

## **Submission by the United Nations High Commissioner for Refugees**

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

#### **Universal Periodic Review:**

#### *2nd Cycle, 24th 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 *Asylum Law*,<sup>1</sup> which entered into force in July 2009. Procedures for family reunification and issuance of residence permits are determined by the *Immigration Law*.<sup>2</sup>

The Ministry of the Interior (MOI), the Office of Citizenship and Migration Affairs (OCMA) and the State Border Guard (SBG) are the main governmental bodies with responsibility over policy/planning for asylum issues as well as matters related to “non-citizens” and persons with the status of stateless persons. The MOI is also responsible for the administration of Latvian European Union Asylum, Migration and Integration Fund (AMIF) projects.

The current *Asylum Law* stipulates differentiated functions of the SBG and the OCMA in the first instance asylum procedure. According to this law, the SBG registers asylum applications and carries out all initial proceedings related to the identification of asylum-seekers (taking fingerprints and pictures and entering data into the Eurodac system). It is also responsible for i) conducting both the initial/screening and substantial personal interviews with asylum-seekers; ii) issuing identification documents to asylum-seekers; iii) providing information to asylum-seekers; and iv) detention and involuntary return.

The Asylum Division within the OCMA is primarily responsible for the examination of asylum applications and for taking decisions in first instance. Specifically, the OCMA is

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<sup>1</sup> Patvēruma likums, "Latvijas Vēstnesis", 100 (4086), 30.06.2009., "Ziņotājs", 15, 13.08.2009. Available in Latvian at: <http://likumi.lv/doc.php?id=194029>.

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

responsible for taking: i) decisions to grant or refuse refugee status or alternative (subsidiary) protection in a regular or accelerated procedure; ii) decisions on admissibility (to leave the asylum application without examination on substance); iii) decisions to terminate the examination of asylum application; and iv) decisions to transfer the applicant to another country under the *Dublin Regulation*.

The OCMA is also responsible for the management of the open reception centre for asylum-seekers in Mucenieki, informing asylum-seekers about their rights and facilitating the appeals process. The latter function includes: receiving and translating complaints on all type of asylum decisions, forwarding the appeals and related case files to the District Administrative Court and arranging access to State legal aid for those asylum-seekers who were rejected at first instance.

The cooperation between the SBG and the OCMA on asylum matters is regulated by the special MOI *Instruction No. 1-10/28 "The Cooperation Order of the Involved Institutions of the Ministry of the Interior"* from 14 July 2014, which stipulates the activities and duties of each institution as well as the time-frames and types of information to be shared between the SBG, OCMA and other relevant governmental bodies like the Security Police and the State Police. For example, the MOI *Instruction* foresees a right for OCMA decision-makers to request attendance in particular cases and take part in the substantial personal interviews carried out by the SBG. The *Instruction* also clarifies, *inter alia*, the responsibilities for processing Dublin cases, examination of subsequent asylum applications and the procedure for removal of persons found not to be in need of international protection.

**Asylum-seekers and refugees:** Latvia's experience in receiving asylum-seekers and in determining asylum claims is similar to that of other countries in Northern Europe, even though the number of applicants, compared to the Scandinavian countries, has been relatively small so far. Nevertheless, in the past few years, the profiles of asylum-seekers have become more diverse and include a wider range of countries of origin. The Latvian asylum authorities have faced challenges with an increased number of applicants from Georgia, which has constituted the largest group of asylum-seekers during the past four years. In 2014, the total number of asylum claims submitted (364) increased by 89 per cent compared to the previous year, and included 166 applicants from Georgia, 75 from Ukraine and 34 Syrian nationals. From 1998 until 01 January 2015, a total of 1,440 persons have applied for asylum in Latvia. Out of these, 65 have received the refugee status and 124 the alternative status (subsidiary protection). In the same period, four beneficiaries of international protection have been naturalized and become citizens of Latvia. In 2014, the overall protection recognition rate was 27 per cent and half of all rejected applicants originated from Georgia.

**Stateless persons:** According to the OCMA, as of 01 January 2015, there were some 262,622 "non-citizens" and 180 officially recognized stateless persons legally residing in Latvia.

The status of "non-citizens," who are neither citizens of Latvia nor of any other State under the operation of its law, is regulated by the *Law on the Status of those former USSR citizens who are not citizens of Latvia or any other state* (the *Non-Citizens Law*), which was adopted in 1995. Latvian State institutions do not refer to "non-citizens" as being stateless, but as having a unique, temporary legal status<sup>3</sup> which confers more rights and benefits than the

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<sup>3</sup> According to Latvia's response during its 1st cycle UPR (May 2011): "The status of Latvia's non-citizen is a specific legal status with temporary character that has emerged under specific historical circumstances, when Latvia regained its independence after 50 years of Soviet occupation and shortly afterwards the USSR itself

status of a stateless person under the *1954 Convention*. As a result of acceding to the *1954 Convention*, Latvia adopted the *Law on Stateless Persons* in 2004. This law defines, *inter alia*, the status of officially recognized stateless persons in Latvia and stipulates a formal procedure for the determination of statelessness. In practice, the status of stateless persons is similar to the status of other foreigners who legally reside in the country. The level of rights is determined by the type of residence permit which a stateless person holds. OCMA data indicate that most officially recognized stateless persons reside in Latvia on permanent residence permits.

## II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

The latest amendments to the *Asylum Law* were adopted on 24 October 2013. These amendments introduced alternatives to detention of asylum-seekers and clarified the list of grounds for detention as well as the time-frames for decisions on admissibility and accelerated procedures. These amendments also established a Register of Asylum-Seekers that will be managed by the OCMA, and granted beneficiaries of subsidiary protection the right to receive the State allowance to learn the Latvian language. In addition, the amendments established an obligation to immediately release asylum-seekers from the detention centre when the grounds for detention cease to exist. The implementation of these new standards will contribute to improving the protection environment in Latvia.

The Government of Latvia is currently in the process of transposing the second generation of the EU asylum *acquis*. There is a draft new *Asylum Law* under preparation at the time of writing. The draft new *Asylum Law* contains a number of important changes and improvements, such as numerous references to the best interests of the child principle; the obligation to identify applicants in need of special procedural guarantees and vulnerable applicants with special reception needs; designation of the OCMA as the single authority responsible for conducting the substantial (personal) asylum interview; requirements relating to the capacity development of the determining authority and the SBG; as well as the separation of grounds for using admissibility and accelerated examination procedures.

In October 2011, the Government of Latvia adopted the *Guidelines on National Identity, Civil Society and Integration Policy*, which cover the period from 2012 to 2018. The *Guidelines* define integration as social inclusion of all people living in Latvia, regardless of their ethnic background and self-identification. The principal courses of action set out in this document include: development of civic society; strengthening various forms of civic participation; reducing discrimination against socially marginalized groups and promoting their inclusion; increasing the role of the media in social integration through support for diverse, modern and high quality journalism; and improving Latvian language proficiency among ethnic minorities, non-citizens, new immigrants and the Latvian diaspora. These efforts to improve the integration of minorities and newcomers are in line with the 1st cycle

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ceased to exist. Latvia's non-citizens cannot be compared with any other legal status of a person as defined in international law. Latvian non-citizens cannot be regarded as stateless persons in the meaning of 1954 Convention relating to the Status of Stateless Persons, as protection offered to non-citizens is far broader than what is required by the Convention for stateless persons." See: Addendum to the Report of the Working Group of the Universal Periodic Review: Latvia, A/HRC/18/9/Add.1, 14 September 2011, re: recommendation no. 94.7, available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/LVSession11.aspx>.

UPR recommendations from Ecuador<sup>4</sup> and Canada,<sup>5</sup> which enjoyed the support of Latvia. However, further efforts are needed (see Issue 4 below).

In 2013, the Saeima (Parliament) adopted amendments to the *Citizenship Law* that aimed, *inter alia*, to simplify the process of citizenship acquisition and naturalization in Latvia. In accordance with these amendments, the consent of only one of the newborn stateless child's parents is required in order to register the child as a Latvian citizen. In cases where parents fail to register their stateless child as a Latvian citizen at the time of the birth registration, they will still be able to register the child as a Latvian citizen until he or she turns 15 years of age. Stateless children between 15 and 18 years of age have been granted a possibility to independently apply for registration as Latvian citizens. The amendments also provide that students who have completed more than half of the basic educational programme in the Latvian language are exempt from all naturalization examinations and are to be registered as citizens upon submitting a naturalization application in accordance with the standard procedures. The amendments moreover simplify requirements regarding permanent residence for applicants for naturalization, by removing the requirement of uninterrupted residence in Latvia. A specific paragraph of the amendments deals with the Latvian language test and exemptions therefrom. Namely, the requirements relating to the Latvian language naturalization test have been standardized and are in line with the requirements of the centralized language tests in educational institutions, be it in Latvian or in national minority educational institutions. Also, the amendments grant former USSR military personnel, who have remained in Latvia after the breakup of the Soviet Union, the possibility of acquiring Latvian citizenship by completing the naturalization procedure.

According to the OCMA, since October 2013, when the aforementioned amendments to the *Citizenship Law* entered into force, 85 - 90 per cent of children born in Latvia to stateless parents have been registered as Latvian citizens. In 2015, the Latvian authorities are planning to undertake a number of awareness-raising activities, e.g. targeted counselling for stateless persons who come to renew their "non-citizens" passports and conducting information sessions in municipalities where a large percentage of "non-citizens" live.

The adoption of amendments to the *Citizenship Law* and the organization of awareness-raising campaigns among stateless population contributes to the implementation of a number of 1st cycle UPR recommendations, which enjoyed the support of Latvia, including recommendations No. 91.46 ("Continue its efforts to promote the full integration of ethnic minorities into Latvian society and facilitate the naturalization and acquisition of citizenship, especially in the case of children," by Costa Rica); No. 91.47 ("Take measures to further facilitate the naturalization of non-citizens," by the Netherlands); No. 91.48 ("Consider further facilitation of the acquisition of citizenship and increased efforts to promote the registration of newborns," by Brazil); and No. 91.49 ("Do more to promote the value of citizenship among all groups, thereby encouraging naturalization of the remaining non-

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<sup>4</sup> "91.51. Step up efforts to improve the integration of ethnic and minority linguistic groups, including welcoming migrants, asylum-seekers, refugees and stateless persons (Ecuador);" Report of the Working Group on the Universal Periodic Review: Latvia, A/HRC/18/9, 11 July 2011, available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/LVSession11.aspx>.

<sup>5</sup> "91.54. Build on existing efforts to facilitate integration of immigrants and refugees, including by fully implementing its multiyear program for the integration of third-country nationals (Canada);" Report of the Working Group on the Universal Periodic Review: Latvia, A/HRC/18/9, 11 July 2011, available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/LVSession11.aspx>.

citizens,” by the United States of America).<sup>6</sup> However, some gaps still remain in ensuring the prevention and reduction of statelessness (see Issue 5 below).

### III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

#### Issue 1: Admission to the territory and access to asylum procedures

As result of the implementation of the *Memorandum of Understanding* on border monitoring activities, concluded by the SBG and UNHCR in 2011, the identification of persons in need of international protection at the border-crossing points (BCPs) has improved in Latvia. The capacitated border guards increasingly register asylum applications at the BCPs, and ensure that they are referred to the central determining authority, the OCMA. Nevertheless, some concerns with access to the territory remain. UNHCR has been notified of instances where asylum applications were registered by SBG only after an individual had *explicitly* expressed his/her wish to apply for asylum. In this regard, UNHCR notes that a wish to apply for protection does not need to be expressed in any particular form and that the word “asylum” does not need to be used expressly; instead the defining element is the expression of fear of return. Therefore, where there are indications that third-country nationals or stateless persons at border crossing points, including in transit zones, may wish to make an application for international protection, the representatives of the SBG need to provide them with information on the possibility to do so and register their asylum application without delay. If an expression can be construed as a wish to apply for protection, the border officials should refer the applicant to the central determining authority.

The aforementioned incidents have highlighted the necessity to continue building the capacity of the Latvian border guards to proactively identify persons, in particular those with specific needs, such as victims of torture and trauma, who would like to seek international protection, and to ensure that they have access to the territory and to the asylum procedure. This is a requirement under the EU *recast Asylum Procedures Directive*,<sup>7</sup> and an essential element to prevent *refoulement*. Enhanced training for border guards and immigration personnel was also recommended by Canada during the 1st cycle UPR, which enjoyed the support of Latvia.<sup>8</sup>

UNHCR is also concerned that currently the SBG is responsible for conducting all types of interviews with asylum-seekers. UNHCR is aware that the new draft *Asylum Law*<sup>9</sup> foresees that the competence for conducting personal interviews in the accelerated and regular procedures will be handed over from the SBG to the OCMA. The same draft law seems to retain the responsibility of the SBG to conduct the initial/screening interviews with asylum-seekers at the admissibility stage. In line with the UNHCR *Executive Committee Conclusion*

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<sup>6</sup> Report of the Working Group on the Universal Periodic Review: Latvia, A/HRC/18/9, 11 July 2011, available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/LVSession11.aspx>.

<sup>7</sup> European Union: Council of the European Union, *Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast)*, 29 June 2013, OJ L. 180/60 -180/95; 29.6.2013, 2013/32/EU, available at: <http://www.refworld.org/docid/51d29b224.html>.

<sup>8</sup> “91.53. Enhance the training of border guards, immigration personnel and judges in the field of international refugee law with a view to ensuring protection and full respect for the rights of all refugees and asylum-seekers (Canada),” Report of the Working Group on the Universal Periodic Review: Latvia, A/HRC/18/9, 11 July 2011, available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/LVSession11.aspx>.

<sup>9</sup> *Patveruma likums*, Nr 242/Lp12.

No. 8 (XXXVIII) of 1977,<sup>10</sup> and considering the consequences of an incorrect certification of an asylum claim as inadmissible, UNHCR is of the view that a central determining authority (the OCMA in Latvia) should be responsible for interviewing applicants for international protection at both the admissibility stage and in accelerated or regular procedures operated within the country or at borders. The central determining authority has the necessary experience, knowledge of the grounds for international protection and access to updated country of origin information.

Although the Latvian legislation envisages a right to appeal any administrative decision or action, including refusal of entry and rejection of an asylum application at the border or in the transit zone, it is very difficult for applicants to exercise this right in practice due to the lack of access to free legal counselling and/or assistance at the Latvian BCPs. Persons who apply for asylum at BCPs/transit zones are thus limited in their access to an effective remedy before a court against the decisions taken at the border. Therefore, there is a necessity to introduce additional procedural safeguards in the national legislation in order to ensure access to an effective remedy in case of denial of access to the territory.

UNHCR would also like to note that refugees and asylum-seekers are often at higher risk of falling victim to human trafficking due to the vulnerable situations in which they find themselves. During the 1st cycle UPR of Latvia in May 2011, several States recommended that Latvia continue stepping up efforts to combat trafficking, paying special attention to its victims.<sup>11</sup> UNHCR supports these recommendations and encourages the Latvian authorities to ensure that victims of trafficking, who may be in need of international protection, receive information about the asylum procedure and have their claims examined in line with the guidance contained in UNHCR's *Guidelines on International Protection* relating to victims of trafficking.<sup>12</sup>

### **Recommendations:**

UNHCR recommends that the Government of Latvia:

- Ensure that persons who may be in need of international protection are proactively identified, including at border-crossing points; provided with information about the asylum procedure; registered as asylum-seekers; and referred to the determining authority (OCMA) for the admissibility and personal interview;
- Ensure that all interviews, both on admissibility and in the accelerated and regular asylum procedure, are conducted by the central determining authority, OCMA;
- Ensure that the requisite procedural guarantees and safeguards, including access to an effective legal remedy, are available to persons applying for asylum at border-crossing points, in order to prevent persons in need of international protection from being denied admission to the territory and the asylum procedure and thus being placed at risk of *refoulement*; and

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<sup>10</sup> UNHCR, *Determination of Refugee Status*, 12 October 1977, No. 8 (XXVIII) - 1977, available at: <http://www.unhcr.org/refworld/docid/3ae68c6e4.html>.

<sup>11</sup> See, for example: "91.39. Continue its efforts to combat trafficking in human beings, and pay special attention to its victims (Costa Rica);" Report of the Working Group on the Universal Periodic Review: Latvia, A/HRC/18/9, 11 July 2011, para. 91.39, available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/LVSession11.aspx>. This recommendation enjoyed the support of Latvia.

<sup>12</sup> UNHCR *Guidelines on International Protection No.7: "The application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to Victims of Trafficking and Persons at Risk of Being Trafficked,"* 7 April 2006, available at: <http://www.unhcr.org/443b626b2.html>.

- Establish a system for the identification and referral of victims, or potential victims of trafficking to the asylum procedure at border-crossing points and inside the territory, in order to ensure that victims of trafficking who may be in need of international protection can have their case assessed in line with UNHCR's *Guidelines on International Protection* relating to victims of trafficking.

## **Issue 2: Reception conditions**

Reception conditions for asylum-seekers in Latvia, in particular for those who stay at the Reception Centre for Asylum-Seekers in Mucenieki, have deteriorated in the course of 2014. The present amount of the daily allowance (2.15 EUR per day) paid to asylum-seekers does not appear to be sufficient to ensure an adequate standard of living, in line with Article 11 of the 1966 *International Covenant on Economic, Social and Cultural Rights*. This was noted by the Latvian Auditor General in its *Report on Implementation of Asylum Policy and Immigration Control* from February 2015. The increase in asylum applications lodged during 2014 has also led to a shortage of available reception staff, such as social workers, interpreters and psychologists. Furthermore, there are very limited recreation opportunities for the inhabitants of the Mucenieki Reception Centre.

The organization of reception and the provision of a dignified standard of living to asylum-seekers is a complex issue. The reception of applicants is often characterized by significant fluctuations in numbers, requiring a high degree of flexibility in the organization of reception. UNHCR would like to highlight the importance of providing adequate standards of treatment to ensure that reception measures respect human dignity and applicable international human rights law and standards. Today, a considerable part of the reception arrangements are funded through the European Refugee Fund, which by mid-2015 will be replaced with the Asylum, Migration and Integration Fund (AMIF). Sufficient State funding for providing decent reception conditions for asylum-seekers should be secured. Insufficient reception support may lead to secondary movements of asylum-seekers from Latvia to neighbouring countries. This issue of reception conditions for asylum-seekers was addressed during the 1st cycle UPR in recommendation No. 91.52 ("Improve the living conditions of asylum-seekers and refugees," by the Islamic Republic of Iran). This recommendation enjoyed the support of Latvia.

The current Latvian legislation does not identify asylum-seekers with specific needs as a separate group requiring special attention, appropriate reception conditions and treatment. However, it should be noted that the draft new *Asylum Law* seeks to incorporate Latvia's obligations in this area pursuant to the *recast Reception Conditions and Asylum Procedures Directives*, which require EU Member States to proactively identify asylum-seekers with special reception<sup>13</sup> and procedural needs.<sup>14</sup> Although there are no official guidelines on how

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<sup>13</sup> Special reception needs of vulnerable persons are laid out in Articles 21 – 25 of the *recast Reception Conditions Directive*. These needs may include appropriate medical and psychological care and rehabilitation services for "vulnerable persons such as minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of human trafficking, persons with serious illnesses, persons with mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, such as victims of female genital mutilation." European Union: Council of the European Union, *Directive 2013/33/EU of the European Parliament and Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast)*, 29 June 2013, OJ L 180/96 -105/32; 29.6.2013, 2013/33/EU, available at: <http://www.refworld.org/docid/51d29db54.html>.

to identify persons with specific needs, observed practice during border monitoring in Latvia indicates that such identification usually occurs in situations when the vulnerability of the person is visible and obvious, while it does not always take place when the specific needs are less visible to the eye. For example, persons with physical disabilities may be identified and assisted, whereas victims of torture are less likely to receive specialized services. In practice, the SBG ensures compliance with cultural and religious standards concerning food provision. UNHCR would recommend that Latvia further elaborate guidelines on the identification and treatment of applicants in need of special reception and procedural guarantees. This will help ensure that applicants in a vulnerable situation, such as unaccompanied children, nursing mothers, victims of trafficking, women in the later stages of pregnancy, survivors of torture or sexual violence and traumatized persons receive adequate support.

### **Recommendations:**

UNHCR recommends that the Government of Latvia:

- Ensure that reception conditions for asylum-seekers in Latvia are in line with international and EU standards by, *inter alia*, allocating sufficient State funds to ensure asylum-seekers an adequate standard of living, which may also contribute to a reduction in secondary movements; and
- Ensure that the new *Asylum Law* provides for the obligation to proactively identify asylum-seekers with special reception and procedural needs at border-crossing points and at other places of temporary or longer-term accommodation, and elaborate guidelines for border guards, reception centre staff and asylum officers on how to implement this obligation in practice.

### **Issue 3: Detention**

Even though the amendments to the *Asylum Law* adopted in 2013 introduced positive changes relating to the freedom of movement of asylum-seekers, the new legal provisions have not incorporated all the required safeguards to ensure that detention is only applied as a measure of last resort, for the shortest possible period of time, and only when necessary and proportionate, based on an individual assessment in each case. Furthermore, the amendments have not imposed an obligation to first consider alternatives to detention.<sup>15</sup> As a result, approximately 66 per cent (239) of all new asylum-seekers during 2014 in Latvia were detained. Additionally, 35 asylum-seekers were detained repeatedly after absconding from the reception centre in Mucenieki and after being returned from another EU Member State. The SBG has the right to detain asylum-seekers for up to seven days, after which court permission for prolongation of detention must be obtained. According to the SBG, in 2014, the average duration of detention was 15 days. UNHCR is, however, aware of applicants who have been detained for much longer periods of time than this.

The current *Asylum Law* provides no definitions of the grounds “abuse of asylum procedure” and “risk of absconding” even though these are frequently invoked as reasons for detention, potentially leading to an arbitrary application of these grounds by the SBG and courts. The

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<sup>14</sup> Applicants in need of special procedural guarantees are addressed in Article 24 of the *recast Asylum Procedures Directive*. European Union: Council of the European Union, *Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast)*, 29 June 2013, OJ L. 180/60 -180/95; 29.6.2013, 2013/32/EU, available at: <http://www.refworld.org/docid/51d29b224.html>.

<sup>15</sup> See: UNHCR, *Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention*, 2012, available at: <http://www.refworld.org/docid/503489533b8.html>.

*Asylum Law* does not guarantee the right to free legal assistance and representation for detained asylum-seekers. Although women with children and unaccompanied children have in practice been released after the period of initial detention, the current Latvian legislation does not exempt vulnerable groups, such as children, survivors of torture or sexual violence and traumatized persons, from being detained. Moreover, the legislation does not explicitly stipulate that detention should only be a measure of last resort and used for the shortest appropriate period of time. The existing gaps in the national legislation are illustrated in the case pending at the European Court of Human Rights against Latvia – *Nassr Allah v. Latvia*<sup>16</sup> – dealing with the alleged arbitrary detention of an asylum-seeker.

Through periodic monitoring of places of detention, UNHCR has identified that detained asylum-seekers have unequal access to State-provided health care services, as compared with other detained, arrested or sentenced persons. Applicants admitted to the Latvian asylum procedure and staying either at the BCPs or at SBG detention/ accommodation facilities, are entitled only to primary health care and essential treatment. The *Medical Treatment Law* stipulates provision of advanced health treatment only to persons detained, arrested and sentenced with deprivation of liberty and does not specifically include asylum-seekers. Such a situation puts detained asylum-seekers in a less advantageous position due to their lack of any income during detention, resulting in an inability to pay for a visit to a doctor and/or for special medication. UNHCR considers that asylum-seekers should be provided access to these rights and services on an equal basis with other detained persons, especially considering that asylum-seekers are a particularly vulnerable groups with often complex health and social care needs.

UNHCR would also like to emphasize that the right to legal assistance and representation is an essential safeguard, particularly in situations of detention. Free legal assistance should be made available as soon as possible after detention to help the detainee understand his/her rights. Communication between legal counsel and the asylum-seeker must be subject to lawyer-client confidentiality principles. Lawyers need to have access to their client, to records held on their client, and to be able to meet with their client in a secure, private setting. The current *Asylum Law* stipulates that asylum-seekers have the right to retain a legal representative or adviser at their own expense. However, if they have insufficient financial resources, they may seek State legal aid in the amount and according to the procedures prescribed by the *State Ensured Legal Aid Law*. This law, however, denies asylum-seekers the use of State legal assistance at the same level as other legal residents of Latvia. Instead, it guarantees State legal aid only to those who have been rejected in the first instance asylum procedure and are now in the appeal procedure. As a result, many detained asylum-seekers frequently remain without access to legal assistance and representation.

### **Recommendations:**

UNHCR recommends that the Government of Latvia:

- Ensure that the detention of asylum-seekers is used only as a measure of last resort, when it proves necessary on the basis of an individual assessment of each case and if other less coercive alternative measures cannot be applied effectively;
- Ensure that alternatives to detention are explored prior to consideration of detention;

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<sup>16</sup> *Aladdin Nassr Allah v. Latvia*, Application No. 66166/13, lodged on 17 October 2013. Communicated on 10 January 2014, available at: [http://hudoc.echr.coe.int/sites/eng/Pages/search.aspx#{"fulltext":\["nassr"\],"itemid":\["001-140698"\]}](http://hudoc.echr.coe.int/sites/eng/Pages/search.aspx#{).

- Consider introducing a provision in the *Asylum Law* to exempt asylum-seekers with specific needs, such as children, nursing mothers and women in the later stages of pregnancy, survivors of torture or sexual violence, as well as traumatized persons from detention;
- Avoid the detention of children;
- Amend relevant national legislation to ensure that detained asylum-seekers are provided with effective access to free legal assistance and representation; and
- Ensure that detained asylum-seekers have access to State-provided health care services on an equal basis with other detained, arrested or sentenced persons.

#### **Issue 4: Integration**

Although Latvia has set out its general integration policy in the *Guidelines on National Identity, Civil Society and Integration Policy* for the period from 2012 to 2018, in practice there is a lack of a comprehensive strategy and programme for the integration of beneficiaries of international protection (Convention refugees and beneficiaries of the alternative/subsidiary status) and limited funds are allocated for the integration activities available. The overall objective of integration, according to the *Guidelines*, is a strong, united Latvian nation, which is a national and democratic community.<sup>17</sup> The *Guidelines* set out to create conditions conducive to a comprehensive immigrant integration policy, with activities such as participation in language courses and NGO activities; establishment of the National Integration Centre and a Consultative board involving immigrants and their representatives; informative measures; exchange of good practices; and conduct of surveys. However, among the long list of integration activities, only one is targeted specifically at refugees. This activity involves “Measures promoting integration of refugees and persons with alternative status,” such as access to Latvian language courses and improved access to education, as well as support concerning health care and social issues.

While some support is provided by both the State and the non-governmental sector, the lack of a comprehensive post-recognition integration programme hampers 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 and Empowerment*,<sup>18</sup> indicates that many of the persons concerned feel compelled to leave Latvia for other EU countries, such as Sweden and Germany, in search of livelihoods for their survival. There is therefore an urgent need to develop a comprehensive national integration strategy and programme that would support the inclusion of beneficiaries of international protection in mainstream social services and programmes while, at the same time, providing targeted support in key areas, such as psychosocial support for victims of

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<sup>17</sup> According to the *Guidelines*, integration is based on the maintenance and development of the Latvian language, cultural and national identity, European democratic values and a unique cultural space. The basic principles of integration are inclusive ‘Latvianness,’ responsibility and participation, belonging to Europe, preservation of the cultures and languages of minority nations, free choice as far as it is compatible with respect for human rights, and the assumption that identities are complementary, not exclusionary. See: Republic of Latvia, *Guidelines on National Identity, Civil Society and Integration Policy of the Republic of Latvia for the period (2012 to 2018)*, Order No. 542, 20 October 2011, p. 9, 10, available at: [http://www.km.gov.lv/lv/ministrija/sabiedribas\\_integracija.html](http://www.km.gov.lv/lv/ministrija/sabiedribas_integracija.html).

<sup>18</sup> UNHCR, *Integration of Refugees in Latvia: Participation and Empowerment*, June 2015, available at: [http://www.unhcr-northerneurope.org/fileadmin/user\\_upload/Documents/PDF/Latvia/2015-Latvia-Integration-Report.pdf](http://www.unhcr-northerneurope.org/fileadmin/user_upload/Documents/PDF/Latvia/2015-Latvia-Integration-Report.pdf).

trauma. UNHCR has expressed its readiness to support the Latvian authorities in this regard, including by facilitating the cross-fertilization of good practices from other countries in the Northern Europe region.<sup>19</sup>

The *Asylum Law* foresees two distinct types of legal status afforded to beneficiaries of international protection – refugee status and alternative status, the latter corresponding to that of a complementary/subsidiary protection. The rights and entitlements attached to each status differ in a number of aspects, which adversely impact post-recognition integration in Latvia. For example, beneficiaries of alternative status receive a different type of residence permit, which confers unequal rights in areas such as eligibility for social benefits and assistance, financial assistance, family reunification and social integration. Also, the limited duration of residence permits issued to beneficiaries of alternative status lays an additional financial burden on this group, as extension of their identification and travel documents, as well as residence permits requires the payment of fees. The amounts of State fees do not take into consideration the vulnerable status of beneficiaries of international protection, who frequently are unemployed or face serious challenges with access to the labour market. As a result, persons granted international protection suffer from long-term uncertainty and insecurity. The issue of integration of persons granted international protection was addressed during the 1st cycle UPR in recommendation No. 91.51 (“Step up efforts to improve the integration of ethnic and minority linguistic groups, including welcoming migrants, asylum-seekers, refugees and stateless persons”), by Ecuador, which enjoyed the support of Latvia.

A related key 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.<sup>20</sup> According to Article 34, “States shall as far as possible facilitate the integration and naturalization of refugees. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings.” Consequently, beneficiaries of international protection have broadly the same access to Latvian citizenship as other third country nationals, in line with the provisions of the *Citizenship Law of the Republic of Latvia*. Withdrawing its reservation to Article 34 would constitute an important signal of Latvia’s readiness to further facilitate the integration of beneficiaries of international protection, and could help form the starting point for a comprehensive national refugee integration strategy and programme. This is particularly important at a time when Latvia is also preparing to receive refugees within the context of the European Council’s decision to relocate 40,000 persons in need from Greece and Italy, as well as receive another 20,000 on resettlement within the EU Member States.

Furthermore, many of the refugees with whom UNHCR spoke during the aforementioned participatory assessment said that they had experienced xenophobia and related intolerance during their stay in Latvia, and that the negative attitude towards foreigners was one of the

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<sup>19</sup> *Ibid*, p. 100.

<sup>20</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.

key factors hampering their social and economic integration into society. Opinion polls<sup>21</sup> and studies<sup>22</sup> also confirm that the attitude towards asylum-seekers and refugees is generally negative. The necessity of further strengthening measures to prevent and combat discrimination and hate crimes against ethnic minorities and other vulnerable groups was also addressed during the 1st cycle UPR of Latvia.<sup>23</sup>

### **Recommendations:**

UNHCR recommends that the Government of Latvia:

- Facilitate the integration and naturalization of beneficiaries of international protection (both refugees and alternative status holders) by lifting its reservations to the *1951 Convention*, in particular to Article 34;
- Develop a comprehensive integration strategy and programme, which supports the inclusion of beneficiaries in mainstream services, and provides targeted support where needed, including in regard to language learning, housing and finding employment, and consider the readiness by UNHCR to assist in these efforts;
- Reduce fees for extension of identification and travel documents, as well as for residence permits for beneficiaries of international protection, in order to facilitate the integration of beneficiaries of international protection, pursuant to Article 34 of the *1951 Convention*;
- Designate a central authority that would be responsible and accountable for coordinating national efforts aimed at facilitating the integration of beneficiaries of international protection; maximize the beneficial impact of the programme by, *inter alia*, recognizing the interdependence between different areas of integration (such as language learning, housing, employment); and allocate the necessary funding;
- Ensure equal treatment of beneficiaries of international protection by eliminating the differences in rights between persons granted refugee status and those granted alternative status; and
- Facilitate the integration of refugees through combating stereotypes and prejudice against them among the general public.

### **Issue 5: Prevention and reduction of statelessness**

While the more than 260,000 “non-citizens” in Latvia are generally entitled to rights that go beyond the minimum rights prescribed by the *1954 Convention*, important differences in the treatment of this population compared to citizens of Latvia nonetheless remain. These differences relate to a variety of rights, including employment, property purchases, political rights and pensions. “Non-citizens” may obtain long-term residence permits, but cannot vote in any elections and cannot hold Government jobs. 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.” Nevertheless, the pace of naturalization continues to slow down: in 2014, only 939 individuals acquired Latvian citizenship, out of whom 853 were stateless persons (852 “non-citizens” and one with the status of stateless person). The

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<sup>21</sup> Eurobarometer 82, *Public Opinion in the European Union*, Autumn 2014 – TNS opinion & social, available at: [http://ec.europa.eu/public\\_opinion/archives/eb/eb82/eb82\\_anx\\_en.pdf](http://ec.europa.eu/public_opinion/archives/eb/eb82/eb82_anx_en.pdf).

<sup>22</sup> UNHCR Online Survey: *Measuring attitudes and awareness concerning refugees*, May 2012.

<sup>23</sup> “93.32. Further strengthen measures to prevent and combat discrimination and hate crimes against ethnic minorities and other vulnerable groups, including lesbian, gay, bisexual and transgender persons (Brazil).” This recommendation enjoyed the support of Latvia (see Annex below for further information).

peak of naturalization was in the mid-2000s, with 19,169 individuals granted Latvian citizenship in 2005. The main factors contributing to the reduction of statelessness in Latvia are natural decrease of population and emigration.

Considering the decreasing naturalization rate, additional legal, policy and/or practical steps may be needed to further reduce statelessness in Latvia, by facilitating naturalization, ensuring adequate state funding for Latvian-language courses for adult “non-citizens”, and by implementing promotional campaigns aimed at raising the target group’s awareness about the naturalization procedure and encouraging them to become Latvian citizens. UNHCR stands ready to assist the Government of Latvia in such efforts, aimed at promoting the naturalization of “non-citizens”.

In May 2013, the Parliament of Latvia adopted several important amendments to the *Citizenship Law*, which have simplified the procedure for granting citizenship to children born in Latvia to “non-citizens” and other stateless persons, and introduced changes in the naturalization procedure. The Government of Latvia has thereby demonstrated a clear determination to prevent the creation of new stateless persons in the country. However, the recent amendments do not automatically grant Latvian citizenship to stateless children born in Latvia, as they require that one of the child’s parents formally submits a request at the time of birth registration. By placing a responsibility on one parent to submit an application for the registration of his or her child as a Latvian citizen, there is a risk that parents, who do not fully appreciate the importance of submitting such an application and the impact it will have on their child’s ability to be a full-fledged member and rights-holder of Latvian society, may unintentionally contribute to perpetuating their child’s statelessness. Available statistics indicate that approximately 10 to 15 percent of the children born in Latvia to “non-citizens” and other stateless persons remain stateless after birth. Also, the amendments do not prevent statelessness of children who are born in Latvia to parents who are not stateless, but who are nonetheless unable to transmit their citizenship to the child due to conflict of laws. Hence, while constituting a very important step towards preventing statelessness, these amendments do not fully ensure that every child born in Latvia acquires a nationality at birth or as soon as possible after birth, in line with Article 1 of the *1961 Convention* read in conjunction with Articles 3 and 7 of the *UN Convention on the Rights of the Child*.<sup>24</sup> UNHCR therefore maintains its recommendation to introduce an automatic grant of citizenship to children born on the territory who would otherwise be stateless.

The *1954 Convention* provides that a Contracting State shall issue identity papers to any stateless person in its territory who does not possess a valid travel document (Article 27). This provision is not binding for Latvia, as, at the time of acceding to this *Convention*, Latvia made a reservation regarding the provision.<sup>25</sup> Thus, at the moment, persons who seek to obtain a status of stateless person or “non-citizen,” can obtain identity papers only after they have been granted that status. If they are registered as asylum-seekers they are issued a personal identification document as per Article 7 of the *Asylum Law*. In practice, the proceedings to obtain the status of stateless person or “non-citizen” are frequently

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<sup>24</sup> UN High Commissioner for Refugees (UNHCR), *Guidelines on Statelessness No. 4: Ensuring Every Child's Right to Acquire a Nationality through Articles 1-4 of the 1961 Convention on the Reduction of Statelessness*, 21 December 2012, HCR/GS/12/04, para. 11, available at: <http://www.refworld.org/docid/50d460c72.html>.

<sup>25</sup> The text of this reservation reads: “In accordance with article 38 of the [Convention] the Republic of Latvia reserves the right to apply the provisions of Article 27 subject to limitations provided for by the national legislation.” Available at: [https://treaties.un.org/pages/ViewDetailsII.aspx?src=TREATY&mtdsg\\_no=V-3&chapter=5&Temp=mtdsg2&lang=en#EndDec](https://treaties.un.org/pages/ViewDetailsII.aspx?src=TREATY&mtdsg_no=V-3&chapter=5&Temp=mtdsg2&lang=en#EndDec).

complicated due to high costs or the inability of some stateless individuals to provide a valid identification document. As a result, some stateless individuals find themselves in a legal limbo and, due to the lack of identity papers, cannot benefit from the other rights that are guaranteed by the *1954 Convention*.

**Recommendations:**

UNHCR recommends that the Government of Latvia:

- Take further legal, policy and/or practical steps to reduce statelessness, through facilitating naturalization or by other measures, and consider the readiness by UNHCR to assist in these efforts.
- Consider amending the *Citizenship Law* to provide for the automatic acquisition of citizenship by children born on the territory of Latvia who would otherwise be stateless, including as a result of being born to “non-citizen” or stateless parents;
- Facilitate the issuance of identification documents to stateless persons, by lifting the reservation to Article 27 in the *1954 Convention*; and
- Ensure that individuals awaiting a determination of statelessness are treated in accordance with the standards elaborated in the UNHCR *Handbook on Protection of Stateless Persons*.<sup>26</sup>

**Human Rights Liaison Unit  
Division of International Protection  
UNHCR  
July 2015**

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<sup>26</sup> UNHCR, *Handbook on Protection of Stateless Persons*, 30 June 2014, paras. 144–146, available at: <http://www.refworld.org/docid/53b676aa4.html>.

## **Excerpts of Recommendations from the 1st cycle Universal Periodic Review and Concluding Observations from UN Treaty Bodies**

### **- Universal Periodic Review:**

#### **LATVIA**

We would like to bring your attention to the following excerpts from the 1st cycle Universal Periodic Review Reports and UN Treaty Monitoring Bodies' Concluding Observations and Recommendations relating to issues of interest and persons of concern to UNHCR with regards to Latvia.

#### **I. Universal Periodic Review**

Below is a list of recommendations of relevance to UNHCR made to Latvia during the 1st cycle of the Universal Periodic Review. These are divided into three sections: recommendations that enjoyed the support of Latvia; recommendations that did not enjoy the support of Latvia; and recommendations that were under the consideration of Latvia. Latvia's views and responses to recommendations are elaborated upon (and sometimes amended) in the Addendum.<sup>27</sup> Information contained in the Addendum, which is of relevance to UNHCR, can be found here in italics.

#### **Report of the Working Group on the Universal Periodic Review, Eighteenth Session (11 July 2011) [A/HRC/18/9](#)**

#### **91. The recommendations formulated during the interactive dialogue and listed below enjoy the support of Latvia:**

91.35. Continue taking measures to eliminate human trafficking (Czech Republic);

91.36. Continue to take the necessary measures to end trafficking in human beings, including through the implementation of the national program on combating trafficking in human beings (Palestine);

91.37. Pursue its efforts to combat trafficking in human beings, especially women and children (Algeria);

91.38. Step up efforts to combat trafficking in human beings, including developing international cooperation with interested governments, international organizations and NGOs (Belarus);

91.39. Continue its efforts to combat trafficking in human beings, and pay special attention to its victims (Costa Rica);

91.40. Continue to adopt appropriate measures to prosecute and punish perpetrators of trafficking in human beings and develop effective systems for the timely prevention of sexual exploitation and trafficking in children (Republic of Moldova);

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<sup>27</sup> *Addendum, Eighteenth session (14 September 2011) A/HRC/18/9/Add.1*

91.41. Prioritize the implementation of human trafficking protection and rehabilitation programmes (Norway);

91.42. Further develop and strengthen its programs and services to promote the rehabilitation of victims of trafficking (Canada);

91.43. Prioritize training for the judiciary and the police on how to treat victims of trafficking as well as domestic violence (Norway);

91.45. Consider the possibility of strengthening focused social assistance to poor families with children (Belarus);

91.46. Continue its efforts to promote the full integration of ethnic minorities into Latvian society and facilitate the naturalization and acquisition of citizenship, especially in the case of children (Costa Rica);

91.47. Take measures to further facilitate the naturalization of non-citizens (Netherlands);

91.48. Consider further facilitation of the acquisition of citizenship and increased efforts to promote the registration of newborns (Brazil);

91.49. Do more to promote the value of citizenship among all groups, thereby encouraging naturalization of the remaining non-citizens (United States of America);

91.50. Continue pursuing society integration policies aimed at uniting the country's inhabitants in areas such as State-language learning, promotion of cultural identity and cultural interaction, with particular attention to Latvia's "non-citizens" who represent around 15 per cent of the population (Slovakia);

91.51. Step up efforts to improve the integration of ethnic and minority linguistic groups, including welcoming migrants, asylum-seekers, refugees and stateless persons (Ecuador);

91.52. Improve the living conditions of asylum-seekers and refugees (Islamic Republic of Iran);

91.53. Enhance the training of border guards, immigration personnel and judges in the field of international refugee law with a view to ensuring protection and full respect for the rights of all refugees and asylum-seekers (Canada);

91.54. Build on existing efforts to facilitate integration of immigrants and refugees, including by fully implementing its multiyear program for the integration of third-country nationals (Canada).

**92. The following recommendations enjoy the support of Latvia, which considers that they have already been implemented or are in the process of implementation:**

92.16. Guarantee respect for human rights of foreign citizens, regardless of their immigration status, especially those from vulnerable groups, such as refugees, asylum-seekers and stateless persons; and guarantee respect for the principle of non-refoulement established in the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol (Ecuador);

92.17. Take measures to ensure the availability of adequate facilities for refugee children, including access to legal counsel, medical care and education (Poland).

**93. The following recommendations will be examined by Latvia, which will provide responses in due course, but no later than the eighteenth session of the Human Rights Council in September 2011:**

93.32. Further strengthen measures to prevent and combat discrimination and hate crimes against ethnic minorities and other vulnerable groups, including lesbian, gay, bisexual and transgender persons (Brazil);

*93.32. Latvia accepts the recommendation. The Constitution and other laws contain the principles of equality and the prohibition of discrimination. Besides, work on the transposition of relevant European Union anti-discrimination directives is under way. Within its mandate, the Police will continue efforts in combating discrimination. In recent years, Latvia has succeeded in cutting back on the number of instances of national, ethnic and racial hatred, which is demonstrated by statistics on instituted criminal cases concerning incitement to national, ethnic and racial hatred or disharmony. At the same time, the Police cooperate with LGBT activists by providing security measures during LGBT public events.*

93.40. In accordance with the recommendations of international human rights institutions, grant to non-citizens, without delay, the right to participate in the political life of the country, including in municipal elections, and the opportunity to enjoy all economic, social and cultural rights (Russian Federation);

*93.40. The recommendation is to be partly rejected. Latvia indicates that this recommendation has already been partly implemented, because non-citizens are granted economic, social and cultural rights, as well as a number of political rights, for instance, the right to join political parties and exercise their freedom of speech and assembly, thus participating in political life. One of the most significant instruments for promoting participation in decision-making process is local government councils and commissions for the matters of society integration and non-citizens.*

*Latvia's position remains unchanged as to granting non-citizens the right to participate in municipal elections; the right to vote is seen as an integral part of citizenship. This position complies with international law and the existing practice. Non-citizens are ensured practical and effective access to the naturalisation process, which so far has been used by more than 140,000 non-citizens. Latvia accentuates that non-citizen's status is a temporary status and*

*thus obtaining citizenship is the most effective way of expanding the scope of an individual's rights. In its next report, Latvia will provide further information on this matter.*

93.42. Revise its legislation to provide automatic acquisition of citizenship by children born to non-citizens after 21 August 1991 (Canada);

93.43. Follow through on the proposal to change the Citizenship Law to provide citizenship automatically to new born children of non-citizen parents, unless the parents refuse it (Norway);

*93.42., 93.43. The recommendations are to be partly rejected. Latvia reminds that the defined circle of citizens is an integral part of a sovereign state. Latvia would like to emphasize that, presently, all non-citizens, including the children of non-citizens, are guaranteed a practical and effective access to Latvian citizenship through registration and/or naturalisation, which has so far been used by more than 140,000 non-citizens. This number as such already demonstrates the effectiveness of the process of citizenship and naturalisation.*

*At the same time it should be noted that on 5 July 2011 the Government approved a number of regulations aimed at further simplification of administrative procedures of acquiring of Latvian citizenship, including granting Latvian citizenship to children born to non-citizens and stateless persons. In its next report Latvia will provide further information on this matter.*

93.44. Seek to further decrease the number of non-citizens and to improve the social and political rights of non-citizens (Australia).

*93.44. The recommendation can be partly accepted. Latvia will seek to further decrease the number of non-citizens. Further measures will be undertaken for the facilitation and optimization of the naturalization process, as well as for society integration. It must be indicated that non-citizens are ensured economic, social and cultural rights, as well as a number of political rights. At the same time, it should be noted that the state policy is to take care of the well-being of all its residents. In the next report Latvia will provide further information on this matter.*

#### **94. The recommendations below did not enjoy the support of Latvia:**

94.6. Adopt effective steps to promptly eliminate an unacceptable system of non-citizenship. As a priority and urgent step, simplify the naturalization process for persons who have reached retirement age, as well as grant children of non-citizens the right to automatically acquire citizenship at birth (Russian Federation);

*94.6. Latvia rejects the recommendation. Latvia reiterates its consistent position that the defined circle of citizens is an integral part of a sovereign state. Non-citizen's status is a temporary status. Latvia would like to emphasize that, presently, all non-citizens, including the children of non-*

*citizens, are guaranteed a practical and effective access to Latvian citizenship through registration and/or naturalisation, which has so far been used by more than 140,000 non-citizens. This number as such already demonstrates the effectiveness of the process of citizenship and naturalisation.*

94.7. Effectively comply with the 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness and pay particular attention to the 326,906 persons considered as non-citizens, and therefore stateless persons. Pay special and urgent attention and provide a solution to this severe and current humanitarian problem (Ecuador).

*94.7. Latvia rejects the recommendation. The status of Latvia's non-citizen is a specific legal status with temporary character that has emerged under specific historical circumstances, when Latvia regained its independence after 50 years of Soviet occupation and shortly afterwards the USSR itself ceased to exist.*

*Latvia's non-citizens cannot be compared with any other legal status of a person as defined in international law. Latvian non-citizens cannot be regarded as stateless persons in the meaning of the 1954 Convention relating to the Status of Stateless Persons, as protection afforded to non-citizens is far broader than what is required by the Convention for stateless persons.*

*Non-citizens of Latvia is the only category of residents who are not Latvian citizens, but who enjoy the right to reside in Latvia ex lege (all others require a residence permit) and an immediate right to acquire citizenship through registration and/or naturalisation (depending on age). Likewise, Latvia undertakes certain obligations with regard to these persons: guarantees diplomatic protection abroad, as well as the right to return to Latvia and not to be extradited from Latvia.*

## **II. Treaty Bodies**

### **Committee against Torture**

**Concluding Observations (23 December 2013) [CAT/C/LVA/CO/3-5](#)**

#### **Non-citizen residents**

16. While welcoming the significant reduction in the number of so-called “non-citizen residents” from 29 per cent in 1995 to 13 per cent at present and the amendments to the Citizenship Law introduced in May 2013 allowing for a simplified naturalization procedure, the Committee is concerned at the large number of non-citizens residing permanently in the State party (arts. 2 and 16).

#### **The State party should:**

- (a) Invite non-citizen residents to avail themselves of the simplified naturalization procedure in the Citizenship Law, as amended in May 2013, and facilitate the granting of citizenship to and naturalization and integration of non-citizens;**
- (b) Enhance efforts to raise the awareness of parents whose children are eligible for naturalization and consider granting automatic citizenship at birth, without**

**previous registration by parents, to the children of non-citizen parents who do not acquire any other nationality, with a view to preventing statelessness;**

**(c) Consider offering language courses free of charge to all non-citizen residents and stateless persons who wish to apply for Latvian citizenship.**

### **Situation of asylum seekers**

17. The Committee is concerned:

(a) That persons seeking asylum may not enjoy all the procedural guarantees, including access to legal counsel and the right to appeal negative decisions;

(b) That the risk of *refoulement* may exist in cases where appeals of negative decisions under the accelerated asylum procedure may not have a suspensive effect;

(c) That the detention of asylum seekers is not only used as a measure of last resort and that asylum seekers who are minors may be detained starting at the age of 14 (arts. 3 and 16).

### **The State party should:**

**(a) Take all necessary measures to abide by its obligations under article 3 of the Convention and refrain from expelling, returning (*refouler*) or extraditing a person to another State where there are substantial grounds for believing that he or she would be in danger of being subjected to torture;**

**(b) Ensure that all persons seeking asylum in the State party, including at its border-crossing points, enjoy all procedural guarantees, including access to legal assistance and interpreters and the right of appeal against negative decisions;**

**(c) Ensure that decisions concerning asylum, including under the accelerated procedure, can be appealed and have a suspensive effect in order to avoid the risk of *refoulement*;**

**(d) Use detention of asylum seekers only as a measure of last resort for as short a period as possible, refrain from detaining minors and revise policy in order to bring it in line with the Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum Seekers and Alternatives to Detention of the Office of the United Nations High Commissioner for Refugees.**

### **Training**

18. The Committee is concerned at the absence of specific methodologies to evaluate the effectiveness and impact on a reduction in the number of cases of torture and ill-treatment of the training and educational programmes on the absolute prohibition of torture and ill-treatment and on the provisions of the Convention for law enforcement personnel, prison staff, border guards, medical personnel, judges and prosecutors. It is also concerned that training on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol) is not provided to all medical professionals dealing with persons deprived of liberty and asylum seekers. (art. 10).

### **The State party should:**

**(a) Develop specific methodologies to evaluate the effectiveness and impact of training and educational programmes on the absolute prohibition of torture and ill-treatment provided to law enforcement, prison staff, border guards, medical personnel, judges and prosecutors;**

**(b) Ensure that the Istanbul Protocol is made an essential part of the training for all medical professionals and other public officials involved in work with persons deprived of their liberty and asylum seekers.**

**Human Rights Committee**

**Concluding Observations (11 April 2014) [CCPR/C/LVA/CO/3](#)**

**Non-discrimination of “non-citizen” residents and linguistic minorities**

7. The Committee remains concerned at the status of “non-citizen” residents and the situation of linguistic minorities. In particular, it is concerned about the impact of the State language policy on the enjoyment of the rights in the Covenant, without any discrimination, by members of linguistic minorities, including the right to choose and change one’s own name and the right to an effective remedy. The Committee is further concerned at the discriminatory effects of the language proficiency requirement on the employment and work of minority groups (arts. 2, 26 and 27).

**The State party should enhance its efforts to ensure the full enjoyment of the rights in the Covenant by “non-citizen” residents and members of linguistic minorities, and further facilitate their integration into society. The State party should review the State Language Law and its application, in order to ensure that any restriction on the rights of non-Latvian speakers is reasonable, proportionate and non-discriminatory, and take measures to ensure access by non-Latvian speakers to public institutions and facilitate their communication with public authorities. The State party should also consider offering more Latvian language courses free of charge to “non-citizen” and stateless persons who wish to apply for Latvian citizenship.**

**Trafficking in human beings**

8. The Committee is concerned that trafficking in human beings persists in the State party, which also remains a country of origin for trafficking in human beings for sexual and labour exploitation, in particular of young women aged 18–25. The Committee is further concerned at insufficient identification and referral mechanisms, as evidenced by the low figures on identified and possible victims of trafficking and the slow progress in implementing measures against trafficking (arts. 3 and 8).

**The State party should:**

- (a) Enhance proper identification and referral mechanisms and increase training for law enforcement officials and other professionals to improve their capacity to assist victims of trafficking;**
- (b) Promptly, effectively and impartially investigate, prosecute and punish all acts of trafficking in human beings and other related offences;**
- (c) Reinforce the mechanisms of support, rehabilitation, protection and redress, including the State-funded social**

**rehabilitation services and assistance in reporting incidents of trafficking to the police, and ensure their availability to all victims of trafficking, as relevant;**

**(d) Carry out awareness-raising campaigns on the criminal nature of trafficking in human beings.**

#### **Asylum seekers**

14. The Committee is concerned about the lack of clear legal grounds, on the basis of which asylum seekers may be placed in detention upon arrival, reports of the protracted detention of asylum seekers, including children, in facilities with poor conditions and obstacles in gaining access to asylum procedures at some border crossings. The Committee is also concerned at the determination of refugee or asylum status through the accelerated procedure. It also regrets reported expulsions of refugees and asylum seekers based on article 3 of the Asylum Law, before an appeal against deportation has been adjudicated, if they are regarded as posing a threat to national security or public order and safety, notwithstanding the possible exposure of those deported to a violation of their rights under article 7 of the Covenant in the country of return (arts. 7, 9, 10 and 13).

#### **The State party should:**

**(a) Ensure strict respect for the principle of non-refoulement;**

**(b) Amend the Asylum Law to establish safeguards against the arbitrary detention of asylum seekers and ensure that all persons in need of international protection receive appropriate and fair treatment at all stages and can benefit from procedural safeguards, in particular during the accelerated procedure;**

**(c) Ensure that decisions on expulsion, return or extradition are dealt with expeditiously, in accordance with the due process of the law, including the suspensive effect of appeals against decisions concerning asylum;**

**(d) Ensure that the detention of asylum seekers is used only as a measure of last resort, for the shortest possible period, and that such detention is necessary and proportionate in the light of individual circumstances, and avoid detaining minors;**

**(e) Ensure that living conditions and treatment in all immigration detention centres are in conformity with international standards;**

**(f) Guarantee access to standardized asylum procedures and establish a referral procedure between the Office of Citizenship and Migration Affairs and the State Border Guard at all border points, in compliance with international norms and standards.**