

Latvian report

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A discrimination authority (eg an Equality Commission) who is charged with oversight of religious discrimination does not exist in Latvia. From 2000 till 2008 the Board of Religious Affairs was responsible for making proposals on arrangements for elimination of infringements of human rights. The main responsibility of the Board was to record religious organizations in public register, and to check the compliance of documents connected with establishment and activity of religious organisations and those institutions with laws, other normative acts and actual situation. The Board of Religious Affairs had a duty on a constant basis and in co-operation with other state institutions to prepare and submit to the Minister of Justice information on infringements of clause 99 of the of Constitution, infringements of other normative acts regulating human rights and analysis of circumstances preceding the appropriate violations of law. The Head of the Board of Religious Affairs was appointed and dismissed by the Cabinet of Ministers. In accordance with the Amendments to the the Law on Religious Organisations (ROL)¹ adopted by the Latvian Parliament on 18 December 2008 the Board of Religious affairs has ceased to exist. From 1 January, 2009 religious organizations and their institutions are entered into the Register of Religious Organizations and their Institutions by the Register of Enterprises of the Republic of Latvia, who maintains this Register. The Ministry of Justice shall be in charge of handling relations between the state and religious organizations, within the competence set by laws and other normative acts it ensures elaboration, co-ordination and implementation of State's policy on religious affairs, it deals with issues connected with mutual relations between the State and religious organizations. However, neither the Register of Enterprise nor the Ministry of Justice has a special responsibility to oversight of religious discrimination.

In 1996 Article 85 of the Satversme (Constitution of the Republic of Latvia)² was revised by establishing the Constitutional Court³ and wherewith Law of the Constitutional Court was adopted.⁴ Since 2000 the Constitutional Court is obliged to examine not only the submissions of statutory bodies (President, Prime Minister, Deputy of Saeima), but also constitutional claims submitted by anyone who believes that a law or other regulatory laws have violated his fundamental rights, also the right to freedom of religion. Only one

¹ Reliģisko organizāciju likums (Law on Religious Organisations). *Official gazette Latvijas Vēstnesis* 26.09.1995, Nr.146

² Amendment to the Constitution of Republic of Latvia. *Official gazette Latvijas Vēstnesis*. 12.06.1996.. Nr.100/101(585/586).

³ Article 85 of the Constitution "In Latvia, there shall be a Constitutional Court, which, within its jurisdiction as provided for by law, shall review cases concerning the compliance of laws with the Constitution, as well as other matters regarding which jurisdiction is conferred upon it by law. The Constitutional Court shall have the right to declare laws or other enactments or parts thereof invalid. The appointment of judges to the Constitutional Court shall be confirmed by the *Saeima* for the term provided for by law, by secret ballot with a majority of the votes of not less than fifty-one members of the *Saeima*."

⁴ Law of the Constitutional Court. *Official gazette Latvijas Vēstnesis*. 14.06.1996., Nr.103(588).

judgment related with religion has been passed (case about keeping religious items by prisoners in custody).⁵

The Ombudsman Law, which was adopted on 6 April 2006 and came into force on 1 January 2007 established the Ombudsman institution, which is an official elected by the Parliament, whose main tasks are encouragement of the protection of human rights and promotion of a legal and expedient State authority, which observes the principle of good administration. The Ombudsman is independent in its actions and is governed only by law. No persons or State or municipal institutions have the right to influence the performance of the Ombudsman's functions and tasks. The Ombudsman acts to protect the rights and legal interests of a person in situations when State and municipal authorities have breached the human rights defined by the Constitution and international human rights' documents. Some of the key human rights are the rights to a fair, free and timely trial, freedom of speech and expression, private life, housing, social security, employment, property, these and other rights related to the interests of children, the rights of persons with special needs, etc.⁶

Latvia is a member state of the European Union (EU) and therefore has implemented in legal system the general principle of equality. Latvia proclaimed its independence in 1990 and immediately joined the UN 10 December 1948 International Declaration of Human Rights⁷, whose Article 1 defines the general principle of equality (*All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood*). Similarly Latvia joined UN International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Both Covenants *expressis verbis* prohibits religious discrimination. Another significant step was the signing of the Convention for the Protection of Human Rights and Fundamental Freedoms (the Convention became applicable in Latvia on 27 June 1997, and as of that date the praxis of European Court of Human Rights became obligatory for Latvia). In 1998 the Constitution of Latvia was amended by Chapter VIII (Fundamental Human Rights) in which Article 91 defines human rights to legal equality and the principle of non-discrimination [91. All human beings in Latvia shall be equal before the law and the courts. Human rights shall be realized without discrimination of any kind.] According to Article 89 of the Constitution the state shall recognize and protect fundamental human rights in accordance with this Constitution, laws and international agreements binding upon Latvia. This means that in cases where there is doubt about the contents contained in the Constitution, it shall be interpreted as possible in accordance with international human rights law interpretation. On November 12, 2000 Latvia signed supplementary protocol 12 of the Convention for the Protection of Human Rights and Fundamental Freedoms, which provides to establish prohibition of discrimination as a separate right.

⁵ Judgment in case Nr. 2010-50-0 of the Constitutional Court 18.03.2011. Available at http://www.satv.tiesa.gov.lv/upload/Judg_2010-50-0386ms.htm

⁶ <http://www.tiesibsargs.lv/eng/ombudsman/>

⁷ Declaration of the Supreme Soviet of The Republic of Latvia on Adherence to Documents of International Law on Human Rights Issues. Ziņotājs, 1990.24. maijs, Nr.21. The adherence to International Declaration of Human Rights was unnecessary due to the fact that the Declaration is not an international treaty. This fact was not considered by persons who drafted the Declaration of the Supreme Soviet,

According to opinion of Mr. Egils Levits (he is judge of the Court of Justice of the European Union and prominent legal scholar) about second sentence of Article 91 of the Constitution of Latvia, it must be interpreted as “**classic**” **non-discrimination** (despite the ambiguous formulation of Article 91). It prohibits different treatment based on particular - **restricted – categories**. Levits point out that in discussion on rule of equality the parliamentary commission which prepared Chapter 8 discussed about prohibited criteria like “age” and “sexual orientation” but not about “religion”. Although the commission decided not to be disclosed to any criteria, leaving it for the interpretation of the practice, it is clear that the actual will of the legislature was to pick up the historic 12 prohibited criteria of Article 91 of Constitution [Race, ethnicity, gender, age, language, party affiliation, political belief, religion, world belief, social status, financial status, service status and other similar circumstances], and, citing “other similar circumstances,” open for future development.⁸

In the Constitution of the Republic of Latvia religion/church is mentioned only in Article 99, where the state declares that: “Everyone has the right to freedom of thought, conscience and religion. The Church and shall be separate from the State” The Republic of Latvia guarantees the right to freedom of religion what includes the freedom to adhere to a particular religion individually or in association with others or to have no religious affiliation, to freely change one’s religion or conviction, and to freely express one’s religious opinions in accordance with existing laws.⁹ Neither the Constitution nor the ROL provides an explanation of “religion”, but a legal content of the term is given in legal definitions of religious activity: religious activity is a devotion to religion or faith, to practice the cult or practicing religious or ritual ceremonies and preach teaching (ROL Article 1 Clause 1). Likewise the term “religion” is interpreted in dictionaries.¹⁰ It should be emphasized that religious beliefs, doctrine and the types of content are so different that a universal definition of religion in any case would be incomplete and one-sided. Also, international law does not provide an **explanation of religion or belief**. Most of the lawyers and theologians agree that the attempt to cover all religions, trying to find a commonly acceptable, comprehensive term for religion is unsuccessful. It would not be an exhaustive list of all cases. Some believers are left to the right of final word in the definition of religion, not try to regulate these issue regulations. World practice has shown that attempts to define religion by a legal definition have failed, either because understanding of term becomes too **general**, or vice versa - **too limited**. Definition of rules of law in the case do not reach the desired effect, since they are mostly still **open to interpretation**. Narrow definition of religion can often be discriminatory against other religions. Religion gets so many forms and is interpreted so differently that it can not be adequately defined, but can only be described. The first sentence of Article 99 of Constitution lists three freedoms (1) freedom of opinion, (2) consciousness and (3)

⁸ Compare *Egils Levits: Notes on Chapter 8 of Constitution – Humanrights*. *Cilvēktiesību Žurnāls*. Nr.9.-12. 1999, 28.lpp. This list corresponds to the commission’s previous version, for which there was unity - before conceptual change not mentioning any of the prohibited criteria.

⁹ Balodis R. *Church and State in Latvia*. In Ferrari, S. and W.C. Durham (eds.). *Law and Religion in Post-Communist Europe*. Leuven, Paris, Dudley, MA: Peeters Publishers 2003, p. 149.

¹⁰ Religious activities include worship services, worship ceremonies, rituals, meditation, and missionary activities (evangelisation). See *Likumdošanas aktu terminu vārdnīca* [Dictionary of Legislative Terms]. Rīga: Senders, 1999, p. 359.

religious conviction, which provide common rights to persons with certain religious beliefs, as well as to people with a free-standing philosophical view of the world¹¹ or people with atheistic and agnostic beliefs. Protection provided by Article can not be generalized to extend to the political expression of opinion, although the depth of feeling and expression can be treated as religious (for example, Communist, National Socialist, etc.).

Religion is one of the factors of principle of equality. In many constitutions religion appears as a sign on the prohibition of discrimination. For example, the Constitution of Finland (Article 6), the Constitution of Lithuania (Article 29) and the Constitution of Switzerland (Article 8). In German case there is treated "public office is not dependent on the religious belief" (Article 136 of Weimar Constitution). In Latvia rights to **equal treatment regardless of their religion** is a protected right under the Article 91 of the Constitution. Violation of the principle of equality on the basis of religion is prohibited and legal definitions of ROL (Article 4 paragraph 1) states that direct or indirect limitation of the rights or advantages for residents, as well as emotional harassment or hatred because of their attitude to religion is forbidden. For insulting person's religious feelings or hatred because of their attitude to religion or atheism Article 150 of the Criminal Law provides imprisonment for up to two years or community service or a fine till forty minimum monthly wages.¹² Scientists of religion have an opinion¹³ that instead of using concept "religious feeling" better approach would be to use "hate speech" (orally or in writing, calls to violence, to an unjustified restriction individuals and groups, offensive or demeaning use of the word inciting hatred).

Article 149¹ of the Criminal Law of the Republic of Latvia provides a fine equal to 30 minimum monthly wage for violations of the ban against discrimination if such an offence has been committed more than once in a single year's time (the first time is administrative offence - Article 204.¹⁷ of the Code of Administrative Offences provides administrative liability for offences of prohibition of discrimination prescribed in

¹¹ Worldview or belief (in German Weltanschauung, Weltansicht, English Worldview) - any ideology, philosophy, theology, movement or religion that claims to provide a comprehensive picture of God, the world and the human relationship with God and the world. Specific world views provide a special perspective and guidance in the following disciplines: theology, philosophy, ethics, biology, psychology, sociology, law, politics, economy and history. Philosophical associations (Weltanschauungsvereine) are often cropped views, comparable to religious beliefs.

¹² In comments on Article 150 of Criminal it is noted that on objective side it is an active activity, which can be expressed as direct or indirect derogation of person's rights; creation of any advantages for person; infringement of person's religious feelings; hatred. These activities are carried out in connection with the victim's attitude to religion or atheism. Religious feelings can be hurt by humiliating the person, by rude attitude, by derogating person's attitude for religion or atheism etc, which can be done orally, in writing or by action. Hate raising means to distribute, either orally or in writing in media or other ways ideas, theories and beliefs in more or less wide circle of people to lead their hostile attitude towards representatives of other religions or atheists. (Kraštinš U., Liholaja V., Niedre A. Krimināllikuma zinātniski praktiskais komentārs [Scientific-Practical Commentary on the Criminal Law] Nr.2. Sevišķā daļa. Firma "AFS" Rīga 2007.-311-312.lpp.)

¹³ Krūmiņa-Koņkova S., Tēraudkalns V. Reliģiskā dažādība Latvijā. [Religious diversity in Latvia] Īpašu Uzdevumu ministra sabiedrības integrācijas lietās sekretariāts Izdevniecība "Klints" Rīga, 2007., 89.lpp.

normative acts). The section speaks to “discrimination related to race or ethnicity”, and it does not directly refer to religion. The key phrase in this section is this: “... or for the violation of discrimination prohibitions specified in other regulatory enactments.” Such enactments include the ROL, which states, in Article 4., that “any direct or indirect limitation on the rights of residents, direct or indirect creation of advantages for residents, offence against religious sensibilities or fomenting of hatred vis-à-vis the attitude toward religion of residents shall be banned.” This suggests that the norms of Article 149¹ of the Criminal Law apply in this regard, too. Here we are dealing with general offences such as assault, coercion, etc. The Criminal Law does not speak specifically to attacks against someone’s freedom of religion or conscience, but the fact is that if an offence is sufficiently serious, such crimes can end up in court not because of their religious nature, but because they represent a general offence against an individual’s private rights. Article 149¹ speaks to a prison sentence of up to two years, mandatory community service, or a fine which is equal to no more than 50 times the minimum monthly wage if the violation against the ban on discrimination has caused substantial harm, if it has involved violence, fraud or threats, if it has been committed by a group of individuals, if it has been committed by a government official or a senior representative of a company, enterprise or organisation, or if it has been committed with the use of an automated data processing system.¹⁴

There are very few reported cases regarding religious discrimination. The Ombudsman institution has received submissions regarding religious discrimination only in 2007 on two issues: (a) a provision that obliges a person to take off his/her headdress when making a picture for a passport; (b) a caricature in a newspaper of Jesus portrayed as an fictional monster Chtulhu possessing ability to influence peoples’ minds.

Obligation to make a passport photo without headdress. In his opinion the ombudsman mainly analyzed the respective provision in the aspect of freedom of religion protected by the Article 9 of the ECHR. However, the ombudsman also noted that Article 91 of the Constitution of Latvia¹⁵ is of relevance – freedom of religion protects diversity of religious beliefs and therefore in its essence requires differentiated approach within the limits of the law. Having analyzed the practice of other states in the relevant issue (Germany, Finland, the Netherlands, Denmark) the ombudsman concluded that a provision requiring to take off a headdress irrespective of persons religious beliefs is not proportionate to legitimate aim – to ensure security. The ombudsman requested the Cabinet of Ministers to provide an exception for persons whose religious beliefs do not allow taking off their headdress. The Cabinet of Ministers has adopted the requested exception.¹⁶

¹⁴ Balodis R. The Constitutional and Administrative Aspects of State and Church Regulation in the Republic of Latvia. Religion and the Secular State. *Interim National Reports issued for the occasion of XVIIIth International Congress on Comparative Law* The international Center for Law and Religion Studies Brigham Young University Provo, Utah, Washington, D.C. 2010 p.488.

¹⁵ “All human beings in Latvia shall be equal before the law and the courts. Human rights shall be realized without discrimination of any kind.”

¹⁶ Opinion of the Ombudsman of 10 March 2008 regarding an rights of a person to have his/her Picture taken with headdress due to religious beliefs. Available at http://www.tiesibsargs.lv/lat/petijumi_un_viedokli/viedokli/?doc=274 [Latvian only]. See also Ombudsman

A caricature of Jesus portrayed as an fictional monster. The caricature of Jesus had a following context: a leader of local religious organization “Jaunā paaudze” (*Young Generation*) had previously expressed his views on politics stating that “democracy is only a temporary solution” and that he has been “chosen by God to humiliate all homosexuals and liberals”. Having regard to this context, the Ombudsman cited both Article 91 of the Constitution of Latvia and Article 2 of UN Declaration On The Elimination Of All Forms Of Intolerance And Of Discrimination Based On Religion Or Belief of 1981 and concluded that opinions criticizing particular religious groups are expression of freedom of press. As stated by the Ombudsman, the “publications did not encourage to religious discrimination. They did not contradict [UN Declaration of 1981] for they are not opposed against Christians nor any other religion and do not contain limit any rights based on religion.”¹⁷ Therefore, the Ombudsman did not establish any form of religious discrimination.

There are only general grounds for different treatment. For instance, Article 29 (2) of the Labor Law¹⁸ prescribes that “differential treatment based on the gender of employees is permitted only in cases where a particular gender is an objective and substantiated precondition, which is adequate for the legal purpose reached as a result, for the performance of the relevant work or for the relevant employment.” It must be noted that Article 29 (9) of the Labor Law specifies that differential treatment cannot be based on, inter alia, religious conviction. Article 29 (10) of the Labor Law specifies that “in a religious organization differential treatment depending upon the religious conviction of a person is permitted in the case if a specific type of religious conviction is an objective and justified prerequisite of the relevant performance of work or the relevant employment and a taking into account the ethos of the organization.” For additional exceptions in respect of particular religious organizations please see III (4) below. The formula contained in Article 29(2) of the Labor Law is the only exception in respect of religious conviction. Similar clause has been included in Article 3.¹ (2) of the Law on Consumer Protection, though the Law on Consumer Protection¹⁹ prohibits only differential treatment in respect of gender, race, ethnic origin and disability.

On 2010 amendments to the Education Law²⁰ were adopted regulating both general prohibition of discrimination and exceptions. Article 3.¹(1) prescribes that persons have rights to education irrespective of wealth, social status, race, nationality, ethnical identity,

Report 2007, p. 39. Available at http://www.tiesibsargs.lv/files/downloads/Annual_report_2007.pdf [English]

¹⁷ Opinion of the Ombudsman of 7 May 2007 regarding eventual interference of religious beliefs in publications of the newspaper „Diena”. Available at http://www.tiesibsargs.lv/lat/petijumi_un_viedokli/viedokli/?doc=272 [Latvian only]. See also Ombudsman Report 2007, p. 39. Available at http://www.tiesibsargs.lv/files/downloads/Annual_report_2007.pdf [English]

¹⁸ Labor Law: Law of Republic of Latvia. *Official gazette Latvijas Vēstnesis*, 06.07.2001. Nr. 105(2492)

¹⁹ Consumer Rights Protection Law: Law of Republic of Latvia. *Official gazette Latvijas Vēstnesis*, 01.04.1999. Nr. 104/105(1564/1565)

²⁰ Education Law: Law of Republic of Latvia. *Official gazette Latvijas Vēstnesis*, 17.11.1998. Nr. 343/344(1404/1405)

gender, religious and political convictions, health, employment or place of residence. Article 3.¹(2) provides an exception stating that different treatment due to above mentioned criteria is permitted if it is justified with a legitimate aim and the intended measures for consummation of the aim are proportional. Article 3.¹(2) further specifies that educational institution established by a religious organization shall be entitled to repose on religious affiliation of the person and his/her preparedness and ability to act in good faith and with loyalty in respect of congregation's religious doctrine and in respect of entirety of moral and behavioral provisions, principles and ideals being foundations of the respective religious persuasion.

The law provides that exception of the General prohibition is addressed towards employers, in particular, religious organizations and towards educational institutions. The state in general is prohibited to discriminate by Article 91 of the Constitution.²¹

Article 29 of the Labor Law provides different criteria for different employers. If the employer is a religious organization then different treatment is justified provided that the respective religious conviction is an objective and justified precondition of respective work taking into account the ethos of the organization. The law has provided particular religious organizations with even broader discretion in this issue (see below).

If the employer is not a religious organization then different treatment is justified provided that the respective religious conviction is an objective and justified precondition which is proportionate to the attainable legitimate aim. For instance, it has been considered that religious educational institution may be entitled to employ teachers of the respective religious affiliation but could differentiate between other staff, e.g., cleaners etc.²² There is no case law and have not been any scientific discussions regarding indirect discrimination, for instance, obligation to work on Fridays for employees of Muslim conviction. Similar criteria are applicable towards educational institutions (see above).

There are very few judgments dealing with religious discrimination. All of them are related with employment of religious and non-religious personnel of religious organizations.

As mentioned above Article 14 (1) of the ROL prescribes that religious organizations shall elect or appoint to office and remove from office the ecclesiastics thereof in accordance with the articles of association (constitution, by-law), but employ other employees and dismiss them from work in accordance with the labor legislative enactments. The Senate of the Supreme Court has therefore concluded that the position of religious personnel of religious organizations can be held only in accordance with internal provisions of religious of a religious organization and only by persons having particular qualifications and qualities of personality. These issues cannot be considered by the court. Consequently, the Senate has ruled that the courts cannot reinstate in office

²¹ See Levits E. Par tiesiskās vienlīdzības principu [On the principle of legal equality.] *Official gazette Latvijas Vēstnesis*. 08.05.2003. Nr. 68(2833)

²² Ibid

religious personnel. It is irrelevant whether an employment agreement has been concluded with a member of religious personnel.²³

Notwithstanding the fact that the ROL prescribes that other employees shall be employed and dismissed in accordance with the labor legislative enactments, there are seven laws on particular churches that contain a direct exception to the General Prohibition. Latvian Baptist Community Association Law, Latvian Joint Methodist Church Law, Law on Riga Jewish Religious Community, Law on Latvian Association of Seventh-day Adventist Communities, Latvian Old-Believers Pomor Church Law, Law on Evangelical Lutheran Church of Latvia and Law on Latvian Orthodox Church contain a similar articles. In this context the Senate had to decide a case on termination of employment relations with a secretary of Commission of Mission of Evangelical Lutheran Church of Latvia. In 2006 (shortly after commencement of employment relations) the employee joined other religious organization of the same confession (but not Evangelical Lutheran Church of Latvia). The employer was aware of this fact but did not pose any objections. In 2009 the employer terminated the employment agreement. The termination notice contained reference to Article 101 (1), point 3 of the Labor Law (Employer is entitled to terminate the employment agreement if the employee, when performing work, has acted contrary to moral principles and such action is incompatible with the continuation of employment legal relationships) and the provision of the Law on Evangelical Lutheran Church of Latvia mentioned above. The termination notice also mentioned that the employee has coordinated a home page www.ebaznica.lv where articles undermining the authority of the Evangelical Lutheran Church of Latvia have been published. Both court of first instance and appellate court satisfied the employees claim for reinstatement in office. The Senate upheld the judgment of appellate court by concluding that there is no doubt that the employer in the instant case was entitled to make reference to circumstances corresponding to the provision contained in the Law on Evangelical Lutheran Church. Nevertheless, the employer was bound by provisions of the Labor Law providing rules for termination procedure and among other, term for termination which is one month since establishment of circumstances being basis of termination of the employment agreement. Due to the fact that the employer had not complied with the procedure of termination, the notice of termination has been correctly annulled and the employee reinstated in office.²⁴

Comparative table of Specific Laws²⁵ and Latvian Republic Agreement with Holy See clauses²⁶

²³ Judgment of the Department of Civil Cases of the Senate of the Supreme Court in case No. SKC-531/2009

²⁴ Judgment of the Department of Civil Cases of the Senate of the Supreme Court of 9 March, 2011 in case No. SKC-762/2011

²⁵ Law on Latvian Association of Seventh-day Adventist Communities: *official gazette Latvijas Vēstnesis*, 12.06.2007. Nr.93; Latvian Baptist Community Association Law: *official gazette Latvijas Vēstnesis*, 30.06.2007. Nr. 86; Latvian Joint Methodist Church Law: *official gazette Latvijas Vēstnesis*, 06.07.2007. Nr. 91; Law on Riga Jewish Religious Community: *official gazette Latvijas Vēstnesis*, 20.06.2007. Nr.98; Latvian Old-Believers Pomor Church Law: *official gazette Latvijas Vēstnesis*, 20.06.2007. 20.jūnijs Nr.98, Law on Latvian Evangelical Lutheran Church: *official gazette Latvijas Vēstnesis*, 03.12.2008., Nr. 188, Law on Latvian Orthodox Church: *official gazette Latvijas Vēstnesis*, 03.12.2008., Nr. 188

| What is determined | Adventists | Baptists | Methodists | Jew | Old-believers | Lutherans | Orthodox | Catholics |
|--------------------------|------------|----------|--------------------|------|---------------|--------------------|--------------------|--------------------------------------|
| Relations with employees | 13.§ | 13.§ | 11.§ ²⁷ | 12.§ | 11.§ | 13.§ ²⁸ | 14.§ ²⁹ | 1 ³⁰ and 4§ ³¹ |

It should be pointed out that the Latvian Religious Organizations Law (ROL) contains a discriminating provision (Article 7.³⁾³² which restricts formation of more than one association under one denomination (e.g. Lutherans can have only one association). This restriction was created 15 years ago in order to limit the splitting of the churches and the formation of sects during the process of restitution of denationalized properties.³³ The principle "One Church for One Denomination" does not comply with the principle of

²⁶ The Agreement between the Republic of Latvia and the Holy See November 8, 2000: Starptautisks līgums. *official gazette* Latvijas Vēstnesis, 25.09.2002., Nr.137

²⁷ Article 11. of the Latvian Methodist Church Law "When forming labour relations, maintaining them or terminating employment, the Church shall possess the right to take into account person's religious affiliation, commitment and capacity to act loyally with the teachings and beliefs (doctrines) of the Church, as well as moral and behavioural norms, principles and ideals of the person in relation to the religious beliefs of the United Methodist Church." It should be mentioned that others denominations (Adventist, Baptists ect) articles are similar.

²⁸ Article 13. of Latvian Evangelical Lutheran Church Law (1) In process of forming labour relations, maintaining and changing them or terminating employment, the Church is competent to act on basis of person's religious beliefs, commitment and capacity loyally with the teachings and beliefs (doctrines) of the Church, as well as moral, behavioural norms and principles and ideals (ethos) of the Church. (2) Clergyman is appointed to the place of service and absolved from service by head of Church on the basis of the Constitution of the Church. Order of the head of Church is the only basis of initiation, modification and exemption of clergyman's service.

²⁹ Article 14. of the Latvian Orthodox Church Law "(1) In process of forming labour relations, maintaining and changing them or terminating employment, the Church is competent to act on basis of person's religious beliefs, commitment and capacity loyally with the teachings and beliefs (doctrines) of the Church, as well as moral, behavioural norms and principles and ideals (ethos) of the Church, whose are on the basis of orthodoxy's beliefs. (2) Clergyman is appointed to the place of service and absolved from service by head of Church on the basis of the Constitution of the Church. Order of the head of Church is the only basis of initiation, modification and exemption of clergyman's service."

³⁰ Article 1 of the the Agreement between the Republic of Latvia and the Holy See:"The Republic of Latvia and the Holy See recognize that they are both, within their proper spheres of competence, independent and autonomous. They reaffirm their respect for this principle with regard to the services by which each party, both individually and jointly, intends to promote the greater spiritual and material development of Latvian society."

³¹ Article 4 of the Agreement between the Republic of Latvia and the Holy See:"As regards freedom of religion, sanctioned by the legislation of the Republic of Latvia and the international agreements to which the Republic of Latvia has adhered, the Catholic Church in the Republic of Latvia, together with its communities and institutions, shall be guaranteed freedom to determine its internal government, to worship and to accomplish its mission through pastoral activities, including those of a social, educational and cultural nature."

³² Section 3 of Article 7. Congregations of the same denomination may establish only one religious association (Church) in the country.

³³ Balodis R. Church and State in Latvia. In Ferrari, S. and W.C. Durham (eds.). Law and Religion in Post-Communist Europe. Leuven, Paris, Dudley, MA: Peeters Publishers 2003, p. 149.

religious freedom³⁴ and this state restriction is not justified, because it is not based on any threat to public order, state security, health or morals.³⁵ In 2003 the Board of Religious Affairs³⁶ drew up amendments in the ROL providing to cross out Section 3 of Article 7 considering its discriminative character. The amendments were not supported. The reason mentioned by the Ministry of Justice is "public order security concerns",³⁷ but in the opinion of the preparer of the report it fails to withstand serious criticism. In the same time predecessor of the Latvian Ombudsman – the Latvian National Human Rights Office asked the Parliament to change the Section 3 of Article 7 of the ROL, as well as Section 4 of Article 8.³⁸ The Office of the Ombudsman³⁹ pointed out about the above-mentioned provision that the situation where the state allows congregations of the same denomination to establish only one religious association in the country is contrary to the principle of separation of church and state, included in Article 99 of the Constitution.⁴⁰ By determining that there may be only one religious association in the same denomination, the State interferes in the affairs of church, because it is not considered that establishment of several religious associations might conform to canonical regulations of the denomination. For justification, responsible officials of the Ministry of Justice conclude by interpreting the provision historically that the provision was created not only to limit a schism within religious associations (Churches). Although the aim of the ROL adopted in 1995 was to ensure realization of believers' association liberty, it was also necessary to preclude uncertainties with recovery of property nationalized in 1940.⁴¹

³⁴ Balodis R. State and Church in the Latvia/ State and Church in the Baltic States: 2001. Reliģijas Brīvības Asociācija, Rīga 2001. p. 25

³⁵ Balodis R. Church and State in Latvia. Grām. *State and Church in the European Union*. European Consortium for State and Church research, Nomos Verlagsgesellschaft, Baden – Baden second ed., 2005. p. 266.

³⁶ From 2000-2008 the Board of Religious Affairs dealt with issues connected with mutual relations between the State and religious organizations, it monitored the effectiveness of State's legal regulation on practicing religion. From 2008. the functions of registering religious organizations separated between the Register of Enterprises which register religious organisations and the Ministry of Justice which prepare statement for Register Office. According to the Amendments to the Law on Religious Organizations Ministry of Justice from 2008. deals with issues connected with mutual relations between the State and religious organizations

³⁷ Letter No. 1-7.8/2116 of 16 May 2007 of M. Bičevskis, State Secretary of the Ministry of Justice of the Republic of Latvia to R. Balodis, Head of Constitutional Law Department, Faculty of Law of the University of Latvia

³⁸ Section 4 of Article 8. The congregations of those denominations and religions which begin functioning in the Republic of Latvia for the first time and which do not belong to the religious associations (Churches) already registered in the country shall re-register with the Board of Religious Affairs each year during the first ten years so that the Board may ascertain that these congregations are loyal to the State of Latvia and that their activities comply with legislative acts. Documents for re-registration of the religious organisation must be submitted to the Board of Religious Affairs one month prior the date indicated in the decision on registration or re-registration of the religious organisation.

³⁹ Letter No. 3-2-2/1075 of 25 May 2007 of R.Apsītis, the Ombudsman of the Republic of Latvia to R. Balodis, Head of Constitutional Law Department, Faculty of Law of the University of Latvia

⁴⁰ Balodis R. The Application of the Freedom of Religion Principles of the European Convention on Human Rights in Latvia. Religious Freedom in the European Union: The Application of the Freedom of Religion Principles of the European Convention on Human Rights in the European Union *Proceedings of the 19th Meeting of the European Consortium for Church and State Research Nicosia (Cyprus), 15-18.november 2007*, PEETERS, Belgium 2009. p. 232-233.

⁴¹ *ibid.*