental Disability, available (in Latvian) on the Riga council Welfare Department website at http://www.ld.riga.lv/acts/gara_slimo_pabalsts (accessed 15 March 2005).

⁶⁷ LCHRES has discussed this system with representatives of the Ministry of Children and Family Affairs, which is responsible for issues of guardianship and trusteeship, and found the system to be beneficial.

to the court. The allowance paid to trustees is relatively small,⁶⁸ and is intended to provide a minimum of financial support for trustees to enable them to fulfil their responsibilities, rather than a financial incentive. For example, if a person under trusteeship is located in a social care home, the trustee will probably need to pay for transport to reach the person. There are a number of cases concerning people in social care homes without any relatives, where no one from the community where the home is located has been willing to take on the responsibility of becoming a trustee. In one social care home, for example, for over six months the orphan's court was unable to find trustees for 55 people with mental disabilities declared to be legally incapable by the court.⁶⁹ Such a situation violates the rights of the people concerned. In particular, it meant that, during this time, they were unable to gain access to their social benefits, on which they rely to purchase small items such as cigarettes and sweets.

2.4 Statistical data

The existing system for the collection of data in Latvia has some serious gaps, which makes it difficult to accurately assess the real situation of (specifically) people with intellectual disabilities. There is no exact data available on exactly how many people with intellectual disabilities there are in Latvia and whether they have been assigned a designated disability group or not, because various official sources offer different data. The Ministry of Welfare issued a separate statistical report on Persons with Disabilities for the period of 1997–2003,⁷⁰ but this data is quite general – for example, the category “mental and behavioural disorders” includes both people with mental health problems and also people with intellectual disabilities.

According to the 2000 Population and Housing census, Latvia has 2,331,500 inhabitants.⁷¹ According to the Mental Health State Agency,⁷² in 2003 there were a

⁶⁸ The trustee receives €28 per month in the case that the person under trusteeship lives with the trustee's family and €14 if the person under trusteeship lives in a social care home. Interview with Laila Rieksta-Riekstina, representative, Ministry for Children and Family Affairs, Riga, 24 August 2004.

⁶⁹ LCHRES, *Human Rights in Latvia in 2004*, p. 20. Data was obtained during a monitoring visit made by LCHRES to the Litene Social Care Home on 15 February 2005. Interview with the care home's director, J. Klavins.

⁷⁰ Ministry of Welfare, statistical report on Persons with Disabilities for the period of 1997–2003. Ministry of Welfare, Statistikas biļetens “Vilveki ar invaliditāti 1997–2003”, (Statistical report on Persons with Disabilities for the period of 1997–2003), Riga, 2004, available in Latvian at http://www.lm.gov.lv/doc_upl/cilv_ar_invaliditati.doc (accessed 19 July 2005).

⁷¹ Central Statistical Bureau, *Latvijas 2000. Gada tautas skaitīšanas rezultāti, (Results of the 2000 Population and Housing Census)*, Riga, 2002, p. 11.

total of 64,198 people in Latvia with registered mental disabilities or behavioural problems.⁷³ Of these, 14,281 (or around 22 per cent) were persons with intellectual disabilities,⁷⁴ including 5,547 children and young people with intellectual disabilities under the age of 18 years.⁷⁵ In 2003, out of all persons classified in disability groups I, II or III, there were a total of 19,890 people with “mental disorders”. This total included 5,560 people with intellectual disabilities⁷⁶ – of these, 181 people with intellectual disabilities were granted disability group status for the first time in their lives in 2003,⁷⁷ and there were 858 children with intellectual disabilities.⁷⁸

The process of deinstitutionalisation has been slow in Latvia. In 2004, according to data from the Ministry of Welfare, there were a total of 821 children with intellectual disabilities in State and municipal-level institutional care, and a further 21 children with intellectual disabilities in private and NGO-run children’s homes.⁷⁹ In Latvia, there is one long-term psychiatric hospital for children, Ainazi, under the authority of the Ministry of Health. There are also three specialised social care homes for children with *severe* mental disabilities under the authority of the Ministry of Welfare, mainly intellectual disabilities, from the age of 4 up to the age of 18. In 2004, there were 359 children with disabilities in these three care homes, of whom 349 were children with

⁷² The Mental Health State Agency (prior to 2004, called the Mental Health Care Centre), is responsible for coordinating and methodologically leading all developments in the field of mental health care and gathering and analysing relevant statistical data. It is also the State agency responsible for maintaining the register of all people with mental disabilities in Latvia. The Mental Health State Agency is under the authority of the Ministry of Health. Since 2000, the Mental Health State Agency has joined with Riga Mental hospital, which is now a structural unit of the Agency. At present, there is a debate within the Ministry of Health as to whether this register should include data on *all* people with mental disabilities or only patients who are considered potentially dangerous to themselves or others.

⁷³ Ministry of Health, *Mental Health Care in Latvia – Statistical Yearbook 2003*, fourth edition, Mental Health Care Centre, Ministry of Health, Riga, 2004, p. 16, (hereafter, Ministry of Health, *Mental Health Care – Statistical Yearbook 2003*).

⁷⁴ The term used by the Mental Health State Agency is “person with mental retardation”, which is equivalent to the term “person with intellectual disabilities” as defined and used in this report.

⁷⁵ Of these persons (including children) with intellectual disabilities, the majority (8,333 people or around 58 per cent) had *mild* intellectual disabilities, 3,696 (or around 26 per cent) had *moderate* intellectual disabilities, and 2,252 (around 16 per cent) had other kinds of intellectual disabilities. Ministry of Health, *Mental Health Care – Statistical Yearbook 2003*, p. 72.

⁷⁶ Ministry of Health, *Mental Health Care – Statistical Yearbook 2003*, p. 36.

⁷⁷ Of these, disability group status was granted to 67 children under the age of 16 for the first time in their lives and to 114 people between the ages of 16 and 59. Ministry of Health, *Mental Health Care – Statistical Yearbook 2003*, p. 40.

⁷⁸ Among children and young people under the age of 18, intellectual disability is prevalent over other psychiatric diagnoses (74 per cent of diagnoses). Ministry of Health, *Mental Health Care – Statistical Yearbook 2003*, p. 36.

⁷⁹ All data on institutional social care for children was obtained from the Social Services’ Board of the Ministry of Welfare, available in Latvian at http://www.socpp.gov.lv/lv/files/jjjj2.5.%20Bernu_gariga_attistiba.xls (accessed 19 July 2005).

intellectual disabilities. Institutional care is also provided by other institutions for children, under the authority of the Ministry of Welfare. This includes five child care centres for orphans – in 2004, there were 564 children in these centres, including 217 children with intellectual disabilities. Also, there are 48 orphanage-shelters for children – in 2004, out of all the children in these shelters, 255 were children with intellectual disabilities.

There are 31 specialised State social care homes for adults with “disorders of a mental nature” in Latvia. In 2004, there were a total of 4,381 persons in these care homes, including 1,755 people with intellectual disabilities.⁸⁰ There are also 72 social care homes for the elderly managed by local government or municipalities, which, in 2004, included 146 residents with intellectual disabilities (out of the total 5,022 residents).⁸¹ There are also eight psychiatric hospitals in Latvia, under the authority of the Ministry of Health, most of which provide long-term care for patients, including people with intellectual disabilities (there is no exact data available on their number⁸²). Although it is recognised that institutional care is not the best solution for people with intellectual disabilities, or, more generally, people with mental disabilities, there is a lack of alternative residential services in the community for people with mental disabilities.

⁸⁰ There were 1,561 people with schizophrenia (F20-F29), and the rest of the residents had dementia or other types of “mental disorders”. Of the total 1,755 people with intellectual disabilities, 230 had *mild* intellectual disabilities (F-71), 734 had *severe* intellectual disabilities (F-72), and 500 had *profound* intellectual disabilities (F-73). Data from the Social Services’ Board of the Ministry of Welfare, available in Latvian at http://www.socpp.gov.lv/lv/files/PA_tab_7.xls (accessed 19 July 2005).

⁸¹ Of these 146 people, 50 had *mild* intellectual disabilities, 58 had *moderate* intellectual disabilities, and 22 had *profound* intellectual disabilities.

⁸² Figures fluctuate also, mainly because some people who lack family support or proper social care services have to stay in a psychiatric hospital until they get a place in a specialised social care home. The waiting time can be up to one or two years, as there is a long waiting list to get a place in a social care home. According to the Social Services’ Board, on 1 January 2004 there were 766 people with mental disabilities registered on the waiting list for a place in a social care home. Data from the Social Services’ Board of the Ministry of Welfare, available in Latvian at http://www.socpp.gov.lv/lv/files/Statistikas_parsk_analize_2003.doc (accessed 19 July 2005), p. 19.

III. Access to Education

1. LEGAL AND ADMINISTRATIVE FRAMEWORK

The Latvian Constitution guarantees the right to education. It is supplemented by the Child Rights Law, the Education Law and the Law on General Education. Latvian legislation provides for the right to education of children with intellectual disabilities, and addresses the provision of special education in both mainstream and special schools. Children with intellectual disabilities may attend a mainstream school if the school has the necessary provisions suitable for children with special needs, and if it offers a licensed special educational programme. However, the law does not provide for their right to attend a mainstream school that does not have a licensed special educational programme.

In Latvia, there is no national policy on the provision of early intervention services for children with intellectual disabilities under the age of six; the Government does not provide any early intervention services and has not allocated any funds towards making such services available. One model that could be used for developing a clear Government policy in this area is the early intervention programme carried out by the Latvian Portage Association, an NGO. This programme offers a model of good practice that could be replicated at the national level given adequate State funding and support.

For educational purposes, the State and Municipal Medical Pedagogical Commissions assess children with intellectual disabilities with one of three levels of intellectual disabilities: A (mild intellectual disabilities), B (moderate intellectual disabilities) or C (severe intellectual disabilities). On the basis of this assessment, the Commissions then suggest the special educational programme that the child with intellectual disabilities should follow. Parental choice should be respected as regards the selection of the school that a child should attend. Based on the suggestion of the Commission, and in collaboration with the parents, the District Education Board recommends a local school providing the type of educational programme suggested by the Commission. If the parents do not agree to their child's attending a special school, they should be able to enrol their child in a mainstream school. Nonetheless, if that school does not have the recommended licensed special educational programme, their child may not receive the support needed to achieve his or her full potential.

1.1 The right to education

The Constitution guarantees the right to education for everyone. Article 112 states “The State shall ensure that everyone may acquire primary and secondary education without charge. Primary education should be compulsory.” This article also applies to people with intellectual disabilities.

The most relevant legislation for the education of children with intellectual disabilities is as follows:

- the Protection of the Rights of the Child Law (hereafter, Child Rights Law);

- the Law on General Education;⁸³
- the Education Law.⁸⁴

The Child Rights Law establishes the rights of children, including those with special needs, to education. Section 11 determines that “the State shall ensure that all children have equal rights and opportunities to acquire education commensurate with their ability.” It also provides for their right to pre-school, primary and secondary education, and vocational training free of charge. According to this section, “professional training shall be provided by educational institutions, but for children who have attained 15 years of age and are registered as unemployed, through the national employment service.” Section 12 provides for the right to acquire a profession and choose employment relevant to it. Section 54, on the right of the child with special needs to live a full life, states that,

A child with special needs has the same right to an active life, the right to develop and acquire a general and professional education corresponding to the physical and mental abilities and desires of the child, and the right to take part in social life, as any other child.

Although not explicitly stated, this provision would imply that children with special educational needs, including children with intellectual disabilities, should have the same right to mainstream education as other children.

The legislative framework for special education in Latvia is defined by the Education Law and the Law on General Education 1999.⁸⁵

The Education Law defines the educational system in Latvia.⁸⁶ Section 3 states that citizens⁸⁷ “have an equal right to acquire an education, regardless of their property or social status, race, nationality, gender, religious or political convictions, state of health, occupation or place of residence”. Section 42 regulates Special Education Programmes. This section states that children and young people with special needs “may acquire special education at an educational institution, if it ensures that an educatee has the

⁸³ The Law on General Education, adopted 10 June 1999, LV No. 213/215 of 30 June 1999 (entered into force 14 July 1999), last amended 23 September 2004, available at <http://pro.nais.dati.lv> (in Latvian) (accessed 5 June 2004).

⁸⁴ The Education Law, adopted 29 October 1998, LV No. 343/344 of 17 November 1998, last amended 5 February 2004 (entered into force 1 June 1999), available at <http://www.ttc.lv/New/lv/tulkojumi/E0121.doc> (in English) (accessed 8 December 2004).

⁸⁵ The Professional Education Law 1999 just mentions people in special needs in one sentence. The Education Law, Section 42(3).

⁸⁶ Education Law, Section 6.

⁸⁷ This also includes people with a non-citizen passport or permanent residence permit, and citizens from the European Union who have been issued a temporary or permanent residence permit.

opportunity to acquire an education corresponding to the state of health and the type of developmental disorders”.⁸⁸

The Law on General Education defines special education, stating that,

special education shall provide opportunities and conditions for learners with special needs, in accordance with their health condition, aptitude and level of development, to receive education in any educational institution, and at the same time shall provide psychological and medical help to the learner and prepare him/her for work and integration into society.⁸⁹

Article 49 of the law states that special education can be acquired in any school. Importantly, Article 53 states that mainstream schools may integrate children with special needs, provided that the school has a licensed special education programme. The law also defines special education programmes. Special education programmes for children with intellectual disabilities are envisaged, to last nine years. However, for children following individual educational programmes (children with level C disabilities), their implementation can be extended by up to 12 years.⁹⁰

The Law on General Education establishes the State and Municipal Medical Pedagogical Commissions as the bodies responsible for the assessment of intellectual disability for educational purposes, and for determining the most appropriate special education programme for a child with disabilities.⁹¹

Specialised bodies

There are no specialised bodies or procedures addressing cases of discrimination in education. Since 1996, the ombudsman-like institution, the National Human Rights Office (NHRO), has had the mandate to investigate complaints of human rights violations, including any with respect to education, and in 2003 it opened a new department dealing with children’s rights.

The NHRO has received a number of complaints concerning the quality of education provided by schools, some of which concern children with special educational needs. For example, in the first quarter of 2004, the NHRO received seven complaints concerning the quality of education and institutional care received by children (although it was not specified which type of school the students concerned attended). One complaint concerned the quality of education provided in a special school (see section III.3.2.2). In 2003, the NHRO also received complaints concerning the integration of children with behavioural challenges into mainstream schools, alleging that the disruptive behaviour of these children violated the rights of other children and

⁸⁸ Education Law, Section 42(1).

⁸⁹ Law on General Education, art. 49.

⁹⁰ Law on General Education, art. 50.

⁹¹ Law on General Education, art. 54.

of teachers.⁹² Following up on these complaints, in 2003 the NHRO carried out an evaluation, and organised roundtable discussions on best practices in integrating children with behavioural challenges into mainstream schools. The NHRO concluded that many mainstream schools suffer from a shortage of special educators, social pedagogues and psychologists. It also developed a handbook for schools, on dealing with students with behavioural challenges.⁹³ Although not able to address all the problems faced by children with special needs, the initiatives taken by the NHRO are certainly positive.

1.2 Structure and administration of schools

In Latvia, compulsory (primary) education lasts for nine years, usually between the ages of six to 15.⁹⁴ The law determines that “the acquisition of a basic education, or the continuation of the acquisition of a basic education until the age of 18, shall be compulsory”.⁹⁵

According to the Education Law 1998, there are three types of education in Latvia: general, vocational and academic education.⁹⁶ These have the following educational levels: pre-school education, basic education, secondary education and higher education.⁹⁷ Students can advance to the next level after successfully completing the previous level.⁹⁸

The compliance of educational institutions with all the relevant legal provisions in the field of education is controlled by the State Education Inspectorate, which is under the supervision of the Ministry of Education.⁹⁹ However, the responsibility for organising

⁹² National Human Rights Office, *Valsts Cilvēktiesību birojs, 2003. gada ziņojums, (Annual Report 2003)*, Rīga, Jelgavas tipogrāfija, 2004 (hereafter, NHRO, *Annual Report 2003*).

⁹³ NHRO, *Annual Report 2003*, p. 65.

⁹⁴ Section 30 of the Education Law states that “primary education programmes are implemented within nine years”. Section 32 states that “primary education is started in the calendar year in which the child becomes seven years old”. Section 29 of the Law on General Education states that “primary education can be acquired also in a special school and a boarding school”.

⁹⁵ Education Law, Section 4.

⁹⁶ Education Law 1998, Section 6.

⁹⁷ Basic education is defined as “an educational level in which preparation for the secondary educational level or for professional activity takes place, where basic knowledge and skills necessary for life in society and for the individual life of a person are acquired, and where value-orientation and involvement in public life are developed”. Education Law, Preamble.

⁹⁸ Education Law, Section 5.

⁹⁹ Education Law, Section 20.

and providing education is decentralised to the municipalities (i.e. local governments¹⁰⁰).¹⁰¹ Each local government has the obligation to,

ensure that the children residing in their administrative territory have the opportunity to acquire pre-school education and basic education at an educational institution closest to the place of residence of the child, to ensure that youths have the opportunity to acquire secondary education.¹⁰²

Mainstream schools and private schools are mostly under the authority of the local government, although some schools are established by the State. However, in both cases the schools receive State funding through the Ministry of Education and are checked by the State Education Inspectorate. Municipal special schools and special boarding schools are established and operated by the municipal local governments, in coordination with the Ministry of Education; they only provide education for students residing in the territory of the local municipality.¹⁰³ State special schools and special boarding schools provide education for students with special needs from various local governments, and are under the direct authority of the Ministry of Education.

The local governments are responsible for providing special educational programmes. Their responsibility is to,

establish, reorganise and dissolve boarding schools, special educational institutions and classes for children with special needs, professional educational institutions and interest-related educational institutions, except State and private educational institutions, coordinating with the Ministry of Education and Science.¹⁰⁴

The local governments are also responsible for establishing the District Education Boards.¹⁰⁵ There are 39 District Education Boards in Latvia. Their main responsibilities are as follows: to ensure the implementation of legislation in the field of education in the administrative territory of their district; to develop proposals for the distribution of the State budget for the salaries of pedagogues; to submit proposals on

¹⁰⁰ As of January 2005, there are 556 *local governments* in Latvia. This includes 530 municipalities at the *local* or first territorial level (7 republican cities, 53 towns, 444 parishes and 26 amalgamated local municipalities), and 33 municipalities at the *regional*, or second territorial, level (26 counties (*rajons*) and 7 republican cities). Each local government has a council, which consists of elected deputies. At the county level, there are county councils formed by the chairmen of the local municipalities in the county (i.e. the parishes, amalgamated local municipalities, and towns). Information available in English on the website of the Ministry of Regional Development and Local Government (MRDLG), available at <http://www.rapl.gov.lv> (accessed 24 August 2005).

¹⁰¹ According to Section 18 of the Education Law: “a local government educational administration shall be established by the district or city local government, in order to exercise its competence in education”.

¹⁰² Education Law, Section 17 (1).

¹⁰³ Law on General Education, art. 51.

¹⁰⁴ Education Law, Section 17.

¹⁰⁵ Education Law 1998, Section 18.

the establishment, closure or reorganisation of educational establishments – in accordance with the Ministry of Education and Science; to participate in the accreditation of the educational programmes of the schools of their administrative territory; to coordinate methodological work and the continuing education of teachers; to coordinate the work of the schools in their administrative territory; to coordinate the work of Municipal Pedagogical Medical Commissions.¹⁰⁶

1.3 Assessment of disability for educational purposes

For educational purposes, the assessment of a child with special needs, including intellectual disabilities, is governed by the Regulations on the Responsibilities of the State Pedagogical Medical Commission and Municipal Pedagogical Medical Commissions (hereafter, Regulation on Pedagogical Commissions).¹⁰⁷ In accordance with these regulations, the Ministry of Education is responsible for establishing the State Medical Pedagogical Commission (hereafter, State Commission) and the regional Commissions (hereafter, Municipal Commissions).¹⁰⁸ There are 39 Municipal Pedagogical Medical Commissions – one for each of the District Education Boards (see above).

Both the State and Municipal Commissions are responsible for establishing which special educational programme is most suitable for a child, taking into account the level of the child's age, aptitude, health condition and level of development.¹⁰⁹ They also have the task of facilitating the integration of students with special educational needs, including children with intellectual disabilities, into mainstream schools.¹¹⁰

It is important to note that the Commissions can only *suggest* the most appropriate educational programme, while parents have the final say in which school their child with special needs attends.¹¹¹ The District Education Board coordinates the finding of the most suitable school for integrating children with disabilities near to the area where they live.

However, according to the Education Law, students with special needs, including intellectual disabilities, can *only* be admitted to a mainstream school if the school has a special licensed educational programme with the “necessary provisions” suitable for a child with special needs.¹¹² If the school does not have any free places, parents are

¹⁰⁶ Although there are no common regulations for the District Education Boards, in practice their responsibilities are very similar. The above-listed responsibilities (taken from three District Education Boards: Jekabpils, Tukums and Rezekne) are therefore representative.

¹⁰⁷ Regulation on Pedagogical Commissions.

¹⁰⁸ Law on General Education, art. 54.

¹⁰⁹ Regulation on Pedagogical Commissions, art. 2.1.

¹¹⁰ Regulation on Pedagogical Commissions, art. 2.2.

¹¹¹ Interview with Mara Buracka, teacher at Sabile special school, and member of a Pedagogical Medical Commission, Sabile, 25 March 2004.

¹¹² General Education Law, Section 53.

advised to send their child to another school that has a licensed special education programme. This provision of the Education Law implies that a District Education Board, or a school, could refuse to accept a child into a certain school, if the school in question does not have the correct special educational programme. There have been such cases in practice. For example, some children with intellectual disabilities were studying in the mainstream school, Aizkraukle Primary School, which is for grades 1 to 6. However, after completing this school, these children could not continue their education in a mainstream school, because the administration of Aizkraukle Regional Gymnasium refuses to license programmes of special education, because they think this might “destroy the image of the school”.¹¹³

Assessment procedures

The Commissions assess children with intellectual disabilities according to one of three levels of intellectual disabilities: A, B or C (of which level C is the most severe).¹¹⁴ For many years, children with *severe* intellectual disabilities (level C) were considered impossible to teach. It was only in the early 1990s that special schools also began to provide education for children diagnosed with *severe* intellectual disabilities. In 1989, only 15 children with *severe* intellectual disabilities attended special schools in Latvia, while today around 870 children with *severe* intellectual disabilities are receiving special education in special schools and mainstream schools.¹¹⁵

The Municipal Commissions carry out first-level assessments. To assess a child’s intellectual or physical development, a special Municipal Commission is brought together, which comprises a special educator, a psychiatrist, a psychologist, a representative of the local District Education Board and a speech therapist. In accordance with the Regulation on Pedagogical Commissions, the child’s parents (or guardians) must either participate in the assessment or have given their written consent for the assessment to be carried out.¹¹⁶

The Municipal Commissions only evaluate children resident in the administrative territory of their municipality. For children with intellectual disabilities, the Commissions have the following main responsibilities. First, to evaluate their level of development, skills and health condition-based on medical and psychiatric diagnoses and educational assessments submitted to the Commission, and on the Commission’s own evaluations. Second, to provide a statement on their abilities (for children of pre-school age and children in primary education grades 1-4), psychological development

¹¹³ Telephone interview with a representative of the Ministry of Education and Science, 18 July 2005.

¹¹⁴ See: section II.2.2

¹¹⁵ Laura Dzērve, “Bez turpinājuma iemācītais pazudis”, (“Education gained will disappear without a follow-up”), in *Diena*, 15 March 2003.

¹¹⁶ Regulation on Pedagogical Commissions, art. 3.1, 6.1.

and developmental disabilities, and to suggest the most appropriate educational programme.

The Municipal Commissions can recommend that a child with intellectual disabilities attend a special educational programme in a special school or a mainstream school. They also have the right to suggest a programme of home education or an educational programme in a medical care institution, but such suggestions must be based on a statement from a certified physician.¹¹⁷

If judged necessary, the Municipal Commissions can refer a child to the State Commission for further examination. The State Commission is responsible for the following:

- evaluating the level of development, skills and health condition of children of all ages;
- providing a statement on the most suitable educational programme for students in any educational establishment;
- determining the underlying causes of a child's learning difficulties or behavioural problems;
- coordinating the work of Municipal Commissions and ensuring that procedures and regulations are correctly followed;
- examining disputes regarding the work of the Municipal Commissions;
- providing consultations for pedagogues, school medical personnel, and parents (or guardians).

The State Commission has the right to annul or change the decisions of the Municipal Commissions, to propose that a child receive a medical assessment in a health care institution, and to suggest a programme of home education or an educational programme carried out in an institution of medical care (although these must be based on a statement from a certified physician). The State Commission has the right to make decisions that are binding on educational establishments and to control the implementation of these decisions.¹¹⁸

The decisions of the State Commission on the most appropriate educational programme for a child are binding for mainstream and special schools under the authority of both the municipalities and the State, while those of the Municipal Commissions are only binding for schools under the authority of the municipalities.

There has been some criticism of the quality of the Commissions' work, including the point that the psychologists working in the Commissions have been trained according to programmes of general psychology and that, as a result, their opinion frequently

¹¹⁷ Regulation on Pedagogical Commissions, art. 6.1, 6.2, 6.3, 7.1, 7.3.

¹¹⁸ Regulation on Pedagogical Commissions, art. 3.1, 3.2, 3.3, 3.5, 3.6, 3.9, 4.2, 4.3, 4.4, 4.5.

differs from that of special educators. As a result, for example, parents from Aizkraukle District are offered a second opinion from a psychiatrist at Gailezers Hospital in Riga if they are not satisfied with the results of the evaluation carried out by a special teacher or psychologist of the Commission.¹¹⁹

Parents who are dissatisfied with the decision of a Municipal Commission can request a reassessment by the State Commission. In accordance with the Regulation on Pedagogical Commissions, all disputes regarding the decisions of the State Commission are examined according to the procedures stated in laws and regulations.¹²⁰ As the decisions of State Commission are administrative acts, as of 1 February 2004 they can also be appealed against in the recently formed administrative courts.

In practice, if parents are not satisfied with the decision of the State Commission, they can look for a doctor who will provide another diagnosis, supporting their child's enrolment at a mainstream school.¹²¹ However, even if the parents succeed in enrolling their child at a mainstream school, the child may nonetheless encounter problems later if, because of the lack of a special education programme or of adequate support in the mainstream school, the child is not able to pass examinations. In such cases, the Commission will issue a statement of exemption; however, the child will not receive a certificate of completed education and thus will not be able to apply for entry to a vocational school.

1.4 Early intervention

The purpose of early intervention services, and other support provided to young children and their families where the children have a condition or special needs that may adversely affect their development, is to lessen the effects of the child's condition and to maximise the child's development and inclusion. Early intervention may begin at any time between birth and school age. Depending on the needs of the child, it can be provided in a range of settings (at home, in a health centre, or at a hospital) and by a range of personnel (such as special education teachers, occupational therapists, psychologists, social workers, or nurses).

For children with intellectual disabilities, early intervention (or rehabilitation) services are particularly important for preparing the child for integration into a mainstream school or kindergarten. However, at present in Latvia, the Ministry of Education has not developed a serious policy concerning early intervention services. An early

¹¹⁹ Comment from the OSI Roundtable, Riga, 22 June 2004. *Explanatory note: OSI held a roundtable meeting in Latvia in June 2004 to invite critique of the present report in draft form. Experts present included representatives of the government, parents, employers and NGOs.*

¹²⁰ Regulation on Pedagogical Commissions, art. 5.

¹²¹ Interview with Mara Buracka, teacher at Sabile Special School, and member of a Pedagogical Medical Commission, Sabile, 25 March 2004.

intervention programme carried out by the Latvian Portage Association,¹²² an NGO, offers one model of good practice in the provision of early intervention services, but it is presently the only programme in Latvia that offers such services for children with *moderate, severe* and *profound* intellectual disabilities. Although this model is very promising, it is a fairly small-scale initiative, lacking State support and funding.

The Latvian Portage Association's home-based Portage model provides support to children with special needs who live at home with their families. This model makes use of the Portage methodology as well as the basic principles of augmentative and alternative communication methodology, including work with computers and music therapy.¹²³ The Portage system aims to prepare children for social inclusion at the earliest possible age. The Portage programme is tailored for children with various developmental disabilities, from birth until the age of six or seven. It is funded by certain local municipalities and international donors. However, to date no funding has been provided by the Ministries of Education, Health or Welfare.

As of Summer 2004, the Latvian Portage Association was providing early intervention services for around 200 children and their parents throughout Latvia. The association has opened centres in the municipalities of Riga, Valmiera, Kuldiga, Jekabpils and Gulbene. A plan to also open early intervention centres in Liepaja and Daugavpils did not materialise, because of the lack of interest from these municipalities. Currently, the association is also working with Ventspils municipality to obtain funding for the opening and running costs of a Portage programme in this municipality.¹²⁴

2. GOVERNMENT EDUCATION POLICY

At present, the integration into mainstream schools of children with special educational needs (in general) is not widespread in Latvia, although the Government is developing policy aimed at encouraging further integration. The 1998 "Equal Opportunities for All Concept" foresees the development of State and regional programmes to promote the early integration of children with intellectual disabilities into mainstream schools. However, as yet many of the education goals outlined in the Concept are yet to be implemented. The "Education Development Concept for 2002–2005" aims to reform the education system, in order to promote the integration of people with special needs

¹²² The Portage model was developed, tested and evaluated in the United States during a five-year period in the early 1970s. It is based on the belief that parents are the child's first and most important teachers and that early intervention must begin in the child's natural environment, the home. The Latvian Portage teaching model is based on the Portage model used in the United Kingdom, but is modified to suit national characteristics.

¹²³ Latvian Portage Association, "Portage in Europe – sharing new horizons in early childhood education", conference materials developed for the 1st European Portage Conference, Riga, 24–26 October 2001.

¹²⁴ Interview with Ineta Kursiete, Chair, Latvian Portage Association, Riga, 26 February 2004 and 20 August 2004.

into general, professional, higher and special education programmes. Supported by the Nordic Council, Latvia has increased the teaching level of its special educators and established greater cooperation between universities, special and mainstream schools and special and vocational training schools.

2.1 National education policy

In accordance with the Education Law, the Ministry of Education is responsible for implementing a unified state education policy and development strategy. The Ministry is also responsible for drawing up draft education regulations, licensing educational programmes, carrying out accreditation of educational programmes and educational institutions, and establishing State education standards.¹²⁵

There are two main policy papers relevant to the education of children with intellectual disabilities:

- “The Equal Opportunities for All Concept”, 1998 (hereafter, *Equal Opportunities Concept*);¹²⁶
- “The Education Development Concept for 2002–2005”, 2002 (hereafter, *Education Development Concept*).¹²⁷

The *Equal Opportunities Concept* establishes guidelines and measures for creating equal opportunities for all members of society, including people with disabilities. The Concept, together with an accompanying action plan, was developed by the Ministry of Welfare for the period to 2010. The Ministry of Welfare coordinates all the relevant Ministries involved in its implementation.¹²⁸ The implementation of the Concept is coordinated and monitored by the National Council for Matters concerning People with Disabilities, which is under the responsibility of the Ministry of Welfare. The Council is composed of representatives of the different ministries as well as representatives of relevant NGOs.

Among its main tasks in education, the *Equal Opportunities Concept* sets out to ensure the right to education of people with disabilities. To this end, it foresees the

¹²⁵ Education Law, section 15.

¹²⁶ Cabinet of Ministers, *The Equal Opportunities for All Concept*, adopted on 30 June 1998, (not published in the Official Gazette), available (in Latvian) at <http://ppd.mk.gov.lv/ui/DocumentContent.aspx?ID=1539> (accessed 7 March 2005), and (in English) at http://www.lm.gov.lv/doc_upl/VIV_text.doc (accessed 7 March 2005), (hereafter, *Equal Opportunities Concept*).

¹²⁷ The Education Development Concept 2002–2005, adopted on 17 July 2002 by the Cabinet of Ministers, available (in Latvian) at <http://ppd.mk.gov.lv/ui/DocumentContent.aspx?ID=1468> (accessed 5 June 2004), (hereafter, Education Development Concept).

¹²⁸ The Ministry of Welfare, the Ministry of Education, the Ministry of Environmental Protection and Regional Development, the Ministry of Culture, the Ministry of Transport and the Ministry of the Economy.

development of State and regional programmes for the early integration of children with disabilities into mainstream schools.¹²⁹ The Concept also mentions the need for the creation of an institution that would follow the development of children with disabilities from the time when they are first diagnosed, and would develop individual educational programmes and follow their implementation (called State Special Education Centres).¹³⁰ The Concept also foresees measures for ensuring vocational training within the system of general education, including some for children with disabilities.

At the end of 2004, the Government published a first report on the implementation of the *Equal Opportunities Concept*.¹³¹ This report raises several important issues, including the fact that, due to a lack of adequate community-based support, families are still often forced to place their family members with disabilities in institutions. The report also confirmed that State Special Education Centres have yet not been established. The role of these centres is envisaged as improving the content of special education and carrying out systematic diagnosis of developmental disorders in children. However, as yet the exact responsibilities of the centres have not been defined, and it is not clear whether (or to what extent) they would take over this responsibility from the existing Commissions.

The *Education Development Concept* was prepared by the Ministry of Education, and establishes goals and tasks for the development of education in Latvia for the period 2002–2005. The Concept is being implemented on an ongoing basis, and every year the Ministry of Education submits a report on its implementation to the Cabinet of Ministers.¹³² With respect to the education of children with intellectual disabilities, the reports lists all changes made to education regulations. At the end of 2005, the Ministry must submit to the Cabinet of Ministers a new programme covering the period 2006–2009.

The main goal of *Education Development Concept* is the reform of the education system, in order to facilitate the development of democracy and of a more socially integrated, knowledge-based society, aimed at increasing the abilities and competitiveness of the residents of Latvia. It also aims to promote the integration of people with special needs in general, professional, higher and special education programmes.¹³³ Recognising that, at present, Latvia does not have a widespread

¹²⁹ *Equal Opportunities Concept*, p. 15, Chapter 4.1.

¹³⁰ *Equal Opportunities Concept*, p. 13.

¹³¹ Ministry of Welfare, *First Report on the Implementation of 'The Equal Opportunities for All Concept*, 2002, published as a booklet entitled *Joint Activity Platform* (in Latvian), by the NGO Apeiron, Riga, Apeiron, 2004, (hereafter, *Equal Opportunities Concept, Report 2004*), p. 34.

¹³² To date, three reports have been submitted, for 2002, 2003 and 2004.

¹³³ The *Education Development Concept* does not specifically refer to people with intellectual disabilities. However, the term “children with special needs” is usually understood to also include children with intellectual disabilities.

practice of integrating children with special needs into mainstream schools, within the given time period the *Education Development Concept* aims to do the following:¹³⁴

- train teachers in mainstream schools, vocational teachers, students of teaching academies, and teachers of vocational education, to work with people who have special needs;
- increase the accessibility of educational establishments for children with special needs;
- begin the process of transforming special schools into integrated mainstream schools.

In addition to these two key policy papers, the Ministry for Children and Family Affairs is responsible for drafting the yearly “National Programme for the Improvement of the Situation of the Child and the Family”. The 2003 Programme¹³⁵ includes the development of a methodology and educational programmes, for teaching independent living skills to children with intellectual disabilities. Its aim is to publish three study books to support the independent living skills programme, in easy-to-read language, for people with intellectual disabilities. The Government has allocated LVL 5,400 (or approximately €7,684¹³⁶) for the implementation of these tasks.¹³⁷

2.2 The EU, and the Nordic Council of Ministers, and Government education policy

Before the accession of Latvia to the European Union, several EU member states supported the development of programmes for the education of people with intellectual disabilities in Latvia by providing funding and expertise. For example, two projects led by Norway and Iceland have been initiated with the financial support of, and in cooperation with, the Nordic Council of Ministers, in cooperation with Latvia’s Ministry of Education.

The first project, “Education of Pedagogues in Latvia in 2000–2004”, supported research carried out by the Ministry of Education that aimed to establish the extent to which teachers are adequately prepared for working with children with special needs. According to the Ministry of Education, the most significant achievement of this project has been the initiation of cooperation between universities, special schools and

¹³⁴ Education Development Concept, p. 17.

¹³⁵ Special Task Minister for Children and Family Affairs, *The State Programme for the Improvement of the Situation of Child and Family in 2003*, adopted 19 June 2003, available (in Latvian) at http://www.bm.gov.lv/str/137_Valsts%20programma2003.htm (accessed 7 March 2005), (hereafter, State Programme 2003),

¹³⁶ The exchange rate used throughout this report is 1 LVL = €1.423 (1 January 2005).

¹³⁷ State Programme 2003, Section 1.2.

general mainstream schools, in order to develop unified educational programmes.¹³⁸ Similar cooperation has also been started between universities in the three countries involved in the project: Latvia, Norway and Iceland. Cooperation between special and vocational training schools has also improved as a result of the project.

The second project (in 2003–2004) was “Facilitating the Inclusive Transition of Students with Special Educational Needs from Special schools to Vocational Schools”.¹³⁹ Twenty-two teachers were trained by Nordic specialists on the preparation of individualised teaching programmes and on preparing children for the transition from a special school to a vocational school.¹⁴⁰ Among the results of this project was the creation of a training programme by Rezekne High School, “Provision of Services Needed for Children with Special Education Needs in the City and District of Rezekne”.¹⁴¹ However, the Ministry of Education could not provide information about the effectiveness of training and whether any changes have been introduced in other schools.¹⁴²

In 2004, it was envisaged that a new cooperation project be started between Latvia, Norway and Iceland on the development of pedagogical and psychological assessment and the competence of Pedagogical Medical Commissions. The project aims to,

upgrade the activities of Pedagogical and Medical Commissions and expertise of their specialists and to facilitate the integration of children with special needs into general and vocational mainstream education institutions and to provide that all children can access education at the place of their residence or close to it.¹⁴³

This project sounds very promising and relevant for children with intellectual disabilities.

¹³⁸ Ministry of Education, *Information on International co-operation projects and researches in special education*, available (in Latvian) on the Ministry’s website at <http://www.izm.gov.lv/default.aspx?tabID=7&clang=1&id=241> (accessed 7 March 2005).

¹³⁹ Ministry of Education, *Development of Education. National Report of Latvia*, 15 August 2004, available on the Ministry’s website at http://www.izm.gov.lv/dokumenti/izglitiba_politika/zinojums_2004_en.doc, (accessed 7 March 2005), p. 19, (hereafter, Ministry of Education, *Development of Education*).

¹⁴⁰ The teachers were from Riga, the Greater Riga Region, Rēzekne High School, Ezersala Special Boarding School and various other special and vocational schools.

¹⁴¹ Ministry of Education, Ministry of Education, *Education For All – Special Education*, slide 33.

¹⁴² Telephone interview with Daiga Kublina, Senior Desk Officer, Vocational Education and Continuing Education, Ministry of Education, Riga, 31 May 2004.

¹⁴³ Ministry of Education, *Education for All – Special Education*, slide 35.

3. EDUCATION IN PRACTICE

In Latvia, schools are responsible for developing the special educational curricula for students with special needs, which must be licensed by the Ministry of Education and harmonised with other programmes of the District Education Board. In addition, special individualised educational programmes are available for children with severe intellectual disabilities. The Ministry of Education has defined the level of education required of special educators, who have the opportunity to attend various training courses in addition to basic university education. However, the Ministry does not provide courses free of charge in continuing education for teachers already working in special schools; at present teachers have to pay half of the course costs themselves.

Education for children with intellectual disabilities is provided in mainstream schools (in special classes) and in special schools (day schools and boarding schools). Although there are no legal restrictions preventing children with intellectual disabilities from being educated in integrated classes in mainstream schools, there are no known instances of this occurring in practice to date. At present, the majority of children with mild or moderate intellectual disabilities attend special schools; only a few attend mainstream schools. In the past, children with severe intellectual disabilities were considered “uneducable” or only received home schooling; however, an increasing number are now able to attend special schools.

The Ministry of Education and Science maintains detailed statistics on the number of children with special needs in the education system, including children with intellectual disabilities. According to the Ministry, in 2002–2003 there were 281 children with intellectual disabilities attending mainstream school, out of a total of 5,823 children with intellectual disabilities attending any kind of school. In 2003–2004, this figure rose to 322 children (out of a total of 5,662) and in 2004–2005, to 360 (from a total of 5,426). According to the Ministry of Education, 42 mainstream primary schools and 16 mainstream secondary schools have integrated children with intellectual disabilities. The number of integrated children in each school ranges from a minimum of four students, up to 40 students (at Nigrande Primary School) or even 50 students (at Auce Secondary School). A particularly good example is that of Sabile Secondary School, which has integrated a significant number of children with all levels of intellectual disabilities. Such examples need to be replicated more widely, on the national level, if children with intellectual disabilities in Latvia are to gain real access to inclusive education. The lack of assistants for children with special needs is one of the main reasons cited why mainstream schools might not be ready to create special education programmes.

In 2003–2004, there were a total of 5,574 children with intellectual disabilities studying in special schools, mainly in the 43 special schools for children and young people with intellectual disabilities. There are now five special schools in Latvia that have been assigned the status of development centre by the Ministry of Education and Science, and serve as resource centres for mainstream schools. However, very little information is available on the quality of education provided to children with intellectual disabilities in special schools, and there is a need for the Ministry of Education to carry out an evaluation on this subject. A main identified obstacle to the further integration of children with intellectual disabilities is inadequate funding for special classes in mainstream schools. Mainstream schools do not receive an earmarked subsidy from the Government for ensuring the special educational needs of students with disabilities, while children in special schools lose benefits such as free medication, food and transportation if they move to a mainstream school. This acts as a disincentive, and means that there are only a very small number of transfers between special and mainstream schools.

In Latvia, a relatively high number of children with intellectual disabilities still remain outside the educational system. In 2002–2003 over 1,400 children received home schooling, but there is no official data on the number of children with intellectual disabilities included in this total, and nor is there any available information on the quality of education received by home-schooled children. There is no legislative framework or Government policy for the education of children in residential institutions. In Latvia the process of deinstitutionalisation is very slow, mainly due to a lack of State funding for alternative community care services for people with intellectual disabilities. In 2004, there were around 900 children with intellectual disabilities living in residential institutions (specialised long-term psychiatric hospitals, social care homes and orphanages). The Vegi Social Care Home in Talsu District (in collaboration with Sabile Secondary School) has developed good practice in enabling children from the home with all levels of intellectual disabilities to receive integrated education in a mainstream school. In addition, the Ainazi Psychiatric hospital for children (for long-term stay) started to provide education for 35 children (of the total 100 children) from September 2005. However, in the other residential institutions, children have very limited access to any education.

3.1 Resources and support

3.1.1 Curriculum and support

All educational programmes must be submitted to the Ministry of Education's Centre for Curricula Development and Examination,¹⁴⁴ which is responsible for licensing them.¹⁴⁵

Individual schools (or other educational establishments) are responsible for developing the curricula for students with special needs. Prior to licensing, however, each programme must be harmonised with the District Education Board, which coordinates the finding of the most suitable school for integrating children with disabilities, near the area where they live. The programmes are licensed for various durations. For example, if there is some doubt as to whether the school will be able to implement a given programme, it is licensed for only one year with the possibility of renewal.¹⁴⁶

According to the Education Law, "special educational programmes shall be implemented, taking into account the state of health of the student".¹⁴⁷ In 2002, there

¹⁴⁴ The main functions of the Centre for Curricula Development and Examination are as follows: to organise the development, approbation and correction of curricula for basic education and general secondary education; to develop a standard of basic education and secondary education subjects, and samples of subject programmes; to organise assessment and approval of textbooks; to develop materials and a common procedure for state examinations; to organise State language proficiency examinations (since 2001); to address issues regarding further education of pedagogues (since 2002). Ministry of Education, *Development of Education*, p. 3.

¹⁴⁵ In accordance with: Order No. 311 of the Ministry of Education of 5 May 2000, on Specialised Education Programme Curricula Confirmation, and Order No. 260 of the Ministry of Education of 19 April 2000, on Specialised Primary Education Programme Curricula Confirmation.

¹⁴⁶ Interview with Rasma Vīgante, 4 March 2004.

¹⁴⁷ Education Law, Section 42.

were 56 licensed special educational programmes,¹⁴⁸ including 27 “model” (standardised) licensed special educational programmes for children with intellectual disabilities of levels A, B and C.¹⁴⁹

Individualised special educational programmes are available for children with *severe* intellectual disabilities (level C) in special schools and in special classes in mainstream schools. These programmes are designed for a period of nine years – the period of compulsory education – but can be extended by a further three years, for a 12-year period of education, depending on the student’s health condition and the possibilities for carrying out the individualised curriculum for work skill development. However, for students with *mild* and *moderate* intellectual disabilities, the period of schooling cannot be prolonged beyond nine years. Individualised special educational programmes include the development of general practical work skills and vocational education. They aim to create an environment in which students with special needs can receive an appropriate education, according to their health conditions, abilities and level of development.

Vocational education programmes for students with intellectual disabilities are designed for one to three years of training after primary or general secondary education in any of the specialised schools.

3.1.2 Teacher training

Ministry of Education regulations define the standard professional requirements for special educators working with students with intellectual disabilities.¹⁵⁰ Special educators must have a university-level pedagogical education and either a teacher’s qualification in the field of special education or teaching experience in special education of at least three years. Special education teachers are trained in two higher education establishments: Liepaja Pedagogical University and Rezekne Pedagogical High School. However, according to a representative from the Ministry of Education, these two educational institutions cannot meet the demand for the required number of special educators.¹⁵¹

In addition to basic university education, special educators have the opportunity to attend various training courses. For instance, the National Resource Centre for Vocational Guidance in Latvia,¹⁵² in cooperation with the training centre “Support for

¹⁴⁸ Interview with Rasma Vīgante, 4 March 2004.

¹⁴⁹ Interview with Rasma Vīgante, 4 March 2004.

¹⁵⁰ Order No. 145 of the Ministry of Education of 9 March 2004, on Standard Regulations for the Work of the Special Teacher, not published in the official gazette (entered into force 1 September 2004), available at <http://www.izm.gov.lv/default.aspx?tabID=3&cid=1100>, (accessed 30 September 2004).

¹⁵¹ Interview with Rasma Vīgante, 4 March 2004.

¹⁵² For more information, check web page www.piapa.lv, accessed 7 March 2005.

Social Integration”, organises training courses for teachers on integrating children with intellectual disabilities into society.¹⁵³ Unfortunately, however, the Ministry of Education does not provide courses free of charge in continuing education for teachers already working in special schools. Teachers in both mainstream and special schools must complete 36 hours of continuing training courses once every two years. However, the courses offered only concern general education, not issues relating to special education. For courses on special education, 50 per cent of the course fee must be covered by the teacher.¹⁵⁴ Such practices seem highly unfair and are likely to mean that most teachers working with children with special needs cannot gain access to the training that they need. In 2004, the Ministry of Education organised continuing training courses for 200 teachers working with children with special needs.¹⁵⁵

There is no information available on courses specifically addressing inclusive education. However, in 2003 the School Board of Talsi District organised training courses on inclusive education with trainers from Iceland. A group of 50 specialists from special schools, mainstream schools and teaching universities attended these courses.¹⁵⁶

3.2 Inclusive education

In Latvia, education for children with intellectual disabilities is provided through the following channels:

- special classes in mainstream schools;
- “integrated” special classes in mainstream schools (i.e. together with students with special educational needs other than intellectual disability);
- special schools (including day schools and residential boarding schools);
- individual teaching at home.

Although the law does also permit children with intellectual disabilities to study in an inclusive class, along with students without intellectual disabilities, to date there is no information to suggest that this has happened in practice.

¹⁵³ The training centre “Support for Social Integration” offers consultations and training programmes for special teachers, information on courses is regularly updated and is available at <http://www.asi.edu.lv> (accessed 7 March 2005).

¹⁵⁴ Interview with Dzintra Novika, Deputy Director, and Inese Brukle, Head of Study Department, Dzirciems Special School, Dzirciems, Tukums District, 25 March 2004.

¹⁵⁵ Ministry of Education and Science, (*Informatīvais ziņojums “Par Izglītības attīstības koncepcijas 2002.–2005. gadam īstenošanas gaitu 2004. Gada), (The Informative report on implementation of “The Education Development Concept for 2002–2005” in 2004)*, available at <http://www.izm.gov.lv/default.aspx?tabID=22&lang=1&cid=1271> (accessed 20 July 2005).

¹⁵⁶ Interview with Māra Burčaka, special teacher, Sabile Secondary School, Sabile, 25 March 2004.

At present, children with intellectual disabilities do not have access to high-quality inclusive education, and the majority are educated in special schools. In order to increase the opportunities for children with disabilities to obtain an education in the community, close to their place of residence, the Ministry of Education has developed recommendations for integrating children with special needs into mainstream schools.¹⁵⁷ However, the NHRO states in its 2003 Annual Report that not enough has yet been done to create opportunities for children with special needs to obtain an education that would correspond to the child's state of health, skills and level of development.¹⁵⁸

3.2.1 Mainstreaming

According to the Education Law, students with special needs, including intellectual disabilities, can be admitted to a mainstream school if the school has a special licensed educational programme with the appropriate maintenance.¹⁵⁹

The Ministry of Education and Science maintains detailed statistics on the number of children with special needs in the education system, including children with intellectual disabilities. According to the Ministry, in 2002–2003 there were 281 children with intellectual disabilities attending mainstream school, out of a total of 5,823 children with intellectual disabilities attending any kind of school. In 2003–2004, this figure rose to 322 children (out of a total of 5,662) and in 2004–2005, to 360 (from a total of 5,426).

According to the Ministry, in 2003 the total number of children with physical and mental disabilities integrated into mainstream education was only 1,785 students.¹⁶⁰ In 2000–2001, there were a total of 89 special classes in mainstream schools, providing education for 669 students with special needs including 287 students with intellectual disabilities.^{161 162} In 2002–2003 this had risen to 792 students with special needs, including 285 students with intellectual disabilities. By 2003, a further 23 special classes had been created in mainstream schools for children with various “developmental disabilities”. There are no figures available on the number of children with special needs in integrated classes.

At present, therefore, very few children with intellectual disabilities attend a mainstream school. Of these, although some are able to attend integrated classes in

¹⁵⁷ Equal Opportunities Concept, *Report 2004*, p. 46.

¹⁵⁸ NHRO, *Annual Report 2003*, p. 65.

¹⁵⁹ Education Law, section 42(1).

¹⁶⁰ Ministry of Education, *Development of Education*, p. 14.

¹⁶¹ Data obtained from Ministry of Education and Science, Economic Management Division, letter No. 07-04/59 of A. Uplejs to Ieva Leimane-Veldmeijere, sent on 25 August 2005 (hereafter, Ministry of Education, letter of 25 August 2005).

¹⁶² Equal Opportunities Concept, *Report 2004*, p. 46.

mainstream schools, most attend special classes, together with other children with special needs.

According to the Ministry of Education, around 42 primary schools and 16 secondary schools have integrated children with intellectual disabilities.¹⁶³ The number of integrated children in each school varies – it ranges from a minimum of four students, up to 40 students (at Nigrande Primary School), or even 50 students (at Auce Secondary School).¹⁶⁴ A particularly good example is that of Sabile Secondary School, which has integrated a significant number of children with all levels of intellectual disabilities (see below). Such examples now need to be replicated more widely, on the national level, if children with intellectual disabilities in Latvia are to gain real access to inclusive education.

The relatively small number of special classes in mainstream schools is mainly due to a lack of funding. Mainstream schools do not receive an earmarked subsidy from the Government for ensuring the special needs of students with disabilities. This lack of financial support is also frequently a reason why parents of children with disabilities are not interested in choosing a mainstream school for their child, rather than a special school. If the child moves from a special school to a mainstream school, he or she loses the benefits of free medication, food and transportation.¹⁶⁵

Sabile Secondary School

Sabile Secondary School is a mainstream school in Talsi District that has been always very active first in integrating Roma children into special classes¹⁶⁶ – these were children of varying ages, who had previously not been attending school – and later also children with intellectual disabilities. The first special class for children with intellectual disabilities at Sabile Secondary School was created in 1993–1994 for 10 students with level A and B intellectual disabilities. They were taught in a special class, but attended several mainstream classes, such as music and physical education lessons, together with other students. In 1994–1995 one additional class was opened for 23 students, including children with level C (*severe*) intellectual disabilities. However, although it is positive that the school has integrated children with intellectual disabilities into the school, the next step should be to ensure inclusive education – by including the children with intellectual disabilities in mainstream classes.

In 2002–2003, 28 students attended special classes at the school, including three classes providing education for 13 children with level C intellectual disabilities. Students with special needs have separate classes, and they can also work individually

¹⁶³ Ministry of Education, letter of 25 August 2005.

¹⁶⁴ Telephone interview with Vija Vanaga, Senior Officer, Department of Institutional Development, Ministry of Education and Science, 18 July 2005.

¹⁶⁵ Comment from the OSI Roundtable, Riga, 22 June 2004.

¹⁶⁶ LCHRES, *The Situation of Roma in Latvia*, Riga, 2003, p. 26.

with a personal assistant in a separate room. However, all children meet together for breaks between the lessons, for various school events, and for music, sports and needlework lessons. In December 2003, the Ministry of Education approved a new integration programme for Sabile Secondary school.¹⁶⁷ This programme foresees the integration of children with intellectual disabilities into mainstream classes (maximum of six children per class). However at present it is not clear if this programme will be funded, as the Ministry has not yet made a final decision.

A special teacher at Sabile Secondary School has observed that the sooner a child attends a mainstream school, the better the expected results of integration.¹⁶⁸ She also found that, for children with special needs, mainstream schooling is positive, because every day they meet other children with whom they study and develop relationships.

3.2.2 Special schools

According to data from the Ministry of Education, in 2003–2004 there were a total of 9,822 students with special needs studying in the 63 general special schools in Latvia (3.14 per cent of all students in general education).¹⁶⁹ Of these, 5,574 were children with intellectual disabilities (“mental developmental disorders”).¹⁷⁰ Most were studying in the 42 special schools for children and young people with intellectual disabilities.¹⁷¹

There are five special schools in Latvia that have been assigned the status of development centre by the Ministry of Education and Science¹⁷² and, in effect, serve as resource centres for mainstream schools.¹⁷³ Among their tasks is to provide methodical and pedagogical support for students with special needs integrated into mainstream schools, and their parents, and teachers in mainstream schools who implement special education programmes.

Over the last decade there has been a significant increase in the provision of education for children with *moderate* and *severe* intellectual disabilities. In the past such children were

¹⁶⁷ Interview with Rasma Vīgante, 4 March 2004.

¹⁶⁸ Interview with Māra Burčaka, 25 March 2004.

¹⁶⁹ Ministry of Education, *Development of Education*, pp. 13–14.

¹⁷⁰ Ministry of Education, *Development of Education*, p. 14.

¹⁷¹ Ministry of Education, *Education for All – Special Education*, available on the ministry website at http://www.izm.gov.lv/dokumenti/visparizglitojsa%20izglitiba/eng_slaidi/special_education.ppt (in English) (accessed 10 December 2004), p. 11, (hereafter, Ministry of Education, *Education for All – Special Education*).

¹⁷² This status is assigned to those schools that already have experience in providing methodical and pedagogical support for mainstream schools and for the parents of children with special needs.

¹⁷³ The five development centres are Pelci Special Boarding School/Development Centre, Koknese Special Boarding School/Development Centre, Strazdumuiža Boarding School/Development Centre for Children with Impaired Vision, Riga Special Basic School/Development Centre and Valmiera Boarding School/Development Centre for Children with Impaired Hearing.

considered “uneducable” and were denied their right to education, but now there are at least three mainstream schools integrating children with level C intellectual disabilities. From 1990 to 2002, the number of classes for children with *moderate* and *severe* intellectual disabilities, both in special schools and in special classes in mainstream schools, increased from 2 to 183, and the corresponding number of students studying in these classes increased from 15 to 862.¹⁷⁴ By contrast, very few students with intellectual disabilities have been able to transfer from special schools into the mainstream educational system – in 2003, only seven students were moved from a special school to a mainstream school.¹⁷⁵

There is little information available on the quality of education received by children in special schools. However, there has been criticism that there is little motivation among students in special schools and their teachers to increase the students’ level of knowledge, and thus not enough effort is made to monitor the dynamics of a child’s development in special schools.¹⁷⁶

The National Human Rights Office (NHRO) has acted on one complaint, received in 2003, concerning the quality of education provided by special schools.¹⁷⁷ The complaint concerned the quality of education received by a student with intellectual disabilities at a special boarding school, in particular with respect to the teaching of Latvian and Russian. The complaint detailed monotonous and ineffective teaching methods, with a reliance on simply copying down information from the blackboard. Students had never been asked, for example, to write essays, retell stories, or learn poems by heart. During Latvian language classes they had never used textbooks or received homework. The mother of the student concerned had several times expressed her concerns, but there had been no response from the school.

As a result of these inadequate teaching methods, the student concerned had finished the primary special education programme for ethnic minorities for in a vocational class and had obtained the qualification of joiner (carpenter). However, the student had not been offered the opportunity to sit the centralised State language test at the school, and in any case had not acquired the necessary skills to pass it. The certificate that the student received on finishing the school only included an assessment of the student’s knowledge of Latvian, but this is not enough to apply for a job. The NHRO asked the State Education Inspectorate to conduct an inspection of the school, but the Inspectorate replied that the quality of education provided by the school was evaluated during the accreditation process, and that the next accreditation for the school was planned for 2006.

¹⁷⁴ Ministry of Education, *Development of Education*, p. 14.

¹⁷⁵ Interview with Rasma Vīgante, 4 March 2004.

¹⁷⁶ Interview with Aina Abolina, former teacher, Riga Special School No. 4, Riga, 11 February 2004.

¹⁷⁷ NHRO, Annual Report 2003.

During interviews conducted in the framework of this project, parents of children with intellectual disabilities did not voice concerns about the quality of education received by their children in special schools.¹⁷⁸ Nonetheless, given the lack of available data and the clearly slow progress of integration in Latvia, it would be advisable for the Ministry of Education and Science to carry out an evaluation of the specific experiences of the significant number of children with intellectual disabilities studying in special schools.

Several Government regulations address the access to education of children with special needs in special schools.¹⁷⁹ The education of children with special needs in special schools is financed by the national budget. The State guarantees transportation and other kinds of assistance for children with special needs in special schools, but not in mainstream schools.¹⁸⁰ Every year, a subsidy from the national budget is allocated to local municipalities for special schools, sanatoriums and special boarding schools, to cover the living expenses of children with intellectual disabilities and teachers' salaries. Special schools are responsible for ensuring the psychological and medical care of the student and for preparing the student to live and work in society.

Local municipalities can establish a special pre-school if there are at least eight children with special needs and the parents have requested it.¹⁸¹ In 2002–2003, there were 433 children with “mental disorders” attending pre-school establishments.¹⁸² The head of the school is responsible for ensuring that each child is assessed and that education is provided according to the special education programme.¹⁸³

According to regulations established by the Ministry of Education, special schools for students with intellectual disabilities should have no more than 8-12 pupils with level A or B intellectual disabilities per class, and no more than six pupils with level C intellectual disabilities per class.¹⁸⁴ Each year, teachers must prepare a progress report on each student in order to evaluate their development and identify areas that require

¹⁷⁸ Interview with mothers from a support group for parents of children with intellectual disabilities, Jelgava, 3 April 2004.

¹⁷⁹ In particular: Regulation on Admission Procedures.

¹⁸⁰ In accordance with the Education Law, Regulation No. 493 of the Cabinet of Ministers of 20 November 2001, on the Financing of Special Schools, Special Classrooms of General Education Establishments and Boarding Schools, published in *Latvijas Vestnesis* No. 182 of 14 December 2001 (entered into force on 15 December 2001), accessed at <http://pro.nais.dati.lv> (accessed 7 March 2005), and Regulation No. 399 of the Cabinet of Ministers of 13 September 2002, on Minimum Per-student Expenses for Implementation of Primary and Secondary Education Programmes, LV No. 144 of 10 October 2001 (entered into force on 11 October 2001) available at <http://pro.nais.dati.lv> (accessed 7 March 2005).

¹⁸¹ General Education Law 1999, art. 25.

¹⁸² Central Statistical Bureau, *Children in Latvia, Statistical Bulletin*, Riga 2003, p. 20.

¹⁸³ General Education Law 1999, art. 25.

¹⁸⁴ Order No. 313 of the Ministry of Education of 5 May 2000, on the Minimum and Maximum Numbers of Students per Classroom in State and Local Municipal General Education Institutions.

additional attention. During the accreditation process at special schools, evaluations are carried out on children who have, for instance, moved from level B to level A.

At present, students who have completed a special education programme in a special school (or in a mainstream school) receive a certificate of primary education or a diploma of secondary education and an achievement sheet. These certificates are nationally recognised – in particular, if the diploma includes an evaluation of the student's knowledge – and can improve the students' chances of later gaining access to vocational training/employment.

3.3 Education outside the school system

3.3.1 Home schooling

In 2002–2003, a total of 1,419 children with various kinds of disabilities received home schooling.¹⁸⁵ The Ministry of Education does not maintain data on the number of children with intellectual disabilities receiving home schooling. However, the number of home-schooled children in Latvia is relatively high, and would therefore seem to indicate that some children with intellectual disabilities are not yet able to gain access to education in a school.

There is no available information on the quality of the education received by home-schooled children with intellectual disabilities.

The Ministry of Education regulates home schooling.¹⁸⁶ In the past, only a special Doctors' Commission could recommend home schooling, but it can now only be recommended by a General Practitioner.¹⁸⁷ Based on the parents' written application, and with the agreement of the District Education Board, the director of a school can delegate the responsibility for the content of the educational programme to parents (for grades 1 to 4). The child is educated at home, with a teacher regularly visiting the home. Home schooling is usually assigned for a period of between six months and a year, and then every six months the Pedagogical Medical Commission re-evaluates the student, to determine if he or she should continue home schooling or can now attend a special or mainstream school.¹⁸⁸

Home schooling is intended (with the parents' agreement) for cases where children have adapted poorly to school, have a fragile health condition, are considered unready

¹⁸⁵ Statistical data provided by Rasma Vīgante, 4 March 2004.

¹⁸⁶ In accordance with: Instruction No. 8 of the Ministry of Education of 26 May 2000, on the Education of Pupils with Sustained Illness Outside Education Establishments, and Instruction No. 7 of the Ministry of Education of 27 November 2003, on Requirements for Student Admission and Moving to Higher Grade in General Primary Education and Secondary Education Establishments.

¹⁸⁷ Interview with Rasma Vīgante, 4 March 2004.

¹⁸⁸ Interview with Rasma Vīgante, 9 March 2005.

for school because of their psychological condition, or have other special requirements that their school cannot accommodate, including children with *severe* and *profound* intellectual disabilities. Nonetheless, there have also been cases in which a mainstream school simply wants to expel a hyperactive child and therefore suggests to the parents that the child qualifies for home schooling.¹⁸⁹ Some home-schooled children may have *severe* intellectual disabilities (level C) while others may have *mild* or *moderate* intellectual disabilities (levels B and C) combined with other disabilities.¹⁹⁰

3.3.2 Education of children in institutions

In 2004, there were in total around 900 children with intellectual disabilities living in residential institutions under the authority of the Ministry of Welfare – social care homes for orphaned children and specialised social care homes (see section II.2).

In Latvia, the process of deinstitutionalisation is very slow, and in 2001 the United Nations Committee on the Rights of the Child expressed its concern about the large number of children still residing in institutions in Latvia.¹⁹¹ A main reason for the lack of progress in this area is that while the costs of institutional care are paid by the State, alternative community care services for people with intellectual disabilities are generally not State-funded, and are still not widely available throughout the country.¹⁹²

There is no legislative framework or Government policy for the education of children in specialised social care homes. Each institution must solve the education issue itself. One positive example of an independent solution for the education of children in social care homes is the Vegi Social Care Home in Talsu District. Nonetheless, it should be noted that this example illustrates the exception, rather than the rule, and in most cases access to education in these institutions is limited.

The Vegi Social Care Home has 103 residents with intellectual disabilities. This home has succeeded in sending 12 children with level C (*severe*) intellectual disabilities to

¹⁸⁹ Interview with Rasma Vīgante, 4 March 2004.

¹⁹⁰ Interview with Rasma Vīgante, 9 March 2005.

¹⁹¹ In 2001 Latvia submitted its first report on its implementation of the CRC to the UN Committee on the Rights of the Child. In its concluding comments on this submission, the Committee on the Rights of the Child in Latvia states “(37) The Committee expresses its concern [...] at the high proportion of children with disabilities who are institutionalized [...]” Committee on the Rights of the Child, Twenty-sixth session, Concluding observations of the Committee on the Rights of the Child on Latvia, 21 February 2001, available at <http://www1.umn.edu/humanrts/crc/latvia2001.html> (accessed 5 June 2004).

¹⁹² The Government has not taken any steps to move people from institutional care into the community. In 2002, there were 18 day centres and two group homes for people with intellectual disabilities in Latvia, providing services for 575 clients. However, the waiting list for places in a social care home continues to increase every year. At the beginning of 2004, around 800 people with various mental disabilities were on a waiting list for places in specialised social care homes. Data obtained from Social Assistance Foundation.

Sabile Secondary School for lessons every day (see section III.3.2.2). The staff of the care home admit that this is only possible because of the understanding attitude of Sabile Secondary School.¹⁹³ In 2001, an evaluation of the Vegi Social Care Home established that 24 children could attend special schools or special classes in mainstream schools if given the chance.¹⁹⁴ Ten to twelve children at the Vegi Social Care Home receive education at the social care home, where a social worker provides daily lessons; some of the children also attend Upesgriva Special School.¹⁹⁵

4. TRANSITION FROM EDUCATION TO EMPLOYMENT

Young people with intellectual disabilities have great difficulty in finding work or employment of any kind after completing compulsory education. The main ways in which students with intellectual disabilities are prepared for the difficult transition from education to employment is through participation in "Life Skills" programmes or vocational training. However, although in principle every special school and mainstream school with a special programme should offer a life skills programme, often schools are unable to fully implement them. Similarly, due to a lack of resources and educators the majority of special schools are also unable to offer vocational training classes. Those courses that are offered often do not correspond to the needs of the labour market. This means that most young people with intellectual disabilities leave school very inadequately prepared for the challenges of leading an independent life. At present there are very limited opportunities or support for people with intellectual disabilities to receive professional rehabilitation, adult education, or life-long education.

4.1 Vocational training

Life skills programmes

Every special school or mainstream school with a special programme should have a "Life Skills" programme, which is intended to ease a student's transition from education to employment. The aim of such a programme is to teach practical skills, such as cooking and planning a personal budget, so that after completing grade nine, students will be adequately prepared for an independent life.¹⁹⁶

However, some teachers in special schools are very critical of the quality of the available life skills programmes. For example, in practice there is often no opportunity to acquire cooking skills, as the school does not have enough funding to build a separate kitchen for training and the State Sanitary Inspection does not allow the use of the school kitchen for

¹⁹³ Interview with Agris Derkevics, Director, Vegi Social Care Home, Vegi, 20 July 2004.

¹⁹⁴ Interview with Māra Burčaka, 25 March 2004.

¹⁹⁵ Interview with Māra Burčaka, 25 March 2004.

¹⁹⁶ Interview with Rasma Vīgante, 4 March 2004.

training purposes.¹⁹⁷ Due to time limitations, it is also impossible for each student to practise preparing food in the course of just two lessons. Therefore, each student must prepare just one part of the food, and they never practise the whole process of preparing a particular dish. After graduating from a special school, these students (especially those who are orphans) are simply not prepared for an independent life.¹⁹⁸

Vocational training

Special schools also have the authority to create vocational training classes. However, the Ministry of Education only provides funding for opening vocational training classes if the school has sufficient material resources and educators, the course teaches marketable skills that would enable graduates to work upon completing the course, and it is possible to find employment related to the vocational training offered. Due to these funding restrictions, in the school year 2001–2002, out of the 43 special schools for children with intellectual disabilities (providing education for a total of 5,860 children), 26 schools did not provide any vocational training at all.¹⁹⁹

The vocational training offered in those schools that did offer vocational training included training for agricultural work, or work as a gardener's assistant, cook's assistant, tailor, shoe-mender, painter, construction worker and assistant joiner. During interviews, several parents expressed the opinion that the range of professions offered was very limited, and several professions, such as tailoring, were actually very difficult.²⁰⁰ There has been no analysis of the labour market to establish which professions are still likely to be marketable two to five years from now. For example, in the current labour market there is little need for the large numbers of assistants to shoemakers that are being trained. Other vocational training programmes do exist, but these are only for people with physical disabilities.²⁰¹

It is very difficult for young people with intellectual disabilities to find work after completing special schools and, at present, after finishing vocational training most students have no place to go. This is especially the case for those with level C (*severe*) intellectual disabilities, who are usually admitted to social care homes due to the severe lack of community-based housing.

After completing special schools, students can also enter special classes at mainstream vocational schools. However, the number of students with intellectual disabilities in such classes is very small. From a total of 132 students, only around 10 per cent of

¹⁹⁷ Interviews with Dzintra Novika, Deputy Director, and Inese Brukle, Head of Study Department, Dzirciems Special School, Dzirciems, Tukums District, 25 March 2004.

¹⁹⁸ Interview with Dzintra Novika and Inese Brukle, 25 March 2004.

¹⁹⁹ Information from the homepage of the Ministry of Education website, available at <http://www.izm.gov.lv> (accessed 7 March 2005).

²⁰⁰ Interview with mothers from a support group for parents of children with intellectual disabilities, Jelgava, 3 April 2004.

²⁰¹ Interview with Karina Kaktina, Executive Director, NGO "Kopā", Riga, 3 March 2004.

students at Dzirciems Special School enter mainstream vocational schools (for example in Skrunda, Zalenieki and Limbazi). Usually the first half of the first year in the mainstream vocational school is very difficult for students with intellectual disabilities, as they are not used to the more rigorous requirements of mainstream schools in certain subjects.²⁰²

The Ministry of Education has recognised that special schools require specialists in vocational orientation to organise further vocational training for people with intellectual disabilities after they complete a special school. Until now this has been the task of the form master or Deputy Director of the school. At present, the Ministry of Education is preparing guidelines for establishing advisors on vocational orientation in special schools.²⁰³

4.2 Adult and life-long education

At present, the area of professional rehabilitation is severely undeveloped, and there is an evident need for the Government to create programmes of life-long education for people with intellectual disabilities. There are very limited opportunities and little support for adults with intellectual disabilities to receive any “refresher” courses. There are only two professional rehabilitation institutions for people with disabilities in Latvia, the Centre for Vocational Training and Rehabilitation “Alsviki” and the Centre of the State Agency for Social Integration (previously called the Republic of Latvia Rehabilitation Centre), which offers retraining or teaching in a new profession. Both centres also provide opportunities for people with intellectual disabilities to learn a profession and to receive individual social rehabilitation, as well as to take advantage of the services of various specialists.

²⁰² Interview with Dzintra Novika and Inese Brukle, 25 March 2004.

²⁰³ Telephone interview with Daiga Kublina, 31 May 2004.

IV. Access to Employment

1. LEGAL AND ADMINISTRATIVE FRAMEWORK

The Latvian Constitution provides for equal opportunities in employment for all residents. The Labour Law has been amended to transpose the provisions of the EU Employment Directive into Latvian legislation, apart from specifically including sexual orientation as a prohibited ground for discrimination. However, with respect to the employment of people with intellectual disabilities, there are two important “gaps” in Latvian legislation – there is no definition of supported employment in existing legislation, and only inadequate provisions concerning sheltered employment.

The assessment of disability for employment purposes carried out by the State Medical Commission for Determining Health Condition and Working Ability, and its regional structural units establish disability status according to one of three disability groups: I (the most severe), II or III. In 2003, the automatic designation of people in disability groups I and II as “unfit to work” (i.e. with 100 per cent working incapacity) was eliminated, and the Commissions now evaluate the working capacity of people with disabilities on an individual basis. Nonetheless, it seems that most people with intellectual disabilities are still being assessed as having no working capacity. This is important, in that only people with some working capacity can register as unemployed and gain access to the employment services of the State Employment Agency (SEA). In particular, they cannot apply for a subsidised workplace through the SEA, as this service is available only for registered unemployed persons.

The State disability pension is calculated as a function of the designated disability group of the person with disabilities. However, most people with intellectual disabilities have not worked, so are not eligible for this benefit, as a three-year working history is required. They instead rely on the State social security benefit, for which people in all three disability groups are eligible.

1.1 National employment legislation

The Constitution provides for equal opportunities in employment for all residents of Latvia.²⁰⁴ Article 106 states that “everyone has the right to freely choose their employment and workplace according to their abilities and qualifications”. According to Article 107, “every employed person has the right to receive, for the 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”. Article 109 covers social security protection, and states that “everyone has the right to social security in old age, for work disability, for unemployment and in other cases as provided by law”.

The most relevant legislation for the employment of people with intellectual disabilities is as follows:

²⁰⁴ Constitution, art. 106-109.

- the Labour Law;²⁰⁵
- the Law on the Medical and Social Protection of Disabled Persons (hereafter, Law on People with Disabilities);
- the Support for Unemployed Persons and Persons Seeking Employment Law (hereafter, Law on Support for Unemployed Persons);²⁰⁶
- the Law on Social Services and Social Assistance²⁰⁷ (hereafter, Social Services Law).

The new Labour Law (first adopted in 2001) was last amended on 22 April 2004, with the aim of bringing Latvian legislation into line with the provisions of the EU Employment Directive. The amendments mainly concern combating discrimination and differential treatment in the workplace, and are therefore particularly relevant for people with disabilities. Section 7 of the Labour Law enshrines equal rights for everyone “to work in fair, safe and healthy working conditions, as well as work remuneration.”²⁰⁸ It also prohibits direct and indirect discrimination, “irrespective of a person's race, skin colour, gender, age, disability, religious, political or other conviction, ethnic or social origin, property, marital status or other circumstances”²⁰⁹ In accordance with the EU Employment Directive,²¹⁰ this article also provides for “reasonable accommodation” for people with disabilities.²¹¹ Section 7(3) stipulates that,

an employer has a duty to take measures that are necessary in conformity with the circumstances in order to adapt the work environment to facilitate the possibility of disabled persons to establish employment legal relations, fulfil work duties, be promoted to higher positions or be sent for professional training, insofar as such measures do not place an unreasonable burden on the employer.

²⁰⁵ Labour Law, adopted 20 June 2001, LV No. 105 of 6 July 2001, last amended 22 April 2004 (entered into force 8 May 2004), available (in English) at <http://www.ttc.lv/New/lv/tulkojumi/E0223.doc> (accessed 10 December 2004), Section 7(3).

²⁰⁶ The Law on Support for Unemployed Persons and Persons Seeking Employment, adopted 9 May 2002, LV No. 80 of 29 May 2002, last amended 22 April 2004, available at <http://www.ttc.lv/New/lv/tulkojumi/E0379.doc> (in English) (accessed 10 December 2004), (hereafter, Law on Support for Unemployed Persons).

²⁰⁷ The Law On Social Services and Social Assistance 2002, adopted 31 October 2002, LV No. 168 of 19 November 2002, last amended 25 November 2004, available (in English) at <http://www.ttc.lv/New/lv/tulkojumi/E0667.doc> (accessed 10 December 2004), (hereafter, Social Services Law).

²⁰⁸ Labour Law, Section 7(1).

²⁰⁹ Labour Law, Section 7(2).

²¹⁰ EU Employment Directive, art. 5 (Reasonable accommodation for disabled persons).

²¹¹ Labour Law, Section 7(3).

Section 29 of the Labour Law defines indirect and direct discrimination in employment.²¹² It prohibits (with certain stated exceptions²¹³) differential treatment in employment, including any due to a person's disability, and states that if an employee brings a complaint of direct or indirect discrimination to court, the burden of proof lies with the employer.²¹⁴

The latest amendments to the Labour Law should be viewed as a positive development in terms of providing an adequate national legislative framework for encouraging people with disabilities to find work. However, the Law does not provide *specific* protection for people with intellectual disabilities. It will be important, therefore, that the provision on "reasonable accommodation" be interpreted in a broader sense, not only as providing access to the workplace for people with physical disabilities, but also taking into account the EU's recommended interpretation of the term "reasonable accommodation." This includes patterns of working time and other special accommodations that are very important with respect to supported employment for people with intellectual disabilities.²¹⁵

The Law on People with Disabilities 2004 also addresses the employment rights of people with disabilities. Article 11, on social assistance, states in general that each person with disabilities has the right to be provided with a place in society, and more particularly with an occupation that corresponds to the person's abilities and wishes. Article 13 covers assistance in the area of employment, and states that such assistance includes the possibility of finding suitable employment or occupation, improving the

²¹² Section 29(5) states "Direct discrimination exists if in comparable situations the treatment of a person in relation to his or her belonging to a specific gender is, was or may be less favourable than in respect of another person." Under Section 29(6), "Indirect discrimination exists if in comparable situations evidently neutral provisions, criteria or practice cause or may cause adverse consequences for persons belonging to one gender, except in cases where such provisions, criteria or practice are objectively substantiated with a legal purpose with the achievement of which the selected means are commensurate." Section 29(5) states "The provisions of this Section shall also apply to the prohibition of differential treatment based on [...] disability [...]". Labour Law, Section 29.

²¹³ Labour Law, Section 29(2).

²¹⁴ Section 29(3) states the following: "If in a case of dispute an employee indicates conditions that may serve as a basis for his or her direct discrimination based on gender, the employer has a duty to prove that the differential treatment is based on objective circumstances not related to the gender, or also that belonging to particular gender is an objective and substantiated precondition for performance of the relevant work or the relevant employment." Section 29(5) states "The provisions of this Section shall also apply to the prohibition of differential treatment based on [...] disability [...]" Labour Law 2001, Section 29.

²¹⁵ European Commission, *Equal Opportunities for People with Disabilities: A European Action Plan*, COM (2003) 650 final, Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions, Brussels, 30 October 2003, p. 8, available at http://europa.eu.int/comm/employment_social/news/2003/oct/en.pdf (accessed 10 December 2004).

individual's knowledge in his or her profession, and obtaining a suitable profession. All such assistance is provided by the State Employment Agency (SEA).

Sheltered employment is not properly defined in Latvian legislation. The only definition that comes close to that of a sheltered workplace is that of a "specialised workshop" provided by the Social Services Law, namely a workshop "in which workplaces have been created, and the support of specialists is provided to persons with impaired vision and hearing or persons with mental impairments".²¹⁶ The "specialised workshop" is defined as one way in which a form of social rehabilitation services can be made available for people with disabilities.²¹⁷ It is, however, now urgent that Latvia establish comprehensive regulations on sheltered employment (including an accepted definition), given that in autumn 2004, the Social Assistance Foundation (from November 2004, the Social Services' Board) announced its first grants competition for ESF funds, which will also be used for creating "specialised workshops".²¹⁸

Supported employment has yet to be defined at all in Latvian legislation, which represents a significant barrier to the access to employment of people with intellectual disabilities. Similarly, there is no legislation or regulations on "social firms". Although the last two years have seen positive developments in providing employment opportunities for people with disabilities, there is no enhanced specific legal protection for people with intellectual disabilities working on the open market. There are also no legislative provisions for encouraging employers or NGOs to create real employment opportunities for people with disabilities on the open market.

Specialised bodies

In Latvia there is no specialised body addressing cases of discrimination in employment for people with disabilities. Currently, in cases of discrimination a person can apply directly to the courts or submit a complaint to the State Labour Inspectorate. Complaints on discrimination can also be submitted to the National Human Rights Office (NHRO).

²¹⁶ Social Services Law, Section 1(25).

²¹⁷ Social Services Law, Section 1(22).

²¹⁸ Grant scheme, "The Development of Alternative Social Care and Social Assistance Services" (in Latvian), funded by European Regional Development Fund, administered by Social Assistance Foundation, available at [http://www.spf.lv/NotesCMS.nsf/0/99FEF1AC8CBFB29FC2256EB1004057D5/\\$file/ERAF_GS_240804_pv.doc](http://www.spf.lv/NotesCMS.nsf/0/99FEF1AC8CBFB29FC2256EB1004057D5/$file/ERAF_GS_240804_pv.doc) (accessed 7 March 2005), (hereafter, Grant scheme – Development of Alternative Social Care).

1.2 Assessment of capacity for employment purposes

For adults, the State Medical Commission for Determining Health Condition and Working Ability²¹⁹ and its regional structural units (hereafter, Medical Commissions), are responsible for establishing disability according to one of three disability groups – I (the most severe), II or III.²²⁰ In accordance with the Law on People with Disabilities, a person with disabilities is also defined as having either *severe* disabilities (for people in disability groups I and II) or *mild* disabilities (disability group III).²²¹

When establishing whether an adult is considered to have disabilities or not, and granting disability status according to one of the three disability groups, the Medical Commissions now also evaluate the individual's working capacity, expressed as the percentage loss of working capacity. However, this is not established for people determined as having disabilities since childhood – as is the case for most people with intellectual disabilities – and only applies to people who become disabled later in their life, for example, as a result of an accident or illness.²²²

Until 2002, people with *mild* intellectual disabilities (disability group III) could have an assessment of their working capacity made, so that they could then register as seeking employment. However, people in disability groups I and II had a record in their “statement on disability status” (a personal document, important for access to social benefits), (1) stating their disability group, and (2) declaring that they were “unfit to work”. They were thereby automatically assumed to have 100 per cent working incapacity. Such a record completely restricted their right to work or obtain the status of unemployed. After protests from NGOs, this procedure was amended in 2002, since when the term “unfit to work” has no longer been used. This removed an important barrier to access to employment and to access to unemployment benefits. Although the Medical Commissions still issue statements on disability status, these are no longer needed. Instead, the main document identifying an individual as a person with disabilities – used, for example, for transport fare reductions or access to social benefits – is the identity card of a person with disabilities, which states the individual's disability group.

Since 2002, therefore, the assessment carried out by the Medical Commission no longer *automatically* restricts the ability of a person with *severe* intellectual disabilities to make choices about employment and gain access to employment opportunities. In accordance with the Law on Support for Unemployed Persons, a person with

²¹⁹ The State Medical Commission for Determining Health Condition and Working Ability is under the authority of the Ministry of Welfare.

²²⁰ Law on People with Disabilities, art. 9; see also: Section II.B.1 of this report.

²²¹ Law on People with Disabilities, art. 9.

²²² Telephone interview with Ms. Aina Admine, Chief of the State Medical Commission, 9 March 2005.

disabilities is considered “able to work” unless the Commission has determined that the individual has 100 per cent working incapacity.²²³ In practice, however, it would seem that most people with *moderate* or *severe* intellectual disabilities are nonetheless assessed as having 100 per cent working incapacity, although precise figures on this are not available.

This is particularly important, in that an individual who has 100 per cent working incapacity cannot register as unemployed, and also cannot gain access to the employment services of the State Employment Agency – the SEA employment services are only available if the person is officially registered as unemployed. This represents a very important barrier to employment. The exact number of people affected is difficult to evaluate, however, given the lack of official data.

1.3 The role of the social welfare system

It is important to note that in Latvia the interpretation of the term “disability” is very narrow. Only those people for whom a disability group has been designated by a Medical Commission are officially considered as “persons with disabilities” for the purpose of obtaining support and benefits, or access to rehabilitation services. This narrow interpretation, together with the long and bureaucratic process of designating a disability group in some cases, means that some people who require support and should have the right to benefits are unable to gain access to them, because they are not considered officially to be a person with disabilities.

There are two main social security benefits available for adults with disabilities (aged 18 or over) who have been assigned a disability group (I, II or III) by a Medical Commission, and whose disabilities date from childhood – as is the case for the majority of people with intellectual disabilities. These are the *disability pension*, for those who have worked for at least three years and accumulated the necessary social insurance contributions for that period, and *State social security benefit*, for those who have not.²²⁴

The majority of people with intellectual disabilities have not worked at all (many have 100 per cent working incapacity) and so have not acquired the necessary social insurance contributions to qualify for a disability pension; they therefore rely on the *State social security benefit*.

People with intellectual disabilities of working age, whose disabilities date from childhood and whose disability group has been designated by a Medical Commission, are eligible to receive a *State social security benefit* of 50 LVL per month (or

²²³ Law on Support for Unemployed Persons, Section 10(2).

²²⁴ Further information (in English) on the social security benefits available to people with disabilities can be found on the website of the State Social Insurance Agency (SIA) at www.vsaa.lv (accessed 15 March 2005), (hereafter, SIA website).

approximately €71.1).²²⁵ This benefit is clearly inadequate to cover the daily living costs of the person with disabilities. For example, in 2003, the minimum subsistence level (the monthly average value of minimum consumer basket of goods and services *per capita*) was calculated at 93.54 LVL (€133).²²⁶ If a family is considered by the local municipality to be in particular need, the municipality can provide some additional benefits, such as a benefit to cover the flat rental costs. However, this varies from municipality to municipality, with Riga providing one of the best models of social assistance.

The *disability pension* is granted in accordance with the Law on State Pensions. People with intellectual disabilities of working age, whose disability group has been designated by a Medical Commission, are eligible to receive this benefit if they have accumulated the necessary social insurance contributions for a period of not less than three years.²²⁷ For people in disability group III who have been determined with disabilities since childhood, the amount of the *disability pension* is the same as that of the *State social security benefit* (50 LVL per month, or approximately €71.1). For people in disability groups I and II, the level of the disability pension is calculated as a function of the individual's average insurance contribution and individual insurance period:²²⁸

- For group I: the minimum amount is equal to the *State social security benefit* to which the multiple of 1.6 is applied for people who have been determined with disabilities since childhood (i.e. total 80 LVL per month, or approximately €113.8).
- For group II: the minimum amount is equal to the *State social security benefit* to which the multiple of 1.4 is applied for people who have been determined with disabilities since childhood (i.e. total 70 LVL per month, or approximately €99.6).

In 2003, the average level of the *disability pension* was 54.64 LVL per month (or approximately €77.8), and there were a total of 75,900 recipients of the pension.²²⁹ In 2004, the average level of the *disability pension* increased to 60.16 LVL per month (or approximately €85.6), and there were 74,600 recipients.

²²⁵ SIA website, Social Security State Benefit.

²²⁶ Central Statistical Bureau, minimum subsistence level of the population, CSB website, available at <http://www.csb.lv/Satr/rad/D5.cfm?akurs3=D5> (in English) (accessed 8 December 2004).

²²⁷ SIA website, Disability Pension.

²²⁸ The level of the disability pension granted depends on the individual's average insurance contribution (calculated for any 36 months in succession, over the five years preceding the granting of the disability pension) and individual insurance period (calculated from the age of 15 up to retirement age).

²²⁹ Central Statistical Bureau, basic socio-economic indicators, available (in English) on the CSB website at <http://www.csb.lv/Satr/rad/S01a.cfm?akurs3=S01a> (accessed 8 December 2004).

Since 3 March 2005, amendments to the Law on Support for Unemployed Persons and Persons Seeking Employment Law have meant that persons with an assigned disability group who have the status of unemployed can retain both their disability pension and unemployment benefit. Previously, if a person registered as unemployed, he or she lost the right to receive a disability pension, except for those with 100 per cent working incapacity. However, this change is not very relevant for people with intellectual disabilities, as they are still not eligible for unemployment benefits or disability pension in most cases, as they have not worked.

In 2003, the State family allowance (for one child) was 7.21 LVL (or approximately €10.25) per month. Parents of a child with disabilities receive a supplementary payment of 49.56 LVL per month (or approximately €70.0).²³⁰

1.4 Rehabilitation services

The Social Services Law stipulates that people with disabilities have the right to receive professional rehabilitation²³¹ and social rehabilitation.²³² However, only those people with disabilities whose disability group has been designated by a Medical Commission are eligible for vocational rehabilitation services²³³ (or for technical aids).²³⁴

In practice, the range of available rehabilitation services in Latvia is very small and more directed to people with physical disabilities. In addition, as rehabilitation services are only available for people with disabilities who have been assigned a designated disability group, this means that, in practice, many people who cannot work due to their health condition, but who have not been assigned a designated disability group, cannot qualify to receive State financed professional rehabilitation. This is particularly

²³⁰ Central Statistical Bureau, basic socio-economic indicators, web page of the CSB, available at <http://www.csb.lv/Satr/rad/S01a.cfm?akurs3=S01a> (in English) (accessed 8 December 2004).

²³¹ Social Services Law, Section 13(1.1). "Professional rehabilitation" is defined as: "a set of measures which ensures the renewal or development of professional knowledge and skills, including the acquisition of a new occupation in conformity with the type and degree of seriousness of the functional disorder, and the level of previously acquired education and qualifications of the person".

²³² Social Services Law, Section 21(1.1). "Social rehabilitation services" are defined as "a set of measures aimed at the renewal or improvement of the social functioning abilities in order to ensure the recovery of social status and integration into society, and includes services at the place of residence of the person and at a social care and social rehabilitation institution, or at the place of residence or at a social care and social rehabilitation institution".

²³³ Social Services Law, Section 26(1): "The right to receive vocational rehabilitation services shall be enjoyed by persons of working-age if a serious or moderately expressed disability has been determined to them as a result of which they are not able to work in their previous occupation and if they have a recommendation from the State Medical Examination Commission of Health and Capacity for Work to acquire a new occupation".

²³⁴ Social Services Law, Section 25(1). Also for children with disabilities under the age of 16. Social Services Law, Section 25(2).

problematic for people with mental health problems, as it can take up to five or more years from the first episode of illness until the disability group is finally designated. As a result, instead of providing rehabilitation services as soon as possible, under the present system a person becomes more and more disabled by the time rehabilitation begins.

From autumn 2004, EU Structural Funds will be used for funding professional rehabilitation programmes. However, again, only organisations providing services to people who have been assigned a designated disability group will be eligible for funding.²³⁵ This policy has been criticised by civil society organisations.

2. GOVERNMENT EMPLOYMENT POLICY

In Latvia, there is no quota system for people with disabilities and, as yet, no Government incentives to specifically encourage the employment of people with intellectual disabilities. The main implementing institution for labour market policy is the SEA. The most important way in which unemployed people with disabilities can gain access to employment is through active employment measures provided by the SEA, in particular subsidised employment programmes. However, few people with intellectual disabilities have the necessary training or professional education required for eligibility for such programmes. A Government pilot project on the provision of subsidised workplaces for unemployed people with disabilities, initiated in 2001, has been successful in enabling people with disabilities to subsequently find employment on the open market. However, due to a lack of relevant data, it is impossible to establish if – and, if so, how many – people with intellectual disabilities have been able to benefit from this programme. In future, it would be important that such initiatives collect and maintain data on the types of disabilities of the people with access to the programme or project.

The development of specialised programmes for people with disabilities was recognised as a priority in the “Joint Memorandum on Social Inclusion in Latvia” established between Latvia and the European Commission. Following its accession to the EU, Latvia is now eligible for EU Structural Funds. The Government intends to use these funds for the period 2004–2006 to provide employment opportunities and support for people with disabilities seeking employment. In particular, the EU’s European Regional Development Funds (ERDF) programme will be directed towards vocational training for people with disabilities and, of particular relevance to people with intellectual disabilities, will be used to create “specialised workshops”. To date, three projects have received funding for developing specialised workshops – at Strenči Psychiatric Hospital, in Limbazi District (targeting people with special needs) and in Rezekne (for people with both intellectual disabilities and physical disabilities).

²³⁵ Grant scheme – Development of Alternative Social Care; see also: Social Assistance Foundation Grant scheme “The Development and introduction of Vocational Rehabilitation Programmes”, funded by the European Social Fund, available (in Latvian) on the website at http://www.socpp.gov.lv/lv/files/3.3.5.1._GS_25.08.2004.doc (accessed 15 August 2005).

2.1 The EU and Government employment policy

EU employment policies

On 6 February 2003, Latvia and the European Commission signed the “Joint Assessment of Employment Policy Priorities in Latvia”²³⁶ as part of the so-called “JAP process” established for the (then) acceding countries.²³⁷ This document examines the overall labour market situation in Latvia, identifies major challenges, and defines guidelines for the medium-term strategic development of Latvia’s employment policy.

On 18 December 2003, Latvia and the European Commission signed the “Joint Memorandum on Social Inclusion in Latvia”. The Memorandum defines key policy challenges, such as ensuring an adequate income for all, which means paying specific attention to those people most at risk of social exclusion, including unemployed people with disabilities.²³⁸ The memorandum examines inclusion policies in areas such as the labour market and employment, health care, housing, education and social security. The memorandum notes that,

the integration of disabled people in the job market is hindered by employers’ lack of motivation and the unsuitability of the environment to the special needs of disabled people [...]. The motivation of employers to hire people with disabilities is reduced by the widespread stereotypes about the working ability of a disabled person, as well as by the additional expenditure needed to ensure a workspace suitable for a person with disabilities and their access to that workplace. Another factor hindering the integration of people with disabilities in the job market is their comparatively low educational level and lack of appropriate skills.²³⁹

In terms of assistance to the most vulnerable groups, the memorandum states that among the most immediate priorities is the need to develop specialised programmes

²³⁶ Ministry of Welfare, *Joint Assessment of Employment Policy Priorities in Latvia*, co-signed by the European Commission, DG Employment and Social Affairs, Brussels, 6 February 2003, available on the European Commission website at http://europa.eu.int/comm/employment_social/employment_analysis/japs/latvia_en.pdf (accessed 5 June 2004).

²³⁷ The “JAP process” was established by the Commission in 1999, with the aim of preparing acceding countries for participation in the EU employment coordination process after accession. For each of the acceding countries, a JAP was signed with the Commissioner for Employment and Social Affairs, and each candidate country, which identified the main challenges and employment policy priorities. A follow-up process was put in place to monitor the implementation of these priorities. See: Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions, on Progress in Implementing the Joint Assessment Papers on Employment Policies in Acceding Countries, COM(2003)663, Brussels, 6 November 2003.

²³⁸ Ministry of Welfare, *Joint Memorandum on Social Inclusion in Latvia*, co-signed by the European Commission, DG Employment and Social Affairs, Brussels, 18 December 2003, available at http://www.lm.gov.lv/doc_upl/JIM_Latvia_Final_11_12_03.pdf (accessed on 5 June 2004), p. 17.

²³⁹ *Joint Memorandum on Social Inclusion in Latvia*, 2.5 (Vulnerable groups), p. 14.

aimed at involving people with special needs in the job market. This would involve increasing the number of State-subsidised workplaces and encouraging employers to hire persons with special needs.²⁴⁰ The memorandum also mentions the need to increase support for the integration of people with intellectual disabilities into society in areas such as education, employment, social life, recreation and cultural life.²⁴¹

EU funds

The Government plans to use the EU Structural Funds for the period 2004–2006 – and in particular funds from the European Social Fund (ESF) – to provide employment opportunities for people with disabilities.²⁴² In the framework of one grant scheme, part of these funds will be used to create “specialised workshops” for people with disabilities and to develop alternatives that will provide support for people with disabilities seeking employment on the open labour market.²⁴³ So far, three projects for creating specialised workshops have been supported: one for Strenči Psychiatric Hospital (for people with mental disabilities), one in Rezekne (for people with special needs) and one in Limbazi District (for people with combined intellectual disabilities and physical disabilities).²⁴⁴

In April 2004, the European Commission approved the EU’s EQUAL programme in Latvia, which was developed by the Latvian Ministry of Welfare.²⁴⁵ This programme aims to support the most vulnerable groups in Latvia, including people with disabilities.²⁴⁶ Latvia plans to spend €10.7 million on the EQUAL programme in 2004–2006, and up to 53 per cent of EQUAL funding has been earmarked for employment programmes. Among the goals of the projects to be funded under the EQUAL programme are support for creation of workplaces and the provision of vocational training for people with disabilities.²⁴⁷ Applicants (including State

²⁴⁰ *Joint Memorandum on Social Inclusion in Latvia*, p. 35.

²⁴¹ *Joint Memorandum on Social Inclusion in Latvia*, p. 36.

²⁴² See: Information on the European Social Funds, available (in English) on the Ministry of Welfare website at <http://www.lm.gov.lv/?sadala=347> (accessed 15 March 2005).

²⁴³ Government of Latvia, *Single Programming Document for Latvia, Objective 1 Programme 2004–2006*, Riga, 2003, available (in English) at http://www.esfondi.lv/image/upload/spd2003_12.pdf (accessed 15 March 2005).

²⁴⁴ Telephone interview with Sigita Rozentale, representative of the Social Services’ Board, which is administrating EU funds for this grant scheme).

²⁴⁵ Ministry of Welfare, *Latvia EQUAL Community Initiative Programme 2004–2006*, Riga, 2004, available (in English) at <http://www.esflatvija.lv/files/f10887683326de2893e.doc> (accessed 30 September 2004), (hereafter, *Latvia EQUAL programme 2004–2006*).

²⁴⁶ Other vulnerable groups are potential victims of discrimination in the workplace, young people without work experience, pre-retirement age people, the long-term unemployed, victims of trafficking, and inmates and ex-prisoners.

²⁴⁷ Information on EQUAL activities in Latvia, available (in English) on the ESF Latvia website at <http://www.esflatvija.lv/index.php?selected=98&lang=2> (accessed 7 March 2005).

institutions, local municipalities and NGOs) were able to submit project proposals from June 2004, following a call for proposals.

2.2 National employment policy

2.2.1 National employment priorities

The main Ministries dealing with employment policy at the national level are the Ministry of Welfare, the Ministry of the Economy and the Ministry of Education. The Law on Support for Unemployed Persons defines the function of each Ministry in the field of employment.²⁴⁸

The key goals of Government employment policy in Latvia, as described by the Ministry of the Economy, are to increase the level of employment, to attain the future strategic indicators set by the EU, and to address issues of unemployment on the basis of successful economic growth.²⁴⁹

The “National Employment Plan for the Year 2004”,²⁵⁰ adopted in 2004, is based on the employment strategy goals formulated by the EU, which include full employment, meaningful occupation, growth of labour productivity, social cohesion and inclusion in employment.²⁵¹ The “Latvian National Action Plan for Reduction of Poverty and

²⁴⁸ According to section 5: “(1) The Ministry of the Economy coordinates the development of the national employment plan and its submission to the Cabinet of Ministers for approval. (2) The Ministry of Welfare develops proposals for the national employment plan regarding the issues of reduction of unemployment and psychological support for unemployed persons and persons seeking employment, and submits such proposals to the Ministry of the Economy. (3) The Ministry of Education and Science cooperates with the State Employment Agency in organising occupational education and training activities and with the State Occupational Career Choice Agency in the organisation of vocational guidance.” Law on Support for Unemployed Persons, Section 5.

²⁴⁹ Ministry of the Economy, *Economic Development of Latvia*, Riga, December 2003, available (in English) on the ministry’s web page at <http://www.em.gov.lv/em/2nd/?lng=en&cat=137> (accessed 5 June 2004). According to this report, the most important employment problems are the following: a relatively high unemployment rate (due to considerable long-term unemployment, which is particularly high among people with less education, high unemployment among young people, and considerable regional disparities in the rates of unemployment); a relatively low rate of employment, which lags behind the EU average; a low rate of entrepreneurial development, as well as a reduction in the number of jobs in some sectors; the need to create new jobs in certain sectors; an “employment-friendly” system of remuneration (including taxes and benefits); raising the quality of the workforce to be in line with the requirements of the labour market.

²⁵⁰ Ministry of Welfare, National Employment Plan for the year 2004, adopted by the Cabinet of Ministers on 23 July 2004, available (in English) at http://www.lm.gov.lv/doc_upl/NAP_LATVIA_EN.doc (accessed 15 March 2005).

²⁵¹ Ministry of the Economy, *Economic Development of Latvia*, p. 71.

Social Exclusion (2004–2006)”,²⁵² adopted in 2004, is based on the employment strategy goals formulated by the EU, which include full employment, meaningful occupation, growth of labour productivity, social cohesion and inclusion in employment.²⁵³ Both plans are relevant for people with disabilities, insofar as they direct the future development of employment policy in Latvia.

The main implementing institution for labour market policies is the State Employment Agency (SEA), which is under the authority of the Ministry of Welfare.²⁵⁴ The SEA implements State policy in the field of unemployment reduction and support for people seeking employment. It is also responsible for active employment measures, including vocational training, retraining, upgrading of qualifications, and measures targeted at disadvantaged groups, including people with disabilities.²⁵⁵

2.2.2 Government incentives

Latvia has no quota system for the employment of people with disabilities, and until now there have been no serious public discussions as to whether a quota system would be helpful for people with disabilities. There are indications that a quota system may be inappropriate in Latvia, given the specificities of the labour market.²⁵⁶

One of the main ways in which people with disabilities can gain access to employment in Latvia is through Government active employment measures. In Latvia, active employment measures are defined as occupational training, retraining and raising of qualifications, paid temporary public works, measures to increase competitiveness, and measures for specified groups of persons (including people with disabilities).²⁵⁷

The most relevant available active employment measures for people with disabilities are subsidised employment programmes. However, there are no special Government

²⁵² Ministry of Welfare, Latvian National Action Plan for Reduction of Poverty and Social Exclusion (2004–2006), adopted by the Cabinet of Ministers on 23 July 2004, available (in English) on the website of http://www.lm.gov.lv/doc_upl/NAP_LATVIA_EN.doc (accessed 15 March 2004).

²⁵³ Ministry of the Economy, Economic Development of Latvia.

²⁵⁴ The responsibilities of the State Employment Agency (SEA) are defined in the Law on Support for Unemployed Persons, art. 6.

²⁵⁵ Disadvantaged groups include people with disability status, and also people aged from 15 to 25, people following a period of parental supervision, and people following a period in an institution or after other deprivations of liberty. *Joint Assessment of Employment Policy Priorities in Latvia*, pp. 10–11, available at <http://www.lm.gov.lv> (accessed 5 June 2004).

²⁵⁶ In Latvia’s report on the Community Initiative EQUAL programme for the period 2004–2006, the following is noted: “The issue of establishing a quota system for employing the disabled has been discussed repeatedly in Latvia, but taking into account the situation that 99.3 per cent of enterprises belong to small and medium size, and 69 per cent of employees work there, creating 63.2 per cent of GDP, this system is not likely to reach the expected results or to be effective.” *Latvia EQUAL programme 2004–2006*, p. 19.

²⁵⁷ Law on Support for Unemployed Persons, Section 3(1).

measures specifically to encourage the employment of people with intellectual disabilities; all existing measures concern people with disabilities in general.

Subsidised employment programmes have been available since 2003 for unemployed people. To be eligible for these programmes, the unemployed person must be between the age of 18 and retirement age,²⁵⁸ have received a professional education, gained professional skills working in a profession for more than two years, or graduated from vocational training and retraining courses for the unemployed.²⁵⁹

Most people with intellectual disabilities are ineligible for the subsidised employment programmes. First, people with disabilities *only* have the right to obtain the status of unemployed – and therefore to gain access to these subsidised programmes and other active employment measures – if the Medical Commission has recognised them as being “able-bodied”²⁶⁰ (i.e. with less than 100 per cent working incapacity). However, many people with intellectual disabilities are assessed as having no working capacity.²⁶¹ Second, in any case, few people with intellectual disabilities have acquired the required professional education or practice in the workplace to be eligible for active employment measures, such as subsidised employment programmes.

Subsidised employment programmes

In 2001 the Government initiated a pilot project “Subsidised workplaces for disabled unemployed”.²⁶² Within the framework of this project, 22 people with disabilities (or 81 per cent of those involved in the programme) found a permanent job in 2002, after finishing the pilot programme a very good result.

In 2003, the Government allocated LVL 475,000 (€675,864) for this programme.²⁶³ During 2003, as part of the same pilot programme, the SEA organised several measures to improve the professional skills and competitiveness of unemployed people with disabilities. The SEA sought employers willing to participate in the following

²⁵⁸ The right to receive a pension in Latvia is defined as having effect from the age of 62 for men and from the age of 59 for women. (It is planned to raise the retirement age to 62 also for women, but this will happen step by step before 2008). Law on State Pensions 1995, art. 11. Law on State Pensions, adopted 2.11.1995, LV No. 182 of 23 November 1995, last amended 25 October 2004.

²⁵⁹ Regulation on Active Employment Measures, art. 1, 16, 17.

²⁶⁰ Law on Support for Unemployed Persons, Section 10(2).

²⁶¹ It should be noted, however, that people with particular types of disability are not *automatically* disqualified from access to active employment measures, as the assessment of working capacity is established on an individual basis. For example, a person with visual impairment may not be able to carry out certain functions, but can manage others very well, so will not have 100 per cent working incapacity. Interview with Irina Rulle, Director, “Saule” Day Centre for people with intellectual disabilities, Riga, 4 March 2004.

²⁶² *Latvia EQUAL programme 2004–2006*, p. 19.

²⁶³ Ministry of Welfare, Press Release, 14 May 2003, available at <http://www.lm.gov.lv> (accessed 30 September 2004).

programmes for unemployed people with disabilities:²⁶⁴ work practice for a person between the ages of 18 and 25, with experience of less than one year in the profession,²⁶⁵ subsidised employment for a person of pre-retirement age, and vocational training in the workplace. As a result of these subsidies, 566 subsidised workplaces for people with disabilities were created in 2003, and 609 people with disabilities were involved in work placements.²⁶⁶ Between January and April 2004, 149 new subsidised workplaces were created, and in 2004 a total of 244 additional subsidised workplaces are planned.²⁶⁷ The SEA has not been able to provide statistical data on any people with intellectual disabilities included in such subsidised workplaces.

Although this pilot project has been very successful for people with disabilities in general, there is a need for a similar pilot project specifically for people with intellectual disabilities.

In accordance with the Law on Support for Unemployed Persons, a Regulation on active employment measures was adopted in 2003. This Regulation governs the application of employment measures for unemployed people, including those with disabilities. It also covers the adjustment of workplaces for unemployed people who have a determined disability.²⁶⁸ However, the type of “adjustment” defined in this Regulation – “the equipment of workplaces with technical aids (equipment, technical systems)” – is aimed at people with physical disabilities, rather than intellectual disabilities.²⁶⁹

²⁶⁴ Participating employers were eligible for the following support from the State Employment Agency: a monthly subsistence wage to cover the salary expenses of a person with disabilities; a monthly payment of LVL 35 (€49.80) to LVL 50 (€71.1) – the amount depends on the scale of the organised measure, to cover the employer’s premium for managing the provision of each person with disabilities involved in the measure; a lump sum of between LVL 100 (€142.28) and LVL 200 (€284.57) to adapt the workplace or rest rooms for each person with disabilities; a lump sum of up to LVL 500 (€711.43) for adaptation of the workplace or access to the building for each person with disabilities, if an occupational therapist has confirmed the person’s particular need for adaptations.

²⁶⁵ Work practice is meant for people with very little professional experience, in order to raise their competitiveness and provide the needed professional skills. The length of work practice is six months.

²⁶⁶ Ministry of Welfare, *National Action Plan for Diminishing Poverty and Social Isolation*, Ministry of Welfare, available at www.lm.gov.lv/doc.npl/NRP_3004.doc (accessed 15 August 2005), p. 36.

²⁶⁷ Telephone interview with Sanita Dzene, Public Relations Department, State Employment Agency, Riga, 10 May 2004.

²⁶⁸ Regulation No. 309 of the Cabinet of Ministers of 17 June 2003, on Procedures for Organising and Financing Active Employment Measures and Principles for Criteria of Performers of Active Employment Measures, LV No. 93 of 20 June 2003 (entered into force 21 June 2003), last amended 5 October 2004, available at <http://www.ttc.lv/New/lv/tulkojumi/E0607.doc> (in English) (accessed 30 September 2004), Section VIII (Establishment (Adjustment) of Workplaces for Unemployed Persons – Disabled Persons), (hereafter, Regulation on Active Employment Measures).

²⁶⁹ Regulation on Active Employment Measures, art. 41.

As of 2005, the maximum length of employment time for which a person with disabilities is subsidised by the SEA is in general two years (while prior to 2005 it was ten months).²⁷⁰ In accordance with the procedures established by the SEA, if people with disabilities have performed their duties well (or at least satisfactorily), when the subsidy period ends employers should either provide them with a permanent workplace or recommend that another employer employ them on a permanent basis.²⁷¹ There is some discussion as to whether employers in practice tend to fire the person with disabilities after State subsidies expire. However, at the moment this is difficult to evaluate, given that the employment subsidy system (including that for people with disabilities) only starting operating in 2002.²⁷²

The SEA has not been able to provide statistical data on people with intellectual disabilities who have received vocational training or participated in retraining courses. The State Occupational Career Choice Agency, which is under the responsibility of the Ministry of Welfare, provides vocational training and retraining courses for all unemployed people who are officially registered.²⁷³ Between October and December 2003, the SEA provided 25 training courses, of which three were specially designed for the following, respectively: people with physical disabilities (computer skills); people with hearing impairments (computer skills); people with visual impairments (wattle-work). There are no specialised training courses for people with intellectual disabilities.

3. EMPLOYMENT PRACTICE AND POLICY IMPLEMENTATION

In 2002, there were approximately 700,000 people with disabilities in Latvia, of whom only approximately 10 per cent were working. There are no figures on the specific employment situation of people with intellectual disabilities, but most do not have any kind of work or employment and are reliant on State benefits. Almost none are able to gain access to employment on the open market. Since 2000, the NGO Rujju Berns has provided the only supported employment programme in Latvia for people with intellectual disabilities, now operating in Riga and Tukums. By 2003, a total of 28 people with intellectual disabilities were employed in supported workplaces though this programme. One of the main employers involved in this project, McDonalds in Latvia, has reported a positive experience in employing people with intellectual disabilities.

In Latvia, sheltered workplaces in the generally understood sense still do not exist. There are instances of good practices from the "specialised workshops" established for people with intellectual disabilities in day centres. However, here the main aim is to provide an "occupation" rather than employment, and so people do not receive any payment for their work. The "social firm" is another example of sheltered

²⁷⁰ See: information on the SEA web page, Activities for Persons with Special Needs (in Latvian), available at <http://www.nva.lv/index.php?id=131&txt=382> (accessed 15 March 2005).

²⁷¹ Interview with Ilga Mertena, State Employment Agency, Riga, 5 April 2004.

²⁷² Interview with Ilga Mertena, 5 April 2004.

²⁷³ Every year a schedule of available training courses is developed. For instance, the schedule of available training courses for the second half of 2003 offered 289 training courses throughout Latvia.

employment in Latvia. Social firms receive funding from the SEA to create jobs for small numbers of people with disabilities. However, to date few social firms have been established, and the interest on the part of employers is very low.

3.1 Statistical information

According to data from Eurostat, in July 2004 the unemployment rate in Latvia was 10.6 per cent.²⁷⁴ For the first half of 2003 (which was declared the Year of the Disabled by the UN) the number of people with disabilities involved in active employment measures was three times greater than in the first half of 2002.²⁷⁵ However, only about 10 per cent of the total number of “able-bodied”²⁷⁶ people with disabilities (around 70,000) were working.²⁷⁷

At the beginning of 2003, a total of 1,977 unemployed people with disabilities were registered at the State Employment Agency, of which approximately 51 per cent had no vocational training.²⁷⁸ Riga, with one third of the population of Latvia, has around 30,000 people with various types of disabilities. In Riga, about 600 people with disabilities register every year as unemployed in order to find a job. Statistics show that people with disabilities make up only 2 per cent of all those registered as unemployed who find a job within one year.²⁷⁹

There is no available data on how many of the total number of unemployed people with disabilities are people with intellectual disabilities. There is also no data on how many people with intellectual disabilities are working on the open labour market or in sheltered workshops.

²⁷⁴ “Unemployment rate (%) in EU countries – data of Eurostat”, LETA News Service, 1 September 2004, available at www.leta.lv (accessed 15 March 2005).

²⁷⁵ Ministry of the Economy, *19th Report on the Economic Development of Latvia*, Riga, December 2003, available on the Ministry’s web page at <http://www.em.gov.lv/em/2nd/?lng=en&cat=137> (accessed 5 June 2004), p. 72.

²⁷⁶ With a determined loss of working capacity of less than 100 per cent. Law on Support for Unemployed Persons, Section 10(2).

²⁷⁷ *Grants scheme. The Development and Implementation of Professional Rehabilitation Programmes*, Data from the Social Assistance Foundation, available at www.spf.lv/spf_web.nsf (accessed 5 June 2004), p. 2.

²⁷⁸ *Latvia EQUAL programme 2004–2006*, p. 19.

²⁷⁹ “Aicina uzņēmējus nodarbināt cilvēkus ar invaliditāti” (“Employers have been invited to provide employment for people with disabilities”), article published on the internet portal DELFI, 29 January 2004, available on the DELFI website at <http://www.delfi.lv/archive/article.php?id=7337214&ndate=1075327200&categoryID=193> (accessed 30 September 2004).

3.2 Employment on the open market

The majority of people with intellectual disabilities do not have any kind of work or employment, and are reliant on State benefits. Very few have access to employment on the open market. A small number of people with intellectual disabilities do obtain a job (usually work in wood processing or agriculture) after finishing a specialised boarding school for children with intellectual disabilities, because some of these schools provide special vocational programmes.

At present, existing Government active employment measures for people with disabilities are not targeted at people with intellectual disabilities, and inclusive employment in Latvia cannot be viewed as a real option for people with intellectual disabilities. Although a small functioning pilot programme on supported employment has been established, this is presently only available in Riga and Tukums. An important barrier to supported employment in Latvia is the fact that the Government has yet to define supported employment in legislation.

3.2.1 Supported employment on the open market

Supported employment facilitates competitive work in integrated work settings for people with disabilities. It provides assistance such as job coaches, transportation, assistive technology, specialised job training and individually tailored supervision. It is an important way for people who are traditionally denied employment (due to the perceived severity of their disability) to get jobs and to be provided with long-term, ongoing support. It is an excellent first step for ensuring that people with intellectual disabilities gain access to employment on the open market.²⁸⁰

In 2000, the NGO Rupju berns (Child of Care) began a two-year Phare-funded project, "Support and integration of children and adults with intellectual disabilities in Latvia."²⁸¹ During the course of this project, a supported employment programme was established – the first in Latvia.²⁸² The main activities included training job coaches, establishing a supported employment agency, gathering information about the job market and about job seekers, and creating the first supported jobs. The final goal was to establish supported employment on the open market for about 30 people with intellectual disabilities. This was achieved at the end of the project.

When the Phare funding ended, Riga City Council took over the financing of the supported employment programme, which is still the only one in Latvia providing

²⁸⁰ Some people with intellectual disabilities may have difficulties with, for example, interviewing or carrying out particular job functions. Interview with Irina Rulle, 4 March 2004.

²⁸¹ The total cost of the project was €235,000.

²⁸² The project was implemented in cooperation with the Finnish Association on Mental Retardation (FAMR), the Latvian Child of Care Association, the Latvian Association of Professional Social and Care Workers, and the Union of Local and Regional Governments of Latvia.

employment services for people with intellectual disabilities. It now operates in two cities, Riga and Tukums – there are three job coaches working in the Riga branch, and one in the Tukums branch. By autumn 2003, a total of nine enterprises employed 28 people with intellectual disabilities in supported workplaces. At the same time, 15 people with intellectual disabilities were being evaluated by a specialist team to determine their capacity for employment, and nine people with intellectual disabilities were seeking appropriate job placement with the help of the Agency.

Before seeking a job placement, the job seeker must undergo an evaluation by the following specialists: an occupational therapist, a social teacher, a psychologist and a special educator. During the two- to three-month-long evaluation, the person's knowledge, abilities and skills are tested. The potential employer has the right to see the client's vocational evaluation. However, in practice employers have no interest in looking at the evaluation, as they base their hiring decision entirely on the results of the interview, which takes place after the employer has agreed to employ a person with intellectual disabilities, but before a final decision is made to hire. The person with intellectual disabilities and his or her job coach both participate in the interview.²⁸³

One of the first and most stable employers of people with intellectual disabilities through this project is McDonalds in Latvia. According to a representative of McDonalds, when the company initially began employing people with intellectual disabilities, the tax allowances were very helpful and even necessary, as the learning process for required job skills and responsibilities took longer than originally planned.²⁸⁴ Several people with intellectual disabilities have now been working for McDonalds for three years, and the employer is satisfied with their work. At the beginning, they could only work between two and three hours per day, but they have now improved their skills and can even work eight hours if necessary.

Although this is an example of best practice, supported employment is still not a real option for people with intellectual disabilities in Latvia. Moreover, while this programme provides people with intellectual disabilities with the necessary support to succeed in employment on the open market, because supported employment was in the past financed by Riga City Council as a social care and rehabilitation service, this meant that they no longer had access to other social services, such as day centres. This was the case because of Riga City Council regulations governing eligibility for day services.²⁸⁵ However, as the vast majority of people with intellectual disabilities do not work full-time, they continue to require other support services in order to succeed in the community.²⁸⁶ This situation has changed since 22 November 2004, following proposals from NGOs representing the parents of day centre users. Now it is allowed

²⁸³ Interview with Irina Rulle, 4 March 2004.

²⁸⁴ Roundtable comment, 22 June 2004.

²⁸⁵ Interview with Irina Rulle, 4 March 2004.

²⁸⁶ Interview with Karīna Kaktiņa, Director, NGO *Kopā*, Riga, 3 March 2004.

to provide day centre services for those persons who work or study not less than 16 hours per week.

Clients of the Supported Employment Agency can also apply to the SEA, where active employment programmes are available for all job seekers (including those who do not have disabilities). However, although various vocational courses are also available through the agency, the choice of training courses that are appropriate for people with intellectual disabilities is not very wide. For example, only five clients with intellectual disabilities have undertaken computer courses within active employment programmes.²⁸⁷

3.3 Sheltered employment

Sheltered employment is a relatively new concept in Latvia. Although the law does foresee sheltered employment, the existing legislative provisions are inadequate. For example, there are no detailed regulations on specialised workshops.²⁸⁸

Until now there have been few examples of sheltered employment as this term is generally understood. In Latvia, there are various interpretations as to what constitutes a “sheltered workshop”. In particular, it is not clear whether such workshops should only provide an “occupation” for people with intellectual disabilities or should also aim to provide them with the possibility of earning an income.

Special workshops in day centres

Until now, all specialised workshops for people with intellectual disabilities in Latvia have been established and managed within the structure of day centres for people with intellectual disabilities. However, these cannot be viewed as sheltered workplaces in the usual sense of the term, as people do not receive any payment for their work. Representatives of the Social Services’ Board have stated that Latvia currently has *no* sheltered workshops for people with intellectual disabilities.²⁸⁹ However, several day centres have submitted projects to various funding sources for the creation of workshops on the premises of day centres.

Day centres provide support for people with intellectual disabilities who live with their families, have reached the age of 16, do not attend any special education programme,

²⁸⁷ Interview with Irina Rulle, 4 March 2004.

²⁸⁸ The Social Services Law defines a “specialised workshop” as one way in which a form of social rehabilitation services can be made available for people with disabilities. Social Services Law, Section 1(22).

²⁸⁹ Interview with a representative of the Social Assistance Foundation (from November 2004, Social Services Board), Riga, 24 May 2004.

vocational training or professional rehabilitation centre, and are not employed.²⁹⁰ A main aim of the workshops that are established is to occupy people during the day, not to provide them with an income, because, due to the legal status of day centres, they are not in a position to pay for work carried out.

The NGO *Rupju berns* (Riga City), which runs several day centres, opened its first joinery workshop for young people with intellectual disabilities in 2003. The workshop employs eight people with intellectual disabilities and provides them with the opportunity to acquire the skills of joiner's assistant. The day centres of *Rupju berns* also provide occupational activities: weaving, needlework and housework. However, the people working there are not paid, because they are still learning specific professions. The project was co-funded by the EU Phare Access programme, the Riga City Council, and AWO Bremen (Federation of Social Workers), Republic of Germany.²⁹¹

The RRC-Kemeri and Liepāja day centres have also opened workshops on their premises.²⁹² The Liepāja day centre for people with intellectual disabilities has opened three workshops, which help people to develop skills in tailoring, wood processing and needlework. People with intellectual disabilities receive no salary, as “this is not a commercial production unit.”²⁹³ In 2001 the Liepāja day centre had a cooperation agreement for 1.5 years with the company *Liepājas papīrs* (Liepāja's Paper) for the folding of cardboard containers. The centre's clients, who have intellectual disabilities, were working on this project several hours per week. This cooperation proved that people with intellectual disabilities could continuously perform a particular job. In accordance with an agreement between the parties, the company paid the day centre a “token” total sum of LVL 2.50 (or approximately €3.56) and paid for excursions for employees with intellectual disabilities. The cooperation eventually ended, however, because the company reduced its range of products and there was no more need for additional help.²⁹⁴

Social firms

The “social firm” is another example of sheltered employment in Latvia. Social firms are considered to be a kind of sheltered workplace. However, there is no definition of a social firm in law, and there are no specific regulations governing them.

²⁹⁰ Regulation No. 291 of the Cabinet of Ministers of 3 June 2003, on Requirements for Providers of Social Services, LV No. 85 of 6 June 2003, available at <http://pro.nais.dati.lv/> (accessed 30 September 2004).

²⁹¹ Telephone interview with Irēna Lavriša, representative of the day centre *Cerību māja*, 24 May 2005.

²⁹² In 2002–2003, the Soros Foundation-Latvia, together with the Latvian Centre for Human Rights and Ethnic Studies, allocated a grant for creating special workshops in the Liepāja and RRC-Kemeri day centres.

²⁹³ Telephone interview with Irita Intenberga, Director, Liepāja Day Centre, 11 May 2004.

²⁹⁴ Telephone interview with Irita Intenberga, 11 May 2004.

Social firms are funded by the SEA and, as a rule, should employ at least four people with disabilities for at least two years. They are created on the basis of business plans submitted for competition to the SEA for funding. The first social firms received support from the SEA in 2002 and in 2003, ten persons with disabilities were involved in social firms.²⁹⁵ Until now, not many social firms have been established. In 2003 a total of ten social firms were created, but, according to the SEA, there are no plans to open more social firms in 2004, as the interest on the part of employers is very low. The SEA has no information as to whether social firms also employ people with intellectual disabilities.²⁹⁶

²⁹⁵ Latvia's 1st report on Social Charter, available at http://www.coe.int/T/E/Human%5FRights/Esc/3%5FReporting%5Fprocedure/1%5FState%5FReports/Social_Charter/XVII-2/Latvia%201st%20Report-1.pdf (accessed 20 July 2005)

²⁹⁶ Telephone interview with Sanita Dzene, 10 May 2004.

V. Conclusions

Latvia is party to most international human rights instruments, including those with provisions on people with disabilities. However, in order to fully incorporate all relevant international standards in this area, Latvia should, as a priority, sign and ratify the Revised European Social Charter (RESC) of 1996, and ratify Protocol No. 12 to the European Convention on Human Rights and Fundamental Freedoms (ECHR).

An important general barrier to assessing the situation of people with disabilities in Latvia is the lack of comprehensive data, disaggregated by type of disability. At present, various institutions collect data according to different definitions. In order to gain a better understanding of the specific situation and needs of people with intellectual disabilities, the Government should completely review the system for data collection, in order to ensure that reliable, regularly updated information on this group becomes available. At the same time, the Government should strengthen collaboration among the relevant ministries addressing the needs of people with intellectual disabilities, in order to improve the support offered to them and their families.

In Latvia, the process of deinstitutionalisation remains slow, and a significant number of children with intellectual disabilities are still living in residential institutions. As a priority, the Government should ensure that alternative community care services, such as day centres and residential community facilities (for example, group homes), are made available for people with intellectual disabilities throughout the country. In addition, the Government should develop a clear policy on the education of children in social care homes, to enable them to gain access to education within the education system. The overall goal should be to enable as many children as possible to remain with their families, rather than being sent away to residential institutions.

The early diagnosis of children with intellectual disabilities, and provision of adequate support for them and their families, are essential for preparing these children for integration into mainstream education. However, families of children with intellectual disabilities are presently unable to gain access to early intervention services. To promote the successful inclusion of children with intellectual disabilities in mainstream schools, the Government should develop a comprehensive strategy and implementation plan to develop early intervention services throughout the country. The Ministry of Education and Science should also promote the establishment of inclusive kindergartens throughout Latvia, accessible to pre-school age children with all levels of intellectual disabilities.

Government education policy is increasingly promoting inclusion. However, at present the majority of children with intellectual disabilities of compulsory education age attend special schools. To encourage the inclusive education of children with intellectual disabilities, the Government should ensure adequate support and funding

for children with intellectual disabilities in mainstream schools. This should cover the various expenses associated with their inclusion, such as teaching materials, classroom adaptations and additional staff. Adequate support and training for teachers in mainstream schools working with children with special needs should also be provided. The Ministry of Education should also establish the number of children with intellectual disabilities currently receiving home schooling, or who are excluded from education, and find ways to ensure that children with all levels of intellectual disabilities are able to gain access to education within the education system.

Most young people with intellectual disabilities leave school without the skills that they need to later gain access to employment on the open market. In particular, due to a lack of resources and educators, the majority of special schools are also unable to offer vocational training classes; those courses that are offered often do not correspond to the needs of the labour market. To ensure that people with intellectual disabilities are better prepared for the transition from education to employment, the Government should, as a priority, make vocational training, in a wide range of professions, widely available for people with intellectual disabilities. To this end, it should initiate an analysis of the labour market, with the aim of better targeting programmes of vocational training offered to young people with intellectual disabilities (in special schools, mainstream schools and vocational schools) towards the current needs of the labour market. In addition, the State Employment Agency should implement vocational training programmes specifically for people with intellectual disabilities, so that they can obtain adequate vocational training to gain access to employment opportunities on the open market.

Most people with intellectual disabilities have no employment or work of any kind. The State Medical Commission for Determining Health Condition and Working Ability now evaluates the working capacity of people with disabilities on an individual basis; people in disability groups I and II are no longer automatically as “unfit to work”. However, although this has removed one barrier to employment, in Latvia there is no quota system for people with disabilities and no Government incentives to specifically encourage the employment of people with intellectual disabilities. Targeted subsidised employment programmes for people with disabilities have been successful in enabling some people with disabilities (in general) to gain access to employment. However, these programmes do not take into account the special needs of people with intellectual disabilities, in particular the need for a job coach.

To promote the employment of people with intellectual disabilities, the Ministry of Welfare should, as a priority, define supported employment in law, and ensure the funding and implementation of supported employment projects specifically for people with intellectual disabilities. The Ministry should also provide financial support for supported employment agencies throughout Latvia, similar to those already existing in Riga. In addition, the Ministry should establish tax allowances, subsidies and other incentives specifically for employers who employ people with intellectual disabilities on the open market. Following its accession to the EU, Latvia is now eligible for EU

Structural Funds, and will use some of these funds for the period 2004–2006 to provide vocational training, employment opportunities and support for people with disabilities seeking employment. It is important that the Government ensure that a part of these funds be used to support projects that specifically promote the employment of people with intellectual disabilities.

ANNEX 1. List of legislation referred to in the report

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Labour Law, adopted 20 June 2001, LV No. 105 of 6 July 2001 (entered into force 1 June 2002), last amended 22 April 2004 (entered into force 8 May 2004). (*Labour Law*)

Law on General Education, adopted 10 June 1999, LV No. 213/215 of 30 June 1999 (entered into force 14 July 1999), last amended 23 September 2004). (*Law on General Education*)

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Law on Support for Unemployed Persons and Persons Seeking Employment, adopted 9 May 2002, LV No. 80 of 29 May 2002 (entered into force 1 July 2002), last amended 22 April 2004. (*Law on Support for Unemployed Persons*)

Law on the Medical and Social Protection of Disabled Persons, adopted 29 September 1992, LV No. 42 of 29 October 1992 (entered into force 1 January 1993), last amended 31 March 2004, LV No. 61 of 20 April 2004. (*Law on People with Disabilities*)

Law on the Protection of the Rights of the Child, adopted 19 June 1998, LV No. 199/200 of 8 July 1998 (entered into force 22 July 1998), last amended 20 May 2004, LV No. 82 of 25 May 2004.

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Regulation No. 480 of the Cabinet of Ministers of 20 November 2001, on the Responsibilities of the State Pedagogical Medical Commission and the Municipal Pedagogical Medical Commissions, LV No. 171 of 27 November 2001. (*Pedagogical Commission Regulations*)

Regulation No. 493 of the Cabinet of Ministers 20 November 2001, on the Financing of Special Schools, Special Classrooms of General Education Establishments and Boarding Schools, LV No. 182 of 14 December 2001.

Regulation No. 291 of the Cabinet of Ministers on Requirements for Providers of Social Services, LV No. 85 of 6 June 2003.

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