



DANISH INSTITUTE FOR  
HUMAN RIGHTS

**COWI**

# The social situation concerning homophobia and discrimination on grounds of sexual orientation in Latvia

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## A. A Summary of the Overall Situation of LGBT Persons

- [1]. In recent years, Latvia has made progress in the area of legal protection of human rights, including the rights of LGBT persons. This development is partly due to pressure from the EU and human rights organisations.
- [2]. Beyond the legal area, and in spite of the *Ombudman's Office* actively confronting some instances of hate speech and discrimination, overall improvement has been minor. This can be seen in the lack of civil partnership rights for LGBT persons, fierce opposition in recent years to Riga Pride events and anti-LGBT statements by religious and political leaders in the media. Furthermore, surveys show that the notion that homosexuality is an illness is common prejudice in Latvian society.
- [3]. Surveys show that though 53 per cent of the population opposes discrimination against LGBT persons on the labour market, 45 per cent support profession-bans on gays and lesbians, barring them from work in schools, army service and other occupations.

## B. The Collection of Data

- [4]. The material for this report has been collected from four sources:
  - A legal country report carried out for this study by *Latvia Centre for Human Rights* lawyer Ilvija Puce.<sup>1</sup>
  - A sociological country report carried out for this study reviewing available data on the situation concerning homophobia and discrimination on grounds of sexual orientation, written by Victor Makarov.<sup>2</sup>
  - Data collected through interviews held in Latvia with *Mozaika—Alliance of LGBT People and Their Friends*, *The Secretariat for The Special Assignment Minister for Social Integration*, and *Tiesībsarga birojs* [the Ombudsman's Office].
  - Data collected through an online questionnaire sent to the stakeholders mentioned above.

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<sup>1</sup> I. Puce (2008) *The situation concerning homophobia and discrimination on the grounds of sexual orientation in Latvia*, FRALEX.

<sup>2</sup> V. Makarov (2008) *The situation concerning homophobia and discrimination on the grounds of sexual orientation in Latvia*, Sociological Country Report.

## C. Key Findings

### C.1. Attitudes Toward LGBT persons

- [5]. Surveys examining acceptance and attitudes toward homosexuality were carried out on a European level in 2008 and 2006.
- [6]. The 2008 *Eurobarometer* asked, 'How would you personally feel about having a homosexual (gay man or lesbian woman) as a neighbour?' (1 meaning 'very uncomfortable' and 10 meaning 'very comfortable'). The figure in Latvia was 5.5, with an EU average of 7.9. Romania was the lowest with 4.8.<sup>3</sup>
- [7]. In the 2006 *Eurobarometer*, attitudes toward same-sex marriage were examined in every Member State. Forty-two per cent of EU citizens agreed that such marriages should be allowed throughout Europe; the figure was 12 per cent in Latvia (Netherlands scored the highest with 82 per cent and Romania the lowest with 11 per cent). With regard to adoption, the level of acceptance decreases in the EU and in Latvia. Thirty-one per cent of Europeans felt that homosexual couples should be allowed to adopt children throughout Europe; in Latvia the figure was 8 per cent (Netherlands scored highest with 69 per cent and Poland and Malta the lowest with 7 per cent).<sup>4</sup>
- [8]. The first reliable and comprehensive data on Latvia's attitudes toward LGBT persons is a poll conducted in 2006 (n=1,060).<sup>5</sup> A smaller survey based on the same instrument was repeated in 2007 to assess change in attitudes.<sup>6</sup>
- [9]. According to the 2006 Latvian survey, about one-quarter of Latvians were intolerant toward homosexuals, one-quarter were accepting and the large remaining proportion was ambivalent. One of the most common prejudices was the idea that homosexuality is an illness. Fifty-one per cent of survey participants supported the idea that 'homosexuals should be offered medical treatment for homosexuality.'<sup>7</sup>
- [10]. The majority (53 per cent) opposed discrimination against gays and lesbians on the labour market. At the same time, 45 per cent supported

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<sup>3</sup> European Commission (2008) *Special Eurobarometer 296. Discrimination in the European Union: Perceptions, Experiences and Attitudes*, chapter 9.

<sup>4</sup> Eurobarometer 66 (2006), available at: [http://ec.europa.eu/public\\_opinion/archives/eb/eb66/eb66\\_en.pdf](http://ec.europa.eu/public_opinion/archives/eb/eb66/eb66_en.pdf), pp. 43-46.

<sup>5</sup> Victor Makarov. Tolerance toward Sexual Minorities in Latvia: Contexts, Research Findings and Recommendations, Dialogi.lv and Soros Foundation — Latvia. 2006. <http://iecietaiba.lv/article.php?rub=4&id=1641&la=3>

<sup>6</sup> Latvijas iedzīvotāju attieksme pret seksuālajām minoritātēm: gada tendencijas. <http://politika.lv/index.php?id=14166>

<sup>7</sup> V. Makarov (2008) *The situation concerning homophobia and discrimination on the grounds of sexual orientation in Latvia*, Sociological Country Report.

profession-bans on gays and lesbians, barring them from work in schools, army service and other occupations.<sup>8</sup>

- [11]. Young people express a significantly more positive attitude toward homosexuality and homosexuals. There is no significant difference in the attitudes of males and females and different ethnic groups. Tolerance of homosexuality and gay persons is not related to religious beliefs or membership of any of the major Christian denominations in Latvia.<sup>9</sup>
- [12]. The survey conducted in 2007 showed that tolerance toward gay and lesbian persons and homosexuality in Latvia had decreased since the 2006 survey.<sup>10</sup>

## C.2. Criminal Law - Hate Crime

- [13]. The Latvian Criminal Law does not contain provisions on homophobic hate speech. Since amendments on June 21, 2007, the Criminal Law includes the prohibition of discrimination. However, only racial or ethnic identity is fixed as a specified ground, along with a general reference to 'other prohibition of discrimination set by law' is included.<sup>11</sup>
- [14]. Since the Latvian Criminal Law does not define homophobic motivation as an aggravating factor, courts do not take homophobic motivation into account when deciding merits and sentencing.<sup>12</sup>
- [15]. The incidence of homophobic hate crime in Latvia is impossible to evaluate in full. While such crime is hardly systematic or frequent, it is a real and present threat to LGBT persons and activists, as well as those associated with them.<sup>13</sup>
- [16]. During 2006 Gay Pride events, police arrested 14 anti-LGBT activists who threw faeces and shouted offensive slogans in Riga, six of whom appeared in court and were fined 50-70 euros each. The prosecutor's office appealed the decisions in order to start proceedings on charges of hooliganism under the Criminal Code. In early 2008, one of the

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<sup>8</sup> V. Makarov (2008) *The situation concerning homophobia and discrimination on the grounds of sexual orientation in Latvia*, Sociological Country Report.

<sup>9</sup> V. Makarov (2008) *The situation concerning homophobia and discrimination on the grounds of sexual orientation in Latvia*, Sociological Country Report.

<sup>10</sup> V. Makarov (2008) *The situation concerning homophobia and discrimination on the grounds of sexual orientation in Latvia*, Sociological Country Report.

<sup>11</sup> I. Puce (2008) *The situation concerning homophobia and discrimination on the grounds of sexual orientation in Latvia*, FRALEX.

<sup>12</sup> V. Makarov (2008) *The situation concerning homophobia and discrimination on the grounds of sexual orientation in Latvia*, Sociological Country Report.

<sup>13</sup> V. Makarov (2008) *The situation concerning homophobia and discrimination on the grounds of sexual orientation in Latvia*, Sociological Country Report.

demonstrators, an aide to an MP, was sentenced to 100 hours of community service.<sup>14</sup>

- [17]. Some publicly recognisable LGBT activists, most notably an excommunicated Lutheran minister, have received repeated threats. These threats have not resulted in trials or charges.<sup>15</sup> Another hate crime widely reported in the press concerned a gay man who was stopped on the street with his boyfriend and beaten by two men. The LGBT organisation *Mozaika* reported five known cases of homophobic assaults in the streets or near gay bars, but note that most assaults are not reported due to fear of exposure.<sup>16</sup>

### C.3. Freedom of Assembly

- [18]. So far, there have been four Gay Prides in Latvia: Three have taken place (in 2005, 2007 and 2008) and one was banned and subsequently transformed into a private gathering on hotel premises (in 2006). The Pride events have been central in the public debate about LGBT issues and a key element in *Mozaika*'s strategy to change the discourse about LGBT persons and mobilise the LGBT community.<sup>17</sup> At the same time, fascist and right-wing Christian groups have been very active in anti-Pride activities.<sup>18</sup>
- [19]. From a legal point of view, the Latvian constitution guarantees freedom of assembly. Article 16 of the Law on Meetings, Demonstrations and Protests allows local authorities to ban a gathering if it 'endangers the rights of other people, the democratic order of the state, public security, welfare or morals.'<sup>19</sup>
- [20]. The first gay march in 2005 took place after the district court overruled a ban by the Riga municipal authorities, citing principles of non-discrimination in exercising freedom of assembly. It was attended by between 40 and 70 persons and took place in the midst of a much larger counter-demonstration crowd.<sup>20</sup>
- [21]. The 2006 Gay Pride march was banned on the eve of the event by the Riga municipal authorities. The ground given was 'security reasons'. The ban was upheld by the Administrative District Court. As the march was reorganized into a gathering in private space, the participants, many of them foreign guests and supporters, were pursued by a number of organised groups of anti-LGBT protesters.

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<sup>14</sup> This incident has also been reported in the OSCE report *Hate Crimes in the OSCE Region: Incidents and Responses*

[http://www.osce.org/publications/odihr/2007/09/26296\\_931\\_en.pdf](http://www.osce.org/publications/odihr/2007/09/26296_931_en.pdf), p.59.

<sup>15</sup> V. Makarov (2008) *The situation concerning homophobia and discrimination on the grounds of sexual orientation in Latvia*, Sociological Country Report.

<sup>16</sup> Field trip meeting with *Mozaika* (Latvia, 12 March 2008).

<sup>17</sup> Field trip meeting with *Mozaika* (Latvia, 12 March 2008).

<sup>18</sup> V. Makarov (2008) *The situation concerning homophobia and discrimination on the grounds of sexual orientation in Latvia*, Sociological Country Report.

<sup>19</sup> <http://www.likumi.lv/doc.php?id=42090>

<sup>20</sup> V. Makarov (2008) *The situation concerning homophobia and discrimination on the grounds of sexual orientation in Latvia*, Sociological Country Report.

The confrontation became physical when an ‘anti-Pride’ crowd attacked a group of LGBT activists and supporters leaving a church after a religious service, shouting and throwing excrement at them. The legal controversy surrounding the ban ended on Nov. 15, 2007, when the Latvian Supreme Court declared that the ban was illegal.<sup>21</sup> The political repercussions of the event for Latvia were severe: The inability of the government to stem the aggressive homophobic sentiment—including explicit support for such sentiment by some government ministers—put Latvia in the spotlight of international attention.<sup>22</sup>

- [22]. The 2007 Pride took place with high public and international awareness due to the events of the previous year. This time, the authorities authorised the Pride. The event, attended by several hundred attendees, took place in a fenced-off urban park and under heavy police protection. Similarly, the 2008 Pride took place with (this time fewer) counter-demonstrators separated from Pride participants by the police.<sup>23</sup>

#### C.4. Family and Other Social Issues

- [23]. Latvian law does not provide for same-sex marriage. Art. 110 of the Latvian constitution was amended in 2005 to specifically define marriage as ‘a union between a man and a woman.’<sup>24</sup> Latvian law does not provide for same-sex partnerships. De facto LGBT couples are not recognised by the state.<sup>25</sup>

- [24]. According to the LGBT organisation *Mozaika*, this situation leads to discrimination in several areas:

- Procedural law, criminal law and criminal process law (for example, a same-sex partner will be denied the right not to bear witness against family members);
- Inheritance law;
- Declaration of place of residence;
- Healthcare (for example, a same-sex partner will be denied the right to take medical care decisions on behalf of a partner in an unconscious state);
- Tax allowances;
- Right to pension due to loss of support by a surviving partner;
- Immigration and residence;

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<sup>21</sup> <http://www.politika.lv/index.php?f=1199>

<sup>22</sup> V. Makarov (2008) *The situation concerning homophobia and discrimination on the grounds of sexual orientation in Latvia*, Sociological Country Report.

<sup>23</sup> V. Makarov (2008) *The situation concerning homophobia and discrimination on the grounds of sexual orientation in Latvia*, Sociological Country Report.

<sup>24</sup> <http://www.likumi.lv/doc.php?id=57980>.

<sup>25</sup> V. Makarov (2008) *The situation concerning homophobia and discrimination on the grounds of sexual orientation in Latvia*, Sociological Country Report.

- Treatment of LGBT families by public authorities (including various administrative procedures and official forms) and access to welfare services, insurance and employment benefits for LGBT couples.

[25]. Only married couples and single or divorced persons can adopt. Heterosexual couples are encouraged to marry before they can adopt; same-sex couples are denied adoption. Whether a single person's sexual orientation in itself will preclude adoption has not been tested. Adoption of a deceased person's child by his same-sex partner is not possible as same-sex couples are not considered family members. Furthermore, *Mozaika* reports that there is fear among homosexual parents that the question of homosexuality might be brought up in custody cases as an argument against the allegedly homosexual parent.<sup>26</sup>

## C.5. The Labour Market

[26]. Most requirements of the Employment Directive 2000/78/EC have been implemented into Latvian legislation; however, the provisions prohibiting discrimination on grounds of sexual orientation were adopted with notable reluctance. The legislator has not gone beyond the minimum requirements of the Employment Directive 2000/78/EC, and discrimination on the ground of sexual orientation is explicitly forbidden only in private and public employment and civil service.<sup>27</sup>

[27]. The *Ombudsman's Office* is the designated specialised body for implementing the principle of equal treatment. However, the statistics of the *Ombudsman's Office* on cases of alleged discrimination on the ground of sexual orientation do not clearly indicate in which spheres this form of discrimination is most widespread.<sup>28</sup>

[28]. There are no scientific studies addressing the issue of workplace discrimination. A small survey of LGBT persons (194 respondents, all active in the LGBT community) published in 2002<sup>29</sup> stated that 17 per cent had experienced verbal harassment at the work place because of their sexual orientation; about 3 per cent stated that they had been denied a job because of their sexual orientation and 6 per cent suspected so. Over half of the respondents concealed their sexual orientation in all jobs and from all co-workers, while most others did so selectively.<sup>30</sup>

<sup>26</sup> Field trip meeting with *Mozaika* (Latvia, 12 March 2008).

<sup>27</sup> I. Puce (2008) *The situation concerning homophobia and discrimination on the grounds of sexual orientation in Latvia*, FRALEX.

<sup>28</sup> Field trip meeting with the *Ombudsman's Office* (Latvia, 12 March 2008)

<sup>29</sup> „Sexual Orientation Discrimination in Lithuania, Latvia and Estonia”, Vilnius, 2002.

[http://www.ilga-](http://www.ilga-europe.org/europe/guide/country_by_country/latvia/sexual_orientation_discrimination_in_lithuania_latvia_and_estonia)

[europe.org/europe/guide/country\\_by\\_country/latvia/sexual\\_orientation\\_discrimination\\_in\\_lithuania\\_latvia\\_and\\_estonia.](http://www.ilga-europe.org/europe/guide/country_by_country/latvia/sexual_orientation_discrimination_in_lithuania_latvia_and_estonia)

<sup>30</sup> V. Makarov (2008) *The situation concerning homophobia and discrimination on the grounds of sexual orientation in Latvia*, Sociological Country Report.



- [29]. There are few substantiated individual incidents of homophobia or discrimination at the workplace. The one court case so far is that of *Māris Sants vs. Riga Cultural High School*. In 2004, Sants, an openly gay Lutheran minister, sued the high school for sexual orientation discrimination, arguing that he was denied a teaching position because he was gay. The school argued that refusal to hire Sants had nothing to do with his sexual orientation. Sants was awarded compensation by the court of first instance, but this decision was overruled by the court of appeal and later by the Supreme Court, which found no proof for discrimination on grounds of sexual orientation in Sants's case. The case has now been submitted to the UN Human Rights Committee.<sup>31</sup>
- [30]. Another example reported by the *Ombudsman's Office* concerned a police officer who was fired after a newspaper interview with his male partner.<sup>32</sup>
- [31]. Both the *Ombudsman's Office* and *Mozaika* explain the low number of discrimination cases partly by the fact that LGBT persons are often closeted at their workplaces, do not want the publicity that comes with a court case, and do not recognise the problems they face as discrimination.<sup>33</sup>
- [32]. There are some reports of persons who, although not LGBT themselves, have experienced pressure or negative attitudes because of their support for LGBT rights. In one instance reported by the newspaper *Diena*, a shop assistant experienced intimidation bordering on psychological violence from her employer because of her support for the LGBT Pride in 2006. She was subsequently forced to quit her job.<sup>34</sup>

## C.6. Education

- [33]. There is no research regarding the situation of LGBT students in the educational system, no reported incidents of discrimination in schools and no known openly LGBT teachers.<sup>35</sup>
- [34]. According to *Mozaika* and information provided by education expert Dr. Liesma Ose, there is little awareness of LGBT students, no curricula covering sexual diversity or LGBT issues, no anti-bullying policies addressing the issue and only one example of university-level training addressing sexual diversity and LGBT issues. LGBT students are usually invisible at school, even those who are openly LGBT when not at school. The lack of explicit regulation and guidance means that

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<sup>31</sup> V. Makarov (2008) *The situation concerning homophobia and discrimination on the grounds of sexual orientation in Latvia*, Sociological Country Report.

<sup>32</sup> Field trip meeting with the *Ombudsman's Office* (Latvia, 12 March 2008)

<sup>33</sup> Field trip meetings with the *Ombudsman's Office* and *Mozaika* (Latvia, 12 March 2008)

<sup>34</sup> V. Makarov (2008) *The situation concerning homophobia and discrimination on the grounds of sexual orientation in Latvia*, Sociological Country Report.

<sup>35</sup> V. Makarov (2008) *The situation concerning homophobia and discrimination on the grounds of sexual orientation in Latvia*, Sociological Country Report.

dealing with the LGBT issues depends to a large degree on the attitudes of individual teachers.<sup>36</sup>

- [35]. A recent study<sup>37</sup> contained information about teachers' attitudes. Asked what they would do if they learned that a 16-year-old student in their class was in a same-sex relationship, 57 per cent of teachers were supportive (adding human diversity, tolerance and a right to personal choices to class lectures), 16 per cent would have 'talked about the harmfulness and inadmissibility of homosexual behaviour' and 23 per cent said they would not do anything differently. According to the same study, there was a widespread view among schoolteachers that tolerance is a 'forced' agenda—that students are better off not knowing about contentious issues and that intolerance is a result of these issues being addressed.<sup>38</sup>
- [36]. In January 2007, newspaper *Neatkarīgā Rīta Avīze* published a letter signed by 266 schoolteachers and addressed to the Latvian prime minister.<sup>39</sup> The schoolteachers demanded that the government stop the intended amendments to the Criminal Law prohibiting homophobic hate speech; in the teachers' view, that amounted to criminal persecution of those who oppose 'propaganda of homosexuality'. They also believed that homosexuality was a 'perversion'.<sup>40</sup>

## C.7. Health Service

- [37]. There have been no official complaints about health services related to concerns by LGBT persons, although the rights of same-sex partners to participate in the healthcare decisions of their partner or children are not recognised. *Mozaika* has identified cases where doctors have expressed 'hostile attitudes' toward LGBT patients.<sup>41</sup>
- [38]. There is no further information available on staff attitudes, abilities or education in relation to LGBT persons. There is also no information available on health conditions for LGBT persons.

## C.8. Religion

- [39]. Latvia is secularized and a religiously diverse society. The largest religious denominations are Orthodox, Lutheran and Catholic. Along with these established churches, recent years have seen an emergence of evangelical Christian groups. With one exception, these groups'

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<sup>36</sup> V. Makarov (2008) *The situation concerning homophobia and discrimination on the grounds of sexual orientation in Latvia*, Sociological Country Report.

<sup>37</sup> „Skolotāju tolerances barometrs”, Ivars Austers, Marija Golubeva and Ieva Strode. 2007. Providus. <http://politika.lv/index.php?id=14838>, p.13.

<sup>38</sup> V. Makarov (2008) *The situation concerning homophobia and discrimination on the grounds of sexual orientation in Latvia*, Sociological Country Report.

<sup>39</sup> <http://www.politika.lv/index.php?id=13260y>

<sup>40</sup> V. Makarov (2008) *The situation concerning homophobia and discrimination on the grounds of sexual orientation in Latvia*, Sociological Country Report.

<sup>41</sup> Field trip meeting with *Mozaika* (Latvia, 12 March 2008)

attitude toward LGBT is uniformly negative. Although the religious groups have influence on the political process regarding LGBT issues, the degree of involvement of different religious groups in LGBT issues differs greatly.<sup>42</sup>

- [40]. The most active stand is taken by the evangelical Christian group *The New Generation*, which has been very active in anti-Pride activities. Its leader is one of the most prominent anti-LGBT campaigners.<sup>43</sup> He has stated: 'Homosexuality is a disease, degeneration. It is a dangerous and contagious disease. You never give equal rights to people who are sick. You isolate them, and treat them. Otherwise, the epidemic will take over the whole society.'<sup>44</sup> He has furthermore been an active public supporter of the Latvian First Party, which is part of the government coalition and has close contacts with American Evangelical Christian groups and has invited some of them to Latvia to speak on the issue of homosexuality.<sup>45</sup>
- [41]. The leader of the Latvian Catholic Church has been one of the most active campaigners against LGBT rights. Preaching at St. Jacobs' Church in Riga on May 6, 2007, the Cardinal said: 'Homosexuality means complete corruption in the sexual sphere. It is an unnatural kind of prostitution.'<sup>46</sup>
- [42]. Along with the leader of the Latvian Catholic Church, the leader of the Latvian Lutheran Church sat on the panel of judges at the essay competition Latvia Against Homosexuality, organised by the radical right-wing group *Latvian National Front*.<sup>47</sup> Vanags also contributed to the ensuing volume titled 'Homosexuality: Humanity's Shame and Ruin'.<sup>48</sup>
- [43]. Compared to the other religious groups, the Christian Orthodox Church in Latvia has been keeping a somewhat low profile. When voicing its opinions, however, it has universally condemned homosexuality. Speaking at the anti-Pride event World Against Homosexualism that took place simultaneously with Riga Pride on June 3, 2007, the representative of the Latvian Christian Orthodox Church condemned homosexuality as a sin, saying the Church was ready to embrace those who were ready to clean themselves of it.<sup>49</sup>
- [44]. In two notable instances, the Lutheran Church excommunicated priests for their divergent views on homosexuality and LGBT rights. One Lutheran minister revealed that he was gay and publicly defended

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<sup>42</sup> V. Makarov (2008) *The situation concerning homophobia and discrimination on the grounds of sexual orientation in Latvia*, Sociological Country Report.

<sup>43</sup> V. Makarov (2008) *The situation concerning homophobia and discrimination on the grounds of sexual orientation in Latvia*, Sociological Country Report.

<sup>44</sup> <http://www.invictory.org/lib/2005/09/led1.html>.

<sup>45</sup> V. Makarov (2008) *The situation concerning homophobia and discrimination on the grounds of sexual orientation in Latvia*, Sociological Country Report.

<sup>46</sup> <http://www.catholic.lv/main.php?parent=1312>.

<sup>47</sup> [http://www.dddlmf.com/index.php?option=com\\_content&task=view&id=33&Itemid=26](http://www.dddlmf.com/index.php?option=com_content&task=view&id=33&Itemid=26).

<sup>48</sup> 'Homoseksuālisms – cilvēces negods un posts'.

[http://www.vieda.org/index.php?option=com\\_content&task=view&id=24&Itemid=29](http://www.vieda.org/index.php?option=com_content&task=view&id=24&Itemid=29).

<sup>49</sup> <http://www.pravoslavie.lv/index.php?newid=1042>.

the view that homosexuality was not a sin and did not contradict Christianity. The official reason for excommunication was not his sexual orientation but his promotion of ‘sinful’ behaviour. Another minister, the dean of the University of Latvia's Faculty of Theology, was excommunicated after criticising the Church's action in the case of the Lutheran minister. The former dean now serves as an Anglican pastor in a small Anglican congregation in Riga—the only established religious denomination supportive of LGBT rights.<sup>50</sup>

## C.9. Sports

[45]. There is a lack of data regarding LGBT persons and sports. There has not been any debate or initiatives regarding LGBT persons and sports, and there are no publicly known LGBT persons in sports.

## C.10. Media

[46]. Since the first LGBT Pride in 2005, the media coverage of LGBT issues has been extensive. The media are divided on the matter: Some provide consistently positive coverage of LGBT persons, groups and issues and criticise anti-LGBT politicians and media outlets, while others—including the most widely circulated newspapers—regularly print homophobic articles.<sup>51</sup>

[47]. A recent study<sup>52</sup> concluded that sexual minorities were the most discriminated-against group in the Latvian press. The sources of homophobic statements were mostly editorial material and statements by politicians. Below are some delegitimizing strategies identified in the study:

- Complaints that LGBT persons create problems and are a danger to the rest of society;
- The LGBT community presented as an undesirable phenomenon;
- Complaints about LGBT visibility in society;
- Calls for excluding LGBT persons from the public sphere;
- Suggestions that the LGBT community acts in the interests of foreign actors;
- Suggestions that being LGBT is a disease.

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<sup>50</sup> V. Makarov (2008) *The situation concerning homophobia and discrimination on the grounds of sexual orientation in Latvia*, Sociological Country Report.

<sup>51</sup> V. Makarov (2008) *The situation concerning homophobia and discrimination on the grounds of sexual orientation in Latvia*, Sociological Country Report.

<sup>52</sup> Izaicinājums pilsoniskajai līdzdalībai. Analītiskais ziņojums par Saeimas un mediju monitoringu. Marija Golubeva, Anda Rožukalne, Iveta Kažoka. Providus. 2007. <http://www.politika.lv/index.php?id=15022>

[48]. A large proportion of the negative speech in the media is generated by Latvian politicians. A monitoring study by *Mozaika*<sup>53</sup> showed that the anti-LGBT rhetoric used by Latvian politicians employs a broad spectrum of arguments such as Christian values, moral values, family values and nationalism. Homosexuality is cast as a disease, licentious, a foreign conspiracy or a source of negative demographic development. The hate speech generated by politicians contains calls for exclusion, violence and discrimination as well as arguments that there is no discrimination or homophobia in Latvia. In many cases, there is direct disinformation. Below are some examples from the study:

- ‘We cannot advertise, say, things that are not acceptable to the majority of persons.’ – Latvian Prime Minister, *Latvijas Avīze*, 21.07.05.
- ‘An anomaly is being proclaimed to be something normal.’ – Minister of Family and Children’s affairs, *Rīgas Balss*, 20.07.05.
- ‘Perverts’ parade.’ – leader of the Latvian First Party, about gay pride, *Latvijas Avīze*, 23.07.05.
- ‘What shall we do? Compromise? Let all these scoundrels, drug addicts, vermin and pederasts walk on the streets while we hide in the bushes? No, we will go on the street, because it is us who are right’ – Latvian MP in a public statement reported by several newspapers, including *Diena*, May 5, 2006, and *Neatkarīgā Rīta Avīze*, May 29, 2006.
- ‘Even calling pederasts and lesbians a minority is unacceptable.’ – chairman of the Latvian Parliamentary Human Rights Committee, *Neatkarīgā Rīta Avīze*, Aug. 7, 2005.

## C.11. Asylum and Subsidiary Protection

[49]. The refugee definition in the current Asylum Law of 2002 includes persecution because of membership of a particular social group as grounds for refugee status.<sup>54</sup> However, it is not clear if the interpretation of the provision would include persecution because of sexual orientation. Under information provided by *Pilsonības un migrācijas lietu pārvalde (PMLP)* [Office of Citizenship and

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<sup>53</sup> <http://www2.mozaika.lv/?lang=1&mid=50>.

<sup>54</sup> Latvia/Patvēruma likums [Asylum Law] (07.03.2002), Art. 23, available at: <http://www.likumi.lv/doc.php?id=60721&mode=KDOC> (25.02.2008).

Migration (OCMA)], no asylum seeker has applied for asylum in Latvia referring to sexual orientation ground.<sup>55</sup>

- [50]. The asylum legislation is under revision and the parliament is expected to adopt a new Asylum Law, elaborated with the intention to implement the EU directives on minimum standards, during 2008.<sup>56</sup> The new law, in Paragraph 28.1.4.b, clarifies that the social group definition includes sexual orientation.<sup>57</sup>

## C.12. Family Reunification

- [51]. Latvian legislation only allows family reunification for official spouses (that are monogamous, live together and share a common household), not cohabiting couples or registered couples.<sup>58</sup>
- [52]. The Latvian EU accession and the subsequent easing of restrictions on free movement between the EU member states has eased the situation for many couples where both partners are EU citizens or permanent residents of an EU Member State. Nevertheless, neither the partner nor members of partner's family are considered to be a family for the purposes of freedom of movement or family reunification.<sup>59</sup>
- [53]. This means that a same-sex partner cannot accompany or join an EU citizen in Latvia as a family member nor join her partner on the basis of family reunification, and thus cannot benefit from the relevant EU legislation.
- [54]. While there are known cases of LGBT partners living in Latvia, the exercise of the freedom of movement or family reunification has never been the legal basis for entry or residence, the 'accompanying' partner always having a separate and distinct official ground for entry and residence (such as to work or study).<sup>60</sup>

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<sup>55</sup> Letter No. 24/7-473 as of 13.02.2008 from the Head of OCMA to the Latvian Centre for Human Rights.

<sup>56</sup> Latvia/ Likumprojekts Patvēruma likums [Draft Asylum Law] (passed the first reading on 04.10.2007), available at: <http://titania.saeima.lv/LIVS/SaeimaLIVS.nsf/0/118C86B6E85ED626C225733900452BDF?OpenDocument> (February 25, 2008).

<sup>57</sup> I. Puce (2008) *The situation concerning homophobia and discrimination on the grounds of sexual orientation in Latvia*, FRALEX.

<sup>58</sup> 'Family Reunification in the Republic of Latvia 2002-2006' <http://www.ocma.gov.lv/images/documents/emtmazaapijomapet.pdf>, p. 14

<sup>59</sup> Information provided by the Office of Citizenship and Migration Legal Department on February 18, 2008.

<sup>60</sup> Information provided by Alliance of LGBT and their friends 'Mozaika' on February 18, 2008.

## C.13. Transgender Issues

- [55]. The situation of transgender persons receives little attention in Latvia and there is little research on the issue. This is complicated by the fact that only 8 persons have registered gender change in recent years.<sup>61</sup>
- [56]. There is no provision in Latvian legislation which could indicate whether discrimination against transgender persons shall be dealt with as discrimination on the grounds of sexual orientation or as discrimination on the grounds of gender. However, following a recent judgment of the Administrative Court in a case on change of sex in the birth register, it can be deduced that such discrimination will be more likely understood as discrimination on the grounds of gender.<sup>62</sup>
- [57]. Gender reassignment surgery falls under the general regulation of medical treatment, and there are no more specific regulatory enactments governing it. Legislation regarding registration of sex change and change of name and documents due to sex change is incomplete and thus leads to legal uncertainty.<sup>63</sup>
- [58]. Sex change is not considered a necessary health-related medical treatment and is highly expensive. It is currently unclear whether the costs of sex change operations are tax-deductible.<sup>64</sup>
- [59]. Change of name is regulated by the Regulation of the Cabinet of Ministers.<sup>65</sup> Section 120.4.4 of the Regulation states that ‘form of name and surname corresponding to a person’s gender shall be entered into record in case of change of gender on basis of an administrative act [about change of person’s gender in the Birth Register]’.<sup>66</sup> The Regulation does not state specifically whether the individual has a right to indicate the name he/she would like to have after change of gender or whether the Registry Office authority simply changes the gender of the name the person had before the change of gender, as in Latvian grammar endings of names differ depending on gender.<sup>67</sup> According to information provided by *Tieslietu ministrijas Dzimtsarakstu departamenta Dzimtsarakstu nodaļas vadītāja vietniece* [Deputy Head of the Register Office’s Unit of the Department of Civil Registers of the Ministry of Justice] A. Akmentina, in practice, the Registry Office simply changes the ending and thereby gender of the name. In many cases the name created in such way sounds unusual for

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<sup>61</sup> V. Makarov (2008) *The situation concerning homophobia and discrimination on the grounds of sexual orientation in Latvia*, Sociological Country Report.

<sup>62</sup> Latvia/Latvijas Republikas Augstākās tiesas Senāta Administratīvo lietu departaments/A42229505 SKA – 5/2008 (14.01.2008).

<sup>63</sup> I. Puce (2008) *The situation concerning homophobia and discrimination on the grounds of sexual orientation in Latvia*, FRALEX.

<sup>64</sup> V. Makarov (2008) *The situation concerning homophobia and discrimination on the grounds of sexual orientation in Latvia*, Sociological Country Report.

<sup>65</sup> Latvia/MK noteikumi Nr. 904 ‘Noteikumi par civilstāvokļa aktu reģistrācijas kārtību, civilstāvokļa aktu reģistru paraugiem, reģistru glabāšanas kārtību un termiņiem, kā arī to dokumentu paraugiem, kurus izsniedz, pamatojoties uz reģistru ierakstiem’ (29.11.2005), available at: <http://www.likumi.lv/doc.php?id=122684&mode=DOC> (25.02.2008).

<sup>66</sup> Unofficial translation of Section 120.4.4.

<sup>67</sup> For example, -a, -e for female names, -s, -is for male names.

the acquired gender. The person can later apply for change of name according to the Law on the Change of a Given Name, Surname and Ethnicity Record.<sup>68</sup> Accordingly to Art. 1 of that law, there are nine reasons for the change of the given name or surname. However, none of these explicitly invokes change of gender.<sup>69</sup>

- [60]. In a recent litigation, a transgender person sued the Riga Registry Office for its refusal to register change of sex. The registrar made its decision based on the fact that the change of sex had been 'incomplete'. The case was reviewed in all three instances by the Administrative Court. The final judgment overruled the decision of the Registry Office.<sup>70</sup>

#### C.14. Multiple discrimination

- [61]. There is no research regarding multiple discrimination and LGBT persons.

#### C.15. Other Areas of Concern

- [62]. Regarding goods and services: In April 2007, a legal services firm published an advertisement in the local newspaper of regional city Daugavpils offering a 50 per cent discount to Russian speakers and refusing legal services to sexual minorities. The *Patērētāju tiesību aizsardzības centrs* [Centre for Protection of Consumer Rights] concluded that the advertisement was discriminatory and fined the publisher Ls 1,500 (around EUR 2,134) under the Latvian Administrative Violation Code.<sup>71</sup> The publisher appealed the decision in the Administrative District Court. The court will review the case in 2008.<sup>72</sup> *The Ombudsman's Office* concluded that the advertisement differentiated individuals on the grounds of race, ethnicity and sexual orientation; therefore the advertisement is discriminatory and should not be published. The *Ombudsman's Office* also referred to the Race Equality Directive.<sup>73</sup>

### D. Good Practice

- [63]. Good practices are described in Annex 1.

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<sup>68</sup> Latvia/Likums Par vārda, uzvārda un tautības ieraksta maiņu [Law on the Change of a Given Name, Surname and Ethnicity Record] (15.06.1994), available at: <http://www.likumi.lv/doc.php?id=57418&mode=KDOC> (25.02.2008).

<sup>69</sup> I. Puce (2008) *The situation concerning homophobia and discrimination on the grounds of sexual orientation in Latvia*, FRALEX.

<sup>70</sup> NORAKSTS Lieta Nr.A42229505, [http://www.tiesas.gov.lv/files/AL/2008/01\\_2008/14\\_01\\_2008/AL\\_1401\\_AT\\_SKA-5\\_2008.pdf](http://www.tiesas.gov.lv/files/AL/2008/01_2008/14_01_2008/AL_1401_AT_SKA-5_2008.pdf).

<sup>71</sup> The Decision of the Centre for the Protection of Consumer Rights No E04-DAU-154, Daugavpils, 14.08.2007

<sup>72</sup> Information provided by the Administrative District Court on 31.01.2008.

<sup>73</sup> Information provided by the Ombudsman's Office on 30.01.2008.