

## Submission by the United Nations High Commissioner for Refugees

### For the Office of the High Commissioner for Human Rights' Compilation Report

#### Universal Periodic Review: *Third Cycle, 38th Session*

## LATVIA

### I. BACKGROUND INFORMATION

The Republic of Latvia acceded to both the 1951 Convention relating to the Status of Refugees and its 1967 Protocol (hereinafter jointly referred to as the *1951 Convention*) in 1997. Latvia has also acceded to the 1961 Convention on the Reduction of Statelessness (the *1961 Convention*) in 1992 and to the 1954 Convention relating to the Status of Stateless Persons (the *1954 Convention*) in 1999. At the domestic level, asylum issues are regulated by the new *Asylum Law*<sup>1</sup>, which entered into force in January 2016. Procedures for family reunification and issuance of residence permits are determined by the *Immigration Law*.<sup>2</sup>

The Interior Ministry (MOI), the Citizenship and Migration Affairs Office (OCMA) and the State Border Guard (SBG) are the main governmental bodies responsible for asylum, citizenship issues and matters related to statelessness. The SBG is, *inter alia*, responsible for registering asylum applications and conducting initial interviews and managing the detention centre for asylum-seekers and irregular migrants in Dauvgapils and Mucieniki municipalities. OCMA is, *inter alia*, responsible for interviewing asylum-seekers on the substance and granting or refusing refugee status or alternative status (subsidiary protection), as well as managing the reception centre for asylum-seekers in Mucieniki municipality. OCMA is also in charge of citizenship related matters, including determination of non-citizens status and the statelessness determination procedure.

*Refugees and Asylum-Seekers:* The Republic of Latvia is host to a small refugee population. 672 beneficiaries of international protection were recorded at the end of 2019 by the authorities. There were 178 new asylum applications lodged in 2019. The top countries of origin for applicants were Azerbaijan (35), Russia (23), India (14), Georgia (12) and Ukraine (12). In 2019, 31 persons were recognised as refugees or granted alternative status.

*Stateless Persons:* The stateless population of Latvia is comprised of two groups of persons both residing legally in the country. The “non-citizens” who meet all elements of the definition provided in Article 1 of the *1954 Convention* and whose status is governed by the 1995 *Law on the Status of Those Former USSR Citizens who are not Citizens of Latvia or Any Other State* (the *Non-Citizens Law*) and stateless persons determined in the government procedure in accordance with the 2004 *Law on Stateless Persons*. According to the Latvian authorities, as of 1 July 2020, there were 212,814 “non-citizens”<sup>3</sup> and 168 persons determined as stateless.

<sup>1</sup> Patvēruma likums, "[Latvijas Vēstnesis](https://likumi.lv/doc.php?id=278986)", 2 (5574), 05.01.2016 available in Latvian and English at: <https://likumi.lv/doc.php?id=278986>.

<sup>2</sup> Imigrācijas likums, "[Latvijas Vēstnesis](http://likumi.lv/doc.php?id=68522)", 169 (2744), 20.11.2002., "Ziņotājs", 24, 27.12.2002, available in Latvian at: <http://likumi.lv/doc.php?id=68522>.

<sup>3</sup> In the specific context of Latvia, the “Non-citizens” enjoy the right to reside in Latvia *ex lege* and a set of rights and obligations generally beyond the rights prescribed by the 1954 Convention relating to the Status of Stateless Persons, including protection from removal, and as such the “Non-citizens” may currently be considered persons to whom the Convention does not apply in accordance with Article 1.2(ii).

## II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

### **Positive developments linked to 2nd cycle UPR recommendations**

**Linked to 2nd cycle UPR recommendations, inter alia, no 118.59:** “Ensure that conditions of reception centres of asylum seekers are in line with international standards (Djibouti) and no 120.94. Ensure that detained asylum seekers have access to public health services on an equal footing with other detainees who have been arrested or convicted (Portugal)”

In December 2015 the Saeima adopted a new Asylum Law, which entered into force in January 2016 and which seeks to harmonize the asylum legislation with the second generation of the European Union (EU) asylum acquis. The new law and its subsequent amendments of 2017 incorporated a number of provisions aimed at improving the asylum procedures, including provisions on: consideration for the best interest of the child and special needs of vulnerable groups; proportionality and necessity of detention requirements; the integration of refugees and beneficiaries of alternative status; and, the resettlement of refugees.

Material reception conditions for asylum-seekers at the Reception Centre for Asylum-Seekers in Mucenieki have been upgraded following renovations of 2016-2018. The renovated premises are equipped with recreational facilities, spaces for children, spaces for NGOs and spaces for migration authorities to conduct interviews. The centre has also been expanded to include premises for vulnerable individuals and families with children. Furthermore, based on the new Asylum Law the government adopted a series of regulations to address the standards of treatment in the reception centres as well as the detention facilities, including subsistence and health services.

**Linked to 2nd cycle UPR recommendations, inter alia, no 120.84** “Further facilitate the granting of citizenship to children of non-citizen parents who do not acquire any other nationality (Germany)”

In October 2019, the Saeima adopted the Law on termination of granting non-citizens status to children.<sup>4</sup> The bill establishes that as of 1 January 2020 children born to non-citizens whose parents did not agree to confer the child a citizenship of another state, and who do not have a citizenship of another state will be considered Latvian citizens. While the adoption of the bill is an important step towards prevention of statelessness at birth, Latvian legislation does not guarantee all children born in Latvia who otherwise would remain stateless an automatic grant of Latvian citizenship.

## III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

### **Challenges linked to outstanding 2nd cycle UPR recommendations**

#### **Issue 1: Integration**

**Linked to 2nd cycle UPR recommendations, inter alia, no 118.58** “Adopt legal and administrative measures in order to guarantee the basic rights to asylum seekers and refugees, in particular rights which allow them the access to health assistance services (Argentina)”, **no. 120.31** “Assess the possibility of lifting its reservations to the Convention relating to the Status of Refugees (Germany)”, **no 120.86** “Guarantee the funding of institutions which promote tolerance and the smooth integration of foreigners (Mexico)”, **no. 120.90** “Facilitate the integration of refugees, including by combating stereotypes, prejudice and hate speech (Egypt)”.

The lack of a comprehensive integration programme in Latvia continues to hamper the ability of beneficiaries of international protection to integrate, leading to secondary movements. Information collected by UNHCR through a participatory assessment with beneficiaries of international protection in 2014-2015 and published in the report *Integration of Refugees in Latvia: Participation*

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<sup>4</sup> The text of the law available in Latvian language at: <https://likumi.lv/ta/id/310468-par-nepilsona-statusa-pieskirsanas-izbeigsanu-bernem>.

*and Empowerment*,<sup>5</sup> as well as subsequent engagement with refugees through 2016-2019 indicate that due to lack of adequate integration support many of the persons concerned felt compelled to leave Latvia for other EU countries in search of sustainable livelihood opportunities. A similar trend and challenges with integration were summarized in the Ministry of Interior in Latvia 2017 report<sup>6</sup>, the 2018 report of the Center for Public Policy PROVIDUS “Measuring and improving integration of beneficiaries of international protection. Baseline Assessment”<sup>7</sup> and the Latvian Red Cross report on provision of mentor services to beneficiaries of international protection<sup>8</sup>. The first evaluation report of the National Integration Evaluation Mechanism published in June 2020, further notes serious challenges and obstacles to the implementation of Latvia’s integration policy.<sup>9</sup>

The Asylum Law in Latvia foresees two distinct types of legal status afforded to beneficiaries of international protection – refugee status and alternative status, the latter corresponding to that of complementary/subsidiary protection. The rights and entitlements attached to each status differ significantly in a number of aspects, which adversely impact post-recognition integration in Latvia. For example, beneficiaries of alternative status receive a temporary residence permit, which confers unequal access to social support such as allowance for pregnancy, child allowance, and benefits for disabled, etc.<sup>10</sup> Alternative status beneficiaries have also a shorter period of time for integration support (7 months) and have a right to reunify with their families only after 2 years of residence. Limited duration of residence permits lays an additional financial burden on beneficiaries of alternative status, as extension of their identification and travel documents, as well as residence permits requires payment of fees.<sup>11</sup> It also hinders access to the labor market (e.g. long-term employment). As a result, persons granted alternative status suffer from long-term uncertainty and insecurity.

Establishment (registration) of residence (either through private or municipal rental of housing, purchasing, etc) is a pre-condition to access social support in municipalities, including rental subsidies and subsidies for utilities. The reduced financial assistance hinders access to affordable housing for beneficiaries of international protection and further adds to insecurity pushing beneficiaries of international to seek other options e.g. secondary movements to other European Union countries.<sup>12</sup>

Beneficiaries of international protection granted protection in Latvia who are found in an irregular situation in another Member State are returned to Latvia. Most of them are returned after the period of post recognition integration assistance is over and when they are no longer entitled to “mentor” services to link them back to the limited services available on the general basis to any unemployed person. Neither are they entitled to financial assistance, nor support to find housing. In law they have the right to unemployment benefits, in practice to get unemployment benefits they have to declare their residence in a municipality and in order to do so they have to rent housing. Since no

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<sup>5</sup> UNHCR, *Integration of Refugees in Latvia: Participation and Empowerment*, June 2015, available at: [http://www.unhcr-northernregion.org/fileadmin/user\\_upload/Documents/PDF/Latvia/2015-Latvia-Integration-Report.pdf](http://www.unhcr-northernregion.org/fileadmin/user_upload/Documents/PDF/Latvia/2015-Latvia-Integration-Report.pdf).

<sup>6</sup> Ministry of Interior, *Report of the Ministry of Interior to the Cabinet*, October 2017, available at: <http://tap.mk.gov.lv/lv/mk/tap/?pid=40440003&mode=mk&date=2017-10-31>

<sup>7</sup> Center for Public Policy PROVIDUS, *Measuring and improving integration of beneficiaries of international protection. Baseline Assessment: Latvia*, November 2018, available (in Latvian) at: [http://providus.lv/article\\_files/3568/original/NIEM\\_Latvian\\_FINAL.pdf?1561037129](http://providus.lv/article_files/3568/original/NIEM_Latvian_FINAL.pdf?1561037129).

<sup>8</sup> Latvian Red Cross, *Final report on provision of services of the social worker and social mentor for asylum seekers and persons with refugee or alternative status from June 1, 2018 until November 30, 2019*, November 2019, available at: [https://www.sif.gov.lv/images/files/ESF/ESF-integracija/LSK\\_Begli\\_GALA-ZINOJUMS-Final\\_copy.pdf](https://www.sif.gov.lv/images/files/ESF/ESF-integracija/LSK_Begli_GALA-ZINOJUMS-Final_copy.pdf)

<sup>9</sup> NIEM Evaluation Report 1: *Towards or against systemic support for integration? Case of Latvia*, published in June 2020 available at: <http://providus.lv/article/publicets-izvertejuma-zinojums-par-starptautiskas-aizsardzibas-sanemeju-uznemsanu-un-integraciju-latvija-no-2017-2019-gadam>.

<sup>10</sup> For a detailed description of differences see the compilation provided by State Social Insurance Agency, available at: [https://www.vsa.gov.lv/media/uploads/UserFiles/pakalpojumi/begliem/pabalsti\\_patveruma\\_mekletajiem\\_eng.pdf](https://www.vsa.gov.lv/media/uploads/UserFiles/pakalpojumi/begliem/pabalsti_patveruma_mekletajiem_eng.pdf).

<sup>11</sup> Residence permits for beneficiaries of alternative status are issued for one year and were extended for one year at a time until 3<sup>rd</sup> quarter of 2019 when OCMA started to extend permits for 2 years as required by the European Directive on Asylum Procedures. An amendment to the Asylum Law introduced in 2019 related to extension of residence permits for two years is still pending in the Parliament: [https://titania.saeima.lv/LIVS13/saeimalivs13.nsf/webAll?SearchView&Query=\(Title=\\*patverum\\*\)&SearchMax=0&SearchOrder=4](https://titania.saeima.lv/LIVS13/saeimalivs13.nsf/webAll?SearchView&Query=(Title=*patverum*)&SearchMax=0&SearchOrder=4).

<sup>12</sup> While no official statistics are available on the number of beneficiaries of international protection who left Latvia,

support is provided, often, beneficiaries of international protection find themselves in crisis centres of municipalities and are considered “persons in need”<sup>13</sup>.

A related concern is that Latvia maintains a number of reservations to the *1951 Convention*, namely to Articles 8, 17(1) and (2), 26 and most importantly to Article 34, which requires states to facilitate the integration and naturalization of refugees.

Refugees whom UNHCR spoke said that they had experienced xenophobia and related intolerance during their stay in Latvia, and that the negative attitude towards foreigners are additional key factors hampering their socio-economic inclusion. Latvian society remains largely polarized and anti-immigrant/anti-refugee sentiments are widespread. Opinion polls also confirm that the attitude towards asylum-seekers and refugees remains generally negative.<sup>14</sup>

### **Recommendations:**

UNHCR recommends that the Government of Latvia:

- a) Ensure that beneficiaries of international protection are provided with adequate support enabling a standard of living in line with the principles of substantive equality and non-discrimination enshrined in international and EU standards;
- b) Lift its reservations to Articles 8, 17(1) and (2), 26 and most importantly to Article 34<sup>15</sup> of the *1951 Convention relating to the Status of Refugees*;
- c) Develop a comprehensive integration strategy and program, which supports the inclusion of refugees and alternative status beneficiaries in mainstream services, and provides targeted support where needed, including in regard to language learning, housing, facilitated registration of residence and finding employment;
- d) Ensure equal treatment of beneficiaries of international protection by eliminating the discrepancy of rights accorded to persons granted refugee status and those granted alternative status in line with the European Union Asylum Acquis;<sup>16</sup> and,
- e) Increase efforts, including fostering communities to combat stereotyping and prejudice against beneficiaries of international protection among the general public.

### **Issue 2: Statelessness**

**Linked to 2nd cycle UPR recommendations, inter alia, no 118.56 “Strengthen efforts to encourage the naturalisation of eligible non-citizens (United States of America)”, no 120.43 “Undertake targeted outreach activities to ensure that interested “non-citizens” are informed and encouraged to apply for naturalization, and provide free state language training when necessary (Norway)”, no 120.84 “Further facilitate the granting of citizenship to children of non-citizen parents who do not acquire any other nationality (Germany)”, and 120.45 “Bring the nationality legislation into compliance with the provisions of the 1961 Convention on the Reduction of Statelessness and the Convention on the Rights of the Child (Kenya)”.**

<sup>13</sup> European Commission, Latvia - Guaranteed minimum income, available at:

<https://ec.europa.eu/social/main.jsp?catId=1117&langId=en&intPageId=4642>

<sup>14</sup> Eurobarometer 469, Integration of immigrants in the European Union, October 2017-April 2018, available at:

<http://www.europeanmigrationlaw.eu/documents/EuroBarometer-IntegrationOfMigrantsintheEU.pdf>

<sup>15</sup> Republic of Latvia, *Law on the Convention Relating to the Status of Refugees of 28 July 1951 and Protocol Relating to the Status of Refugees of 31 January 1967*, 19 June 1997 (as last amended on 8 October 1997, 258/259 (973/974). According to the reservation, Latvia does not consider itself bound by Article 8 [Exemption from Exception Measures] and Article 34 [Naturalization] and in respect of Article 26 [Freedom of Movement] reserves the right to designate the place or places of residence of refugees whenever considerations of national security or public order so require. Furthermore, Latvia considers Article 17 (1) and (2) [Wage-Earning Employment] recommendations and not legal obligations and declares that in all cases where the Convention grants to refugees the most favourable treatment accorded to nationals of a foreign country, this provision shall not be interpreted by Latvia as necessarily involving the regime accorded to nationals of countries with which the country has concluded regional customs, economic, political or social security agreements.

<sup>16</sup> See UN High Commissioner for Refugees (UNHCR), *UNHCR Comments on the European Commission Proposal for a Qualification Regulation – COM (2016) 466*, February 2018, available at: <https://www.refworld.org/docid/5a7835f24.html>. UNHCR called on States to grant refugees and beneficiaries of subsidiary protection a secure and stable status, support their ability to integrate through granting of such status and associated rights, and facilitate their naturalization, with incentives used to reduce onward movement, rather than sanctions.

The 212, 814 “non-citizens”<sup>17</sup> in Latvia whose status is governed by the Law on the status of citizens of the former USSR who do not have the citizenship of Latvia or another state<sup>18</sup> are, in general, entitled to rights that go beyond the minimum standards prescribed by the 1954 *Convention*.<sup>19</sup> Differences with citizens remain in relation to a variety of rights, including employment and political rights. “Non-citizens” may obtain long-term residence permits, but cannot vote in any elections, cannot stand for public office, and cannot hold Government jobs. Nevertheless, non-citizens may apply for naturalisation and the law provides for facilitated processes for children, elderly and for persons with disabilities.<sup>20</sup>

The Government of Latvia continues to pursue an integration policy aimed at uniting the country’s inhabitants in areas such as Latvian language learning, promotion of cultural identity and cultural interaction, with particular attention to “non-citizens.”. Furthermore, the Latvian authorities started to undertake a number of awareness-raising activities (e.g. targeted counselling for “non-citizens” who come to renew their “non-citizens” passports and conducting Information Days for those willing to naturalize which provide an opportunity to learn about the Latvian citizenship and try sample tests for Latvian language and knowledge of the Latvian Constitution<sup>21</sup>). In addition, in October 2019, the Saeima adopted the Law on termination of granting non-citizens status to children.<sup>22</sup> The bill establishes that as of 1 January 2020 children born to non-citizens whose parents did not agree to confer the child a citizenship of another state, and who do not have a citizenship of another state will be considered Latvian citizens.

While the adoption of the bill is an important step towards prevention of statelessness at birth, the current legislation does not guarantee all children born in Latvia who otherwise would remain stateless automatic grant of Latvian citizenship. This includes, inter alia, situations when parents who while not stateless are nonetheless unable to transmit their citizenship to the child due to conflict of laws, discriminatory citizenship laws or other reasons. In addition, children of non-citizens and stateless persons between the age of 15-18 require their parents to have had five years of “permanent” residency in Latvia in order to qualify for citizenship.

Latvia is among leading countries that have introduced a dedicated statelessness determination procedure governed by the Law on Stateless Persons.<sup>23</sup> The procedure allows recognized stateless persons<sup>24</sup> to be granted with a legal status, have a travel document and a temporary residence permit. Nonetheless, applicants are not provided with a legal right to stay and identity papers in the territory of Latvia during the procedure that may last up to 12 months (mostly because of difficulties to obtain documents from other countries)<sup>25</sup>. This situation may put applicants at risk of arbitrary detention and potentially deportation. Furthermore, recognized stateless persons who are given a temporary permit for up to five years can apply for naturalization only after five years

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<sup>17</sup> Statistical report as of 1 July 2020, available at: [https://www.pmlp.gov.lv/lv/assets/ISVP\\_Latvija\\_pec\\_VPD.pdf](https://www.pmlp.gov.lv/lv/assets/ISVP_Latvija_pec_VPD.pdf).

<sup>18</sup> Saeima of the Republic of Latvia, Law on the status of citizens of the former USSR who do not have the citizenship of Latvia or another state, available at: <https://likumi.lv/ta/id/77481-par-to-bijusas-psrs-pilsonu-statusu-kuriem-nav-latvijas-vai-citas-valsts-pilsonibas>.

<sup>19</sup> In the specific context of Latvia, the “Non-citizens” enjoy the right to reside in Latvia ex lege and a set of rights and obligations generally beyond the rights prescribed by the 1954 Convention relating to the Status of Stateless Persons, including protection from removal, and as such the “Non-citizens” may currently be considered persons to whom the Convention does not apply in accordance with Article 1.2(ii).

<sup>20</sup> See official web-page of OCMA, Naturalisation, available at: <https://www.pmlp.gov.lv/en/home/services/citizenship/registration-if-citizenship/naturalizacija/> and Examinations provided by the Citizenship Law, available at: <https://www.pmlp.gov.lv/en/home/services/citizenship/registration-if-citizenship/naturalizacija/examinations.html>

<sup>21</sup> See official web-page of OCMA, Information Days for the citizenship applicants, available at: <https://www.pmlp.gov.lv/en/home/services/citizenship/registration-if-citizenship/naturalizacija/information-days-for-the-citizenship-applicants.html>.

<sup>22</sup> The text of the law available in Latvian language at: <https://likumi.lv/ta/id/310468-par-nepilsona-statusa-pieskirsanas-izbeigsanu-berniem>.

<sup>23</sup> Saeima of the Republic of Latvia, Law On Stateless Persons, available at: <https://likumi.lv/ta/en/en/id/84393-law-on-stateless-persons>.

<sup>24</sup> As of 1 July 2020, there were 163 stateless persons recognized through the determination procedure under the Law on Stateless Persons. See OCMA statistical report available at: [https://www.pmlp.gov.lv/lv/assets/ISVP\\_Latvija\\_pec\\_VPD.pdf](https://www.pmlp.gov.lv/lv/assets/ISVP_Latvija_pec_VPD.pdf).

<sup>25</sup> An amendment to the Law on Stateless Persons initiated by OCMA to provide for an extension of period for the determination procedure to one year is pending approval in the cabinet.



of permanent residence in Latvia. In practice may lead to periods of residence necessary to naturalize of 10 years and more.<sup>26</sup>

### **Recommendations:**

UNHCR recommends that the Government of Latvia:

- a) Amend the Citizenship Law to provide for the automatic acquisition of citizenship by all children born on the territory of Latvia who would otherwise be stateless, including minors between 15 and 18 years of age;
- b) Encourage the Government of Latvia to continue efforts to facilitate acquisition of nationality by “non-citizens” and efforts aimed at promoting their motivation to apply for citizenship.
- c) Take further legal, policy and/or practical steps to reduce statelessness, facilitating naturalization of recognized stateless persons in the migratory context and those with non-citizens status through aligning the residency requirements to the UN Statelessness Conventions (requiring habitual residency instead of permanent);
- d) Take legal steps to improve the statelessness determination procedure by providing individuals awaiting a determination of statelessness with a legal right to stay and an identity document<sup>27</sup>; and,
- e) Facilitate the issuance of identification documents to stateless persons, by lifting the reservation to Article 27 in the *1954 Convention*.<sup>28</sup>

### **Issue 3: Detention, including detention of children**

**Linked to 2nd cycle UPR recommendation no 120.87: “Adopt clear measures to guarantee the rights of all refugees and asylum seekers and protection, and not to classify them and arrest them as illegal immigrants (Bahrain)”**

The 2016 Asylum Law introduced a number of positive changes relating to the freedom of movement of asylum-seekers, including the test of necessity and proportionality and considerations for the individual circumstances of the asylum-seekers as well as periodic judicial review of detention. However, the Latvian legal provisions have not incorporated safeguards to ensure that detention is only applied as a measure of last resort, for the shortest possible period and only after alternatives to detention have been considered. The Asylum Law provides for one alternative to detention i.e. reporting. Since the adoption of the Asylum Law, families with children and unaccompanied and separated children have, in practice, been released after a period of detention. Despite this positive practice, the current Latvian legislation does not exempt persons with specific needs, including children, victims of torture and/or trauma and survivors of sexual and gender-based violence, from being detained.

### **Recommendations:**

UNHCR recommends that the Government of Latvia:

- a) Amend domestic legislation so that detention of asylum seekers is applied only as a measure of last resort and only after considering alternatives to detention; and,
- b) Amend domestic legislation to prohibit the detention of children for immigration related purposes.

## **UNHCR October 2020**

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<sup>26</sup> According to the Section 24 of the Immigration Law, a foreigner who has continuously resided in the Republic of Latvia with a temporary residence permit for at least five years before the expiry of the term of the last temporary residence permit may be granted a permanent residence permit.

<sup>27</sup> See UNHCR, *Handbook on Protection of Stateless Persons*, 30 June 2014, paras. 144–146, available at: <http://www.refworld.org/docid/53b676aa4.html>.

<sup>28</sup> Latvia made reservations to paragraph 1 (b) of Article 24 and Article 27 reserving the right to apply those, subject to limitations provided for by the national legislation. According to the Law on Stateless Persons, stateless persons are provided with a residence permit and a travel document. The status of stateless persons is similar to the status of other foreigners who legally reside in the country. The temporary residence permit issued to stateless person is up to five years. OCMA data indicates that most officially recognized stateless persons reside in Latvia on permanent residence permits (i.e. their rights are similar to the ones of nationals).