

Universal Periodic Review: Latvia
Stakeholder Report
By Latvian Centre for Human Rights (NGO)
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Death penalty

1. A moratorium on death penalty has been in place in Latvia since 1996. Latvia abolished the death penalty for crimes committed in peacetime in 1999, when ratifying Protocol 6 to the European Convention for Human Rights. However, the Criminal Law still provides for the death penalty for murder with aggravating circumstances during wartime (Article 37 of the Criminal Law).
2. Despite several attempts to amend the law to exclude this norm, the latest one initiated in 2008 by the Ministry of Justice and accepted by the Cabinet of Ministers, the amendments have not been passed by the Saeima (parliament) to date. The Second Optional Protocol to the ICCPR has not been signed and Protocol 13 to the ECHR has not been ratified by Latvia, although one proposal for ratification of the latter was submitted to parliament already in 2002. On 2 February 2010 the head of the Saeima Legal Committee Vineta Muižniece admitted publicly that the proposal to ratify Protocol 13 submitted to parliament in May 2008 will not be adopted by parliament due to “lack of support in parliament for this.”
3. In addition to lack of progress on the complete abolition of the death penalty, there have been worrisome developments in public and political discourse, in response to crimes against children, on the reinstatement of death penalty also in peacetime. High level officials have at various times given public support to this idea. Thus, in September 2008, in the context of a murder of an 11-year-old girl, the Minister of Justice Gaidis Bērziņš stated on national radio that there should be a debate on the need for reinstating the death penalty, while the Minister of Interior Mareks Segliņš on national television stated that he would be in favour of a referendum on the issue. Also in September 2008, the head of the parliamentary human rights committee Jānis Šmits called for an EU-wide debate on the reinstatement of the death penalty.
4. The high level support for renewed death penalty again became topical after a rape of a two-year-old girl, engendering a series of articles and TV and radio discussions. Apart from media statements in support of the death penalty by representatives of professionals such as doctors and psychotherapists, former Chief of Criminal police Aloizs Blonskis stated that in his view the death penalty should have been retained in certain cases, as one of them mentioning pedophilia. The Minister of Interior in the present and previous government Linda Mūrniece, while MP in 2008 stated that she was for the death penalty, while in October 2010 she was less explicit, but instead publicly argued for the

creation of a register of sex offenders. Even if there is a reluctant acknowledgement, based on occasional expert statements, that international obligations make it impossible for Latvia to reinstate the death penalty, the discussions and high political level support for such a reinstatement make it highly unlikely that Latvia will abolish the death penalty in all cases in the upcoming period, nor ratify Protocol 13 or sign the Second Optional Protocol.

Asylum

5. Latvia adopted a new Law on Asylum in 2009, aiming to meet the minimum requirements stemming from EU directives. In practice, however, a large proportion of asylum seekers are detained in the illegal migrants' camp Olaine, where conditions are extremely poor (in 2008, 51 persons requested asylum and 15 asylum seekers were detained, in the first 8 months of 2009 there were 24 asylum seekers and 8 were detained). The interpretation by the State Border Guards of the legal norms on grounds for detention of asylum seekers, which includes when the identity of the person has not been clearly established and when there is "grounds to believe" (i.e. not "reasonable grounds" as in international documents) that the person is abusing the asylum procedure, or when there is ground to believe that the person may pose a national security risk, is overly broad and a mere statement of the ground by the State Border Guard has in several instances been accepted by an appeal court as sufficient, without requiring specific evaluation in an individual case. This practice, combined with the fact that the Asylum Law foresees that detention takes place in the order foreseen in the Immigration Law (as any person without a legal basis for staying on the territory), means that any asylum seeker seeking asylum at the border without proper identity documentation, or seeking asylum when the border has already been crossed (without identity documents or required visas and thus illegally) will almost automatically be detained.
6. Despite official statements to the contrary, based on LCHR visits to the illegal migrants detention centre and direct information from clients, information on their rights is not provided, nor is legal aid is not provided for appealing detention (free legal aid is foreseen in the legal norms in the case of appeal of a rejected asylum claim). Decisions by State Border Guards or courts are not translated from Latvian, while interpretation is severely limited, leading to situations where the detained asylum seekers do not understand why they are detained or what procedures will be followed.
7. An especially precarious situation is facing persons who have been denied asylum and who therefore are set to be expelled, when the state has not been able to identify the state to which it will expel the individual (as when the nationality of the person has not been clearly established). These persons have no legal basis for presence in the country, nor indeed do they have an established legal personality (no identity documents). No minimum rights (to housing, to food, to health care) are provided for in law or in practice, but the possibility of detention under the expulsion procedure, regardless of having reached the maximum detention period provided for by law already while in the asylum procedure (20 months) means that in practice such persons face degrading and inhumane treatment with no respect for their minimum human rights.

Prisons

8. Incarceration rate in Latvia remains high. In 2010 it was 314 prisoners per 100,000 inhabitants and Latvia occupied the 5th place in Europe after Russian Federation, Georgia, Belarus and the Ukraine.¹
9. After a slow, but steady decrease in the number of prisoners since 2001, the number of prisoners increased for the first time in 2009 reaching 7,055 by the end of the year. Of those 71, 65% were sentenced prisoners, while 28, 35% were in pre-trial detention.
10. Conditions in many of the 12 prisons remain a concern and continue to be criticised by domestic and international bodies. LCHR has received a significant number of complaints relating to prison conditions, including punishment cells, whereby prisoners have complained of having been locked in cells located in a basement, with plaster falling from the ceiling, excessive humidity due to leaking pipes, smell of sewage and mould in the cell.
11. Following the visit of the European Committee for the Prevention of Torture in December 2009, in January 2010 the Latvian authorities reported about the closure of several punishment cells which the Committee had deemed unfit for holding prisoners. In an ECtHR judgment in late October 2010, Latvia has been ordered to pay 11,700 EUR to a prisoner for violation of Article 3 on account of the conditions of his detention.
12. The prison population in Latvia includes a high percentage of Russian speakers. Language use in communication with public authorities is regulated by the State Language Law, which determines that except for emergencies and a few other specific cases, the state and municipal bodies accept and consider documents submitted by persons in the state (Latvian) language only. Although the Latvian language proficiency has increased significantly among national minorities, proficiency remains an issue amongst certain parts of the minority population, including prisoners.
13. Although the prisoners can submit complaints to the Ombudsman's Office in Latvian and Russian, LCHR has received prisoner complaints that the Latvian Prison Administration and the Ministry of Justice (appeal body for the decisions of the Latvian Prison Administration) have, on occasions, refused to respond to complaints (including about allegations of human rights violations) submitted in Russian referring to the said provision in the State Language Law. Latvian language training courses for prisoners remain limited, many prisoners lack financial resources, and there are no translation services being provided by prisons which has and may result in prisoners being denied effective protection of their rights due to their lack of proficiency in the Latvian language.

¹ International Centre for Prison Studies. Europe – Prison Population Rates per 100,000 of the national population, available at http://www.kcl.ac.uk/depsta/law/research/icps/worldbrief/wpb_stats.php?area=europe&category=wb_poperate