

LATVIA

CCPR A/50/40 (1995)

334. The Committee considered the initial report of Latvia (CCPR/C/81/Add.1/Rev.1) at its 1421st, 1422nd and 1425th meetings (see CCPR/C/SR.1421, 1422 and 1425), held on 12 to 14 July 1995, and adopted 21/ the following final comments:

1. Introduction

335. The Committee welcomes the initial report (CCPR/C/81/Add.1/Rev.1) of Latvia and expresses its appreciation to the State party for the open and constructive dialogue with the Committee. However, it notes that, while providing detailed information on prevailing legislation in Latvia, the report does not contain enough information on the way in which the Covenant is implemented in practice. To some extent, the information provided by the delegation and the responses to the questions raised by members of the Committee largely covered these deficiencies and provided the Committee with a better insight into the human rights situation in Latvia.

2. Factors and difficulties affecting the application of the Covenant

336. The Committee notes that it is necessary to overcome vestiges of the totalitarian past and that much remains to be done to strengthen democratic institutions and respect for the rule of law. The Government's efforts in restructuring the legal system and endeavouring to better implement the Covenant have been hampered by lacunae in some existing legislation as well as by continuing resort to a number of outdated laws which are incompatible with corresponding provisions of the Covenant.

337. In consequence of large-scale emigration from and immigration to Latvia in the past, there coexisted in the country, at the time of the renewal of independence, a significantly large proportion of persons belonging to various national minorities. The policy of the Government to establish precise criteria with regard to naturalization and citizenship has raised a number of difficulties which are affecting the application of the Covenant.

3. Positive aspects

338. The Committee expresses its satisfaction as to the fundamental and positive changes which have taken place since Latvia re-established itself as a sovereign State in 1990. These changes will create a better political, constitutional and legal framework for the full implementation of the rights enshrined in the Covenant.

339. Latvia's accession, soon after its renewal of independence on 4 May 1990, to various human

21/ At its 1441st meeting (fifty-fourth session), held on 26 July 1995.

rights international instruments, such as the Covenant, confirms the genuine commitment of the State party to guarantee the basic human rights of all individuals. The recognition by Latvia of the competence of the Committee to receive and consider communications from individuals under the first Optional Protocol to the Covenant is of particular importance for the effective implementation of the Covenant.

340. The Committee notes with satisfaction that there has been significant progress in securing civil and political rights in Latvia since the proclamation of the renewal of independence. Particular satisfaction is expressed at the adoption in January 1995 of the National Programme for the Protection and Promotion of Human Rights in Latvia and at the establishment of a Human Rights Council in July 1995.

341. The Committee also notes with satisfaction the elimination of capital punishment as a potential penalty for several types of economic crimes as well as the planned revision of the Criminal Code which should lead to the abolition of the death penalty.

4. Principal subjects of concern

342. The Committee regrets that the Covenant has not been given an overriding status in the Latvian legal order and that the Constitutional Law on the Rights and Obligations of a Citizen and a Person of 10 December 1991 has no constitutional status. Furthermore, the Constitution of 15 February 1922, which was restored in 1993, has not yet been fully amended so as to incorporate all the rights enshrined in the various articles of the Covenant. At the same time, the Committee notes with concern the absence of a body, such as a Constitutional Court, charged with determining, inter alia, the conformity of domestic laws with the provisions of the Covenant and other relevant human rights instruments.

343. The Committee also notes that it has not been made sufficiently clear, during the consideration of the report, how the human rights of resident non-citizens are guaranteed, in accordance with article 2, paragraph 1, of the Covenant.

344. The Committee notes with concern that the Latvian legal system has not yet provided for effective mechanisms of investigation in respect of violations of human rights, as required under article 2, paragraph 3, of the Covenant. In the view of the Committee, the need to make effective remedies available to any person whose rights are violated is particularly urgent in respect of the obligations embodied in articles 7, 9 and 10 of the Covenant.

345. The Committee further regrets that the respective functions and mandates of the State Minister on Human Rights and of the newly created Human Rights Council have not been clearly described during the discussion and believes that there may be certain overlapping in their activities as well as a lack of effective coordination.

346. While expressing satisfaction at the impending changes in the Criminal Code which are expected to abolish the death penalty in due course, the Committee is concerned that the death penalty can be imposed for crimes which cannot be qualified as the most serious crimes under article 6 of the Covenant.

347. The Committee is concerned that the rights contained in articles 7 and 10 of the Covenant are not fully respected. The Committee is, in particular, concerned at allegations of mistreatment of detainees and at the conditions in places of detention, which do not comply with article 10 of the Covenant or other international standards. The apparent non-separation of accused persons from convicted persons and juveniles from adults is a further matter of concern. The Committee is especially concerned that there do not seem to be clear mechanisms for dealing with complaints of violence by law enforcement authorities and of conditions in detention centres and prisons. The Committee also notes that the judicial system in Latvia will not be able to exercise its functions properly until there is a sufficient number of well-trained and qualified judges and lawyers.

348. With regard to articles 9 and 14 of the Covenant, the Committee is particularly concerned that the new Code of Criminal Procedure has not been enacted. The role of the Prosecutor under the Law on Prosecutor's Supervision, enacted on 19 May 1994, runs counter to the principle of equality of arms in criminal trials and does not protect in a proper way the right to personal security.

349. The Committee is concerned that, as a result of the absence of domestic legislation and procedure governing the treatment of asylum-seekers trying to enter or who have entered Latvia, the Government has resorted to an excessive use of detention and removal of asylum-seekers from the country.

350. While welcoming the attempts at bringing the naturalization and citizenship legislation in conformity with regional human rights instruments, the Committee remains concerned that a significant segment of the population will not enjoy Latvian citizenship owing to the stringent criteria established by the law and the policy deliberately chosen to consider each case on an individual basis and pursuant to a timetable calculated to delay the naturalization process for many years. In the view of the Committee, the legislation still contains criteria of exclusion which give room to discrimination under articles 2 and 26 of the Covenant and raises difficulties under articles 13 and 17 of the Covenant.

5. Suggestions and recommendations

351. The Committee recommends that a review of the existing legal framework for the protection of human rights in the State party be undertaken in order to clarify the status of international human rights treaties, particularly the Covenant, in the domestic legal hierarchy. In this regard, the Committee emphasizes the importance of giving the Covenant an overriding status in the national legal order. Regarding the actual application of the Covenant, the Committee requests the State party to indicate in its second periodic report any possible instances where the Covenant was directly invoked before the courts, as well as about the results of any such proceedings.

352. The Committee recommends that the State party review and include information in its next periodic report on the procedures established to ensure compliance with the views and recommendations

adopted by the Committee under the first Optional Protocol to the Covenant, also bearing in mind the obligations under article 2 of the Covenant.

353. The Committee urges that the State party take appropriate measures to provide effective and efficient remedies for all persons whose rights under the Covenant have been violated. In that regard, the Committee requests the State party to ensure due coordination between existing and planned institutions aiming at protecting human rights. The Committee also recommends that measures be taken to ensure greater public awareness of the remedies available to individuals, including the provisions of the first Optional Protocol.

354. The Committee would welcome information on the situation of women, to be provided in the second periodic report, and recommends the State party to take appropriate steps to educate the population of Latvia on the equality of men and women.

355. While strongly endorsing the steps envisaged towards the abolition of the death penalty in Latvia, the Committee recommends that a firm policy be adopted aiming at commuting, during the interim period, all death sentences to life imprisonment.

356. The Committee recommends that the State party take any necessary measures to ensure that the conditions of detention of persons deprived of their liberty comply fully with article 10 of the Covenant, as well as the United Nations Standard Minimum Rules for the Treatment of Prisoners.

357. The Committee emphasizes the need for greater control over the police, particularly in the context of the recent authoritarian past from which Latvian society is emerging. Intensive training and education programmes in the field of human rights for law enforcement officials as well as officials of the correctional service are recommended. Steps should be taken to institute effective recourse procedures for victims of police abuse and detained persons. Adequate publicity should be given to pronounced administrative and penal sanctions.

358. The Committee recommends that, in order to ensure the independence and impartiality of the judiciary, as well as the confidence of the individuals in the proper administration of justice, further steps be taken to speed up and complete the reform process. Further vigorous efforts should also be made to encourage a culture of independence among the judiciary itself.

359. The Committee recommends that the Government of Latvia take steps to adopt domestic legislation governing the treatment of refugees and asylum-seekers in compliance with the Covenant and international refugee law. In this regard, the Committee further recommends that the Government of Latvia seek assistance from relevant international organizations, including the Office of the United Nations High Commissioner for Refugees (UNHCR). The Committee also recommends that the Latvian Government consider acceding to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol.

360. The Committee recommends that the State party take all necessary measures to guarantee that the

citizenship and naturalization legislation facilitate the full integration of all permanent residents of Latvia, with a view to ensuring compliance with the rights guaranteed under the Covenant, in particular with articles 2 and 26.

361. The Committee recommends that the Covenant, the Optional Protocol and the Committee's comments be widely disseminated among the Latvian public. Additionally, the Committee recommends that human rights education be provided in school at all levels and comprehensive human rights training be provided to judges, lawyers, law enforcement officers and other persons involved in the administration of justice. In this regard, the Committee suggests that the State party avail itself of the technical cooperation services of the United Nations Centre for Human Rights, and seek the cooperation of the relevant non-governmental organizations.

CCPR CCPR/CO/79/LVA (2003)

1. The Committee examined the 2nd periodic report submitted by Latvia (CCPR/C/LVA/2002/2) at its 2150 to 2152nd meetings, held on 28 and 29 October 2003, and adopted the following concluding observations at its 2162nd meeting, held on 5 November 2003.

A. Introduction

2. The Committee has examined the detailed and comprehensive report of Latvia. The Committee regrets the delay of over four years in the submission of the report. The Committee is grateful to the delegation of Latvia for providing a substantive amount of information about the implementation of the Covenant in Latvia. Some additional written material received on 3 November 2003 was taken into account by the Committee.

B. Positive aspects

3. The Committee welcomes the consistent references to the previous concluding observations in the 2nd periodic report. It further welcomes the publication in the Official Gazette and the Latvian Human Rights Quarterly of the initial report to the Committee, its recommendations and the debate. It welcomes the publication of the Committee's views in cases concerning Latvia in the Official Gazette. The Committee welcomes the readiness of the State party to implement its views.

4. The Committee welcomes the significant progress in legislative and institutional reform since the review of the first periodic report in 1995, in particular the inclusion in the Constitution of Chapter VIII on Fundamental Human Rights, as well as the establishment of a Constitutional Court and the introduction of the right of individuals to launch a constitutional complaint. The Committee notes with great interest the rulings by the Constitutional Court removing from the national legal system norms conflicting with international human rights standards. Other positive legislative reforms include in particular the adoption and entry into force of a new Asylum Law, dealing with the question of non-refoulement; the labour law; amendments to the election law, removing the language requirement to stand for election; and to legislation on trafficking in human beings. The Committee also welcomes the creation of the National Programme for Integration of Society in Latvia and the Society Integration Fund.

5. The Committee welcomes the establishment of the National Human Rights Office and particularly its use of the mandate to submit complaints to the Constitutional Court.

6. The Committee welcomes amendments to national legislation to harmonize it with the provisions of the Second Optional Protocol. It encourages the State party to accede to the Second Optional Protocol.

C. Principal subjects of concern and recommendations

7. The Committee is concerned about allegations of ill-treatment of persons by police officers, as well as the lack of statistical data on the number, details and outcome of cases of ill-treatment by police officers, although noting that as of 2003, statistics on physical ill-treatment by police officers is being systematized (Article 7).

The State party should take firm measures to eradicate all forms of police ill-treatment, including prompt investigations, prosecution of perpetrators and the provision of effective remedies to the victims.

8. The Committee is concerned that no independent oversight mechanism exists for investigating complaints of criminal conduct against members of the police, which could contribute to impunity for police officers involved in human rights violations (Articles 2, 7, 9).

The State party should establish an independent body with authority to receive and investigate all complaints of excessive use of force and other abuse of power by the police.

9. While welcoming the entry into force of the new asylum law, the Committee remains concerned at the short time limits, in particular for the submission of an appeal under the accelerated asylum procedure, which raises concerns regarding the availability of an effective remedy in cases of refoulement (Articles 6, 7 and 2.3).

The State party should ensure that the time limits under the accelerated asylum procedure be extended, in particular for the submission of an appeal.

10. While acknowledging the State party's admission that the average length of pre-trial detention is unsatisfactory and its attempt to remedy the situation in the proposed code of criminal procedure, the Committee is concerned about the length of pre-trial detention, which is often incompatible with articles 9(3) and 14. While being aware of the draft criminal procedure law intended, inter alia, to speed up trials, the Committee remains concerned at the length and frequency of pre-trial detention, particularly with regard to juvenile offenders.

The State party should take all legislative and administrative measures to ensure compliance with articles 9 (3) and 14 as a matter of priority.

11. The Committee notes the information provided by the delegation as to the improvement of the situation of overcrowding in prisons, as well as measures envisaged by the state party to increase resort to alternative forms of punishment. However, in view of reports that overcrowding in prisons continues to be a concern, the Committee should be provided with specific information to indicate to what extent overcrowding in prisons is a problem (Article 10).

The State party should continue to take measures to address overcrowding in prisons and to ensure compliance with the requirements of article 10.

12. The Committee notes the efforts made by the State party to address the situation regarding trafficking in persons, in particular by amending legislation, the adoption of a preventive strategy by providing information to potential victims, and through international cooperation. However, the Committee is concerned about the slow progress made in implementing those policies and notes that it has received only limited statistical information from the State party (Articles 3, 8).

The State party should take measures to combat this practice, which constitutes a violation of several Covenant rights, including article 3 and the right under article 8 to be free from slavery and servitude. Strong measures should be taken to prevent trafficking and to impose sanctions on those who exploit women in this way. Protection should be extended to women who are victims of this kind of trafficking so that they may have a place of refuge and an opportunity to give evidence against the persons responsible in criminal or civil proceedings. The Committee encourages the State party to continue its cooperative efforts with other states to eliminate trafficking across national borders. The Committee wishes to be informed of the measures taken and their result.

13. While noting the efforts made by the State party to combat domestic violence, particularly in the area of legislative reform, the Committee regrets the lack of detailed information on the nature of the problem. The Committee is concerned at reports that domestic violence persists (Articles 3, 9, 26).

The State party should adopt the necessary policy and legal framework to combat domestic violence, as envisaged, *inter alia*, by the draft programme on the implementation of gender equality. Furthermore, the Committee recommends that the State party establish crisis centre hotlines and victim support centres equipped with medical, psychological, legal and emotional support. In order to raise public awareness, it should disseminate information on this issue through the media.

14. The Committee notes that discrimination against women with regard to remuneration persists, notwithstanding the measures taken by the government to guarantee equal treatment, including employment law, and the programme on the implementation of gender equality. The Committee regrets that insufficient information was provided by the state party in regard to the number and results of cases brought and whether compensation has been paid. (Articles 3, 26).

The State party should take all necessary measures to ensure equal treatment of women and men in the public and private sectors, if necessary through appropriate positive measures, in order to give effect to its obligations under articles 3 and 26.

15. The Committee notes with satisfaction that in 2002, a new law on alternative service entered into force, which provides for the right to conscientious objection. However, the Committee remains concerned that, pending a change in the conscription law, the duration of alternative service is up to twice that of military service and appears to be discriminatory (Article 18).

The State party should ensure that the alternative service is not of a discriminatory duration.

16. While noting the measures taken by the State party to make the naturalization process more accessible and increase the rate of naturalization of non-citizens, the Committee is concerned about the limited results of these policies, with many candidates not even initiating the procedure. The Committee takes note of the different reasons underlying this phenomenon, but considers that it has adverse consequences in terms of enjoyment of Covenant rights, and that the State party has a positive duty to ensure and protect those rights. Furthermore, the Committee is concerned at the possible obstacles posed by the requirement to pass a language examination,

The State party should further strengthen its efforts to effectively address the lack of applications for naturalization as well as possible obstacles posed by the requirement to pass a language examination, in order to ensure full compliance with articles 2 of the Covenant.

17. The Committee is concerned at the low level of registration as citizens of children born in Latvia after 21 August 1991, to non-citizen parents (Article 24).

The State party should take all necessary measures to further encourage registration of children as citizens.

18. With regard to the status of non-citizens, the Committee notes the policy of the Government to further social integration through naturalization. However, the Committee is concerned about the large proportion of non-citizens in the State party, who by law are treated neither as foreigners nor as stateless persons but as distinct category of persons with long-lasting and effective ties to Latvia, in many respects comparable to citizens but in other respects without the rights that come with full citizenship. The Committee expresses its concern over the perpetuation of a situation of exclusion, resulting in lack of effective enjoyment of many Covenant rights by the non-citizen segment of the population, including political rights, the possibility to occupy certain state and public positions, the possibility to exercise certain professions in the private sector, restrictions in the area of ownership of agricultural land, as well as social benefits (Article 26).

The State party should prevent the perpetuation of a situation where a considerable part of the population is classified as "non-citizens". In the interim, the State party should facilitate the integration process by enabling non-citizens who are long-term residents of Latvia to participate in local elections and to limit the number of other restrictions on non-citizens in order to facilitate participation of non-citizens in public life in Latvia.

19. The Committee is concerned about the impact of the state language policy on the full enjoyment of rights stipulated in the Covenant. Areas of concern include the possible negative impact of the requirement to communicate in Latvian except under limited conditions, on access of non-Latvian speakers to public institutions and communication with public authorities (Article 26).

The State party should take all necessary measures to prevent negative effects of this policy on the rights of individuals under the Covenant, and, if required, adopt measures such as the further development of translation services.

20. While noting the explanation provided by the State party for the adoption of the Education Law of 1998, particularly the gradual transition to Latvian as the language of instruction, the Committee remains concerned about the impact of the current time limit on the move to Latvian as the language of instruction, in particular in secondary schools, on Russian speakers and other minorities. Furthermore, the Committee is concerned about the distinction made in providing state support to private schools based on the language of instruction (Articles 26, 27).

The State party should take all necessary measures to prevent negative effects on minorities of the transition to Latvian as the language of instruction. It should also ensure that if state subsidies are provided to private schools, they are provided in a non-discriminatory manner.

21. The Committee is concerned about the social and economic situation of the Roma minority and its impact on the full enjoyment of their rights under the Covenant, as well as the potentially negative effect on them of the present regulations regarding the entry of ethnic origin in passports and identity documents. (Articles 2, 26, 27).

The State party should take steps to remove obstacles to the practical enjoyment by the Roma of their rights under the Covenant, and, in particular, abolish the provisions allowing for entry of ethnic origin in passports and identity documents.

22. The State party should widely publicize the present examination of its second periodic report by the Committee and, in particular, these concluding observations.

23. The State party is asked, pursuant to rule 70, paragraph 5, of the Committee's rules of procedure, to forward information within 12 months on the implementation of the Committee's recommendations regarding naturalization (para. 16), the status of non-citizens (para. 18), state language policy (para. 19) and the education law (para. 20). The Committee requests that information concerning the remainder of its recommendations be included in the third periodic report, to be presented by 1 November 2008.