LATVIA

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Ad Hoc Information Report

Data protection: Redress mechanisms and their use

2012

Latvian Centre for Human Rights

Mapping of Redress mechanisms in the area of data protection

Redress Mechanism Number	*Type of possible outcomes of procedure*	first Instance	Total Number of times this procedure was initiated in 2009 (please provide source of information in footnote)	Total Number of times this procedure was initiated in 2010 (please provide source of information in footnote)	Total Number of times this procedure was initiated in 2011 (please provide source of information in footnote)
1	**deprivation of liberty[1]**	**District court (*rajona tiesa*) (criminal proceedings)**	**No data are available.[2]**	**No data are available.[3]**	**No data are available.[4]**
2	**custodial arrest[5]**	**District court (criminal proceedings)**	**No data are available.[6]**	**No data are available.[7]**	**No data are available.[8]**
3	**community service[9]**	**District court (criminal proceedings)**	**No data are available.[10]**	**No data are available.[11]**	**No data are available.[12]**
4	**fine[13]**	**District court (criminal proceedings)**	**No data are available.[14]**	**No data are available.[15]**	**No data are available.[16]**
5	**compensation for harm caused to a victim[17]**	**District court (criminal proceedings)**	**No data are available.[18]**	**No data are available.[19]**	**No data are available.[20]**
6	**warning[21]**	**Data State**	**26[22]**	**28[23]**	**24[24]**

[1] Latvia, Criminal Law (*Krimināllikums*), 1998
[2] Court Information System (*Tiesu informācijas sistēma*) (2012)
[3] Ibid.
[4] Ibid.
[5] Latvia, Criminal Law (*Krimināllikums*) (1998)
[6] Court Information System (*Tiesu informācijas sistēma*) (2012)
[7] Ibid.
[8] Ibid.
[9] Latvia, Criminal Law (*Krimināllikums*) (1998)
[10] Court Information System (*Tiesu informācijas sistēma*) (2012)
[11] Ibid.
[12] Ibid.
[13] Latvia, Criminal Law (*Krimināllikums*) (1998)
[14] Court Information System (*Tiesu informācijas sistēma*) (2012)
[15] Ibid.
[16] Ibid.
[17] Latvia, Criminal Law (*Krimināllikums*) (1998)
[18] Court Information System (*Tiesu informācijas sistēma*) (2012)
[19] Ibid.
[20] Ibid.
[21] Latvia, Latvian Administrative Violations Code (*Latvijas Administratīvo pārkāpumu kodekss*) (1984)

		Inspectorate (*Datu valsts inspekcija*)			
7	**fine[25]**	**Data State Inspectorate**	**26[26]**	**14[27]**	**23[28]**
8	**confiscation of an administrative violation object or an instrument used in its commitment[29]**	**Data State Inspectorate**	**0[30]**	**0[31]**	**0[32]**
9	**blocking of data[33]**	**Data State Inspectorate**	**No data are available.[34]**	**No data are available.[35]**	**No data are available.[36]**
10	**decision on erasure or destruction of incorrect or unlawfully obtained data[37]**	**Data State Inspectorate**	**No data are available.[38]**	**No data are available.[39]**	**No data are available.[40]**
11	**prohibition of data processing[41]**	**Data State Inspectorate**	**No data are available.[42]**	**No data are available.[43]**	**No data are available.[44]**
12	**cancellation of a personal data processing registration certificate[45]**	**Data State Inspectorate**	**No data are available.[46]**	**No data are available.[47]**	**No data are available.[48]**
13	**compensation**	**Higher**	**No data are**	**No data are**	**No data are**

[22] Latvia, Data State Inspectorate (*Datu valsts inspekcija* (2012d)
[23] Ibid.
[24] Ibid.
[25] Latvian Administrative Violations Code *(Latvijas Administratīvo pārkāpumu kodekss*) (1984)
[26] Latvia, Data State Inspectorate (*Datu valsts inspekcija*) (2012d)
[27] Ibid.
[28] Ibid.
[29] Latvian Administrative Violations Code (*Latvijas Administratīvo pārkāpumu kodekss*) (1984)
[30] Latvia, Data State Inspectorate (*Datu valsts inspekcija*) (2012d)
[31] Ibid.
[32] Ibid.
[33] Latvia, Personal Data Protection Law (*Fizisko personu datu aizsardzības likums*) (2000)
[34] Latvia, Data State Inspectorate (*Datu Valsts Inspekcija*) (2012c)
[35] Ibid.
[36] Ibid.
[37] Latvia, Personal Data Protection Law (*Fizisko personu datu aizsardzības likums*) (2000)
[38] Latvia, Data State Inspectorate (*Datu Valsts Inspekcija*) (2012c)
[39] Ibid.
[40] Ibid.
[41] Latvia, Personal Data Protection Law (*Fizisko personu datu aizsardzības likums*) (2000)
[42] Latvia, Data State Inspectorate (*Datu Valsts Inspekcija*) (2012c)
[43] Ibid.
[44] Ibid.
[45] Latvia, Personal Data Protection Law (*Fizisko personu datu aizsardzības likums*) (2000)
[46] Latvia, Data State Inspectorate (*Datu Valsts Inspekcija*) (2012c)
[47] Ibid.
[48] Ibid.

	for financial loss, personal harm, moral harm[49]	**authority (*augstākā institūcija*)**	**available.**[50]	**available.**[51]	**available.**[52]
14	**apology**[53]	**Higher authority**	**No data are available.**[54]	**No data are available.**[55]	**No data are available.**[56]
15	**restoration to original condition**[57]	**Higher authority**	**No data are available.**[58]	**No data are available.**[59]	**No data are available.**[60]
16	**compensation for harm**[61]	**District court (civil proceedings)**	**No data are available.**[62]	**No data are available.**[63]	**No data are available.**[64]

Detailed information

Redress Mechanism Number 1: deprivation of liberty

- Deprivation of liberty for a term not exceeding five years
- Criminal Law (*Krimināllikums*)[65], Section 145
- Criminal proceedings
- According to the Criminal Procedure Law (*Kriminālprocesa likums*)[66], decisions of a person directing the proceedings shall be subject to appeal, except for the cases specified in the Criminal Procedure Law (Section 336, para 3). Complaint regarding a decision of a member of an investigative group, the executor of a procedural task, an expert, or an auditor shall be submitted to the person directing the proceedings; regarding the actions or the decision of an investigator or the direct supervisor of the investigator – to the supervising public prosecutor;

[49] Latvia, Law on Compensations for Loss Caused by State Administrative Institutions (*Valsts pārvaldes iestāžu nodarīto zaudējumu atlīdzināšanas likums*) (2005)
[50] Latvia, Data State Inspectorate (*Datu Valsts Inspekcija*) (2012b)
[51] Ibid.
[52] Ibid.
[53] Latvia, Law on Compensations for Loss Caused by State Administrative Institutions (*Valsts pārvaldes iestāžu nodarīto zaudējumu atlīdzināšanas likums*) (2005)
[54] Latvia, Data State Inspectorate (*Datu Valsts Inspekcija*) (2012b)
[55] Ibid.
[56] Ibid.
[57] Latvia, Law on Compensations for Loss Caused by State Administrative Institutions (*Valsts pārvaldes iestāžu nodarīto zaudējumu atlīdzināšanas likums*) (2005)
[58] Latvia, Data State Inspectorate (*Datu Valsts Inspekcija*) (2012b)
[59] Ibid.
[60] Ibid.
[61] Latvia, Civil Code (*Civillikums*) (1934)
[62] Court Administration (*Tiesu administrācija*) (2012)
[63] Ibid.
[64] Ibid.
[65] Latvia, Criminal Law (*Krimināllikums*) (1998)
[66] Latvia, Criminal Procedure Law (*Kriminālprocesa likums*) (2005)

regarding the actions or the decision of a public prosecutor - to a higher-ranking public prosecutor; regarding the actions or a decision of an investigating judge – to the chairperson of the court; regarding the actions of a judge - to the chairperson of the court; regarding the adjudication of a court or judge - to a higher-level court (Section 337). A judgment of the court of first instance may be appealed in accordance with appellate procedures, whereas a judgment of the court of appeals may be appealed in accordance with cassation procedures to the Senate of the Supreme Court (*Augtākās tiesas Senāts*). A decision of a court of cassation shall not be subject to appeal and it shall enter into effect at the moment of the pronouncement (Section 588, para 5). Injunction of a prosecutor regarding a punishment can be appealed by the victim within ten days after the receipt of the report (Section 422, para 2).

- A victim does not have a duty to prove the guilt of an accused. According to the Criminal Procedure Law, a person directing the proceedings has the duty of proving in pre-trial criminal proceedings, and a maintainer of prosecution has such duty in court (Section 126, para 2).
- A victim does not have a duty to prove the guilt of an accused (see the paragraph above).
- According to the Criminal Procedure Law, a victim – natural person may implement the rights thereof by him/herself, or with the intermediation of a representative (Section 97, para 4). In order to ensure the implementation of rights, a victim or the representative thereof may invite an advocate (the categories of legal representatives are listed in Section 79, para 2) for the provision of legal assistance (Section 97, para 6).
- According to Section 104, para 5 of the Criminal Procedure Law, representative of a victim - an advocate for a needy or low-income person shall be invited in exceptional cases, if otherwise there is no possibility to ensure the protection of rights of a person or his or her interests in criminal proceedings. If the rights of a minor and the protection of the interests thereof are encumbered or otherwise not ensured, or the representatives of a minor submit a substantiated request, a person directing the proceedings shall take a decision on the retaining of an advocate as the representative of a minor victim. These decisions are taken by a person who is directing the proceedings. In such cases, the Cabinet of Ministers shall determine the amount of payment for the provision of legal assistance ensured by the state and reimbursable expenses related to the provision of legal assistance ensured by the state, the amount thereof and procedures for payment.[67]
- According to the Criminal Procedure Law, the authorisation to perform criminal proceedings on behalf of the State shall be held only by officials of the institutions specified in the Criminal Procedure Law who have been granted such authorisation in connection with an office to be held by these persons, an order of the head of institution or a decision of a person directing the criminal proceedings (Section 26, para 1). Neither NGOs, nor the Data State Inspectorate (*Datu valsts inspekcija*) has such rights. However, if an NGO or the Data State Inspectorate has obtained information which indicates the possible commitment of a criminal offence, they may submit a submission/request to the investigating institution or the Public Prosecutor's Office. A person directing the proceedings may invite, and assign a person to perform an expert-examination who is not an expert of an expert-examination institution, but whose knowledge and practical experience is sufficient for the performance of the expert-examination (Section 34, para 1).
- The law does not provide for the costs of the procedure for a victim.
- The law does not provide for the duration of the criminal proceedings. No information on the average duration of procedure is available.

[67] The Regulations of the Cabinet of Ministers No.1493 (2009)

- No information on the outcome for 2009, 2010 and 2011 is available.

Redress Mechanism Number 2: custodial arrest

- Custodial arrest for a term of not less than three days and not exceeding three months
- Criminal Law,[68] Section 145, Section 39
- See information on Redress mechanism Number 1.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.

Redress Mechanism Number 3: community service

- Community service for a term of not less than forty hours and not exceeding two hundred and eighty hours
- Criminal Law,[69] Section 145, Section 40
- See information on Redress mechanism Number 1.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.

Redress Mechanism Number 4: fine

- A fine not exceeding two hundred times the minimum monthly wage
- Criminal Law,[70] Section 145, Section 41
- See information on Redress mechanism Number 1.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.

Redress Mechanism Number 5: compensation for harm caused to a victim

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[68] Latvia, Criminal Law (*Krimināllikums*) (1998)
[69] Ibid.
[70] Ibid.

- Compensation
- Criminal Procedure Law,[71] Section 22, Section 97, para 1, Section 350, Section 351, Section 352
- See information on Redress mechanism Number 1.
- Ibid.
- A victim does not have a duty to prove the guilt of an accused person. According to the Criminal Procedure Law, a person directing the proceedings has the duty of proving in pre-trial criminal proceedings, and a maintainer of prosecution has such duty in court (Section 126, para 2). In the application regarding compensation for a caused harm, the victim shall justify the amount of the requested compensation for financial losses, but the amount of compensation for moral injury and physical suffering shall just be indicated (Section 351, para 1).
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.

Redress Mechanism Number 6: warning

- Warning
- Latvian Administrative Violations Code (*Latvijas Administratīvo pārkāpumu kodekss*)[72], Section 204^{7}, para 1 and 2, Section 204^{8}, Section 204^{9}, Section 204^{11}, Section 204^{16}
- Administrative violation matters/Data State Inspectorate
- According to Personal Data Protection Law (*Fizisko personu datu aizsardzības likums*)[73], decisions by the Data State Inspectorate official on imposition of sanction for administrative violation may be appealed to the director of the Data State Inspectorate, whose decision thereof may be appealed to the court (Section 31, para 1).
- According to the Latvian Administrative Violations Code, a person who is a subject to administrative liability as well as a victim of an administrative violation may appeal the decision of the authority to the higher institution. If there is no such institution, the decision may be appealed to the District (city) court (Section 279, para 1). A person may submit a complaint to the institution (authority) which has taken a decision on administrative violation during 10 days from the day of the announcement of a full decision. The institution (authority) transfers a complaint together with the materials of the case for examination on the basis of jurisdiction during seven days (Section 279, para 3, Section 281). A person who is a subject to administrative liability as well as a victim may appeal a decision of the higher institution during 10 days from the announcement of the decision to the District (city) court according to the declared place of residence (Section 288, para 1, Section 289, para 1). The decision of the district (city) court may be appealed to the Regional court during 10 days from the day of the announcement of a full decision (Section 289^{17}, para 1, Section 289^{18}, para 1). The decision of the court of appeal may not be appealed and enters into force from the day of its adoption (289^{22}, para 2).
- The national law does not provide for a duty of a victim to prove the guilt of a person who is subject to administrative liability. According to the Latvian

[71] Latvia, Criminal Procedure Law (*Kriminālprocesa likums*) (2005)
[72] Latvia, Latvian Administrative Violations Code (*Latvijas Administratīvo pārkāpumu kodekss*) (1984)
[73] Latvia, Personal Data Protection Law (*Fizisko personu datu aizsardzības likums*) (2000)

Administrative Violations Code, the authorities on the basis of evidence determine the existence or non-existence of the administrative violation and the guilt of an accused (Section 243).

- A victim does not have a duty to prove the guilt of an accused (see the paragraph above).
- According to Section 262 of the Latvian Administrative Violations Code, a victim may participate in the adjudication of the administrative violation matter with assistance of a representative in accordance with the provisions of the Administrative Procedure Law (*Administratīvā procesa likums*).[74] If a victim is minor, or also if s/he, due to his/her physical or mental disabilities are by him/herself unable to utilise his/her rights in administrative violation matters, the interests of victim may be represented by a legal representatives thereof (parents, adopters, guardians or trustees).[75]
- According to State Ensured legal Aid Law (*Valsts nodrošinātās juridiskās palīdzības likums*)[76], the state does not ensure legal aid in administrative matters (except the administrative matters in asylum and return cases) (Section 15).
- The Latvian Administrative Violations Code provides a list of institutions, including the Data State Inspectorate, who are authorised to examine administrative violation matters (Section 205). The law does not provide for the right of NGOs to examine the cases of administrative violations. According to Section 236.[10] of the Latvian Administrative Violations Code and Section 29, para 4 (7) of Personal Data Protection Law, the Data State Inspectorate is authorised to examine the administrative violation matters which are listed in Sections 204.[7], 204.[8], 204.[9], 204.[10], 204.[11] and 204.[16] of the Administrative Violations Code. The Latvian Administrative Violations Code does not include the provisions concerning the state fee.
- According to the Latvian Administrative Violations Code, the Data State Inspectorate shall examine the complaint within 30 days (Section 270, para 2). The average time of the procedure is four months.[77] More complicated cases, e.g. in which the national data protection authorities from other states are involved or a violation of the Personal Data Protection law has been done by several legal or natural persons, may take time up to a year.[78] The length of the process also depends on the cooperation – whether the requested information is submitted to the Data State Inspectorate or not.[79]
- The Data State Inspectorate received 158 written complaints from individuals in 2009, 182 written complaints in 2010, and 257 – in 2011.[80] The Data State Inspectorate conducted 210 investigations regarding the possible illegal processing of personal data (including on own initiative by the Data State Inspectorate) in 2009, 276 – in 2010, and 290 – in 2011.[81] As a result of investigations, the Data State Inspectorate imposed warning in 26 cases (nine legal persons and 17 natural persons) in 2009; 28 cases (seven legal persons and 21 natural persons) - in 2010; in 24 cases (two legal persons and 13 natural persons) – in 2011.[82]

[74] Latvia, Administrative Procedure Law (*Administratīvā procesa likums*) (2001)
[75] Latvia, Latvian Administrative Violations Code (*Latvijas Administratīvo pārkāpumu kodekss*) (1984)
[76] Latvia, State Ensured Legal Aid Law (*Valsts nodrošinātās juridiskās palīdzības likums*) (2005)
[77] Latvia, Data State Inspectorate (*Datu valsts inspekcija*) (2012a)
[78] Ibid.
[79] Ibid.
[80] Latvia, Data State Inspectorate (*Datu valsts inspekcija*) (2012d)
[81] Latvia, Data State Inspectorate (*Datu valsts inspekcija*) (2012b)
[82] Latvia, Data State Inspectorate (*Datu valsts inspekcija*) (2012d)

Redress Mechanism Number 7: fine

- The maximum fine, which shall be imposed on a natural person shall be in an amount from LVL 50 up to LVL 500 (~71 EUR to 714 EUR), on officials – from LVL 100 up to LVL 500 (~142 EUR to 714 EUR), for legal persons – from LVL 500 up to LVL 10,000 (~714 EUR to 14,285 EUR).
- Latvian Administrative Violations Code,[83] Section 204, Section 204^{8}, Section 204^{9}, Section 204^{10}, Section 204^{11}, Section 204^{16}.
- See information on Redress mechanism Number 6.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- The Data State Inspectorate imposed fine in 26 cases (20 legal persons and six natural persons) in 2009, 14 cases (eight legal persons and six natural persons) – in 2010, and 23 cases (ten legal persons and 13 natural persons) – in 2011.[84] See also information on Redress mechanism Number 6.

Redress Mechanism Number 8: confiscation of an administrative violation object or an instrument used in its commitment

- confiscation of an administrative violation object or an instrument used in its commitment
- Latvian Administrative Violations Code,[85] Section 28, Section 204^{7}, para 1, 2, Section 204^{9}, para 1.
- See information on Redress mechanism Number 6.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- The Data State Inspectorate did not impose confiscation of an administrative violation object or an instrument used in its commitment in 2009, 2010 and 2011.[86]

Redress Mechanism Number 9: blocking of data

- Blocking of data /decision on blocking of data
- Personal Data Protection Law, Section 29, para 3 (4)
- Administrative procedure/Data State Inspectorate
- According to the Personal Data Protection Law[87], decisions by the Data State Inspectorate official on imposition of sanction for administrative violation may be appealed to the director of the Data State Inspectorate, whose decision thereof may

[83] Latvia, Latvian Administrative Violations Code (*Latvijas Administratīvo pārkāpumu kodekss*) (1984)
[84] Latvia, Data State Inspectorate (*Datu valsts inspekcija*) (2012d)
[85] Latvia, Latvian Administrative Violations Code (*Latvijas Administratīvo pārkāpumu kodekss*) (1984)
[86] Latvia, Data State Inspectorate (*Datu valsts inspekcija*) (2012d)
[87] Latvia, Personal Data Protection Law (*Fizisko personu datu aizsardzības likums*) (2000)

be appealed to the District Administrative Court (Section 31, para 1). The Administrative Procedure Law (*Administratīvā procesa likums*)[88] provides, that a judgment of a District Administrative Court may be appealed by way of appellate procedure to the Administrative Regional Court. Judgment of the Administrative Regional Court may be appealed to the Department of Administrative Cases of the Senate of the Supreme Court according to the cassation procedures (Section 289, Section 325).

- According to the Administrative Procedure Law, the participant of the proceedings has the obligation to submit evidence which are in his/her possession and to notify the institution on the facts which are known to him/her and might be important in the particular case (Section 59, para 4). In order to determine the true facts of a matter within the limits of the claim and achieve legal and fair adjudication of the matter, the court shall give instructions and make recommendations to the participants in the administrative proceedings, as well as collect evidence on its own initiative (principle of objective investigation) (Section 107, para 4).
- The Administrative Procedure Law includes the following clauses when the burden of proof is not required: 1) [i]f the court acknowledges a fact to be universally known, it need not be proved; 2) [a] fact, which has been established in the resolutive part of a court judgment, which has come into effect, need not be proved again in the adjudicating of an administrative matter; 3) [a] fact, which has been established in the reasoned part of a court judgment, which has come into effect, need not be proved again in the adjudicating of an administrative matter in which the same participants in the proceedings participate; 4) [a] fact considered by law as established need not be proved in the adjudicating of a matter (Section 153).
- The Administrative Procedure Law allows participants in administrative proceedings participate in the proceedings with the assistance of or through their representative (Section 35).
- See information on Redress mechanism Number 6.
- According to the Personal Data Protection Law, these matters are examined by the Data State Inspectorate (Section 29, para 4 (3)). According to Section 30 of the Administrative Procedure Law, an institution or a court in cases prescribed by law shall invite an authority to participate in a proceeding in order, within the limits of its competence, to provide its opinion in the matter. The authority mentioned has the right to become acquainted with the materials of the matter, to participate in examination of evidence, to submit petitions and to provide an opinion. In its turn, a court may invite an authority to provide, within the limits of its competence, its opinion in the matter. The authority invited has a duty to provide the court the requested opinion.
- According to the Administrative Procedure Law, administrative proceedings in an institution shall be free of charge for private persons, unless prescribed otherwise by law, however a state fee in accordance with the procedures and in the amount set out in the Administrative Procedure Law shall be paid for submission of an application to a court. (Section 18, para 1, 2). A court or a judge, taking into account the financial situation of a natural person, may decrease the amount of the state fee. (Section 128, Paragraph 3). The state fee for the application to the court is LVL 20 (EUR 28); for the appeal – LVL 10 (EUR 14); no state fee is required for the cassation (Section 124). No information on the average cost of the procedure is available.
- The Administrative Procedure Law provides that institution shall take a decision regarding the issue of an administrative act within a month from the date of receiving of a complaint. The duration of the term of decision making may be

[88] Latvia, Administrative Procedure Law (*Administratīvā procesa likums*) (2001)

prolonged (Section 64). No information on the average duration of procedure is available.
- No statistics on the outcomes of procedure for 2009, 2010 and 2011 are available.[89]

Redress Mechanism Number 10: decision on erasure or destruction of incorrect or unlawfully obtained data

- Decision on erasure or destruction of incorrect or unlawfully obtained data
- Personal Data Protection Law,[90] Section 29, para 3 (4)
- See information on Redress mechanism Number 9.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.

Redress Mechanism Number 11: prohibition of data processing

- Permanent or temporary prohibition of data processing
- Personal Data Protection Law,[91] Section 29, para 3 (4)
- See information on Redress mechanism Number 9.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.

Redress Mechanism Number 12: cancellation of a personal data processing registration certificate

- Cancellation of a personal data processing registration certificate
- Personal Data Protection Law,[92] Section 29, para 3 (4)
- See information on Redress mechanism Number 9.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.

[89] Latvia, Data State Inspectorate (*Datu Valsts Inspekcija*) (2012c)
[90] Latvia, Personal Data Protection Law (*Fizisko personu datu aizsardzības likums*) (2000)
[91] Ibid.
[92] Ibid.

Redress Mechanism Number 13: compensation for financial loss, personal harm, moral harm

- Compensation. Section 13, para 3 of the Law on Compensations for Loss Caused by State Administrative Institutions (*Valsts pārvaldes iestāžu nodarīto zaudējumu atlīdzināšanas likums)*[93] provides that financial loss is compensated in the following amount: if the sum calculated does not exceed LVL 100,000 (142, 228 EUR) – 100 percent from this sum; if the sum calculated varies from LVL 100,001 up to LVL 1,000,000 (1,422,872 EUR) - from 50 up to 100 percent from this sum; if the sum calculated exceeds LVL 1,000,000, appropriate compensation can be less than 50 percent from this sum. Compensation for personal harm shall be fixed in the amount of up to LVL 5,000 (7,114 EUR). If a severe personal harm has been caused, the compensation can be fixed in the amount of up to LVL 7,000 (9,960 EUR), but, if harm to the life or especially serious harm to health has been caused, the maximum amount of the compensation can be up to LVL 20,000 (28,457 EUR). Compensation for moral harm shall be fixed in the amount of up to LVL 3,000 (4,269 EUR). If a severe moral harm has been caused, the compensation can be fixed in the amount of up to LVL 5,000, but, if harm to the life or especially serious harm to health has been caused, the maximum amount of the compensation can be up to LVL 20,000 (Section 13, Section 14).
- Administrative Procedure Law,[94] Section 92, Personal Data Protection Law,[95] Section 32
- Administrative procedure
- According to the Administrative Procedure Law, administrative act or actual action may be disputed to a higher institution but if there is no higher institution in accordance with procedures regarding subordination. If there is not such an institution or it is the Cabinet of Ministers, the administrative act and actual action may be immediately appealed to the District Administrative Court. In submitting a submission regarding the disputing of an administrative act or actual action, compensation may concurrently be claimed. A decision of the higher institution regarding a disputed administrative act may be appealed in the District Administrative Court. A judgment of a District Administrative Court may be appealed by way of appellate procedure to the relevant Administrative Regional Court, whereas a judgment of an Administrative Regional Court may be appealed by way of cassation procedure to the Administrative Matters Department of the Senate (*Augstākās tiesas Senāta Administratīvo lietu departaments*) (Section 76, para 2, Section 93, para 1, Section 289, Section 325)
- See information on Redress mechanism Number 9.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.

Redress Mechanism Number 14: apology

- Written or public apology (type of compensation for moral harm which is not serious)

[93] Latvia, Law on Compensations for Loss Caused by State Administrative Institutions (*Valsts pārvaldes iestāžu nodarīto zaudējumu atlīdzināšanas likums*) (2005)
[94] Latvia, Administrative Procedure Law (*Administratīvā procesa likums*) (2001)
[95] Latvia, Personal Data Protection Law (*Fizisko personu datu aizsardzības likums*) (2000)

- Administrative Procedure Law,[96] Section 92; Personal Data Protection Law,[97] Section 32; Law on Compensations for Loss Caused by State Administrative Institutions,[98] Section 14, para 4
- See information on Redress mechanism Number 13.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.

Redress Mechanism Number 15: restoration to original condition

- Restoration to original condition
- Administrative Procedure Law,[99] Section 92, Section 94, para 4; Personal Data Protection Law,[100] Section 32
- See information on Redress mechanism Number 13.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.
- Ibid.

Redress Mechanism Number 16: compensation for harm

- Compensation
- Civil Code (*Civillikums*),[101] Section 1635; Civil Procedure Law (*Civilprocesa likums*),[102] Section 7 Section 43, para 1 (4), Criminal Procedure Law,[103] Section 31, para 2)
- Civil procedure
- According to the Civil Procedure Law, participants in a matter may submit an appellate complaint regarding a judgment (supplementary judgment) of a court of first instance, except for judgments, the appeal of which in accordance with appellate procedure is not provided for by law. The judgment of an appellate court may be appealed by the participants in the matter in accordance with cassation procedures, whereas a cassation court judgment may not be appealed and comes into effect at the time it is pronounced (Section 413, Section 477).
- The Civil Procedure Law provides that each party shall prove the facts upon which they base their claims or objections. Plaintiffs shall prove that their claims are

[96] Latvia, Administrative Procedure Law (*Administratīvā procesa likums*) (2001)
[97] Latvia, Personal Data Protection Law (*Fizisko personu datu aizsardzības likums*) (2000)
[98] Latvia, Law on Compensations for Loss Caused by State Administrative Institutions (*Valsts pārvaldes iestāžu nodarīto zaudējumu atlīdzināšanas likums*) (2005)
[99] Latvia, Administrative Procedure Law (*Administratīvā procesa likums*) (2001)
[100] Latvia, Personal Data Protection Law (*Fizisko personu datu aizsardzības likums*) (2000)
[101] Latvia, Civil Code (*Civillikums*) (1934)
[102] Latvia, Civil Procedure Law (*Civilprocesa likums*) (1998)
[103] Latvia, Criminal Procedure Law (*Kriminālprocesa likums*) (2005)

well-founded. Defendants shall prove that their objections are well-founded. Evidence shall be submitted by the parties and by other participants in the matter. If the parties or other participants in the matter are unable to submit evidence, the court shall, at their motivated request, require such evidence (Section 93, para 1, 3).

- The Civil Procedure Law includes clauses when the burden of proof of each party is not required: if the court acknowledges a fact to be universally known; the court should take into consideration the final adjudication in criminal proceedings only in respect to the question if the criminal offence and the guilt of an accused person are proved; if the facts have been established according to the law; if the facts are not appealed by another side (Civil Procedure Law, Section 96
- According to the Civil Procedure Law, natural persons may conduct matters in court personally or through their authorised representatives (Section 82, para 1).
- According to the State Ensured Legal Aid Law[104], low-income persons may receive state ensured (free of charge) legal aid in civil matters. The Cabinet of Ministers shall determine in which cases the state of property and income level of the persons mentioned shall be regarded as appropriate for the receipt of legal aid, and the procedures for the evaluation thereof.[105] Section 6 of the State Ensured Legal Aid Law provides that legal aid shall be refused if it is related to the compensation of moral harm (Sections 3, 10, 11).
- According to the Personal Data Protection Law,[106] the Data State Inspectorate has the right to submit an application to a court regarding violations of the Personal Data Protection Law (Section 29, para (4)).
- Section 34 para 1 of the Civil Procedure Law provides, that for each statement of claim a state fee shall be paid in amount set out in the Civil Procedure Law. The state fee is dependent on the amount claimed (for example, in regard to claims assessable as a monetary amount not exceeding LVL 1,000 (EUR 1,423) – 15 percent of the amount claimed but not less than LVL 50 (EUR 71); from LVL 1,001 to LVL 5,000 (EUR 7,114) – LVL 150 (EUR 213) plus 2.5 per cent of the amount claimed exceeding LVL 1,000; from LVL 5,001 to LVL 20,000 (28,457) – LVL 250 (EUR 356) plus 1.6 percent of the amount claimed exceeding LVL 5,000 etc.); in regard to other claims which are not financial in nature or are not required to be evaluated, the state fee is LVL 50 (~71 EUR). The state fee for an appeal shall be in accordance with the rate which must be paid upon submitting a statement of claim, but in regard to disputes of a financial nature – of the rate calculated in accordance with the disputed amount in the first instance court (Section 34, para 4). Upon a cassation complaint being submitted, a security deposit shall be paid in the amount of LVL 200 (EUR 285) (Section 458, para 1). A security deposit is not required to be paid by persons who pursuant to law or a judgment of a court or a judge are exempted from state fees. A court or a judge, depending on the financial circumstances of the natural person, may relieve an applicant fully or partially of the duty to pay the security deposit (Section 458, para 4). If a victim believes that the entire harm caused to him or her has not been compensated with a compensation in criminal procedure, he or she has the right to request the compensation thereof in accordance with the procedures specified in the Civil Procedure Law. According to the Criminal Procedure Law, in requesting consideration in accordance with civil legal procedures, a victim shall be discharged from the state fee (Section 350, para 4). The Civil Procedure Law includes the provision that the plaintiffs in claims regarding compensation for financial loss and moral injury resulting from criminal offences shall be exempted from payment of court costs to the state (Section 43, para 1 (4)).

[104] Latvia, State Ensured Legal Aid Law (*Valsts nodrošinātās juridiskās palīdzības likums*) (2005)
[105] The Regulations of the Cabinet of Ministers No.1484 (2009)
[106] Latvia, Personal Data Protection Law (*Fizisko personu datu aizsardzības likums*) (2000)

- The duration of the civil proceedings is not provided by the law. No information on the average duration of the civil procedure is available.
- No information on the outcomes of procedure for 2009, 2010 and 2011 is available.

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