

Latvia

1. Discrimination in the family

a) Overarching legal framework for marriage

Women and men have equal rights to enter into marriage (Civil Law, Articles 56-57). Marriage requires the consent of both partners (Civil Law, Article 57). Marriage needs to be solemnised by the official of a registry office for a civil marriage or a minister of the cult in case of a religious marriage (Civil Law, Article 51). A marriage may be annulled under different conditions (Civil Law, Articles 60-67) such as when one of the spouses has not reached eighteen at the time of marriage (Civil Law, Article 61) or if the marriage proved to be fictitious (Civil Law, Article 60). Spouses can choose to retain their surname and not adopt a common one, they can also choose a common surname for both, or one of the spouses can add the other's surname to their own surname (Civil Law, Article 86).

b) Child marriage

The legal age of marriage is 18 for women and men (Civil Law, Article 32). By exception, a person above 16 can marry a person over 18 with parental/guardian consent or, in cases where the parents or guardians, without good cause, refuse to give permission, the permission may be given by an Orphan's court for the place where the parents or appointed guardians reside (Civil Law, Article 33).

Child marriage is believed to be almost non-existent practice in Latvia (OHCHR, 2013).

c) Household responsibilities

Married women and men have equal duties to be faithful to each other, to live together, to take care of each other and to jointly ensure the welfare of their family as wife and husband (Civil Law, Article 84). They have equal rights regarding the organisation of family life (Civil law, Article 85) and to choose where to live (Constitution, Article 97). Women and men have a duty to cover the family and joint household expenses out of the joint property (Civil Law, Article 95).

Parents have equal rights and duties to their child (Civil Law, Articles 182-184). Married parents exercise jointly parental authority (Civil Law, Article 177). Separate custody might be decided on the basis of an agreement between parents or by court adjudication (Civil Law, Article 178). In cases where parents live separately, parental authority is granted to the parent with whom the child resides (Civil Law, Article 181).

Despite equal status in law, women spend more than twice as much time doing housework compared to men. They are also the primary actors involved in childcare and other dependent's care (UNECE, 2014).

d) Divorce

Women and men have equal rights to initiate divorce (Civil Law, Article 70). A court or notary may dissolve a marriage (Civil Law, Article 69). The law also provides that if the spouses have lived separately for less than three years, the marriage can be dissolved if the reason for breaking down of a marriage is physical, sexual, psychological or economical violation of the spouse against the other spouse who has requested the dissolution of the marriage, or against his or her child or joint child of the spouses (Civil Law, Article 74). Marriage cannot be dissolved if the child custody has not been determined (Civil Code, Article 77). Women have the same rights as men to be the legal guardians of their children after divorce (Civil Law, Article 180). Property acquired in common is to be divided between the former spouses in equal shares (Civil Law, Article 83).

Child support payment is reportedly rare in Latvia and for a single parent, it is often too low to survive if there is no other source of income (Lulle and King, 2016). Fathers' failure to pay child support is often due to disinterest or a reported inability to pay. Going to court may be a difficult option for many women (Municio, 2013).

e) Inheritance

When there is no inheritance contract or will, female and male surviving spouses have equal inheritance rights (Civil Law, Article 3391-392). Likewise, daughters and sons have equal inheritance rights (Civil Law, Articles 391 and 398-401). Inheritance based on kinship does not depend on the parent's marital status (Civil law, Article 400). The first class of heirs covers all those descendants of the estate-leaver between whom, on the one part, and the estate-leaver on the other part, there are no other descendants who would be entitled to inherit. Women and men have the same rights to make a will (Civil Law, Article 418). A testator can exclude his or her spouse from the inheritance on limited grounds. A spouse may be excluded from inheritance if he or she has committed adultery, if he or she has threatened the life, health of the other spouse, hit or tortured him or her; or if the marriage has broken down and the spouses have lived separately for more than three years (Civil Law, Article 431). A spouse may also be excluded in certain circumstances (Civil Law, Article 428). There are no customary, religious, or traditional practices that discriminate against daughters or female surviving spouse's rights to inherit.

2. Restricted Physical integrity

a) Violence against women

Latvia has not ratified the Istanbul Convention.

Latvia does not have an integrated approach to eradicate violence against women (VAW). Although there is no specific legal provision or action plan dealing with violence against women, general provisions of the criminal code cover various forms of violence against women including physical violence, sexual assault and rape (EIGE, 2016). There are also general rights to State social services for victims and perpetrators (Social Services and Social Assistance Law, Article 3(1) (31) and 3(1) (11)).

The country does not have any national women's network dealing exclusively with violence against women at present. According to a WAVE report (2015), reasons are to be found in the lack of financial and human resources. A lack of cooperation between the government and women's NGOs is observed and none of the NGOs providing services to women victims of violence receive financial support from the State (WAVE, 2015). The lack of reliable and consistent statistics and a weak cooperation between institutions represent some major challenges to assess the country's situation with regards to VAW (European Parliament, 2015). In addition, women victims of violence may not be sufficiently informed about their rights and are often reluctant to report to the police (European Parliament, 2015).

b) Domestic violence

In 2008, Latvia introduced its first State Programme on the Prevention of Domestic Violence 2008-2011, with no budgetary commitment. The Programme mainly aimed at gathering information and facts about domestic violence in the country (European Parliament, 2015). Domestic violence is covered by the State Family Policy Guidelines 2011-2017 that contains several measures for the elimination and reduction of domestic violence. Notably, it includes provisions on expert training and public awareness-raising activities on domestic violence.

Domestic violence in Latvia is covered under Article 48 of the Criminal Code providing for aggravating circumstances. For a case of domestic violence, the court looks at the provisions referring to the crime and takes into consideration the aggravating circumstances provided by Article 48(15) stating that the criminal offence against a person to whom the perpetrator is related in the first or the second degree of kinship, against the spouse or former spouse, or against a person with whom the perpetrator is or has been in unregistered marital relationship, or against a person with whom the perpetrator has a joint (single) household is to be considered as an aggravating circumstance. The penalty is to be determined in accordance.

New regulations dealing with victims' protection came into force in 2014 (Procedures for Preventing Threats of Violence and Provide Temporary Protection Against Violence, Prot. No.18 §28). Based on those regulations, the police can expulse a violent person from the common household, restrict this person from returning home and prevent them from approaching the victim for a period up to eight days. If a victim applies to court to receive a protection order, the court is obliged to examine the case and to grant a protection order within a day (EIGE, 2016). To fight effectively against domestic violence, violence prevention measures are crucial. Through the Concept of Preventive Coercive Measures, being currently drafted, Latvia aims at establishing a new instrument for early delinquency prevention (UPR, 2016). The preventive coercive measures are applicable by local and governmental institutions and include supervision measures of the person such as prohibition to approach particular places, prohibition to contact or approach a particular person or group of persons, or obligation to participate in social rehabilitation, rehabilitating protection and preventive security deposit (European Commission, 2013).

In 2015, the first state-funded social rehabilitation services for adult victims of domestic violence and perpetrators were implemented. Regarding victims, services include rehabilitation courses in social rehabilitation institutions and professional advice of psychologists and lawyers. For

perpetrators, individual consultations and group sessions to help reduce violent behaviours are provided (European Parliament, 2015). There are currently no shelters in Latvia specifically dedicated to battered and abused women. Family crisis centres are available for those women but their capacity remains limited (US Department of State, 2016).

c) Rape

Acts of sexual violence are regulated by criminal law (Criminal Code, Chapter 7) including forcible sexual assault (Criminal Code, Section 160) or rape (Criminal Code, Section 159). Rape is punished by a deprivation of liberty for a term of not less than two and not exceeding ten years, with probationary supervision for a term not exceeding three years. Article 159 also contains more severe penalty for rape of a minor or by a group of persons (Criminal Code, Section 159(2)(3)). Marital rape is criminalised (Criminal Code, Article 48(15)). According to the Ministry of Justice, there has not been any case of marital rape prosecuted in the country to date (US Department of State, 2016).

d) Sexual harassment

Harassment is prohibited in employment (Labour Law, Sections 29(4) and 29(7)) and in access to and supply of goods and services (Law on the Protection of Consumer Rights, Article 3(8)). Sexual harassment, defined as “unwanted conduct of a sexual nature”, falls under a type of harassment and is outlawed by the Labour Act (Labour Law, Sections 29(4) and 29(7)). The law *stricto sensu* is incomplete with respect to EU standards as it does not include indicators such as verbal, non-verbal and physical conduct (European Commission, 2015). However, the jurisprudence does comply with those standards and goes even further. The Senate held that in cases of harassment, the main indicator should be how the situation is perceived by the person harassed (Supreme Court in case No. SKC-2504/2013). This is a very important statement as the claimant does not have to prove that the act is reprehensible in general, which would have been difficult in a society holding strong gender bias (European Commission, 2015), but only to themselves.

According to NGOs, a lack of confidence in law enforcement authorities may prevent some women from reporting an incident. Cultural factors can also discourage women from filing complaints (US Department of State, 2016).

e) Female genital mutilation

Latvia has no specific policy or law dealing with female genital mutilation (FGM). However, it is possible to address FGM through the general legal framework of the country. The criminal law contains provisions regarding intentional serious body injury (Criminal Code, Section 125.1), intentional moderate body injury (Criminal Code, Section 126.1), cruelty towards and violence against a minor (Criminal Code, Section 174.1) and illegal removal of tissue and organs from a human being (Criminal Code, Section 139). Generally speaking, there is a low political interest in FGM issues due to the low contextual significance of the practice (EIGE, 2013). According to the Ministry of Justice and the Ministry of Welfare, there is no case law regarding FGM in Latvia. At the same time, there is no national mechanism or system to report FGM cases (European Commission, 2016). The Division of Equal Opportunities Policy in the Ministry of Welfare would be the competent authority to deal with FGM as a policy issue (EIGE, 2013).

f) Abortion

Abortion is legal in Latvia upon a woman's request (Sexual and Reproductive Health Law, Article 25(1)) in the first twelve weeks of pregnancy. Termination of pregnancy due to medical indications can be performed up to twenty-two weeks (Sexual and Reproductive Health Law, Article 26(2)).

If the woman is under sixteen, the doctor has the duty to inform the parents or guardian (Sexual and Health Law, Article 27(1)). Upon the written consent of at least one of the parents or guardian, abortion can be performed (Sexual and Health Law, Article 27(2)).

According to the European Parliament (2015), abortion rate is high in Latvia. General knowledge about contraception is of poor quality (European Parliament, 2015), despite the fact that the law provides for a right to information regarding the basic knowledge of sexual and reproductive health promotion and care, birth planning and contraception (Sexual and Reproductive Health Law, Article 6). When a woman opts for an abortion, she has to sign a document with information on the moral aspects of pregnancy termination, possible medical complication and possibilities to preserve the life of the foetus. However, no information about family planning or women's rights is made available (European Parliament, 2015).

3. Restricted Access to productive and financial resources

a) Secure access to land and assets

Women and men have equal rights to ownership and property (Constitution, Article 105; Civil Law, Article 90). As regards marital property, a spouse retains the property, which belonged to him or her before the marriage, as well as the property he or she acquires during the marriage as a separate property. Everything acquired during the marriage by the spouses together, or by one of them, but from the resources of both spouses, or with the assistance of the actions of the other spouse, is the joint property of both spouses (Civil Law, Article 89). Women and men have equal rights to administer and use all of their respective separate property and joint property (Civil Law, Article 90).

Married women and men have equal rights over the ownership, use, decision-making power, and use as collateral over their own property acquired before marriage (separate ownership) as well as that acquired during the marriage (joint property) (Civil Law, Article 90). They also have equal rights regarding land and non-land assets after divorce (Civil Law, Articles 102 and 107). Dowry in the event of marriage is recognised by the law. Dowry should be the property of the wife even if it has been given to the husband (Civil Law, Article 111).

b) Secure access to formal financial resources

Women and men have equal rights to open a bank account in Latvia (Directive 2014/92/EU) and to obtain credit. The law prohibits discrimination by creditors on the basis of sex (Law on the Protection of Consumer Rights, Section 3). Although women entrepreneurs' potential is not explicitly recognised by the legislation regulating self-employment and entrepreneurship (Commercial Law, 2002), mainstream entrepreneurial policies appear to have a positive impact on women's entrepreneurship (Krūmiņa, M. and Paalzow, A., 2015). According to the European Commission (2014), women make up 40% of entrepreneurs in Latvia. The Ministry of Welfare and Ministry of

Economy with the Investment and Development Agency and the Society Integration Foundation are the main bodies supporting women's entrepreneurship (European Commission, 2014). Since 2009, the Investment and Development Agency of Latvia works on the good implementation of the Mentoring Program to promote women's entrepreneurship (UPR, 2016). According to a recent study, access to finance is among the main reasons for discontinuation of a business for women (Krūmiņa, M. and Paalzow, A., 2015).

c) Workplace rights

Latvia has ratified ILO Conventions C100, C111 and C183 but not C156 and C189.

Women and men have equal rights to work, to have fair, safe and healthy working conditions, and to receive fair work remuneration (Labour Law, Section 7(1)(2)). The labour law mandates an employer to establish equal pay for women and men for work of equal value (Labour Law, Article 60(1)). However, the European Commission (2015) notes that the concept of "equal pay" is not precisely defined by law. A gender pay gap persists (European Parliament, 2015). The Inclusive Employment Guidelines 2014-2020 acknowledge this problem but according to the European Parliament (2015), it remains unclear whether these guidelines include any target linked to a policy action addressing directly gender pay gap.

In Latvia, more than 30 pieces of legislation cover antidiscrimination (SGL, 2016). Unequal treatment on the basis of gender is prohibited when establishing legal employment relationship as well as during the period of employment (Labour Law, Article 29(1)), hence covering all aspects of employment. Protections from direct and indirect discrimination, harassment, instruction to discriminate and victimisation are provided by law (Labour Law, Article 29).

The law prohibits an employer to ask about pregnancy or family status during a job interview (Labour Law, Section 33). Maternal leave is available for a duration of 112 calendar days (Labour Law, Section 154(1)). The duration of paternity leave is ten days (Labour Law, Section 155(1)). Both are paid at 80% by the government (Law on Maternity and Sickness Insurance, Sections 10 and 33). Parental leave can be taken by the mother and the father for a period not exceeding eighteen months but parental benefits are paid by the government to only one parent with no share-paid leave (Law on Maternity and Sickness Insurance, Sections 10(6)).

Parental benefits consist of two parts: a non-contributory part of 171 euros per month and a contributory one that is calculated as a percentage of the average contribution wage (Law on State Social Allowances). The contributory part is either 60% of the applicant who has chosen to receive child care for a child under one year of age or 44% of the benefit applicant who has chosen to receive it for child care up to one and a half years old (Law on Maternity and Sickness Insurance, Chapter II B, Article 6.6). Parents that do not possess a social insurance are not eligible for maternity, paternity or parental leave benefits but receive a childcare benefit of 171 euros per month until the child turns one year and a half and 43 euros per month until the child is two (Law on State Social Allowances).

The European Commission (2015) has reported that while maternity leave take-up rates are high, those for paternity leave are still low. It has also highlighted that although the law provides for

protection of mother's rights to return to the same employment conditions after the leave (Labour Law, Section 109(1)), in reality this right is often violated. In those cases, the discrimination is difficult to prove. Private arrangements are common between employer and employee, sometimes in violation of the law (European Parliament, 2015).

Public childcare facilities depend on local governments, which have different financial resources. Quality and quantity of childcare facilities are thus disparate across the country. Overall, there is a lack of childcare facilities for children below the age of four. In response to the growing problem of capacity shortage of childcare facilities, the government issued new legislation in the past few years aiming to give more flexibility to private childcare providers (European Commission, 2015). According to the European Commission (2015), work-life balance is a challenge in Latvia. Women, as the main care provider, experience difficulties to combine work and childcare responsibilities in the absence of adequate social infrastructure.

4. Restricted Civil liberties

a) Citizenship rights

Women and men have equal rights to acquire (Citizenship Law, Articles 2-3 and 10), change and retain (Citizenship Law, Article 5 and 9) nationality. They also have equal rights and obligations as Latvian citizens, regardless of the manner in which they acquired citizenship (Citizenship Law, Article 4). Women and men have equal rights to confer nationality to their children (Citizenship Law, Article 3). Married women have the same right as married men to confer nationality to their spouse (Citizenship Law, Article 14(4)). Women and men have the same rights to travel outside of the country (Constitution, Article 98).

b) Voting

Women and men have equal rights to vote (Constitution, Article 8). Elections are recognised to be free and fair (SGI, 2016). The CEDAW committee (2014) has reported that in the recent years, women have been using their right to vote increasingly.

c) Political voice

Women and men have equal rights to hold public office (Constitution, Article 101). There are no quotas, whether legally stipulated or voluntarily accepted by political parties, or policies aiming at enhancing women's political voice at any levels of the government. Latvian law does not provide for any positive actions. At present, there is only one soft quota in place requiring to aim for gender-balance in the election of judges for self-governing bodies of the Supreme Court. This soft quota was introduced to increase the proportion of male judges as there were more women than men in those instances after the Soviet occupation (European Commission, 2015).

Women remain underrepresented in political life, especially in Parliament and municipality politics (UNECE, 2014). The first woman Prime Minister, Laimdota Straujuma, was elected in 2014 serving as a positive role model for Latvian women and girls. Yet, a recent report from the European Commission (2015) suggests that gender stereotypes are still deeply ingrained in Latvian society. Clear boundaries exist between cultural and social roles traditionally attributed to women and men

(University of Latvia, 2015). A European Parliament report (2015) states that while men in politics appear assertive, strong and rational individuals, women are seen as emotional and unreliable. The same report noted that by focusing on female politicians' appearance, the media does not instigate positive cultural change either. Vertical gender segregation in politics, the importance of informal networks in politics of which women are not a part of and the lack of mutual support and collaboration between female politicians also participate in constructing a de facto gender-discriminatory political culture (European Parliament, 2015).

d) Access to justice

Under the Constitution, women and men are equal before the courts and the law (Constitution, Article 91). Women and men have the same right to sue and to be sued (Civil Procedure Code, Article 72 and Civil Law, Article 8). Their testimony holds equal evidentiary weight in court (Constitution, Articles 83 and 91). The law on Judicial Power guarantees a fair trial irrespective of a person's sex (Law on Judicial Power, Section 4).

According to Article 92 of the Constitution, everyone has a right to the assistance of counsel. In this respect, legal aid is provided since 2005. State financial aid is available to individuals who would not have access to justice otherwise (Law on State Legal Aid, 2005). In criminal proceeding, legal aid is provided in courts but also in the process of pre-trial proceedings (Government of the Republic of Latvia, 2011). The absence of gender-sensitive considerations may possibly make legal aid scarcely accessible to women. Excessive discretionary power of judges may also hinder women's equal access to justice (IMF, 2012). A report from the University of Latvia (2015) noted that compared to other European countries, Latvia allocates relatively little funding to legal aid. Geographical distance between individual's place of residence and courts can impact equal access to justice as all individuals do not necessarily have personal means of transportation or access to public transports, especially women (University of Latvia, 2015).

Legal assistance is also provided by the Ombudsman that has the capacity to investigate discrimination cases. The majority of complaints dealt with by the Ombudsman is related to maternity lay-off and failure to return to equal conditions after maternity leave (European Commission, 2015). Courts are formally accessible to victims of discrimination but those victims do not necessarily take their case to court. The European Commission (2015) reported that generally, the onerous cost of legal services and the fear of another victimisation hold back women from reporting their case. Although the law on discrimination provides for the concept of "a shifted burden of proof", its application is rather unclear. When the burden of proof is placed on a respondent, there is no methodology that indicates to what extent they have to prove that there has been no breach of the principle of equal treatment (European Commission, 2015).

In Latvia, some restorative justice schemes have been implemented. For instance, on the basis of Section 381 of the Criminal Procedure Law, victim-offender mediation organised by the State Probation Service has been made available. It can be conducted across all stages of criminal proceedings. Furthermore, although the lack of legal framework is a challenge, Latvia has developed pilot projects of restorative initiatives such as circles of accountability and support (IJJO, 2015).

Although restorative justice could constitute an alternative for cases of violence against women, its potential has not been explored so far.

The Directive 2012/29/EU states that information should be accessible to all the victims taking into account their personal situation that includes age, gender, possible disability and maturity.

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