

The Government's of Latvia response to the Special Rapporteur's on freedom of religion and belief questionnaire

Discrimination in law and practice

Article 91 of the Constitution of the Republic of Latvia (hereinafter – Constitution) lays down the principle of legal equality and non-discrimination: *“All human beings in Latvia shall be equal before the law and the courts. Human rights shall be realised without discrimination of any kind”*.

Discrimination is a different treatment, exclusion or restriction based on specific criteria, where it is not justified and objective justification or where there is a lack of proportionality between the objective pursued and the means used. Article 91 of the Constitution provides for the following prohibited discrimination criteria: race, colour, nationality, ethnic origin, language, birth and origin, gender, age, disability, genetic characteristics, sexual orientation, religion, political and other beliefs, world opinion, party membership, social status and social origin, position of service, property, and other similar circumstances.

In addition to the principle of equality enshrined in Article 91 of the Constitution and the principle of non-discrimination, Article 14 of the European Convention for the Protection of Human Rights and Fundamental Freedoms states that the enjoyment of the rights and freedoms shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

The rules on non-discrimination and the prohibition of divergent treatment are incorporated into the Criminal Law, the Criminal Procedure Law, the Code of Administrative Violations, the Law on State Social Allowances, the Consumer Rights Protection Law, the Education Law and other legislation.

Special laws include provisions on the prohibition of discrimination and divergent treatment in Latvia:

- Section 7 (Principle of Equal Rights) of the Labour Law provides that everyone has an equal right to work, to fair, safe and healthy working conditions, as well as to fair remuneration. The rights shall be ensured without any direct or indirect discrimination – irrespective of a person's race, skin colour, gender, age, disability, religious, political or other conviction, ethnic or social origin, property or marital status, sexual orientation or other circumstances.
- Section 3 (General Provisions) of the Law on the Rights of Patients provides that in ensuring the rights of patients, differential treatment based on a person's race, ethnic origin, skin colour, gender, age, disability, state of health, religious, political or other persuasion, national or social origin, property or marital status or other circumstances is prohibited.
- Section 3 (The Child and the Principle of Equality Regarding the Rights of the Child) of the Law on the Protection of the Children's Rights provides that the state shall ensure the rights and freedoms of all children without any discrimination –

irrespective of race, nationality, gender, language, political party alliance, political or religious convictions, national, ethnic or social origin, place of residence in the state, property or health status, birth or other circumstances of the child, or of his or her parents, guardians, or family members.

- Section 7 (Information not for Publication) of the Law on the Press and Other Mass Media prohibits to publish information which is an official secret or other secret especially protected by law that promotes violence and the overthrow of the prevailing order, advocates war, cruelty, racial, national or religious superiority and intolerance, and incites to the commission of some other crime.
- Law on the Prohibition of Discrimination of Natural Persons – Performers of Economic Activity provides that differential treatment in relation to the performer of economic activity is prohibited due to person's gender, age, religious, political or other conviction, sexual orientation, disability, race, or ethnic origin in relation to his or her approach to economic activity.
- Article 112 of the Constitution of Latvia (*Satversme*) states that everyone has the right to education.
- Article 3.¹ of the Education Law defines the prohibition of unequal treatment and states the right to education regardless of economic or social status, race, nationality, ethnicity, gender, religious or political beliefs, state of health, occupation or place of residence. Respecting this regulation, there are no restrictions for any minority religious or belief communities to access qualitative education.
- Liability for human offences on the grounds of their religion or belief is provided for in the Criminal Law: Section 71 (Genocide), Section 71.² (Crimes against Humanity), Section 78 (Triggering of National, Ethnic and Racial Hatred), and Section 149.¹ (Violation of the Prohibition of Discrimination).
- In accordance with Article 14 of Paragraph 1 of Section 48 (Aggravating Circumstances) of the Criminal Law, aggravating circumstances may be considered if the criminal offence was committed due to racist, national, ethnic or religious motives.
- Section 8 (Principle of Equality) of the Criminal Procedure Law determines a uniform procedural order for all persons involved in criminal proceedings irrespective of the origin, social and financial situation, employment, citizenship, race, nationality, attitude toward religion, sex, education, language, place of residence, and other conditions of such persons.
- Infringement of the prohibition of discrimination is subject to criminal liability in accordance with Section 149.¹ of the Criminal Law, where material damage is caused, and administrative responsibility under Section 204.¹⁷ of the Code of Administrative Violations.

In accordance with Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, measures are ensured that victims can rely on a uniform level of

minimum guarantees throughout the European Union, regardless of where a criminal offence has occurred in the EU Member State. The Directive provides that Member States shall ensure that victims receive timely and individual assessments and identify specific needs for protection as well as specific measures. The Directive is transposed by the Law “Amendments to the Criminal Procedure Law” of 18 February 2016, which entered into force on 23 March 2016, and changes to the part concerning the victim: a separate Section 97.¹ of the Criminal Procedure Law (Fundamental Rights of a Victim in Criminal Proceedings) has been established. The Criminal Procedure Law supplemented by a new Section 96.¹ (Specially Protected Victim), in accordance with that a person who has suffered from a criminal offence, which may have been committed on racist, national, ethnic or religious grounds, shall be a specially protected victim. In accordance with Section 151.¹ (Special Features of Interrogation of a Specially Protected Victim in Pre-trial Criminal Proceedings) of the Criminal Procedure Law, interrogation of a specially protected victim is performed in a separate room appropriate for such purposes or without the presence of persons not related to the particular procedural action.

The Criminal Law does not separate sections relating to violence against people on the grounds of their religion or belief. The investigation shall be carried out in accordance with the various sections of the Criminal Law in accordance with the Criminal Procedure Law.

Since 2014, Latvia has made significant progress in establishing a legal framework for the prevention of domestic violence and the protection of victims of such violence. Awareness of the problem of domestic violence has increased in society; the tendency to prevent domestic violence is increasing. Amendments to the Criminal Procedure Law strengthened procedural guarantees and the possibility for victims of domestic violence to report to the perpetrators.

The Criminal Law was amended to include an aggravating element, namely when acts were committed against a person with whom the perpetrator was linked to the first or second degree of kinship. Both laws have also been amended to simplify the reporting procedure and the interrogation of victims in criminal cases involving specifically protected victims, such as minors, victims of trafficking in human beings, victims of relatives' violence or individuals with intimate relationships. For example, perpetrators of domestic violence can be brought to justice without lodging a formal complaint, which is of paramount importance in situations where the victim has informed the police of violent conduct but has not agreed to make a formal complaint for fear of further consequences.

On 1 January 2018, amendments to Sections 125 of the Criminal Law (Intentional Serious Bodily Injury), 126 (Intentional Moderate Bodily Injury) and 130 (Intentional Slight Bodily Injury) of the Criminal Law entered into force to prevent domestic violence. Those rules are supplemented by the qualifying circumstance: acts committed against a person with whom the perpetrator of the offence is in the first or second degree of kinship, or against a spouse or a former spouse, or against a person with whom the perpetrator of the offence is or has been in an unregistered relationship with a spouse or against a person with whom the perpetrator of the offence is in common (undivided) holding. The Criminal Law was supplemented by a new Section 132.¹ (Persecution), which provides criminal liability for repeated or lasting tracking and surveillance of another person, expressing threats to such person, or unsolicited communication with

such person, if such person has had reasonable grounds to fear for his or her safety or the safety of his or her relatives.

On 1 January 2018, the “Amendments to the Law on Procedures for the Entry into Force and Application of Criminal Law” came into force, recognising genital mutilation as serious bodily harm.

In order to take full account of the requirements of Article 12(5)(e) of Directive 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings, on respect for freedom of religion or belief when children are detained, amendments were made by Cabinet Regulation No. 407 of 13 July 2018 to Cabinet Regulation No. 289 of 11 April 2006 “Regulations Regarding the List of Items Permitted for the Storage in a Temporary Hold Cell”.

Article 6 of the Law on Religious Organisations states that anyone can acquire religious education, either individually or together with others at education institutions of religious organisations. Christian faith education may be taught in state and municipal schools to persons, who have expressed a wish in writing to acquire it. Minors need to submit a request regarding the acquirement of the Christian faith education with the written consent of a parent or guardian. If a minor is younger than 14, a parent or guardian of this person need to submit a request on his/her behalf. Christian faith education is taught according to a programme approved by the Ministry of Education and Science by teachers in the Evangelical Lutheran, Roman Catholic, Orthodox, Old-believer and Baptist denominations, if there are at least 10 students in a school wishing to acquire the relevant knowledge of the respective Christian denomination.

Teachers are appointed by the leadership of the denomination, and they are subject to the same requirements as the other teachers in accordance with the Regulation of the Cabinet of Ministers No. 569 of 11 September 2018 “Regulations regarding the Requirements for the Necessary Education and Professional Qualification of Teachers”.

Schools for ethnic minorities under the management of the state and municipalities, in observance of the wishes of students or their parents or guardians may also provide religious education typical to the respective ethnic minority. Christian faith education and ethical instruction is financed from the state budget.

Good practices

According to the existing regulatory framework, it can be summarized that neither the new religious organisations nor the religious minorities are separated in the legislation, that is to say, all religious organisations are equally treated.

With the judgment of the Constitutional Court of 26 April 2018 in Case No. 2017-18-01, in which the Constitutional Court assessed the conformity of the norms of the Law on Religious Organisations with Articles 99 and 102 of the Constitution and decided that certain norms of the Law on Religious Organisations do not conform with the Constitution, there was no longer a regulation (Section 8, Paragraph four of the Law on Religious Organisations), which determined that congregations who first commence activities in the state and do not belong to religious associations (churches) already registered in the State should be re-registered annually.

Consequently, no distinction is made between new religious organisations or those to be re-registered and permanently registered religious organisations at the legislative level. Any religious organization that is registered in the Register of Religious Organizations and Institutions of the Enterprise Register of the Republic of Latvia acquires the status of a legal person.

Thus, there is equal treatment of all religious organisations and their members.

Specific measures to promote interfaith dialogue and religious pluralism in school curricula:

In order to introduce the new competency-based approach in education curriculum, the following regulations have been elaborated and approved by the Cabinet of Ministers: Regulation No. 747 of November 27, 2018 “Regulations on State Basic Education Standards and Sample Basic Education Programmes” and Regulations No. 416 of September 3, 2019 “Regulations on the National Standard of General Secondary Education and Sample General Secondary Education Programmes“. According to these regulations, issues on human rights, tolerance and variety of religious beliefs are integrated in the general education content.