



FRA  
Thematic Study on Child Trafficking  
[Latvia]

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## Executive Summary

- [1]. The task to prepare thematic study on child trafficking turned out to be very difficult due to the lack of available official statistics and official information, but also unofficial information about the issue. Written requests for information were sent to state agencies (see further in the text), but comprehensive information was not received.
- [2]. The official position is that child trafficking has been eliminated in Latvia. However, at the same time it is not clear what in practice is perceived as child trafficking. There are some indications that despite the legislative changes and awareness raising, the term often has been understood narrowly as only the trade in children from/to countries abroad against their will.
- [3]. There are a few serious concerns regarding the state's involvement in combating trafficking in general and particularly child trafficking. One of them is insufficient funding. Despite the well-elaborated and comprehensive National Action Plan to Combat Trafficking in Human Beings 2004-2008, which foresees many tasks and activities requiring allocations from the State budget, funding has been assigned only for victims of trafficking rehabilitation purposes and, in a very small amount, for education of social workers.
- [4]. The other concern relates to the lack of systematic coordination and cooperation between different actors. Also the shift of responsibility regarding the issue of trafficking from the state agencies to non-governmental institutions is a worrying factor. Although on one hand involvement of the NGOs is a good practice, on the other, it makes the work dependent on fluctuating external funding available for NGOs and capacity of NGOs which not always is sustainable, as well as risks serving as an excuse for the state to not fully assume its own responsibilities.
- [5]. Official calculations on approximate scale of trafficking do not exist. For at least four last years the most often mentioned approximate data is that every month about 100 individuals from Latvia become victims of trafficking in human beings, making reference to the International Organisation for Migration or to the State Police. However, it is hard to judge whether this number still reflects the real situation. As mentioned before, child trafficking is considered to be eradicated.

## General anti-child trafficking framework

- [6]. During several last years most of the main international documents concerning child trafficking have been ratified by Latvia, and a number of legislative changes at the national level in line with international laws have been implemented.
- [7]. General legal anti-child trafficking is quite well elaborated in Latvia, however, there is no evidence on how it could be used in practice, as there is no information on any case on child trafficking for the last years, when the legal framework has been established.
- [8]. A comprehensive National Action Plan to Combat Trafficking in Human Beings 2004-2008 has been elaborated; however, the state's funding for implementation of the National Action Plan to Combat Trafficking in Human Beings 2004-2008 has been very limited. The budgetary means have been allocated mainly for implementation of rehabilitation activities of the victims of trafficking, as well as, in a small amount, for educational purposes of social workers and specialists.

## Prevention of child trafficking

- [9]. Various projects and informative campaigns aimed at the prevention of trafficking in people, the provision of assistance to victims of trafficking in people, and the education of the society have been carried out already since 1998 with essential contribution by international organisations, embassies and local non-governmental organisations.
- [10]. The anti-trafficking campaigns have not specifically targeted the child-trafficking issue; however, many of them have been designed for an audience of young people.
- [11]. However, the effectiveness of informative campaigns has been decreased by the lack of strategic objectives and sufficient funding. Only a few campaigns have included a wide range of activities and have run for longer periods. Analysis of the results is rarely performed after the campaigns, therefore, it is not known how often and to what extent they have reached their target audience.

## Appointment of legal guardian

- [12]. *Bērnu un Ģimenes lietu ministrijas Bāriņtiesu departaments* [Orphan Court's Department of the Ministry for Children and Family affairs], reports that there have not been any cases where a legal guardian has been appointed for a child

based on the reason that the child has been trafficked. The explanation given was that there have not been any cases where an unaccompanied child has been identified as a victim of child trafficking.

## Coordination and cooperation

- [13]. There is no governmental or non-governmental institution which is dealing specifically with the child trafficking issue, as the number of known cases where minors are involved is extremely small.
- [14]. The State authority responsible for implementation of the National Action Plan to Combat Trafficking in Human Beings 2004-2008 and for prevention of trafficking in general is the *Iekšlietu ministrija* (IeM) [Ministry of Interior (MoI)]. It provides both situation analysis and practical work (a specialised police unit Office 3, Division 2 For the Fight Against Human Trafficking of the State Police Criminal Police Department, working on cases of trafficking in persons).
- [15]. The authority responsible for rehabilitation of victims of trafficking is the *Labklājības ministrija* (LM) [Ministry of Welfare (MoW)], which has concluded contracts for providing these services with competent NGOs (up to 2007 with the Resource Centre for Women “Marta”; now with the Shelter “Droša māja”).

## Care and protection

- [16]. Although the legislative framework for care and protection is generally established, it has never been applied in practice. The State Police confirmed during an interview that no child has been granted temporary stay on grounds of trafficking. Subsequently, there are no programs for re-integration or family tracing, etc. Specialised shelters for trafficked children do not exist in Latvia, and according to representative of the Resource centre for women “Marta”, there are no plans to establish any such shelter.

## Best interests determination and durable solutions, including social inclusion/return

- [17]. As no case has been identified where a child has been trafficked to Latvia, the process for identification of durable solutions based on best interest

determination, including risk and security assessment prior to possible return of child has not been elaborated or even started to be elaborated.

## Prosecution

- [18]. The Protection of the Rights of the Child Law and the Criminal Procedure Law sets child-sensitive procedures before police/prosecutor/court.
- [19]. It is not possible to identify the number of convictions based on child trafficking cases in the period 2000-2007 from the statistics provided by the Court Administration. However, according to information provided by the representative of the Prosecutors Office, there have been one or two such cases, but not in the last three years. It is unlikely that there is any case where compensation is paid to the child victim of trafficking.

## Miscellaneous

- [20]. The National Action Plan to Combat Trafficking in Human Beings 2009-2013 is in the drafting process.

## Good practice

- [21]. NTR

## A. General anti-child trafficking framework

### A.1. International legal instruments

[22]. Latvia recently has ratified most of the main international legal instruments related to the trafficking in children.

[23]. Ratification status of international legal instruments:

- Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (2000) was ratified by the *Saeima* [Parliament] on 26.01.2006 and is in force in Latvia since 10.02.2006.
- UN Convention against transnational organised crime/Palermo Protocol to prevent, suppress and punish trafficking in persons (2000) was ratified by the Parliament on 07.04.2004 and is in force in Latvia since 29.04.2004.
- ILO Convention Nr. 182 on the worst forms of child labour (1999) was ratified by the Parliament on 23.03.2006 and is in force in Latvia since 14.04.2006.
- CoE Convention on Action against trafficking in human beings (2005) was ratified by the Parliament on 24.01.2008 and is in force in Latvia since 13.02.2008.
- CoE Convention on the protection of children against sexual exploitation and sexual abuse (2007) is still neither signed nor ratified by Latvia.

### A.2. National legal instruments

#### A.2.1. General national provisions and order of application of international legal instruments

[24]. The Latvian Constitution provides that the State shall recognise and protect fundamental human rights in accordance with this Constitution, laws and international agreements binding upon Latvia (Article 89). It also stipulates that

the State shall protect and support marriage – a union between a man and a woman, the family, the rights of parents and rights of the child. The State shall provide special support to disabled children, children left without parental care or who have suffered from violence (Article 110).<sup>1</sup>

- [25]. The Administrative Procedure Law in Article 15 sets the order of application of external regulatory enactments, general principles of law and legal norms of international law. It sets that in administrative proceedings, institutions and courts shall apply external regulatory enactments, the legal norms of international law and the European Union (Community), as well as the general principles of law. Institutions and courts shall observe the following hierarchy of the legal force of external regulatory enactments<sup>2</sup>: 1) the Constitution (Satversme); 2) laws; 3) Cabinet of Ministers regulations; 4) binding regulations of local governments. The legal norms of international law regardless of their source shall be applied in accordance with their place in the hierarchy of legal force of external regulatory enactments. If a conflict between a legal norm of international law and a norm of Latvian law of the same legal force is determined, the legal norm of international law shall be applied.<sup>3</sup> (In context of the Administrative Procedure Law, ‘external regulatory enactments are comprised by the Constitution (Satversme), laws, Cabinet regulations and binding regulations of local governments, as well as international agreements’.)

## A.2.2.Criminal Law

- [26]. In order to comply with international legislation requiring the criminalisation of human trafficking, Latvian Criminal Law was amended on 25 April, 2002 by two sections defining the concept of human trafficking and determining punishment for that crime.
- [27]. At present, the text of the law is the following:
- ‘Article 154.<sup>1</sup> Human Trafficking.  
(1) For a person who commits human trafficking, the applicable sentence is deprivation of liberty for a term of not less than three years and not exceeding eight years, with or without confiscation of property.

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<sup>1</sup> Latvia/Latvijas Republikas Satversme [Constitution of the Republic of Latvia] (15.02.1922; Section on fundamental rights adopted on 15.10.1998), Art. 15, available at: <http://www.ttc.lv/index.php?skip=30&itid=likumi&id=10&tid=59&l=LV> (06.08.2008).

<sup>2</sup> In this chapter, as well in others where legislative provisions are cited, the official translation is used. Author did not take a liberty to improve that language. However, in some cases explanation is provided.

<sup>3</sup> Latvia/Administratīvā procesa likums [Administrative Procedure Law] (25.10.2001), Art.15, available at: [http://www.likumi.lv/doc.php?id=55567&menu\\_body=KDOC](http://www.likumi.lv/doc.php?id=55567&menu_body=KDOC) (07.08.2008).



(2) For a person who commits the same acts if commission thereof is **with respect to a minor**,<sup>4</sup> or if commission thereof is by a group of persons pursuant to prior agreement, or if commission thereof is repeated, the applicable sentence is deprivation of liberty for a term of not less than five years and not exceeding twelve years, with confiscation of property.

(3) For a person who commits the same acts, if serious consequences are caused thereby or if commission thereof is **with respect to a juvenile**,<sup>5</sup> or by an organised group of persons, the applicable sentence is deprivation of liberty for a term of not less than ten years and not exceeding fifteen years, with confiscation of property, and with or without police supervision for a term not exceeding three years.

- Article 154.<sup>2</sup> Meaning of Human Trafficking.

(1) Human trafficking is the recruitment, conveyance, transfer, concealment or reception of persons for the purpose of exploitation, committed by using violence or threats or by means of fraud, or by taking advantage of the dependence of the person on the offender or of his or her state of helplessness, or by the giving or obtaining of material benefits or benefits of another nature in order to procure the consent of a person, upon which the victim is dependent.

(2) **The recruitment, conveyance, transfer, concealment or reception of minor persons for the purpose of exploitation shall be recognised as human trafficking also in cases when it is not connected with the utilisation of any of the means referred to in the Paragraph one of this Article.**

(3) Within the meaning of this Article, exploitation is the involvement of a person in prostitution or in other kinds of sexual exploitation, the compulsion of a person to perform activities or to provide services, the holding of a person in slavery or other similar forms thereof (debt slavery, serfdom or the compulsory transfer of a person into dependence upon another person), and the holding of a person in servitude or also the unlawful removal of a person's tissues or organs.<sup>6</sup>

[28]. However, in 2002 when both these articles were introduced, the sanction was set only for committing human trafficking abroad. The condition 'abroad' was removed by amendments to the Criminal Law two years later, thus making the provision applicable for trafficking within the country.<sup>7</sup>

[29]. The Criminal Law also contains a range of provisions punishing criminal offences against morals, and sexual inviolability. Those include 'compelling engaging in prostitution',<sup>8</sup> where inducing or compelling a juvenile to engage in

<sup>4</sup> Under Latvian law, minor is a person who has not attained eighteen years of age.

<sup>5</sup> Under Latvian Criminal Law, Article 11, juvenile is a person who has not attained fourteen years of age.

<sup>6</sup> Latvia/Krimināllikums [Criminal Law] (17.06.1998), available at: <http://www.ttc.lv/?id=59> (06.08.2008).

<sup>7</sup> Latvia/Likums Grozījumi Krimināllikumā [Law Amendments to the Criminal Law] (16.12.2004), available at: <http://likumi.lv/doc.php?id=98603> (06.08.2008).

<sup>8</sup> Article 164. 'Compelling Engaging in Prostitution'.

prostitution in 2000 was separated from inducing or compelling a minor to engage in prostitution, setting a harsh punishment, and living on avails<sup>9</sup> of the prostitution<sup>10</sup>

[30]. A separate article of the Criminal Law sets punishment for sending the person for sexual exploitation,<sup>11</sup> meaning an action that encourages legal or illegal

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(1) For a person who commits compelling the engaging in of prostitution, the applicable sentence is deprivation of liberty for a term not exceeding three years, or custodial arrest, or community service, or a fine not exceeding sixty times the minimum monthly wage, with or without confiscation of property.

(2) For a person who commits procurement of persons for prostitution, using their trust in bad faith, or by means of fraud, or by taking advantage of the dependence of the person on the offender or of his or her state of helplessness, the applicable sentence is deprivation of liberty for a term not exceeding five years, or a fine not exceeding one hundred and twenty times the minimum monthly wage, with or without confiscation of property.

(3) For a person who commits inducing or compelling a minor to engage in prostitution, or commits providing premises to minors for purposes of prostitution, the applicable sentence is deprivation of liberty for a term not exceeding six years, with or without confiscation of property.

(4) For a person who commits inducing or compelling a juvenile to engage in prostitution, the applicable sentence is deprivation of liberty for a term of not less than five and not exceeding twelve years, with or without confiscation of property.

(5) For a person who commits the acts provided for in this Section, if commission thereof is by an organised group, the applicable sentence is deprivation of liberty for a term of not less than five years and not exceeding fifteen years, with confiscation of property, and with police supervision for a term not exceeding three years.

<sup>9</sup> 'Living on avails of the prostitution' is translation of the action which more often is called as pimping or pimp business.

<sup>10</sup> Article 165. Living on the Avails of Prostitution

(1) For a person who commits taking advantage, for purposes of enrichment, of a person who is engaged in prostitution, the applicable sentence is deprivation of liberty for a term not exceeding four years, with confiscation of property or without confiscation of property.

(2) For a person who commits the same acts if commission thereof is by a group of persons pursuant to prior agreement, or with respect to minors, the applicable sentence is deprivation of liberty for a term not exceeding eight years, with confiscation of property.

(3) For a person who commits the same acts if commission thereof is by an organised group or if commission thereof is with respect to juveniles, the applicable sentence is deprivation of liberty for a term of not less than five years and not exceeding fifteen years, with confiscation of property, and with police supervision for a term not exceeding three years.

<sup>11</sup> Section 165.<sup>1</sup> Sending a Person for Sexual Exploitation

(1) For a person who commits sending a person with his or her consent for sexual exploitation, the applicable sentence is deprivation of liberty for a term not exceeding six years.

(2) For a person who commits the same acts, if commission thereof is for purposes of enrichment or if commission thereof is by a group of persons pursuant to prior

departure from the State or entry into the State, transit or residence in a foreign state. This crime is not classified separately if committed against juveniles or minors; however, it can be taken into account as an aggravating factor.

- [31]. The Criminal Law also stipulates liability for unlawful acts in handling of adoptions.<sup>12</sup>

### A.2.3. Protection of the Rights of the Child Law

- [32]. The Protection of the Rights of the Child Law establishes the principle of best interests of the child: 'In lawful relations that affect a child, the rights and best interests of the child shall take priority'.<sup>13</sup> 'Guarantees for the rights of the child shall be as determined by the Constitution, this Law and other laws and regulatory enactments, as well as international agreements binding on Latvia.'<sup>14</sup>
- [33]. The Protection of the Rights of the Child Law explicitly sets rights of the child to protection from exploitation: 'A child has the right to be protected from economic exploitation, and from employment in conditions that are dangerous

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agreement, or if commission thereof is repeated, the applicable sentence is deprivation of liberty for a term not exceeding ten years, with or without confiscation of property.

(3) For a person who commits the acts provided for in Paragraphs one or two of this Article, if commission thereof is by an organised group, the applicable sentence is deprivation of liberty for a term of not less than eight years and not exceeding fifteen years, with confiscation of property, and with police supervision for a term not exceeding three years.

<sup>12</sup> Article 169.<sup>1</sup> Unlawful Acts in Handling of Adoptions

(1) For a person who commits the giving of consent for the adoption of a minor if such consent was given by the mother, father or guardian of such minor for the purpose of acquiring property, the applicable sentence is deprivation of liberty for a term not exceeding two years or community service, or a fine not exceeding forty times the minimum monthly wage.

(2) For a person who commits the asking of consent for the adoption of a minor from the mother, father or guardian of such minor personally or through an intermediary using violence, threats, by means of fraud, bribes, or other illegal means, as well as for such intermediation, the applicable sentence is deprivation of liberty for a term not exceeding four years or community service, or a fine not exceeding eighty times the minimum monthly wage, with or without confiscation of property.

(3) For a person who commits any acts provided for by Paragraph two of this Article, if it has been committed by a group of persons pursuant to prior agreement, the applicable sentence is deprivation of liberty for a term of not less than three years and not exceeding eight years, confiscation of property.

<sup>13</sup>Latvia/Bērnu tiesību aizsardzības likums [Protection of the Rights of the Child Law] (19.06.1998), available at : <http://likumi.lv/doc.php?id=49096> (06.08.2008). Article 6(1).

<sup>14</sup> Latvia/Bērnu tiesību aizsardzības likums [Protection of the Rights of the Child Law] (19.06.1998), available at : <http://likumi.lv/doc.php?id=49096> (06.08.2008). Article 18.

or harmful to his or her health or physical, psychological or moral development, or in night work or during such working periods as hinder his or her education. A child has the right to be protected from physical and mental exploitation, from sexual exploitation and seduction, and from any other forms of exploitation, which may in any way harm the child.<sup>15</sup>

- [34]. It is prohibited for a child to be present in places where materials of an erotic and pornographic nature are manufactured or shown. It is prohibited to involve a child in the manufacture, distribution and showings of materials of erotic and pornographic nature.<sup>16</sup> Prohibition of child pornography is also set by the Law on Restriction of Pornography.<sup>17</sup>
- [35]. The Protection of the Child Law determines that for violence against a child, encouraging or forcing a child to take part in sexual activities, exploitation or involvement of a child in prostitution, the persons at fault shall be held liable as prescribed by law. A child who is a victim of a criminal offence, exploitation, sexual abuse, violence or any other unlawful, cruel or demeaning acts, shall, in accordance with procedures prescribed by the Cabinet, be provided with emergency assistance free of charge, in order that a child may regain physical and mental health and reintegrate into society. Such medical treatment and reintegration shall take place in an environment favourable to the health, self-esteem and dignity of a child, carefully guarding the child's intimate secrets. Every person has the duty to inform the police or another competent institution regarding violence or any other criminal offence directed against a child. For failing to inform, the persons at fault shall be held liable as prescribed by law.<sup>18</sup>
- [36]. Special institutions or sections in general medical institutions shall be established and special resources allocated in the State budget for the medical treatment and rehabilitation of a child who has suffered as a result of violence. Expenditures for the medical treatment and rehabilitation of the child shall be covered by the State and shall be collected from the persons at fault by subrogation procedures. Special medical treatment shall be provided for a child who has become ill with a sexually transmitted disease. The adults at fault for the illness of the child shall be held liable as prescribed by law and the costs of the medical treatment shall be collected from them.

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<sup>15</sup> Latvia/Bērnu tiesību aizsardzības likums [Protection of the Rights of the Child Law] (19.06.1998), available at: <http://likumi.lv/doc.php?id=49096> (06.08.2008). Article 15.

<sup>16</sup> Latvia/Bērnu tiesību aizsardzības likums [Protection of the Rights of the Child Law] (19.06.1998), available at: <http://likumi.lv/doc.php?id=49096> (06.08.2008). Article 50 (4), (5).

<sup>17</sup> Latvia/Pornogrāfijas ierobežošanas likums [Law on Restriction of Pornography] (03.05.2007), available at: <http://www.likumi.lv/doc.php?id=157638> (06.08.2008).

<sup>18</sup> Latvia/Bērnu tiesību aizsardzības likums [Protection of the Rights of the Child Law] (19.06.1998), available at: <http://likumi.lv/doc.php?id=49096> (06.08.2008). Article 51.

- [37]. It is prohibited for a child who has been a victim of violence (illegal act): to be left alone, except in cases when the child himself or herself so wishes and this choice is considered appropriate by a psychologist who has undergone special preparation for work with children who have suffered from violence; to be left without psychological or other form of care; to be confronted by the possible perpetrator of the violence (illegal act) while the child is not sufficiently psychologically prepared for such a confrontation; to be subjected to the use of any compulsory measures in order to obtain information or for any other purpose.
- [38]. Extra-familial care shall be provided without delay for a child who has suffered from violence (illegal act) in his or her family or for whom a real threat of violence exists, if it is not possible to isolate the persons at fault from the child.<sup>19</sup>

#### A.2.4. Action Plan to Combat Trafficking in Human Beings 2004-2008

- [39]. The National Action Plan to Combat Trafficking in Human Beings 2004-2008 was approved on 3 March 2004.<sup>20</sup> The National Action Plan foresees harmonising of legislation, providing information and performing analysis, improving the work of law enforcement institutions, education and support services to the victims of trafficking (rehabilitation). It was the first document that involved Ministries, governmental institutions and NGOs setting the tasks for the combat of human trafficking. It was foreseen as the complex programme that includes financial support, social support and practical assistance for women who are victims of trafficking (safe shelter, legal aid, money for basic needs, medical services, counselling); advocacy work and campaigning on national, European and international levels in the fields of legislation; training and educational programmes and other activities.
- [40]. However, the budgetary means have been allocated mainly for implementation of rehabilitation activities of the victims of trafficking, as well as, in a small amount, for educational purposes of social workers and specialists.
- [41]. In 2004, implementation of the National Action Plan 2004-2008 was possible only because of financial support in of the United States government in an amount exceeding 200,000 USD. In 2005, state funding of 222,572 lats (316,691 EUR) was foreseen, however only 28,000 lats (39,840 EUR) were

<sup>19</sup> Latvia/Bērnu tiesību aizsardzības likums [Protection of the Rights of the Child Law] (19.06.1998), available at: <http://likumi.lv/doc.php?id=49096> (06.08.2008). Article 52.

<sup>20</sup> Full text of the National Action Plan to Combat Trafficking in Human Beings 2004-2008 is available on the website of Ministry of the Interior [http://www.iem.gov.lv/iem/images/modules/items/item\\_file\\_1176\\_33iem\\_020304\\_valsts\\_progr\\_cilv\\_tirdzn\\_noves\\_2004-2008.doc](http://www.iem.gov.lv/iem/images/modules/items/item_file_1176_33iem_020304_valsts_progr_cilv_tirdzn_noves_2004-2008.doc)

received by the Ministry of Welfare for provision of rehabilitation services and education of social workers. The planned budget for strengthening of Juvenile Inspection of 180,072 lats (256,219 EUR) was not allocated. In 2006, 468,144 lats (666,109 EUR) were foreseen for the implementation of the National Action Plan, but only 21,000 lats (29,880 EUR) were received by the Ministry of Welfare. In 2007, the respective numbers were 643,216 lats (914,214 EUR) planned and 47,000 lats (66,875 EUR) received for providing of rehabilitation services, and 7,000 lats (9960 EUR) for education of social workers. The sum which was foreseen for developing of the Juvenile Inspection was 360,144 lats (512,439 EUR) in 2006 and 540,216 lats (768,658 EUR) in 2007. However, no funds were actually allocated.<sup>21</sup> **There has not been any state provided financing for research on trafficking, including child trafficking.**

- [42]. The main result which was foreseen by the National Action Plan, and was accomplished, is changing of legislation by ratifying the main international instruments concerning human trafficking, and changing of domestic legislation setting severe punishments for crimes relating to trafficking.
- [43]. The yearly reports on the implementation of the National Action Plan to Combat Trafficking in Human Beings 2004-2008 include numbers of persons who have received rehabilitation services. It shows that in 2005 the resource centre for women „Marta” provided rehabilitation for 3 women aged 15-17, and in 2006 – for 2. However, it is not clear from the reports if these are the same persons, or if there are 5 cases altogether. In the report on 2007 it is stated that the resource centre for women „Marta” provided rehabilitation for 3 women aged 15-17, however, it is again not clear whether that number shows the number of children through the entire period when “Marta” was involved through a contract with the Ministry of Welfare as a service provider for rehabilitation of victims of trafficking, or if it is the number for 2007. During the interview with a representative of “Marta” it appeared that there were 3 cases of involvement of minors in child trafficking altogether.<sup>22</sup>
- [44]. As there have not been visible cases of child trafficking in Latvia, there is no designated institution for dealing with this issue. However, it seems that institutions which are working on trafficking in general have taken an opinion that ‘Trafficking in children has been almost completely eradicated in Latvia. Also the problem of trafficking in women in the definition of the Palermo Convention is not topical anymore’.<sup>23</sup>

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<sup>21</sup> Reports on implementation of the National Action Plan to Combat Trafficking in Human Beings 2004-2008 (2005, 2006, 2007), available at : <http://polsis.mk.gov.lv/view.do?id=1164> (06.08.2008).

<sup>22</sup> Interview with Nikola Dzina, representative of the resource centre for women „Marta”, 25.07.2008.

<sup>23</sup> Website of the Ministry of the Interior on Human Trafficking <http://www.cilvektirdznieciba.lv/index.php?catalogue&id=57> (06.08.2008).

## B. Prevention of child trafficking

- [45]. Various projects and informative campaigns financed by international and local organisations aimed at the prevention of trafficking in people, the provision of assistance to victims of trafficking in people, and the education of society have been carried out already since 1998. International and non-governmental organizations and embassies of foreign countries have contributed substantially to the implementation of the campaigns – the Nordic Council of Ministers, the US Embassy in Latvia, the International Organisation for Migration, the International Organisation for Adolescents, the Resource Centre for Women Marta, the State Youth Initiatives Centre, the Social Pedagogy School Attīstība, the Gender Problems Centre of Latvia Genders and others.<sup>24</sup>
- [46]. However, there have not been any campaigns or other preventive efforts aimed or organised by local communities or minority groups.
- [47]. The anti-trafficking campaigns have not been aimed particularly at child-trafficking issue; although, many of them have been targeted an audience of young people.
- [48]. However, the view expressed in a brochure issued by the Ministry of Interior on “Cooperation to Prevent Human Trafficking”, is: ‘when evaluating the informative events that have taken place in Latvia, until now, a conclusion can be made that, although they have achieved a positive effect, they have not reached a wide enough audience in society and among specialists. Only in some separate cases, the campaigns have been comprehensive, complex and have created a long term effect. [...] The effectiveness of informative campaigns has been decreased by the lack of strategic objectives and sufficient funding. Only a few campaigns have included a full range of events and have been long-term; most of them, however, have consisted of one time activities and separate informative events. An analysis of the results is rarely performed after the campaigns, therefore, it is not known how often and to what extent they have reached their target audience.’<sup>25</sup>
- [49]. Examples of anti-trafficking campaigns which have been evaluated as the most successful, are

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<sup>24</sup> Website of the Ministry of the Interior on Human Trafficking <http://www.cilvektirdznieciba.lv/index.php?catalogue&id=57> (06.08.2008).

<sup>25</sup> Cooperation to Prevent Human Trafficking : situation analysis and the optimal model for national cooperation /Laura Ļebedeva, Laura Karnīte, Sandra Zalcmane, Dace Mauliņa, Laila Balode, Artūrs Vaišļa, Ilmārs Silājs, Inga Dobelniece, Ailona Dārzniece, Sigita Puriņa, Dace Samete, Nikola Dzina, Eva Beinaroviča, Inese Šūpule, Anete Erdmane, Helēna Stare, Liesma Ose, Agnese Mercalova. - Riga : Ministry of the Interior, 2007. - p. 27, 29.

- Information campaign “You will be sold like a doll”, organised by the International Organisation for Migration (IOM), 2001-2003;
- Project “About your safety during working abroad”, carried out by the Council of Latvian Youth Health Centre in cooperation with the International Organisation for the Adolescent, 2001-2003;
- Information campaign “Against Trafficking in Women” of Nordic and Baltic countries, 2002-2003;
- Campaign “Lilya 4-ever. No to human trafficking!”, organised by the IOM, and US and Swedish embassies, 2003;
- Project “Prevention on Human Trafficking: Informing young people in the Baltic states”, carried out by the IOM, 2005;
- Seminars for young people, teachers, officials of local governments and social workers about safe work abroad and the risks of human trafficking, organised and led by the IOM, 2006;
- Information campaign “Choose legal employment abroad!”, organised by the State Employment Agency and The European Job Mobility Portal (EURES) in cooperation with the IOM, 2006.<sup>26</sup>

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<sup>26</sup> Cooperation to Prevent Human Trafficking : situation analysis and the optimal model for national cooperation / Laura Ļebedeva, Laura Karnīte, Sandra Zalcmane, Dace Mauliņa, Laila Balode, Artūrs Vaišļa, Ilmārs Silājs, Inga Dobelniece, Ailona Dārzniece, Sigita Puriņa, Dace Samete, Nikola Dzina, Eva Beinaroviča, Inese Šūpule, Anete Erdmane, Helēna Stare, Liesma Ose, Agnese Mercalova. - Riga : Ministry of the Interior, 2007. – p. 30; webpage of the International Organisation for Migration [http://www.iom.lv/trafficking\\_baltijas\\_valstu.php](http://www.iom.lv/trafficking_baltijas_valstu.php) (06.08.2008).



## C. Appointment of legal guardian

- [50]. *Bērnu un ģimenes lietu ministrijas Bāriņtiesu departaments* [Orphan Court's Department of the Ministry for Children and Family Affairs], reports there have not been any cases where a legal guardian has been appointed to child for the reason that the child has been trafficked. The explanation given was that there have not been any cases where an unaccompanied child has been identified as a victim of child trafficking.<sup>27</sup>
- [51]. Under the Civil Law, 'the minority of persons of both genders continues until they attain the age of eighteen. In exceptional circumstances and for especially good cause, when the guardians and closest kin of a minor attest that the behaviour of the minor is irreproachable, and he or she is able to independently protect and defend his or her rights and perform his or her duties, the minor may be declared as being of age of majority even before he or she has attained the age of eighteen, but not earlier than before he or she fully attains the age of sixteen. The granting of majority before term shall be done by the appropriate Orphan's court, and its decision is subject to being confirmed by a court. A person who, pursuant to the procedures established by law, has married before attaining the age of eighteen, shall be deemed to be of age of majority.'<sup>28</sup>
- [52]. During interview, the head of the NGO "Droša māja", which at the moment provides rehabilitation services for the victims of trafficking under an agreement with the Ministry of Welfare, stated that in case of doubt about the age of trafficked person, the police sends the person to forensic medical examination.<sup>29</sup> This information was upheld by representative of police force dealing with trafficking.<sup>30</sup> There is no elaborated or established policy on age assessment, including benefit of a doubt.
- [53]. The Asylum Law provides<sup>31</sup> that during the asylum procedure unaccompanied minors in their personal and property relations shall be represented by Orphan's court or guardian appointed by the Orphan's court, or by the head of the child-care institution. Interviews with unaccompanied minors should be conducted by

<sup>27</sup> Interview with a representative of the Orphan Court's Department of the Ministry for Children and Family Affairs (29.07.2008).

<sup>28</sup> Latvia/Civillikums [Civil Law] (28.01.1937), available at: <http://www.ttc.lv/index.php?skip=0&itid=likumi&id=10&tid=59&l=LV> (06.08.2008), Art. 219-221.

<sup>29</sup> Interview with Sandra Zalcmane, the head of the NGO «Droša māja» (29.07.2008).

<sup>30</sup> Interview with Tamāra Jevdokimova, representative of the police unit Office 3, Division 2 For the Fight Against Human Trafficking of the State Police Criminal Police Department (20.07.2008).

<sup>31</sup> Latvia/Patvēruma likums [Asylum Law] (07.03.2002), available at: <http://www.ttc.lv/index.php?skip=90&itid=likumi&id=10&tid=59&l=LV> (06.08.2008). Article 11.

border guards specially trained for the task. The protection of child rights of unaccompanied minors should be provided in accordance with the law. In addition, they are entitled to legal assistance free of charge during the asylum procedure, as well as educational services in accordance with the law.

- [54]. Up to now, there has been only one case when unaccompanied minors from Somalia were seeking asylum in Latvia. 3 unaccompanied minors (14, 16 and 17 years old) entered Latvia seeking asylum on 5 August 2005, together with 2 adults who are not their parents<sup>32</sup>. A representative from a non-governmental organisation was involved, since at that time the Orphans court did not under the Asylum law have the obligation to appoint a guardian for unaccompanied minors seeking asylum, and refused to do so. All the minors had the same representative - a social worker, involved in work of different non-governmental organisations, such as *Caritas in Latvia* and Association for Street Children.
- [55]. In the aforementioned case, which up to now is the only one where unaccompanied minors have entered the state, the children were detained and placed in the detention centre for illegal migrants together with adult asylum seekers, and the same regulations as to adults were applied to them. All the translation was provided through the only adult in the group who could understand and speak some English. The detention centre for illegal immigrants has no policy or practice of accommodation of needs for people coming from different ethnic background.
- [56]. As there has not been any case when a guardian has been required for a trafficked child, specialised training for legal guardians potentially employed for representation of trafficked children has not been provided. Moreover, no special training has been provided for guardians who potentially could be employed for representation of unaccompanied minors.<sup>33</sup>
- [57]. Due to lack of cases, with exception of the only one, described in paragraph 54, there is no evidence of appropriate time for preparation of cases for the legal guardian.

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<sup>32</sup> Information provided by Baiba Biezā, former Head of the Refugee Affairs Department of the OCMA (21.11. 2005).

<sup>33</sup> Interview with a representative of the Orphan Court's Department of the Ministry for Children and Family Affairs (29.07.2008).

## D. Coordination and cooperation

- [58]. There is no governmental nor non-governmental institution which is dealing specifically with the child trafficking issue, as the number of known cases where minors are involved is extremely small.
- [59]. The State authority responsible for implementation of the National Action Plan to Combat Trafficking in Human Beings 2004-2008 and for prevention of trafficking in general is the Ministry of Interior. It provides both situation analysis and practical work (a specialised police unit Office 3, Division 2 For the Fight Against Human Trafficking of the State Police Criminal Police Department, working on cases of trafficking in persons).
- [60]. The authority responsible for rehabilitation of victims of trafficking is Ministry of Welfare, which has concluded contracts for providing these services with competent NGO (up to 2007 with the Resource Centre for Women “Marta”; now with the Shelter “Droša māja”).<sup>34</sup>
- [61]. Some activities, mostly educational, within the National Action Plan are under the responsibility of the Ministry of Education and Science and the Ministry for Children and Family Affairs.<sup>35</sup>
- [62]. However, the Ministry of Interior points out several deficiencies in the national cooperation regarding prevention of human trafficking in its brochure “Cooperation to Prevent Human Trafficking”:<sup>36</sup>
- ‘The role of the national coordinator is played by the Ministry of Interior, which is equal to other state administration institutions in the hierarchy of state administration. Therefore, the activities initiated and realized by the ministry do not always gain sufficient support from the other institutions;
  - The inter-institutional work group of the State program for the elimination of trafficking in human beings corresponds to the functions of a national work group according to the OSCE recommendations. However, it mainly consists of low-ranking officials, not decision makers;

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<sup>34</sup> Reports on implementation of the National Action Plan to Combat Trafficking in Human Beings 2004-2008 (2005, 2006, 2007), available at : <http://polsis.mk.gov.lv/view.do?id=1164> (06.08.2008).

<sup>35</sup> National Action Plan to Combat Trafficking in Human Beings 2004-2008, available at : <http://polsis.mk.gov.lv/LoadAtt/file40129.doc> (06.08.2008).

<sup>36</sup> The language is not edited, as it is quotation from the brochure.

- No high-ranking inter-institutional work groups have been created to solve specific problems. The problems are generally solved by the corresponding ministries or institutions; without coordinating with other involved institutions;
- No official framework for the cooperation between the state and civil society organizations in the prevention of human trafficking has been defined – the cooperation between the state and nongovernmental sectors is regulated by the Memorandum of Cooperation between Non-governmental Organizations and the Cabinet of Ministers, which was signed on 15 June, 2005. However, it is a general document, which does not deal with specific issues on human trafficking;
- No coordinated implementation of strategic decisions has been provided;
- No monitoring of effectiveness and the results of the realized activities is performed;
- No regional cooperation networks and specialist cooperation models for the provision directing services to victims of human trafficking have been developed;
- Micro level players are not sufficiently involved in making and implementing strategic decisions.<sup>37</sup>

[63]. There is no common hotline established particularly for reporting of missing and sexually exploited children, however, the Resource Centre for Women “Marta” since 2005 provides a free hotline for information on safe work abroad.<sup>38</sup> *Bērnu tiesību aizsardzības inspekcija* (BTAI) [Inspectorate for Protection of Rights of Children] in its turn has established a free hotline for children and teenagers in order to help in psychologically difficult and critical situations.<sup>39</sup> Otherwise, it is possible to report situations of exploitation of trafficked children to the police or to the Orphan court.

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<sup>37</sup> Cooperation to Prevent Human Trafficking : situation analysis and the optimal model for national cooperation / Laura Ļebedeva, Laura Karnīte, Sandra Zalcmāne, Dace Mauliņa, Laila Balode, Artūrs Vaišļa, Ilmārs Silājs, Inga Dobelniece, Ailona Dārzniece, Sigita Puriņa, Dace Samete, Nikola Dzina, Eva Beinaroviča, Inese Šūpule, Anete Erdmane, Helēna Stare, Liesma Ose, Agnese Mercalova. - Riga: Ministry of the Interior, 2007.

<sup>38</sup> Every working day from 10 a.m. to 6 p.m., phone number +371 80002012, available at <http://www.marta.lv/vpage.php?lang=lv&id=14&lapa=21> (29.09.2008).

<sup>39</sup> Every working day from 8 a.m. to 11 p.m., on Saturdays from 8 a.m. to 10 a.m., and on Sundays from 10 a.m. to 10 p.m., phone number +371 80006008, available at [http://www.bti.gov.lv/lat/uzticibas\\_talrunis/](http://www.bti.gov.lv/lat/uzticibas_talrunis/) (29.09.2008).

## E. Care and protection

- [64]. In this chapter, the legislative provisions are described, however, it should be noted that they are never applied in practice. The State Police during an interview, as well as the Ministry of Interior in their written response confirmed that there has no child has been granted temporary stay on grounds of trafficking.<sup>40</sup> Subsequently, there are no programs for re-integration or family tracing, etc. Specialised shelters for trafficked children do not exist in Latvia, and according to representative of the resource centre for women “Marta”, there are no plans to establish any such shelter.<sup>41</sup>

### E.1. Legal provisions ensuring a right to residence to trafficking victims

- [65]. On 25.01.2007 the Law On Residence of a Victim of Trafficking in Human Beings in the Republic of Latvia was adopted, in order to promote the fight against trafficking in human beings, providing the conditions for the granting of a reflection period and termination of such period to the victim of trafficking in human beings, as well as the conditions in relation to his or her residence in the Republic of Latvia.<sup>42</sup> The Law does not apply to the citizens of the European Union.<sup>43</sup>
- [66]. If a third-country national provides information that possibly might aid in the disclosure and elimination of trafficking in human beings, but it is not sufficient in order to decide the matter regarding commencement of criminal proceedings or in order to decide the matter, within the framework of the commenced criminal proceedings, regarding recognition of such third-country national as a victim of a criminal offence that is related to trafficking in human beings, the State Border Guard, investigative institution, performer of procedures or the social rehabilitation service provider shall inform in writing such third-country national regarding the possibility of the granting of a reflection period and

<sup>40</sup> Interview with Tamāra Jevdokimova, representative of the police unit Office 3, Division 2 For the Fight Against Human Trafficking of the State Police Criminal Police Department (20.07.2008) ;

Written response from the Planning, Coordination and Control Department of the ministry of Interior (7.08.2008).

<sup>41</sup> Interview with Nikola Dzina, representative of the resource centre for women „Marta”, 25.07.2008.

<sup>42</sup> Latvia/Likums Par cilvēku tirdzniecības upura uzturēšanos Latvijas Republikā [The Law On Residence of a Victim of Trafficking in Human Beings in the Republic of Latvia] (25.01.2007), available at : <http://www.likumi.lv/doc.php?id=152712> (06.08.2008).

<sup>43</sup> Further the language as in the official translation of the law has been used.

rights that he or she accordingly would obtain. A third-country national within a time period of three days after he or she has been granted the status of victim of trafficking in human beings, may submit to the investigative institution or performer of procedures a submission regarding granting of a reflection period. The reflection period shall not be granted to the victim of trafficking in human beings if he or she has been recognised as the victim of a criminal offence that is related to trafficking in human beings.

- [67]. The investigative institution or performer of procedures shall take the decision regarding granting of the reflection period or regarding refusal to grant the reflection period within a time period of five working days after the receipt of the submission and shall inform regarding the taken decision the victim of trafficking in human beings and the State Border Guard. The decision regarding granting of the reflection period shall give the right to the victim of trafficking in human beings to reside in the Republic of Latvia during the relevant time period. The decision of the investigative institution or performer of procedures regarding refusal to grant the reflection period shall not be appealed.
- [68]. The reflection period shall be counted starting from the day when the investigative institution or performer of procedures takes the decision regarding granting of the reflection period, and shall be 30 days. The reflection period alone does not create the right to the victim of trafficking in human beings to receive the temporary residence permit.
- [69]. The social rehabilitation service provider, in accordance with the regulatory enactments regarding the provision of social rehabilitation services, within the period of time when the submission regarding granting of the reflection period is examined, during the reflection period and until the moment when the Office of Citizenship and Migration Affairs (hereinafter – the Office) takes the decision regarding the issue of a temporary residence permit, as well when the temporary residence permit is issued, shall ensure a safe asylum and accommodation, first aid, the consultations of a psychologist, a lawyer, a medical practitioner and of other specialists, a possibility to receive emergency medical treatment, as well as a possibility to get involved in training and educational programmes, to the victim of trafficking in human beings, as well as to the minor in accompaniment thereof.
- [70]. The investigative institution or performer of procedures has the right to take the decision regarding termination of the reflection period at any time in following cases: it has been ascertained that the victim of trafficking in human beings actively, voluntarily and on his or her own initiative maintains contact with persons, who are suspected, accused or in relation to whom a judgement of conviction or a punishment prescription of a prosecutor regarding a criminal offence that is related to trafficking in human beings has come into force; or there is a reason to consider that the victim of trafficking in human beings causes a threat to the national security or public order and safety. The decision

of the investigative institution or performer of procedures regarding termination of the reflection period shall not be appealed.

- [71]. If the victim of trafficking in human beings provides information in writing that may help in the disclosure and elimination of cases of trafficking in human beings or has been recognised as a victim in a criminal offence that is related to trafficking in human beings, the performer of procedures during the reflection period or on the next working day after the end of the reflection period within a time period of three working days shall assess whether the further residence of the victim of trafficking in human beings in the Republic of Latvia is efficient (whether it promotes the investigatory process or court proceedings); and verify whether the victim of trafficking in human beings does not maintain contact with persons, who are suspected, accused or in relation to whom the judgement of conviction for the punishment prescription of a prosecutor regarding criminal offence that is related to trafficking in human beings has come into force.
- [72]. The performer of procedures shall request a temporary residence permit for the victim of trafficking in human beings, as well as for the minor in accompaniment thereof. The performer of procedures, when requesting the Office to issue the temporary residence permit for a period of time that is not less than six months, shall take into account the time period in which the pre-trial criminal proceedings or the adjudication might be completed, as well as the nature and intensity of the threat to the victim of trafficking in human beings (if any). The performer of procedures may request to prolong the temporary residence permit.
- [73]. The performer of procedures can request to annul the temporary residence permit that has been issued to the victim of trafficking in human beings if it has been ascertained that the victim of trafficking in human beings actively, voluntarily and on his or her own initiative maintains contact with persons, who are suspected, accused or in relation to whom a judgement of conviction or a punishment prescription of the prosecutor regarding a criminal offence that is related to trafficking in human beings has come into force; or it has been ascertained that the victim of trafficking in human beings has intentionally provided false information in the criminal proceedings; or the performer of procedures has taken the decision regarding termination of criminal proceedings.
- [74]. The residence of the victim of trafficking in human beings, as well as the minor in accompaniment thereof, shall be determined in accordance with the Immigration Law from the moment when a temporary residence permit has been issued.

## E.2. Procedures by Which Victims of the Traffic in Human Beings Receive Social Rehabilitation Services, and the Criteria for the Recognition of a Person as a Victim of the Traffic in Human Beings

- [75]. On 31 October, 2006, Regulations Regarding the Procedures by Which Victims of the Traffic in Human Beings Receive Social Rehabilitation Services, and the Criteria for the Recognition of a Person as a Victim of the Traffic in Human Beings were adopted by the Cabinet of Ministers.<sup>44</sup>
- [76]. The Regulations prescribe the procedures, by which a person who has been recognised a victim of the traffic in human beings shall receive social rehabilitation services for the State budget funds, and the criteria for the recognition of a person as a victim of the traffic in human beings.<sup>45</sup>
- [77]. The authority responsible for providing services to the victims of the trafficking is the Social Service Board. The Board shall take a decision regarding the provision of services or the refusal to provide services, enter into a contract with a provider of services regarding the provision of services, as well as control the implementation of the referred to contract and the compliance of the amount of the services provided with the contract entered into; to control the quality of the services provided; to establish a database of the services provided, and to inform public organisations, law enforcement institutions, social service offices, medical treatment institutions and other institutions involved regarding the possibilities of a person to receive services for the State budget funds. Services shall be provided by a provider of services who is registered with the register of social service providers and complies with the requirements specified in the regulatory enactments regarding providers of social services.
- [78]. A course of services for a person shall not be longer than 6 months. A person may receive services on the basis of the written submission of the person or the legal representative thereof to the provider of services, and a decision of the performer of the criminal procedure, according to which the person is

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<sup>44</sup> Latvia/31.10.2006. MK noteikumi Nr.889 Noteikumi par kārtību, kādā cilvēku tirdzniecības upuri saņem sociālās rehabilitācijas pakalpojumus, un kritērijiem personas atzīšanai par cilvēku tirdzniecības upuri [Regulations Regarding the Procedures by Which Victims of the Traffic in Human Beings Receive Social Rehabilitation Services, and the Criteria for the Recognition of a Person as a Victim of the Traffic in Human Beings] (31.10.2006), available at : <http://pro.nais.lv/naiser/textc.cfm?Key=0101032006103100889&Lang=03> <http://www.likumi.lv/doc.php?mode=DOC&id=147113> (06.08.2008).

<sup>45</sup> Further the language as in the official translation of the Regulations has been used.



recognised the victim in a criminal matter regarding the traffic in human beings, or a statement of a law enforcement institution that the person has suffered from the traffic in human beings in a foreign state, or a person's assessment report of the provider of services, in which the compliance of the person with the criteria of a victim of the traffic in human beings has been specified.

[79]. In order to assess the compliance of a person with the criteria of a victim of the traffic in human beings, a provider of services shall establish a commission of specialists. The commission shall include a social worker, a psychologist, a lawyer, a medical practitioner, an official of the State Police, as well as, where necessary, other specialists.

[80]. The commission shall recognise a person a victim of the traffic in human beings, if the person

- was recruited, transported, conveyed or received, kidnapped or sold or, upon arrival in the country of destination, was forced to do other work instead of the work intended or promised beforehand;
- was in debt to his or her employer and a part of the income of such person was collected or the person was not able to quit the occupation or to change work of his or her free will, or such person was deprived of the identification documents, or was forced to provide sexual services as a part of work duties, or was employed against his or her own will, or the person had to work longer hours per week than had been specified, or was supervised in the workplace in order to make the escape impossible, or was dependent on the employer thereof due to the family, kinship, work, rental relationship, indebtedness;
- felt indirect threats seeing that violence was being used against others, or the person was denied the satisfaction of the basic needs of a human being, or signs of physical violence are visible, the person had previously suffered from violence or was intimidated and he or she was threatened with revenge, if he or she would contact the police or turn for help to any other institution, or with revenge, if he or she tried to escape or return to the origin country, or threats were expressed to revenge upon the family and relatives of the person, if the person escapes, or threats of deportation or notification of the relevant institutions were expressed, if the person tries to escape;
- was held imprisoned and hidden from the surrounding environment and communication with other people or was constantly controlled, or was allowed to stay outside the workplace only in the company of the employer's representative.

[81]. After the assessment of a person the commission shall draw up a report. It shall be justifiably indicated in the report, taking into account the conditions referred

to in Paragraph 8 of these Regulations, whether the person complies with the criteria of a victim of the traffic in human beings.

- [82]. The provision of services shall be refused if the person does not comply with the criteria of a victim of the traffic in human beings; if the person has not submitted all the documents necessary for the receipt of the service; or the person repeatedly requests services during 1 year.
- [83]. The provision of services shall be terminated if the person has received services on the basis of false information provided; the person or the legal representative thereof submits a written submission regarding the suspension of services; the person does not co-operate in the implementation of the rehabilitation plan developed by the provider of services, or does not comply with the procedures specified by the provider of services; the course of service specified for the person has ended.
- [84]. The provision of services shall be suspended if the person needs treatment in a medical treatment institution due to the condition of health. The provision of services shall be resumed after the treatment of the person in a medical treatment institution.
- [85]. A person has a duty to co-operate in the implementation of the rehabilitation plan developed by the provider of services, as well as to comply with the procedures specified by the provider of services; and reimburse unduly used funds in the case the person has received services on the basis of false information provided.
- [86]. A person may appeal to a court the decision of the Board regarding the refusal to provide services within a time period of 1 month after coming into effect of the decision.

### **E.3. Specific detention conditions for children under the Immigration Law**

- [87]. If person has illegally crossed the State border of the Republic of Latvia or otherwise violated the procedures prescribed by regulatory enactments for the entry and residence of aliens into the Republic of Latvia; or if competent State authorities including the State Border Guard have reason to believe that an alien causes a threat to national security or public order and safety; or in order to implement a decision regarding the forcible expulsion of an alien from the Republic of Latvia, the State Border Guard has the right to detain an alien, except a minor alien who has not reached the age of 14 years. If a minor alien who has not reached the age of 14 years and is not accompanied by parents or his or her legal representative illegally crosses the State border of the Republic of Latvia or has in other ways violated the procedures for the entry and

residence of aliens in the Republic of Latvia specified in regulatory enactments, a State Border Guard official shall act so as to ensure the rights and interests of the child in accordance with regulatory enactments regulating the protection of children's rights.<sup>46</sup> In respect of the detention of such minor alien who at the age of 14 to 18 years and is not accompanied by parents or his or her legal representative, a State Border Guard official shall without delay inform the Consular Department, State Police and the Orphan's Court..<sup>47</sup>

- [88]. An official of the State Border Guard or State Police shall establish the identity of the detainee, take his or her fingerprints, conduct an inspection of an alien and his or her property, as well as, if necessary, ensure a medical examination of the alien and draw up a report thereof. The referred to activities with a minor alien who is at the age of 14 to 18 years shall be performed a State Border Guard official trained for work with minors.<sup>48</sup>
- [89]. A detained alien shall be accommodated in an accommodation centre taking into account general human rights principles and internal security, as well as personal characteristics and psychological compatibility; detained males and females shall be accommodated separately; detained minor aliens shall be accommodated together with detained parents or his or her legal representative.<sup>49</sup>
- [90]. A detained minor alien who at the age of 14 to 18 years and is not accompanied by parents or his or her legal representative, up to the end of the time period of detention shall be accommodated in the relevant State Border Guard structural unit. If the State Border Guard in co-operation with the Consular Department up to the end of the time period of detention have not been able to ascertain the identity and citizenship or country of residence of the minor alien who at the age of 14 to 18 years and is not accompanied by parents or his or her legal representative, the State Police shall ensure the accommodation of the minor alien in a child care institution.<sup>50</sup>
- [91]. If the identity and citizenship or country of residence of a detained minor alien who at the age of 14 to 18 years and is not accompanied by parents or his or her legal representative has been ascertained, the Consular Department for the sending of him or her to the state, which is taking the person back, shall communicate with the diplomatic or consular mission of such state, the relevant

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<sup>46</sup> Latvia/Imigrācijas likums [Immigration Law] (31.10.2002), Art. 51, available at: <http://www.likumi.lv/doc.php?id=6852251> (06.08.2008).

<sup>47</sup> Latvia/Imigrācijas likums [Immigration Law] (31.10.2002), Art. 54(6), available at: <http://www.likumi.lv/doc.php?id=6852251> (06.08.2008).

<sup>48</sup> Latvia/Imigrācijas likums [Immigration Law] (31.10.2002), Art. 57(1), available at: <http://www.likumi.lv/doc.php?id=6852251> (06.08.2008).

<sup>49</sup> Latvia/Imigrācijas likums [Immigration Law] (31.10.2002), Art. 59<sup>1</sup>(3) 1)2), available at: <http://www.likumi.lv/doc.php?id=6852251> (06.08.2008).

<sup>50</sup> Latvia/Imigrācijas likums [Immigration Law] (31.10.2002), Art. 59<sup>5</sup>, available at: <http://www.likumi.lv/doc.php?id=6852251> (06.08.2008).

competent institutions or non-government organisations, which monitor the observance of children's rights in such state, and shall perform other necessary measures. If a detained minor alien who is not accompanied by parents or his or her legal representative is sent to a state, which is taking the person back, the sending shall be ensured by the State Border Guard in co-operation with the competent institutions or non-government organisations of such state. A minor alien who at the age of 14 to 18 years and has been detained together with his or her parents or his or her legal representative, or a minor alien who is in an accommodation centre together with his or her parents or his or her legal representative shall be sent to the state to which the parents or the legal representative of the minor alien have been expelled.<sup>51</sup>

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<sup>51</sup> Latvia/Imigrācijas likums [Immigration Law] (31.10.2002), Art. 59<sup>6</sup>, available at: <http://www.likumi.lv/doc.php?id=6852251> (06.08.2008).

## F. Best interests determination and durable solutions, including social inclusion/return

- [92]. As there has not been any case identified where a child has been trafficked to Latvia, the process for identification of durable solutions based on best interest determination, including risk and security assessment prior to possible return of child has not been elaborated or even started to be elaborated.
- [93]. The current Asylum Law does not contain any provision which directly can make available asylum/subsidiary protection for child victims of trafficking.<sup>52</sup> The new Asylum Law which already has been in the process of adoption for a long time, includes a more elaborated list of reasons, based on which the person can apply for asylum/subsidiary protection. However, the text of the law is adopted only in a first reading and can still be changed considerably.<sup>53</sup> It is also hard to predict how the provisions of the law, either recent or new, will be applied in practice if a case will appear.
- [94]. The lack of cases also does not allow to answer the question about the evidence for respect for the participation of the child in the decision-making/obligatory hearing in all relevant legal procedures (regarding procedures of asylum/subsidiary protection, return, etc.), as well about evidence about access to integration programmes, including access to full health care, educational and vocational training.
- [95]. Specialised integration programs for trafficked children are not established for the same reason that cases of trafficking of children to Latvia still have not been identified.

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<sup>52</sup> Latvia/Patvērums likums [Asylum Law] (07.03.2002), available at: <http://www.likumi.lv/doc.php?id=60721&mode=KDOC> (06.08.2008).

<sup>53</sup> Latvia/Likumprojekts Patvērums likums [Draft Asylum Law], available at: <http://titania.saeima.lv/LIVS/SaeimaLIVS.nsf/0/E6A48815C1D5BBACC22574640035521B?OpenDocument> (06.08.2008).

## G. Prosecution

- [96]. The Protection of the Rights of the Child Law sets that it is prohibited for a child who has been a victim of violence (illegal act) to be confronted by the possible perpetrator of the violence (illegal act) while the child is not sufficiently psychologically prepared for such a confrontation; or to be subjected to the use of any compulsory measures in order to obtain information or for any other purpose.<sup>54</sup>
- [97]. The Protection of the Rights of the Child Law also prohibits the dissemination of information regarding the child: information regarding a child obtained by an employee of a child care, educational, social assistance or other institution or by an employee of a State or local government institution, in fulfilling the duties of their office, shall be confidential, and information, which could in any way harm the future development of the child or the maintenance of the psychological balance of the child may not be divulged. It is prohibited to disseminate personally obtained information regarding a child who has become a victim, a witness or has committed a violation of the law, as well as such information as could harm the child in the present or in the future. Taking advantage, for motives of self-interest, of the information supplied by a child, is prohibited. It is prohibited to interview a child and disseminate to the press and other mass media information with regard to the child who has become a victim, or a witness of an illegal activity, or has committed a violation of the law, except in cases where the child him or herself expresses the desire to openly disclose what was experienced and the parents or other lawful representatives of the child consent to it. If criminal procedure has been commenced, the permission of the person directing the proceedings is also necessary. Persons at fault for utilisation or dissemination of information that is prohibited shall be held disciplinarily liable or otherwise liable as provided by law.<sup>55</sup>
- [98]. The Criminal Procedure Law stipulates a principle of guaranteeing Human Rights in general.<sup>56</sup>
- [99]. The Criminal Procedure Law also guarantees that a person upon whom harm has been inflicted by a criminal offence shall, taking into account the moral injury, physical suffering, and financial loss thereof, be guaranteed procedural

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<sup>54</sup> Latvia/Bērnu tiesību aizsardzības likums [Protection of the Rights of the Child Law] (19.06.1998), available at: <http://likumi.lv/doc.php?id=49096> (06.08.2008). Article 52(3)3)4).

<sup>55</sup> Latvia/Bērnu tiesību aizsardzības likums [Protection of the Rights of the Child Law] (19.06.1998), available at: <http://likumi.lv/doc.php?id=49096> (06.08.2008). Article 71.

<sup>56</sup> Latvia/Kriminālprocesa likums [Criminal Procedure Law] (21.04.2005), available at: <http://www.likumi.lv/doc.php?id=107820>. Article 12.

opportunities for the requesting and receipt of moral and financial compensation.<sup>57</sup>

- [100]. Regarding minors, the Criminal Procedure Law provides specific features of interrogation: the length of an examination of a minor shall not exceed six hours, including an interruption, during a twenty-four-hour term without the consent of such minor. A minor who has not reached 14 years of age, or, on the basis of the discretion of the performer of an investigative action, any minor, shall be examined in the presence of a pedagogue or a specialist who has been trained to perform the tasks of a psychologist for children in criminal proceedings (hereinafter – psychologist). One of the lawful representatives of the minor, a relative close to the minor, or a trustee has the right to participate in an examination, if he or she is not the person against whom the criminal proceedings have been initiated, a detained person, a suspect, or an accused, and if the minor does not object to such participation. The referred to person may ask the person being interrogated questions, with the permission of the performer of the investigative action.
- [101]. A minor who has not reached 14 years of age shall not be notified regarding liability for refusal to testify and for the conscious provision of false testimony.
- [102]. If a psychologist indicates to a person directing the proceedings that the psyche of a person who has not reached 14 years of age, the psyche of a minor who has been recognised as a victim of violence committed by a person upon whom the victim is materially dependent or otherwise dependent, or the psyche of a minor who has been recognised as a victim of sexual abuse, may be harmed by repeated direct examination, such direct examination shall be performed only with the permission of the investigating judge, but in a court – with a court decision.<sup>58</sup>
- [103]. If a psychologist considers that the psyche of a person who has not reached 14 years of age, the psyche of a minor who has been recognised as a victim of violence committed by a person upon whom the victim is materially dependent or otherwise dependent, or the psyche of a minor who has been recognised as a victim of sexual abuse, may be harmed by a direct examination, such direct examination shall be performed with the intermediation of technical means and a psychologist. If an investigator or public prosecutor does not agree, the direct examination shall be performed only with the permission of the investigating judge, and in a court – with a court decision.
- [104]. A person directing the proceedings and another person invited by him or her shall be located in another room where technical means shall ensure that the person to be interrogated and the psychologist may be seen and heard. The

<sup>57</sup> Latvia/Kriminālprocesa likums [Criminal Procedure Law] (21.04.2005), available at : <http://www.likumi.lv/doc.php?id=107820>. Article 22.

<sup>58</sup> Latvia/Kriminālprocesa likums [Criminal Procedure Law] (21.04.2005), available at : <http://www.likumi.lv/doc.php?id=107820>. Article 152.

person being interrogated shall be located together with the psychologist in a room that is suitable for a conversation with a minor, and in which it has been technically ensured that the questions asked by the person directing the proceedings are heard only by the psychologist.

- [105]. If a person to be interrogated has not reached 14 years of age, a psychologist, complying with the concrete conditions, shall explain to the minor the necessity of the operations taking place and the meaning of the information provided by such minor, ascertain personal data, ask the questions of the person directing the proceedings in a form that corresponds with the psyche of the minor, and, if necessary, inform regarding a break in the investigative action and the resuming thereof.
- [106]. If a person to be interrogated has reached 14 years of age, a person directing the proceedings shall inform a minor, with the intermediation of a psychologist, regarding the essence of the investigative action to be performed, ascertain the personal data of such minor, explain his or her rights and duties, and notify regarding liability for the non-execution of the duties thereof, ask the questions of the person directing the proceedings in a form that corresponds with the psyche of the minor, and, if necessary, inform regarding a break in the investigative action and the resuming thereof.
- [107]. If the interrogation is conducted with the intermediation of a psychologist, a minor person to be interrogated shall not sign minutes.<sup>59</sup>
- [108]. It is not possible to identify a number of convictions based on child trafficking cases in period 2000-2007 from the statistics provided by the Court Administration.<sup>60</sup> However, by the information provided by the representative of the Prosecutors Office, there have been one or two such cases, but not in the last three years.<sup>61</sup>
- [109]. As the state provides compensation only for cases where death of the person has occurred, or severe bodily injuries or moderate bodily injuries have been caused to the victim or sexual inviolability of the victim has been violated, in cases of trafficking a victim can use only the aforementioned chance to request moral and financial compensation from the person accused for trafficking. There is no information whether any victim of trafficking has asked for such compensation; however, judging from the usual practice there is a very small likelihood of it.<sup>62</sup>

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<sup>59</sup> Latvia/Kriminālprocesa likums [Criminal Procedure Law] (21.04.2005), available at : <http://www.likumi.lv/doc.php?id=107820>. Article 153.

<sup>60</sup> Written response by the Court Administration (01.08.2008).

<sup>61</sup> Interview with a representative of the State Prosecutors Office (01.08.2008).

<sup>62</sup> Written response from the Planning, Coordination and Control Department of the ministry of Interior (7.08.2008).



## H. Miscellaneous

- [110]. The National Action Plan to Combat Trafficking in Human Beings 2009-2013 is in the drafting process.<sup>63</sup>

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<sup>63</sup> Written response by the Planning, Coordination and Control Department of the ministry of Interior (7.08.2008).

# I. Good practices

NTR

## Annex 1 - Tables and Statistics

	2000	2001	2002	2003	2004	2005	2006	2007
Number of children being granted temporary stay on grounds of trafficking	0	0	0	0	0	0	0	0
Number of trafficked children receiving full health care services, including psychosocial care and rehabilitation (e.g. not just emergency treatment)								No data available, as the Ministry of Welfare do not record the age of trafficked persons who receive the services. <sup>64</sup>
Number of trafficked children receiving education/training, in particular secondary education and vocational training	0	0	0	0	0	0	0	0
Number of trafficked children receiving legal assistance (e.g. for claiming compensation)	0	0	0	0	0	0	0	0

<sup>64</sup> Written response from the Planning, Coordination and Control Department of the ministry of Interior (7.08.2008).

Number of final convictions based on child trafficking cases, per year								No data available. <sup>65</sup>
Total of amount of compensation paid to trafficked children, per year								There is no information whether any victim of trafficking has received such compensation; however, there is a very small likelihood of it. <sup>66</sup>
Average of amounts of compensation paid to trafficked children, per year								No data available.
Range of amount of compensation paid to trafficked children, per year								No data available.

<sup>65</sup> Written response by the Court Administration (01.08.2008).

<sup>66</sup> Written response from the Planning, Coordination and Control Department of the ministry of Interior (7.08.2008).