



OMBUDSMAN OF THE REPUBLIC OF LATVIA

Baznīcas iela 25, Rīga, LV-1010; Tel: 67686768; Fax: 67244074; E-mail: tiesibsargs@tiesibsargs.lv

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Rīga

Ms. Navanethem Pillay
UN High Commissioner for Human Rights
Office of the United Nations
High Commissioner for Human Rights
Palais Wilson - 52, rue des Pâquis
CH-1211 Geneva 10 (Switzerland)

*Re: Provision of further information to the
UN Commission for Human Rights*

In November 28, 2013 Ombudsman's Office of the Republic of Latvia received letter from Ministry of Foreign Affairs of the Republic of Latvia with request of information regarding the annual statements in the field of civil and political rights for the period from 2009 to 2013 for provision of further information to the UN Commission for Human Rights.

For objective information please find enclosed an extract of the annual statements in the field of civil and political rights for the period from 2009 to 2012 (please see the attachment). Since the report on the year 2013 has not been compiled yet, please find below a review of achievements made in 2013 in the context of civil and political topics.

The right to fair court

The number of applications has not increased compared to 2012. Individuals trend continuously to inform the Ombudsman on any unfair, in their opinion, court rulings rendered in criminal as well as in civil proceedings, and the Ombudsman constantly explains and clarifies to them the procedure for appealing against court rulings. The applications also focus on various aspects involving the access to court, reasonable terms of legal proceedings, examination of evidence, substantiation of rulings, and enforcement of judgments.

The Ombudsman informed the Parliament, the Judicial Council, the Minister of Justice, the Chairperson of Supreme Court and the Director of the Court Administration on 29 July 2013 on the problems identified during the first half of the year, focusing in particular on the failure to keep with reasonable terms and to schedule court sessions continuously in case of certain courts.

I would like to point out in the context of the right to fair court guaranteed to individuals to certain issues observed on national scale, such as delay in rendering full judgments and groundless, eventually repeated extension of the deadline for their rendering. The applications filed with our office from individuals in trial and their defense counsels during the most recent

three years are related on most occasions to the delayed rendering of judgments in criminal proceedings; it should be noted, however, that situation is similar also in civil proceedings.

Several individuals applied to the Ombudsman's Office in late 2011 pointing out to the shortcomings in Section 530 in Criminal Procedure Law; according to the historical wording of the said section, the court would render a short form judgment in criminal proceedings and draft the full judgment within 14 days, subject to notification of the date of availability thereof. Part three of the said Section provided that in the event of default to render full court ruling in due time for good reasons, the judge had to notify the prosecutor, the accused, the injured, the defense counsel, and the attorney of the expected date of availability of full court ruling. The above norm neither prescribed any final deadline or number of times for rendering full judgment, not specified any list of good reasons for extension of the rendering of full judgment. Our Office applied to the Ministry of Justice on 8 December 2011 for assessment of the identified problem and for seeking possible amending of the regulation norms since lengthy delay of the rendering of motivated court ruling and making the same available to the individual in trial eventually reflects on the overall duration of the trial and therefore prevents the completion of trial in reasonable term; the individual in trial is left in the situation of judicial uncertainty, and such a situation is impermissible from the view of the right to fair court, and it can infringe the right of accused persons to liberty.

A reply from the Ministry of Justice was received in March 2012 at the Ombudsman's Office confirming the need for amendments to Section 510 and Section 530 of Criminal Procedure Law. In May 2012, the Parliament enacted amendments to Section 530, part three of Criminal Procedure Law to provide that the term for rendering full judgment may only be extended once if the full judgment has not been made available in due time because of the volume or legal complexity of the proceedings, or due to other objective reasons. Such wording has improved the situation, though it should be noted that certain shortcomings are still present in the new wording. Such shortcomings include the failure to fix the maximum term for rendering of full judgment. The Ombudsman draw the attention of the Parliament to the above-described aspect, yet the motion was declined.

Filing of similar complaints with the Office continued also in 2013. For example, the Ombudsman has established in three inspection proceedings a failure on part of the court to comply with the procedure prescribed by Section 530, part three of Criminal Procedure Law stipulating that rendering of full court ruling may only be extended once. It has been additionally pointed out that the manner in which the scheduled date of availability of the full court ruling has been repeatedly extended infringes the principle of legal certainty, and such practice is incompatible with the right to fair court guaranteed in Article 6 of the European Convention for Human Rights and Fundamental Freedoms.

Applications received in 2013 also relate to delay in rendering full judgments by appellate instance courts. It is our intention to make proposals to the Minister of Justice regarding amendments to Section 568 of Criminal Procedure Law, since the appellate instance courts also trend to repeatedly delay the term for rendering of full judgments without any time limits, postponing the deadline for rendering full judgments and therefore delaying further referral to the cassation instance courts, and consequently infringing the right to trial within reasonable time guaranteed to accused individuals. Individuals have mostly been complaining during oral consultations on the delayed availability of motivated judgments in civil proceedings, and our Office has contacted court chanceries to ascertain similar breaches.

I would like to draw your attention repeatedly to the fact that no complications in the organization of administrative court work may transform into infringement of the right to fair court guaranteed to individuals. If the problems of the above-described nature are not identified and negligence or problems related to the organization of work are observed in the work of judges, each individual occasion should be critically assessed on the level of disciplinary body of judges.

Regarding the report and monitoring results by State Social Care Centers (SSCC)

A report¹ on systemic shortcomings observed in State social care centers (SSCC) has been presented in February 2013 to the Parliament and to the Ministry of Welfare including the conclusions drawn on the matters identified during several years as well as recommendations for the elimination of shortcomings.

- 1) The most crucial issues pointed out to include the lack of society-based or alternative social care services the need for which has been included by the competent ministry in various planning documents since 1997 already when the most relevant measures required to ensure the development of social care services included the introduction of the funding principle “funds to follow the customer” and entrusting municipalities with the provision of social care services. Funding of SSCC exclusively from the State budget continues, however; the above-described funding principles have not been implemented, and alternative social care services have experienced hardly any development. The provision of social services available currently in the Republic of Latvia does not meet the needs of people with mental impairments, and society-based alternative services are only available to a small number of people. As a result, people with mental impairments are frequently forced to seek here at long-term social care and social rehabilitation institutions. Many of the SSCC customers are willing to and also capable of living in society if support is made available to them at their place of residence. It has to be noted, though, that most of the visited SSCCs have expanded and attempts of de-institutionalization have been limited, if any.
- 2) The following relevant recommendations have been made regarding the conditions of accommodation in SSCCs:
 - 2.1. To provide the necessary conditions to the customers so that they have reasonable possibilities to spend their time, and to enable them to master the required household and self-care skills appropriate to their functional condition, and to offer activities appropriate to their skills and abilities.
 - 2.2. To provide larger living space to the customers of SSCCs and to accommodate possibly small number of customers in each room.
 - 2.3. To ensure the compliance of isolation rooms of SSCCs with the mandatory hygiene requirements including continuous availability of WC to the customers.
- 3) The following recommendations have been made regarding the restrictions of the right to liberty:
 - 3.1. To review the status of individuals admitted to the SSCCs while deprived of legal capacity where a custodian has consented to the provision of services instead of the customer.

¹ Report by the Ombudsman of the Republic of Latvia on State Social Care Centers for adults with mental disorders, available at: http://www.tiesibsargs.lv/files/zinojums_par_vsac_-_kopsavilkums_gala.pdf

- 3.2. SSCCs should draft the agreements for the customers in a simplified language avoiding complicated legal terminologies; alternatively, a simplified version should be attached to agreement in the form of annex.
- 3.3. Restriction or deprivation of the customers' freedom to short-term leave from the territory of SSCC should be discontinued. If there are objective grounds to impose such restrictions on the customers' liberty the legal status of SSCC customers should be reviewed.

4) The inspection visits conducted with the participation of qualified Psychiatrist participation also included the assessment of the customers' health care availability and quality at SSCCs. It was established that medicines in considerable dosages were administered to a high number of customers; simultaneous administration of numerous medicines was observed on many occasions, and medicines are used instead of alternative methods of care on most occasions. Patients are administering several preparations in high doses. The administered combinations of medicines are often incompatible with the treatment guidelines in case of many customers. It was concluded that medicines were frequently administered to control the behavior of the SSCC customers. It was identified that the need for such preparations could be notably decreased if SSCCs could offer activities and care appropriate to the needs of their customers. It means that at present the customers of SSCCs have frequently administered medicines in so high doses and they are often isolated only because they lack purposeful activities and effective rehabilitation process. According to the report, in case of some customers who tend to hide away the administered medicines instead of swallowing them, the medicines are "jobbed off" onto them in dissolved form. The described practice evidences that certain customers receive treatment against their will, and such practice contradicts with the law. Treatment of a person without his or her will is only permissible on the grounds of court ruling, and only in psycho-neurological hospital.

It was recommended to ensure that informed consent to the treatment process offered to the customers receiving services at SSCCs is obtained from them insofar practicable, and to ensure that individual treatment plans are drafted for customers subject to regular treatment, and also to review the status of SSCCs because in fact a number of customers accommodated there suffer from mental health disorders, and SSCCs are in practice providing health care services already now. Further, separate patient record should be kept for each customer.

The Ministry of Welfare acknowledged in reply to the report that some of the identified shortcomings can be eliminated in a few months, while substantial improvements would take longer period of time and financial investments, as well as systemic cooperation of the Ministry of Welfare and the Ministry of Health, as well as general governmental support. The team of the Ombudsman's Office has continued the visits to SSCCs also in 2013 to check whether or not the recommendations are taken into consideration, and it has been established that situation has improved in several areas as a result of the report. (For example, blood tests are taken in case of all customers administering Leponex).

In reply to the issues pointed out by the Ombudsman in the report regarding the breaches observed in SSCCs in the field of health care, Mrs. I. Viñkele, Minister of Welfare, asked in her application to the Health Inspection (hereinafter – the HI) dated 28 February 2013 to carry out inspections at SSCCs to check whether the medicinal personnel has properly applied treatment to the customers of SSCCs and whether or not regular monitoring of changes in the patients' health followed by corresponding adjustment of medicine administration has been ensured, and whether or not the applied treatment shows any signs of chemical restriction.

Experts of the HI have identified a number of breaches in nearly all of the visited branches, however the HI has declined institution of administrative proceedings in relation to such breaches. The team of the Ombudsman's Office focused in particular on the work of psychiatrists during the visits to individual SSCCs previously visited also by the expert commission of the HI, in order to check whether or not such behavior contradicts with the duty of the State to provide effective control of health care, and such focusing revealed a number of breaches in the work of psychiatrists, and the Ministry of Health and the HI were notified of such breaches in a separate report and asked to assess the legitimacy of actions of certain psychiatrists as well as the quality of the provided services.

The duty of the State to take steps necessary to protect human health including the need to ensure effective control of the quality of health care arises from the right to health. Acknowledging that a major part of SSCC customers are unable to protect their rights because of their health condition, it is my opinion that executive officials should promptly react to any information regarding unprofessional actions on part of medicinal personnel they become aware of, since this is the only way to eliminate irresponsible behavior of medicinal personnel and to protect vulnerable group of individuals from infringements of their human rights.

Observance of the rights of prisoners

Regarding the observance of the rights of prisoners, particular attention in 2013 was paid to the assessment of the exposure of persons sentenced to deprivation of liberty to individual risks and to development of plan for their re-socialization. The amendments to the Penalty Enforcement Code introduced in 2012 have the effect of substantial change of the goals, directions, objectives and content of the enforcement of penalty, as well as the means applied to achieve such goals. The said amendments were aimed at the introduction of re-socialization mechanism so that the enforcement of penalty is rendered more effective. Material shortcomings have been identified during our visits to prison facilities, such as the very slow and formal assessment of the involved risks and needs, because the number of presently employed psychologists is not sufficient and they are unable to meet the quality requirements regarding the competences.

The identified shortcomings were reported on to the competent institutions, and they **fully acknowledge the problems encountered in relation to the assessment of individual risks and development of re-socialization plans at prison facilities**. Particular attention shall be also paid during any future visits to prison facilities to the assessment of individual risks and to re-socialization plans.

Work of Police

Individuals continue to complain on living conditions at the temporary detention facilities of the State Police (in Jēkabpils, Ogre, Aizkraukle, Cēsis, Valmiera, Kuldīga (closed), Madona ĪAV). Individuals also file applications concerning the actions taken or decisions made by police officials in administrative offence proceedings or criminal proceedings. For example, several individuals have applied to the Ombudsman's Office pointing out to the fact that, in spite of the judgment made by the Constitution Court on 25 March 2013, owners of transport vehicles who are not the actual offenders have no possibility to contest a ruling that has come into effect in administrative offence proceedings regarding a breach of permitted driving speed of fixed by technical means (photo-radars).

Here at the Ombudsman's Office we also receive applications from individuals and defense counsels (attorneys) concerning the actions and decisions of prosecuting entities and supervision prosecutor during the pretrial investigation of criminal proceedings. They point out, for example, to the failure to provide the assistance of interpreters or defense counsels to the individuals during the pretrial investigation. Several applications are related to the ineffectiveness of the mechanism established for the protection of rights. In other words, they point out that prosecutors' office is handling the complaints of individuals with insufficient diligence or that their replies are formal.

Individuals continued to apply to the Ombudsman's Office in 2013 concerning the decisions of police to decline institution of criminal proceedings on the occasions when the owner enters an individual's residence without obtaining consent of such individual or fails to observe the procedure prescribed by law (a topic highlighted during the conference in the previous year). On one occasion, for example, a representative of the owner repeatedly attempted to enter the flat let for lease. Police assistance was called for repeatedly. No effective measures followed on the part of police, however, and representative of the owner managed on one occasion to enter the flat in the absence of the lessee and prevent the lessee to access the flat. Criminal proceedings on arbitrary actions were instituted one month after the first attempt to enter the flat.

Case of D.Čalovskis (the right to freedom and prohibition of torture)

On 12 March 2013, an application was filed with the Ombudsman's Office by Attorney-at-Law Ilona Bulgakova, defense counsel to Deniss Čalovskis, concerning eventual substantial infringements of human rights during the detention and search of D.Čalovskis, and concerning eventual breach of Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms if decision is made to extradite D. Čalovskis to the United States (the USA) on the grounds of cyber-crimes eventually committed by him in the jurisdiction of the US.

It was established on the basis of the provided information that extradition of D. Čalovskis to the US would eventually entail an irreversible infringement of the individual's fundamental rights. Therefore, the Ombudsman found it appropriate still before completion of the inspection proceedings to draw the attention of the Cabinet to the below-stated considerations. Section 98 of the Constitution of the Republic of Latvia states that exception is only permissible and extradition of a citizen of the Republic of Latvia to another State in the cases listed in the international treaties if there are sufficient grounds to believe that protection of human rights ensured to such individual in the State of extradition would be provided on the level at least equal to that prescribed by the Constitution. The European Court of Human Rights also directs that the States have the duty to refuse extradition of an individual if it may be reasonably suspected that such individual may be subject to inhuman or humiliating treatment or sentence in the receiving State. The State therefore is obligated to exclude any reasonable doubt that fundamental rights of the extradited individual may be infringed as a result of extradition. If the State neglects such procedural obligation, it may lead not only to the breach of Section 98 of the constitution but also to the breach of other international treaties binding upon the Republic of Latvia, such as the UN International Treaty on Civil and Political Rights and the European Convention for the Protection of Human Rights and Fundamental Freedoms.

The competent authorities of Latvia: General Prosecutor's Office of the Republic of Latvia and the Supreme Court of the Republic of Latvia have based their conclusion that extradition of an individual is permissible and legitimate solely on the Treaty of the Governments of the Republic of Latvia and the United States of America. The procedural obligation to assess the compliance of decision on permissibility of extradition with Section 98 of the Constitution and the international treaties on human rights binding upon the Republic of Latvia has been met neither in the decision made by the General Prosecutor's Office of the Republic of Latvia on 20 December 2012 on the permissibility of extradition of D. Čalovskis not in the award made by Criminal Division of the Supreme Court of the Republic of Latvia on 31 January 2013 on the legitimacy of the first above mentioned decision. The competent authorities of the Republic of Latvia have not assessed in the point of fact whether or not the human right guarantees provided for in the Constitution as applicable to all stages of criminal proceedings and service of sentence, namely criminal prosecution, adjudication and service of sentence, would be ensured to a citizen of the Republic of Latvia in the United States. Assessment of the guarantees involved in the process of criminal proceedings and service of sentence including the right to fair court, prohibition of inhuman and humiliating treatment, and the right to liberty and inviolability of person has to be made prior to extraditing an individual for criminal prosecution to another State, yet such assessment has been made neither by General Prosecutor's Office nor by the Supreme Court. The said authorities have also neglected to assess whether or not the content of guarantees of the right to fair court and other human rights in the US law system corresponds with the human rights protection framework prescribed by the Constitution.

Section 13, Paragraph 12 of the Ombudsman Law stipulates that the Ombudsman may attend the meetings of Cabinet with the right of deliberative vote. The Ombudsman has exercised such right to apply to the Prime Minister for taking the above-described reasoning into consideration when deciding on the extradition of D.Čalovskis to the USA (Letter No 6-4/59 of 12 April 2013).

The Cabinet passed decision on 6 August 2013 on the permissibility of extraditing D. Čalovskis to the USA. European Court of Human Rights has accepted the application filed by D. Čalovskis concerning the eventual breaches of Articles 3 and 5 of the European Convention on the Protection of Human Rights and Fundamental Freedoms. The application has been accepted by European Court of Human Rights along with the order for interim protection – prohibition to extradite D. Čalovskis to the USA. D. Čalovskis was released from detention in October 2013 since the grounds for detention ceased to exist.

Prohibition of Discrimination

Supervision of the compliance with Article 26 of the International Treaty on Civil and Political rights during the period from 2009 to 2013 included special focusing on the minimization of discrimination against minority nations:

Following the information received from the Roma community that the funding intended for Roma projects is not properly applied, investigation of the use of financial instruments of the European Union and the State budget for the integration of Roma people was conducted in 2012. The following basic conclusion of was made as a result of such investigation: failure to

take the necessary steps to prevent of the exclusion of Roma people in the most relevant fields, namely, minimization of discrimination and provision of dwelling².

On 28 February 2013 during the monitoring conducted in the municipality of Ventspils the Ombudsman concluded that operation of Roma ethnic classes continued at Ventspils night shift secondary school³, and information was also received about Roma ethnic classes established at Kuldīga primary school⁴. The Ombudsman investigated the situation and concluded that education of Roma people in segregated classes is not effective⁵ and causes difficulties to representatives of the Roma nation to continue education at secondary schools and higher education establishments, as well as to enter the labor market. The above-mentioned opinion is also shared by the representatives of Advisory Council for Roma People formed by the Ombudsman. “Teaching of Roma children in separate classes from other children is impermissible, since children are therefore segregated according to the ethnic principle and lack effective early communication and cooperation with other nations and cultures”. To eliminate the exclusion and segregation of Roma people in the education process, the Ombudsman has applied to education establishments and the concerned municipalities, pointing out to certain steps to be taken in order to minimize the exclusion of Roma students and their segregation in separate classes, while ensuring the preservation of culture values of the minority nation. “Education on the matters of Roma or other minority languages and cultures should take place in addition to the and in the framework of general education program without separating representatives of the Roma nation into separate classes. Classes on Roma language, culture and history in addition to the comprehensive curriculum at multi-cultural classes would provide to Roma students the support from parents of Roma nationality and ensure protection of the interests of Roma children to integrate in society and to preserve knowledge of the unique features of their nation”. The above-described principle applies to education not only of Roma people but also to other minority nations⁶. Roma ethnic classes in the municipality of Kuldīga have been dissolved.

Monitoring was conducted in 2013 at education establishments with high proportion of minority nationalities in order to check the actual situation in the area of education regarding not only Roma people but also any other minority nationalities. The monitoring included visits made by the staff of the Ombudsman’s Office to 49 schools providing education programs to minority nationalities: in Riga (33), Jūrmala (2), Jelgava (2), Rēzekne (4), Daugavpils (4), and Liepāja (4). Principals of 49 education establishments provided structural answers in the framework of structured interviews. Representatives of the Ombudsman’s

² <http://www.tiesibsargs.lv/atzinumi-modulis/par-ciropas-savienibas-finansu-instrumentu-un-valsts-budzeta-lidzeklu-izlietojumu-romu-integracijai/>

³ Paragraph 107 of the Governmental Opinion attached to the Annual Report 2012 of European Commission against Racism and Intolerance (ECRI) on Latvia points out: “*Even though Latvia states that there exist no separate Roma classes, some schools have integrated classes where Roma children receive education together with children of other national origin*”. (ECRI report on Latvia (stage four) adopted on 9 December 2011, published on 21 February 2012 at <http://www.coe.int/t/dghl/monitoring/ecri/country-by-country/latvia/LVA-CbC-IV-2012-003-LVA.pdf> Annex: Governmental Opinion. The said Opinion is not a part of the ECRI analysis and proposals regarding the situation in Latvia. Pursuant to the “state-to-state” procedure, the ECRI also maintained confidential dialogue with the Latvian authorities in course of drafting of the first report. Some of the comments received from authorities have been taken into consideration by the ECRI and integrated in the final version of the report (unless otherwise specified, the report only reflects on the events before 22 June 2011 when discussion of the first draft took place).

⁴ According to the information available on the website of the municipality of Kuldīga County, Kuldīga County Council has decided on 30 June 2011 to open Roma ethnic classes for grades 1 through 6 of Kuldīga Elementary School., starting from 2011/2012 academic year to implement the first stage elementary education curriculum, including the possibility of bilingual presentation of certain syllabic disciplines provided for in the curriculum.

⁵ The study conducted by Education Initiative Center in 2011 on the topic “Situation in the provision of the right of Roma people to education in Latvia” revealed that “*Children are not prepared to new social environment after the completion of the Roma classes, and their academic results are worse than those of other children. In addition, Ventspils Night Shift Secondary School provides education of Roma children in separate classes up to the seventh grade. Therefore the children are still further separated from the rest of society and they can not receive equally qualitative education*”.

⁶ <http://www.tiesibsargs.lv/sakumlapa/tiesibsargs-aicina-ventspils-pilsetas-domi-likvidet-romu-segregaciju-skolas/>

Office observed the lessons (215 lessons in total in forms 6, 9 and 12) and asked questions to the teachers regarding the quality control of bilingual education, and received answers to questionnaires from 3272 students⁷. Causal relation was observed between the approach of administration of school and teachers to the quality of education and importance of the official language, and the students' level of knowledge. In case of schools with strict management approach to the compliance with regulatory acts, presentation of syllabic disciplines complied with the set curricula and no occasions were identified where teachers lacked knowledge of the official language. Ensuring the best interests of children is the key principle, and it is crucial not only to declare this principle in regulatory acts but also to take it into consideration in drafting of norms as well as to apply it in day-to-day work with children so that they have the possibility to familiarize with the ethnic culture in question as well as to gain qualitative free education and ability to compete at labor market. Education system has to be closely tied to the needs of labor market so that upon graduation from educational establishment an individual has gained the required knowledge and skills including the official language skills to the benefit of all inhabitants of Latvia.

Ombudsman of the Republic of Latvia has actively engaged in discussion of human rights topics on the international level and observed that, due to activities of certain non-governmental institutions, the international bodies have developed distorted perception of the observation of human rights of non-citizens in the Republic of Latvia. Confronting on national as well as international level entails the risk of splitting the society and causing differences between the representatives of various groups of society in Latvia, and the competent officials of the Republic of Latvia have failed to timely prevent such risks. According to the mandate to express impartial and objective opinion on the observation of human rights in Latvia, Ombudsman of the Republic of Latvia has pointed out to the international bodies including the United Nations Organization, the OSCE, the Ombudsman of Europe, the European Parliament, and the High Commissioner of Human Rights of the Council of Europe to the observations made by the Ombudsman in the field of observation of the rights of non-citizens in the Republic of Latvia⁸.

Applications by Ombudsman to the Constitutional Court

- Application of 4 June 2010 “Regarding the compliance of the words “not exceeding 1.2 meters in height” in Section 7, part five, Paragraph 1 of the Law on the Accommodation of Detained Persons” and Paragraph 1 of the Transitional Provisions with Sections 95 and 1 of Constitution of the Republic of Latvia”. Constitutional Court has identified in the award of 20 December 2010 the noncompliance of the words and figures “with partition not exceeding 1.2 meters in height” in Section 7, part five, Paragraph 1 of the Law on the Accommodation of Detained Persons with Sections 95 and 1 of Constitution of the Republic of Latvia, and noncompliance of Paragraph 1 of the Transitional Provisions that have become null and void from 1 January 2012 with Section 95 of Constitution of the Republic of Latvia.
- Application of 12 May 2011 “Regarding the compliance of Paragraph 1 of Transitional Provisions of the Law on Social Protection of the Participants of elimination of the consequences of and victims of the accident at Chernobyl Power Station with Sections 1 and 91 of Constitution of the Republic of Latvia”. Constitutional Court has ruled out on 1

⁷ <http://www.tiesibsargs.lv/sakumlapa/tiesibsarga-2013.gada-konferences-materiali>

⁸ http://www.tiesibsargs.lv/files/content/vestules/EDSO_TS_vestule_2013_dec_LV.pdf

March 2012 to dismiss the proceedings. Constitutional court pointed out in their award to the fact that the Chernobyl Law did not regulate the procedure for reviewing old age pensions to the recipients of old age pension instead of disability pensions when they reach certain age, and the law imposed no restrictions on the right of such group of persons; the potential restriction of the fundamental rights of persons receiving old age pension instead of disability pension eventually arises from the Law on State Pensions. It means that change of procedure for calculation of old age pension in case of recipients of old age pension instead of disability pension falls into the competence of legislator. Constitutional Court has further clearly and expressly pointed out in their award that, having received the Ombudsman's proposals regarding the need for amendments to the relevant regulatory acts, it finds that such amendments should be assessed in point of fact, or refusal to do so should be properly substantiated.

- Application of 29 May 2012 “Regarding the compliance of Section 43⁶ part two of Road Traffic Law with Section 91, compliance of parts three and five with Sections 1 and 92, and compliance of parts seven and eight with Section 92 of the constitution”. Constitutional Court ruled out in their award No 2012-15-01 of 28 March 2013:
 1. To acknowledge noncompliance of Section 43⁶ of Road Traffic Law, to the extent of non-provision of the right to contest and appeal against decision-based protocol issued to the owner (possessor) of road transport vehicle if such owner (possessor) has not been driving the transport vehicle at the time of breach fixed by technical means (photo or video devices) without stopping the transport vehicle, with Section 92 of Constitution of the Republic of Latvia and void from 1 October 2013, unless the legislator improves the regulation prescribed by legal acts till the prescribed date so that the regulation meets the directions contained in the said award.
 2. To acknowledge noncompliance of the remaining part of Section 43.6 of Road Traffic law, to the extent of prescribing the fixing of a breach of road traffic regulations by technical means (photo or video devices) without stopping the transport vehicle, as well as the procedure for imposing and enforcement of penalty, with Section 92 of Constitution of the Republic of Latvia.
 3. To order that exercising by the persons listed in Paragraph 1 of resolution part of the said award of their fundamental rights prescribed by Section 92 of Constitution of the Republic of Latvia shall be provided until the elimination of shortcomings in legal procedure specified in the said award so that such persons enjoy the same right to contest and appeal against the decision-based protocol as the driver of transport vehicle who has been driving the same at the time of fixing the breach by technical means (photo or video devices) without stopping the transport vehicle.
- Application of 3 September 2013 “Regarding the compliance of the words “to form trade unions” in Section 49 part one of the Law on Frontier Guards with Section 102 and Section 108, second sentence of Constitution of the Republic of Latvia”. Constitution Court has instituted proceedings on 1 October 2013.

The number of applications filed with the Ombudsman's Office in 2009 - 2013

2009 – 1986

2010 – 1359

2011 – 2246

2012 – 2633

2013 – 2563

Budget of the Ombudsman

Amendments to the expenditure items of the Ombudsman's Office in the period 2009 – 2016

Ministry (other central public authority)	<i>Euro</i>							
	2009 (met)	2010 (met)	2011 (met)	2012 (met)	2013 prospect	2014 project	2015 forecast	2016 forecast
1	2	3	4	5	6	7	8	9
Total budget expenditures, including:	1 286 002	794 355	813 597	1 007 911	998 079	1 157 884	1 107 380	1 089 812
Implementation of basic functions of the State	1 286 002	794 355	813 597	993 320	969 938	1 090 559	1 078 047	1 089 812
Implementation of the projects and events funded or co-funded by the political instruments of the European Union and other foreign financial support	x	x	x	14 591	28 141	67 325	29 333	x
Average number of personnel	41	39	39	42	42	44	44	44

Even though the reduction of budget of the Ombudsman's Office has been suspended, the Government of the Republic of Latvia has failed to meet the interim recommendation of the European Commission against Racism and Intolerance concerning the increase of budget of the Ombudsman's Office. The budget of the Ombudsman's Office has not been increased in 2013, and the increase scheduled for the year 2014 is not sufficient. The Ombudsman has repeatedly⁹ informed the Prime Minister and the Ministry of Finance about the insufficiency of funding for performance of the functions prescribed by the Ombudsman Law. Similar opinion is also reflected in the Cabinet Protocol¹⁰.

The Ombudsman's Office estimated and updated in early 2013 the amount of required funding and drafted within the framework of the new policy initiatives an application for the strengthening of administrative capacities, asking to grant another EUR 230 938 (LVL 162 304) for sound and efficient performance of public functions in 2014, and fixed addition of EUR 223 066 (LVL 156 772) in the following years. The Cabinet has approved funding for the strengthening of administrative capacities in the amount of EUR 92 169 (LVL 64 777).

The Ombudsman has expressed his opinion on the shortage of financial and human resources of the Ombudsman's Office to the Budget and Finance (Tax) Commission of the Parliament and also at the meeting of the Commission for Human Rights and Social Matters; motions

⁹ Letter of the Ombudsman's Office No 1-5/183; 12.03.2012 of 25.08.2011; Letter No 3-22/17 of 12.03.2012; Letter No 3-22/06 of 06.02.2013; Letter No 3-22/18 of 30.05.2013; Letter No 3-22/26 of 13.09.2013; Letter No 3-22/27 of 20.09.2013

¹⁰ Minutes of Cabinet Meetings 44 171.§ 9 of 13.08.2013

regarding the need for additional resources to ensure the performance of the functions prescribed by the Ombudsman Law have also been made for hearing of the State Budget Bill by the Parliament in the second reading, however the motions have not been seconded. Written opinion issued by the Ombudsman's Office regarding the draft budget of the Office is enclosed in the notes to the Draft Law on the State Budget for the Year 2014¹¹.

Process of Accreditation with the International Coordinating Committee of National Human Rights Institutions

Drafting of the accreditation application form and other required documents takes place in parallel with the day-to-day work due to the lack of capacity and resources of the Ombudsman's Office. The Ombudsman's Office expects to submit the full set of accreditation documents during this year.

An extract of the annual statements in the field of civil and political rights for the period from 2009 to 2012 will be sent just electronically. Review of achievements made in 2013 in the context of civil and political topics will be sent both electronically, and by post.

The Ombudsman

J.Jansons



Piļāne 67201401
Luste
Bērziņa

¹¹http://www.fm.gov.lv/lv/sadalas/valsts_budzets/budzeta_paskaidrojumi/2014_gads_projekts/