***Introduction***

In Latvia the person’s right to fair trial is guaranteed in the Constitution. Article 92 of the Constitution envisages that everyone has the right to defend his or her rights and lawful interests in a fair court. Everyone shall be presumed innocent until his or her guilt has been established in accordance with law. Everyone, where his or her rights are violated without basis, has a right to commensurate compensation. Everyone has a right to the assistance of counsel. Article 91 of the Constituion envisages that all human beings in Latvia shall be equal before the law and the courts. Human rights shall be realised without discrimination of any kind.

The duties of the Ombudsman of the Republic of Latvia, according to the Ombudsman’s Law are:

1) to promote the protection of the human rights of a private individual;

2) to promote the compliance with the principles of equal treatment and prevention of any kind of discrimination;

3) to evaluate and promote the compliance with the principles of good administration in the State administration;

4) to discover deficiencies in the legislation and the application thereof regarding the issues related to the observance of human rights and the principle of good administration, as well as to promote the rectification of such deficiencies;

5) to promote the public awareness and understanding of human rights, of the mechanisms for the protection of such rights and the activities of the Ombudsman.

At the beginning I would like to stress that there are no all inclusive information at Ombudsman’s disposal about persons with disabilities access to justice as well as such kind of training programmes. The questions are to be asked to the competent ministries.

Taking into account the above mentioned the Ombudsman of the Republic of Latvia will share the information about the problematic aspects of the implementation of Article 13 of the UN Convention. It must be stressed that the Ombudsman has devoted special attention to the promoting of the rights for the person’s with mental disorders. The Ombudsman has submitted proposals for the amendments of the legal regulation as well as has given proposals for better implementation of legal norms.

The Ombudsman of the Republic of Latvia has actively participated in the process of amending the regulation of the institute of legal capacity. In 2013 the amendments in the Civil Law, Civil Procedure Law and the Law on Orphan’s Courts were made wich provide for refusal from full restriction of legal capacity, replacing it by an partial restriction of legal capacity. Legal regulation envisages that the person’s legal capacity can not be limited in the non-material rights (persons can marry, take part in the elctions etc.). Since the entry into force of the new regulation the Ombudsman has observed the implementation of this regulation. Analysing concrete cases the Ombudsman has observed the passive attitude of the prosecutors and members of Orphan’s court. This leads to the conlusion that prosecutors, judges, members of the Orphan’s Court need special training about the rights of the persons with disabilities. About the necessity of such training the Ombudsman has pointed out the responsable Ministry.

Amendments of the Medical Treatment Law

In 2013 the Ombudsman has pointed out that the legal regulation in the sphere of mental health is not satisfactory. For example, in psychiatric hospitals (were is compulsoty treatment) several coercive measures are used and thus the person’s right to private live is restricted. At the same time there was no legal regulation in this regard. The restrictions were regulated by internal regulations. Finally in September 2014 the Medical Treatment Law was amended with Section 691, which established the order how to apply and how to contravene coercive measures in the psychiatric hospitals. The Cabinet of Minister’s Regulations envisaging the order of the implementation of the coercive measures in the psychiatric hospitals were adopted in 2016.

The Medical Treatment Law envisages that person with mental disorders can be placed in the psychiatric hospital against his/her will if this person endangers himself/herself or another persons. The legal regulation emphasises that judge has to approve the decision of the doctor’s council (about the necessity to place the pacient with mental disorders in the hospital). The judge has to approve this decision in the presence of the pacient, prosecutor and expret. The Ombudsman of Latvia has on many occasions critisized the passive attitude of the prosecutor and legal advisor. In 2015 the Ombudsman organised the discussion about the abovementioned problems.

To maintain the knowledge about the person’s rights (who are placed in the psychiatric hospitals) the Ombudsman has in 2016 elaborated informative brochure. The booklets are delivered to the personnell and pacients of the psychiatric hospitals.

*1. Does your country have laws, policies or guideline on access to justice, at any level of government, which ensure persons with disabilities, particularly woman and children with disabilities:*

*a) to participate in judicial and administrative proceedings on an equal basis with others in their role as witness, juror, complainant, defendant or other, including through the provision of procedural and age-appropriate accomodations (please identify and share text of those provisions).*

*b) to have individual legal standing in all administrative and judicial procedures, including the right to be heard as part of their right to fair trial;*

*c) to have access to effective remedies that are appropriately proportional to the right(s) infringed and which are tailored to the specific situation;*

*d) to have effective access to justice in the context of disasters, migration and asylum-seeking, conflict and post-conflict situations and transitional justice, and formal or informal systems of customary, indigenous and community justice, among others.*

The principle of equality is included in criminal, civil and administrative proceedings. All persons have acces to justice and these rights are ensured without discrimination - irrespective of a person’s race, skin colour, gender, age, disability, religious, political or other conviction, ethnic or social origin, property or marital status, sexual orientation or other circumstances.

The Law On Judicial Power (Section 4) guarantees equality of Persons before the Law and the Court.

(1) All persons are equal before the law and the court, and they have equal rights to the protection of the law.

(2) A court shall adjudge a trial irrespective of the origin, social and financial status, race or nationality, sex, education, language, attitude towards religion, type and nature of occupation, place of residence, or the political or other views of a person.

Section 24 of the Law On Judicial Power stresses the equality of Parties

(1) Parties have equal rights in proceedings.

(2) The law determines and the court shall ensure that parties have an equal opportunity to use procedural rights to defend their interests.

In the Criminal Procedure Law one of the basic provisions (Principle of Equality) is included in Article 8 - The Criminal Procedure Law shall determine a uniform procedural order for all persons involved in criminal proceedings irrespective of the origin, social and financial situation, employment, citizenship, race, nationality, attitude toward religion, sex, education, language, place of residence, and other conditions of such persons.

## Principle of Equality is included also in Administrative Procedure Law (Section 6). In matters where there are identical factual and legal circumstances, institutions and courts shall adopt identical decisions (in matters where there are different factual or legal circumstances – different decisions) irrespective of the gender, age, race, skin colour, language, religious beliefs, political or other views, social origin, nationality, education, social and financial status, type of occupation or other circumstances of participants in the administrative proceedings.

Section 9 in Civil Procedure Law provides Equality of Parties in the Civil Procedure.

(1) In regard to procedural rights, parties are equal. (2) The court shall ensure that the parties have equal opportunity to exercise their rights in order to protect their interests.

Section 71 of the Civil Procedure law states that:

(1) Civil-procedural legal capacity is the capacity to have civil-procedural rights and obligations. (2) All natural persons and legal persons shall be recognised as having equal civil -procedural legal capacity.

Civil Procedure Law **(**Section 72) sets up the civil-procedural Capacity to Act.

(1) Natural persons who have attained legal age, insofar as their capacity to act has not been restricted by the court, and legal persons have the right to exercise civil-procedural rights and perform obligations(civil procedure capacity to act).

(2) Court cases for natural persons from 15 to 18 years of age shall be conducted by their statutory representatives. Court cases for natural persons who have attained legal age and whose capacity to act has been restricted by a court shall be conducted by their representatives or – in the cases laid down in the law – by representatives together with such persons. In cases conducted by representatives of the abovementioned persons the court shall also invite such persons themselves to participate.

(3) Court cases shall be conducted, for natural persons who have not attained the age of 15 by their statutory representatives.

(4) In cases laid down in law, minors are entitled to independently exercise their civil-procedural rights and to perform obligations. In such case the statutory representatives of such persons may, in the discretion of the court, be called upon to assist such persons in conducting the case.

(5) Natural persons who have attained legal age and whose capacity to act has been restricted by a court shall have complete civil-procedural capacity to act in cases in which restrictions to their actions and freedom, as well as disputes between such person and his or her trustee are examined. In such cases the court shall invite a public prosecutor and a representative of the Orphan’s Court.

Section 84. of the Civil Procedure Law defines the circle of Persons who May not Act as Representatives in the Civil Procedure:

(1) The following may not act as representatives in the civil procedure:

1) persons who have not attained legal age;

2) persons for whom trusteeship has been established;

3) persons who, by a judgment of a court, have been deprived of the right to conduct the cases of other persons;

4) persons who are in kinship relations to the third degree, or in affinity relations to the second degree, with the judge who is to try the case;

5) persons who have given legal assistance to the other party in the dispute in this case or in another case related thereto.

(2) Upon ascertaining that the circumstances referred to in Paragraph one of this Section exist, the court shall not allow the respective person to participate in examination of the case.

In 2013 the amendments were made in the Civil Law, Civil Procedure Law and the Law on Orphan’s Courts wich provide for refusal from full restriction of legal capacity, replacing it by an partial restriction of legal capacity. However, Ombudsman assessed the court judgements regarding restriction of legal capacity adopted in 2013 and drew attention of the Ministry of Justice to the most significant problems determined in practice (courts establish restrictions in the areas without any necesity; courts do not assess cases individually, nevertheless courts establish equal limitations in majority of cases).

*2. Do you have examples from your country on:*

*a) how procedural and age-appropriate accomodations are provided and applied, including protocols or other guidelines;*

*b) training programmes on the right to access to justice for persons with disabilities for judges, lawyers, prosecutors, police, social workers, langiage and signe language interpreters, legal aid centres, other judicial and administrative bodies intervening in judicial or quasi-judicial instances;*

*c) education programmes on the right of access to justice for persons with disabilities for law students as well as schools of social work, sign language interpretation, forensic science, psychiatry and psychology, among other relevant faculties;*

*d) legal aid programmes, public and/or private, which include the right of access to justice for persons with disabilities in their practices, including the availability of support and liaison services for courts or other judicial or quasi-judicial instances.*

Legal Aid Administration (LAA) is the institution subordinated to the Ministry of Justice of the Republic of Latvia.

In accordance with the State Ensured Legal Aid Law, the Law “On State Compensation to Victims” and the Cabinet Regulation Nr.869 of 15 November 2005 "Regulation of Legal Aid Administration”, there are two activities of the LAA providing for implementation of the delegated functions and tasks:

* to ensure access to just legal protection for the low-income and needy persons, and persons with a particular situation, property status and income levels considered appropriate for the state guaranteed legal aid;
* providing state compensation for victims paid for persons who have suffered intentional violent crimes and their health has suffered severe or moderate bodily injury, death of a person or a person suffered sexual offences.

To ensure implementation of functions, the LAA performs the following tasks:

* examines persons’ applications for request of state guaranteed legal aid and decide on granting or refusal to grant the state guaranteed legal aid;
* examines the state compensation claims and decides on payment of the state compensation or refusal to pay the said;
* pays out legal assistance funds earmarked for legal aid providers;
* pays out the funds provided for state compensations to the victims;
* examines persons’ applications for acquisition of the status of provider of state guaranteed legal aid and concludes legal aid agreements with providers of legal aid;
* in cases specified by laws and regulations recovers the state budget funds paid to provide legal assistance and state compensations to the victims;
* maintains the register of state guaranteed legal aid and the state compensation.

 3. Does you country have laws, policies and strategies to ensure tha participation of persons with disabilities on an equal basis with others in the judiciary or other judicial and quasi-judicial instances, including in their role a judges, witnesses, jurors, lawyers or any other active party to judicial or quasi-judicial procedure?

Please see the information provided in the introduction

4. Does your country monitor and collect disaggregated data with respect to acess to judicial or quasi-judicial proceedings concerning:

a) a participation of persons with disabilities in judicial or quasi-judicial procedures, including the number of complaints submitted, nature of complaints and outcomes.

According to the information given from the Administration of the Courts such information is not collected.

b) persons with disabilities obtaining remedies and the nature of those remedies, whether they are adequate, effective, prompt and appropriate, responding to their specific situation.

 To the Ombudsman no information available

c) persons with disabilities being convicted, the nature of their sentence, and whether they benefitted from safeguards of the right to fair trial on equal basis with others

d) the opening and conduct of impartial and independent investigation of human rights violations of persons with disabilities, particularly those relating the right to life, liberty and security of the person, freedom from violance, abuse and exploitation, and freedom from torture or cruel, inhuman or degrading treatment or punishment.