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COUNTRY REPORT: LATVIA

Kristine Krūma

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European University Institute, Florence
Robert Schuman Centre for Advanced Studies
EUDO Citizenship Observatory

Report on Latvia

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Latvia

Kristine Krūma

1 Introduction

Citizenship attribution is a sensitive issue in the Baltic States which, after the period of Soviet occupation beginning in 1940, restored their independence and citizenship in 1991. During the Soviet occupation, a large group of immigrants from former Soviet republics arrived in Latvia. The migration was encouraged by the so-called Russification policy. The policy sought to instil Soviet values and ideals and made Russian an official language alongside Latvian.

Upon the restoration of independence, Latvia, together with Lithuania and Estonia, claimed that Soviet occupation was illegal and that Latvia had never been part of the USSR *de jure*. This claim was based on the principle of state continuity, i.e. the continuity or identity of states as legal entities under international law, and required the articulation of a set of claims in accordance with the applicable international legal rules and procedures when referring to statehood (Ziemele 2005: 118). The claim was supported by states which never recognised Latvia's occupation and annexation (Feldmanis *et al* 1999: 174-135). The principle of state continuity has also been reflected in citizenship policies which followed the *ex iniuria ius non oritur* principle. According to this approach only those who were Latvian citizens and their descendants could restore their citizenship *de facto*, leaving Soviet era immigrants in legal limbo.

Since most of the immigrants from former Soviet republics opted to stay in Latvia, political choices had to be made on how to integrate them. It was admitted that expulsion of the immigrant population and thus reversion to the status quo ante was politically impossible (Ronen 2009: 211-212, 230-231). At the same time, international human rights law places limitations on the powers of the post transition regime to expel settlers, requiring it to take account of factual developments, regardless of their original illegality. Under international pressure from various Western countries as well as international organizations, most notably OSCE, the Council of Europe, EU and NATO, Latvia liberalised its citizenship policies. In order to secure rights of Soviet-era settlers, which extend beyond the requirements of international human rights treaties, Latvia created a specific category of persons in international law, namely so-called non-citizens. This category has become the main focus of international debates on Latvian nationality policies. Initially, this status was seen as temporary because it was assumed that non-citizens would naturalise or eventually apply for citizenship in another state. However, today there are still a considerable number of non-citizens who are unwilling to naturalise due to a variety of internal and external factors.

Recent debates concern two main issues. The first concerns the need to liberalise policies of dual citizenship, which is not accepted by Latvia so far. The second debate concerns integration policy and the need to facilitate naturalisation, which has decreased significantly since EU accession. In this context, the activities of Russia towards its compatriots have been provocative. During the 2013 spring session the Parliament is preparing to adopt major amendments in the Citizenship Law in the final reading which would address both issues. .

There is no distinction in the Latvian language between the terms ‘nationality’ and ‘citizenship’ because both terms cover the same category of persons.¹ Also according to Latvian legislation there is no distinction made between nationals and citizens. In legal doctrine on Latvian law the term ‘nationality’ rather than ‘citizenship’ has been used when translating Latvian laws and state practice (Ziemele 2005: 156). However, when translating international conventions the term nationality is translated as ‘pilsonība’ which is closer to German *Staatsangehörigkeit*.² There are also other terms which are not frequently used to discuss current citizenship policies.³ They may be used when discussing citizenship policies of other states to illustrate the difference in approaches.

2 Historical background of citizenship policy

2.1 Restoration of citizenship

An important step in the process of consolidating the new statehood proclaimed on 18 November 1918 was the adoption of the Law on Citizenship in 1919. This Law was not repealed subsequent to the occupation of Latvia by the Soviet Union in 1940. During the occupation, Latvian citizens also became citizens of the USSR by way of automatic imposition of the latter’s citizenship.

There were different views regarding the status of Baltic citizens after the Second World War. In some of the lawsuits initiated by Baltic citizens concerning their citizenship they were still considered Baltic citizens by courts of other states. The varying treatment of Baltic citizens by other states prevailed until 1991 when the Baltic States regained independence.⁴

Upon the restoration of independence in 1990, decision-makers were faced with the dilemma of the two main options for reconstituting statehood which had direct repercussions on citizenship policy. Under the first option it was argued that the original state had disintegrated or disappeared and that a new state had been founded. This meant that Latvia should withdraw from the USSR on the basis of the 1978 Constitution of the Latvian SSR. The newly-founded state could then determine its citizens on the basis of its territory – a ‘zero option’, i.e. Latvia would accept that there was no illegal occupation and define its people anew by adopting a new citizenship law. Therefore, Latvia would be guided by obligations under principles of state succession. This would give human rights law a more important role (Ziemele 2005: 8).⁵

¹ This is confirmed by a number of dictionaries adopted by the Latvian Academy of Sciences available at <http://termini.lza.lv/term.php?term=pilsoniba&list=&lang=LV> (consulted 14 April 2012).

² For instance, the European Convention on Nationality has been translated as *Eiropas Konvencija par Pilsonību* (see, for instance the link to the translation of the Convention by the Ombudsman office available at http://www.tiesibsargs.lv/lat/tiesibu_akti/eiropas_padomes_dokumenti/?doc=263 (consulted 14 April 2012), and the decision of the Cabinet of Ministers on the signing of the Convention <http://www.likumi.lv/doc.php?id=22239> (consulted 14 April 2012).

³ See <http://eudo-citizenship.eu/databases/citizenship-glossary/terminology#Latvia> (consulted 11 January 2013).

⁴ For a more detailed review of State practice see W.J.H. Hough III, *The Annexation of the Baltic States and Its Effect on the Development of Law Prohibiting Forcible Seizure of Territory*, N.Y.L.Sch.J.Int’LandComp.L., Vol.6, No.2, 1985, pp. 391-447.

⁵ As far as this option is concerned, one may add, however, that the codification efforts of the International Law Commission at the United Nations concerning the nationality of persons in situations

The second option emanated from the principle *ex injuria jus non oritur*, meaning that illegal Soviet occupation could not lead to Latvia's *de jure* loss of independence (Kalvaitis 1998: 231; Ziemele 2001: 233). This view was based on the concept of state continuity, which *inter alia* implies the continuity of the citizenship of the state in question (Thiele 1999: 12). It was in line with the truism that some kind of 'identity' or 'sameness' in the physical elements of the state (e.g. territory or population) existed to support the continuity or identity claim (Ziemele 2005: 129).

The adherence to the principle of state continuity was preferred and incorporated in the Declaration of Independence adopted by the Supreme Council on 4 May 1990.⁶ The Declaration renewed the main articles of the *Satversme* (Latvian Constitution) and established a transitional period until full recovery of independence. The Declaration was supported by 138 out of 201 MPs (Jundzis 2000: 654-658). The outcome was predetermined by elections which took place on 18 March 1990 during which candidates from the Latvian Popular Front and National Independence movements obtained an absolute majority of seats (Kusiņš 2000: 70). This was possible because not only Latvians, but also people of other ethnic origin, especially the intelligentsia, actively supported the claim for independence. The opposition, comprising mainly Interfront and the Council of United Workers, representing a conservative pro-Soviet communist position, obtained only minority support. The speed and scale of events made many residents feel confused during that period (Apine 2000: 109).⁷ In general, the approach chosen by Latvia was supported also by the international community, especially those states which never recognised Latvia's occupation and annexation (Feldmanis et al 1999: 174-135).

During the transition period set out in the Declaration, the political institutions of the Soviet era were still in place. However, their freedom to act was significantly restricted according to the Declaration. Their authority was only to preserve continuity until the fifth legitimately elected *Saeima* (Parliament), elected by Latvian citizens, would start functioning.

According to the mandate given to the Supreme Council in the Declaration the aggregate body of Latvian citizens was re-established in accordance with the 1919 Law on Citizenship, as amended in 1927. It was considered again applicable with the adoption of the 15 October 1991 Resolution on the Renewal of the Republic of Latvia's Citizens' Rights and Fundamental Principles of Naturalisation by the Supreme Council. The presumption was that Latvian citizenship had continued to exist, irrespective of the loss of independence in 1940.⁸ This was in line with the

of state succession showed that awarding nationality to all residents by successor states that emerged from the dissolution of a predecessor state is by no means an automatic or established rule of international law. UN Doc A/RES/55/153 (Nationality of Natural Persons in relation to the Succession of States), 30 January 2001.

⁶ For a short account of the history of the loss and regaining of independence see Judgment No. 2007-10-0102 of Constitutional Court, 29 November 2007. Available at http://www.satv.tiesa.gov.lv/upload/judg_2007_10_0102.htm (consulted 22 January 2013).

⁷ Statistics from 1990 show that Latvian independence was supported by 55 per cent of people living in Latvia. 85 per cent of Latvians expressed their support, 22 per cent of Russians and 35 per cent people of other ethnic origin. In the referendum on independence which took place on 3 March 1991, 87.6 per cent of all registered voters participated. Out of those participants, 73.58 per cent voted in favour of independence. See Apine 2000: 112.

⁸ For information on the renewal of the 1919 Law see Constitutional Court judgment No. 2009-94-01, 13 May 2010, paras 14-16. Another decision regulating renewal of citizenship rights was adopted by the Supreme Council on 27 November 1991 entitled 'On application of the Supreme Council decision

humanitarian law rules enshrined in the Geneva Convention Relative to the Protection of Civilian Persons in Time of War which *inter alia* prohibits the imposition of the citizenship of the occupying country upon citizens of the occupied country. It was argued that automatic conferral of USSR citizenship on the population of the Baltic states as a consequence of their occupation in 1940 was unlawful under international law as long as the Baltic states were presumed to exist (Kalvaitis 1998: 231; Ziemele 2001: 233). The Decree on the Order in which the Citizens of the Soviet Socialist Republics Lithuania, Latvia and Estonia are Granted USSR Citizenship (1940) on the basis of which Soviet nationality was imposed on Latvian citizens was declared null and void *ab initio*. Latvian citizens recovered *de facto* rights and obligations deriving from their Latvian citizenship but those USSR citizens who arrived in Latvia as a result of its foreign occupation were subjected to the naturalisation procedure according to relevant legal provisions.

According to the Resolution on the Renewal of the Republic of Latvia's Citizens' Rights and Fundamental Principles of Naturalisation the following groups of individuals were recognised as citizens: (1) those who were Latvian citizens on 17 June 1940 and their descendants if they had lived in the country and had registered by 1 July 1992; (2) persons who were Latvian citizens on 17 June 1940 and their descendants if they did not reside in Latvia or were citizens of another state and had submitted an expatriation permit; and (3) persons born and residing in Latvia if their parents were unknown. The process of naturalisation was also made easy for persons who were living in Latvia on 17 June 1940 without Latvian citizenship. This approach was based on the premise that if Latvia had not been occupied these persons could have acquired citizenship (Ziemele 1998: 208). Others who did not qualify for citizenship could apply for naturalisation under the 1919 Law and the Resolution. Since the requirements for naturalisation were high, including *inter alia* sixteen years of residence, naturalisation based on the Resolution never occurred.

The decision to adhere strictly to the provisions of the 1919 Law put an end to discussions which took place during 1988-1990. Many of those who supported independence hoped that, even if the 1919 Law was renewed, certain amendments would be made to adapt the law to the *de facto* situation in Latvia. The Russian intelligentsia claimed to have been betrayed and argued that at the very least naturalisation should be made easier (Apine 2000: 114). This reaction, however, was based on excessive expectations because politicians were divided in their vision of the future of Latvia, including the exact claim for state continuity⁹. It can be argued that this decision served as a basis for later divisions in society and for the slow pace of naturalisation. It should also be acknowledged that politicians at that time felt pressure from the Latvian public which had regained independence after lengthy occupation and were experiencing national upheaval.

⁹ 'On renewal of the Republic of Latvia's citizens rights and fundamental principles of naturalisation in relation to citizens of the Republic of Latvia residing abroad'. The decision provided that citizens residing abroad upon registration are entitled to preserve the other citizenship.

⁹ Members of the Latvian Popular Front had divergent views not only in relation to citizenship, but also about Latvian independence, as some members argued for the autonomy of Latvia within the USSR. The Front itself did not carry any political responsibility as it was not a political party but a social movement.

2.2 Basis for the current citizenship policy

By 1991, when the Republic of Latvia regained its independence, the titular nation had almost become a minority, i.e. only 52 per cent of the population, with Russians and other non-Latvian citizens comprising 48 per cent of the population. This made Latvians feel insecure about their state and identity. By comparison, in 1935 Latvians had comprised 75.5 per cent of the total population. In light of the state continuity thesis, strict citizenship policies based on *ius sanguinis* resulted in 673,398 people, or 28.2 per cent of total population, left with undetermined status. Afraid of possible tension and disorder, the Western allies required Latvia to adopt a new citizenship law which would accommodate the requirements of international law and would lead to more flexible naturalisation procedures.

During the parliamentary election campaign in 1993, citizenship was the most important issue because it was expected that the new law would depart from strict provisions of the renewed 1919 Law. The elected parliament in a way represented the opinion of Latvian citizens as to how the state should proceed in this matter. The newly established political parties were well aware of their electorate consisting of citizens of the pre-occupation period and their descendants. On the one hand, there were so called Citizens' Committees which argued that the parliament was illegitimate because it was elected in the presence of the Soviet army. Their influence was substantial and they had supporters in parliament. On the other hand, Latvia was determined to join international organisations and return to the community of Western democracies. Therefore, drafting of the new citizenship law was influenced by international experts, most notably those of the Organisation for Security and Cooperation in Europe (OSCE) and the Council of Europe. The OSCE High Commissioner on National Minorities wrote lengthy letters where he gave detailed recommendations on the content. Proposals by MPs ranged from repatriation of all Soviet-era settlers to a zero option supported by the marginal minority.¹⁰

According to the first model adopted by the Parliament, the first applications for naturalisation would have been accepted in 2000 and then only at a rate of 0.1 per cent of the previous year's total number of citizens. This would have resulted in approximately a thousand new citizens annually. The law was heavily criticised by international organisations. As a result, the President of Latvia refused to sign the adopted law. Complex citizenship issues were even the reason for postponing Latvian membership to the Council of Europe. The new Law on Citizenship was adopted on 22 July 1994. It, slightly amended in 1995, followed the *ius sanguinis* principle. In addition, several other groups could qualify for citizenship such as Latvians and Līvi¹¹ residing in Latvia and not holding another citizenship, women who lost citizenship upon marriage, orphans and persons who completed education in schools with Latvian as a language of instruction. As argued by Ziemele, the latter category broadens the scope of Latvian citizens in that it includes those former USSR citizens who may have integrated into Latvian society, irrespective of their place of birth (Ziemele 2001: 235). The right of a child to acquire Latvian citizenship was ensured by providing that if at least one parent is a Latvian citizen the child will acquire Latvian citizenship, subject to mutual agreement by the parents.

¹⁰ For details on the political debate see Kruma 2012: 318.

¹¹ Līvi are an indigenous group of Finno-Ugric descent living near the Baltic Sea.

Those who did not belong to the above mentioned groups had to naturalise according to the procedures set out by law and the regulations of the Cabinet of Ministers. Although naturalisation requirements were made easier, they were still exclusionary. The law provided for gradual naturalisation, the so-called ‘window-system’, thus limiting the rights of individuals to freely choose the timing for naturalisation. It provided that persons would be naturalised in stages starting in 1996 and ending in 2003 (Kalvaitis 1998: 231). After 2003 all persons would have the right to apply.¹²

The reason for this approach was fear that considerable numbers of Soviet-era settlers would opt for citizenship. This was seen as an obstacle to smooth naturalisation as well as a threat to Latvian democracy. Latvians still felt insecure about their status and capacity to preserve independence. Having experienced only a short period of independence in 1920s and 1930s and having been subjected to Russification policies, deportations and sanctions under Soviet regime, people wanted to make sure that independence was irreversible. The newly naturalised were not perceived to be loyal to the state by citizens.

However, the number of applications for naturalisation turned out to be much lower than expected. According to data of the Naturalisation Board during 1995-1998 only 15,853 people applied for naturalization and the number of successful applicants was 11,431. The reasons for the low interest, which were only analysed after the law was adopted, were (1) lack of knowledge of the Latvian language; (2) unwillingness to enter into obligatory military service; (3) the easier requirements for obtaining a Russian visa for non-citizens; (4) the number of rights already granted; (5) political mistrust and disappointment at not having been granted citizenship automatically; and (6) an identity crisis after the collapse of the USSR. As a reaction to negative perceptions of Soviet immigrants by Latvians, many of them chose either to opt for Russian or other citizenship or to apply for the status of non-citizen.

2.3 The status of non-citizen

As noted in the previous section, Latvia inherited large Russian-speaking communities who had arrived from the ex-USSR. The Soviet central authorities had encouraged large-scale immigration of the labour force to meet the local demands of Soviet industrialisation and ethnic politics. Latvia suffered under this policy because (1) Latvia hosted the headquarters of the Soviet army for the Baltic region and (2) the Latvian communist elite was more sympathetic compared to other Baltic states. Consequently, the collapse of the Soviet Union affected mostly the Russian people and other Eastern Slav groups such as Byelorussians and Ukrainians (Berg & van Meurs 2001: 139). The historical minorities of Slav origin living in the Baltic States before the Soviet invasion were treated differently.

The collapse of the Soviet Union and the ensuing independence of Latvia created problems for persons who were living in Latvia and suddenly realised that they were citizens of a state which no longer existed. Moreover, many Russian military personnel (50,000-80,000 military personnel with more than 22,000 retired Soviet military officers) remained in Latvia pending an inter-state withdrawal agreement and

¹² For instance, a person who was 45 years of age and born in Latvia could apply for naturalisation in 2000 while a person who was twenty could apply in 1996.

some resorted to fictitious marriages and forged documents in an attempt to regularize their status in Latvia (Muižnieks 2006a: 15, Muižnieks 2006b: 120).

The Law on the Entrance and Residence of Foreigners and Stateless Persons entered into force on 2 July 1992. It determined procedures for applying and receiving residence permits. As noted by Ziemele, the formulations of the 1992 Law were initially unclear about the status of long-term residents in Latvia, opening ways for arbitrary decisions by relevant authorities. The status of individuals who entered Latvia between 4 May and 2 July 1992 was even more uncertain. The government had issued instructions in 1990 whereby permanent registration of persons arriving at that time was prohibited unless some special circumstances could be advanced. Practices varied from one administrative district to another. Some followed the 1990 instructions; some applied the 1992 Law retroactively (Ziemele 2005: 160-161).

Settlers had an option to register as Russian citizens or citizens of other states of the Commonwealth of Independent States (CIS), which they did not use for various reasons. The settlers who had become stateless as a result of the Soviet Union breakup and the lack of coordination of domestic legislation between Russia, the various newly-independent states, and the Baltic states presented an acute problem (Krūma 2012:347). The persons could not be extradited as settlers from an occupying state because this would be contrary to human rights law which prohibits expulsion of aliens en masse due to lack of an interstate agreement requiring the occupying power to observe the Geneva Convention. Nor could those persons be classified as stateless because that would be against the principle of reduction of statelessness (Krūma 2012: 348).

One option was to draft a citizenship law based on the zero option in 1994. This option was ruled out due to political considerations as most voters were Latvian citizens on the basis of the 1919 Law and Latvia was adhering to the principle of state continuity. In an attempt to strike a balance between State continuity and the obligation to avoid statelessness under international pressure, Latvia introduced the special temporary status of ‘non-citizen’ in 1995 until the final solution to the citizenship issue would be decided upon.¹³ The Former USSR Citizens Act in art. 1 states:

‘The persons governed by this Act – “non-citizens” – shall be those citizens of the former USSR who reside in the Republic of Latvia as well as who are in temporary absence, and their children, who simultaneously comply with the following conditions:

1. on 1 July 1992 they were registered as being resident within the territory of Latvia, regardless of the status of their residence; or their last registered place of residence by 1 July 1992 was in the Republic of Latvia; or a court has established that before the above mentioned date they had been resident within the territory of Latvia for not less than ten years;¹⁴

2. they do not hold Latvian citizenship;

3. they are not and have not been citizens of any other state.’

¹³ Law on the Status of Former Soviet Citizens who are not Citizens of Latvia or any Other State, Official Gazette no. 63, 25 April 1995

¹⁴ In 1998, the Former USSR Citizens Law was amended to normalize the situation of those persons who had entered Latvia but who did not have ‘unlimited propyska’ in their passports. The Law now reads that nationals of the former USSR who had been ‘registered’ as living in Latvia on 1 July 1992 or who could prove with a court verdict, at least, a ten year long residence in Latvia are subjects of the Law (Ziemele 2005: 162).

Persons excluded from the scope of the law are those who have been affiliated with Soviet military and their family members if they arrived in Latvia in connection with the service of a member of the armed forces, as well as persons who were reimbursed for departure or registered residence in CIS after 1 July 1992.

Article 1 recognises non-citizens as a special category whose legal status in some areas provides them with more rights and guarantees than, for example, proper permanent residents; however non-citizens are not yet nationals of Latvia.

Special rights given to non-citizens of Latvia can be summarised as follows. Non-citizens are given a special passport. The passport grants them the special status of belonging to the state, thus giving them the constitutional right to return. In accordance with art. 2 of the Former USSR Citizens Act, non-citizens of Latvia cannot be deported, which is not the case with third-country nationals. When ratifying international conventions Latvia as a rule submits a declaration requesting the equal treatment of citizens and non-citizens. For instance, upon ratification of the European Convention on Extradition and its Protocols in 1997 Latvia stated that it shall apply to both citizens and non-citizens. Non-citizens enjoy human rights granted to nationals and this has been submitted by Latvia and accepted by a number of international treaty monitoring bodies. Moreover, in accordance with art. 2 of the Law on Diplomatic and Consular Service, they enjoy the diplomatic protection of Latvia. Non-citizens, however, are not granted political rights and they are barred from practicing certain professions related to civil service jobs and the judiciary. There are also restrictions on owning land.

The implementation of the non-citizen status was not easy. The Latvian government had repeatedly extended the deadline set for March 2000 when the USSR passports were no longer valid for use. Despite the deadline, the Office of Citizenship and Migration Affairs (OCMA) continued exchanging passports into 2001 with 300 new passports issued almost every month (Ziemele 2005: 163). In 2002 there were still 19,000 people using old USSR Passports.¹⁵

Latvia lacked laws of administrative procedure and there were no administrative courts. The cases concerning non-citizens which are currently decided in most cases by administrative courts were dealt by civil courts.¹⁶ At the present time, the situation has been normalised as administrative courts were established on 1 February 2004.

There have thus far been several attempts to classify non-citizens under a heading recognised by international law.¹⁷ Since Latvia's accession to the European Union there has been little or no pressure from international organisations regarding Latvia's citizenship policy and the issue of its non-citizens. Moreover, Latvian courts

¹⁵ TVNET, <http://www.tvnet.lv/zinas/latvija/article.php?id=22337>, 2 July 2002.

¹⁶ The courts were badly equipped and thus many judgments were hand-written. Therefore they are hardly accessible and seldom researched. The main group of cases during 1990s concerned refusal by the OCMA to grant the status of non-citizen. Taking into account that a large number of Soviet-era settlers tried to abuse Latvian legislation, including former Soviet military personnel, immigration authorities adopted a strict approach. It led to a number of court cases, some of which attracted interventions by the Commissioners of both the Organisations for Security and Cooperation in Europe (OSCE) and the Council of the Baltic Sea States (CBSS), as well as adjudication in European Court of Human Rights (Muižnieks 2006a: 16).

¹⁷ For instance, Kees Groenendijk suggested that they should be called 'denizens', a term describing residents enjoying a status between alien and citizen (Groenendijk 1993: 15).

have only recently given an authoritative interpretation of the status of non-citizens, the most important of which is the ruling of the Constitutional Court.¹⁸

The Constitutional Court had to review the amendments made to the Former USSR Citizens Act which provided for the revocation of the status of non-citizen for persons who acquired the status of permanent residence in another country after 1 June 2004. Until these amendments, the status could only be renounced on condition that a nationality had been acquired. The Court regarded the amendments as unconstitutional. It began by analysing the adoption of the non-citizens' law in historical and political context and concluded that the opinion that Latvia had a duty to grant citizenship automatically to those individuals and their descendants who have never been Latvian citizens and arrived during the occupation is unfounded (para. 13). The Court acknowledged that the introduction of the status of non-citizen was a complicated political compromise as a result of which a category unknown in international law had been created. The Court noted that Latvia has consistently defended its position that non-citizens cannot be qualified as stateless persons and this view has been accepted by the international monitoring bodies (Ziemele and Kruma 2003).¹⁹ In its judgment, (para. 17) the Court defined the status of non-citizen in the following way:

‘The status of non-citizens is not and cannot be considered as a mode of Latvian citizenship. However, the rights given to non-citizens and the international obligations which Latvia has undertaken in relation to these persons signify that the legal link of non-citizens to Latvia is recognised to a certain extent and based on it mutual obligations and rights have emerged. This is derived from art. 98 of the Constitution which inter alia states that anyone who possesses a Latvian passport has a right to protection by the state and the right to freely return to Latvia.’

The court therefore confirmed that non-citizens have a special link with Latvia which entails mutual rights and obligations. Those are, however, different from those of citizens. Over the years the status of non-citizen in Latvia has been strengthened and is no longer treated as temporary. It can be argued that non-citizens possess the same rights as citizens except for political rights and the right to hold certain positions related to public service, i.e. work as civil servants, judges, MPs, diplomats, soldiers and alike. At the same time they cannot be defined as citizens.

¹⁸ See Constitutional Court Case 2004-15-0106, Official Gazette No. 40, 9 March 2005.

¹⁹ See, for instance, .Concluding observations of the Committee on the Elimination of Racial Discrimination: Latvia, 12 April 2001. CERD/C/304/Add.79., para 6 and 12-15.. See also Concluding observations: Latvia, 10 December 2003t, CERD/C/63/CO/7 10, paras 12-13. Concluding observations of the Human Rights Committee, 6 November 2003, CCPR/CO/79/LVA, paras 16-18. The UNHCR approach differs slightly in that they qualify non-citizens as a mode of stateless persons, at the same time acknowledging differences. See Submission by the UNHRC for the Office of the High Commissioner for Human Rights' Compilation Report. Universal Periodic Review: Latvia. November 2010. Available at http://lib.ohchr.org/HRBodies/UPR/Documents/session11/LV/UNHCR_UNHighCommissionerforRefugees-eng.pdf (consulted 20 January 2013).

3 The current citizenship regime

3.1 Acquisition of citizenship

Main principles

According to the Citizenship Law of 1994, Latvian citizenship is acquired on the basis of the *ius sanguinis* principle rooted in the continuity of Latvian citizenship as identified in 1919. According to art.2 of the Citizenship Law, citizens of Latvia are: (1) persons who were citizens on the date of occupation and their descendants, unless they had acquired the citizenship of another state after Latvia proclaimed its independence on 4 May 1990; (2) Latvians and Livs who permanently reside in Latvia, do not hold the citizenship of another state or have received an expatriation permit; (3) women who permanently reside in Latvia and lost their citizenship according to the Law on Citizenship of 1919 as well as their descendants, unless they acquired the citizenship of another state after 4 May 1990; (4) naturalised persons; (5) children who are found in the territory of Latvia whose parents are unknown; (6) orphans living in an orphanage or a boarding school in Latvia; (7) children born of parents both of whom were citizens of Latvia at the time of such birth, irrespective of the place of birth of such children; or (8) persons who permanently reside in Latvia and are duly registered and who have completed a full educational course in general education schools in which Latvian was the language of instruction, or in mixed language schools, if they are not citizens of another state or have received an expatriation permit.²⁰

Latvia was under close international scrutiny by the Council of Europe and the OSCE. Moreover, the European Union²¹ and NATO requested that naturalisation of Soviet era settlers be facilitated since a large number of persons with undetermined status could represent a threat for internal stability and social cohesion, and increase external influence. As a result Latvia amended its Citizenship Law in 1998 (Tomaševski 2000: 340). The amendments were confirmed in a referendum and became effective in November 1998.²² These amendments abolished the ‘window-system’ and provided citizenship for children born in Latvia after 21 August 1991 to stateless persons or non-citizens.

In addition to these amendments, the naturalisation procedure was simplified, i.e. several groups of individuals were identified for exemption from the naturalisation process or did not have to pass the naturalisation exams. Western countries and international organisations provided considerable assistance to Latvia with the objective of overcoming the main barriers which kept the numbers of applications for citizenship low. Special attention was paid to language training. About 50 different sets of learning and informational materials were published, 45 projects to facilitate naturalisation were initiated, an information centre was established and a number of campaigns were organised.

²⁰ In 1995 grounds (2), (3) and (8) were included.

²¹ The European Union ‘expressed grave concern at certain aspects of the [...] law on citizenship adopted in Latvia’ (European Commission, General Report on the Activities of the European Union 1994 Brussels/Luxembourg 1995, para. 759). See also the Opinion No. 183 (1995) on Latvia’s application for membership in the Council of Europe; stars.coe.fr. Latvia was also cited three times under the UN 1503 procedure concerning gross and persistent violations of Human Rights (in 1995, 1997 and 2000).

²² The amendments were adopted on 22 June 1998. The referendum was held on 3 October 1998 and about 53 per cent of the electorate voted for the adoption of the amendments.

Art. 13 provides for the admission to citizenship for special meritorious service beneficial to Latvia. A decision must be passed by Parliament on each individual case. A person cannot acquire dual citizenship by the application of art. 13, and the restrictions contained in art. 11 are applicable.

Rights of the child

The general rule in para 5 of art.2 provides that children of Latvian citizens are citizens irrespective of their place of residence. According to art.3 of the Citizenship Law a child born to parents of whom only one has Latvian citizenship is recognized as a citizen if born in Latvia or born outside Latvia but with permanent residence in Latvia. In cases when both parents live permanently outside Latvia, they can agree on the citizenship of the child. If the child is born to parents of whom one is a Latvian citizen but the other is unknown or stateless, the child is a Latvian citizen irrespective of the place of birth.

The 1998 amendments provided for citizenship for children born in Latvia after 21 August 1991 to stateless persons or non-citizens. Thus, a conditional *ius soli* acquisition of citizenship was created. In order to apply for citizenship according to Art. 3¹ a child should be: (1) a permanent resident; (2) stateless or a non-citizen 'for the entire time' of its life prior to application; (3) below the age of fifteen; and (4) should not have a criminal record indicating more than five years of imprisonment. Until the child reaches the age of fifteen, the application can be submitted by both parents jointly, or by the adoptive parents of a child if they are stateless persons or non-citizens and have resided in Latvia for at least five years, or by a single parent if the other parent is deceased. It should be noted that a certificate of language proficiency must be submitted by those minors who have not been registered by their parents before they have reached age of 15. Parents should sign a promise that they will support their child in learning Latvian, to acquire education and will instil respect and loyalty to the Republic of Latvia. When children reach 18 years of age general naturalisation procedures apply.

Article 6 (2) of the ECN prescribes an obligation of States parties to provide citizenship to children born on their territory who do not acquire another citizenship at birth. However, the case-law of the administrative courts has gone in a different direction by equalising status of non-citizen with the citizenship status or upgrading it to the status which is not equal to the status of stateless person.²³

Dual citizenship

Dual citizenship is, in principle, not permitted in Latvia. The 1994 Citizenship Law does not, however, exclude this possibility if the person has registered his or her Latvian citizenship. This means that Latvia will not create dual citizenship, while acknowledging that other states may do so. The Citizenship Law is indeed ambiguous in relation to dual citizenship. Art. 9 provides that a person who acquires Latvian citizenship cannot be a dual national. Para. 2 of the same article states that where a person is considered to be a citizen of another state, in his or her relations with Latvia the person is considered only to be a citizen of Latvia. Art. 24 provides the possibility of revoking citizenship by court decision if a person has acquired the citizenship of another state without renunciation of his or her Latvian citizenship. The possibility of holding dual Latvian citizenship and that of another state is set out in the Transitional Regulations of the Citizenship Law. These provided that those Latvian citizens, and

²³ See section on the current regime for non-citizens,

their descendants, who, during the period from 17 June 1940 until 4 May 1990, left Latvia as refugees or were deported could register as Latvian citizens until 1 July 1995.²⁴ The compliance of this norm with the principle of state continuity and with the Constitution was contested in the Constitutional Court. The Court declared that this norm does comply with the Constitution, and with the doctrine of state continuity derived from the Latvian Constitution and Declaration of Independence. Dual citizenship for individuals who went abroad during the occupation is not illegal. However, it was legitimate to require registration and to set a deadline for keeping dual citizenship.

The Court also acknowledged that Latvian citizenship continued to exist during occupation. Although citizenship law at that time did not allow for dual citizenship, the renewal of Latvian passports at Latvian Embassies abroad for citizens who had acquired an additional citizenship was common practice. Therefore, dual citizenship acquired during the occupation period cannot be deemed illegal.

However, the Court stated that dual citizenship is a political issue rather than a judicial one. Therefore, the question of general admissibility of dual citizenship should fall under the remit of the parliament, i.e. the extension of the deadline for registering is to be decided by the legislator.

National courts have dealt with cases of dual citizenship on a number of occasions. The major problem seems to be the fact that persons applying for Latvian citizenship were not able to get adequate information on procedures for registering their children as Latvian citizens without renouncing existing citizenship.²⁵ For instance, the Constitutional Court dealt with a case where a dual citizen of Israel and Latvia was willing to register his daughter – a citizen of Israel – as a Latvian citizen after arriving in Latvia. However, because when entering Latvia he had indicated that his daughter was a citizen of Israel, she was refused Latvian citizenship. The Court ruled that dual citizenship can arise at birth and is prohibited only in cases of naturalisation. A child cannot be refused dual citizenship on the basis of formal requirements, i.e. correct understanding of form to be filled in.²⁶ However, the question as to whether children must renounce their other citizenships when they come of age remains unclear.

Naturalisation

Individuals who have registered with the Residents' Register are considered to reside lawfully in Latvia and are entitled to acquire citizenship through naturalisation if they have received a permanent residence permit. The naturalisation requirements are the following: (1) permanent residence in Latvia for five years counting from 4 May 1990²⁷; (2) knowledge of the Latvian language, the Constitution,²⁸ the anthem and the

²⁴ Case No., 2009-94-01, 13 May 2010.,

²⁵ See case SKA-678/2008, Judgment of 6 November 2008 of Supreme Court Senate, Department of Administrative cases, and case SKA-417/2008, Judgment of 23 September 2008 of Supreme Court Senate, Department of Administrative cases.

²⁶ Decision of the Latvian Constitutional Court, Case No. 2007-07-01, 21 August 2007.

²⁷ According to para. 4 of art. 24 of the Immigration Law, permanent residence can be acquired after five years of residence in Latvia with a temporary residence permit. This means that a person shall reside five years in Latvia in order to obtain permanent residence and a further five years with permanent residence to acquire the right to apply for citizenship. Exceptional cases provide for a shorter residence requirement as permanent residence permits can be issued in certain cases

history of Latvia; (3) a loyalty oath to the Republic of Latvia; and (4) a legal source of income (art. 12).

The Law provides for a special procedure of naturalisation in cases where applicants were citizens of Lithuania, Estonia or Poland before the USSR intervention and have lived in Latvia for at least five years. These rules also include their descendants (art. 14).²⁹ The special procedure also applies to persons married to Latvian citizens for not less than ten years who have been residing in Latvia for at least five years, even if the spouse is deceased (art. 14). A special procedure provides that these applications are considered expediently.

Upon application, a person shall declare that he or she does not hold any other citizenship and that none of the restrictions apply as specified in art. 11 of the Citizenship Law. Article 11 establishes restrictions for naturalisation, if a person:

- has acted against the independence of Latvia and its powers, as established by the courts;
- propagated totalitarian ideals or ethnic or racial hatred, as established by the courts;
- served in the institutions of another state, including the armed forces;
- served in the USSR army and was called-up from outside Latvia;
- has been employed by the KGB, the security or intelligence or a similar service of another state;
- has been sentenced in Latvia or another state for a crime which is also a crime in Latvia;
- has, after 13 January 1991, worked against Latvia in a number of specified organizations.³⁰

This Article seems to follow a rather exclusionary approach. For instance, if a person has been convicted of any crime (even if imprisonment was only for a year) he or she can never apply for Latvian citizenship. Also the restrictions in relation to the affiliation with the KGB could be challenged as to their legitimacy and proportionality

immediately after arrival (for instance, family reunification, former citizens and non-citizens alike).

²⁸ The Law states that a person shall know the basic principles of the Constitution of the Republic of Latvia and the Constitutional Law Rights and Obligations of a Citizen and a Person. However, this law lost its force on 6 November 1998 when the Constitution was supplemented with a chapter on human rights.

²⁹ In the case of Estonia and Lithuania they had to be citizens of the respective countries on 17 June 1940, but in the Polish case on 1 September 1939. In practice this provision became pointless because due to the low number of applications there was no need to apply special expedient procedure. In addition, it was more difficult for applicants to prove their origin by obtaining documents from the archive than simply to apply in the regular naturalisation procedure.

³⁰ These include the Communist Party of the Soviet Union, the Latvian Communist Party, the Working People's International Front of the Latvian SSR, the United Council of Labour Collectives, the Organisation of War and Labour Veterans, the All Latvia Salvation of Society Committee or their regional Committees or the Union of Communists of Latvia. Concerning the legality of similar limitations for running for public office, see the case of *Ždanoka v. Latvia*, application No. 58278/00, Judgment of Grand Chamber of ECHR, 16 March, 2006, especially paras. 119 and 120.

since there are citizens who had the affiliation but who were recognised as citizens on the basis of *ius sanguinis*.³¹

Children up to the age of fifteen acquire citizenship together with the naturalised parent without undergoing the naturalisation process as set out in art. 12. This is also the case if the parents have not reached an agreement but the child permanently resides in Latvia or in cases of adoption. Citizenship is granted to a minor from fourteen to eighteen years of age only with his or her written consent (art. 16). If a minor's citizenship has changed and his or her consent has not been obtained, he or she can, within a year of coming of age, renew Latvian citizenship irrespective of the period of residence in Latvia (art. 16, para. 2). If the citizenship of a child has changed as a result of the marriage of one of his or her parents, the naturalisation procedure will not be applicable if the child wishes to renew his or her Latvian citizenship.

In accordance with art. 4 of the Citizenship Law, all Latvian citizens are equal irrespective of the way citizenship is acquired. This is a constitutional principle confirmed by the Constitution in art. 91 which states that all are equal before the law and human rights shall be respected without any discrimination. The Naturalisation Board is part of the Office of Citizenship and Migration Affairs (OCMA), working under the auspices of the Ministry of Interior, is responsible for the examination of applications for naturalisation.³² During the naturalisation procedure the Board co-operates with other institutions with the aim of verifying the information submitted by the applicants. Its decisions are subject to appeal in court. During court proceedings, the naturalisation process is suspended until the decision of final instance or until the case is dropped. The procedure of naturalisation is set out in detail in a number of regulations of the Cabinet of Ministers. Regulation no. 521 on the Procedure for Acceptance and Review of Naturalisation Applications includes application forms and specifies the procedure for submission of applications including the documents to be submitted.³³ In 2004, the procedure for submitting documents was liberalised and the requirement that documents must be submitted in the regional unit of the registered place of residence of the applicant was lifted. The naturalisation procedure is relatively easy and takes no more than six months from the date of application. Also, the fee for naturalisation has been lowered several times. Since 2003 it has been set at 20 Lats (approx. 30 euros) and at 3 Lats (4 euros) for certain groups of applicants.³⁴ Persons may withdraw their applications at any stage of the naturalisation procedure.

³¹ This provision, however, might change soon. Art. 17 of the Law on Preservation of Documents of former KGB, their Use and Establishment of the Fact of Cooperation between a Person and the KGB provides that the fact of co-operation of a person with the KGB can be established in the procedure prescribed by law within 20 years after the Law has entered into force, i.e. the law entered into force on 1 December 1995 as amended in 2004. This means that the 20 years term will expire on 1 December 2015 if not extended which would run counter to the rationale in the ruling of the ECHR in case of *Ždanoka v. Latvia*, application No. 58278/00, Judgment of Grand Chamber of ECHR, 16 March, 2006 .

³² During the economic crisis the Naturalisation Board was reformed and became part of the Citizenship and Migration Department of the Ministry of Interior. The main arguments were that there are very few regional offices of the Naturalisation Board, while Office of Citizenship and Migration Affairs has more than 30 offices in Latvia. The reform took place on 1 March 2010.

³³ A special procedure is provided by the Regulation No 520 on the Procedure for Submission and the Review of Application for Recognition of a Child being a Citizen of Latvia adopted on 5 July 2011. The documents submitted are subject to verification by the Office of Citizenship and Migration Affairs and the Ministry of the Interior if a child has reached the age of fourteen (minimum age for criminal liability)..

³⁴ Regulations on the State Duty Payable for Submission of a Naturalisation Application, Regulation no. 234 (Record no. 26, para. 43), Riga, 5 June 2001 as amended until 2 December 2008. The rate is

At present Latvian regulation on exams set minimum requirements. The general provisions have been liberalised by the 1998 amendments. Art. 19-21 of the Law primarily focus on the language exam.³⁵ The requirements for the examinations are set out in detail in the Regulation no. 522 on the Examination of Proficiency in the Latvian Language and the Examination of Knowledge of the Basic Principles of the Constitution, the Text of the National Anthem and the History of Latvia in Accordance with the Citizenship Law adopted on 5 July 2011.³⁶ The regulations provide that knowledge of the language, of the Constitution, the anthem and history shall be tested by an examination commission established by the Naturalisation Board. Groups exempted from the language exam are applicants who:

- present (i) a certificate issued after 1 September 2009 and testify that they have got level B or C at the exam passed to perform professional duties, to obtain permanent residence permit or EU long-term status (these exams can be taken at the State Education Curricula Center); (ii) certificate testifying that applicants have passed centralised exam in Latvian when graduating from elementary or secondary school at level A, B, C, D (exams are taken when a person graduates from school); (iii) a certificate testifying that the applicant studied at an elementary, secondary or higher education establishment in Latvian (Sect. 10 of Regulation 522);
- have reached 65 years of age. These persons are entitled to pass the aural and reading part of the language exam orally (see also Art. of Regulation 522 and Article 21 (3) of the Citizenship Law exempting persons from the written test).
- according to Art. 21(2) of the Citizenship Law, are subject to special procedure because of significant disability (Sect. 12 of Regulation 521).³⁷

In cases where an applicant qualifies for exemption from the knowledge exam:

- the applicant should present a certificate of very severe disability or special certificate issued by the State Commission on Medical Expertise of Health and Capacity to Work (if the person is in possession of these documents) which allows that person to qualify for the simplified procedure or exemption from the exam (Sect. 12 of Regulation 521).

lowered to 3 Lats for: (1) members of poor families or poor persons; (2) unemployed; (3) members of families with at least three under age children; (4) persons receiving old-age pension; (5) disabled persons with a certain degree of disability; (6) pupils and students; (7) full time students of tertiary education establishments. Persons exempted are: (1) politically repressed; (2) severely disabled persons; (3) orphans and children who are not under their parents' charge; (4) persons sheltered by social care institutions of the state or self-government. The fees were changed in 1997, 2001 and 2002.

³⁵ Art. 19 of Citizenship Law states that the language exam should be passed. Art. 21 provides that persons which have acquired basic, secondary or higher education in Latvian, should be exempted from the language test. In addition Art. 21(3) of Citizenship Law provides that persons who have reached 65 years of age should be exempted from the written part of language exam.

³⁶ During information meetings organised by the OCMA persons can take trial exams. In addition there is a frequent question/answer section available online and the possibility to ask questions. See <http://www.pmlp.gov.lv/lv/pakalpojumi/Naturalizacija/BUJ.html> (consulted on 3 October 2012). In order to prepare for exams the applicants can study a book on the Latvian language exam (LVL 1.83, EUR 2.6), a book on basic questions on Latvian history and Constitution (LVL 3.42, EUR 4.8) and methodological recommendations for applicants when they prepare for exam on *Satversme*, national anthem and history (LVL 1.45, EUR 2).

³⁷ The system in Latvia stipulates that disabled persons are grouped into three categories: very severely disabled persons, severely disabled persons and moderately disabled persons. The category for each person is established by the Commission that evaluates to what extent a person has lost his or her ability to work. The document on disability is issued by the Commission according to Regulation no. 1209 (adopted on 28 December 2010). A person should approach his or her doctor who issues relevant documents to approach the Commission. Detailed information is available at <http://www.vdeavk.gov.lv/> (consulted on 8 March 2012).

- according to Sect. 31 and 33-34 of Regulation 522 applicants with various degrees of disability are exempted from both exams, written, oral or aural parts of exams.

In addition, Section 36 provides that the Head of the Naturalisation Board or person authorised by him/her, according to law, has the right to exempt a person from certain parts of the exam if this person is disabled and is in possession of a medical certificate validating such a decision.

The examination of language proficiency takes place within two months from the date when all necessary documents have been submitted, and the examination of the other topics is two months after passing the language exam (sect. 11 and 23). Sect. 6 of the Regulation provides that in cases where a person does not show up, s/he should within two months submit to the OCMA a document testifying the reason. After examination of the document the OCMA sets another date. According to sect. 7 of Regulation 522 if an applicant fails to pass either the language or the knowledge test, s/he can take the language exam for the second and third time three months after the last examination at the earliest. The applicant can take the knowledge exam for the second and third time one month after the last exam. Three possibilities to take the exam are given during a single naturalisation process. After failing exams three times the applicant has to re-start the procedure.

The language proficiency exam has a written and an oral part and the examination commission shall assess the applicant's ability to read, write, listen and understand conversation on topics of everyday life (sect.20).

Language proficiency has often been mentioned as the main obstacle for naturalisation especially by older applicants (Strik, Böcker, Luiten, van Oers 2012: 382). Therefore, in 1996, the State Programme for Latvian Language Learning was initiated. During the first years after regaining independence the learning of Latvian was supported by both national institutions and international donors.³⁸ Language courses were provided for candidates for naturalisation and the specific groups, mainly the unemployed and job-seekers. Although the donations had been impressive and courses well attended, the overall numbers of persons benefitting from them are not significant.³⁹ Currently there are several institutions offering language courses and some of them are free of charge. There is demand for more courses free of charge. At the same time the level required for naturalisation – B1 – is not sufficiently high to ensure that person can easily follow political discussions in Latvian or understand laws and everyday legal issues.

The statistics on pass rates of persons who had taken naturalisation exams are fluctuating. They could require detailed analysis in the context of changing numbers

³⁸ The major donors were the United Nations Development Program, EU, OSCE, the USA, Sweden and Norway. For instance, the National Agency for Latvian Language Training (NALLT) was financed by both the EU and the NATO Member states (total amount approximately EUR 10 million) and the EU PHARE Program (total allocation during 1996-2002, EUR 5 million. Lerhis, A., Kudors, A. (2008) *'Outside Influence on the Ethnic Integration Process in Latvia'*, 2nd ed., Centre for East European Political Studies, p. 18.

³⁹ For instance, the courses within the National Programme during the period 1996-2002 were attended by 50,000 people (12 per cent of those whose native language is not Latvian) Djačkova, S. 'Latvian language proficiency and the integration of society' (2004), available at <http://www.politika.lv/print.php?id=3989> (consulted 2 February 2008) 47, 49, 54.

of applicants, gradual legislative changes simplifying requirements, including the groups exempted from exams, as well as decreasing availability of the courses offered free of charge. Overall success rate figures differ. For comparison, the language exam in 1996 was failed by 3.3 per cent, but the knowledge exam by 8 per cent of applicants; in 2005 the language exam was failed by 16 per cent, but the knowledge exam by 4,8 per cent; in 2011 exams failed were respectively by 41 per cent and 24 per cent of applicants. This can be explained by a number of factors. First, the number of applicants during 1990s was much lower if compared with the period shortly before and after Latvian accession to the EU in 2004-2005. Second, the level of knowledge of those who applied during the beginning of 1990s could have been better without requiring extra training. Third, although the numbers of applicants decreased significantly since 2007 there were fewer possibilities of benefitting from a different integration programme and Latvia was approaching an economic crisis so integration was low on the political agenda.

Even if an applicant for naturalisation has passed the exams and satisfies all other requirements set in the Law there might still be situations when citizenship is not granted. For instance, there is the *Petropavlovskis case* which is currently pending at the ECtHR.⁴⁰ The Cabinet of Ministers refused his application for citizenship based on the argument that he is not loyal to the state. This was a precedent confirmed by the Administrative Court Senate, which stated that the Cabinet of Ministers has wide discretion in granting citizenship and that the decision is predominantly political.

Moreover, in the view of the court, compliance with the requirements of the Citizenship Law does not establish a subjective right to Latvian nationality. The outcome of the case might have repercussions on Latvian ratification of ECN which it signed already on 31 March 2001. Even if the circumstances of the case were specific and this remains the only precedent so far, there are no guarantees against repetition unless it is clearly stated in the law.

Loss of citizenship

Latvian citizenship is lost in cases of renunciation or revocation. According to art. 23 of the Citizenship Law, renunciation can take place if a person has been guaranteed the citizenship of another state except where he or she has unfulfilled obligations towards the state or has not fulfilled mandatory military service. The clause on the fulfilment of obligations towards the state is unclear, i.e. whether it involves fiscal or other obligations. Such a broad formulation may make it possible to arbitrarily deny the right

⁴⁰ He is a non-citizen and was a member of the radical group Headquarters for the Protection of Russian Schools, which organised various protests against an education reform requiring more subjects to be taught in Latvian. He has declared that he would run as a candidate in local government elections after being naturalised. According to various media sources, he publicly advocated the use of violence, bloodshed and terrorism and threatened to resort to these methods after his naturalisation. There were several publications concerning these allegations, such as, ‘Staba bridinajumus par sadursmem uzskata par provokaciju’ [Warnings from Stab about clashes with police considered as provocation], *Diena* [daily newspaper], 14 August 2004. This publication refers to an earlier article where Petropavlovskis listed 160 combatants under his command (21 February 2004). See also the interview with Petropavlovskis: Murniece I., ‘Intervija ar Juriju Petropavlovski: “Mums vajadzgs starptautisks skadals!”’ [Interview with J.Petropavlovskis: ‘We need International Scandal’], *Latvijas Avize* [daily newspaper], 20 December 2004. Russian sources can be found at: 2004.novayagazeta.ru. Judgment of the Administrative Cases Department of the Supreme Court’s Senate case No. SKA 221, 11 April 2006.

to change citizenship (Ziemele 1998: 248). Moreover, since 2004 Latvia has maintained a professional army and mandatory military service has been abolished.

Art. 24 provides for three cases when citizenship can be revoked by a decision of a regional court, namely, if a person (1) has acquired the citizenship of another state without renouncing Latvian citizenship; (2) continues to serve in foreign armed forces or similar institutions without permission from the Cabinet of Ministers; or (3) has acquired citizenship by fraud. Family members are not affected by such proceedings. A former citizen can re-apply for citizenship after five years of residence after the date of revocation of citizenship. These grounds comply with those identified in the Convention on the Reduction of Statelessness (art. 25, para. 2). Moreover, in applying these provisions Latvian courts apply the principle of proportionality.

For instance, the Department of Civil Law Cases of the Senate of the Supreme Court has dealt with a case of deprivation of citizenship where a descendant of a Latvian citizen was accused of fraud.⁴¹ The applicant was registered as a Latvian citizen in 1996 on the basis of the fact that her mother was a Latvian citizen. At that time she did not inform the authorities of her Russian citizenship. Upon registration she submitted a passport of the USSR and noted that her permanent residence was the Russian Federation.⁴² The revocation of Latvian citizenship was based on the fact that she did not inform the authorities that she had citizenship of the Russian Federation. At the same time she was entitled to Latvian citizenship because she was a descendant of a Latvian citizen, irrespective of the fact that she was a citizen of another State in the meantime. The Senate, not being the court of appeal, did not deal with the issue of whether the applicant was entitled to register as a citizen under para 1 of Art. 2 of the Citizenship Law. The Senate concluded that the lower court had not properly established a case of fraud. It also noted that when applying Article 24 of the Citizenship Law the courts should bear in mind that a person cannot be deprived of citizenship if they thus become stateless. The Senate emphasised that the principle of proportionality is applicable.

The current regime for non-citizens

Over the years the status of non-citizen has been strengthened and it is no longer treated as temporary. The main factors contributing to this phenomenon have been national administrative courts and the EU.

The European Court of Human Rights (ECtHR) has mainly dealt with the cases when persons did not qualify for non-citizen status. For instance the *Kaftailova* case in the ECtHR concerned the applicant who was born in Georgia and lived in Latvia from 1984.⁴³ The ECtHR observed that the applicant was originally a citizen of the Soviet Union, a State which ceased to exist in 1991, and had at no time been a Latvian citizen. She could not legally claim Latvian citizenship and she was not

⁴¹ Judgment of the Civil Law Department of the Senate of the Supreme Court in case No. SKC-215/2011, 22 June 2011.

⁴² The applicant acquired Russian citizenship in 1993 according to Article 13 of the Citizenship Law of the Russian Federation, 28 November 1991. This provided that Russian citizens are all former USSR citizens who are permanent residents in the Russian Federation upon entry into force of the law, if within a one year term they do not declare their unwillingness to be citizens of the Russian Federation.

⁴³ *Kaftailova v. Latvia* (App no 59643/00) ECHR 22 June 2006, 7 December 2007. See also *Slivenko v. Latvia* (App. No. 48321/99) ECHR 9 October 2003, The *Slivenko* case remains more controversial because the Court disregarded the fact of family relationship with the USSR army official.

arbitrarily denied the right to apply for it. The applicant's case was dealt with in the context of the right to 'private life'.⁴⁴ The Chamber noted that prolonged refusal by the Latvian authorities to grant the applicant the right to reside in Latvia on a legal and permanent basis had amounted to interference with her 'private life' within the meaning of Article 8 of the Convention. However, when the case was reported to the Grand Chamber the applicant was offered regularisation arrangements. The Court stated that the Convention cannot be construed as guaranteeing, as such, the right to a particular type of residence permit. Although expulsion of stateless persons could have led to serious issues under Article 8 of the Convention, the fact that the applicant remained in Latvia considerably reduced the extent of redress.

The cases on non-citizens in local courts represent about one quarter of more than 200 immigration related cases reviewed in different instances by administrative courts during the period between 2004-2008. They can be grouped under the following sub-headings: (1) access to the status of non-citizen; (2) access of children to the status of non-citizen; (3) revocation of the status, which is the largest part of all the non-citizen cases.

The number of cases on access to status is not significant because the Status Law has been in force for about 13 years and a majority of those who were interested registered during the 1990s. Most of the cases concern persons who were not living in Latvia permanently in 1992, as required by law, or had acquired and lost another citizenship in the meantime. This category of people arrived in Latvia later and applied for non-citizen status.⁴⁵ One of the most interesting cases is the case of Ms. Bakriseva.⁴⁶ She was denied the right to acquire status of non-citizen because it was established that she had served in the military of the Russian Federation. According to Russian legislation, only Russian citizens are allowed to serve in the Russian armed forces. However, Ms. Bakriseva insisted that she never accepted Russian citizenship. The Court noted that, according to international law, the will of a person to become a citizen of a particular state is important because citizenship cannot be imposed on a person. Since there was no conclusive evidence that Ms. Bakriseva applied for Russian citizenship herself, she could not be refused the status of non-citizen.

The cases on access to the status of non-citizen of children demonstrate that the status is attractive to non-citizens. The courts interpret the status according to the same principles as the status of citizen. The cases concern situations when one or even both parents were foreign citizens, but the parents have agreed to register their child as a non-citizen of Latvia.⁴⁷ As a result of these decisions, the law was amended in

⁴⁴ The Court took into account that her daughter was 22 when the case was reviewed; she had been legally resident in Latvia since 2001 and had had Latvian citizenship since 2003.

⁴⁵ Case No. C27225803 AA 261-05/01, 14 April 2005, Case No. C27188903 AA 484-05/5, 19 September 2005, Case No. A688-04/8 No. AA 398-05/3, 3 November 2005

⁴⁶ SKA-128, C27124003. 2004.

⁴⁷ Judgment of the Regional Court of administrative cases in case No.A42151204 (AA890-05/8), 20 April/5 May 2005, Judgment of the District Court of administrative cases in case No.A42244804 (A1476-05/13), 19 May 2005, Judgment of the Regional Court of administrative cases in case No. A42173504 (AA 629-05/4), 30 May/9 June 2005, Judgment of the Department of Administrative Cases, the Senate of the Supreme Court in case No. SKA – 136 (A42173104), 13 April 2005, Judgment of the Regional Court of administrative cases in case No. A42399505 (AA 1944-06/6), 21 September/3 October 2006, Judgment of the Regional Court of administrative cases in case No.A42348705 (AA 934-06/10) 28 April/15 May 2006, Judgment of the District Court of administrative cases in case No.

2007 and now provides that if one of the parents is a non-citizen but the other is a citizen of another State they can register their child as a Latvian non-citizen.

The largest group of cases concerns revocation of the status of non-citizen. Most of the cases concern situations when persons have acquired another citizenship but did not inform Latvian authorities.⁴⁸ Also, in cases when a person provided false information in order to acquire the status of non-citizen the status will be revoked. The courts have been cautious when confirming the decisions of authorities concerning deprivation of status of non-citizen. The Department of Administrative Cases of the Senate of the Latvian Supreme Court has concluded:

‘The connection of a non-citizen with the Republic of Latvia is closer than that of a stateless person or a foreign national. Therefore, withdrawal of the status of non-citizen is an important infringement of personal rights and cannot be based on external causes and facts that have not been fully established.’⁴⁹

Another group of revocation cases concerns persons who tried to abuse a system established by Latvia, Russia and the USA, involving a special programme whereby persons residing in Latvia were granted financial assistance and housing in Russia. By becoming members of the programme they lost their non-citizen status. The right to reside in Latvia subsequently could be acquired only on a temporary basis and if the financial assistance has been returned. However, some of these persons returned and applied for a permanent residence permit or claimed that they should still be considered as non-citizens since they had refused the housing which was offered to them. The cases are complicated because most often there was not sufficient information in the case file because the Russian authorities only introduced a proper registration system in 1998 and could not provide any documentary evidence.⁵⁰ All doubts are interpreted by the court for the benefit of the applicant.

It can be concluded that the case-law of the administrative courts has consistently reinforced the status of non-citizens indicating that non-citizens are not stateless persons because they have a special connection with the state of Latvia. Moreover, revocation of the status of a non-citizen is a material infringement of personal rights.

A42051204 (A63-0457) 10 June/20 June 2005. Judgment of the Regional Court of administrative cases in case No. A42399505 (AA43-1832-07/15) 21 June 2007.

⁴⁸ Judgment of the District Court of administrative cases in case No. C27270301 (A684-06/18) 5/15 May 2006, Judgment of the Regional Court of administrative cases in case No. C27137903 (AA 452-06/12) 20/22 June 2006, Judgment of the District Court of administrative cases in case No. C27144702 (A475-04/7), 1 December 2004, Judgment of the District Court of administrative cases in case No. A42377606 (A1960-07/9), 30 November 2007, Judgment of the Regional Court of administrative cases in case No. A42415906 (AA43-1059-07/6) 28 December 2007, Judgment of the Regional Court of administrative cases in case No. A42416006 (AA43-0133-08/4) 29 January 2008, Judgment of the Regional Court of administrative cases in case No. C-27189303 (AA 266-04/6) 30 September 2004, Judgment of the Department of Administrative Cases, the Senate of the Supreme Court in case No. SKA – 10 (C27162801) 9 March 2004, Judgment of the Regional Court of administrative cases in case No. C27188903 (AA484-05/5) 19/23 September 2005.

⁴⁹ Judgment of the Department of Administrative Cases, the Senate of the Supreme Court in case No. SKA – 89 (C27261801) 24 August 2004.

⁵⁰ Judgment of the District Court of administrative cases in case No. A42603207, 24 April 2008, Judgment of the Regional Court of administrative cases in case No. C27212003 (AA 508-05/2) 15/19 August 2005. See also in a different context the Judgment of the Regional Court of administrative cases in case No. C27232303 (AA 372-04/7), 13/22 December 2004.

Non-citizens can apply for the status of long-term resident third-country nationals in the EU framework in accordance with the provisions of Directive 2003/109/EC⁵¹ if their passports have been recognised by the EU as valid for visa-free travel (Regulation 1932/2006/EC). They have to pass a language exam to acquire this status.⁵² Moreover, Russia has decided to provide holders of the non-citizen passports with visa-free travel to Russia. The decree, signed by President Dmitry Medvedev on 18 June 2008, grants these persons visa-free travel to Russia provided they have a valid travel document – a non-citizen passport in the case of Latvia and an aliens' passport in the case of Estonia. Minors must present either a valid travel document or a birth certificate if they are listed in the passport of an accompanying guardian.⁵³ The Latvian Ministry of Foreign Affairs issued a protest about this decision, as it may bring the naturalisation of non-citizens to a halt.⁵⁴ However, the protests had no success.

In addition, the ruling of the Grand Chamber of the ECtHR in the *Andrejeva* case serves as an example that the developments are going in the direction of eliminating differences in the treatment of citizens and non-citizens. The Court established that Latvia has discriminated against non-citizens concerning the calculation of their pensions.⁵⁵ The State Pensions Act provides that the pensions of foreign nationals or stateless persons who were resident in Latvia on 1 January 1991 should be based on periods of employment in Latvia only. The Latvian authorities proceeded accordingly in the case of Natalija Andrejeva, who worked in branches of Russian and Ukrainian enterprises located in Latvia for seventeen years, explaining that different calculations would be possible only if a treaty were to be signed between Latvia and the respective states. The ECtHR considered it disproportionate to disregard employment periods of non-citizens before 1991 in pension calculations. It dismissed the Latvian government's argument that such pension claims are subject to international agreements on social security. The dissenting opinion of the Latvian

⁵¹ The EU accession negotiations avoided the issues related to the status and rights of non-citizens. The Commission of the European Union, when interpreting the scope of the application of the so called Third-country Nationals' Directive (Council Directive 2003/109/EC of 25 November 2003 Concerning the Status of Third-country Nationals who are Long-term Residents, Official Journal, L 016, 23 January 2004, pp. 0044-0053) stated that 'the expression "third-country national" covers all persons who are not citizens of the Union in the sense of Article 17 paragraph 1 of the EC Treaty, that is to say those who do not have the nationality of an EU Member State'. This indicates that persons with undetermined citizenship fall within the scope of the directive. Letter from the Directorate-General Justice and Home Affairs, European Commission to the Permanent Delegation of Latvia in the EU institutions, 23 June 2003.

⁵² Judgment of the Regional Court of administrative cases in case No.A42151204 (AA890-05/8), 20 April/5 May 2005, Judgment of the District Court of administrative cases in case No.A42244804 (A1476-05/13), 19 May 2005, Judgment of the Regional Court of administrative cases in case No. A42173504 (AA 629-05/4), 30 May/9 June 2005, Judgment of the Department of Administrative Cases, the Senate of the Supreme Court in case No. SKA – 136 (A42173104), 13 April 2005, Judgment of the Regional Court of administrative cases in case No. A42399505 (AA 1944-06/6), 21 September/3 October 2006, Judgment of the Regional Court of administrative cases in case No.A42348705 (AA 934-06/10) 28 April/15 May 2006, Judgment of the District Court of administrative cases in case No. A42051204 (A63-0457) 10 June/20 June 2005. Judgment of the Regional Court of administrative cases in case No. A42399505 (AA43-1832-07/15) 21 June 2007.

⁵³ 'Visa waiving for Latvia's "non-citizens" jeopardizes Russia-EU talks', Ria Novosti [Russian national news agency], 18 June 2008, see en.rian.ru.

⁵⁴ Arlietu ministrijas paziņojums par Krievijas Federācijas lemmu atcelt vizu režimu daļai Latvijas iedzīvotāju [Announcement of the Ministry of Foreign Affairs concerning the decision of the Russian Federation to lift visa regime for a group of Latvia's inhabitants], press release, Latvian Ministry of Foreign Affairs, 18 June 2008, see www.am.gov.lv.

⁵⁵ Application No.55707/00, Grand Chamber Judgment 18 February 2009.

judge in this ruling shows that the ECtHR did not take into account the historical context of the case, which resulted in erroneous conclusions.⁵⁶

Latvia has adopted a so-called ‘carrot and stick’ policy towards non-citizens, i.e. if they want to enjoy the rights of EU nationals, then they must become nationals of an EU Member State. The current problem lies in the fact that the number of non-citizens is considerable and it is not decreasing fast enough. Moreover, in relation to travel, when compared to citizens, non-citizens are treated even better since they can freely travel to Russia.

Integration

Facilitation of naturalisation has continuously been on the political agenda with varying degrees of importance. While it was more of a priority during the period before EU accession, since 2004 it has become marginalised. The integration process aimed at consolidating civil society, founded on shared basic values that were well known to Latvian citizens but alien to those who arrived during Soviet times (Kruma 2010: 250). Naturalisation exams as such are an insufficient means to overcome the problem.

Naturalisation rates peaked after liberalisation of the Citizenship Law in 1998 and after Latvia’s accession to the EU in 2004. However, recently naturalisation has decreased significantly. Latvia has not managed to adopt a comprehensive and streamlined approach to integration policy. This was further hampered by the economic crisis which started in 2008. There is a relatively stable small number of applications for naturalisation, ranging between 2000-3000 annually. Two ethno-centric communities continue to co-exist by living in different information spaces, which are exploited by politicians of the right and the left at times of elections or politically sensitive celebrations.⁵⁷ The policies advocated by both international organisations and Russia requiring more rights for non-citizens have resulted in a lack of motivation and incentives for them to naturalise. Their social and economic situation would not improve with naturalisation and their need for information is served by Russian media. Access to political rights is an insufficient argument to foster naturalisation. The question remains whether this situation can be reconciled and who can facilitate the process, especially taking into account the decreasing role of international organizations, including the EU.

Notwithstanding the latest amendments and campaigning, the numbers of non-citizens are still quite high. On October 2012 there were 304,823 non-citizens

⁵⁶ See also the ruling of the Constitutional Court in case No. 2010-20-0106, 17 February 2011. The Court referred to its earlier ruling in Case No. 2001-02-0106 and concluded that the current system of calculating pensions for non-citizens complies with the principle of state continuity and does not impose obligations for Latvia in relation to non-citizens. The Court referred to international agreements concluded and also case-law of the ECtHR (for instance, *Tarkoev v. Estonia*, application no. 14480/08, 47916/08)

⁵⁷ Examples on initiatives for referenda on Russian language and automatic citizenship serve as examples. See Latvia’s referendum. What’s my Language? by *The Economist* on 14 February 2012, available at <http://www.economist.com/blogs/easternapproaches/2012/02/latvias-referendum> (consulted on 23 January 2013) and news item by Latvia on referenda on Latvian Language and Citizenship Law, available at <http://eudo-citizenship.eu/news/citizenship-news/700-latvia-comprehensive-citizenship-reform-on-the-agenda-in-parliament-and-in-a-referendum-campaign-> (consulted 23 January 2013).

representing 14 per cent of the total population (in 1995, the number was 735,000). However, in the period between the start of the naturalisation process in 1995 and 31 December 2011, only 137,673 people were granted Latvian citizenship, including 14,046 minors (the rest were either repatriated or acquired Russian citizenship while remaining residents of Latvia).⁵⁸

The reasons for the lack of interest in naturalisation in general are changing however. For instance, knowledge of the language and military service are no longer mentioned in public opinion polls as important barriers to naturalisation. There are also other reasons which motivate non-citizens to apply for citizenship and prepare themselves for exams. According to a survey of the OCMA done in 2011 only 35 per cent of non-citizens are planning to apply for citizenship within a year. Most of the potential applicants are women (64 per cent) and in the age groups 15-20 (57 per cent) and 21-29 (53 per cent). There are also regional differences and differences in statistics of families which include Latvian citizens. Traditionally people from the Eastern regions of Latvia and families consisting of non-citizens only have been more hesitant to apply for citizenship.⁵⁹

There are several reasons mentioned by non-citizens why they do not want to apply for citizenship. According to the survey by the OCMA in 2012 about 24.8 per cent of non-citizens do not apply for naturalisation because they are convinced that citizenship should be granted automatically (in 2011 – 24 per cent), but 21.3 per cent mention that they will not be able to pass the naturalisation exams (in 2011 – 27 per cent).⁶⁰ 17.2 per cent of non-citizens are waiting for liberalisation of naturalisation (in 2011 – 7 per cent), but 13.5 per cent don't want to naturalise because of easier travel to the CIS countries with the passport of a non-citizen (in 2011 – 14 per cent). The remaining 9 per cent of respondents have answered that they have no time to apply for naturalisation (in 2011 – 8 per cent), but 8.2 per cent said that they are satisfied with the status of non-citizen. The status of non-citizen has become permanent, stable and well protected, which does not motivate people to apply for citizenship. Only 24.5 per cent of all respondents noted that in general they wish to naturalise.⁶¹

Although the EU has adopted a number of initiatives to support integration of third country nationals and long term residents they have not had a meaningful impact on Latvian policies. Until Latvia's accession, membership was a motivating factor for naturalisation and the EU was one of the most important players to facilitate naturalisation and integration. Moreover, the EU facilitated the process not only by providing financial support but also by constant monitoring of the progress in Latvia in

⁵⁸ According to the UNHCR which refers to unidentified media, the main patterns of reduction of the number of non-citizens in 2009 were death (39.1 per cent), acquisition of Latvian citizenship (23.5 per cent), emigration (18.9 per cent) and acquisition of foreign citizenship (18.4 per cent).

⁵⁹ See http://www.pmlp.gov.lv/lv/par_pmlp/publikacijas/Nepilsonu_attieksme_2011.pdf (consulted 8 October 2012).

⁶⁰ It is interesting to note that in the 2011 survey such a position is taken by respondents who consider their language knowledge as very good (7 per cent) and respondents who say that they can speak Latvian without any difficulty, except for writing (17 per cent). The group of persons who admit the difficulty of exams is numerically higher in the age group over 60 (36 per cent), but younger persons are more self-confident.

⁶¹ There were 1500 respondents of which 750 had applied for citizenship. The OCMA noted that the decrease in application is 10 per cent. The press release on the survey is available at http://www.tvnet.lv/zinas/latvija/438547-piekta_dala_nepilsonu_baidas_no_naturalizacijas_eksamena accessed on 8 October 2012.

accordance with the Copenhagen political criteria. Since the accession, public support for EU membership has decreased in general.

In addition the naturalisation process is less attractive since Russia's promoted policies towards compatriots could intensify in the future.⁶² Since the adoption of the Russian Foreign Policy Concept (adopted by the Russian President on 12 July 2008) which confirmed the continuation of targeted policies there are expected upcoming initiatives towards this group. The Concept distinguished a separate foreign policy dimension called the 'humanitarian trend' of Russian foreign policy, which inter alia includes the protection of the interests of ethnic Russians living abroad. The Presidential Administration, the Russian Foreign Affairs Ministry and the Russian State Duma (the parliament) are the key institutions that provide support for non-citizen organisations in Latvia (Lerhis & Kudors 2008:72). Demographically and linguistically weak, the Latvian majority is not well placed to live with a big, post-imperial minority that is politically supported by a non-democratic neighbouring state (Muižnieks 2006a: 5).

Apart from that there have been discussions about the need to amend the Citizenship Law in the context of dual citizenship. The proponents of these amendments identify a need to liberalise Latvia's dual citizenship policy. The strict policy regarding dual citizenship has been criticised by Latvian citizens living abroad, especially those in other EU Member States.⁶³ According to estimates, about 230,000 Latvian citizens have left Latvia since 2004 and the number continues to increase steadily.⁶⁴ The depopulation problem is further aggravated by the fact that Latvia has Europe's lowest birth rate. The Latvian government has responded to these demographic changes by establishing a working group to draft proposals for a return-migration.⁶⁵ In addition the parliament is prepared to amend the Citizenship Law to liberalise dual citizenship (see next section).

There are sporadic projects, initiatives and incentives taking place organized by various governmental compartments and institutions as well as NGOs. The search for profound solutions, however, is lacking. It can be argued that Latvia has become 'lost in translating' the model of a republican democracy as it existed in the 1920s into a more liberal model required for society as it now exists in Latvia. The elite driven one-direction process has led to the situation where some non-citizens feel more marginalised than at the beginning of the 1990s and the risk of long-term political alienation is present (Kruma 2010: 266).

4 Current political debates and reform plans

Debate on the need to amend the Citizenship Law started during the 10th term of parliament and was continued in the 11th parliament soon after extra-ordinary

⁶² See <http://www.themoscowtimes.com/news/article/putin-endorses-eased-citizenship-requirements/473010.html> (consulted 23 January 2013) via <http://eudo-citizenship.eu/news/citizenship-news/759-putin-endorses-eased-citizenship-requirements> (consulted 23 January 2013).

⁶³ Z. Stankeviča, 'Latvija zaude izcilus pilsonus likuma burta del' [Latvia loses outstanding citizens because of the strict law], Neatkrīga rita avīze, daily newspaper, 15 October 2007.

⁶⁴ Data of Central Statistics Commission and the Ministry of Economics. See <http://www.csb.gov.lv/demografiskas-statistikas-galvenie-raditaji-2011gada> (consulted 23 January 2013).

⁶⁵ See <http://www.em.gov.lv/em/2nd/?cat=30791> (consulted 23 January 2013), available only in Latvian on website of the Ministry of Economics.

elections. Draft amendments were submitted to Parliament on 3 November 2011.⁶⁶ Changes in the Citizenship Law were part of the pre-election campaign for several political parties of the ruling coalition. The main proposals concerned the liberalisation of dual citizenship. Since then the debate on the need to reform the Citizenship Law has expanded considerably.

The law passed the second reading on 6 September 2012. The plans for the time of the final – the third – reading is unknown. The proposals had to be submitted by the end of September 2012. However, they are still not on the agenda of the Legal Commission.

According to the amendments adopted in the second reading the scope of persons who are Latvian citizens is extended. It includes not only dual nationals but also ethnic Latvians and Livs whose permanent residence is outside Latvia but who can prove that (a) their predecessors in 1881 or later have lived in Latvia and (b) they have proved their knowledge of Latvian.

The new amendments introduce dual citizenship. It is proposed that dual citizenship will be accepted in cases when a Latvian citizen has acquired citizenship of EU, EFTA, NATO countries or citizenship of a state with which Latvia has concluded an international agreement. In certain cases the Cabinet of Ministers will have discretion to allow a person to retain the other citizenship (for instance, in case of children and in cases of naturalisation). According to the draft, dual citizenship would be allowed only in cases when Latvian citizens acquire another citizenship and not *vice versa*. The only exception would apply in cases of those Latvian citizens who left Latvia during the occupation. According to the amendments they will be allowed to register for Latvian citizenship without renouncing citizenship they have acquired. The question remains whether the draft will address also cases of Latvian citizens who left Latvia after 2004 and acquired citizenship of another EU state (draft art. 9).

The amendments intend to simplify registration of non-citizen children as Latvian citizens. The requirement that both parents should agree to registration is lifted. A single parent will be allowed to register a child as a citizen until the age of 15. Children who are 15-18 years old should submit an application by themselves. However, in these cases general requirements of naturalisation would apply (knowledge of language and draft art.11).

The scope of discretion of the authorities has increased and the grounds for refusal of naturalisation are drafted to allow significant discretion for authorities. The Cabinet of Ministers is not only entitled to allow dual citizenship in cases not provided in law, but also to refuse a person to naturalise (the final decision is political). According to the draft, persons whose actions pose a threat to national security, public order, democracy, independence and territorial integrity of Latvia will not acquire citizenship. It is envisaged that the article will mention specific examples (art.11). As an example of such actions the draft mentions *inter alia* persons who “are linked with terrorism or act in an organisation which is anti-State or criminal”. It will also entrust the Cabinet of Ministers to nominate institutions which will verify the

⁶⁶ On 16 November 2011 Parliament decided to establish a Sub-commission entrusted to draft amendments for submission to the Legal Commission. On 2 March 2012 the Sub-commission organized an international conference on citizenship.

criteria set in law. It is noted that the draft amendments in this regard will change the existing wording of art. 11 considerably.⁶⁷

The draft amendments also provide for simplification of the naturalisation exams. However, the provisions on language requirements are subject to further clarification in relation to different groups.

It is expected that the new amendments could be adopted during the spring session of the parliament. Depending on the text which will be agreed upon, the reaction of the opposition parties might delay the entry into force of the amendments. For instance, MPs can approach the President asking him not to sign the law and return it to the parliament. The President himself might refuse to sign the law. MPs can also submit a constitutional complaint to the Constitutional Court. Taking into account the length of time which already had been spent on the amendments, the final outcome remains unclear.

5 Conclusions

Latvian citizenship policy is based on the concept of state continuity. The rights attached to citizenship were therefore restored to those who were citizens at the time of the occupation of Latvia in 1940 and their descendants. This policy led to the situation that a large group of people who settled in Latvia during occupation remained with undetermined status. Under international pressure to comply with the international legal framework, especially regarding the reduction of statelessness, Latvia introduced the status of non-citizen. A so-called carrot-and-stick policy has been adopted with regards to this group.

It has been noted that the situation in Latvia can be considered special in the context of naturalisation exams and integration compared with other EU member states because of the former Soviet occupation and the need to ensure state continuity. In Latvia, naturalisation requirements, especially the language requirement, were considered to be a basis for building a civil society and for defining a shared system of values (Strik, Böcker, Luiten, van Oers: 388-389). However, the integration policy has not been well-focused and proactive. For instance, there has been a constant lack of language courses or regular campaigns inviting people to naturalise. This has led to the situation that the number of non-citizens is still considerable. Although it had been introduced as a temporary status it has become permanent over the years. It has been strengthened by offering more rights to non-citizens. The status guarantees access to most of the rights except political rights and the right to hold public office. Moreover, courts, when dealing with cases on access and loss of non-citizen status, treat them according to the same principles as citizens. In the case that amendments to the Citizenship Law are adopted, it can be expected that newborn children will no longer be registered as non-citizens. This would, in turn, gradually decrease the number of non-citizens. Their integration, though, would still remain relevant.

In general Latvian citizenship regulation corresponds to requirements of international law. The naturalisation procedures are simple and accessible. The

⁶⁷ National News Agency LETA, *Atblasta ieceri pilsonība neuznemt personas, kas rada draudus valsts iekartai* [The proposal not to naturalize persons which pose threat to state is supported], 13 January 2013.

restrictions for naturalisation are subject to review by courts. Latvian accession to the EU has provoked discussion on the need to liberalise regulation of dual citizenship. This is indeed a welcome development. At the same time the draft amendments contain a number of proposals which increase the discretion of authorities and strengthen the requirements for naturalisation. This might complicate Latvian ratification of the European Convention on Nationality which was signed already in 2001. All in all it can be argued that Latvia has acknowledged that a new approach to the regulation of citizenship is required under the circumstances. The question remains whether MPs will be able to reach a compromise solution and what will be the final outcome.

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