

Ombudsman's Office of the Republic of Latvia

Information for the European Commission Rule of Law Report 2023

02/02/2023

1. What are, in your opinion, the most significant developments in the areas covered by the Rule of Law Report since the publication of the 2022 edition?

Law on Transparency in Interest Representation and Whistleblowing Law

The [Law on Transparency in Interest Representation](#) was adopted on 13 October 2022 (and entered into force on 1 January 2023). The adoption of the law can generally be assessed as positive. In the long term, this law will promote openness and transparency of public decisions, as well as reduce the risks of corrupt behaviour. In the long term, the law will also change the public opinion on representation of interests as a normal part of democracy. The issue of the practical implementation of this law is more uncertain. In the law, the term “interest representation” is formulated quite broadly and the aim is to implement it at all levels of public authority (from civil servants of the public administration to parliament, etc.). Given the diverse spectrum of modern day communication, there are concerns that the public sector may find it difficult to distinguish between the cases (aside from the most typical cases) which require registration and the ones that do not. This could contribute to the reluctance of the public sector representatives to engage in communication of certain formats. For the time being, it is also uncertain how much administrative burden the system of interest representation put in place will entail for the parties involved, in particular the public sector, which will be obliged to declare cases of interest representation. However, it is important to note that the Cabinet (as delegated by law) will be working on the abovementioned problems and other unclear issues until 1 September of this year. Consequently, these uncertainties may be cleared up in the future.

The new [Whistleblowing Law](#) was adopted on 20 January 2022. It entered into force on 4 February. The employees of the Ombudsman's Office have met with the State Chancellery (their contact point for whistleblowers) to discuss the protection of whistleblowers' data.

When examining a verification (investigation) case, the Ombudsman found that the mechanism for protecting the rights of whistleblowers established in Latvia is not clear. The Ombudsman stressed in his Opinion that it is essential not only to establish a whistleblowing system, but also to ensure its effective functioning in practice. It is therefore important for the public to be able to clearly identify which body is competent to investigate breaches in the whistleblowing process (including the protection of the whistleblower's identity) and holds the responsible party accountable for these breaches. The Ombudsman pointed out that, in Latvia, regulatory acts do not identify an authority which would have competence over whistleblowing issues, for example, whether the institution that reviewed the whistleblower's report has ensured that the person's rights are respected. In the opinion of the Ombudsman, the authority competent for carrying out that task could be the Public

Prosecutor's Office, which has the necessary legal instruments to ensure control over whistleblowing issues.

2. Could you please elaborate on the situation regarding the functioning of the Ombudsman, including any issues relating to its independence and resources?

The independence of the Ombudsman is not threatened. However, to strengthen the capacity of the Ombudsman additional finances are required (for the year 2023). Therefore 437 422 EUR are demanded for salaries to ensure competitiveness of the remuneration and achieve the minimum coefficient included in the Law on Remuneration of Officials and Employees of State and Local Government Authorities. 36 300 EUR are demanded to ensure one of the tasks included in the Ombudsman Law – to conduct research. The budget for 2023 has not been approved yet.

3. What are your views on the situation regarding the openness of the civic space and the conditions for the functioning of the civil society?

In relation of Russia's war in Ukraine, humanitarian aid to Ukraine is of vital importance. Civil society organizations were very active by donating money, practical items, cars. Many refugees from Ukraine found their homes in Latvia. Individuals as well as NGOs (e.g. "ziedot.lv", "Tavi draugi", "Gribu palīdzēt bēgļiem") were offering their help to Ukrainian people. Latvia is a leader amongst EU countries in terms of the assistance offered to Ukraine.

However, civic participation as well as civic patriotism and trust in institutions in Latvia must be promoted.

September – Civic Engagement Month

The Ombudsman declared September as the month of civic engagement. The Ombudsman's Office delivered a social media campaign on the following topics: elections, public debate, freedom of association, volunteering, pickets, rallies and strikes, referendums and signature collection, involvement in local administration, law enforcement mechanisms, protection of vulnerable groups, freedom of speech and expression, privacy and data protection.

In particular, the Ombudsman stressed the importance of elections, inviting everyone to participate in the parliamentary elections on 1 October and to vote for the option that would provide – in their opinion – the best possible future, not just for the lesser evil.

Representatives of the Ombudsman's Office Continue to Read "Ready for Life" Lectures

Representatives of the Ombudsman's Office continue to participate in the programme "Ready for Life" and offer students in-person and online guest lectures on topical issues. More than 30 lectures were delivered in autumn 2022, with more than 700 students reached. Currently, representatives of the Ombudsman's Office offer lectures on freedom of expression and hate speech, prevention of trafficking in human beings and data protection.

To strengthen civic participation skills in Latvia, 6 NGO's together with state sector representatives established special programme – Democracy academy. The first class of the academy took place on 30 January 2023.

4. Have there been developments following up on the recommendation, in the 2022 Rule of Law Report, related to the participation of civil society in decision-making at local level? To which extent could the Law on Local Government, adopted on 20 October 2022, contribute to that aim?

The recommendation contained in the 2022 Report on the rule of law has been taken into account. The Parliament has adopted the [Law on Local Governments](#) (it came into force on 1 January 2023). The Law includes different forms of public involvement at the municipal level:

- a) advisory councils and commissions,
- b) newsletters;
- c) public hearings;
- d) collective submission;
- e) resident councils;
- f) municipal referendum.

When developing the new Law on Local Governments, the requests and proposals of the active civil society were taken into account, incl. regarding the participation budget, which will be used to promote the involvement of the residents of the administrative territory of the municipality in deciding the development issues of the territory. Public participation budgets have already been introduced and are functioning in many municipalities. Riga municipality has been holding the participatory budget competition for 4 years, implementing projects and directing funds to those projects submitted by the residents, which the residents consider important for the development of their place of residence. From 1 January 2025, the annual budget of local governments will have to include funding for the participation budget.

Although recent studies show that the state provides every active individual with tools that allow them to participate in decision-making processes, still large groups have been identified that do not participate in processes that can influence decision-making at the state and local government levels. These groups are the Russian-speaking population and vulnerable groups. Active citizens can be heard in the Parliament both by participating in the work of commissions and by submitting their proposals and complaints in writing, however experts point out the need to improve the dialogue between civil society and the government. At the governmental level, important political issues, such as education and health reforms, budget distribution and others, are addressed, and in these processes, experts observe a lack of civil society involvement and civil dialogue. The public portal of legal drafts (hereinafter - the TAP portal) could be considered as one of the tools that has been created and is being improved to eliminate this deficiency.

Ombudsman's Annual Conference on Human Rights and Good Governance

The Ombudsman's annual human rights and good governance conference took place on 8 December 2022. The theme was — "Respectful engagement as the foundation of democracy". The conference consisted of three panels, looking at respectful engagement at different stages of a person's life, starting with children and young people, continuing with people of a mature age, and concluding with seniors as participants and facilitators of social and political engagement.

The title of the second panel was "Opportunities for social engagement – from local level to the Parliament (Saeima)". Engagement of the society in the decision making is linked to trust towards local and governmental institutions. Effective participation in decision making and political activities is one of the key factors promoting trust towards the State and its institutions. There are new initiatives at local and governmental level. The purpose of these initiatives is to make the realisation of civil rights more accessible and more convenient. Taking into account the Ombudsman's efforts to accelerate the participation of civil society at the local level, the aim of the discussion was to look at the situation of the public participation in Latvia in 2022 through concrete initiatives. The purpose was also to analyse the current situation of public participation and to make proposals for improvements.

Experts from State Chancellery, Ministry of Environmental Protection and Regional Development, Riga City Council, political Center "Providus" and Latvian Civil Alliance Board took part.

5. What is your opinion on the scope and functioning of the TAP single portal?

On the TAP portal, which operates from the beginning of September 2021, legal acts are developed in a structural form - projects are written on the portal, all versions are available there, and the harmonization process is visible. It not only connects the processes of state administration in one system, but also makes the work of state administration transparent to the whole civil society. On the TAP portal, civil society actors can see every initiative. They can follow its progress and the work of the government and news in the ministries, which, in the opinion of the Ombudsman, are important in the context of information availability, as well as in providing opportunities for public representatives to express their opinions. Work of the Government has become more open and the public has discovered the possibilities of the TAP tool. Representatives of the State Chancellery have pointed out in public discussions that the State Chancellery is assisted by the media in promoting the operation of the TAP portal, and over time, as citizens practice using the portal, its importance in promoting public participation will increase.

6. What are your views on the implementation of Regulation n° 439 of the Cabinet of Ministers of 14 July 2022 on accounting to civil society organisations?

As explained in the annotation of the new regulation, they maintain the requirement of Regulation No 808 that, as a general rule, the organisation keeps its accounts in a double-entry system, but under the relevant turnover (revenue) criteria, the organisation has the right to choose to keep its accounts in a single entry system. From 1 January 2022, pursuant to Article 10(3)(2) of the Accounting Law, an organisation may keep accounts in a single

entry system if its turnover (revenue) from economic transactions does not exceed EUR 100 000 in the accounting year for the two preceding accounting years.

The annotation states - in order to fulfil the task given in the Action Plan for Prevention of Money Laundering and Terrorist and Proliferation Financing for the time period from 2020 to 2022 - to clearly distinguish between donations and gifts in cash and non-cash, in the annual report - organisations will have to indicate in the "Inventory of Donations and Gifts" section how many donations and gifts have been received in cash and how much in non-cash, i.e. how much has been transferred to a bank account, and what the cash and non-cash balances are at the beginning and end of the year.

7. What are your views on the modernization of the Society Integration Fund and the plans to introduce an electronic project management system for NGOs?

The Society Integration Fund (hereinafter - SIF), whose task is to promote society's participation, cohesion and the creation of an inclusive environment, annually supports an average of 500 organizations through various projects. Until now, organizations sent applications for projects by mail, brought them to the fund or submitted them by e-mail with an electronic signature, but it is planned that soon the applications of non-governmental organizations for participation in projects will be able to be submitted electronically - in the electronic project management system, which is currently under development. This initiative is aimed at maximum digitization of the state administration, and not only state administrative institutions, but also non-governmental organizations will benefit from it. The initiator of the implementation of this system is the Ministry of Environmental Protection and Regional Development, and according to the information available to the Ombudsman, other state institutions will also be linked to this system (not just SIF). The Ombudsman has not had the opportunity to evaluate the electronic project management system under development in more detail, therefore we will not be able to provide a broader comment. We have been informed that the modernization of SIF will also affect projects such as the creation of a One-Stop Agency, which will also be related to digitalization, but also in the context of this project, the evaluation is still in progress.

8. What are your views regarding the new Guidelines for participation in public administration, whose adoption was planned in 2022?

In the Guidelines the forms and importance of the participation are defined. The aim of the guidelines is to raise awareness of public participation and provide practical support for the selection and organisation of appropriate participatory activities. The guidelines will be useful for employees of state and local government institutions who work with projects of societal importance on a daily basis, as well as managers, officials and the legislative power. Members of the public and NGOs are also encouraged to use the guidelines to ensure the quality of public participation and to make better use of the opportunities offered.

9. What are your views regarding the media pluralism and freedom, and the measures to protect journalists?

The National Electronic Mass Media Council of Latvia (NEPLP) has restricted the distribution of all Russian propaganda TV programmes (as well as websites) in the territory of Latvia

which threatened state security. The decisions were justified with the normative regulation of Latvia and the case law of the European Court of Human Rights. The chair of NEPLP Mr. Āboliņš said, that the TV channels will only be allowed to broadcast after Russia stops the war in Ukraine and frees Crimea. Earlier the Saeima adopted amendments to the Electronic Media Law, which grants NEPLP the right to restrict foreign programs from countries that threaten the sovereignty of other countries, incites hatred, calls to discrimination (implementation of Audiovisual Media Services Directive). The distribution of such channels in the territory of Latvia is contrary to the national interests of Latvia and does not conform to the policy of electronic media programmes, as well as has a negative impact on the information space of Latvia.

Shortly after the decision was taken, the Ombudsman met with the management of the National Electronic Mass Media Council. In general, the Ombudsman supports the view that the distribution of such programmes in the territory of Latvia is contrary to the Latvian national legislation and international obligations and has a negative impact on the information space of Latvia. It cannot be regarded as an infringement of the right to information. The Ombudsman was interested in the possibilities of alternative sources in order to prevent lack of reliable information in Russian language.

Channel LTV7 is broadcasting several programmes in Russian language (public broadcasting service). In autumn of 2022, new TV channels have been introduced in Russian: “Kino7”, “Kanal7+” un “Semejka”. There are also many Russian radio channels in Latvia. “Domskaļa ploščadī” is broadcasting in several minority languages.

At the end of 2022, the National Electronic Mass Media Council decided to withdraw the broadcasting permit for the Russian independent TV programme “TV Rain” operating in Latvia, on the grounds of threats to national security and public order. The decision was taken based on a recent assessment of a set of irregularities: failure to provide the state language subtitles for broadcasts, displaying Crimea on the map as part of the territory of Russia, calling the Russian army “our army”, possible expression of support to the Russian army. The information received from the State Security Service was also evaluated.

The Latvian Association of Journalists expressed regret about the decision of the NEPLP to cancel the broadcasting licence for “TV Rain” and considers it disproportionate to the violations committed. The international organisation Reporters Without Borders declared that the censorship of Russia’s independent TV programme is an unworthy decision of the European State. The decision can be appealed.

One of the tasks of the Latvian public broadcasting ombudsman is to promote the dialogue between the media and the society. In order to update important issues of this dialogue, the first conference of the Ombudsman of the public broadcasting media took place on 23 September, 2022. The participants discussed possible legal solutions for the problem regarding intimidation and verbal attacks on journalists. Amendments in Latvian legal regulation should be mentioned as a positive step towards a solution of this problem. On 3 May, 2022 Law on Administrative Penalties for Offences in the Field of Administration, Public Order, And Use of the Official Language was amended (Article 11.¹). Article 11¹ (aggressive behaviour towards a person) stipulates that administrative liability can be applied for aggressive behaviour disturbing a piece of a person which is connected with threats to cause harm to health or gender inviolability of a person or their family. The law

envisages to apply administrative liability for persecution, harassment, tracking of a person or unwanted, intrusive communication.

During the Russian war against Ukraine, we have witnessed an outbreak of hate speech in Latvia -mostly against Ukrainian people as well as against Latvian people. There are cases when people justify or glorify war crimes and support Russian policies (regarding Russian aggression in Ukraine) on social networks and internet platforms.