

The Constitutional and Administrative Aspects of State and Church Regulation in the Republic of Latvia

*Protection of human rights is one of the most important guarantees in a country where the rule of law prevails, and it is specifically the duty of the State to ensure effective protections for anyone whose rights have been violated.*¹

I. LATVIA AT-A-GLANCE

Latvia is a country of 2.1 million people living in an area of 64,589 km² near the Baltic Sea. Latvia shares borders with Lithuania, Estonia, Byelorussia, and Russia. Latvia is a unitary republic based on the rule of law and the principles of proportionality, justice, and legal certainty. It is a parliamentary democracy with a pluralist system of political parties. There is a clear separation of powers with checks and balances. Fundamental rights are guaranteed and widely respected. Religious freedom is guaranteed, and state and church are separated. Now, at the beginning of the 21st century, Latvia is a multi-confessional country, where the three largest denominations are Roman Catholic, Evangelical Lutheran, and Latvian Orthodox.² Currently in Latvia, there are about 5,000 Jewish people (whereas before the Second World War and the Nazi Holocaust there were 100,000). Seventh-day Adventists and Baptists have been active in Latvia since the end of the 19th century, and Methodists, Jehovah's Witnesses, Muslims, and Christian Scientists have been active since the beginning of the 20th century.³

II. INTRODUCTION

In the *Satversme* (the Constitution of the Republic of Latvia), religion/church is mentioned only in Article 99, which declares: "Everyone has the right to freedom of thought, conscience and religion. The Church shall be separate from the State." This provision was included in the Constitution in 1998, when the Constitution was supplemented with a new section on human rights. The principle of freedom of religion is a settled purpose of the "Law on Religious Organizations" of 7 September 1995.⁴ In

RINGOLDS BALODIS, professor, Dr. iur., is Head of the Constitutional and Administrative Law Department of the Faculty of Law, University of Latvia; Corresponding member of the Latvian Academy of Sciences, Member of the European State and Church Consortium, Ex-Chief State Notary of the Republic of Latvia; olicy; Ex-head Religious and Association Affairs, Department of Ministry of Justice Republic of Latvia; Ex-head of the Board of Religious Affairs, Ministry of Justice Republic of Latvia. Publications: Two books and more than 100 articles in civil ecclesiastical law, constitutional history, and constitutional law written in Latvian, as well as many in Russian, Ukrainian, Lithuanian, Polish, English, Italian, German, and Italian. [This Report has been modified by the author for the 2014 publication.]

1. Ruling of the Constitutional Court of the Republic of Latvia on Case No. 2001-07-0103 (*Latvijas Vēstnesis*, 7 December 2001).

2. Ringolds Balodis, "Latvia," in *Encyclopedia of World Constitutions*, vol. 2, ed. Gerhard Robbers (United States: Facts on File, 2007), 513-514.

3. Ringolds Balodis, "Church and State in Latvia," in *Law and Religion in Post-Communist Europe*, ed. Silvio Ferrari and W.Cole Durham, Jr. (Leuven: Peeters, 2003), 142-174.

4. The law "On Religious Organizations," which was approved on 11 September 1990, was replaced with a similarly titled law on 7 September 1995. (*Latvijas Vēstnesis*, No. 146, 26 September 1995). The first law was adopted in 1992, but was found unsatisfactory. Therefore, in 1995 the Parliament of Latvia issued a new law. However, this law is also admitted to have its flaws, and since its adoption it has been amended seven times already, and most likely there will be successive amendments in the future. Religious organizations in Latvia are not obliged to register with the Board of Religious Affairs, however, they obtain rights and relieves available to religious organizations only upon the receipt of a registration certificate.

accordance with Article 2 of this law, the inhabitants of Latvia are granted the right to freedom of religion, including the right to state freely one's attitude towards religion, to adhere to some religion, individually or in community with others, or not to adhere to any religion, and to change freely one's religion in conformity with the existing legislative acts. The Law on Religious Organizations in compliance with the *Satversme*, as well as international agreements concerning human rights in the sphere of religion, regulates social relations established through exercising the right to freedom of conscience and through engaging in the activities of religious organizations. The State is to protect the legal rights of religious organizations as prescribed by the law. The State, municipalities and their institutions, and non-governmental and other organizations shall not be authorized to interfere with the religious activities of religious organizations.

In actuality, Latvia is a partial separation state, where constitutionally declared separation of church and state does not consistently work in practice. *Latvia does not associate itself with any specific religion*, and the question is not about religious tolerance but about interpretation of the article about church and state separation in the Constitution, because there is no clear opinion about where the borderline between state and church should be strictly marked. The State and the Church are separate; however, if we speak about the primary conditions that ensure Church separation from the State, then practically none of these conditions exists in Latvia. This is understandable, taking into account that the Republic of Latvia is a new attempt. It is not possible to achieve a perfect balance of theory and practice at once. Such balance requires time, to appropriate legislative norms in a particular social environment.

III. HISTORICAL BACKGROUND

Before the German expansion in the 12th century, the territory of Latvia was inhabited by many kindred Baltic tribes (*zemgali, kurschi, latgali*). The most widespread religion among these tribes was a kind of paganism, "*Dievturība*." Originating from Latvia's neighboring Orthodox Russia, there were some unsuccessful attempts to convert Latgali tribes to the Orthodox faith. According to historical records, Russian priests started to preach the Orthodox religion in Latvia in the 9th and 10th centuries. In 1180, the German Monk Meinhardt, who had a special authorization from the *Knyaz of Polozk* (since part of the Latvia fell under the Russian sphere of interest), started to preach in Latvia. When Meinhardt failed to convert the pagan tribes to Christianity, he approached the Pope with a request to open a crusade in the Baltic. The aim of this war was to introduce Christianity in the area. The request was granted, following which the German invasion of Latvia began. Despite some isolated uprisings, Latvia was under German control until the 18th century. Under the influence of German landowners, the Lutheran doctrine spread, which later served as good soil for other branches of Protestantism. The year 1524 is considered as the year of the foundation of the Latvian Evangelical Lutheran Church.

In the 17th century, after Sweden lost the Nordic War, Latvia was included in the Russian Empire. Russia tried to convert the newly acquired lands to the "Tsar's faith." However, the Orthodox religion did not become popular among Latvians, though a certain number of Latvians adhered to it. In the second half of the 17th century, shortly after their split from the official Russian Orthodox Church, Old Believers had become active in Latvia. Despite Latvia's being part of the Russian Empire, the Old Orthodox believers had found a haven in Latvia due to the distinctive and more liberal religious policy implemented in this region compared to others. Latvian Old Orthodox believers are the world's largest group of the Old Believer Orthodox denomination, and in the *Grebenschikov* church in Riga (the largest worship building of this belief in the world) is to be found the largest congregation of Old Believers (5,000 adherents).

The Republic of Latvia was established on 18 November 1918 and existed till the Soviet occupation in 1940. According to the theory of continuity of state, Latvia is the same state in the 1990s as it was in the 1930s. The second period of independence for Latvia began in 1991. The proclamation of the independent democratic Republic of Latvia

in 1918 became possible largely due to a promise by the founders of the State, who were representatives of the Catholic religion, to sign an agreement with the Holy See on the legal status of Roman Catholics in the country.⁵ Thus, the territorial unity of the Latvian State depended on religious tolerance towards the Catholics.

The European influence on Latvia, in the field of state and church relationships, occurred very soon after the second period of independence. This period began with the *Declaration of Restoration of Independence of the Republic of Latvia* issued by the Supreme Council of the Latvian Soviet Socialist Republic on 4 May 1990,⁶ after which a rapid strengthening of the human rights catalogue commenced. Shortly after adopting the Declaration of Independence, Latvia acceded to 51 international documents in human rights area. After 4 May, the authority of the Latvian Constitution was re-established, though because that document does not have a human rights chapter, the role of human rights in the Latvian State became effective through constitutional law. On 10 December 1991, the Latvian Parliament approved a law called “Human and Civil Rights and Obligations.” Though this was an important law from the perspective of human rights, it was also somewhat questionable from the perspective of constitutional law.

Adherence to human rights largely depends on the legal reality because wording of human rights provisions, both national (for instance, the fundamental rights as defined in the Constitution), as well as the international ones (conventions, treaties, and declarations), are only tentative criteria on which the human rights reality is based.⁷ Such an understanding exists at present, but the understanding of human rights among the citizens of the restored Republic of Latvia at the beginning of the 1990s was opposite to that inherent in democratic and law-based states.⁸ Sceptical attitudes towards human rights notions were widespread,⁹ as well as convictions that the State had absolute rights to control individuals. This is well-illustrated by disputes about the Latvian Administrative Violations Code which, by the initiative of the President, the Ministry of Justice wanted to supplement with a provision that would prescribe punishment for participation in unregistered religious organizations. The reason for the above mentioned legislative initiative was the wish to restrict activities of the unregistered Jehovah’s Witnesses. In order to prevent adoption of this provision, which restricts human rights, the USA ambassador in Latvia and representatives of the Ministry of Foreign Affairs had to arrive at the Parliamentary commission because they considered that the mentioned amendments are in contradiction to international legal provisions.¹⁰ *Sovjetiskaya* or the soviet legal understanding that still dominated in Latvia in the 1990s was characterized by an assumption that human rights provisions must be “put in effect” with other normative acts (law, instructions, and so on) since they were considered to be too abstract.¹¹ Let us remember the Constitution of the USSR and Latvia as a subject of this union. The constitutions incorporated a wide range of freedoms and rights (rights to free-of-charge health care, rights to choose a profession, rights to a domicile, free education, freedom of conscience, rights to use cultural achievements, rights to inviolability of a person, rights to

5. Ringolds Balodis, “Evolution of Constitutionality of the Republic of Latvia: from 1918-2006,” *Jahrbuch des Öffentlichen Rechts der Gegenwart* 56 (2008): 269-78.

6. Declaration of Independence: Par Latvijas Republikas Neatkarības Atjaunošanu: LPSR AP deklarācija. LR Saeimas un MK Ziņotājs, 17 May 1990.

7. Egils Levits, *Eiropas Padome un tās Konvencijas. Eiropas Padomes Līgumu Izlase [Council of Europe and its Conventions: A Selection of Council of Europe Agreements]* (Rīga: Elpa, 2000), 9.

8. Egils Levits, “Cilvēktiesību Piemērošanas Pamatjautājumi Latvijā [Basic Issues of the Application of Human Rights in Latvia],” in *Cilvēktiesības Pasaulē un Latvijā [Human Rights in the World and in Latvia]*, ed. Ineta Ziemele (Rīga: Izglītības Soli, 2000), 258.

9. Nils Muižnieks, “Aktuāli Cilvēktiesību Jautājumi Latvijā: Praktiķa Vērtējums [Topical Human Rights Issues in Latvia: A Practitioner’s Evaluation],” *Cilvēktiesību Žurnāls* 3 (1996): 12.

10. See Article 39–69 of Chapter 7, “Fundamental rights, freedoms and duties of citizens of the USSR” of the Constitution (fundamental law) of the Union of Soviet Socialist Republics of 1977.

11. Supra n. 8 at 260.

privacy, and so on).¹² They were often not implemented and initially several of them were intended only as elevated declarative statements whose goal was to serve the glorification propaganda of socialism. In actual life, these rights remained merely slogans. Besides, how can provisions be implemented in practice if they are not filled with content¹³? There was no constitutional control body in the USSR and for the enforcers of rights, the ideological position provided by the Communist Party was of utmost significance. This means that, in reality, the countless constitutional rights and freedoms were never enacted and were regularly infringed (freedom of speech, freedom of press, freedom of religion, and others).

Activists during the so-called Awakening at the beginning of the 1990s wanted real and not declarative rights. Refusing the Soviet ideas, the authors of the Declaration of Independence incorporated in Paragraph 8 the commitment of the State to abide by social, economic, and cultural rights and political freedoms. The same paragraph included provisions about the scope of the aforementioned rights and freedoms that must be observed. They “must conform to universally-recognized international human rights provisions”. In order to ensure the functioning of the democratic system, the Parliament of the transition period developed a number of laws that would enforce the fundamental rights in life in a great hurry, as required by those times. The initial laws were deficient because neither the legislator, nor the executive power, was able to elaborate detailed legal acts that would conform to the realities of life. The initially adopted laws were later significantly supplemented (the law “On Judicial Power”¹⁴) or substituted by new ones. The law was adopted hastily which did not conform to the law “On Religious Organizations”¹⁵ of 11 September 1990, which was later replaced by the “Law on Religious Organizations.”¹⁶

In 1998, the Constitution was supplemented with Chapter VIII which includes fundamental human rights. A year before this event on 27 June 1997, the European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950, and several of its protocols came into force in Latvia.¹⁷ This convention is considered to be the most effective instrument for the protection of rights in the world.¹⁸ Along with the convention, the judgements by the European Court of Human Rights and its case law became binding on Latvia and obliged Latvia to interpret its legal system in compliance with this case law and fill up the “gaps” in its laws.

At the end of the 1990s, Latvia set a strategic goal — to join the European Union. It also influenced the legal system because one of the major tasks for the government

12. Ringolds Balodis, “Tiesiskie Principi, Kas Valda Valsts un Baznīcas Attiecībās Latvijas Republikā 21. Gs. Sākumā [Legislative Principles that Determine the Relations between the Church and the State in the Republic of Latvia at the Beginning of the 21st Century],” in *Latvijas Universitātes Raksti. Juridiskā Zinātne*, vol. 740 (Rīga: LU, 2008), 114.

13. Ringolds Balodis and Annija Kārklīņa, “Valsts Tiesību Attīstība Latvijā: Otrais Neatkarības Laiks [Development of State Law in Latvia: The Second Period of Independence],” in *Latvijas Universitātes Žurnāls Nr.1. Juridiskā Zinātne* (Rīga: Latvijas Universitāte, 2010), 25–52.

14. *Par tiesu varu [law “On Judiciary”]*. Law of the Supreme Council. Ziņotājs. No. 1, 1993. Ziņotājs, No. 1, 1993.

15. *Par reliģiskajām organizācijām [law “On Religious Organizations”]*. Law of the Supreme Council of the Republic of Latvia, not effective. *Latvijas Republikas Augstākās Padomes un Valdības ziņotājs*, No. 40, 1990.

16. *Reliģisko organizāciju likums [“Law on Religious Organizations”]*. Law of the Republic of Latvia. *Latvijas Vēstnesis*, No. 146, 1995.

17. Par 1950. gada 4. novembra Eiropas Cilvēktiesību un pamatbrīvību aizsardzības konvenciju un tās 1., 2., 4., 7. un 11. protokolu [On Protocols 1, 2, 4, 7, and 11 to the Convention for the Protection of Human Rights and Fundamental Freedoms of November 4, 1950]. Law of the Republic of Latvia. *Latvijas Vēstnesis*, No. 143, 1997.

18. Mārtiņš Mits, “Eiropas Cilvēktiesību Aizsardzības Sistēma [European System for Human Rights Protection],” in *Cilvēktiesības Pasaulē un Latvijā [Human Rights in the World and Latvia]*, ed. Ineta Ziemele (Rīga: Izglītības Sols, 2000), 53.

became the approximation of legal acts of Latvia to the European standards.¹⁹ In order to achieve this goal, Latvia firstly had to ensure stable activities of those institutions that had to guarantee compliance to democracy, rule of law, and human standards in the State.²⁰

As mentioned before, in 1998 the Constitution was supplemented with Chapter VIII which includes fundamental human rights. In this chapter of the Constitution was included the new Article 99, which declares: “*Everyone has the right to freedom of thought, conscience and religion. The Church shall be separate from the State.*”

The new State lacked clarity in this particular area,²¹ apart from the adoption of several legal norms of the first independence period²² and the influence of the main traditional Churches in the lawmaking process.²³ Activity of the pro-church First Party (*Pirmā partija*) in the Parliament and competition amongst traditional Churches gave parity with secular forces. Very important in this regard is the impact of the agreement concluded in 2000 between the Republic of Latvia and the Holy See. Though the agreement is not directly related to separation of the Church and the State or to religious freedom and other churches, it forced the Latvian government to solve issues regarding equality for traditional Churches. Consequently, as of 2009 Latvian Lutherans, Orthodox, Old Believers, Methodists, Baptists, Seventh-day Adventists, and Jews have their agreements with the government and are protected by specific laws.²⁴

Of course, these denominations were also protected during the time of the first independence. All of them were included in Article 51 of the Civil Law (1937) which gave them the right to solemnize the marriages of their members. The legal framework for these denominations means that we may speak not only of issues concerning their registration but also of special recognition of particular religious organizations by the State, which is not related to registration institutions. Of course Latvia, is among those states which seems to have a model of partial separation of church and state,²⁵ but it is also a state of the type which Professor Cole Durham has called a cooperationist regime.²⁶ Although lawmakers have included in the church laws some of the issues which need to

19. Ziņojums par Ministru Kabineta Sastādīšanu un Deklarācija par Ministru Kabineta Iecerēto Darbību [Declaration on the Composition of the Cabinet of Ministers and its Intended Activities], Diena, 23 November 1995.

20. K. Sandgrēns and D. Iljanova, “Latvijas Tieslietu Sistēmas Vajadzību Novērtējums [Assessment of Needs of the Judicial System in Latvia],” *Likums un Tiesība* 6 (2001).

21. It is true that there was no plan in any sphere under supervision of the State, and due to the above reason, it cannot be considered that churches are somehow especially unfairly treated. Being aware that these relations started to form in the restored Republic of Latvia, it can be asserted that it was neither formal nor substantive continuation of the practice of the relations between the state and church during the first independence period.

22. When drafting new legal acts, the reception of the provisions of law of the first independence period happened mainly not due to well-considered ideas of continuity or nationalism, but because of lack of foreign language.

23. The principle “one denomination – one Church” can be added to the merits of lobbies; see art. 7 Part 3 of the LROL – “Congregations of one denomination may establish only one religious association (church) in the country”.

24. Ringolds Balodis, “Lygiateisiškumo Principas ir Religijos Laisvė Baltijos Valstybėse/Jurisprudencija,” *Mokslo Darbai* 12 (2006): 103-106.

25. On the grounds of the degree of state cooperation with religious organizations, the states may be divided into six groups: (1) **States excluding the church** (e.g., former USSR); (2) **States having a model of full separation of church and state**, e.g., USA, France. Those are states where a distinction between the state and the church is drawn. Both are separated. The state identifies itself with no religions. (3) **States having a model of partial separation of church and state** (e.g., Germany). In such a state, a constitutionally declared separation of church and the state may exist. (4) **Church states (theocracies)**. Such a model of the state and church is mostly common in Islamic countries and some other Third World countries. In such a country, there is a religious dictate and the state identifies itself with one religion. (5) **State church countries** (e.g., Denmark, Greenland, England). These are countries wherein the state religion is proclaimed or the state church is set. (6) **Formal separation countries** where the church can be formally separated from the state, but actually is not (Latvia, Israel).

26. W. Cole Durham, Jr., “Perspectives on Religious Liberty: A Comparative Framework/ Religious Human Rights,” in *Global Perspective*, ed. Johan David van der Vyver and John Witte Jr. (Netherlands: Kluwer Law International, 1996), 20-21.

be regulated, Latvia has been shaped according to and more resembles the model of Italy or Spain and has its own distinctive constitutional structure.

In my opinion, depending on the form of recognition by the State, the religious organizations in Latvia may be divided into two types: (1) traditional religious organizations and (2) others.

Traditional religious organizations are divided into the Roman Catholic Church, as its status is based on an international agreement, and the other traditional religious organizations, which by adoption of special laws in respect to them have gained special recognition by the State.²⁷ Other religious organizations are registered pursuant to the Law on Religious Organizations.²⁸

IV. LEGAL STATUS OF RELIGIOUS BODIES AND SUPERVISORY (REGISTRATION) INSTITUTIONS

The legal status of legal entities in Latvia are defined by the Civil Law, but the status and the registration of religious organizations are regulated by the Law on Religious Organizations. Other public organizations (except trade unions and businesses, which are subject to a different law) are regulated by the law "On Public Organizations and their Associations." Although the Latvian government does not require the registration of religious groups, the Law accords religious organizations certain rights and privileges when they register, such as status as a separate legal entity for owning property or other financial transactions, as well as tax benefits for donors. Registration also eases the rules for public gatherings.

According to the Law on Religious Organizations, twenty persons of full age registered in the Latvian Citizens Register and sharing one confessional affiliation may establish a religious organization. Ten or more congregations of the same denomination with permanent registration status may form a religious association. As provided by the Law on Religious Organizations, religious organizations (church congregations, religious communities and dioceses), seminaries, monasteries and diaconal institutions are to be registered. Only churches with religious association status may establish theological schools or monasteries.

A decision to register a church is made by the notaries of the Register of Enterprises (until 2008, the Head of the Board of Religious Affairs).²⁹ The functions of registering religious organizations are separated between the Register of Enterprises (hereinafter – Register Office), which registers religious organizations, and the Ministry of Justice, which prepares statements for the Register Office.

The Law on Religious Organizations Section 5, clause 5

(5) The Ministry of Justice shall be in charge of handling relations between the State and religious organizations, within the competence set by laws and other normative acts it ensures elaboration, co-ordination and implementation of State's policy on religious affairs, it deals with issues connected with mutual relations between the State and religious organizations. The structural unit under authority of the Ministry of Justice, which deals with religious affairs, on the request of religious organizations provides them with the necessary consultation and assistance.

27. Ringolds Balodis, "Das Recht der Religionsgemeinschaften in Letland," in *Das Recht der Religionsgemeinschaften in Mittel-, Ost- und Südosteuropa*, ed. Wolfgang Lienemann and Hans-Richard Reuter (Baden-Baden: Nomos Verlagsgesellschaft, 2005), 235-259.

28. Religious organizations which are registered as unions or commercial structures, or are not registered at all cannot be construed as religious organizations that would have rights to appeal for religious freedom.

29. From 2000-2008, the Board of Religious Affairs dealt with issues connected with mutual relations between the State and religious organizations; it monitored the effectiveness of the State's legal regulations on practicing religions.

The Law on Religious Organizations Section 5, clause 6

(6) *Law enforcement institutions shall supervise the compliance of activities of religious organizations with the laws and other normative acts and shall inform the Ministry of Justice on the breach of law by religious organizations.*³⁰

The Register of Enterprises is a governmental institution under supervision authority of the Ministry of Justice. It should be explained that a very important reorganization was realized the end of 2008. In accordance with the Amendments to the Law on Religious Organizations adopted by the Latvian Parliament on 18 December 2008, the Religious Affairs board no longer exists. From 1 January 2009, religious organizations and their institutions are entered into the Register of Religious Organizations and their Institutions. The Register of Enterprises of the Republic of Latvia maintains this Register. The Ministry of Justice is in charge of handling relations between the State and religious organizations, within the competence set by laws and other normative acts. The Ministry ensures elaboration, co-ordination, and implementation of the State's policy on religious affairs and deals with issues connected with mutual relations between the State and religious organizations. The structural unit which deals with religious affairs under authority of the Ministry of Justice provides religious organizations, on their request, with any necessary consultation and assistance. Before registration of a religious organization or its institution, the Register Office must request the opinion of the Ministry of Justice on whether the goals and objectives stated in the Charter (Constitution, Regulations) of a religious organization or its institution are in compliance with the State's laws and other normative acts, or whether the activities (teaching) of a religious organization might endanger human rights, the democratic structure of the State, or the public safety, welfare, or morals.

Having been registered at the Register Office, religious organizations are given the status of legal persons. It is not provided by legislation of the Republic of Latvia that registration is obligatory for the expression of freedom of belief. Therefore, every unregistered religious group has the right to conduct services, religious rituals, and ceremonies and to carry out charitable work, unless such activities break the law.

In accordance with Article 14 of the LROL, the activities of the religious organizations are based on their canons and statutes. In conformity with LROL Article 1, religious activities include the manifestation of a religion, faith, or cult; the performance of religious ceremonies or rituals; and the providing of religious instruction by preaching. After it has obtained the status of a legal entity, the religious organization can:

- (1) Organize public services;
- (2) Create monasteries and educational establishments for its clergy (only registered religious communities have this right);
- (3) Perform religious activities in hospitals, residential homes, penal institutions and the National Armed Forces;
- (4) Use religious symbols, providing that "only religious organizations or institutions established by such have the right to use the name and symbols of religious organizations in their official forms and seals."

The activity of religious organizations is restricted in accordance with Article 116 of the *Satversme*. Activities of religious organizations promoting religious intolerance and hatred, breaking of the law and inciting others to do so, violating or failing to observe the statutes of religious organizations, or threatening state security, public order and peace or the health or morals of other persons, can be ordered to cease by court injunction. Article 14 of the Law on Religious Organizations also provides that the State has the right to restrict the activities of religious organizations and their followers on those grounds. The government must ensure that citizens can freely practice their religion; however, religious freedom does not release anybody from the obligation to observe the law. If necessary, the

30. Amendments to the Law on Religious Organizations of 2009.

State has the legal power to restrict manifestations of religion in order to protect the rights of other people, the democratic nature of the State, public security, public order, public welfare, and the morals and health of other people.

Section 18 of the Law adopted by the *Saeima* on 18 December 2008 (amendments of the Law on Religious Organizations) provides the following “Grounds for Termination of Activities of Religious Organizations and their Institutions”:

1. The activities of a religious organization or its institution shall be terminated:
 - a. by decision adopted according to the Charter (Constitution, Regulations) of a religious organization;
 - b. if the number of congregations of a religious association (Church) is less than that set by Section 7, Clause 2 of this law and is not increased to the number set by this law within a period of one year;
 - c. by the adjudication of a court; or
 - d. in other cases as specified by law or the Charter (Constitution, Regulations).
2. Termination of Activities of a religious organization by Adjudication of a Court:
 - a. if a religious organization violates the *Satversme*, the laws of the Republic of Latvia or its own Charter (Constitution, Regulations);
 - b. if a religious organization urges others to violate the law;
 - c. if a religious organization endangers the democratic structure of the State, public peace or order, or the health and morals of other persons by its activities (teaching); or
 - d. in other cases as specified by law.
3. The right to bring an action to court shall be vested in the Prosecutor General.
4. If a religious organization has not submitted documents by the term according to Section 8, Clause 6 of this law or the opinion of the Ministry of Justice states that the activities of a religious organization are not in compliance with the laws and other normative acts in the previous period, a decision regarding exclusion of the religious organization from the Register shall be taken on the first day after the term of registration by the Register Office. Claims arising from the economic activities of the excluded religious organization shall be laid against the members of the governing body of the religious organization.
5. The Court, taking into account the seriousness and consequences of violation by a religious organization, as well as considering the goals and activities of the religious organization in the entirety, may issue a warning to the religious organization without the termination of its activities.
6. The Court, considering the violation by an institution of a religious organization, takes into account the goals of the institution of the religious organization and appraises the compliance of the activities of the religious organization, which founded the institution of the religious organization, with the laws and other normative acts.

To supplement Transitional Provisions with Paragraph 8 and 9 in the following wording:

1. Until the day when the Cabinet regulations issued pursuant to Section 9, Clause 9 of this law comes into force, but no later than 30 March 2009, Cabinet Regulation No. 57 of 15 February 2000, Regulations Regarding State Fees for Religious Organizations and their Institutions, shall be applied.

9. Taking over the functions of the Board of Religious Affairs (except maintaining the Register of Religious Organizations and their Institutions) shall be determined by the Cabinet of Ministers by 30 December 2011.

V. MODELS OF RELIGIOUS ORGANIZATION IN LATVIA

According to the Law on Religious Organizations Article 7,³¹ religions in Latvia can be registered according to only three models of organization: Congregation, Religious Association (Church), and Diocese.

(1) A **Congregation** (*draudze*) can be established by a minimum of twenty legal-aged individuals registered in the Latvian Citizens Register and having one confessional affiliation. The Latvian Population Register registers every person who legally crosses the Latvian border, so it is no problem for foreigners to constitute any religious entity.³² Effectively, every person who resides in Latvia legally, whether citizen or foreigner, can be the founder of a religious organization. Every inhabitant of Latvia has the right to join a congregation and to be its active member. Young persons under 18 may become congregation members only with the written consent of their parents or guardians. One and the same person is entitled to be the founder of only one congregation.

(2) A **Church** (*Baznīca*) or religious association can be established by ten or more congregations of the same denomination with permanent registration. Congregations of the same denomination may establish only one religious association (Church) in the country.

(3) **Dioceses** may be established by Catholics.

The Law on Religious Organizations also makes provision for a fourth model for the establishment of a religious organization (*religīsko organizāciju iestādes*) – that for theological schools, educational institutions for ecclesiastics, monasteries, missions, deaconate institutions, and similar organizations. Such organizations can be registered only by the decisions of Churches and Dioceses. Only they may create, reorganize or dissolve their institutions, according to the decision of the founder and in accordance with the Charter (Constitution, Regulations) of the Church or Diocese.

VI. MODEL FOR “NEW RELIGIOUS ORGANIZATIONS”: RE-REGISTRATION IN LATVIA

Re-registration of religious organizations is stipulated by the Law on Religious Organizations Article 8, part 4. Under the law, re-registration is related only to congregations of denominations which began their activity in the Republic of Latvia for the first time and not to religious communities (Churches) already registered in the Latvian State. These organizations are so-called “new religious organizations.”³³

The aim of re-registration is to ascertain the loyalty of a certain congregation towards the Latvian State and compliance of its activity with legislation. After the 10th re-registration, a religious organization obtains the status of permanently registered. At the present, 1200 religious organizations and their establishments are registered at the Register. More than 90 congregations of those must be re-registered annually.³⁴

If we speak about the real advantages of registration (from an anti-cultist point of view), it should be noticed that the achievements are rather doubtful. Some of the most

31. 1995.gada 7.septembra Reliģisko organizāciju likums (*Law of Religious Organizations of 7th September 1995*) //Latvijas Vēstnesis, 26.09.1995., Nr.146

32. Ringolds Balodis, *The Constitution of Latvia*, Rechtspolitisches Forum Legal Policy Forum Institut für Rechtspolitik an der Universität Trier, 26 (2004): 47.

33. Speaking about new religious organizations, it should be mentioned that the U.S.State Department Report of 1997 on Religious Freedom criticizes Latvia for violation based on its refusal to register Jehovah's Witnesses. This problem has now been resolved, as in the fall of 1998 the two first Jehovah's Witnesses congregations were registered. At present, there are 12 congregations of this movement registered in Latvia, and Latvian law enforcement agencies have no information on violations with respect to the freedom of this movement. Before the Christian Science congregation was registered in 2002, the Ministry of Justice had six times declined the application of this congregation since, according to the opinion of the Latvian Medics Association, the main activity of this organization, i.e., treatment of sick or injured people with non-medical means, contradicted the Latvian law and the Medical Ethics Code.

34. Ringolds Balodis, “A Religious Organization in the Latvian State: Its Rights and Obligations,” *Religion in Eastern Europe: Christians Associated for Relations within Eastern Europe*, Vol. XIX, No.4 (1999): 0-8.

active and dangerous religious sects and worship groups operating in Latvia have either failed to register at all (e.g., Satanists) or are acting under the veil of nongovernmental organizations and even commercial structures. In the spring of 2003, several persons submitted applications to the Security Police of Latvia, asking for screening of the activities by the Satan worship adherents – the Satanists – in Latvia. Information providers have mentioned use of drugs, use of human blood in rites, desecration of cemeteries and graveyards, and even unauthorized wire-tapping. The police have carried out inspections but have not confirmed these assertions.

VII. FINANCES OF THE CHURCHES

There is no single law in Latvia dealing with taxation as it affects the churches. The financial and tax issues of the churches are dealt with in many laws and regulations. The development of the financing system of religious organizations began in 1998 after the adoption of amendments in Article 6 (Religious Organizations and Education) of the Law on Religious Organizations, where Section 5 was added: “(5): The teaching of Christian religion and ethics shall be financed out of the state budget.” Religious organizations also came to have a certain amount of financing at their disposal after the Parliamentary elections in 2002, when the “First Party” (*Pirmā partija*) was entered into the Parliament, becoming a partner of the government coalition. The First Party is doing its utmost to support traditional and other religious organizations. In 2004, the First Party ensured that about 2 million Euros from the state budget would be allocated to the development of the infrastructure of sacral tourism. Under the aegis of the Party, the churches have received almost 2 million Euros from the state and regional budgets. Large and small sums have been allocated to more than 160 religious organizations (mostly to Lutheran, Catholic, Orthodox, Adventist, and Old-Believer parishes). The allocated funds have been mostly spent for the renovation and painting of, as well as for installation of sewage and heating systems in, churches.

Latvia has a type of indirect financing through tax-exemption, without preference to any specific religious organization. According to the tax legislation of the Republic of Latvia, religious organizations registered in Latvia, in conformity with the applicable legislation, have tax allowances when paying real property, value-added, and company income taxes. The main condition is the registration of the religious organization with the Register and the statement of the Ministry of Justice of the Republic of Latvia.

The real estate of religious organizations (land plots, buildings, and structures) is real property tax-exempt, provided it is not used by the religious organization for economic activities (Chapter 1, Section 2, Item 4 of the law “On Real Estate Property Tax”). The use of the real property for charity purposes and for social care is not considered to be an economic activity; the same refers to the functioning of registered educational institutions preparing theological staff. According to Regulation No. 131, item 7, of the Cabinet of Ministers, dated 4 April 2000 (“Application instructions of norms specified in the law ‘On Real Estate Property Tax’”), the tax relief is applied only to the estates of those religious organizations that are registered in accordance with the Law on Religious Organizations.³⁵ Religious organizations are not company income tax payers, as specified in the law “On Company Income Tax,” Chapter 2, Section 2, Item 7. In accordance with the law “On Value-Added Tax,” charitable contribution payments and gratis goods and services (donated) are exempted from the value-added tax. When receiving goods or services that have been paid for from foreign financial aid funds, religious organizations are entitled to the preference of the value-added tax in accordance with Regulation No. 651 of the Cabinet of Ministers, dated 30 August 2005: “The procedure of application of the value-added tax to the import of goods, delivery of goods, and procurement of goods in the

35. Item 8 of the aforesaid regulations specifies that the real estate used for charity and social care is deemed to be the real estate used for free public catering and night shelters, as well as for other charitable activities free of charge.

territory of the European Union and to the services paid from the foreign financial aid funds.”

Religious organizations are required to account for their taxable transactions, and relief from the value-added tax is not applicable in cases where a religious organization is performing any kind of economic activity: for example, leasing out premises and receiving payment, providing public catering services for charge, or executing commercial trade or performing other taxable transactions. When the total value of taxable goods and services delivered or provided within a 12-month period reaches or exceeds 10,000 *lats*, religious organizations, at the latest of 30 days after reaching or exceeding this amount, must register with the State Revenue Service Registry of the value-added tax payers, in accordance with Section 5 of Chapter 3 of the Law. The value-added tax related to the economic activities of the religious organization is applied starting from the registration date and is to be collected and deposited in the state budget according to the applicable legislation. At the same time, the organization is entitled to receive the deduction of pre-tax as is stipulated in Chapter 10 of the Law.

Religious organizations registered in Latvia are released from value-added tax related to the provision of religious and ritual services (weddings, wedding jubilees, baptisms, funerals, and other rites). In accordance with Item 19.12 of the Regulation No. 534 of the Cabinet of Ministers, “The Procedures of application of the norms of the law ‘On Value-added Tax,’” dated July 2005, the norms of the law “On Value-added Tax” are not applied to religious organizations, though in cases where religious organizations procure goods for provision of religious services (candles, ornamental ribbons, etc the full price of such goods (including value-added tax that has been already included in the price) shall be paid to the seller, or the value-added tax shall be paid to the state budget after the importation of such goods and putting them into free circulation. The law does not envision refunding this tax to religious organizations that are not registered with the State Revenue Service (SRS) Registry of value-added tax payers.

In accordance with Chapter 4 of the law “On Public Beneficiary Organizations,” public beneficiary organizations (PBO) are entitled to receive tax relief specified by the applicable legislation. According to Chapter 3 of the aforesaid Law, PBOs are associations and foundations having the goal of public beneficiary activities, as specified either in their articles of association, constitution, or regulations, provided that the religious organizations and their institutions that are performing these activities have been granted the status of PBO by the Ministry of Finance, based on the statement of the Public Beneficiary Commission. According to the information provided at the official website of the Ministry of Finance in 2005, PBO status had been granted to 47 religious organizations.

At the same time, by the end of 2005, 1171 religious organizations had been registered with the Registry of Religious Organizations of the Board of Religious Affairs. The religious organizations that have been granted the status of PBO, in compliance with Chapter 20 of the law “On Company’s Income Tax,” can receive donations, allowing the donators to be entitled to apply the reduction in the company’s income tax. Under the provisions of the Law, the tax payer is entitled to a tax reduction of 85 percent of the sum donated to PBO, though the deduction for the donator cannot exceed 20 percent of the total sum of the company’s income tax. The payers of the company’s income tax that have tax debts for previous taxation periods cannot apply the tax deduction relating to the donators, having donated to organizations that have obtained the status of PBO.

Since joining the European Union, the Republic of Latvia has harmonized its national legislation with European legislative acts. Accordingly, the 1 May 2004 “Law on Humanitarian Aid Consignments” and Regulation No. 64 of the Cabinet of Ministers, “Procedures of issuing and voiding the permissions granted to religious and public organizations (funds) to receive humanitarian aid consignments,” dated 23 February 1999, have become invalid. In their place, the new Regulation No. 957 of the Cabinet of Ministers, “Procedures of release from customs duty on imports of goods performed by

the state budget institutions and public beneficiary organizations,” dated 20 December 2005, became effective.

These regulations specify the procedures on how goods imported by the public beneficiary organizations are released from the customs duty on imports. In accordance with Item 4 of these regulations, in order to receive such release, the religious organization submits to the customs supervision institution the application related to the particular consignment, along with copies of regulatory documents of the organization (presenting the originals). Item 7 then prescribes that the customs supervision institution adopts the resolution on permission to import goods for charitable purposes or for philanthropic reasons by applying the release from the customs duty on imports. In accordance with Chapter 10, Section 1, Item 3 of the law “On Residents’ Income Tax,” the value of in-kind donations or charitable contributions to religious organizations with the status of PBO are justified as deductions from the annual taxable income, provided these amounts do not exceed 20 percent of the taxable income. Donations for the purpose of this law or other items that the individual – the tax payer – delivers gratis to the PBO are considered to be cash, provided that the receiver has no counter-obligation to perform activities that are deemed to be remunerated.

VIII. RELIGIOUS EDUCATION AND THEOLOGICAL FACULTIES AT STATE UNIVERSITIES

Under Article 6 of the Law on Religious Organizations (“the Law”), the Christian religion may be taught in State and municipal schools to persons who have requested it in a written application. Applications by minors must be approved by parents or guardians. If the minor is under 14 years of age, the minor’s parents or guardians submit the application. The concept of Christian religious instruction does not include and cannot include instruction in the Jewish faith or in Islam. Christian religion, in accordance with the curriculum approved by the Ministry of Education and Science, may be taught by teachers of the Evangelical Lutheran, Roman Catholic, Orthodox, Old Believers or Baptist denominations, if no fewer than ten students of the same school have expressed their wish to study the religious teaching of the relevant denomination. The teachers must be selected by the denomination leaders and be approved by the Ministry of Education and Science. Since 1998, the Law has been supplemented by Article 6(5) which provides that religious teaching and ethics classes are financed from the state budget. In 1998, the Government provided funds for this education.

Ethics is offered as an alternative to religious instruction. Students at State-supported national minority schools may also receive education in the religion “characteristic of the national minority” on a voluntary basis. Other denominations may provide religious education in private schools only.

In accordance with Article 15 of the agreement between the Republic of Latvia and the Holy See, the teaching of the Catholic religion shall be conducted exclusively by the Ministry of Education and Science, and must be undertaken only by qualified teachers who possess a certificate of competence issued by the Bishops’ Conference of Latvia; the revocation of the certificate carries with it the immediate loss of the right to teach the Catholic religion.

According to the Law, everyone, individually or in groups, has the right to religious instruction in the educational establishments of religious organizations. In national minority schools supervised by the State or municipalities, if such is the wish of the students and their parents or guardians, the religion appropriate to the particular national minority may be taught in compliance with procedures prescribed by the Ministry of Education and Science. Thus, for example, the Orthodox, whose religion is not mentioned in the Law on Religious Organizations, can ensure religious classes for their children.

The University of Latvia’s Theological Faculty is nondenominational. The Faculty of Theology was established in 1920. In 1940, in consequence of occupation by the Soviet Union, it was abolished. Upon the collapse of the Soviet regime at the end of the 1980s, the Faculty was restored. Now, the Faculty of Theology, pursuant to the Faculty

Regulations approved in 1998 by the University Senate, is an ecumenical Christian academic and research department of the University of Latvia, grooming theologians, academic researchers in religious studies, lecturers and professional teachers of religion and ethics, as well as specialists in ethical issues. The Faculty is subordinate to no church; it co-operates with all churches. Students and lecturers are from various denominations. This non-denominational stance has rather specific consequences: the separation of state and church here manifests itself as separation of Theology and the Church. The work of the Faculty reflects the direction of Theology more towards social issues, which really should be within the sphere of church activities under the classical model, rather than part of ministerial training.

IX. SHRINES OFFICIALLY RECOGNIZED BY THE REPUBLIC OF LATVIA

In Latvia, more than eight hundred temples and cult buildings are owned by religious organizations, including 300 by Lutherans, 216 by Catholics, 122 by Orthodox, 66 by Old Believer Orthodox, 66 by Baptists, 79 by Seventh-day Adventists, 24 by Pentecosts, and 8 by the Salvation Army. A large number of the churches are listed as historic monuments of national importance. The most famous and best-known churches are Riga Dome, owned by the Lutherans, the Aglona Basilica of the Roman Catholics, and the Orthodox Church's monastery, Valgunde.

The Aglona Basilica of the Roman Catholics is currently the only officially recognized shrine of the Republic of Latvia. The Basilica was built in 1800 by the Dominican monks. The Aglona Basilica was visited and consecrated by Pope John Paul II in 1993, and it attracts many pilgrims. Every year on the 14th and 15th of August, there are celebrations to mark the Catholic Feast of the Assumption of the Blessed Virgin Mary. Large numbers take part – usually on the 15th of August in the Aglona celebration, about 100,000 pilgrims participate.

The Shrine has a particular legal regulation. According to Article 1 of the Law of 1995 “On the International Shrine in Aglona,” Aglona is an international shrine, as well as being a part of the cultural and historical heritage of Latvia, a cultural monument and a place for religious pilgrimages. The Shrine of Aglona must be used exclusively for religious and spiritual observances under the auspices of the Latvian Catholic Church. On the basis of this law, the government of Latvia promulgated in 1999 regulations “Concerning the Activities of Natural and Legal Persons in the Protected Area of the Aglona Shrine.”

The regulations provided that timber felling and any work affecting the river or lake, any construction or installation of premises and buildings, hotels, or places of entertainment may be carried out only with the written permission of the congregation. In the Shrine area, no one may, without the congregation's permission, sell or advertise alcoholic drinks and amusement products. Without the same permission, hunting and fishing in the area are also prohibited.

In accordance to Article 11 of the Agreement with the Holy See, the Shrine of Aglona is part of the cultural and historical heritage of the Republic of Latvia, and as such, is protected under Latvian law. Besides the building of the Basilica itself, the sacred square in front of the Basilica, and the cemetery and the spring area, the protected area of the Shrine includes all other buildings, structures, and lands belonging to the Catholic Church.

X. FREEDOM OF RELIGION AT PLACES OF INCARCERATION

A detailed look at Latvian law, insofar as religious practices in places of incarceration are concerned, is in order here. The law that is related to the goal stated in Section 1 of the

Law on Criminal Procedure³⁶ is in effect now, but it was not in force at the time when violations determined by the European Court of Human Rights were in place.³⁷

First of all, we may review those legal subjects to whom legal regulations apply. People who are in places of incarceration are either *detained* (i.e., people who have been ordered to be under detention by a judge or a court during pre-trial proceedings) or *convicted* (those who have been sentenced to incarceration as a result of having been found guilty of a crime). The coordinator of the religious needs of both kinds of people is the chaplain. The chaplain represents people in relations with administrators, insofar as issues such as religious diet or religious festivals are concerned. The chaplain also helps when an incarcerated individual needs to contact a clergyperson of his or her religion. The chaplain must ensure that detained and convicted people enjoy the full right of freedom of religion, offering them moral support and consultations on issues of a religious and ethical nature, and also helping them to improve themselves in the moral sense.³⁸ Chaplains provide spiritual care for detained and convicted people, coordinating religious processes in places of incarceration. To be sure, detained and convicted people have different statuses and regimens, and there are differences in the ways they are regulated. The chaplains who work at places of incarceration are regulated by the Prisons Board of the Ministry of Justice.³⁹

Detained persons can satisfy their religious needs in accordance with the law on procedures related to incarceration.⁴⁰

Section 27. Spiritual care for incarcerated persons

(1) Spiritual care of incarcerated persons shall be the responsibility of the chaplain's service of the Prisons Board.

(2) The chaplain's service of the Prisons Board shall organize and co-ordinate the activities of religious organizations in the investigatory prison.

(3) An incarcerated person shall have the right to ask the chaplain to bring in a clergyperson from the faith of the said incarcerated person.

(4) The procedure whereby an incarcerated person is permitted to meet with a clergyperson and/or to take part in the religious activities of religious organizations shall be determined in the internal rules of procedure of the investigatory prison.

Regulations set forth in the law define the internal procedures of the investigatory prison, addressing such issues as health examinations, sanitation, and the way in which incarcerated persons have the right to take part in educational events.⁴¹

VII. Educational events and the spiritual care of incarcerated persons

53. Educational and religious events at the investigatory prison shall take place at specified times of the day and in the presence of representatives of the investigatory prison's administration. Incarcerated persons shall take part in educational and religious events on a voluntary basis.

54. The administration of the investigatory prison shall inform incarcerated persons about opportunities to take part in educational and religious events.

55. An incarcerated person shall inform the administration of the investigatory prison of his or her desire to take part in educational and religious events or to meet individually with a clergyperson.

56. The director of the investigatory prison or an official authorized by the said director may permit an incarcerated person to attend educational and religious events or to

36. *Latvijas Vēstnesis*, No. 74, 11 May 2005.

37. Ed.: See *Finbergs and Others v. Latvia*, 43352/02, lodged 29 November 2002, communicated April 2009, and *Gubenko v. Latvia*, 6674/06, lodged 8 December 2006, communicated 20 November 2009.

38. Regulations concerning this can be found in *Latvijas Vēstnesis*, No. 101, 5 July 2002.

39. There are also chaplains for the National Armed Forces and for other institutions for which ordinary contact with clergymen is not possible.

40. *Latvijas Vēstnesis*, No. 103 (3471), 4 July 2006.

41. *Latvijas Vēstnesis*, No. 193(3769), 30 November 2007.

meet individually with a clergymen whilst taking into account all limitations specified by the procedural institution, all requirements vis-à-vis isolation, instructions from medical personnel, and other considerations related to the security of the institution. Where necessary, the request may be refused.

The regulations also speak to the types of objects and food products which incarcerated persons may keep. These include a plate, a cup, a spoon, and clothing that is appropriate for the season. Incarcerated persons also have the right to have newspapers, magazines, and seven books. This means that they can possess and read legal literature.⁴² Convicted persons can pursue their religious needs on the basis of legal regulations comparable to those which apply to detained persons (see Section 46¹ of the Punitive Code).⁴³ The only difference is that the procedure whereby convicted persons are permitted to meet with clergypersons and attend events aimed at moral improvement is regulated by the Cabinet of Ministers Regulation No. 423, 30 May 2006, “Regulations on the Internal Procedures of Institutions of Incarceration.”⁴⁴ Sections 35 to 39 of these regulations are dedicated specifically to spiritual care:

VII. Spiritual care of convicted persons

35. In order to provide for the spiritual care of convicted persons, chaplains shall organize the religious activities of religious organizations at institutions of incarceration or conduct the same, in accordance with norms related to the chaplain’s service.

36. All religious activities of religious organizations except for confession shall take place in the presence of an employee of the relevant institution of incarceration.

37. Convicted persons shall meet with clergypersons in accordance with the agenda and rules of the institution of incarceration, as specified by the director of the Prisons Board.

38. Convicted persons who are in punitive confinement shall be visited by a clergyperson only with the express approval of the director of the relevant institution of incarceration. A representative of the administration shall always be present during any such visit.

39. Religious literature shall be distributed at an institution of incarceration by religious organizations referred to in normative acts related to the chaplain’s service.⁴⁵

XI. FREEDOM OF EXPRESSION AND OFFENSES AGAINST RELIGION

Section 151 of the Criminal Law sets forth sanctions for anyone who disrupts a religious event. The punishment is either community service or a fine of no more than the equivalent of 10 times the minimum monthly wage.⁴⁶ Note that Section 151 speaks only to “religious rituals” and specifies that the proscribed disruption must be intentional. Specifically, punishment is to be applied to “a person who commits intentional interference with religious rituals, if the same are not in violation of the law and are not associated with a violation of personal rights.” Commentary attached to the Criminal Law

42. Appendix 4 to the Cabinet of Ministers Regulation No. 800, 27 November 2007.

43. The Section 46.1 speaks to spiritual care in institutions of incarceration, noting that there are chaplains’ services at such institutions. These are subordinated to the Prisons Board, and chaplains are appointed with the agreement of the Board of Religious Affairs. Legally registered religious, charitable and welfare organizations are allowed to provide services aimed at moral improvement at places of incarceration. The procedure whereby convicted persons are allowed to meet with clergy and take part in moral improvement procedures is regulated in the internal procedures of the relevant places of incarceration.

44. *Latvijas Vēstnesis*, No. 32 (2607), 27 February 2002.

45. Basic regulations concerning institutions of incarceration include the isolation and supervision of convicted persons with the aim of keeping them from committing additional criminal offenses. Convicted persons face various regimes and conditions, depending on the criminal offense that they have committed, as well as their personal nature and behavior. Section 50¹.9.8 of the Punitive Code, for instance, states that those prisoners who are at the lowest level of the prison regime have the right to attend worship services in the prison chapel and to meet with clergypersons without the presence of any other person.

46. In July 2008, the minimum monthly wage in Latvia was LVL 160 (EUR 112).

explains that disruption of religious rituals can involve “an unlawful closing of a house of worship; a ban on cult ceremonies or on religious rituals such as marriages, baptisms and funerals; or violence against an individual who takes part in such a ritual or a servant of the cult.”⁴⁷ The makeup of the criminal offense is formal and applies to the moment when steps are taken to disrupt a religious ritual. In any event it is believed that the subjective aspects of this offense are characterized by direct intent. As far as this section of the Criminal Law is concerned, a guilty party can interfere with religious rituals by acting against an officially registered religious organization, its members, or individual people of faith.⁴⁸

In 2007, criminal proceedings were launched just once on the basis of Section 151 of the Criminal Law.⁴⁹ At issue was an incident in which members and employees of the Grebenshchikov Old Believer congregation of Rīga were barred from entering their house of worship. The author has no further information about the development of this criminal case, although it is known that it has not yet been submitted to the courts. Section 149¹ of the Criminal Law specifies a fine equal to 30 times the minimum monthly for violations of the ban against discrimination if such an offense has been committed more than once in a single year’s time. The section speaks to “discrimination related to race or ethnicity,” and it does not specifically speak to religion. The key phrase in this section is this: “or for the violation of discrimination prohibitions specified in other regulatory enactments.”

Such enactments include the Law on Religious Organizations, which states, in Section 4.1, that “any direct or indirect limitation on the rights of residents, direct or indirect creation of advantages for residents, offense against religious sensibilities or fomenting of hatred vis-à-vis the attitude toward religion of residents shall be banned.” This suggests that the norms of Section 149¹ of the Criminal Law apply in this regard, too. Section 149¹ specifies a prison sentence of up to two years, mandatory community service, or a fine equal to no more than 50 times the minimum monthly wage if the violation against the ban on discrimination has caused substantial harm; if it has involved violence, fraud or threats; if it has been committed by a group of individuals; if it has been committed by a government official or a senior representative of a company, enterprise or organization; or if it has been committed with the use of an automated data processing system. Here we are dealing with general offenses such as assault or coercion. The Criminal Law does not speak specifically to attacks against someone’s freedom of religion or conscience, but the fact is that if an offense is sufficiently serious, such crimes can end up in court not because of their religious nature, but because they represent a general offense against an individual’s private rights.

When it comes to offending a person’s religious sensibilities or fomenting hostility with respect to someone’s attitude vis-à-vis religion or atheism, Section 150 of the Criminal Law specifies a prison sentence of up to two years, community service, or a fine of as much as the equivalent of 40 minimum monthly wages.⁵⁰ Here it must once again be noted that if the offense causes significant harm; involves violence, fraud or threats; is committed by a group of individuals, a government official, or a senior representative of a company, enterprise or organization; or involves automated data systems, the punishment can be a prison sentence of as much as four years. Commentary on Section 150 notes that, in objective terms, this refers to activities which are manifest as direct or indirect limitations on an individual’s rights, the creation of advantages for individuals, offenses

47. Uldis Krastiņš, Valentija Liholaja, and Aivars Niedre, *Krimināllikuma Zinātniski Praktiskais Komentārs. Nr. 2. Sevišķā Daļa [Scientific and Practical Commentary on the Criminal Law No. 2: Special Regulations]* (Rīga: AFS, 2007), 313.

48. Uldis Krastiņš, ed., *Krimināltiesības. Vispārīgā un Sevišķā Daļa [Criminal Law: General and Special Regulations]* (Rīga: Tiesu Namu Aģentūra, 1999), 195.

49. A letter from the state secretary of the Interior Ministry of the Republic of Latvia, Aivars Straume, to Associate Professor Ringolds Balodis, chair of the Department of Constitutional Law of the Faculty of Law, University of Latvia, 29 May 2008.

50. *Supra* n. 3 at 152.

against the religious sensibilities of an individual, or the fomenting of hatred. These activities relate to the victim's attitude vis-à-vis religion or atheism.⁵¹

The criminal offense that is addressed in Section 150 threatens the right of freedom of religion of an individual, because Section 99 of the *Satversme* declares that this is a universal right. The makeup of the criminal offense that is addressed in Section 150 is formal and applies to the moment when the activities spoken to in the sections have occurred. From the subjective perspective, the offense can be committed only with direct intent, because the guilty party would have to perform the aforementioned acts in terms of attacking the victim's religious or atheistic beliefs. In other words, there has to be direct intent.⁵² In 2008, criminal proceedings were launched only once with respect to Section 150 of the Criminal Law (fomenting religious hatred).⁵³ The proceedings were eventually cancelled on the basis of Section 377.2 of the Law on Criminal Procedure – investigators did not determine that a criminal offense had been committed. The issue concerned an Internet portal, www.draugiem.lv (www.friends.lv), where someone had posted statements which were offensive to Roman Catholics.⁵⁴

In the 1990s, there were several cases related to offenses against people's religious sensibilities. An organization calling itself "Congregations of God" made statements which offended traditional religious denominations and were aimed at attracting attention.⁵⁵ One might note that some of Latvia's leading researchers in the field of religion (Valdis Tēraudkalns and Solveiga Krūmiņa-Koņkova) have argued⁵⁶ that the concept of "hate speech" should be used instead of the concept of "religious sensibilities." By this, they refer to spoken or written calls for violence, to the unjustified limitation of the rights of individuals or groups, as well as to offensive or humiliating speech which foments hatred. The experts feel that these are offenses which affect not just the area of religion, but also such factors as ethnic origin, skin color and sexual orientation.

A. *The Confidentiality of Confessions*

The confidential nature of confessions and pastoral discussions is protected in special laws related to religious denominations,⁵⁷ as well as in the Law on Civil Procedure (Section 106), the Law on Criminal Procedure (Section 121), and the Law on Administrative Procedure (Section 163). The procedural laws state that clergypersons may decline to provide evidence in administrative, criminal, and civil cases about things that they have heard in confession. People who are in prison have the right to attend confession without the presence of any prison representative.⁵⁸ In 2007, the Parliament of Latvia adopted five of seven proposed special laws on religious denominations. Two other laws – one on the Orthodox and one on the Lutheran church – were approved in 2008. The legislature has covered some issues in church-related laws which should be

51. *Supra* n. 47 at 311-312.

52. Religious sensibilities can be offended by humiliating an individual, by making rude statements about the individual, by denigrating the individual's attitude vis-à-vis religion or atheism, etc. This can be done in spoken, written or another form. Fomenting of hostility refers to the dissemination of spoken or written ideas, theories or views via the mass media or otherwise so as to encourage a broader or narrower range of individuals to develop hostile attitudes vis-à-vis the representatives of another religious group or atheists. *Id.*

53. *Supra* n. 49.

54. *Id.*

55. Ringolds Balodis, *Valsts un Baznīca [State and Church]* (Rīga: Nordik, 2000), 284.

56. Solveiga Krūmiņa-Koņkova and Valdis Tēraudkalns, *Reliģiskā Dažādība Latvijā [Religious Diversity in Latvia]* (Rīga: Klints, 2007), 89.

57. A law on the Latvian congregations of the Church of Seventh-day Adventists, *Latvijas Vēstnesis*, No. 93 (3669), 12 June 2007. Also a law on the Latvian Union of Baptist Congregations, *Latvijas Vēstnesis*, No. 86 (3662), 30 May 2007. Also a law on the Jewish congregation in Rīga, *Latvijas Vēstnesis*, No. 98 (3674), 20 June 1998. Also a law on the Latvian Unified Methodist Church, *Latvijas Vēstnesis*, No. 91 (3667), 6 July 2007. Also a law on the Latvian Pomora Church of Old Believers, *Latvijas Vēstnesis*, No. 89 (3674), 20 June 2007.

58. Cabinet of Ministers regulations on the internal procedures of places of incarceration, *Latvijas Vēstnesis*, No. 32 (2607), 27 February 2002.

regulated,⁵⁹ and it can be said that at this time the model in Latvia is similar to that which prevails in Italy or Spain.

B. *Offenses against the Public Peace at a Place of Worship or during a Religious Procedure*

The Criminal Law of the Republic of Latvia speaks to the establishment or management of destructive religious groups. This is known as the “anti-sect” section of the law (Section 207), and in fact, it could be applied against any organization which engages in religious activities.⁶⁰ This is true irrespective of whether the organization has been registered as a religious organization, as well as of whether it is a traditional or untraditional organization.

Section 227 is titled “Causing Danger to Public Safety, Order and the Health of Individuals While Performing Religious Activities.” Offenses related to Section 227 can lead to imprisonment for up to five years, community service, or a fine of no more than the equivalent of 100 times the minimum monthly wage. In commentary about the Criminal Law, Professor Valentija Liholaja from the University of Latvia Faculty of Law notes⁶¹ that the criminal offense that is addressed in Section 227 involves activities which lead to the organization of a group which harms public safety and order, the health of individuals, or the legally protected rights and interests of individuals through religious instruction, evangelization or rituals. It also applies to running such a group or taking part in these types of activities. Professor Liholaja also writes that the organization and management of activities which are referred to in Section 227 means bringing people into such groups (sects), creating the circumstances that are needed for such groups to operate (facilities, equipment, objects for rituals, or various kinds of informational materials), dividing duties among participants in the group, proclaiming the relevant religious instructions, or engaging in religious rituals. Criminal liability is also faced by people who take part in such activities. When it comes to harming the health of individuals, this involves physical processes vis-à-vis the victim in the context of which the victim is beaten or tortured, he or she feels physical pain, suffers physical harm at various levels of seriousness, or faces psychological pressures which create mental or spiritual traumas. The commentary also says that offenses against the legally protected rights and interests of individuals can involve such acts as bans against working, studying or attending theatrical performances, public activities, voting in elections, and engaging in military service.

XII. CHAPLAINCY

According to Article 1(8) of the Law on Religious Organizations, chaplains are the spiritual personnel who perform their duties at penal institutions, units of the National Armed Forces, and elsewhere where ordinary pastoral care is not available. In accordance with Article 14(5) of the LROL, chaplains in Latvia function according to the Regulations of the Council of Ministers on the Chaplain Service. The Council of Ministers issued the Chaplain Service Regulations on 2 July 2002. Chaplains’ activity is financed and given material and technical support by the appropriate State or self-governmental institution within its regular budget or by the relevant religious organization. The Regulations govern the work of the chaplaincy service in the Republic of Latvia and provide that in Latvia, there exists Chaplains of custody institutions, National Armed Forces Chaplains,

59. Unresolved issues at the original report [2009] included taxation, organizations of public benefit, religious holidays, etc. See Ringolds Balodis, *Baznīcu Tiesības [The Rights of Churches]* (Rīga: Religious Freedom Association, 2002), 699.

60. Religious activities include worship services, worship ceremonies, rituals, meditation, and missionary activities (evangelisation). See Vilis Krauklis, Gundars Ūkis, and Jānis Krauklis, *Likumdošanas Aktu Terminu Vārdnīca [Dictionary of Legislative Terms]* (Rīga: Senders, 1999), 359.

61. *Supra* n. 47 at 201-203.

Chaplains of institutions of medical and social services, and Chaplains of airports, sea-ports and land transport terminals.

XIII. RELIGION AND THE PROCESS OF GRANTING ASYLUM

Registration of citizens of Latvia, non-citizens of Latvia, as well as persons who have received the residence permit, registration certificate, or permanent residence certificate, is managed by the Office of Citizenship and Migration Affairs of the Ministry of the Interior of the Republic of Latvia, which also summarizes statistical data regarding illegal immigrants and asylum seekers.

In Latvia, the procedure of asylum-seeking started in 1998. Since that time, 254 persons have requested asylum and 17 persons have been granted refugee status. The number of those seeking asylum has tended to grow. In 2007, asylum in Latvia was requested by 34 persons; in 2008, there were 51 requests.⁶²

In reference to the connection between religion and asylum-seeking, none of the Churches have made reference to the paragraphs of the aforementioned laws to favor the staying of asylum seekers in Latvia. Religious dimensions for family unification have not been observed. Polygamous or marriages contracted by force have not been observed.

From the seven special laws about churches, the cooperation of the State and churches, the process of granting of asylum is defined in five of them: in the 12th paragraph in the respective laws of Lutherans, Seventh-day Adventists, and Baptists; in the 11th paragraph in the respective law of Hebrews; and in the 13th paragraph in the respective law of Orthodox Believers. Old Believers and Methodists did not want such legal regulation in their laws, and in the agreement with the Holy See, this matter was not spoken of. It is prescribed in the mentioned special laws that an asylum seeker who is afraid of pursuance because of his religious beliefs has the right of having a representative from the Church during the negotiations in the process of acquisition of asylum. If necessary, government institutions can request a judgment from the Church regarding the possible pursuance of the asylum seeker because of his Adventist beliefs.

The number of foreigners who have illegally crossed the state border in Latvia doubled from 2008 to 2009. In the first five months of 2009, the state border guards arrested 56 residents of third-world countries for illegal crossing of the State border, which is twice as much as in the whole year of 2008. Thirty-four percent of the illegal border crossers are the residents of Moldova; the rest are mainly from Congo, Togo, Ghana, Syria, Côte d'Ivoire, Egypt, the Republic of China, and Byelorussia (Belarus). Residents of these third-world countries arrested at the border control checkpoints used faked residence permits, visas and traveling documents of Schengen Zone countries to illegally cross the state border.

62. Home page of the Office of Citizenship and Migration Affairs, <http://www.pmlp.gov.lv/lv/statistika/patveruma.html>.