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THE EUROPEAN UNION**

**Brussels, 23 October 2002**

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REV 1**

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## **REPORT**

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From : the General Secretariat  
To : the Collective Evaluation Working Party  
No. prev. doc. : 11976/02 EVAL 35 ELARG 264 RESTREINT  
Subject : Draft revised country report on Latvia

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### I. INTRODUCTION

In its analyses the Working Party has dealt with the progress made by each acceding country and has examined shortcomings which still have to be eliminated in order to catch up with the EU Acquis in the field of Justice and Home Affairs.

The first series of country reports pointed out the precise areas where the most serious shortcomings existed and where substantial efforts by the candidate country were still needed, while at the same time acknowledging progress already made and refraining from a final judgement, thus helping Member States in selecting programmes to finance (e.g. bilateral programmes, PHARE), as well as the Commission in adjusting the priorities and objectives of the accession partnerships and feeding the discussions on enlargement.

# RESTREINT UE

The point of departure for the present second series of country reports, whose structure has been refined, is to identify exactly where in the process of alignment the candidate country finds itself and what remains to be done, focussing on operational conclusions. The key elements of this new structure, reflected in each chapter, are:

- adoption of the “acquis”, including shortcomings,
- administrative capacity, including an assessment of structure, staff, resources etc. and
- implementing performance, covering issues such as quality, efficiency and independence.

The conclusions drawn at the end of the report are the result of extensive discussions within the Collective Evaluation Working Group on the basis of the information presented.

In line with this approach, all other relevant background information can be found in the thematic analyses-documents (where available) constituting the basis of these reports.

As the process of alignment and the collection of relevant data are a continuously evolving and ongoing process, the findings and conclusions in the present report cannot be considered final or exhaustive. Updates will therefore continue to be presented on a regular basis.

## II. OVERVIEW OF DEVELOPMENT

### A. Border Security

**(N.B.: the following sub-chapter is a contribution from the Finnish delegation:)**

#### Introduction

**The security environment of Latvia in the region from the viewpoint of border security is currently stable. Accession to the European Union in the near future will continue to increase stability, improve co-operation and tighten relations between the Baltic Sea region countries. In spite of the generally positive situation, the possibility has to be considered that Latvia’s security environment, from a border security viewpoint, could also change in an unfavourable way.**

# RESTREINT UE

Latvia is neither a destination nor a significant transit country concerning the smuggling of human beings. In recent years only a few hundred people have entered Latvia annually illegally and the number of asylum seekers has been only some 30 or 40 per year; in 2000 only 5. At the same time, Latvia is quite a significant country of origin concerning the export of women for the western sex-industry.

As Latvia will accede to the EU it will become a more attractive transit country for getting into other EU countries. The implementation of the Dublin Convention and its 'first-country principle' will raise the number of asylum seekers under Latvia's responsibility.

## 1. Formal acquis

In order to provide security and legitimate crossing of the state border of the Republic of Latvia, the necessary legislative basis is in place. In the process, general human rights principles, EU legislative guidelines, as well as the geographical, political, social and economical situation have been taken into consideration. Border surveillance and border checks are in line with EU principles. Among other things, the relevant legislation is based on the following principles:

- crossing of the state border is allowed only at specially designed border crossing points with documents conform EU standards
- the state border must be guarded and controlled along its entire length, including land, sea and air borders
- crossing of persons is controlled on entry and exit at all types of border crossing points.

The legal bases for the establishment of the national border are the following national acts:

- The Latvian Constitution
- The State Border Law
- The decision of the Cabinet of Ministers of the Latvian republic No. 139, 23 April 1992 and decision No. 326, 12 August 1992
- The regulations of the Cabinet of Ministers on the determination of the state border zone with Lithuania, Russia and Belarus.

# RESTREINT UE

Treaties on restoration/re-establishment of land borders have been concluded with Estonia and Lithuania and demarcation work has been finalised. The treaty on the determination of the border has also been concluded with Belarus; demarcation work is underway and will most probably be finished beginning 2003. A border agreement with Russia has not been signed yet, although in practice both sides have accepted the borderline as defined in the draft agreement. Demarcation work has not yet started.

## 2. Administrative capacity

The length of the Latvian border totals 1864 km including the sea border totalling 496 km and the land borders totalling 1368 km. There are 15 road border crossing points (BCPs), 11 railroad BCPs, 9 port BCPs, 4 airports and 39 simplified BCPs. The Latvian State Border Guard consists of 9 districts and one Border Guard School.

The total number of staff was 3114 in January 2002. The Latvian State Border Guard is responsible for guarding both land and sea borders. The number of personnel is adequate. Also in numbers, the annual turnover of persons is quite low and there are not so many new recruits.

The Latvian State Border Guard has developed its training system considerably during recent years. Anyhow much work goes into additional training for border guards employed during the previous years. The administrative capacity of the Latvian State Border Guard is adequate with the exception of the maritime professional personnel: attention should be paid to their training in order to fulfil the requirements of a modern maritime border surveillance.

Latvia has developed an integrated border management strategy, in the framework of a Phare/Twinning Project, in the line with the principles of the Schengen Acquis and following the principles of the Schengen four-tier border security model. This strategy defines the role of each authority in the field of border security. Although the strategy is ready, it has not yet been adopted by the Cabinet of Ministers. Several measures have however already been introduced by different authorities to improve border security according to the principles of the strategy.

# RESTREINT UE

The capacity to perform reliable, international, national and regional risk assessment, has improved lately. More co-operation in this field with other authorities is however needed.

All international border-crossing points have an on-line connection to national databases. The level of equipment at the most important crossing points is also rather good. Mobility at land borders has increased thanks to new vehicles and is satisfactory. Airborne surveillance and operative mobility is modest. The Border Guard will receive its first own helicopter in the beginning of November 2002, donated by the Finnish Frontier Guard. The Patrols' night vision capacity has increased but there is a lack of a modern integrated technical land border surveillance system. Sea border surveillance is effective only in theory. The current radar system does not cover the whole sea border and the capacity to detect and identify small objects is very limited. Situational awareness is not complete. The number of vessels is at an acceptable level following a Finnish donation.

### 3. Implementing performance

The Cabinet of Ministers determines principles of co-operation and responsibilities of each authority when the institutions involved can not find a solution to satisfy all relevant parties. The Declaration of the Cabinet of Ministers outlines a number of the Government's objectives including those of the different ministries involved in border security matters and aims on Latvia's integration into the EU . In addition, Latvia's Schengen Action Plan describes the ways, means and timetable to implement the Schengen Acquis.

In various action plans of the ministries, these objectives have been fine-tuned to include principles of co-operation both internally and horizontally between the ministries. The Cabinet monitors implementation of the Declaration under the supervision of the Prime Minister. Individual ministers monitor implementation of the action plan in their own ministries. Meetings are held once a month. They are frequented among others by the chiefs of the most important departments.

# RESTREINT UE

**The Cabinet of Ministers co-ordinates the most important projects. E.g. the Border Guard drafted a development programme for 2001-2005 which was approved by the Cabinet (February 2001) and contains measures, means and a timetable to improve facilities (including equipment).**

**At state level, the most important measure concerning co-operation is Cabinet Act (6.2.1997). According to this act, the Ministries are responsible for co-ordinating interministerial co-operation. The Ministry of Interior (MoI) forwarded an order (27.2.2001) defining the ways and means of internal co-operation, e.g. working groups, specified co-operation agreements, formulating common objectives in different fora or by setting up special task forces for certain tasks.**

**The MoI is responsible for co-ordinating the tasks and co-operation between the services and officials under its command, including co-operation with other relevant national authorities: an example thereof is introduction of a paragraph in the Border Guard Act on co-operation with other services in matters related to the surveillance of national borders.**

**Within the MoI a discussion forum on prevention issues, chaired by the Minister and attended by heads of different services, meets once a week or when needed, at which occasion information e.g. on border security matters is passed on to other services. All services forward a monthly action plan to the ministry, which monitors their implementation.**

**The Border Guard pays a lot of attention to co-operation with national and international authorities. Co-operation with neighbouring countries is based on agreements covering different models for exchanging information and some operational co-operation. The chief of the Border Guard can in principle conclude agreements on issues regarding the guarding of the border with the border guard services of other states. The chief of the Border Guard has, according to the Border Guard Act, the right to request and receive information on issues regarding the guarding of the state border from all state and local government authorities, undertakings (companies) and institutions. A border guard district is responsible for organising co-operation with territorial customs, police units and National Armed Forces units as well as local government, undertakings (companies), institutions and inhabitants within its district.**

# RESTREINT UE

Although national co-operation in general terms functions satisfactorily between the institutions, improvement is still needed: concerning the powers and duties of the different authorities, a number of individual regulations handle in part co-operation between services responsible for internal security. There is no separate law on co-operation between all authorities responsible for border security matters. At state level there is also no regular forum responsible for handling border security matters, although the MoI can arrange meetings in special situations. At district level some kind of co-operation exists and meetings are arranged occasionally on bilateral bases with participants from the police, border guard, customs, security police, defence forces and home guards. Co-operation is carried out according to organisation structures. In the district and local level one co-operation party may have several co-operation partners because of their small area of responsibility. E.g. a border guard district can co-operate with several custom and police districts. This may create delays and difficulties in practice to engage in common activities.

Border checks are carried out according to Schengen principles. Units responsible for green border surveillance and units carrying out border checks co-operate quite effectively. The Border Guard has a comprehensive tactical approach and new border guarding methods are quite well implemented in practice.

## 4. Summary

The existing legal bases in the field of border security are in place. National co-operation between relevant authorities is satisfactory at all levels but suffers from the lack of a formal basis and mutual trust between the authorities.

There is a specialised and independent border authority in Latvia in the sense of basic Schengen principles. The Latvian State Border Guard is a fully professional institution. It has adequate powers to fulfil its tasks. The training system is efficient although much refresher courses are needed to train the (elder) staff in the use of new/modern equipment, methods and tactics.



# RESTREINT UE

The new integrated border strategy is an efficient tool to improve border security. It covers all the elements of the Schengen border security model. Risk assessment capacity and situational awareness is in the stage of development. The equipment situation has improved but there are still considerable weaknesses especially in sea border surveillance, which is de facto not capable of detecting, identifying and detaining all objects on sea using the sea area.

## B. Migration

contribution not available

## C. Asylum

contribution not available

## D. Police and Customs

### a) Police

#### 1. Formal Acquis

The ratification in April 2001 of the 1981 Council of Europe Convention on the Protection of Individuals with regard to the Automatic Processing of Personal Data as well as the setting-up of the State Data Inspectorate are positive developments in the field of data protection.

Progress will, however, have to be sustained in order to further develop the capacity of the State Data Inspectorate, particularly regarding its independence and institutional autonomy. In addition, amendments will have to be made to the Law on Personal Data Protection in order to extend its application to the police sector. Furthermore, Latvia still has to fill the gaps relating to access to and security of personal data of Member States' citizens, especially with a view to conclude a co-operation agreement with the Europol.

Latvia signed the 1999 United Nations Convention for the Suppression of the Financing of Terrorism in December 2001. (...) **The draft law for its ratification has been submitted to Parliament where it passed the first reading.**

# RESTREINT UE

The Parliament ratified the United Nations Convention against Transnational Organised Crime in May 2001. Latvia must comply as soon as possible with the *acquis* and other international standards on the fight against the misuse of the financial system, in particular money laundering, including Directive 2001/97/EC amending Council Directive 91/308/EEC on prevention of the use of the financial system for the purpose of money laundering.

## 2. *Administrative capacity*

### *Structure and organisation*

Police activities are under the control of the Minister of the Interior (MoI). The basic task of the MoI is to develop and implement policies in fighting crime, guarding public order and public security. The following major institutions come within the remit of the Ministry of Interior: State Police, Security Police, and State Border Guard. The Chief of the State Police is appointed and can be removed by the Government, upon recommendation by the MoI. The police is divided in territorial and functional divisions. The largest cities form their own police district. In terms of its functions, the police is divided into the Criminal Police and the Public Order Police. Both divisions are steered centrally by the Criminal Police Board and the Public Order Police Board respectively. Despite the civil basis, the organisation still has a highly centralised decision-making structure and its culture still clearly contains military elements.

Important themes in the development of the Latvian police since the country regained independence are demilitarisation, improvement of the relationship with the public and increasing the integrity of police personnel. Standards and principles of police behaviour are laid down in legislation and ministerial orders. The issue of police ethics is addressed in the Police Act, and in the Corruption Prevention Law. The Police Act includes provisions, which define the basic principles of police activities, as well as the duties of police officers. The Corruption Prevention Law prohibits police officers having remunerated occupation in the private sector. There is still some mistrust between the police and the public which has only limited confidence in the police. Many civilians are traditionally reticent about calling in the police to deal with a crime. As a result, many crimes are unreported and therefore unknown to the authorities. This means that the police is isolated from the rest of society. Police officers are underpaid. Many are forced to have a second job. This can produce situations that put the police officer concerned in a difficult position ethically. Official public opinion polls on public trust in different institutions are conducted on a monthly basis. The

## RESTREINT UE

latest ones available (May 2002) show that the rating for police improved in comparison to the previous months. Otherwise however, the global rate of confidence is quite low (37%) even if the situation is clearly better than when the polls were first organised (18 % trusted the police in 1994).

### *Staff, training and equipment*

Efforts have been made to strengthen administrative capacity of the State Police. Several modifications have been introduced in central administrative structures to promote the fight against crime. A division to fight computer crimes was established in May 2001 within the Economic Police Bureau. 16 additional staff were allocated to the special Vice Squad unit within the State Police to strengthen the capacity to combat trafficking in human beings, as well as sexual exploitation and child pornography. 3 new divisions are expected to be created within the Economic Police Bureau to fight smuggling, money laundering, counterfeiting money and computer piracy. 17 additional positions have been assigned in 2001 to the Bureau for Combating Organised Crime and Corruption. However, Police structures still need to be further streamlined and made more effective in combating crime. Developing administrative capacity of the police should be closely monitored.

There are still some problems with recruitment, although the number of candidates increases each year. Although the situation has slightly improved, the recruitment of qualified staff for specialised services is hampered by low salaries and poor working conditions. An additional budget of 3.9 Mio € was allocated in 2002 to increase salaries for policemen by 11%. Since the recent abandoning of quotas, the proportion of women in the police is now 18%. Latvia's training program system is dispersed. Training and contents are not uniform and validated in a separate directorate of the police. Training is too general and theoretical. Education is primarily knowledge-centred and traditional methods are used. The emphasis is on legislation. Candidates who completed secondary education are admitted to the Police School of the State Police, where they obtain secondary professional education after accomplishing a full-time training program of one year. There is a need for further education in police ethics. The Police Academy provides specialised training courses for qualification improvement.

# RESTREINT UE

The MoI still has serious problems of funding. This is one of the main reasons for police malfunctioning. Besides, the training Directorate and high-tech Departments e.g. the forensic police are not yet on the priority-list of the MoI. After quite a bad year (2000), 2001 saw a slight improvement of credits. There is a shortage of hardware, software, databases and technical personnel particularly at the operational level. The equipment used by the criminal police needs to be expanded. Often only outdated equipment, or none at all, is available. (...) Latvia has some catching up to do in this area. Further investment will have to be made in personnel, equipment and laboratories. The level of technical examination in Latvia needs to be improved in the coming years. The methods are outdated, the expertise of the staff needs to be expanded. The results fail to meet the desired level of reliability and cannot therefore play a decisive role in providing evidence. Latvia has two forensic units: one under the MoI and one under the Ministry of Justice. There is a lack of co-operation between them. The State Police has a national Forensic Centre. The Centre, which is established in Riga, employs 86 police officers. The Centre conducts more complex forms of investigation for which detectives at the regional and local level do not possess the necessary expertise and resources. The Institute from the Ministry of Justice is established in Riga and employs 59 people. It also carries out technical examinations in connection with criminal cases and counterchecks, if the one conducted by the police raises questions among suspects, public prosecutors or judges.

### 3. *Implementing performance*

#### *Agreements on Police co-operation*

It is foreseen that the co-operation agreement with Europol will be concluded by the end of 2002. A National Europol Co-operation Bureau within the Criminal Police Department will start to function when the co-operation agreement with Europol has been concluded. It is envisaged that the number of staff appointed will be 5. Latvia has appointed a police liaison officer to The Hague, and this liaison officer will also be assigned to Europol as soon as the co-operation agreement is concluded.

Liaison officers from Germany, Sweden (also representing other Scandinavian countries), France and the U.S.A are posted in Latvia. Latvia plans to develop its network of liaison officers in the next few years. Police liaison officers will be assigned to Germany (in 2002), Sweden (2003), the United Kingdom (2004), Austria (2005) and Turkey (2006).

# RESTREINT UE

Bilateral co-operation agreements on legal assistance in criminal matters have been concluded with the USA, Canada, Israel, Sweden, Finland, Russia, Poland, Ukraine, Belarus, Moldavia, Azerbaijan, Uzbekistan. Co-operation agreements on the fight against terrorism, drugs trafficking and other forms of organised crime have been concluded with several countries.

## *Organised crime*

New forms of crime are appearing as a result of internationalisation and the development of the market economy. There is also an increase in the brutality of organised crime. The changes in the scale of organised crime in Latvia in recent years have not been uniform. Certain forms of crime have increased sharply while others have fallen slightly. Drug-related crime has increased sharply over the past few years, as well as vehicle-theft. The country's geographic location in respect of Russia tends to encourage certain forms of crime, particularly the smuggling of goods subject to levies and the transit trade in cars stolen in the West. The involvement of Russians in organised crime is a cause for concern. The developments in information technology offer new opportunities for crime. New forms of crime have emerged as a result of the Internet, such as: child pornography, gambling, racism and crimes committed with the aid of information technology (reference is made here to the increase in credit card fraud via the Internet).

Latvia (...) **has advanced in terms of acceding to the relevant international regulatory instruments. However further legislative alignment is necessary. Latvia should continue its efforts to align as soon as possible with the acquis and other international standards on the fight against the misuse of the financial system, in particular money laundering and terrorism financing.** (...) There is a gap between ratification of international legal instruments and the effective fight against organised crime. No notable organisational reform of the departments or major improvement in their efficiency occurred during the past three years. The effectiveness of the Criminal Police needs to be increased. First of all, the investigative capacity is in need of expansion. Secondly, the percentage of cases solved has to increase. Police officers responsible for conducting the investigation must be better equipped to give substance to and steer the inquiry on the basis of the insights acquired. Investments will have to be made in the coming years, in the development of staff skills and knowledge. The approach to organised crime focuses primarily on tackling concrete cases. The approach to organised crime calls for a multidisciplinary approach on the part of the investigative organisation. A bureaucratic and hierarchic organisational culture can encourage compartmentalisation and competition between departments and thus constitute an obstacle to co-

## RESTREINT UE

operation. The capability to perform criminal intelligence analyses is close to nil. No trained personnel, no specific software and a lack of computers are only the top of the iceberg. There is no standardisation of data collection nor specific circuits of data communication. Moreover, the approach toward police work is most of the time purely reactive and the data, when processed, are not exploited with operational ends. The only notable example of the opposite is the Directorate of the State Police of Riga where an analytical department collects and bundles all information from patrols and criminal branches. Legal procedures are time-consuming, not only for the police, but also for the Public Prosecutor's Office and the judiciary. Involvement of the Public Prosecutor's Office in initiating/carrying out criminal investigations should be increased. **Within a PHARE-financed project, Swedish authorities are co-operating with Latvian authorities to enhance the capacity to combat organised crime, including the involvement of the Public Prosecutor's Office.**

*Trafficking in human beings:* Amendments to the Criminal Law were adopted on 25 April 2002 introducing the definition of trafficking of human beings, strengthening measures and toughening punishment against trafficking in human beings. Latvian authorities do not seem to have sufficient insight into trafficking in human beings for the benefit of the sex industry in which Latvian women play a significant part, particularly in the "West". Latvian authorities must increase international co-operation. Extra investments will have to be made in prevention and informing the public. Not only the police should be involved here, other authorities, educational institutions, health and welfare agencies should also play a greater role. More attention must be paid to provide help and guidance to victims of trafficking in human beings. The Nordic and Baltic States have launched a joint info-campaign with the aim of increasing knowledge and awareness among the public about the problems involved in trafficking of women. The joint campaign is being carried out simultaneously in the eight Nordic and Baltic countries presently (2002). In addition to several joint activities, each country is organising national campaigns according to their specific conditions and needs.

*Money Laundering:* As regards money laundering, amendments to the regulations on mandatory reporting of suspicious transactions entered into force in March 2001. The Financial Intelligence Unit (FIU) should be informed thereof. The institutional development of the FIU continues according to the Action Plan (1998-2002). The FIU is the co-ordinating institution which receives, analyses and summarises information about unusual and suspicious transitions. The approach to financial crime is still developing. Control and repression of economic crimes still appears to be largely ineffective. Most forms of financial crime have emerged only recently, so the experience

## RESTREINT UE

and knowledge needed to investigate them are often incomplete. Financial delinquents are making increased use of extremely complex methods that are difficult to trace. Legal constructions and complicated organisational structures render investigations very complex. The limited results achieved so far indicate that efforts of the police and judiciary in money laundering cases needs to improve, procedures accelerated and training in risk assessment enhanced. There are also many different governmental institutions involved in anti-money laundering, and there is insufficient co-ordination between them. Legislation is still too lenient for financial criminals (long delays granted to financial institutions to hand over the requested documents, obligation to send, 3 days in advance, investigation elements to the bank, absence of enforcement of coercive measures, even if the case is investigated by a Judge or a Court). **Better relations should be built between Law Enforcement Authorities and financial institutions.**

*Drugs:* Latvia is party to the main international conventions listed under the *acquis* in the field of drugs with the exception of the 1995 Agreement on Illicit Traffic by Sea. (...) **The draft law for its ratification was submitted to parliament in June 2002.** Drug-related crime remains a significant problem in Latvia; the number of drug users has increased consistently over the last years. In June 2001 the amendments to the Criminal Law entered into force which aim at increasing criminal liability of individuals selling narcotic and psychotropic substances to minors. The amendments also introduced criminal sanctions for illegal purchase or storage of small quantities of drugs. Latvia has continued to implement its Drug Control and Drug Prevention Strategy for 1999-2003 covering both demand and supply reduction. In order to evaluate and amend the National Strategy for Drug Control and Drug Abuse Prevention 1999-2003 in line with EU Drugs Strategy and Action Plan (2000-2004), an Action Plan for 2002-2006 is being prepared. The Drug Control and Drug Abuse Combat Prevention Co-ordination Commission co-ordinates Latvian drug policy. At the political level, the Commission defines the national guidelines for the policy and supervises its implementation. Supervision of the Co-ordination Commission has been transferred to the Prime Minister in order to reinforce the role of all ministries involved apart from the MoI. Latvia has established a National Focal Point for co-operation with the EMCDDA **which was to become fully operational in August 2002; a co-ordinator has been appointed, and the necessary legal and institutional framework is expected to be in place by the end of '02. It will be ready to produce a first report in November '02.** The current ad-hoc staff of 6 persons will be increased to 8 persons. The budget for 2002 of 92.000 € would be increased to 100.000 € in 2003. The Drug Enforcement Bureau (DEB) of the Criminal Police Board with a staff of 75 officers is the main responsible and co-ordinating institution in the area of drug enforcement. The (DEB) has also been

## RESTREINT UE

involved in organising training activities for police, border guards and customs officials as well judges (60) dealing with drug-related issues. The Criminal Police Division of the Riga City Police is another unit of the State Police involved in drug enforcement with a staff of 25. The State Border Guard is involved in anti-drug activities connected with border checks and border surveillance. There is a special Anti-Drug Subdivision in the National Customs Board headquarter as well as a customs officer in each Regional Enforcement Division responsible for combating smuggling of drugs.

*Terrorism:* Latvia has associated itself with the conclusions of the Extraordinary European Council on 21 September 2001. Latvia signed the 1999 United Nations Convention for the Suppression of the Financing of Terrorism in December 2001 [*Convention was to be ratified July 2002*].

*Crime prevention:* The recent evolution of the crime rate is low (+ 1,8% between 2000 and 2001 as compared to + 14% between 1999 and 2000). However, an analysis of the statistical information-gathering system calls for caution **as the proportion of silent and unreported crime is unknown.** (...) Beside the repressive approach to crime in Latvia, there are intentions to develop a preventive approach. In recent years, various projects aimed at combating specific forms of crime were realised: juvenile delinquency, drug use and specific crimes against property such as burglary and car theft.

In 2000, 55,8% of the population was Latvian and 32,3% Russian. In Latvia, the multicultural society in its broadest sense is not a policy topic, either for the government or the police. There is no evidence of any special policy relating to minority groups. From the police's perspective, there seems to be no awareness of working in a multicultural society. The Police should formulate a policy on how to deal with minorities in their country. The first step towards this is to explicitly draw up a policy programme in this field

### b) Customs

#### 1. Formal acquis

(...) Latvia already applies the co-operation foreseen in Regulation (EC) 515/97 in the framework of the Mutual Assistance Agreements. Latvia will prepare the necessary amendments to its legislation



# RESTREINT UE

by end 2002 in order to be able to accede to the *Naples II Convention* by the time of accession. **The EU should be informed if Latvia has any reservations to the Naples II convention.** With regard to special forms of co-operation, i.e. hot pursuit and cross-border surveillance, bilateral agreements with neighbouring countries Estonia and Lithuania will be concluded in 2003. Provisions on joint investigation teams as well as on controlled deliveries will be incorporated in the new Criminal Procedure Law, expected to enter into force on 1 January 2004. The Customs Code of Ethics was adopted on 25 October 2001 based on the model of the World Customs Organisation.

## 2. *Administrative capacity*

**Modernisation of the Customs Service is based on the Customs Business Strategy for the years 2001-2005. Additional financial resources have also been granted for the recruitment of 39 new staff-members of the National Customs Board.** In relation to border management, Latvia has continued its efforts, particularly at the eastern land borders. However, these facilities now need to be properly equipped. Latvia should continue its efforts, to combat customs fraud and economic crime, in particular concerning smuggling and counterfeit goods, and. to reduce waiting times at the borders

## 3. *Implementing performance*

An Action Plan for prevention of corruption was adopted on 18 April 2001. The Internal Audit Division has started developing a Quality Management System at customs offices. In 2001, 15 internal audits and 77 inspections were carried out. In total, disciplinary measures were applied to 161 person in 2001, including 4 dismissals. A system of rotation of officials exposed to high risks of corruption has been introduced.

Latvia signed 16 mutual assistance agreements. Customs has concluded 19 Memoranda of Understanding with different organisations and associations, e.g. airlines companies, ministries, carriers, ports, export associations, shipping agents, etc. which aim to improve co-ordination in combating smuggling and fraud.

Customs intelligence capacity is quite underdeveloped, and can be described as reactive rather than proactive. Long and medium term analysis as well as strategic analysis must be improved. Still missing is a 24 hour central intelligence base with access to different databases and an own customs

# RESTREINT UE

intelligence database. Co-operation between customs and police, although improved, is still very poor. There is no real exchange of information or co-operation; they can be working on the same case without knowing it. **The capacity of the customs service to combat drugs smuggling remains weak and very few seizures are made. Latvia particularly needs to increase its capacity to fight drug trafficking by strengthening the administrative capacity of its law enforcement services. Training of officials should continue, particularly regarding risk analyses, controls of drugs and precursors, special investigation techniques such as controlled deliveries, cross border surveillance, hot pursuit and joint special investigation teams. No new developments can be reported in the area of Customs IT interconnectivity. Latvia needs to focus further efforts on providing the necessary human and financial resources and management structure to make progress on computerisation in the customs area.**

#### *4. Summary (Police and Customs)*

The positive development in the field of data protection will have to be sustained, in particular regarding the capacity and independence of the State Data Inspectorate. There is still some mistrust between the police and the public, which has only limited confidence in the police. Police officers are underpaid. Latvian authorities have introduced several modifications in central administrative structures, which aim to render the fight against crime more effective. However, police structures still need to be further streamlined and made more effective in combating crime. Low salaries and poor working conditions hamper recruitment of qualified staff for specialised services. There is a shortage of hardware, software, databases and technical personnel particularly at operational level. The equipment used by the criminal police needs to be expanded. The co-operation agreement with Europol will be concluded by the end of 2002. Latvia plans to develop its network of liaison officers in the next few years. The effectiveness of the Criminal Police needs to be increased. The approach to organised crime calls for a multidisciplinary approach on the part of the investigative organisation. Legal procedures are very time consuming. Latvian authorities do not seem to have sufficient insight into the trafficking in human beings; there is a clear lack of experience and knowledge in this field. The limited results achieved indicate that police and judicial efforts need to be improved. The number of drug users has increased consistently over the last years. There is no evidence of any special policy relating to minority groups.

# RESTREINT UE

(...)

**Latvia should adopt further amendments to its criminal law to align to the UN Cybercrime Convention, and the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of Proceeds from Crime.**

## E. Justice

### 1. *Formal acquis*

Latvia has ratified most of the JHA Conventions<sup>1</sup> and is further aligning its criminal legislation to the (future) *acquis*. Amendments to the present Code of Criminal Procedure, which concentrate on the principle of judicial co-operation, internal proceedings and division of competence between authorities and which implement several requirements of EU Conventions, were foreseen to enter into force on 1 June 2002<sup>2</sup>. The new Criminal Procedure Law, which should align Latvia's legislation with the relevant EU provisions in the field of judicial co-operation in criminal matters<sup>3</sup> should have been submitted to the Government in June 2002<sup>4</sup>. After its adoption in Parliament, it is expected to enter into force on 1 January 2004. The new Articles in the Criminal Law on trafficking in human beings which bring Latvia's legislation in line with the UN Convention against Transnational Organised Crime are foreseen to enter into force in 2003. Information on Latvia's state of play with regard to a number of Joint Actions<sup>5</sup> is needed. Latvia has ratified the 1977 Convention for the Suppression of Terrorism. Latvia has signed the UN International Convention for the Suppression of the Financing of Terrorism (1999) and its ratification was foreseen for July 2002<sup>6</sup>.

With regard to Data Protection, Latvia has not yet signed the Additional Protocol regarding supervisory authorities and transborder data flows. Some amendments to the Law on Personal Data Protection, extending the application to the police sector, were expected to enter into force in July

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<sup>1</sup> A number of instruments remains to be signed (the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters, the European Convention on the International Validity of Criminal Judgments) or ratified (the Additional Protocol to the Convention on the Transfer of Sentenced Persons, the 1995 Agreement on Illicit Traffic by Sea, implementing Art. 17 of the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances).

<sup>2</sup>this needs to be verified

<sup>3</sup>mutual legal assistance, extradition, transfer of proceedings, judicial co-operation under Schengen

<sup>4</sup>this needs to be verified

<sup>5</sup>making it a criminal offence to participate in a criminal organisation, Racism and Xenophobia

<sup>6</sup>this needs to be verified

# RESTREINT UE

2002. Further amendments to the Law, which should strengthen the independence of the Data State Inspectorate and fulfil the requirements of the relevant EC Directives, are under discussion in the Parliament.

Despite difficulties of implementation, Latvia's rate of ratification of international JHA instruments is satisfactory.

## 2. *Administrative capacity*

The main deficiency is that the Ministry of Justice is seriously underfunded<sup>1</sup> and that the administrative capacity is low -even compared to other Ministries. **However, steps have been taken to improve the administrative capacity of the Ministry through co-operation with Sweden and with the Latvian State School of Administration.** The Ministry has an annual average staff turn over of +/- 70%. The budget was foreseen to increase (i.e. a larger share of the state budget) but this has not come about. Two thirds of the personnel is under contract<sup>2</sup>, usually law students who leave the Ministry for the private sector right after graduation.

Further, the number of judges in Riga is too small and their training is insufficient. Within the region of Riga, there is a persistent backlog of pending civil and criminal cases, although the trend shows that this is receding. At the end of 2001, the total number of pending criminal court cases amounted to 6.278<sup>3</sup> and of pending civil cases to 24.529<sup>4</sup>. Independence of the judiciary is insufficiently guaranteed<sup>5</sup>. In order to tackle this, wages -which compared to the private law firms are low- and social guarantees should improve substantially. With regard to the judiciary's workload and administrative structures, the insufficient material resources constitute a problem. The backlog of court cases (...) shows that the administrative capacity of the **court system** has to be further strengthened. **The lengthy pre-trial detention periods show that the administrative capacity of the prosecution services needs to be strengthened.**

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<sup>1</sup>eventhough the budget for the Ministry of Justice increased in 2002 to 28.5 million LVL (compared to 25.8 million in 2001)

<sup>2</sup>i.e. not a professional civil servant

<sup>3</sup>5.906 in 2000

<sup>4</sup>24.467 in 2000

<sup>5</sup> viz. Implementing performance

# RESTREINT UE

The administrative support staff (deputy judges and court session clerks) needs to be increased<sup>1</sup> in order to ensure a proper quality of judicial performance. The Ministry of Justice has prepared a detailed budget request for 2003 to employ the necessary judges and clerks.

*Training* of judges is provided by the Judicial Training Centre within the special Training Programme 2000-2002. It includes *inter alia* Civil Law and Process, Criminal Law and Process and Human Rights. **Training of judges has further been provided by a number of foreign institutes and organisations.** Moreover, a training project with Sweden **was completed in July 2002**, including training in legal English and in **civil**, European and international law. The State Budget for the Training Centre increased **substantially** in 2002<sup>2</sup>. (...) Recruitment of qualified personnel is still a problem due to uncompetitive salary levels (although gradual adjustments were applied). The need to train personnel is considerable. Information on training of prosecutors is needed.

As to *a satisfactory statute for judges and prosecutors and favourable working conditions*, remuneration for the work of prosecutors is linked with the remuneration of judges<sup>3</sup>. Although the salaries are among the highest of civil servants, they are too low to attract able legal professionals. Also, inadequate remuneration may affect the judiciary's independence. However, a new concept for the remuneration of judges and other court personnel which creates the possibility to increase wages has recently been worked out. Although the concept remains to be adopted by the Cabinet of Ministers, its financial implications have already been included in the list of budgetary priorities for 2003. Further, amendments to the Law on Judicial Power which entered into force in January 2002 ensure that judges receive the same social guarantees and benefits as civil servants, including compulsory life and health insurance provided by the state.

As to *a high level of transparency within the court system, including access to previous judgments*, access to case law for the judiciary is provided in various ways and seems satisfactory. Free access to all case material is granted only to participants in the case. Opinions in civil and criminal cases are pronounced publicly, except those which have been decided in closed hearings. The general public has access to judgements (only) after these have come into force. Information on whether a title of execution has been issued and on progress regarding execution of judgements in civil, criminal and administrative cases is accessible to all persons.

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<sup>1</sup>by respectively 29 deputy judges at the regional courts, 39 deputy judges at the district courts and 68 clerks

<sup>2</sup>from LVL 40.000 in 2001 to LVL 60.000 in 2002

<sup>3</sup>equalling 90%-95% of the latter

# RESTREINT UE

There are still many shortcomings with regard to *equipment* in lower instance courts. The judicial system still needs considerable improvement concerning premises and technological facilities. A renewal of the court buildings in Riga in order to accommodate 3 Riga District courts in one building is expected to be completed by November 2002. Construction of a court house in Daugavpolis is also underway. The development of the Unified Judicial Information System -to modernise the judicial information support- started in 1998. The project should be implemented by December 2006. So far, all Regional Courts and 30 District Courts have been provided with local computer networks. All prosecutor's offices are equipped with computers which are linked to the Internet and have access to the databases of other institutions including law enforcement agencies. A database of criminal cases is (being) established in the prosecutor's office and should be operational soon.

### *Efficient international judicial co-operation bodies, with sufficient human and material resources*

The Ministry of Justice is designated as the central institution for execution and co-ordination of legal assistance requests. The unit -which is subordinated to the Courts' Department- is staffed with 3 senior experts but the number of staff is foreseen to be increased by 2004. As to *direct contacts* between judicial authorities, the Criminal Code of Procedure provides that, for criminal judicial co-operation purposes, a Latvian competent authority may agree with a foreign competent authority to arrange and support direct communication. Latvia has established contacts with both Eurojust and the European Judicial Network. Within the Prosecutor General Office, representatives of the special unit dealing with international judicial co-operation are in charge of the co-operation.

Concerning Personal Data Protection, efforts have been made to strengthen the administrative capacity of the Data State Inspectorate and its budget grew considerably in 2002<sup>1</sup>. Also, the number of staff increased to 17 in 2002 (was 10 in 2001).

### **3. *Implementing performance***

The main identified shortcomings are the poor enforcement of court decisions in civil matters, the backlog of court cases, the lengthy periods of pre-trial detention without judicial control (especially regarding minors) and last but not least, independence of the judiciary is insufficiently guaranteed. In order to improve the situation, at least a number of legislative changes are necessary, i.e. the

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<sup>1</sup>From 176.376 EUR in 2001 to 400.001 EUR in 2002

## RESTREINT UE

adoption of the Law on Sworn Court Bailiffs, of the amendments to the Law on Criminal Procedure and of the amendments to the Law on Judicial Power.

The main reform areas of Latvia's *Development Programme of the Judicial System 2001-2006* are the strengthening of the independence of the courts and of the effectiveness of the court system, the speeding up of court proceedings, execution of court judgements, the modernisation of courts and the training of judges. In order to create a more effective judicial system, 5 sub-objectives are aimed to be achieved (monitoring the length of case proceedings; the elaboration of amendments to laws; enhance the prestige of court work; decrease the opportunities for corruption at courts and an improvement of the quality of court proceedings).

The Act on Judicial Power sets out the principles of *judges' independence*. The Ministry of Justice does not influence judges in order to obtain any results in court proceedings. However, it retains extensive authority over the judicial administration, finances and partly over judges' career paths. (...) The Law on Prosecution Office contains a special Article on *independence of prosecutors*<sup>1</sup>.

However, in order to support the judiciary's independence, the Development Programme plans to establish the Judicial Administration. This new body's main tasks will be *inter alia* the organisational management and development of the judicial system (including preparation and administration of the court budget) and the development of training programmes for judges and court personnel. A decision on the establishment of the Administration, including on its staff and budget, is foreseen to be taken later in 2002 (more specific information needed).

One worrying situation is the fact judges' independence is endangered by criminal threats. The first murder of a judge took place in October 2001. According to assertions from officials, his murder was (probably) a work-related contract killing. Further, although *impartiality and integrity of the judiciary* are guaranteed by law, (...) an improvement of the judiciary's wages and social guarantees may further guarantee its independence.

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<sup>1</sup> It is recalled however, that independence of prosecutors is not part of the *acquis communautaire*.

# RESTREINT UE

Concerning *appointment and selection*, both prosecutors and judges are appointed to their position on the basis of professional and ethical criteria<sup>1</sup>.

(...)

## *Internal control mechanisms*

Disciplinary cases on administrative misconduct by judges are considered by the Judges Disciplinary Collegium. The Act on Judges' Disciplinary Responsibility regulates the procedure to be used for initiating a case. The Collegium consists of 11 members<sup>2</sup> and is chaired by the Chairman of the Supreme Court.

## *(Objective) Distribution of work*

The Ministry of Justice's instruction on case assignment took effect for the district and regional courts in January 2001. Flaws in the distribution of work were not reported.

## *Code of Ethics*

A Code of Ethics for judges exists since 1995. A violation is taken into account in disciplinary proceedings, which are reportedly effective. The Code will probably be amended in March 2003. A Code of Ethics for Prosecutors exists since 1998. Further, the Law on Prosecution provides for disciplinary liability in case of non-observance of norms determined by the Code. A prosecutor may be called to disciplinary responsibility for *inter alia* intentional breach of law when performing office duties, administrative misconduct and disregard of rules defined in the Code. From 2000 to 2001, six prosecutors were subject to disciplinary actions for violations.

## *Confidence of the public (including efficiency and trustworthiness of the judiciary)*

Each month, official public opinion polls on trust in different institutions are conducted<sup>3</sup>. Data from May 2002<sup>4</sup> show the rating of -15.8 for the Judiciary<sup>5</sup>. Eventhough many judges -although hampered by practical shortcomings- work seriously, public confidence in justice is generally low. Also, there is a public perception that corruption is not infrequent. From time to time, media reports about cases of corruption or abuse of influence.

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<sup>1</sup> For details on the appointment procedures and selection criteria, viz. Analysis Justice Latvia

<sup>2</sup> elected by the Conference of Judges

<sup>3</sup> by the agency 'Latvijas Fakti

<sup>4</sup> on a scale of -100 to +100

<sup>5</sup> in comparison: Tax Administration -17.2 and the Police at +4.7



# RESTREINT UE

## *Criminal Law and Procedure*

In general, the principles of the rule of law and human rights are respected in all proceedings within the judiciary. However, the length of criminals trials is a permanent problem and there is no judicial control of detention, an issue which is essential to avoid violations of human rights.

The main emergency is to reform the Criminal Code of Procedure. Although its reform started already in 1994, today no viable text is yet in view despite many public declarations and the present Code is still based on the former Soviet Code. It currently contains more amendments and patches than original items and is said to be unreadable, even for judges (whose legal training is reportedly often poor). Another problem is that the Code enforces principles that severely hamper the operation of the criminal police. A practical example is the conflicting situation of separation between the investigating and arresting services, and between the investigating and interviewing services.

The judicial relationship between the prosecutor's office and the police is also unclear. Further, because of the independence of the prosecutor's office, there is insufficient co-ordination with the judiciary.

Uniform implementation of the laws in criminal procedures must also be improved. The Ministry, aware of this need, is examining instruments and procedures to improve this situation. Better training of judges would be one important measure in this respect.

## *The courts' handling of criminal cases*

The main problems are the long delays of trials and the (too) long pre-trial detention periods. **The latter problem is linked to the weak administrative capacity of the prosecution services.** Also, a large number of the criminal cases which reach the Prosecutor General's Office are not pursued. Experienced Latvian experts/commentators states that possibly as much as 75% of cases which get this far are then quietly put aside for non-judicial reasons. Questionmarks are put to the very high rate of dismissed cases on the grounds of lack of evidence, especially in severe criminal matters (assassination, high level financial crime). Even taking into account the low efficiency rate of the criminal police as regards handing over of evidence, the gap between police and actual court sentences is considerable. The problem is worsened by the afore-mentioned unclear relationship between the prosecutor's office and the police and separation of services.

## RESTREINT UE

*The respect of 'reasonable delays' (ECHR Art. 6) for judicial procedures (incl. pre-trial detention, particularly as concerns minors)*

In order to reduce the length of court proceedings, amendments to the Code of Criminal Procedure entered into force in July 2001. These provided for a more coherent separation in the geographical jurisdiction and ensured a uniform case distribution among the district and regional courts. It also permitted case transfer from one court to another in the same instance. The new rules have also been used to shorten proceedings in juvenile cases. Given the large number of cases under consideration in the Riga Regional Court, a number of cases will be transferred to other regional courts in November 2002. The average length of court proceedings in criminal matters is +/- 5 months.

(...)

**The Criminal Procedure Law is outdated and urgently needs to be changed. Efforts are underway to improve the Criminal Code, but progress is very slow. Apart from the overload of the judicial system and the weak administrative capacity of the prosecution services, specific provisions of the Code are also responsible for the huge number of pre-trial detainees. Detainees -including juveniles- awaiting trial spend an average of 2 years in prison, and many of them even much longer. The lack of alternatives to pre-trial detention provided for in the Code<sup>1</sup> and narrow discretionary powers of judges give judges only one alternative means of penalty (viz. Ch. Human Rights for more information on pre-trial detention).**

*Effective access for all citizens to justice including the right to defence and the existence of an effective system of legal aid (including civil matters)*

Free legal aid in criminal trials is provided and lawyers are available. However, excessive fees which are charged because of the lack of a regulation on fees impede many persons. A regulation about lawyers' fees and bar rules is needed. In civil matters, poor parties can be exempted from court costs, but a system to provide legal aid by a lawyer is (currently) lacking.

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<sup>1</sup>such as conditional suspension of prosecution with a probation period

# RESTREINT UE

## *Civil Law and procedures*

The Civil Code has remained unchanged for the last three years. Several amendments are currently pending in Parliament. The Code of Civil Procedure was adopted in October 1998. Several amendments entered into force in July 2001 (e.g. adoptions, insolvency, rights of representation) and a number of amendments should be submitted to the Cabinet of Ministers by September 2002 and enter into force at the end of 2003. They should introduce simplified court procedures including procedures for warning and judgement by default.

## *Length of court proceedings, procedural delays, the quality of decisions*

In the first instance courts, 92% of the civil cases are heard within 1 year. For the first instance of regional courts the number is 73% and in the appeal instance the percentage of civil cases heard within 1 year is 94. The quality of decisions is still affected by inadequate training and/or lack of specialisation. The poor acknowledgement of evidence and inexperience with difficult law terms cause a poor acceptance of legal decisions by the public, though in most cases professionals agree with the results.

Regarding *alternative methods of dispute solving*, a well functioning arbitration procedure does exist. The Civil Procedure Law contains settlement provisions, but they are not frequently used in practice.

## *Practical, effective enforcement of court decisions*

At present, bailiffs are not adequately educated and trained. Moreover, (effective) enforcement of court decisions suffers from the fact that a Law on Sworn Court Bailiffs is still pending in Parliament even though its first reading took place in June 2001. Today, 60-70% of all civil judgements are not enforced.

The new Law was expected to enter into force on 1 July 2002 (this needs to be verified). It defines sworn court bailiffs as a free legal profession though in terms of executing court decisions they should be compared to state officials. It aims to ensure a high quality of court judgement execution and to enhance the role of the bailiff in the judicial system. After its entry into force, the functions of the (present) Court Bailiffs Department of the Ministry of Justice will be taken over by the Sworn Court Bailiffs Council. Its main duties are to make recommendations on the appointments and removal from office of court bailiffs and their deputies, to consider complaints filed against

## RESTREINT UE

bailiffs and impose disciplinary penalties, and to organise the deputies' training. Supervision of bailiffs is done by the district court of the region where the bailiffs' office is located.

### *Effective protection of personal data*

Privacy and data protection are considered not to be enforced at the level of European standards. Many data base operations are conceded to the private sector without any efficient control. "Black boxes", operated by state security services beyond any official control, are installed within the technical infrastructures of telecommunication operators. Further, the capability to perform criminal intelligence analyses is lacking. There is a lack of trained personnel, specific software and of computers. Beyond the strong will not to communicate operational information between competing departments, there is neither standardisation of data collection nor specific circuits of data communication. Moreover, the approach of police work is, most of the time, purely reactive and the data, when processed, are not exploited with operational ends.

### *Effective system of witness protection*

The implementation of witness protection is based on special amendments to the Criminal Procedure Code and the Law on Police Intelligence Activities. This Law describes protective measures including physical protection, change of residence, change of identity and other. Protective measures can be taken before (as an exception), during and following proceedings. Currently the system -taking into account the limited resources to implement the law- is effective.

### *Judicial co-operation in criminal and civil matters*

Judicial co-operation in criminal law matters is generally good though sometimes delayed. The practical implementation of the Extradition Convention is reportedly good.

However, problems of enforcement and implementation of some JHA Conventions exist, especially **in relation** to crime and money laundering. The difficulties stem either from the lack of specialised enforcement personnel (police and justice), or when the departments exist, inter-departmental competition and a lack of co-operation between sections. Examples of poor implementation include the investigation of a series of money transfers related to Muslim fundamentalist terrorism, investigation of cases of pirated bankcards and series of related cases<sup>1</sup> involving one state department used for police investigations. Poor results were obtained in some cases, even when judges or criminal departments from at least one EU Member State were leading the case with

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<sup>1</sup>cross-border trafficking, assassination of a high level civil servant

# RESTREINT UE

cleared International Rogatory Letters<sup>1</sup> (International Execution Warrant). The problems are considered to arise from the fact that the implementation of legal texts is limited by the very long legal drafting process, and the multitude of amendments that many lobbies (bank, oil, real estate, wood, industry, commerce) will propose and pass at the Parliament in order to reduce the coercive powers of the document.

Judicial co-operation in civil law matters is reportedly good though sometimes slow. The authorities are co-operative. At present, no bilateral agreement exists with EU Member States regarding the execution of judgements. The Lugano Convention remains to be ratified by Latvia.

## 4. Summary

Latvia has ratified most of the JHA acquis and the necessary amendments to the Code of Criminal Procedure are in the process of being adopted. Further alignment of legislation in the field Data Protection is also necessary. Latvia's rate of ratification of the international JHA instruments is satisfying.

The administrative capacity of both the Ministry of Justice (including the unit responsible for judicial co-operation) and the judiciary (judges' administrative support staff) needs to be reinforced. Despite the prospective of an increased share of the state budget, the Ministry of Justice remains seriously underfunded. The backlog of pending and criminal cases remains considerable, (...) training of the judiciary and judicial personnel needs to be increased as do wages and social guarantees in order to guarantee the judiciary's independence. Further, insufficient material resources (premises, technological facilities) constitute a problem.

Regarding implementing performance, the main identified shortcomings are the poor enforcement of court decisions in civil matters, the backlog of court cases, the lengthy criminal trials and too long periods of pre-trial detention without judicial control (especially regarding minors) and last but not least, the insufficiently guaranteed independence of the judiciary. This situation should improve *inter alia* through a number of (foreseen) legislative changes and the Judicial System Development Programme. (...) Confidence of the public in justice is generally low and the perception exists that corruption is not infrequent. The judicial relationship between the prosecutor's office and the police

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<sup>1</sup>banking institutions were targeted by the investigation and in spite of a formal request to act by the foreign investigators non-execution followed

# RESTREINT UE

is unclear, and there is insufficient co-ordination between the prosecutor and the courts. Uniform implementation of laws in criminal procedures must be improved. The Code of Criminal Procedure urgently needs to be reformed, as the present Code is unreadable and severely hampers the operation of the criminal police. Another problem is the fact that a large number of criminal cases are not pursued, for non-judicial reasons. Access to justice is hindered by the excessive lawyers' fees and the lack of a regulation thereon. **The poor enforcement of court decisions in civil matters should improve with the entry into force of the new Law on Sworn Court Bailiffs.** Privacy and data protection are not enforced at the level of European standards. **Judicial co-operation in criminal matters (e.g Extradition) is generally good.** Yet, regarding enforcement and implementation of judicial co-operation in **relation** to crime and money laundering, several difficulties exist. These stem *inter alia* from the lack of specialised enforcement personnel, inter-departmental competition and a lack of co-operation between sections. Judicial co-operation in civil law matters is good though sometimes slow.

## F. Human rights

### *Formal acquis*

Latvia has ratified the main European human rights related *acquis* and in general its legislation is in line with international human rights standards. The Framework Convention for the Protection of National Minorities and Protocol N° 12 to the ECHR remain to be ratified.

Regarding EU *acquis* on asylum, the Parliament has adopted a new Asylum Law which will come into force in September 2002. Further, the Cabinet of Ministers introduced in March 2002 new regulations on "Forced expulsion order of Aliens and Stateless Persons". The Government is currently preparing a new Immigration Law, which is expected to be adopted by the end of 2002.

### *Administrative capacity*

The main problem within the judiciary and police is that there is still a lack of understanding -at all levels- of the concept and meaning of human rights. Therefore, training/education in both areas is still needed. Apart from the need to train on human rights, most judges lack adequate judicial training and knowledge about new legislation and international law. **One positive development has been a training project for judges on human rights issues which has been going on since 2000; in total 274 judges have taken part in it<sup>1</sup>.** Also, a new human rights manual for judges is being drafted.

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<sup>1</sup> More than half of the Latvian judiciary.

# RESTREINT UE

The Police is also being trained on human rights issues. However, the number of complaints received by Latvian human rights offices shows that more education is still necessary. The Principles of Police Ethics, which have been prepared by the State Police, were expected to be adopted in July 2002 (this needs to be verified<sup>1</sup>).

(...) The shortage of judges is one of the reasons that the courts are overloaded (to the point where the average case takes 2 years to reach judicial review). Further, there is a shortage of (qualified) lawyers.

In general, prisons are understaffed. **Employees on management and middle management level are fairly well educated, but on lower level more needs to be done although progress has been made during the last years.**

## *Implementing performance*

Although in general human rights are respected, implementing problems remain in certain areas.

One positive development concerned the implementation of several measures to facilitate the naturalisation of Latvia's large non-citizen population. While the number of non-citizens in Latvia remained huge and decreased very slowly, the authorities took several steps in 2001 to promote naturalisation<sup>2</sup>. Most of the decrease derived from deaths or emigration; only 10.637 became citizens through naturalisation. Since the beginning of the naturalisation process in 1995, slightly fewer than 50.000 individuals have become citizens through naturalisation.

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<sup>1</sup> In October 2002, there was no information yet on the information site of the Latvian State Police about legislation that had been adopted after June 2002

<sup>2</sup> In 2001, the number of non-citizens decreased from 551.064 at the beginning of the year to 523.095 (22% of the total population) on 31 December.

# RESTREINT UE

## *Asylum/refugees*

Since 1998, only 8 persons were granted a Refugee Status in Latvia while 100 applications were received. These numbers are considered to be due to the narrow definition of a refugee taking into account only the 1951 Geneva Convention and the 1967 Protocol. The new Asylum Law broadens the definition of a refugee by introducing temporary protection and alternative protection. It further provides for the possibility to review asylum applications at the border. Thus, border guards are given competence to reject asylum seekers if their applications are deemed groundless. It is unclear whether the border guards are capable of making such a judgement. Asylum seekers treated in accordance with this procedure are left with a time limit of only 1 day to file a complaint of rejection.

The new laws, which comply with the EU *acquis*, may improve human rights situations where necessary. For example, NGO's have been complaining about the situation of persons detained in the Olaine refugee camp, i.e. insufficient food and medical care. Another problem is the fact that the camp is located in the same premises as Olaine's open prison centre for prisoners receiving TBC treatment. In several cases detainees have spent months -in few cases even years- in the camp. Complaints about not receiving legal assistance are also common and there are no activities whatsoever provided to children in the camp. However, the signing of a new co-operation agreement between the Latvian Red Cross, Border Guards and Foreigner's Association -which aims to provide social and legal assistance to detainees in the Olaine camp- is a positive step.

## *Judiciary and Police*

The main problem in this area is the implementation of legislation. Misuses, misreading, misinterpretation and misunderstandings of the laws are frequently reported phenomena, at all levels of society. Legal mechanisms for the implementation of human rights gained importance in 2001 as the European Human Rights Court began to consider claims filed by Latvian residents and the Latvian Constitutional Court began to consider claims filed by individuals

Furthermore, corruption poses a serious problem to the judiciary. Despite ongoing reform of the judicial system, more and better education and training of members of the judiciary and law enforcing entities is needed.



# RESTREINT UE

## *Pre-trial detention*

Pre-trial detention periods<sup>1</sup> continue to be too long. The share of pre-trial detainees on the total number of prisoners amounted to 43,6% in April 2002, compared to 44% in 2001. Lengthy periods of pre-trial detention are particularly problematic for minors, although figures are improving. The share of pre-trial detainees among juvenile prisoners decreased from 70% in 2001 to 63,4% in April 2002. In order to shorten the pre-trial detention period and simplify the procedure of court proceedings, an amendment to the Code of Criminal Procedure is being made. Though it was foreseen to be submitted to the Government in June 2002, at the end of September, the Law was still in the drafting stage. After its adoption in Parliament, the new Law is expected to enter into force on 1 January 2004. The new Law will maintain the provisions on pre-trial detention (allowing pre-trial detention for 2 months with the possibility to extend to maximum 18 months for adults and 6 months for minors). However, the new Law provides for a broader selection of measures which can be imposed through a fast-track procedure and which offer alternatives to detention as well as the possibilities for faster completion of investigations through simplified proceedings. It further provides for a maximum length of detention during the court proceedings adjusted to the severity of the crime prosecuted. The maximum length of pre-trial detention and court proceedings can normally not exceed 24 months. Finally, the Law should introduce a control mechanism for judicial control of detention.

The dealing with minors is still unsatisfactory, i.e. the afore-mentioned excessive pre-trial detention in institutions where also adults are held and the (current) lack of specific legislation about criminal procedures against minors. Education is not always provided for juveniles, who may be in pre-trial detention for considerable periods of time. Within the framework of negotiating chapter 24, the EU has urged Latvia to avoid as much as possible lengthy pre-trial detention for juveniles.

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<sup>1</sup> However, it is unclear and remains to be checked which period of time is covered. Probably the Latvian figures take into account the time until non-appeal ability is reached (the end of proceedings in the highest instance). European figures often take into account only the time until the proceedings in the first instance starts.

# RESTREINT UE

## *Mistreatment*

**Conditions of police detention remain a cause for concern. Further,** both NGO's and the Latvian Human Rights Office received complaints about members of the security forces, including police and other MoI personnel, using excessive force and mistreating persons during investigations and interrogations. The report<sup>1</sup> of the CPT visit in 1999 noted that "in some cases, the ill-treatment alleged (...) could be considered as amounting to torture". The number of complaints and evidence about the police using harsh and non-human methods during questioning and investigations has been rising. Although the burden of proof is not clear in all cases, there have been clear and proven cases of breaches. The police has recently admitted that these problems exist and stated that measures are being implemented to improve the situation.

Although a *complaint procedure* on police abuse exists, the procedure is dealt with by police itself so complaints must be filed with the Police Investigation Administration. Though the latter is supposed to investigate the complaints in an objective and exact way, most cases are turned down on the grounds of lack of e.g. witnesses or evidence. During 1995-2002, only one case has been solved in favour of a complainant.

## *Equal treatment/racism*

In general, the situation does not give rise to major concern. However, there have been some complaints from Roma about not being treated equally by the police. Further, claims by women and human rights groups state that the legal system tends to downplay the seriousness of e.g. domestic violence<sup>2</sup> and that the police are reluctant at times to make arrests in such cases. Women who are victims of abuse often are uninformed about their rights and the police do not compile figures for domestic violence as a distinct category.

## *Rights of the child*

The UN Committee on the Rights of the Child, after reviewing Latvia's initial report on steps it had taken to implement the Convention, made several recommendations. These include more child-friendly circumstances of investigation in cases of domestic violence, ill-treatment and (sexual) abuse of children, recommendations related to sexual exploitation and trafficking of minors<sup>3</sup> and issues such as long pre-trial detention periods for minors and the need for rehabilitation

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<sup>1</sup> which became public in 2001

<sup>2</sup>of which the number of cases is apparently significant and under-reported

<sup>3</sup>including programs to prevent and combat the phenomena and to rehabilitate and reintegrate the victims

# RESTREINT UE

programmes for children dependent on alcohol or narcotics. In April 2001, the first centre for child victims of violence was opened in Riga.

*Conditions for detainees, including the notification of custody, the right to a lawyer and medical care*

In general, more funds are needed to improve prison conditions and the educational situation. It is considered that European standards will not be reached in the foreseeable future.

**At the same time, it should be noted that clear progress has been made in a relatively short time. Prison standard, the education of the staff and the general attitude between detainees and the staff has improved. Sweden, Finland and Norway all participate in concrete twinning projects with Latvian prisons and their training centre for prison staff in order to improve the situation further<sup>1</sup>.**

Although some progress was made in renovating old and unsafe prison facilities<sup>2</sup>, in general prison conditions remained poor. Overcrowding is still a problem, particularly in those facilities which house prisoners awaiting trial. Unlike convicted criminals, persons in pre-trial detention (including juveniles) are not allowed to work or go to school, have limited contact with outside NGO's or family, and suffer from considerably worse living conditions than prisoners in general. Equally, contacts with legal representatives are severely restricted. (...)

Every person has the right to hire a lawyer. However, the system of legal aid counselling does not exist which places indigent persons in a vulnerable situation. Although a council of voluntary lawyers has been established, in general, there is a shortage of lawyers and voluntary lawyers are not very committed to the cases they work on. Another problem is that people are often unaware - due to lack of information on their rights- of the fact that they have the right to hire a lawyer. **However, it is worth mentioning that the Government has started information broadcasts on television in order to provide the public with information about the law and the legal system.** The State is obliged to provide legal assistance for disabled and handicapped persons and minors and lends funds to indigent defendants to be able to hire an attorney.

<sup>1</sup> These efforts are coordinated through the "Nord-Balt Prison Project Steering Group" of the Council of Europe.

<sup>2</sup> During 2001, the renovation of decrepit detention facilities in the framework of the Public Investment Programme continued. In October 2001, the Cabinet of Ministers accepted a document which foresees to transfer 3 prisons to professional guards in 2002 and complete the reform by the end of 2003.

## RESTREINT UE

Eventhough prisoners have the right to medical care, there is a persistent shortage of it; prison hospitals are overloaded with work and understaffed. If special treatment is needed, the prisoner has to apply in writing and generally it takes a long time before the required treatment is given. Some prisoners even infect themselves on purpose with serious diseases, hoping to benefit from better conditions that way (which in reality is not the case). While the number of TBC cases in prisons decreased further, the number of HIV infections continued to increase<sup>1</sup>. HIV patients in prisons account for 30% of all new HIV infections registered in Latvia in 2001<sup>2</sup>.

The prison system -though it is getting more open to the public- is still considered to be rather 'closed'. However, the (...) Director of the Prison Administration is very open and co-operative with NGO's, which is promising for the system's future development. The Government permits independent human rights monitors to visit prisons.

### *Ombudsman*

The Latvian National Human Rights Office (LNHRO), an independent institution aiming to promote respect for human rights, partly carries out the functions of an Ombudsman. It examines legislation and administrative practices to ensure their conformity with fundamental human rights principles and is authorised to hear and consider complaints. However, its mandates extend beyond the governmental sector into the private sector, which makes it different from a traditional ombudsman. Because of this, the office sometimes receives complaints which are not within its remit to resolve (housing crisis, property disputes). Though the number of complaints received proves that the public is well aware of its existence, the number of complaints not concerning breaches of human rights indicate that the public does not know exactly what the office's tasks are. The LNHRO yearly drafts reports about the human rights situation in the country. In 2000, it expressed its concerns on the conditions in short-term police detention centres<sup>3</sup> and on the violations of the right to a fair trial within reasonable time<sup>4</sup>.

Although it has been agreed at governmental level that an independently functioning and more effective Ombudsman was needed, so far no concrete steps have been taken to set it up.

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<sup>1</sup> Although it should be mentioned that this increase is also experienced in EU Member States so it is not something typical for Latvia or something that the Latvian prison administration can be blamed for.

<sup>2</sup> 89% of those who got infected with HIV in prisons are intravenous drug users, the number of which has also been increasing lately.

<sup>3</sup> i.e. "inhumane treatment" and "degrading for human dignity"

<sup>4</sup> because of the prolonged periods in pre-trial detention

# RESTREINT UE

## G. Corruption

### 1. *Legislation and relevant international legislation*

Latvia has ratified the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of Proceeds from Crime and the Council of Europe Criminal Law Convention on Corruption. The necessary changes to the Criminal Law were adopted by Parliament in April 2002. The Council of Europe Civil Law Convention on Corruption has not yet been signed but legislation has been prepared. Latvia is already involved in the OECD anti-bribery efforts through the Baltic Anti-Corruption Initiative. The government has applied for ratification of the OECD Conventions on Combating Bribery of Foreign Public Officials in International Business Transactions and on Bribery in International Business Transactions. The conventions will be signed as soon as the OECD working group on bribery finishes its examination of the Latvian anti-corruption legislation. Latvia joined the Council of Europe Group of States Against Corruption (GRECO) in June 2000. The 1999 Council of Europe Civil Law Corruption Convention has not been ratified so far, but ratification will take place in the second half of 2002. Latvia is preparing the necessary amendments to its legislation in order to ensure full alignment with the above mentioned conventions, especially with the PIF Convention and its Protocols (e.g. definition of fraud, liability of heads of businesses and liability of legal persons in criminal matters) as well as with the EU acquis on counterfeiting.

Further, in order to promote the fight against corruption, a number of laws have been passed in 2001 and early 2002. The law 'On the Anti-Corruption Bureau' entered into force on 1 May 2002. It foresees that the Bureau will have the power to initiate criminal proceedings and to conduct investigative as well as operational activities. The Bureau will also be responsible for checking officials' income declarations and controlling party finances. Its director will be nominated by the Government and confirmed in office by Parliament for a term of 5 years. The Bureau has been attributed a budget of LVL 375.000 for the year 2002. So far, no director has yet been appointed.

On 10 May 2002, the 'On Prevention of Conflict of Interest in Activities of Public Officials'<sup>1</sup> specifies in more detail the circle of public officials who are subject to the regulation of conflict of interest and designates the Anti-Corruption Bureau as the institution responsible for implementing the law. The law specifies restrictions for assuming outside employment, restrictions for acceptance

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<sup>1</sup>which replaces the former law 'On Corruption Prevention'

# RESTREINT UE

of gifts and donations, etc. Since 10 June 2002, public officials are not allowed to hold more than one position in state institutions, so that many civil servants had to resign from lucrative company council posts in state owned enterprises.

In June 2002, the law 'On Funding of Political Parties' was amended. Parties will be required to publish the names of donors as well as the amount and time of donations on the Internet before and after the elections. The maximum amount of donations from a single donor within a calendar year has been reduced from LVL 25.000 to LVL 10.000. Parties will not be allowed to accept donations from companies in which the state or a municipality has holdings. The law also forbids the granting of loans and the providing of free services to parties. The Anti-Corruption Bureau will be responsible for checking the financial declarations submitted by the political parties. Although the adoption of the law represents a positive step in the promotion of transparency in party financing, its enforcement will largely depend on whether the Bureau will be able to effectively check the financial declarations submitted by the parties.

The first reading of the law 'On Initial Declaration of Property' took place in April 2002. The law, which is still under discussion in Parliament, provides for the introduction of so-called 'zero declarations', as a starting point for future comparative control of incomes and expenditures of individuals. Submission of initial declarations of property shall be mandatory for those residents who possess real estate and vehicles which are registered abroad, shares in companies of foreign countries, antiques, pieces of art, jewellery and different collections of which the value exceeds LVL 10.000<sup>1</sup>. Cash savings over LVL 5000<sup>2</sup> shall also be subject to declarations. The property registered in Latvian public registers, which is accessible for control purposes, is not subject to initial declaration of property. With a view to data protection laws, access to declarations will be restricted to a limited circle of officials from the State Revenue Service, the Prosecutor General Office, the Constitutional Protection Office and the State Policy and Crime and Corruption Prevention Council. The law does not provide for control of all submitted declarations; they will serve as a point of reference to gather evidence in criminal charges only.

## 2. *National programmes and strategies*

Latvia has taken a number of measures in the last years to combat corruption. Positive steps have

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<sup>1</sup>Euro 18.000

<sup>2</sup>Euro 9.000

## RESTREINT UE

been taken at the institutional level, including the establishment of the Corruption Prevention Council, which co-ordinates the activities of the different institutions involved in fighting corruption. Latvia has enacted several new laws and is continuing to improve them. The challenge ahead will be the effective implementation of these laws.

The Corruption Prevention Programme for 2001 contains three main elements: prevention, enforcement and education. The programme includes actions on informing society about the consequences of corruption and the ethical education of the society. Starting in October 2001 a new Internet website is available. The website is developed in order to serve as a channel for transferring official information on corruption and also to serve as a discussion facilitator among public and experts. The corruption prevention programme should continue to be implemented, particularly on the following issues: increasing public awareness of the danger that corruption represents for the stability of democratic institutions and economic and social progress; informing the public about the measures adopted to combat corruption, the penalties that may be imposed for it and the institutions involved in fighting corruption; enhance the involvement of the media and non-governmental organisations in a co-ordinated awareness-raising campaign. Since January 2001, a Civil Service Code of Ethics is in force. The training courses for civil servants at the Latvian School of Public Administration contain some anti-corruption elements, and seminars for judges, prosecutors, policemen and representatives of the mass media were also held. The government also co-operates with the Foreign Investors' Council on matters related to the fight against corruption.

The administrative capacity to effectively fight high level corruption remains low. There are presently in Latvia many different institutions with responsibilities in the area of anti-corruption. The institutional set up continues to be scattered. Currently eight institutions are directly involved in the fight against corruption in Latvia: 1) Crime and Corruption Prevention Council; 2) Anti-corruption Bureau; 3) Organised Crime and Corruption Enforcement Bureau, Ministry of Interior; 4) Economic Police Bureau, Ministry of Interior; 5) Constitutional Protection Bureau; 6) Security Police, Ministry of Interior; 7) Inquiry Board of the State Police, Ministry of Interior; 8) Financial Police, State Revenue Service. The competencies of the anti-corruption institutions are overlapping and co-operation is weak. Their efforts are frankly segmented and disjointed and that there is an obvious lack of direction and co-ordination which no doubt leads to lost opportunities. Clearly, these bodies are failing to produce the results expected by society. There is a need to make clear who is doing what.

## RESTREINT UE

Specific measures are being implemented in various parts of the administration. The State Police is carrying out a strategy for fighting corruption amongst public officials and established a database in October 2000 to register all violations, while the State Revenue Service also continued its own programme. In the Customs authorities, a rotation principle for officials is being enforced.

The Corruption Prevention Council is responsible for implementing Latvia's anti-corruption policy. There are representatives from the Ministries of Justice, Interior and Finance, the Prosecutor General's Office, the State Revenue Service, the State Audit Office, the State Civil Service Administration and the Latvian School of Public Administration. The Crime and Corruption Prevention Council which is chaired by the Prime Minister is the co-ordination institution which on the political level adopts the overall strategy for the corruption strategy and sets the frame and objectives for the anti-Corruption Bureau which is the central institution dealing with the issues of corruption prevention and fight against corruption.

The Police do not see corruption as their main priority. Rather than one unique bureau responsible for corruption, the preference leans towards each criminal discipline engaging the corruption matters within its own operating area. There is an officer in each police establishment in charge of investigation complaints from the public. The primary body engaged in investigation of alleged corruption in the State Police is the State Police Human Resource Inspection. A system of identifying and investigating corruption complaints within the State Police has been developed. The Inspection lacks resources and is also insufficiently independent of the Police officers who were the subject of the complaints. For that reasons Latvian authorities should implement measures to ensure effective monitoring of police actions, including corruption. To date there appears to be no evidence of any successful corruption investigations originating from police intelligence. The notable cases all seem to stem from a disenchanted third party involved in the incident. This suggests insufficient intelligence gathering activity in the area of corruption. The Police institutions will require structures and systems to handle store and disseminate intelligence. Different departmental institutions should regularly share knowledge and good practice. No single agency can fight corruption alone. Efforts should be made to develop mechanism for closer co-operation among administrative authorities, police and prosecutors. There is a lack of modern facilities and appropriate technologies in the daily work on the law enforcement bodies. The resources of the fight against corruption must be improved. There appeared to be a lack of imagination in fighting corruption with little evidence of formal training in these areas. It is necessary to make more effective use of the existing legislative tools provided to discover and combat corruption and in



# RESTREINT UE

particular those concerning the use of special investigative technical means in the detection of corrupt behaviour

The function of the Organised Crime and Corruption Combating Bureau division is to deal with corruption cases related to organised crime. The objectives are to prevent organised crime and corruption; to perform investigation and operational activities; to co-ordinate work related to the fight against organised crime. Within the Bureau, twenty persons are engaged in a Unit fighting against corruption. In the first 9 months of 2001, 2 cases of active bribery and 3 of passive bribery were detected; the following persons were detained: 7 police officers, 8 borders guards, 3 municipal police officers, 3 customs supervisors and 4 other officials.

The objectives of the Economic Police Bureau are: to analyse, plan manage, co-ordinate, control and support the work of all structural units of the Economic Police in the prevention and disclosure of offences within their authority; to performs operational and search activities

### 3. *Current trends*

#### General

The scale of the problem of corruption in Latvia is difficult to quantify. The perceived level of corruption in Latvia continues to be relatively high. Public perception is that corruption is a worrying phenomenon that affects the activities of some public institutions in Latvia such as customs, traffic police and judicial authorities. Corruption may be considered as one of the major factors that undermine Latvia's democratic and economic development. The corruption rate is high (59th rank in Transparency International's (TI) 2001 report). A study carried out by Latvia's TI office in 2000 showed that the perception of corruption was high : e.g. 51,8% of people surveyed had bribed when dealing with customs officials; 69,9% of people when dealing with traffic police; 31,9% when settling cases in court; 59,5% when receiving permits or licences; 32,3% in encounters with police and 38,3% when dealing with medical care. Much of this low-level administrative corruption however is not solicited. Instead, members of the public offer the bribes. Acceptance of such corruption can be attributed to the low salaries of public servants. The Criminology investigation centre under the supervision of the Ministry of Justice began a public opinion poll on corruption, the results of which will be published shortly.

Despite continued efforts during the last years, it appears that the measures taken have not yet

# RESTREINT UE

translated into concrete results on a broad scale. Corruption continues to pose a serious obstacle to the proper and efficient functioning of the public administration. Latvian (...) **mentality** vis-à-vis corruption (...) is changing and more and more people are reporting cases of suspicion of corruption to the police or other law enforcement agencies: (...) a positive **development**. Even though the public's trust in law enforcement bodies is increasing, citizens are sometimes too frightened to file complaints against public officials. Firstly, because they know that criminal proceedings are very long and complicated and secondly, citizens are very often afraid of retaliation by public officials. Information campaigns on the existence and possibilities of Witness Protection Programmes would certainly encourage people to come forward in the confidence that the prosecuting authorities will provide protection. As a result, witnesses will be able to testify against corrupted key officials without fear for reprisal.

**The recent general elections resulted in big gains for the most articulate anti-corruption forces in Latvian politics. Although a new government has yet to be formed, this is a signal by the electorate that the political efforts to combat corruption have not been in vain.**

## Police

As police is a reflection of the society it serves, the presence of corruption is not such a surprise. Several explanations come: a) USSR period traditions; b) acceptance and passivity of the population, which uses it when needed; c) very weak salaries of police officers (a beginner police officers gets only 220 Euros a month). The most touched departments are without controversy, Border Guards and the Traffic Police. In both cases, corruption is obvious and does not even hide. The traffic police is one of the organisations that demands bribes most frequently. Unofficial payments are required frequently. The ordinary police seem to be less tainted by corruption than the road police.

## Customs

The customs service is a governmental organisation with, by nature, entails great scope for corruption, and in many countries the customs service has one of the worst records of corruption. Latvia is no different. Corruption at border crossing points is high and often, customs require unofficial payments.

# RESTREINT UE

## Judiciary<sup>1</sup>

The public prosecution and the judiciary are broadly perceived by the public as being ineffective in fighting corruption. The inconspicuous number of persons sentenced on corruption charges and the disparity between registered crimes and persons sentenced on grounds of corruption seems to indicate the need for much more effective action on the part of all law enforcement and controlling bodies and also for more effective work of prosecution and judiciary. Prosecutors do not see the fight against corruption as their main priority. Corruption is a silent and complex crime. The investigation and prosecution of such a complex offence requires special skills and experiences and special training. The size of the country hardly justifies specialisation of prosecutors in all regional and district offices. A specialised corruption unit should provide for a more active role of the prosecution in the anti-corruption strategy. The judiciary in general and the training of judges in particular is insufficiently funded. Unsatisfactory working conditions, lack of technology and inadequate remuneration contribute to inefficiencies and backlogs, especially in the Riga District Courts. It is necessary to significantly increase the means allocated to the courts in order to improve their functioning. Public officials have little knowledge of the existence of a witness protection programme designed to provide protection and anonymity to high-risk witnesses.

Public perception is that corruption is not infrequent. From time to time, the media report on cases of corruption or abuse of influence. Corruption has been reported in regard to both prosecutors and court staff, but not to judges. Court staff may be used to speed up or to delay proceedings. A study carried out by the Latvian Office of Transparency International in 2000 showed that 31.9% had bribed officials when settling cases in court. However, it is unclear whether these bribes were solicited by the officials or actually offered by the public.

What is clear is that the salaries of the judiciary -even though they are among the highest of civil servants- are low compared to private law firms and that wages need to be improved substantially in order to further guarantee independence of the judiciary (i.e. by eliminating the highest risks). Latvia has recently worked out a new concept for the remuneration of judges and other court personnel, which presupposes new principles of calculating judges' remuneration and creates the possibility to increase wages. Since the system of remuneration for judges is linked with that for prosecutors, the wages for prosecutors will increase too. Though the concept remains to be adopted by the Cabinet of Ministers, its financial implications have already been included in the list of

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<sup>1</sup>Viz. Chapter and Analysis Justice for appointment and selection procedures, the Judges Code of Ethics and information on disciplinary proceedings

# RESTREINT UE

budgetary priorities for 2003.

Further, on 1 January 2002, amendments to the Law on Judicial Power entered into force. According to these, judges will receive the same social guarantees and benefits as civil servants, including compulsory life and health insurance provided by the state.

#### 4. *International organisations*

Latvia ranks 52 out of 102 surveyed, with a score of 3.7 on a scale of 10 on *Transparency International's Corruption Perception Index 2002* (i.e. second-last position of the present 12 candidate countries). Its ranking was 57 out of 90 in 2000 and dropped to 59 out of 90 in 2001.

According to the *2002 Freedomhouse Report on Latvia (Nations in Transit)*, corruption has been identified as a serious problem. The EU Commission e.g. noted that corruption is exacerbated by low salaries in the public sector and extensive use of bureaucratic controls in the economy. The World Bank says the economy is highly concentrated, political parties are closely aligned with economic interests (major parties get most of their revenues from donations by big businesses) and the country's position on east-west trade and energy transit routes exposes it to strong corruption pressures. It also points to the existence of "state capture", whereby companies and individuals make illegal payments in order to get around laws and government decrees: a range of state institutions, including ministries and state agencies, the legislature, the judiciary, promulgate many laws that primarily benefit a narrow range of private sector groups and individuals. This phenomenon ends up reducing the influence of ordinary citizens in day-to-day politics. Although the exact extent of this influencing will probably never be publicly known, some specific cases have been discussed in the press (involving the transportation and bank sectors).

Widespread corruption inter alia hampers Latvia's ability to carry out the necessary deeper reforms. The government has acknowledged several flaws in the anti corruption law and its enforcement mechanisms; in May 2001 it adopted a revised corruption prevention programme (CPP). Incidents of corruption range from taking of small bribes by low-level civil servants in return for carrying out routine bureaucratic tasks (i.e. demands for unofficial payments or bribes in return for services, notably by customs, prosecutors, highway police and courts) to the wrongful awarding of government contracts by high-level officials. Despite various initiatives, no leading government official has however been prosecuted in recent years. **The effective implementation of the CPP, as well as specific sectoral initiatives e.g. the Customs Code of Ethics and the Stet Revenue**

# RESTREINT UE

## **Service Action Plan should be ensured.**

Although surveys on the perception of corruption have not been carried out for a long enough time to allow for clear assessments of trends, most surveys confirm a relatively high level of corruption (e.g. by the Criminology Research Centre, Transparency International's Latvia branch, EU Program for Anticorruption Legislation, Education and Information (PHARE) etc.).

According to the *World Bank Report on Corruption in Latvia (late 1998)*, (...) corruption in public services is of serious concern, and the trend is worsening. (...) Private enterprises complain **mostly** about (...) corruption in daily business, they do complain about the regulatory environment, i.e. the excessive discretionary powers of regulators. There is also clear evidence of certain "vicious circles" that point to increasing entrenchment of corruption, expansion of the unofficial economy and deterioration in the quality of government services. Particularly worrying is the practice of public officials buying jobs. (...) Excessive discretion on the part of regulators is both a cause of current corruption and a formidable obstacle to development (...) Enterprises name "discretion in interpretation of complex laws" as the most important cause of corruption (e.g. (...) tax inspectors **having** (...) the power to save or cost enterprises large sums of money (...) **through** reaching a side agreement (bribe), **beneficial to both parties**, to reduce the amount of the tax **due**). Corruption is generated by the interplay of discretion and lack of accountability. Several empirical observations- denial of the damage caused to society, blaming corruption mostly on low salaries, admission that many civil servants take jobs for the unofficial benefits, and sharing bribes with colleagues- suggest that a worrying culture of corruption within the civil service may be hindering accountability.

### III. CONCLUSIONS

#### A. **Border security**

**The most important institutions / authorities responsible for border security are the State Border Guard, State Police, Security Police, Customs, Sanitary Border Inspection, Office of Citizenship and Migration Affairs and Consular Department of the Ministry of Foreign Affairs. The role of the National Armed Forces in border security is connected with the support for the State Border Guard in the territorial waters and support of border security in emergency situations. These authorities will form a border security network.**

## **RESTREINT UE**

The legal basis in the field of border security has improved. Some core laws came into force in the beginning of 2002; the Latvian State Border Guard nowadays has full powers also for blue border surveillance, i.e. one and the same authority is responsible for guarding all borders, rationalising the use of resources and providing better awareness of the border situation.

The Integrated Border Strategy defines the role of each authority in the field of JHA. Although the strategy is ready, the Cabinet of Ministers has not adopted it. Adoption is essential because otherwise the implementation of the strategy might face problems.

Border checks are carried out according to Schengen principles. The level of border surveillance and checks at the future external borders should discourage use of the territory of Latvia as a transit route for illegal entrance into the territory of the EU. Even though the level of green border surveillance is quite sufficient, Latvia should continue work to develop co-operation with other authorities in the guarding of blue borders. The use of technical surveillance systems and air patrols at both land and sea borders is insufficient.

The organisation of the State Border Guard and the guarding system of all borders is in line with Schengen principles. In the beginning of 2002, the Border Guard became responsible for alien control inside the country after the Immigration Police merged with the Border Guard. This has improved the control of aliens because information from the border is now also available to officials working inland. At the same time the State Border Guard received the power to work all over the country; powers are not limited to a narrow border area or ports and airports. This is useful among other things in common operations with the State Police and the Customs.

The administrative capacity of the Latvian State Border Guard is adequate with the exception of professional maritime personnel. The State Border Guard should pay attention to training of maritime personnel to live up to the requirements of modern maritime border surveillance.

The capacity to make risk assessments has improved during the last few years but closer co-operation with the State Police and the Customs in this field is needed. Also the flow of information between the State Border Guard, the State Police, Security Police and the Customs needs to improve.

# RESTREINT UE

## B. Migration

## C. Asylum

## D. Police and customs

In the field of data protection, Latvia has some gaps relating to access to and security of personal data especially with a view to conclude a co-operation agreement with Europol. The police is isolated from the rest of the society and continues to have recruitment problems. The training programme system is dispersed. There is a shortage of hardware, software, databases and technical personnel particularly at the operational level. There is a gap between ratification of international legal instruments and the actual, effective fight against organised crime. Latvian authorities do not seem to have sufficient insight in the problem of trafficking in human beings. The control and repression of economic crimes still appears to be largely ineffective. Drug related crime remains a problem in Latvia. The number of drug users has increased consistently over the last years. **Latvia should continue to implement its drug control and drug prevention strategy covering both demand and supply reduction. (...)**

The public has only limited confidence in the police and there is mistrust. Police officers are underpaid. This can produce situations that put the police officer concerned in a difficult position ethically. The recruitment of qualified staff is thus hampered by low salaries and poor working conditions. Training is too general and too theoretical. Often only outdated equipment, or none at all, is available for the police's daily work. The technical methods used by the police are also outdated. The approach to organised crime focuses primarily on tackling concrete cases. The capability to perform criminal intelligence analyses is close to nil. There is no standardisation of data collection. No notable organisational reform of the departments took place nor did any major improvement in their efficiency occur over the past years. Legal procedures are time-consuming, not only for the police, but also for the Public Prosecution and the judiciary. The fight against financial crime is still developing. As most forms of financial crime emerged only recently, experience and knowledge thereof is in many cases still incomplete. Legislation is too lenient for financial criminals. There are also (too) many different institutions involved and insufficient co-ordination between them.

Amendments will have to be made to the Law on Personal Data Protection in order to extend its

## RESTREINT UE

application to the police sector and the capacity and independence of the State Data Inspectorate must be developed. The relationship between police and public and the integrity of police personnel should be increased. Additional funding is necessary to increase police salaries. There is a need for practical training and further education in police ethics. Further investment will also have to be made in equipment and laboratories and staff-expertise must increase. Police structures still need to be streamlined and rendered more effective to combat crime. The effectiveness of the Criminal Police needs to be increased. Investigative capacity is in need of expansion. Investments will have to be made in the development of staff skills and knowledge. Legal procedures should be accelerated and involvement of the public prosecutor should be increased. Concerning trafficking in human beings, Latvian authorities will have to extend international co-operation and extra investments will have to be made in the field of prevention and information campaigns. More attention must be paid to providing help and guidance for the victims of trafficking in human beings. The fight against financial crime must be stepped up, procedures accelerated, training enhanced and co-ordination strengthened. (...)

In the field of customs, the capacity for medium- and long-term analysis as well as for strategic analysis should be increased. **Customs intelligence capacity is under-developed. Eastern land border facilities need to be properly equipped. Co-operation between customs and police continues to be poor. Continued efforts are necessary to improve border management, combat irregularities and corruption, improve capacity for risk assessment, intelligence and investigation and improved computerisation in the customs areas. Further efforts are need to combat fraud, economic crime and drug trafficking and to improve co-operation with other enforcement bodies.**

### E. Justice

Latvia has ratified most of the JHA acquis and the necessary amendments to the Code of Criminal Procedure are in the process of being adopted. Further alignment of legislation in the field Data Protection is also underway. Latvia's rate of ratification of the international JHA instruments is satisfying. The Ministry of Justice -which is underfunded- is understaffed and the judges need more support staff. The backlog of pending and criminal cases is considerable (although receding), (...) training (including on the constantly training Criminal Law and Procedures) has so far been insufficient for both the judiciary and court personnel and independence of the judiciary is insufficiently guaranteed. Insufficient material resources (premises, technological facilities) hamper the efficiency of the judicial system. Regarding implementing performance, the main shortcomings



## RESTREINT UE

are the poor enforcement of court decisions in civil matters, the backlog of court cases, the lengthy criminal trials and too long periods of pre-trial detention (...). Confidence of the public in justice is generally low. Implementation of laws in criminal procedures is not always uniform. The present Code of Criminal Procedure is unreadable and severely hampers the operation of the criminal police. A large number of criminal cases are not pursued. Access to justice is hindered by excessive lawyers' fees. Privacy and data protection are not enforced at the level of European standards. Finally, **although judicial co-operation in criminal matters is generally good**, several difficulties exist regarding enforcement and implementation of judicial co-operation **in relation to** crime and money laundering.

Although a higher share of the state budget was expected, the budget of the Ministry of Justice did not increase to sufficiently meet its needs. The high turnover of personnel in the Ministry and the fact that the vast majority are law students who prefer a job in the private sector after graduation worsens the situation. The backlog of cases is due to the lack of sufficient administrative support staff of judges (i.e. deputy judges, court clerks), the (currently) too low wages and difficulty to find qualified personnel. (...) Training provided to court personnel **has been insufficient so far**. The insufficiently guaranteed independence of the judiciary is caused by the current wages and lack of social guarantees (...) The lack of sufficient premises and modernised equipment has hampered efficient functioning of the judiciary so far. The poor enforcement of court decisions in civil matters is caused by the fact that at present the bailiffs are not adequately trained and that the Law on Sworn Court Bailiffs is still pending in Parliament. Confidence of the public in justice is low due to reports in media on corruption and abuse of influence within the judiciary. Also, access to justice is hindered by the excessive lawyers fees, which can be explained by the current lack of any regulation on such fees. Regarding the non-uniform implementation of law in criminal procedures, the backlog of court cases, the lengthy criminal trials and too long periods of pre-trial detention without judicial control (especially regarding minors), the main emergency seems to be the need to reform the Code of Criminal Procedure. Although reform started already in 1994, today there is still no viable text in view and the present Code is still based on the former Soviet Code. It currently contains more amendments and patches than original items and is said to be unreadable, even for judges. The Code enforces principles that severely hamper the operation of the criminal police, a practical example of which is the conflicting situation of separation between the investigating, arresting and interviewing services. There is unclarity about the judicial relationship between the prosecutor's office and the police, and its co-ordination with the courts is insufficient. A large number of the criminal cases which reach the Prosecutor General's Office are not pursued for non-

## RESTREINT UE

judicial reasons or on the grounds of lack of evidence and the gap between police and actual court sentences is considerable. The situation regarding privacy and data protection stems from the lack of control over data base operations, of the capability to perform criminal intelligence analyses, of trained personnel, specific software and computers. Also, there is a lack of will to communicate operational information nor are there any standardisations of data collection or specific circuits of data communication. The difficulties regarding enforcement and implementation of judicial co-operation **in relation to crime and money laundering** stem *inter alia* from the lack of specialised enforcement personnel, inter-departmental competition and a lack of co-operation between sections.

Latvia should continue its pace with regard to the ratification of JHA instruments and it should be closely monitored that the amendments to the Criminal Code of Procedure are adopted and enter into force at the foreseen dates. It should further be monitored that the necessary reform of the Code and training to the judiciary on its uniform implementation are carried out. The budget for the Ministry of Justice should increase so that its current situation of understaffing and underfunding improves and stabilises. The increase should also enable the employment of further administrative support staff for judges and the efficient continuation of the Judicial System Development Programme, which aims to improve the judiciary's independence and the efficiency and trustworthiness of the judicial system. A number of legislative amendments (e.g. the Law on Sworn Bailiffs, the amendments to the Criminal Law) which should improve the implementing performance with regard to enforcement of judgements, pre-trial detention **and** criminal proceedings (...). Access to justice may improve through a regulation on lawyers' fees. It should be very closely monitored that enforcement of privacy and data protection and of legal co-operation in criminal matters **when it concerns** money laundering and crime improves to the level of European standards.

### F. Human rights

Though Latvian legislation is generally in line with international human rights standards, both the administrative capacity and implementing performance are weak. The court system is too weak to enforce decisions, judges are overloaded and insufficient, the number of lawyers is insufficient and so is training of the judiciary in general. Especially knowledge of human rights principles, and efficient implementation of relevant legislation leaves to be desired. Prison conditions are poor, pre-trial periods (**without judicial control**) are too long -including for minors- and complaints on abuse by police are rising. **Conditions of police detention remain a cause for concern.**

## RESTREINT UE

Training in general, and especially on principles of human rights, has been insufficient so far, both for the police and the judiciary. Legal implementation has gained importance since 2001, which is relatively late, through the dealing with complaints by the Court of Human Rights and the Constitutional Court. The visit of the CTP, the work of the UN Committee combined with increasing international attention to the human rights situation in Latvia, all have contributed clearly to more awareness and openness (e.g. prisons, police admitting cases), but improvement at all levels remains necessary. **Regarding the too long periods of pre-trial detention without judicial control, the main emergency seems to be the need to reform the Code of Criminal Procedure.**

Training on human rights issues must continue for the judiciary and be stepped up for the law enforcement entities. However, clearly more budgetary, material and administrative resources are necessary where it concerns the prison situation, access to legal and social assistance, medical care, rehabilitation and reintegration of victims of abuse (including children and women). **The amendments to the Criminal Law should improve the situation regarding pre-trial detention and legislation concerning minors should be adopted soon. The Law containing the amendments is expected to enter into force on 1 January 2004.** Further, the establishment of an Ombudsman to assist the monitoring of respecting human rights and informing the public about its rights could be of significant help too.

### G. Corruption

The 1999 Council of Europe Civil Law Corruption Convention has **not** been signed (...) yet, but this is foreseen end 2002. Latvia is preparing the necessary amendments to its legislation in order to ensure full alignment with international conventions especially with the PIF Convention and its Protocols.

The level of corruption appears high; e.g. Latvia ranks 52 out of 102 surveyed, with a score of 3.7 on a scale of 10 on Transparency International's Corruption Perception Index 2002. Corruption is exacerbated by low salaries in the public sector and extensive use of bureaucratic controls in the economy, which is highly concentrated, and to which political parties are closely linked (major parties get most of their revenues from donations by big businesses) . The country's geographical position on east-west trade and energy transit routes exposes it to strong corruption pressures. "State capture", whereby companies and individuals make illegal payments in order to get around laws and

## RESTREINT UE

government decrees, is also a serious problem. Finally, enterprises name "discretion in interpretation of complex laws" as the most important cause of corruption.

The government has acknowledged several flaws in the anti corruption law and its enforcement mechanisms. Incidents of corruption range from small bribes in return for services, notably by customs, prosecutors, highway police and courts, to the wrongful awarding of government contracts by high-level officials. The widespread corruption also hampers Latvia's ability to carry out the necessary deeper reforms. Despite various initiatives, no leading government official has been prosecuted in recent years.

Measures have to be taken to increase public awareness of the dangers of corruption. The administrative capacity to effectively fight high-level corruption however remains poor. The competencies of the many existing anti-corruption institutions overlap and co-operation is poor; their efforts are segmented and disjointed and there is an obvious lack of direction and co-ordination; these bodies are failing to produce the expected results by society. There is a need to make clear who is doing what.

Furthermore, there seems to be insufficient intelligence gathering activity in the area of corruption as to date there is no evidence of any successful corruption investigations originating from police intelligence. Efforts should be made to develop a mechanism for closer co-operation among administrative authorities, police and prosecutors. It is necessary to make more effective use of the existing legislative tools provided to investigate and combat corruption and in particular those concerning the use of special investigative technical means in the detection of corrupt behaviour. There is a lack of modern facilities and appropriate technologies in the daily work of the law enforcement bodies. Finally, the resources for the fight against corruption must be increased.