

## Preparation for the European Commission's Rule of Law Report 2022

### Ombudsman of the Republic of Latvia

16 March 2022

#### Work and functions of the Ombudsman

- In Latvia, the Ombudsman performs the functions of a national human rights institution, equality body, children's ombudsman, and national preventive mechanism. The Ombudsman monitors the implementation of the UN Convention on the Rights of Persons with Disabilities in Latvia, and monitors and promotes compliance with the principles of good governance.
- On 7 January 2021, the Ombudsman Law was amended, and the amendments entered into force on 1 January 2022:
  - A candidate for the position of Ombudsman may be nominated by no less than 10 members of the Parliament (Saeima) (previously, no less than 5 MPs were required).
  - The same person may serve as an Ombudsman for a maximum of two consecutive terms (previously, the number of terms was not limited).
- During the last 3 years, the Ombudsman has filed a case in the Constitutional Court 8 times:
  - Guaranteed minimum income level (EUR 53.00 per month). The Ombudsman argued that the level of GMI was too low to ensure minimum conditions for a dignified existence. On 25 June 2020, the Constitutional Court ruled that the norm does not comply with Article 1 and Article 109 of the Constitution (Satversme).
  - The amount of the State social security benefit for unemployed persons with disabilities and seniors. The Ombudsman argued that the amount of the allowance was not sufficient to meet basic needs and that the beneficiaries were discriminated against on the grounds of disability, age and social status. On 9 July 2020, the Constitutional Court ruled that the norm does not comply with Article 1, Article 91 and Article 109 of the Satversme.
  - Amount of State social security benefit for persons with disabilities. The Ombudsman stressed that the amount of the allowance was insufficient even to meet basic needs and was not in line with the state's responsibility to ensure a dignified existence. On 9 July 2020, the Constitutional Court ruled that the contested norm does not comply with Article 1, Article 91 and Article 109 of the Satversme.
  - Income threshold for a needy person (up to EUR 128.06 per month). The Ombudsman argued that the status of a needy person is essential, as it provides access to social support systems for vulnerable persons. The state has a duty to provide social assistance. On 16 July 2020, the Constitutional Court ruled that the norm does not comply with Article 1 and Article 109 of the Satversme.
  - The amount of the minimum old-age pension. The Ombudsman argued that the amount was not sufficient to meet the basic needs (healthy food, clothing, housing, and health care) of its beneficiaries. On 10 December 2020, the Constitutional Court ruled that the contested norms do not comply with Article 1 and Article 109 of the Satversme.
  - On the State Fee for Registering Ownership Rights and Pledge Rights in the Land Register. The Ombudsman pointed out that the existing norms do not provide for recognition of different forms

of family. On 8 April 2021, the Constitutional Court recognised the contested norm (in so far as it applies to the surviving partner of the deceased of the same sex for whom a family had been established with the deceased) as not compliant with the first sentence of Article 110 of the Satversme.

- Remuneration of healthcare workers. The Ombudsman argued that the 2020 State Budget Law provided only about half of the increase in funding previously determined by the Saeima to the remuneration of health care workers. This is contrary to the legislature's obligation to comply with its own legal provisions and creates legal uncertainty in society. On 7 May 2021, the Constitutional Court recognised these budgetary norms as being in conformity with Article 1 and Article 66 of the Satversme.
- On personal income tax. The Ombudsman pointed out that the norms of the law "On Personal Income Tax" provide for the application of personal income tax to a performer of economic activity even if the economic activity has been performed at a loss. The Ombudsman believes that this is contrary to the economic nature of personal income tax and is not fair. On 7 January 2022, the Constitutional Court ruled that the contested norm does not comply with Article 105 of the Satversme.

### **Participation of civil society in the legislative process**

- Following our observations, the NGOs of the most active and visible sectors are invited to the meetings of the Parliament's committees, they are listened to; there have been no complaints about cases when an NGO was not allowed to participate in a meeting of a committee if they themselves wished to participate. In the context of COVID-19, we also observed that the leading NGOs participate in Government meetings, and they are given an opportunity to express themselves.
- In some cases, when we see that an issue that affects the interests of a certain group is being discussed but representation is not ensured, we have invited and urged the relevant NGOs to participate (e.g., at a meeting of the State Administration and Local Government Commission on access to housing for persons with disabilities), and representation is ensured. Especially when discussing issues related to people with disabilities, we remind Members of Parliament of the principle of 'Nothing about us without us'.
- NGOs are most often dissatisfied due to their opinions not being taken into account (trade unions on Covid-19 issues; conservative NGOs on the civil union). However, in those cases, the Ombudsman has noted that NGOs had the opportunity to speak and had been heard; opinions may be different, it is not possible to take everything into account.
- This year, the Ombudsman has set a priority – to study the involvement of civil society in the work of local governments. There are concerns that this principle does not work as well in local governments as it does in the parliament and government; that the capacity of NGOs is potentially weaker; that local government support itself is weaker (involvement in advisory councils, working groups; consideration of NGO proposals; activity research; local government support in NGO activities).

## Support to NGOs

- In general, civil society in Latvia is relatively inactive, possibly due to the socio-economic situation. The priority of citizens is to take care of basic needs and only then to participate in the public domain. As the level of well-being grows, people become more interested in the environment, inclusive societies, etc.
- There is a need to strengthen NGOs' skills in applying to projects. The Ombudsman has observed that in some cases NGOs lack such skills and are unable to participate in projects because they are not able to complete the applications or the administration of projects seems too complicated for them.
- The study of local government practices will certainly allow us to draw more comprehensive conclusions.

## Media pluralism and freedom of journalists

- In general, the media environment in Latvia can be considered diverse. There are both public and commercial media. It can be observed that the quality of public media has improved significantly in recent years, various types of broadcasts are provided (informative, educational, entertaining) for different groups of society.
- Regarding the presentation of news, the public media provides objective information reflecting verified facts. The views of all parties concerned are heard. Sign language translation is provided for news programmes.
- The pandemic highlighted the huge impact that social media has on society. In social media, a fairly large part of the content was related to unverified facts, deliberately distorted facts and disinformation. Media literacy was discussed in various forums, and public institutions (e.g., Ministry of Culture) carried out various campaigns to promote media literacy.
- Electronic communications merchants offer people a variety of TV programmes. Among these, many were Russian channels (often registered in another EU country), which were popular among the Russian-speaking population. With the Russian invasion of Ukraine on 24 February, the National Electronic Mass Media Council (NEPLP) banned the distribution of many channels in Russian – channels which continued to reflect the Kremlin narrative. These decisions were based on the Electronic Mass Media Law, which prohibits hate speech, and propaganda of war and armed conflict. This law also incorporates the requirements of the Audiovisual Media Services Directive, which prohibits propaganda of violence, war and armed conflict.
- Electronic communications merchants offer various programmes that include Latvian commercial media channels, and foreign channels (English, German, French, Lithuanian, Estonian, Russian).
- It is positive that the public media in Russian (rus.lsm) resumed work on terrestrial television, as it was previously active on the internet version. It is a very important step for people who speak

Russian on a daily basis to receive high-quality, objective information in Russian in this historical situation.

- Journalists are not politically affected in Latvia. At the same time, the pandemic highlighted several problems. The role of journalists was being downgraded by politicians — by populists, as well as individuals (even associations). In the context of the pandemic, disinformation about the virus and vaccines was disseminated. If journalists denounced these as fake news, they often faced verbal, even physical attacks, unwanted communication and persecution.
- In February, a court judgment was handed down at first instance against a person who has been persecuting an investigative journalist for a long time. On Friday, 11 March, Riga City Vidzeme District Court found the accused activist guilty of persecution of a journalist and punished the activist with temporary deprivation of liberty for two months.
- Also, from time to time politicians deliver unconstructive criticism and verbal attacks, if the public media reflects a different opinion to their beliefs.
- For example, verbal attacks on public media have come from certain members of the National Alliance. After several positive judgements by the Constitutional Court in cases of same-sex couple regulation, media was criticized for not reflecting the opinion of the conservative members of public.
- In autumn, a populist member of parliament threatened journalists, saying that they would lose their jobs (if the MP was in government) if they did not reflect the number of demonstrators as the MP wishes.
- There is an organisation connecting journalists— Latvian Association of Journalists.