

Gerhard Robbers (ed.)

State and Church in the European Union

Second Edition



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Ringolds Balodis State and Church in Latvia

I. Social Facts

Latvia is a country of 2.3 million people, living in an area of 64,589 sq. km near the Baltic Sea. The ethnic composition of the Latvian population in 2000 was as follows:

Latvians	57.6 %
Russians	29.6 %
Byelorussians	4.1 %
Ukrainians	2.7 %
Poles	2.5 %
Lithuanians	1.4 %
Jews	0.4 %
Germans	0.1 %
others	1.6 %

Now, at the beginning of the 21st century, Latvia is a multi-confessional country, where the three largest denominations are the Catholics, the Lutherans and the Orthodox Church. Altogether, there are about 170 different denominations and religious groups.

According to a survey made by a Latvian public opinion research centre in 2003, 49.3 % of the inhabitants of Latvia do not read the Bible, 4 % read the Bible almost every day, and about half read the Scriptures from time to time. According to the survey data, the declared religious affiliations of the population are:

Orthodox	25 %
Lutherans	25 %
Roman Catholics	21 %
Old Believer Orthodox	2.7 %
Adventists	0.4 %
Jews	0.1 %

In this survey 9 % considered themselves to be believers without identifying themselves with any particular denomination, while 12 % declared themselves to be non-believers. There are significant numbers of atheists. Orthodox Christians, many of them Russian-speaking, non-citizen, permanent residents, are concentrated in the major cities, while many Catholics live in the east.

Data at the disposal of the Board of Religious Affairs seem to be more reliable since these are data from the denominations themselves. The membership figures derived from this data are:

Roman Catholics	433,480
Evangelical Lutherans	400,300
Orthodox	350,000
Old Believers	60,000
Baptists	6,788
Evangelical Religion Christians & New Generation	6,589
Seventh Day Adventists	3,869
Trinity (Pentecostal)	3,721
Muslims	1,000
New Apostolic	973
Methodists	750
Latter Day Saints (Mormons)	605
'Dievturi' neo-pagans	603
Jews	550
Lutherans of the Augsburg Confession	392
Armenian Orthodox Apostolic Church	275
Krishna followers	*135
Jehovah's Witnesses	115
Reformats	95
Buddhists	75
Bahai'i	48
followers of <i>Vissarion</i>	23
Presbyterians	14

Others religions have in total 1,253 members. With regard to the Evangelical Lutherans, it must be noted that in 2000 the Church reported a figure of 400,300, while in 2001 and subsequent years, objecting to what they considered overstated numbers of Catholics and Orthodox believers (apparently through the use of different counting

* in 1995 - 2 400!

methods) it returned a figure of 37,000 in its report to the Board of Religious Affairs. Taking into account data about the number of believers provided by other churches, it seems that a figure of 400,300 Evangelical Lutherans believers in 2001 would be more accurate. So far as the Muslims are concerned, it should be said that the number is rather approximate.

Statistics on Religious Confession Congregations Registered in the Latvian Republic by 1 October, 2003

Confession	Number of congregations			
	1980	1990	2000	2003
Roman Catholics	178	187	247	252
Evangelical Lutherans	206	252	302	307
Augsburg Confession Lutherans	—	—	9	10
Orthodox	88	89	112	117
Old Believers	68	65	66	67
Baptists	62	61	87	90
Seventh Day Adventists	23	28	46	47
Methodists	—	—	10	12
Jews	4	4	8	13
Muslims	—	—	6	5
Vaishna (Krishna followers)	—	—	10	10
New Apostolic	—	—	11	11
Trinity (Pentecost)	2	7	77	57
Evangelical Religion Christians & New Generation	—	—	16	43
Buddhists	—	—	3	5
<i>God Supporters</i>	—	—	13	13
Jehovah's Witnesses	—	—	10	12
Latter Day Saints (Mormons)	—	—	3	3
Others religions/sects	—	3	22	24
Total	631	693	1058	1098

II. Historical Background

Before the German expansion in the 12th century, the territory of Latvia was inhabited by many kindred Baltic tribes (zemgali, kur-schi, latgali). The most widespread religion among these tribes was a kind of paganism, 'Dievturība'. As a result of Latvia neighbouring 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 authorisation from the Knyaz of Polozk (as part of the Latvia fell in the Russian sphere of interest) started to preach in Latvia. When he 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 Baltic. 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 land-owners 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.

After Sweden lost the Nordic War, Latvia was included in the Russian Empire in the 18th century. Russia tried to convert the newly acquired lands to the 'Tsar's faith'. Orthodox religion did not become popular among Latvians; however, a certain number of Latvians adhered to it. In the second half of the 17th century, Old Believers became active in Latvia. Despite Latvia 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 biggest 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).

Currently in Latvia there are about 5,000 Jewish people, whereas before the Second World War there were 100,000. The reason for decrease of the number of adherents to the Jewish faith is the holocaust practised by Nazis.

Seventh Day Adventists and Baptists have been active in Latvia since the end of 19th century, and Methodists, Jehovah's Witnesses, Muslims and Christian Scientists since the beginning of 20th century. The first Republic of Latvia was established on 18 November 1918 and existed till the Soviet occupation in 1940. The second Republic of Latvia was established in 1991. The proclamation of the independent democratic Republic of Latvia in 1918 largely became possible due to the promise of 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. Thus, the territorial unity of the Latvian State depended on religious tolerance towards the Catholics.

III. Legal Sources

1. Legal Principles

The state-church relationship in the Republic of Latvia is based on the following principles:

a. Separation

Separation of church and state has never implied segregation of religion from society or the complete exclusion of the Church from social life. This would not be possible in a democratic country, as religion and religious associations form one of the structural elements of society. In Latvia state and the church are separate, which implies that state institutions have a secular nature and religious organisations can fulfil the functions of the state only in special cases provided by law. State institutions supervise and control the conformity of activities of religious organisations to the applicable legislation. The Board of Religious Affairs is in charge of handling relations between the state and religious organisations and, if religious organisations so request, provides assistance in solving organisational, legal and other issues.

b. *Religious freedom*

According to the International Religious Freedom Report 2002 published by the Bureau of Democracy, Human Rights, and Labour, the Constitution of the Republic of Latvia provides for freedom of religion, and the government generally respects this right in practice. The Republic of Latvia guarantees the right to freedom of religion, including the right to adhere to a particular religion individually or in association with others or to have no religious affiliation, to freely change one's religion or conviction, as well as to freely express one's religious opinions in accordance with the existing laws. According to Article 4 of the Law on Religious Organisations, the explicit or implicit restriction of the rights of inhabitants or the grant of privileges to inhabitants, as well as offence to their feelings or incitement of hatred due to their attitude to religion are prohibited. Persons guilty of violating this provision are liable in accordance with the procedure prescribed by law. No reference may be made to a person's attitude to religion or his or her religious affiliation in identification documents issued by the state. However, it is provided in Article 4(4) of the Law on Religious Organisations that state and municipal institutions, public organisations, enterprises and commercial companies may not require from their personnel and other persons information concerning their attitude to religion or their religious affiliation.

c. *"Traditionality"*

There is no state religion. The Constitution of the Republic of Latvia (*Satversme*) does not mention any specific religion. The Latvian legislation (unlike that of Lithuania) contains no concept of "traditional" denominations. No such distinction is drawn in the Law on Religious Organisations and that Law does not list religions or religious denominations that are regarded as traditional. For all that, the confessions included in the Article 51 of the Civil Law, as having the right to solemnise the marriages of their members, are called "traditional". These are the Lutheran, Catholic, Orthodox, Old Believer, Methodist, Baptist, Seventh Day Adventist churches and the Jewish religious communities.

d. *Respectful neutrality*

Relations between the various religious communities are generally amicable. Ecumenism is still a new concept in the country, and tradi-

tional religions have adopted a distinctly reserved attitude towards the concept. Mutual relations of the state and religious organisations are managed by the Board of Religious Affairs, which on the request of religious organisations provides them with assistance they may need in addressing organisational, legal and other issues. The state recognises the right of parents and legal guardians to educate their children according to their religious convictions. According to Article 5(3) of the Law on Religious Organisations, the state recognises the right of parents and guardians to bring up their children in accordance with their religious creed.

e. *Delegation of particular powers*

The Government has delegated the right to register marriages only to some denominations, the clergy of which discharge the responsibilities of state officials, but are not paid fees or allowances by the state. In the Constitution of the Republic of Latvia religion is mentioned only in the Article 99, which declares that "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 a new section on human rights was added to the Constitution. The principle of the freedom of religion is spelt out in the Law on Religious Organisations of 7 September 1995.

The object of the Law is stated in Article 2 to be to grant the inhabitants of Latvia the right to freedom of religion, including the right to freely state one's attitude towards religion, to adhere to some religion, individually or in community with others, or not to adhere to any religion, to change freely one's religion in conformity with the existing legislation. The Law on Religious Organisations, in compliance with the Constitution, as well as international agreements concerning human rights in the sphere of religion, regulates social relations established through the exercise of the right to freedom of conscience and through engaging in the activities of religious organisations. The state protects the legal rights of religious organisations. The state, municipalities and their institutions, non-governmental and other organisations may not interfere with the religious activities of religious organisations.

In practice Latvia is a partial separation state, where the constitutionally declared separation of church and state does not work in practice. Latvia does not associate itself with any specific religion, and the question is not about religious tolerance, but about the interpretation of the Article about the separation of church and state in the

Constitution, because there is no clear opinion about where the borderline between the state and church should be strictly marked. The state and the Church are separate; however, if we speak about the main conditions that may ensure the Church's 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 still young. It is not possible to achieve a perfect balance of theory and practice at once. It requires time to develop appropriate legislative norms in a particular social environment. State practice is often in conflict with the principles declared in the Article 99 of the Constitution (for example, only one religious association may be registered for each denomination).

2. *Agreements between State and Church*

In 1996, a working group was formed, which was charged with the development of an agreement on the legal status of the traditional churches in the Republic of Latvia, to be signed between the Government and those churches. The draft was rejected in 1997 as insufficiently developed, and many Latvian lawyers found this standard agreement unnecessary. Indeed, the draft contained little more than generalities. It was only on 9 October 2000, when the agreement with the Holy See on the status of the Roman Catholic Church was reviewed in the Council of Ministers, that the issue came back on the agenda. Cabinet members indicated that it was necessary to provide a balanced system, with equal rights for other religions on the model of the agreement with the Holy See. The Government prepared amendments to the Law on Religious Organisations providing that "the Council of Ministers shall be entitled to enter into an agreement with a religious community regarding matters related to that religious community and affecting the interests of its adherents and of the relevant denomination. Special laws may regulate the relations of the state and the religious community". The Latvian Parliament considered these amendments for two years (2000-2002) until, shortly before the Parliamentary elections, they responded to pressure from the churches and on 12 September 2002 ratified the agreement with the Holy See and added a new Article 7(5) to the Law on Religious Organisations providing that "Special laws can regulate the relations of the State and a Religious community."

There is no reference to agreements with other churches in this amendment, as the parliamentary Human Rights and Public Affairs

Committee decided that legally-binding agreements would only complicate relations between the state and the churches. However, in the autumn of 2003 both the Latvian Evangelical Lutheran Church and the Latvian Orthodox Church, acting on the basis of Article 7(5) of the Law on Religious Organisations, formulated draft laws and submitted them for examination to the Board of Religious Affairs. On analysis of both drafts it was found that a large part of the rules proposed in the draft laws was taken over from the agreement with the Holy See, and the content of the draft laws themselves was modelled closely on that agreement. The issue of the possible legal personality of the churches under public law has become acute and the Board of Religious Affairs has advanced the opinion that it would be better to sign agreements with churches and afterwards adopt special laws on the basis of those agreements. Despite massive criticism from the press, the Latvian Government concluded agreements with the seven traditional denominations on 8 June 2004. Agreements at this moment are under discussion in the Latvian Parliament.

3. *Churches and Internal Organisation*

According to the Law on Religious Organisations, religious organisations which indicate as their governing authority a religious organisation registered abroad may be registered as "autonomous religious organisations" in the Republic of Latvia, which actually means that Latvia takes into account the link between of congregation and its foreign centre. However, responsibility for compliance with the law rests on the registered congregation itself.

A large number of religious organisations incorporated in Latvia has indicated that their centres are located abroad. The Latvian Orthodox Church is canonically subject to the Moscow Patriarchate. The Roman Catholic Curia of the Riga Archdiocese is a religious organisation through which the authority of the Roman Catholic Church in the Riga Archdiocese is exercised in compliance with the teaching and discipline of the Roman Catholic Church and by which all the Latvian dioceses are controlled. The theological centre of the Buddhist congregation "Drinkung Kagyu Dharmachakra Centre" is situated in India. The centre of the Church of Jesus Christ of Latter-Day Saints (Mormons) is Salt Lake City (USA). The Seventh Day Adventist church is part of the Baltic Union, which in turn is within the Adventist Church Worldwide (General Conference). Similarly, the "Salvation Army", registered in Latvia as a congregation, is part of

the international body of the same name, being regionally subordinated to the Swedish corps. The Latvian Methodist Church is a component part of the United Nordic and Baltic Methodists, which appoints the furthermore appointing leader (superintendent) of the Latvian church. Of the twelve Muslim congregations in Latvia, seven have declared as their theological centre the Muslim Spiritual Board registered in Russia. These congregations in their standing rules have acknowledged that they are subject to their centre in religious, administrative and financial matters. Other Muslim congregations have claimed an "autonomous" status, but it is certain that four of them are subject to the theological centre in Saudi Arabia, and one to Tatarstan. The Sukyo Mahikari Latvian congregation is a constituent part of the organisation with similar name registered in Japan. The congregation indicates that it is subject to the oversight of a Luxembourg-based regional centre for Europe and Africa. The highest governing body of the Latvian Bahai' congregation is situated in Haifa (Israel). The Riga congregation of Saint Gregory the Illuminator (Armenian) Church is within the Eparchy for New-Nahichevan and Russia of the Armenian Apostolic Church. The "parent church" of the Christian Science congregation in Riga is "The First Church of Christ Scientist".

According to Article 14(4) of the Law on Religious Organisations religious organisations are allowed to invite foreign clergymen or missionaries to engage in religious activities in the Republic of Latvia, only if they have arranged permits of residence for them in accordance with the procedure prescribed by law. Visa regulations effective since 1999 require religious workers to present either an ordination certificate or evidence of religious education that corresponds to a Latvian bachelor's degree in theology. The visa application process still is cumbersome. While the government is generally cooperative in helping resolve difficult visa cases in favour of missionary workers, problems still persist. In June 2002, an American religious worker successfully appealed against the refusal of a visa; however, that decision was later overturned after a further appeal by the government. Foreign evangelists and missionaries, including those from the United States, are permitted to hold meetings and to proselytize, but the Law stipulates that only domestic religious organizations may invite them to conduct such activities. Foreign religious denominations have criticized this provision. In 2002 religious organisations invited 176 foreign clergy.

4. *Public Activities of Religious Communities within the Local Community Area*

The objective of the state is to ensure that its citizens' exercise of freedom does not conflict with the interests of society and the core principles of democracy, ensuring at the same time that every individual can freely express his or her opinion in accordance with his or her religious or atheist conviction. Public activities of religious organisations are regulated in a particular way in Latvia. First of all, a refusal to accept an application for registration does not prevent individuals from exercising their freedom of religion and freedom to associate. The freedom to gather in peaceful groups is provided for in the law "On Meetings, Demonstrations and Pickets". Article 3 states that pursuant the law everyone has the right organise peaceful meetings, demonstrations and pickets or participate in the same. However, this does not refer to events organised by religious organisations. In accordance with Article 14(3) of the Law on Religious Organisations, religious organisations may engage in religious activities in public places only if they have received permission from the relevant municipality. Rules of public order must not be violated when engaging in religious activities.

IV. *Legal Status*

1. *Legal Status of Religious Bodies*

The legal status of legal entities in Latvia is defined by the Civil Law, but the status and the registration of religious organisations are regulated by the Law on Religious Organisations of 7 September 1995. Other public organisations (except trade unions and businesses, which are subject to a different law) are regulated by the Law "On Public Organisations 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 Organisations, twenty-five persons of full age registered in Latvian Citizens Register and sharing one confessional affiliation, may establish a religious organisation. Ten or more congregations of the same denomination with permanent registration status may form a religious association. As provided by the Law on Religious Organisations, religious organisations (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 Board of Religious Affairs which was established at the end of 2000. The Board of Religious Affairs is a state authority supervised by the Ministry of Justice, which acts pursuant to regulations of the Council of Ministers. The Board of Religious Affairs is a legal entity. Within the limits of its competence, it ensures the implementation of state policy and the co-ordination of religious affairs, manages issues related to the state-church relationship and monitors the working of the applicable regulations dealing with religious practices within the state. It also submits proposals aimed at preventing human rights violations related to religion in accordance with the Latvian Constitution and international agreements. The Head of the Board of Religious Affairs is appointed and dismissed by the Council of Ministers. The Head of the Board of Religious Affairs is responsible for the work of the Board and the performance of its functions.

The statutes of a religious organisation can contain by-laws regulating the internal matters of the organisation. The Board of Religious Affairs has to process applications within one month.

Having been registered at the Board of Religious Affairs, religious organisations are given the status of legal persons. It is not provided by legislation of the Republic of Latvia that registration is obligatory to express freedom of belief. Therefore, every unregistered religious group has right to conduct services, religious rituals and ceremonies and to carry out charitable work, unless those break the law.

The activity of religious organisations is based on statutes (regulations) filed with the Board of Religious Affairs, canonical rules, and the Constitution and legislation of the Republic of Latvia. In accordance with Article 14 of the Law on Religious Organisations the activities of these organisations are based on their canons and statutes. In conformity with the Article 1 of the Law on Religious Organisations, religious activities include the manifestation of a religion, faith or cult, the performance of religious ceremonies or rituals and the

providing religious instruction by preaching. After it has obtained the status of a legal entity, the religious organisation can: (1) organise 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; and (4) use religious symbols, the regulations providing that "only religious organisations or institutions established by such have the right to use the name and symbols of religious organisations in their official forms and seals."

The activity of religious organisations is restricted in accordance with the Article 116 of the Latvian Constitution. Activities of religious organisations promoting religious intolerance and hatred, breaking the law and inciting others to do so, violating or failing to observe the statutes of religious organisations, 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 Organisations also provides that the state has the right to restrict the activities of religious organisation and their followers on those grounds. The government must ensure that citizens can freely practise their religion; however, religious freedom does not release anybody from the obligation to observe the law. If necessary, the 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.

A religious organisation has the right to submit a renewed application after its registration has been refused, if it has eliminated the reasons mentioned in the decision refusing registration. An appeal can be brought against a decision by the chairman of the Board of Religious Affairs on the registration of a religious organisation or the refusal to register within 10 days of its receipt.

Re-registration of religious organisations required under Article 8(4) of the Law on Religious Organisations applies only to congregations of denominations starting their activity in the Republic of Latvia for the first time and not belonging to religious communities already registered in Latvia. The aim of re-registration is to ascertain the loyalty of a certain congregation towards the Latvian state and the compliance of its activity with the applicable legislation. It should be added that after the tenth re-registration, a religious organisation obtains the status of permanently registered. At the present 1,160 religious organisations and their establishments are registered at the

Board of Religious Affairs; 81 congregations of those have to be re-registered annually.

Article 7(3) of the Law on Religious Organisations provides that a particular denomination may create only one registered religious community. Before this provision came into effect, the Trinity Confession had two registered religious communities, namely the Latvian Trinity Community Centre and the International Divine Community Latvian Trinity Parish Association. Nevertheless, a number of unregistered denominations campaign for the Latvian Law on Religious Organisations to provide the opportunity for the registration of an unlimited number of religious communities within one denomination, allowing for example the registration of the Confessional Lutheran Church and the Free Orthodox Church.

These rules as to the registration of congregations appear to comply with the principles of human rights: under the Law on Religious Organisations twenty-five persons of full age registered in Latvian Citizens Register and sharing one confessional affiliation, may establish a religious organisation, provided that all registration documents (the statutes of the congregation, minutes of meeting, etc.) are executed and submitted to the appropriate state institutions in a proper way. On the other hand, so far as the conditions for registering a denomination are concerned, the state seems to have an excessive interest in the registration process, contradicting the freedom of religion. A religious community can be registered only if ten congregations of the denomination are united and no religious community has been registered in the appropriate denomination before. This state restriction is not justified. It is not based on any threat to public order, state security, health or morals.

2. *New Religious Movements*

The United States State Department in its 1997 report on religious freedom criticises Latvia for violation of religious freedom on account of Latvia's refusal to register Jehovah's Witnesses. This problem was resolved, and in the autumn of 1998 the Latvian Ministry of Justice registered the first two Jehovah's Witnesses congregations. At present there are 12 congregations of this movement registered in Latvia, and Latvian law enforcement agencies have no information on any abuses with respect to the freedom of this movement. Before the Christian Science congregation was registered in 2002, the Ministry of Justice has six times declined its application as, according to

the Latvian Medical Association, the main activity of this organisation, i.e. treatment of people with non-medical means, contradicted Latvian law and the Code of Medical Ethics.

3. *Churches and Religious Communities within the Political System*

Pursuant to the 1992 Law of the Republic of Latvia "On Nongovernmental Organisations and Associations", a political organisation may be established by 200 natural persons, and therefore the churches in Latvia have not established their own party. Existing Latvian legislation does not prohibit religious organisations from participating in the election campaign. During the parliamentary elections of 2002 the major churches (Lutherans, Catholics and Orthodox) took an active part in the election campaign of the political organisation "First Party". Though the churches are not sponsors of the party, this party, called "the clerical party", has got into the Parliament and is part of the governing coalition. The party tries to support traditional and other religious organisations as best it can. In 2002-2003 one of the members to this party, a Baptist minister, held office as Minister of State for Children and Family Affairs.

V. *Churches and Culture*

1. *Religious Education*

Under Article 6 of the Law on Religious Organizations, the Christian religion may be taught in state and municipal schools to persons who have requested it in a written application. Applications by minors to be taught Christian religion 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 the Jewish Faith or 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 not less than 10 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 100,000 Ls (i.e. US\$210,000). 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 on the basis of a programme approved by the Bishops' Conference of Latvia, in agreement with 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 organisations. 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 Organisations, can ensure religious classes for their children.

3. *Theological Faculties at State Universities*

The University of Latvia's Theological Faculty is nondenominational. The Faculty of Theology at the University of Latvia was established in 1920, however in 1940 in consequence of occupation by the Soviet Union it was abolished. On the collapse of the Soviet regime at the end of the 80s, 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 profes-

sional 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 ministerial training.

4. *Religion and the Mass Media*

The Law does not regulate or prescribe a special registration procedure for the media of religious organisations. Religious organisations can establish magazines, newspapers and periodicals according to the general procedure. This liberal attitude has sometimes created problems. An example is the religious paper *Latvian Lutheran* published by the Augsburg Institute, a company registered in Latvia. The opinions of this newspaper differ from the official position of the Latvian Evangelical Lutheran Church. This led the Board of Religious Affairs in 1999, responding to church complaints, to seek an explanation from the company, enquiring why it engaged in religious activities which only religious organisation were permitted to do according to the Law.

5. *Shrines being officially recognised by the Republic of Latvia*

In Latvia 881 temples and cult buildings in all are owned by religious organisations, 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 Pentecostalists, and 8 by the Salvation Army. A large proportion 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 and the Aglona Basilica of the Roman Catholics.

The Aglona Basilica of the Roman Catholics is currently the only officially recognised 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 attracts many pilgrims. Every year on 14 and 15 August there are celebrations to mark the Catholic feast of the Assumption of the Blessed Virgin Mary. Large numbers take part; for example, on 15 August 2003 about 100,000 pilgrims participated in the Aglona celebration. 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 Aglona Shrine". In the regulations it was 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 the 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.

VI. Labour Law within the Religious Communities

The employment relationship is mentioned only twice in the Law on Religious Organisations. First, Article 19 of the Law provides that in case of termination of a religious organisation's activity, this organisation terminates its work relationship with all its employees in accordance with the Latvian Labour Law. Secondly, Article 14 provides that religious organisations can appoint or elect and dismiss their ministers in accordance with its own statutes, and employ and dismiss other employees in accordance with the applicable labour

legislation. The current Latvian Labour Law does not address the particular problems of religious organisations, which means that religious organisations are subject to the same legal rules as any other public or commercial companies.

Article 7(2) of the Labour Law of 20 June 2001 contains a prohibition on any direct or indirect discrimination based on a person's race, skin colour, gender, age, religious, political or other conviction. The Article 29 of the Labour Law provides for "Prohibition of Differential Treatment" barring differential treatment from an employer towards an employee based on race, skin colour, age, disability, political or other convictions, national or social origin, property or marital status and religious conviction. In the same Article it is further provided that differential treatment based on the religion of an employee is permitted only in cases where adherence to particular religion is an objective and justified precondition for performance of the relevant work or for the relevant employment. Likewise the said Law prescribes (Article 33(2)(4)) that a job interview may not include questions which do not apply to performance of the intended work or are not related to the suitability of the employee for such work, or any directly or indirectly discriminatory questions. The category of discriminatory questions includes questions concerning "religious conviction or membership of a religious denomination". Article 34(1) of the Labour Law prescribes that if when establishing an employment relationship an employer has violated the prohibition of differential treatment, an applicant has the right to request appropriate compensation. In case of a dispute, the amount of compensation is to be determined by the court at its discretion.

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. Particular Laws which address a number of issues related to the financial activities of religious organisations include the following:

- under Article 15 of the Law on Religious Organisations, these organisations are entitled to engage in business activities. If their

revenues exceed 500 minimal monthly salaries within a calendar year, the religious organisation has to establish a company and perform its activities in accordance with the Law "On Entrepreneurship";

- the Law on Entrepreneurship provides that religious organisations are entitled to engage in business activities, establish companies, and acquire shares in companies;
- under Article 16 of the Law on Religious Organisations, religious organisations may own movable and real property, however, they are prohibited from mortgaging church buildings or ritual artefacts, and creditors may not foreclose on the same.

The next important issue is related to *tax relieves* for religious organisations:

- according to the Law on Real Estate Tax, real property owned by a religious organisation and used for performing religious activities is not taxable with effect from 1 January 2001;
- the Law on Value Added Tax envisages that religious, ceremonial and other not-for-profit services of religious organisations are exempt from Value Added Tax. Money contributions and donations to religious organisations are also Value Added Tax exempt;
- companies that make donations to religious organisations in accordance with permissions issued by the Ministry of Finance may claim tax relief of 85 % as provided under Article 20 of the Law on Corporate Income Tax. These tax relieves are not applied to companies that have a continuing tax liability for the previous fiscal year as at the first day of the second month of the new taxation period. In accordance with the Law, the total tax relief may not exceed 20 % of the total tax liability of the company;
- under the Law on Individual Income Tax a physical person who has made donations to a public or religious organisation (which has a licence issued by the Ministry of Finance) can deduct this amount from his or her taxable income before accounting for individual income tax. This amount should not exceed 20 % of the individual's taxable income. It should be pointed out that religious organisations do not pay corporate or individual income tax. If religious organisations receive foreign technical assistance, they are granted customs tax and Value Added Tax relieves.
- religious organisations have the right to receive humanitarian aid.

Cargoes of humanitarian aid are tax and duty exempt according to the procedure provided under the law. Religious organisations that are entitled to be beneficiaries of humanitarian aid are listed on an annual basis according to special regulations issued by the Council of Ministers.

VIII. Religious Assistance in Public Institutions

The work of religious organisations at public institutions is mainly carried out through the chaplaincy service. In 2002 there were in Latvia 17 Lutheran, 10 Baptist, 7 Pentecostal, 4 Seventh Day's Adventist chaplains and 1 Old Believer Orthodox chaplain. Chaplaincy is the only approved profession in Latvia where ministerial status and recognition from the church is required. According to Article 1(8) of the Law on Religious Organisations 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 Law on Religious Organisations, 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 organisation.

The Regulations govern the work of the chaplaincy service in the Republic of Latvia and provide that:

- "*Chaplains of custody institutions*" give ecclesiastical service to the personnel of places of imprisonment, conviction or confinement, morally support and advise on religious and ethical questions, make arrangements for moral education. The structure of chaplaincy service at places of confinement is determined by the Board of the Places of Confinement in agreement with the Board of Religious Affairs. The chaplaincy services are regulated by the byelaws of the institutions supervised by the Prison Administration. All prisoners may see a clergyman tête-à-tête once in a month.

- *"National Armed Forces Chaplains"* provide ecclesiastical service for the personnel of the National Armed Forces. National Armed Forces Chaplains are given service ranks. Chaplains do not carry guns. These chaplains, being military persons, start professional military service in the National Armed Forces and carry it out under their free will according to procedure provided for in the applicable legislation. National Armed Forces Chaplains' activity is supervised by the Chief Chaplain of the National Armed Forces, who is administratively directly subordinated to the Commander of National Armed Forces. In accordance with the Paragraph 14 of the Chaplain Service Regulations, National Armed Forces chaplains are subordinated in administrative questions to their unit commander, in questions connected with chaplaincy activity to the Chief Chaplain of the National Armed Forces, and in questions connected with religion to the spiritual leader of the appropriate religious organisation.
- *"chaplains of airports, sea-ports and land transport terminals"* render ecclesiastical service to the personnel of airports, sea-ports and land transport stations, giving moral support and necessary advice on religious questions within their competence.
- *"chaplains of institutions of medical and social services"* render ecclesiastical service to the personnel and clients of institutions of medical and social services, giving them moral support and necessary advice connected with religious questions within their competence.

Only the following religious organizations can nominate persons as Chaplains: the Board of the Latvian Evangelical Lutheran Churches, the Riga Archdiocesan Roman Catholic Curia, the Latvian Orthodox Churches, the Latvian Old Believers Church Central Council, the Latvian Associated Methodist Churches, the Latvian Baptist Community Association, the Seventh Day Adventist Latvian Community Association, the Riga Jewish Religious Community and the International God Latvian Trinity Community Association.

In accordance with Article 23 to 29 of the Part III "Religious assistance to Catholics in the National Armed Forces of the Republic of Latvia" of the Agreement between the Republic of Latvia and the Holy See, "the Holy See shall establish within the Catholic Church in the Republic of Latvia a Military Ordinariate which, according to a special memorandum of understanding between the Ministry of Defence and the Bishops' Conference of Latvia, shall offer religious

assistance to the Catholics within the National Armed Forces of the Republic of Latvia".

IX. *The Legal Status of Priests and Members of the Religious Orders*

In 2003 875 clergy were serving in the religious organisations registered in Latvia. They included:

149	Lutheran
121	Catholic
80	Baptist
77	Evangelical Religion Christians
75	Orthodox
76	Pentecostal
35	Seventh Day Adventist
35	Old Believer Orthodox
26	Jehovah's Witnesses

According to Article 1 of the Law on Religious Organisations officials of religious organisations are members of elected bodies (councils, boards and audit committees), including clergy. Clergy of religious organisations are archbishop, bishop, pastor, minister, priest, dean, rabbi etc.

Under the legislation currently in force in the Republic of Latvia, no privileges attach to the possession of spiritual or administrative office in a religious organisation. The only exception relates to military service. Under Article 21(1)(7) of the Compulsory Military Service Law, ordained clergy affiliated with any approved religious organisation in Latvia and persons studying for ordination in the seminaries of such religious organisations are not liable to compulsory active military service. Exemption from discharging military service due to religious reasons, and any attempt to use military rank to impose religious conviction is prohibited in Latvia. According to amendments of 28 June 2002 to that Law, persons liable to military service objecting to its performance by reason of their opinions, conscience or religious conviction, may perform an alternative form of service.

In accordance with Article 7 of the Agreement between the Republic of Latvia and the Holy See, the seal of the confessional is recognised as inviolable. Nobody may ever question a Catholic priest on matters connected with a confessional secret, even if that priest appears as a witness or party before a civil tribunal. However, this right of priests is not secured by the existing Criminal Procedure Law of the Republic of Latvia. While the Criminal Procedure Code of Latvia has been amended many times, it was adopted in the Soviet era. At present a new code has been prepared in which the seal of the confessional is fully recognised. In the new draft of Criminal Procedure Law of the Republic of Latvia, which has received its first reading in Parliament, Article 121 named "Professional secrets protected under criminal procedure" is included. Clause 1(1) of the Article provides that there shall be no restrictions imposed on the right of clergy to refuse to give evidence about what is heard during confession, and to refuse to disclose any personal notes regarding such matters. There have been no cases in the courts of Latvia and there has been no discussion of an issue which has proved controversial in other countries as to the boundary between a mere conversation between an accused and a priest on the one hand and the making of a confession in a sacramental sense on the other; or whether a particular church regards confession in a sacramental sense.

X. *Criminal Law and Religion*

1. *Criminal Law*

Article 227 of the Criminal Law of the Republic of Latvia prescribes a penalty for unlawful activities of religious organisations and their members. For organising or managing a group which teaches or performs religious rituals creating a threat to public security and order, or person's health, rights or interests protected by law, or for participation in such activities, the penalty can be custody for the period up to 5 years or a fine of up to 100 minimal monthly salaries.¹ Article 150 of the Criminal Law prescribes a penalty for committing direct or indirect restriction of the rights of persons or of their freedom of

¹ From 1 January 2004, the minimal salary stipulated by the government is LVL 80 or EUR 124.

choice on the basis of the attitudes of such persons towards religion (excepting activities in the institutions of a religious denomination), as well as for committing violation of religious sensibilities of persons or incitement of hatred in connection with the attitudes of such persons towards religion or atheism. The maximum penalty in these cases is custody for 2 years or a fine of up to 40 minimal monthly salaries.

For intentional interference with religious rituals (if such are not in violation of law and are not associated with violation of personal rights), Article 151 of Criminal Law provides for a penalty of community service, or up to 100 minimal monthly salaries.

2. *Administrative Legislation*

In accordance with the Latvian Civil Law (Article 1415) blasphemy constitutes misconduct. "Unsanctioned and indecent activities if their aim is contrary to religion, law or good morals, or they are aimed at avoiding law, cannot be the subject matter of a legal transaction and any such transaction is void." Article 4 of the Law on Religious Organisations also prohibits direct or indirect infringement of religious sensibilities of people.

Under Article 2 of the Law "On Trademarks and Geographical Indications", religious symbols cannot be registered as trademarks. The religious symbols fall into the group called "non-registrable marks". It is noteworthy that the legislator has included the religious symbols in the group of non-registrable marks which also includes state emblems.

Article 13(3) of the Law on Religious Organisations prohibits non-registered religious organisations from adopting the names and symbols of registered religious organisations. It is evident that the interest of the state is to preclude hatred caused by religious blasphemy.

Article 7 of the Law "On the Press and Other Public Means of Information" imposes a prohibition on the publication and dissemination of information advocating religious intolerance in Latvia. Equally there is a ban on commercials which infringe religious sensibilities. Article 4 of the Advertising Law prohibits in advertising express discrimination against a person due to his or her race, skin colour, gender, age, religious, political or other convictions, national or social origin, financial status or other circumstances. Moreover it is prohibited in advertising "to exploit the effect created by fear or

superstition", to a certain extent being applicable also to religious conviction. Sanctions in respect of violation of these principles are not of criminal, but of an administrative and civil nature, but are severe enough to deter a producer or a disseminator of advertising from the publication of material offensive to religion. Also Article 20 of the Radio and Television Law provides that commercials may not injure human dignity and religious feelings.

XI. Matrimonial and Family Law

The practice of the registration of marriages by churches in Latvia derives from particular legal, historical and cultural conditions. During the Russian Empire period (when Latvia was a Russian province) marriage registration was not centralised and the legal registration of births, baptisms, death and burials, and also marriages was entrusted to the Russian Orthodox Church. In the Baltic states this privilege was extended also to the Lutheran and Catholic bodies. In 1917 the Russian Provisional Government adopted a law providing for freedom of religion and the right to have no specific religious affiliation. The law provided that persons who did not belong to any denomination could carry out civil status transactions in their local governments. This meant the replacement of the old system by an alternative (either Church or Register Office). Although in Russia the Bolsheviks deprived the churches of their right to execute civil status transactions and introduced civil status register offices, in the newly independent Republic of Latvia the law of the Russian Provisional Government as to freedom of religion along with other Russian laws related to civil status registration remained in force until 1920. In the 1922 the Constituent Assembly following a Swiss model issued the Matrimonial Law stipulating the duty of the state to execute civil status acts of its citizens. However, it allowed for certain churches to have the right to register civil status acts. Clergy could be criminally liable for failing promptly report such acts to government institutions. The Civil Law of 1937 indicated 10 confessions that were allowed to register the marriages of their members on behalf of the state. The member had right to choose whether to register their marriage in the state marriage register office or with the Church of their confession.

After Latvia became independent a second time, it restored the Civil Law of 1937 (as the Family Law section of the Civil Law); the practice of registration of marriages by the churches was also restored. In accordance with the Civil Law of the Republic of Latvia 8 confessions have the right to solemnise marriages. The renewed Civil Law provides that persons can register their marriage in the Marriage Register Office or with a clergyman. According to Article 51 of the Civil Law, if the persons wishing to marry belong to the Lutheran, Catholic, Orthodox, Old Believer, Methodist, Baptist, Seventh Day Adventist, or Jewish religion and they want to marry in their respective churches with the clergyman authorised by that church, the clergyman can register their marriage after due notice according to the regulations of the relevant church. Article 58 of the Civil Law provides that the clergy should inform the Marriage Register Office about the concluded marriage within 14 days. The Law on Civil Status Acts of 1993 (Article 13.2) provides that the clergyman needs to be authorised by the respective church to perform the marriage registration on behalf of the state.

The marriage validity problem is also mentioned in the concordat. In accordance with Article 8 of the Agreement between the Republic of Latvia and the Holy See canonical marriage from the moment of its celebration produces the civil effects determined by the legislation of the Republic of Latvia, provided no civil impediments exist between the contracting parties and the requirements of the laws of the Republic of Latvia have been met. The way and the time within which a canonical marriage is to be registered with the competent civil authority are determined by the laws of the Republic of Latvia.

At the moment, approximately one third of all marriages are solemnised in churches. In 2002, permissions to marry have been issued to 339 clergy. These clergy solemnized in 2002 2,276 weddings. Of those, 1018 were concluded by Lutherans, 679 by Catholics, 522 by Orthodox, 36 by Baptists, 12 by Seventh Day Adventists, 7 by Methodists and 2 by members of the Jewish community.

XII. Particular Questions of Ecclesiastical Law and Developments

In 2000 the Parliament of Latvia passed the Law "On Individual Data Protection". According to the Law, personal data are any information

that relates to an identified or non-identified physical person. Personal information on religious adherence is "sensitive information". The Board of Religious Affairs can be considered as the "data controller" under the Law, because as provided by law, religious organisations are registered as legal persons and they provide state organisation with personal data of the founders of the particular religious organisation, including their addresses, and naturally, information on their religious conviction. If this sensitive information is not properly protected, it may happen that the availability of it causes a hidden discrimination. For example, there is a possibility that an employer who is a Catholic, when he obtains information that the interviewed individual is a Krishna follower, finds another excuse to refuse employment to this person. It should be noted that this happens at a time when religious conviction is not indicated in the person's identification documents and the Latvian Labour Law strictly prohibits inquiring about the religious conviction of the candidate.

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