

Council of Europe contribution for the 38th UPR session (Jan-Feb 2021) regarding Latvia

Contents

<i>Prevention of torture (CPT).....</i>	<i>2</i>
<i>Council of Europe Commissioner for Human Rights.....</i>	<i>2</i>
<i>Fight against racism and intolerance (ECRI).....</i>	<i>4</i>
<i>Steering Committee on Anti-Discrimination Diversity and Inclusion (CDADI).....</i>	<i>4</i>
<i>Protection of minorities.....</i>	<i>5</i>
<i>Framework Convention for the Protection of National Minorities.....</i>	<i>5</i>
<i>European Charter for Regional or Minority Languages.....</i>	<i>5</i>
<i>Ad hoc Committee of Experts on Roma and Traveller Issues (CAHROM).....</i>	<i>5</i>
<i>Action against trafficking in human beings (GRETA).....</i>	<i>5</i>
<i>Preventing and combating violence against women and domestic violence (GREVIO).....</i>	<i>6</i>
<i>Protection of children against sexual abuse (Lanzarote Convention).....</i>	<i>7</i>
<i>Fight against corruption (GRECO).....</i>	<i>9</i>
<i>Execution of judgments and decisions of the European Court of Human Rights.....</i>	<i>9</i>
<i>Statistical data.....</i>	<i>9</i>
<i>Main cases / groups of cases under the Committee of Ministers' supervision.....</i>	<i>10</i>
<i>Important cases closed recently.....</i>	<i>10</i>
<i>Social and Economic Rights (ECSR).....</i>	<i>11</i>
<i>Venice Commission.....</i>	<i>11</i>
<i>Protection of National Minorities.....</i>	<i>11</i>

Prevention of torture (CPT)

The 'European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment' organises country visits in order to visit places of detention to assess how persons deprived of their liberty are treated. After each visit, the CPT sends a detailed report to the State concerned. This report includes the CPT's findings, and its recommendations, comments and requests for information.

2016 report:



CPT_2016_Latvia.pdf

Government response :



CPT_2017_Gov_Latvia.pdf

Council of Europe Commissioner for Human Rights

The Commissioner for Human Rights is an independent and impartial non-judicial institution established by Council of Europe to promote awareness of and respect for human rights in the 47 Council of Europe member States.

In October 2019, the Commissioner published a [human rights comment on language policies](#) in Europe, calling on Council of Europe member states, including Latvia, to ensure that such policies accommodate diversity, protect minority rights and defuse tensions. She noted that in several Council of Europe countries language policies tend to increase tensions between communities, rather than promote social cohesion. Emphasising the need to combat discrimination based on language, the Commissioner mentioned a report on Latvia of the Advisory Committee of the Framework Convention on National Minorities, which deplored the lack of access to public positions for people belonging to minorities because of overly strict language conditions. The Commissioner also expressed concern that the 2018 education reform in Latvia, which reduced the proportion of teaching in minority languages, risk transforming the bilingual education system in one where minority languages teaching is limited to language and culture classes. She also regretted that the reform distinguishes between European Union languages and other languages, thus creating unjustified differences of treatment between speakers of different minority languages.

On 18 October 2019, the Commissioner issued [a statement](#) welcoming the adoption by the Saeima of a law to grant automatic citizenship to children of “non-citizens” as of 1st January 2020, unless the parents opt for another nationality. She stressed that this was an important step to eliminate child statelessness in Latvia but regretted that the parliament did not extend automatic citizenship to all stateless children in Latvia who are currently under 15.

On 20 February 2017, the Commissioner [sent a letter](#) to the members of Parliament in Latvia, inviting them to support the ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention). The letter followed up on a meeting between the Commissioner and parliamentarians during his visit to Latvia in

September 2016. Having regard to the existence of certain misconceptions about the contents and objectives of the Istanbul Convention, the Commissioner clarified that it should be seen, first and foremost, as an important tool to comprehensively tackle violence against women and domestic violence, through prevention of violence, protection of victims and prosecution of perpetrators. He expressed the hope that Latvia would swiftly ratify the Convention.



Comm HR Latvia.pdf

On 26 January 2017, the Commissioner [expressed concern](#) about a decision by the Riga Higher Court to impose a 50000 euros fine on the portal Tvnet.lv, noting that the amount was disproportionately high in the Latvian context and could have a deleterious impact on media freedom and public speech in the country.

The Commissioner carried out a visit to Latvia from 5 to 9 September 2016, which focused on women's rights and gender equality, the human rights of children, and the human rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons. He published [a press release](#) at the end of the visit and [a report](#) in December 2016.



CommDH(2016)41.pdf

f

With regard to **women's rights**, the Commissioner noted the on-going work in Latvia to develop long-term gender equality policies, but encouraged the authorities to reinforce their efforts towards rendering gender equality effective in reality, overcoming stereotypes and prejudices about gender roles, and increasing women's participation in public and political life. Expressing concern about survey data showing high levels of violence against women and domestic violence in Latvia, the Commissioner called on the authorities to proceed promptly with the ratification of the Istanbul Convention. To this end, the authorities should invest in raising public awareness about the objectives of the Istanbul Convention, and ensure that debates on gender equality and violence against women are based on facts, including gender-disaggregated data. He further stressed that it is essential to ensure that there is the requisite capacity among law enforcement, prosecutorial and judicial authorities to investigate, prosecute and punish all instances of violence against women and attend to their protection needs by establishing a sufficient number of adequately-resourced specialised shelters.

Although the legal and institutional framework for the protection of **children's rights** is largely in line with international human rights obligations, the Commissioner noted a persistent implementation gap. In particular, he underlined the obligation of the Latvian authorities to prevent statelessness among children, and to this end recommended that the relevant legislation be amended to grant citizenship automatically to stateless children born to "non-citizen" parents. The Commissioner also expressed concern about the placement of orphans and children without parental care in institutions, and called on the authorities to instead prioritise other types of care in a family-like environment as well as to allocate sufficient funds, and implement information campaigns and training in order to increase the number of guardians and foster families. In line with the UN Convention on the Rights of Persons with Disabilities (CRPD), a more inclusive system of education should be put in place where children with disabilities have access to mainstream schools close to their residence. The Commissioner underlined that the placement of students with disabilities in mainstream classes can only be successful if accompanied by structural changes and adequate support services.

The Commissioner welcomed improved policies to protect freedom of assembly and expression of **LGBTI persons**, as reflected in measures to protect pride events. As regards LGBTI rights more generally, the Commissioner encouraged the authorities to address protection gaps in a systematic manner by designing an action plan in co-operation with the Council of Europe. The authorities should improve their responses to homophobic and transphobic crime and hate speech, including by explicitly prohibiting discrimination on grounds of sexual orientation and gender identity, and improving training for the police, prosecutors and judges to ensure the effective investigation, prosecution and punishment of hate crimes and hate speech. There is also a need to provide legal recognition to cohabiting same-sex couples, in line with the case-law of the European Court of Human Rights.

Fight against racism and intolerance (ECRI)

The European Commission against Racism and Intolerance (ECRI) is a human rights body of the Council of Europe, composed of independent experts, which monitors problems of racism, xenophobia, antisemitism, intolerance and discrimination on grounds such as “race”, national/ethnic origin, colour, citizenship, religion and language. It prepares reports and issues recommendations to member States, in which its findings, along with recommendations are published. These reports are drawn up after a contact visit to the country in question and a confidential dialogue with the national authorities. The country monitoring takes place in five-year cycles. As part of the fourth round of ECRI’s monitoring work, a new process of interim follow-up has been introduced with respect to a small number of specific recommendations made in each of ECRI’s country reports.

Fifth report on Latvia (adopted on 4 December 2018 / published on 5 March 2019)



ECRI_2019_1_Latvia.pdf



ECRI_Gov_viewpoint_Latvia.pdf

Steering Committee on Anti-Discrimination Diversity and Inclusion (CDADI)

Under the authority of the Committee of Ministers and bearing in mind the Council of Europe’s legal standards, the jurisprudence of the European Court of Human Rights and the findings and recommendations of the relevant monitoring mechanisms, the CDADI steers the Council of Europe’s intergovernmental work to promote equality for all and build more inclusive societies, offering effective protection from discrimination and hate and where diversity is respected. The work of the CDADI shall take into account the work of the European Commission against Racism and Intolerance (ECRI), without prejudice to the latter’s mandate.

The CDADI advises the Committee of Ministers on all questions within its mandate, including preventing and combating hate speech and discrimination on the grounds covered by ECRI, with a particular focus on fighting anti-Gypsyism and improving the active participation and inclusion of Roma and Travellers in society, safeguarding the rights of persons belonging to national minorities and the use of regional or minority languages, and promoting intercultural integration.

The CDADI promotes and facilitates thematic exchanges and peer reviews of experience and good practice among Council of Europe member States to develop common policy responses, analyse implementation and fulfil any other task assigned to it by the Committee of Ministers.

COVID-19: An analysis of the anti-discrimination, diversity and inclusion dimensions in Council of Europe member states



CDADM(2020)9
COVID-19 An analysis

Protection of minorities

Framework Convention for the Protection of National Minorities

The monitoring procedure for this convention requires each state party to submit a report within one year following the entry into force of the Framework Convention and additional reports every five subsequent years. State reports are examined by the [Advisory Committee](#), a body composed of 18 independent experts responsible for adopting country-specific opinions. These opinions, on which States Parties have an opportunity to comment, are meant to advise the Committee of Ministers in the preparation of its resolutions, containing conclusions and recommendations to the State concerned.

The Advisory Committee on the Framework Convention adopted the 3rd Opinion in respect of Latvia on 23 February 2018.



FCNM_2018_Latvia.pdf
f

European Charter for Regional or Minority Languages

The [Charter's monitoring procedure](#) is based on state reports, as each State Party is required to present its first report within the year following the entry into force of the Charter with respect to the Party concerned. The subsequent reports are presented at three-yearly intervals (since 1 July 2019). A committee of independent experts examines the state's periodical report and addresses an evaluation report to the Committee of Ministers, including proposals for recommendations.

Ad hoc Committee of Experts on Roma and Traveller Issues (CAHROM)

Following the High-Level meeting, intergovernmental work on Roma issues has been upgraded: on 16 February 2011 the Ministers Deputies adopted terms of reference for a new Committee of Experts (CAHROM) to be answerable directly to the Committee of Ministers. The [terms of reference](#) - which have been renewed by the Ministers Deputies for the years 2018-2019 - place emphasis on the analysis and evaluation of the implementation of national policies and thematic exchanges of experience and good practices. European Union institutions, international organisations, the European Roma and Travellers Forum and other relevant (Roma and Traveller) organisations are associated as observers to the CAHROM.

Action against trafficking in human beings (GRETA)

The Council of Europe Convention on Action against Trafficking in Human Beings was adopted by the Committee of Ministers of the Council of Europe on 3 May 2005, following a series of other initiatives by the Council of Europe in the field of combating trafficking in human beings. The Convention entered into force on 1 February 2008, following its 10th ratification. While building on existing international instruments, the Convention goes beyond the minimum standards agreed upon in them and strengthens the protection afforded to victims.

The Convention has a comprehensive scope of application, encompassing all forms of trafficking (whether national or transnational, linked or not linked to organised crime) and taking in all persons who are victims of trafficking (women, men or children). The forms of exploitation covered by the Convention are, at a minimum, sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude and the removal of organs.

The main added value of the Convention is its human rights perspective and focus on victim protection. Its Preamble defines trafficking in human beings as a violation of human rights and an offence to the dignity and integrity of the human being. The Convention provides for a series of rights for victims of trafficking, in particular the right to be identified as a victim, to be protected and assisted, to be given a recovery and reflection period of at least 30 days, to be granted a renewable residence permit, and to receive compensation for the damages suffered.

Another important added value of the Convention is the monitoring system set up to supervise the implementation of the obligations contained in it, which consists of two pillars: the Group of Experts on Action against Trafficking in Human Beings (GRETA) and the Committee of the Parties.

The Convention is not restricted to Council of Europe member states; non-members states and the European Union also have the possibility of becoming Party to the Convention.

GRETA evaluation report (2nd evaluation round):



GRETA_2017_2_Latvia.pdf

Preventing and combating violence against women and domestic violence (GREVIO)

The Council of Europe Convention on preventing and combating violence against women and Domestic violence ([Istanbul Convention](#), [CETS No. 210](#)) is the most far-reaching international treaty to tackle this serious violation of human rights. It aims at zero tolerance for such violence and is a major step forward in making Europe and beyond safer. Preventing violence, protecting victims and prosecuting the perpetrators are the cornerstones of the convention. It also seeks to change the hearts and minds of individuals by calling on all members of society, in particular men and boys, to change their attitudes. In essence, it is a renewed call for greater equality between women and men, because violence against women is deeply rooted in the inequality between women and men in society and is perpetuated by a culture of intolerance and denial.

The Council of Europe Istanbul Convention provides for two types of monitoring procedures:

1. *a country-by-country evaluation procedure;*

2. and a special inquiry procedure in exceptional cases where action is required to prevent a serious, massive or persistent pattern of any acts of violence covered by the Convention.

GREVIO, the Group of Experts on Action against violence against women and domestic violence, is the independent body responsible for monitoring the implementation of CETS No. 210. GREVIO launched its first evaluation procedure in spring 2016, after adopting a questionnaire on legislative and other measures giving effect to the Istanbul Convention.

The Convention is not restricted to Council of Europe member states; non-members states and the European Union also have the possibility of becoming Party to the Convention.

Protection of children against sexual abuse (Lanzarote Convention)

The Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse, also known as "**the Lanzarote Convention**", requires criminalisation of all kinds of sexual offences against children. It sets out that states in Europe and beyond shall adopt specific legislation and take measures to prevent sexual violence, to protect child victims and to prosecute perpetrators.

The "Lanzarote Committee" (i.e. the Committee of the Parties to the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse) is the body established to monitor whether Parties effectively implement the Lanzarote Convention. To do so, the Committee evaluates the information which has been provided by the national authorities and other sources in their replies to questionnaires developed by the Committee itself. This monitoring procedure is divided by rounds, each round concerning a theme.

At the end of each round, the Lanzarote Committee adopts "implementation reports" which contain its assessment of the situation with respect to the monitored Parties.

To mark the different level of action required by Parties to improve the situation, the recommendations addressed by the Lanzarote Committee to Parties in its implementation reports use the verbs to "urge", "consider" and "invite" as follows:

- "**urge**": when the situation is not in compliance with the Convention, or when, despite the existence of legal provisions and other measures, the implementation of a key obligation of the Convention is lacking;
- "**consider**": when further improvements are necessary in law or in practice to fully comply with the Convention;
- "**invite**": when one or several promising practices are highlighted to suggest enhanced protection of children.

Latvia ratified the Lanzarote Convention on 18 August 2014 and it entered into force in its respect on 01 December 2014.

Since Latvia became a Party to the Convention after the launching of the 1st monitoring round, the Lanzarote Committee did not assess the situation in its respect on the "Protection of children against sexual abuse in the circle of trust". Latvia was however assessed under the urgent monitoring round on "Protecting children affected by the refugee crisis from sexual exploitation and sexual abuse".

The recommendations requiring Latvia to take steps to implement the Lanzarote Convention effectively in the context of this urgent monitoring round were as follows:

Urgent monitoring round on “Protecting children affected by the refugee crisis from sexual exploitation and sexual abuse”

On victim identification, the Lanzarote Committee:

- **Considers** that Latvia should put in place effective mechanisms for data collection with a specific focus on children affected by the refugee crisis who are victims or presumed victims of sexual exploitation and sexual abuse and review the possible removal of obstacles to the collection of such data, in particular, where they exist, legal restrictions to do so, with due respect for the requirements of personal data protection (R7).

On the distinction made between victims prior to the entry on territory and after entry, the Lanzarote Committee:

- **Considers** that, while providing adequate protection to child victims irrespective of where the exploitation/abuse occurred, Denmark should do its utmost to be able to distinguish between sexual exploitation and sexual abuse occurring prior to the entry of the child victim on its territory and after the entry (R11).
- **Considers** that Latvia should fulfil obligations to prosecute the offenders and to provide international co-operation between the Parties in instances where the offence occurred prior to arrival on the territory for the purpose of investigation and prosecution (R12).

On the Parties’ approach to protecting children affected by the refugee crisis from sexual exploitation and sexual abuse, the Lanzarote Committee:

- **Considers** that Latvia should encourage the co-ordination and collaboration of the different actors who intervene for and with children affected by the refugee crisis to ensure that preventive measures in regards to protection from sexual exploitation and sexual abuse are in place and protective measures are taken as speedily as possible (R13).

On preventing children affected by the refugee crisis from being sexual exploited and sexually abused, the Lanzarote Committee:

- **Considers** that information and advice concerning prevention of and protection from sexual exploitation and sexual abuse should be provided to children affected by the refugee crisis in a manner adapted to their age and maturity, in a language they understand and which is sensitive to gender and culture (R15).
- **Considers** that Latvia and other Parties to the Convention should exchange information on awareness raising activities which specifically focus on the risks faced by children affected by the refugee crisis with respect to sexual exploitation and sexual abuse (R17).

On the protection of children affected by the refugee crisis from sexual exploitation and sexual abuse, the Lanzarote Committee:

- **Considers** that Latvia should ensure that its specific recommendations on the child-friendly handling of proceedings involving children victims of sexual abuse be implemented also in the context of proceedings involving children affected by the refugee crisis (R31).

- **Considers** that, if it has not yet done so, Latvia should encourage and support the setting up of specific information services such as telephone or Internet helplines to child victims of sexual exploitation and sexual abuse affected by the refugee crisis as well as persons wishing to help them to provide advice in a language which is understandable to them (R32).

On co-operation in protecting children affected by the refugee crisis from sexual exploitation and sexual abuse, the Lanzarote Committee:

- **Considers** that Latvia and other Parties to the Convention should agree on common strategies/procedures to effectively deal with the phenomenon of cross-border missing children (R35).

On data collection and coordination in protecting children affected by the refugee crisis from sexual exploitation and sexual abuse, the Lanzarote Committee:

- **Considers** that Latvia and other Parties to the Convention should reinforce or put in place a coordinated approach between the different agencies in charge in order to facilitate the prevention and protection of children affected by the refugee crisis from sexual exploitation and sexual abuse (R37).

Fight against corruption (GRECO)

The 'Group of States against Corruption' ([GRECO](#)) monitors all its 50 members through a peer review evaluation procedure within thematic evaluation rounds. The evaluation reports contain recommendations aimed at furthering the necessary legislative, institutional and practical reforms. Subsequently, the implementation of those recommendations is examined in the framework of a "compliance procedure", assessing whether they have been implemented satisfactorily, partly or have not been implemented 18 months after the adoption of the evaluation report.

Fifth Evaluation Round: "Preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies".

Here is the latest evaluation report of 21 August 2018:



Execution of judgments and decisions of the European Court of Human Rights

Statistical data

On 31 December 2019, there were 8 cases (7 case on 31 December 2018) against Latvia pending before the Committee of Ministers for supervision of their execution. Six were "leading cases" evidencing more or less important general problems. In 2019, the CM was seized by 2 new leading cases (1 new leading case in 2018) and the amount of just satisfaction awarded was €9,762 (€ 23,410 awarded in 2018). In

2019, 2 cases were closed by the adoption of a Final Resolution (30 cases closed in 2018).

Main cases / groups of cases under the Committee of Ministers' supervision

ECIS v. Latvia, 12879/09, final judgment date: 24/06/2019. This case concerns discrimination against the applicant, a male convict executing his prison sentence in a closed prison, on the grounds of his sex with the respect of the applicable prison regime that had led to a refusal by the prison administration in October 2008 to let him attend his father's funeral (violation of Article 14 in conjunction with Article 8).

EMARS v. Latvia, 22412/08, final judgment date: 18/02/2015. This case concerns the violation of the procedural aspect of Article 2 of the Convention, the right to life. The Court found deficiencies in the investigation into the suspected murder of the applicant's daughter in 2004 due to delays in conducting certain important investigative measures and unexplained misconduct of the investigative officers, as well as on account of the lack of sufficient independence of the investigation due to the fact that it was conducted with the involvement of the police office in which the suspect was working.

VINKS AND RIBICKA v. Latvia, 28926/10, final judgment date: 30/05/2020. The present case concerns a disproportionate search of the applicants' home and the way it was carried out by anti-terrorist police unit in the context of an investigation into economic crimes in June 2009 (violation of Article 8).

For fuller overview of the situation see the Country Factsheets (available on the website of the Department for the Execution of Judgments of the European Court of Human Rights): <https://rm.coe.int/1680709754> and in the Committee of Ministers' Annual Reports on its supervision activity: <https://rm.coe.int/annual-report-2019/16809ec315>

More detailed information on the status of execution in individual cases can be found through [Hudoc-EXEC](#)

Important cases closed recently

In September 2020, the Committee of Ministers decided to end the supervision of the execution of the European Court's judgment in *Balajevs and Ostrovenecs v. Latvia*. These cases concerned ill-treatment by State police escort officers in the premises of the Riga Regional Court in 2006 and 2010 and lack of effective investigations into these events. In response to these judgments, in 2015 an Internal Control Bureau was created in the State Police aimed at strengthening service discipline and full compliance of police agents with domestic laws. Moreover, a Law on the Internal Security Bureau entered into force the same year. The Bureau is now tasked with conducting all investigations against prison and police officials. It is institutionally and practically independent from prison authorities and the police, is supervised by the Minister of the Interior, has a separate budget, its own premises and regional units (see [Final Resolution](#), See also [CM/ResDH\(2018\)382](#) in Holodenko case.).

In 2019, the Committee of Ministers ended its supervision of a case relating to the lack of adequate and effective safeguards in the supervision of legality and scope of the searches in an undercover police investigation (Boze, Application no. 40927/05, judgment final on 13/11/2017, see [Final Resolution](#)).

In 2018, the Committee of Ministers furthermore ended its supervision of a case relating to unlawful placement in social care centres due to a lack of proper medical assessment and absence of an effective regulatory framework enabling access to legal remedies (Mihailovs, Application no. 35939/10, judgment final on 22/04/2013, see [Final Resolution](#)).

In 2018, the Committee of Ministers furthermore ended its supervision of a case relating to poor conditions of detention of persons with disabilities (Abele, Application no. 60429/12, judgment final on 29/01/2018 , see [Final Resolution](#)).

Social and Economic Rights (ECSR)

The European Committee of Social Rights (ECSR) monitors compliance with the [European Social Charter](#) under two procedures: the national periodic reporting system and the collective complaints procedure. Following a decision taken by the Committee of Ministers in 2006, the provisions of the Charter have been divided into four thematic groups. States present a report on the provisions relating to one of the four thematic groups on an annual basis. Consequently each provision of the Charter is reported on once every four years.



Latvia & the
European Social Char



ESC_March2020_Latvi
a.pdf



CR_2018_LVA_ENG.pd
f



ESC_2017_Cond_Latvi
a.pdf



CR_2016_LVA_ENG.pd
f

Venice Commission

The [European Commission for Democracy through Law](#) (Venice Commission) is the Council of Europe's advisory body on constitutional matters. It provides States and international organisations working with it (EU, OSCE/ODIHR) with legal advice in the form of opinions.

Protection of National Minorities

Concerning Latvia, the Commission adopted Opinion on the recent amendments to the Legislation on Education in Minority Languages ([CDL-AD\(2020\)012](#), 18 June 2020)



CDL-AD_2020_012-e_
Latvia.pdf