

## EUDO CITIZENSHIP OBSERVATORY

### *NATURALISATION PROCEDURES FOR IMMIGRANTS LATVIA*

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February 2013

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

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EUDO Citizenship Observatory  
**Migration Policy Group**  
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**Robert Schuman Centre for Advanced Studies**  
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# Naturalisation Procedures for Immigrants

## Latvia

Kristine Kruma

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### Introduction

General requirements for naturalisation are included in the Citizenship Law which was adopted in 1994. The Law introduced naturalisation exams and other criteria to be satisfied for naturalisation.<sup>1</sup> The naturalisation procedure was simplified when the Law was amended in 1998. No further amendments have been made. Specific requirements for naturalisation are included in several Regulations adopted by the Cabinet of Ministers. Regulations have been amended on a regular basis.

The naturalisation process is organised primarily by the Naturalisation Board acting under the auspices of the Office of Citizenship and Migration Affairs (OCMA).<sup>2</sup> Applications for naturalisation can be submitted in 30 regional offices of the OCMA while the naturalisation exams can be taken in six Latvian cities.

There are very few NGOs involved in providing specific assistance to applicants for naturalisation.<sup>3</sup> NGOs most often monitor the process rather than provide consultancy services.<sup>4</sup> The campaigning and consultations mainly rest with

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<sup>1</sup> Citizenship Law in English is available at [http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumi/Citizenship\\_Law.doc](http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumi/Citizenship_Law.doc), accessed 23 February 2012. See also Country Report: Latvia, available at <<http://eudo-citizenship.eu/docs/CountryReports/Latvia.pdf>>, accessed on 3 October 2012.

<sup>2</sup> The Naturalisation Board was established under the auspices of the Ministry of Justice. As a result of reforms it was merged with the Office of Citizenship and Migration Affairs under auspices of the Ministry of Interior in 2010. The main reasons behind the merge were (1) reforms in government due to economic crisis; (2) centralization of naturalisation process (merge of the Naturalisation Board with OCMA; (3) to ensure better access to naturalisation (while Naturalisation Board had only 8 regional branches, OCMA has 30 branches).

<sup>3</sup> The few which perform ad hoc consultancy are the Latvian Centre for Human Rights (<http://www.humanrights.org.lv/html/>; <http://www.humanrights.org.lv/html/areas/legal/index.html>), Dialogi (<http://www.dialogi.lv/index.php?lang=2>; [http://www.dialogi.lv/article\\_new.php?id=2851](http://www.dialogi.lv/article_new.php?id=2851)) Latvijas Cilvēktiesību komiteja (Latvian Human Rights Committee <<http://www.lhrc.lv/?lang=lv>> ).

<sup>4</sup> See for instance Latvian Centre for Human Rights, Baltic Institute of Social Sciences, public policy portal [www.politika.lv](http://www.politika.lv). For the list of publications on integration and naturalisation see Muižnieks N.

the governmental institutions. For statistics, the main source of information is the OCMA.

Currently, comprehensive amendments to the Citizenship Law are being reviewed by the *Saeima* (Parliament).<sup>5</sup> Although the amendments were adopted on the second reading the final outcome remains unclear. In addition there is an ongoing campaign to organise a referendum on amendments to the Citizenship Law as a result of which citizenship would be granted to all non-citizens automatically.<sup>6</sup>

The paper will start by providing a short introduction to the context of Latvian citizenship policy. The aim of this study is to discuss the naturalisation procedure in detail by addressing issues of promotion, documentation, discretion of authorities and review procedures. Possible changes in citizenship regulation and their implications will be briefly discussed at the end of the paper.

## 1. Context

The Latvian population has always been multi-national. However, during the Soviet occupation, a large group of immigrants from former Soviet republics arrived in Latvia. Upon restoration of independence Latvia adhered to the State continuity principle which resulted in 673,398 people, or 28.2 per cent of the total population left in a legal limbo. Soviet-era settlers did not qualify for Latvian citizenship. Under international pressure from various Western countries and international organisations Latvia liberalised its citizenship policies. In order to secure the status of Soviet era settlers Latvia created a specific category of persons, namely so called non-citizens.<sup>7</sup>

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(ed.), *How Integrated is Latvian Society? An Audit of Achievements, Failures and Challenges*, University of Latvia Press, 2010, pp. 8-9. One set of research has been initiated by the Integration secretariat part of the Special Assignment Minister's Office for the Integration of Society, another group by Society Integration Foundation, yet another by NGOs and foreign research institutes. There have been also studies on immigration and integration as well as on specific issues related to integration.

<sup>5</sup> The Law was adopted on the 2<sup>nd</sup> reading on 6 September 2012. Available at <<http://titania.saeima.lv/LIVS11/saeimalivs11.nsf/0/6B0459FE75765193C2257A6A004C7D13?OpenDocument>> accessed on 4 October 2012. The final – third reading – is expected by the end of this year.

<sup>6</sup> See EUDO article by Kruma K., Latvia: comprehensive citizenship reform on the agenda in Parliament and in a referendum campaign, available at <<http://eudo-citizenship.eu/news/citizenship-news/700-latvia-comprehensive-citizenship-reform-on-the-agenda-in-parliament-and-in-a-referendum-campaign->> accessed 3 October 2012.

<sup>7</sup> For details on the status of non-citizen and attempts to foster their naturalisation see the country report on Latvia available at <<http://eudo-citizenship.eu/docs/CountryReports/Latvia.pdf>> accessed 16 October 2012.

Table 1: *The population of Latvia as of 01.07.2012*

	Citizens	Non-citizens	Foreigners, refugees or stateless individuals	TOTAL
Latvians	1 312 519	926	1 078	1 314523
Russians	362 951	200 384	35 149	598 484
Byelorussians	30 871	41 294	4389	76 554
Ukrainians	18 494	29 381	5 761	53 636
Poles	38 349	10 368	1 308	50 025
Lithuanians	18 212	7969	2 550	28731
Roma	7 967	436	52	8455
German	2 201	1 188	1 346	4735
Armenian	1 168	1 023	488	2679
Estonians	1 396	452	469	2 317
Other (incl. undeclared or unknown)	46424	11402	9930	67756
<b>TOTAL</b>	<b>1 840 552</b>	<b>304 823</b>	<b>62 520</b>	<b>2 207 895</b>
	<b>83%</b>	<b>14%</b>	<b>3%</b>	<b>100%</b>

Source: *Office of Citizenship and Migration Affairs*, [http://www.pmlp.gov.lv/lv/statistika/dokuments/2012/Latvija\\_TTB\\_VPD\\_010712.pdf](http://www.pmlp.gov.lv/lv/statistika/dokuments/2012/Latvija_TTB_VPD_010712.pdf) accessed on 5 October 2012.

The current naturalisation procedure is relatively simple. However, there are several groups of persons which are excluded from naturalisation, i.e. those who have been associated with political or repressive structures during the occupation regime in Latvia. The Citizenship Law sets criteria for naturalisation which should be either proven by an applicant or institutions when reviewing application. There are special provisions prescribing procedure for naturalisation of children of non-citizens and stateless persons.

Since the beginning of the naturalisation process (1 February 1995) a total of 138,577 applications have been received on behalf of 151,826 persons. Citizenship has been granted to 139,300 persons, including 14,135 children. In recent years the annual rate of naturalisation has been about 2000 persons.<sup>8</sup> While registrations peaked in 2004, ever since then the number of applicants has decreased.

<sup>8</sup> For comparison: 3,134 persons applied for renunciation of non-citizen's status during 2011 and 5,889 persons during 2010. The application for renunciation is submitted when an individual is acquiring citizenship of another State. See Public Survey of the OCMA for 2011. Available at <[http://www.pmlp.gov.lv/lv/par\\_pmlp/publikacijas/Gada\\_parskats\\_2011.pdf](http://www.pmlp.gov.lv/lv/par_pmlp/publikacijas/Gada_parskats_2011.pdf)> accessed 16 October 2012.

Table 2: *Number of people acquiring citizenship by naturalisation*

Year	Persons applying for naturalisation	Naturalised persons
1995	4,543	984
2002	8,370	9,844
2003	11,268	10,049
2004	21,297	16,064
2005	19,807	19,736
2006	10,581	16,439
2007	3,308	6,826
2008	2,601	3,004
2009	3 470	2,080
2010	3182	2336
2011	2771	2467
2012	1552	1627

Source: *Annual Report of the Naturalisation Board 2009*, and <http://www.pmlp.gov.lv/lv/statistika/Naturalizacija.html> > accessed 3 October 2012 (data until 31 August 2012)

According to the statistics up until 31 December 2011, more women than men have applied for naturalisation (83,622 women and only 48,354 men). Most of the candidates were of Russian ethnic origin (89,909) followed by Belarusians (13,727) and Ukrainians (12,294). The statistics on age-groups of applicants reveal that the most frequent group is 18-30 (43,830), but the lowest is among candidates over 61. Most of the candidates applying have secondary education (66,673).<sup>9</sup>

According to a survey of the OCMA carried out in 2011, only 35% of non-citizens are planning to apply for citizenship within one year. Most of the potential applicants are women (64%) and in the age group 15-20 (57%) and 21-29 (53%). There are also regional differences and differences in statistics of families which include Latvian citizens. Traditionally people from the Eastern regions of Latvia and families consisting of only non-citizens have been less likely to apply for citizenship.<sup>10</sup>

There are several reasons mentioned by non-citizens why they do not want to apply for citizenship. According to a survey by the OCMA in 2012, about 24.8% of non-citizens do not apply for naturalisation because they are convinced that citizenship should be granted automatically (in 2011 – 24%), but 21.3% mention that they will not be able to pass the naturalisation exams (in 2011 - 27%).<sup>11</sup> 17.2% of non-citizens are waiting for liberalization of naturalisation (in 2011 – 7%), but 13.5%

<sup>9</sup> Detailed statistics are available at [http://www.pmlp.gov.lv/en/statistics/2010/Naturalizacija\\_1995\\_2010\\_eng.pdf](http://www.pmlp.gov.lv/en/statistics/2010/Naturalizacija_1995_2010_eng.pdf) > accessed 3 October 2012.

<sup>10</sup> See [http://www.pmlp.gov.lv/lv/par\\_pmlp/publikacijas/Nepilsonu\\_attieksme\\_2011.pdf](http://www.pmlp.gov.lv/lv/par_pmlp/publikacijas/Nepilsonu_attieksme_2011.pdf) > accessed on 8 October 2012.

<sup>11</sup> It is interesting to note that in the 2011 survey such a position is taken by respondents who consider their language knowledge as very good (7%) and respondents who say that they can speak Latvian without any difficulty, except for writing (17%). The number of persons who admit the difficulty of exams is higher in the age group over 60 (36%), but younger persons are more self-confident.

don't want to naturalize because of easier travel to the CIS countries with the passport of non-citizen (in 2011 – 14%). The remaining 9% of respondents answered that they don't have time to apply for naturalisation (in 2011 – 8%), but 8.2% said that they are satisfied with the status of non-citizen. The status of non-citizen has become permanent, stable and well protected which does not motivate people to apply for citizenship.<sup>12</sup> Only 24.5% of all respondents noted that in general they are willing to naturalize.<sup>13</sup>

The statistics on pass rates of persons who had taken naturalisation exams show considerable fluctuations. They would require detailed analysis in the context of the changing number of applicants, gradual legislative changes simplifying requirements, including the groups exempted from exams, as well as decreasing availability of the courses offered free of charge. For the purposes of this study statistics for three years of reference are chosen: 1999 – the year after liberalization of Citizenship Law, 2005 – the year after EU accession, and 2011 to illustrate current trends.

Table 3: *Pass rates of naturalisation exams*

Type of exam	Pass	Did not pass	Pass rate	Exempted
History (1999)	13 273	37	0.3%	26
History (2005)	19 269	987	5%	43
History (2011)	2 341	569	24,3%	45
Language (1999)	12 938	115	0,88%	495
Language (2005)	17 198	3 292	19%	2 216
Language (2011)	1 775	1 253	70,6%	400

Source: *The OCMA data, see*

<[http://www.pmlp.gov.lv/lv/statistika/dokuments/Naturalizacija\\_1995\\_2011.pdf](http://www.pmlp.gov.lv/lv/statistika/dokuments/Naturalizacija_1995_2011.pdf)> accessed on 8 October 2012.

The overall context and figures on naturalisation illustrate that facilitation of naturalisation and its regulation should remain on the Latvian political agenda.

## 2. Promotion

Since the Special Secretariat Assignment Secretariat for the Integration of Society was merged with the Ministry for Children and Family Affairs in 2009 and subsequently closed, there are no special institutions involved in promoting naturalisation.<sup>14</sup> Promotion has become one of the functions of the OCMA.

<sup>12</sup> See Kruma K., *An Ongoing Challenge. EU Citizenship, Migrant Status and Nationality. Focus on Latvia*, Media-Tryck, Lund University Sweden, 2012, pp. 392-293

<sup>13</sup> There were 1500 respondents of which 750 had applied for citizenship. The OCMA noted that there had been a 10% decrease in applications. The press release on the survey is available at <<http://www.tvnet.lv/zinas/latvija/438547-piekta-dala-nepilsonu-baidas-no-naturalizacijas-eksamena>> accessed on 8 October 2012.

<sup>14</sup> For a detailed discussion of promotion of integration see Kruma K., *Latvian Integration Policy: Lost in Translation*, in R. van Oers, E.Ersboll, D.Kostakopoulou (eds.), *A Re-definition of Belonging? Language and Integration Tests in Europe*, Martinus Nijhoff Publishers, 2010, pp. 241-270. Certain activities in the field of integration are performed under the auspices of the Ministry of Culture,



At the same time non-citizens are satisfied with the information available to them. According to the survey “*Views of non-citizens about acquisition of Latvian citizenship*” conducted by the OCMA, most of the respondents (61%) replied that they have sufficient information about acquisition of citizenship. At the same time the group of persons who lack information is also considerable (27%). Most are unemployed (31%) and in the age group from 21 to 29 years (30%). The survey also included questions on sources of information which are used by the applicants. Most of the respondents gather information from friends and relatives (32%) or by using internet sources (29%). Contacts with the Naturalisation Board or use of the OCMA info phone were rarely mentioned as sources of information (17% and 6% respectively). There were also regional differences among respondents, i.e. contact with OCMA as a source of information was more popular outside Riga, while the internet was used mostly by non-citizens in Riga.<sup>15</sup>

There are regular information meetings organised by the Naturalisation Board. Meetings are organised on a monthly basis in three Latvian cities - Riga, Daugavpils and Liepaja. These information meetings might be organised also in other cities depending on demand. Information about their location, date and time is available on the web-page of the OCMA.<sup>16</sup>

During the meeting all those who are interested can take a trial exam of the Latvian and knowledge exam followed by the consultation on results of exams (mistakes, explanation of material to be studied and such like). In addition the most frequent questions/answers section is available online.<sup>17</sup> All information is available in both Russian and English.

Application forms are part of the Cabinet of Ministers Regulations available on the OCMA homepage.<sup>18</sup> The application form is printed at the OCMA branch, but if the applicant is disabled the OCMA officials may visit their home. A variety of leaflets and other information is available at the OCMA branches. There is also the possibility to ask questions on-line or use a free information phone line.<sup>19</sup> Internet sources and other types of information are easily accessible and presented in a manner that can be easily understood.

In order to prepare for exams applicants can a study book on the Latvian language exam (LVL 1.83, EUR 2.6), a book of basic questions on Latvian history and the Constitution (LVL 3.42, EUR 4.8) and methodological recommendations for applicants when they prepare for exam on the *Satversme* (Constitution), national anthem and history (LVL 1.45, EUR 2).

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Ministry of Education and Science. In addition the State Employment Agency and the OCMA provide support rather than promote naturalisation.

<sup>15</sup> Survey is available at

<[http://www.pmlp.gov.lv/par\\_pmlp/publikacijas/Nepilsonu\\_attieksme\\_2011.pdf](http://www.pmlp.gov.lv/par_pmlp/publikacijas/Nepilsonu_attieksme_2011.pdf)> accessed 8 October 2012.

<sup>16</sup> See <[http://www.pmlp.gov.lv/lv/pakalpojumi/Naturalizacija/atv\\_durvis.html](http://www.pmlp.gov.lv/lv/pakalpojumi/Naturalizacija/atv_durvis.html)> accessed 3 October 2012.

<sup>17</sup> See <<http://www.pmlp.gov.lv/lv/pakalpojumi/Naturalizacija/BUJ.html>> accessed 3 October 2012 and <[http://www.pmlp.gov.lv/lv/forums/?forum\\_a=tlist&forum\\_gid=27](http://www.pmlp.gov.lv/lv/forums/?forum_a=tlist&forum_gid=27)> accessed 3 October 2012.

<sup>18</sup> Available at <<http://www.likumi.lv/doc.php?id=232793&from=off>> accessed 4 October 2012.

<sup>19</sup> The efficiency of the site has been verified by author of the report, see link

[http://www.pmlp.gov.lv/lv/forums/?forum\\_a=tlist&forum\\_gid=27](http://www.pmlp.gov.lv/lv/forums/?forum_a=tlist&forum_gid=27) , accessed 8 October 2012.

During the first years after regaining independence the learning of Latvian was supported by both national institutions and international donors.<sup>20</sup> Language courses were provided for candidates for naturalisation and specific groups, mainly the unemployed and job-seekers. Although the donations had been impressive and the courses well attended, the overall numbers of persons benefitting from them was not significant.<sup>21</sup>

The State Language Agency under the auspices of the Ministry of Education and Science organises courses for specific groups at A1 level and free of charge online teaching materials in both Russian and English for those who want to study by themselves.<sup>22</sup> It is expected that starting from 2013 free language courses will be offered to special groups also by the Society Integration Fund (which had to terminate programs in 2009 due to lack of resources).

Persons who qualify for a voucher issued by the State Employment Agency under the auspices of the Ministry of Welfare can use it when paying to attend language courses. Similarly several local governments, for instance Riga City Council, finance language learning courses. Certificates obtained after these courses in certain cases can serve as documents allowing for exemption from the language exam.<sup>23</sup> The Naturalisation Board itself recommends attending language courses offered by the Latvian Folk School which has extensive experience acquired during 20 years in teaching Latvian for naturalisation exams. It has also attracted financial support from outside Latvia, local governments, the OCMA (for repatriates) and the State Employment Agency, thus being able to offer courses free of charge.<sup>24</sup> Since 1989 the School has prepared 133 Latvian language teachers, issued education material and its courses have been attended by 29,000 people.<sup>25</sup>

Since language certificates obtained for application for permanent residence or for performance of professional duties are accepted also in cases of naturalisation an applicant can study and use the trial version of this exam online.<sup>26</sup> The exam is

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<sup>20</sup> The major donors were the United Nations Development Program, EU, OSCE, the USA, Sweden and Norway. For instance, the National Agency for Latvian Language Training (NALLT) was financed by both the EU and the NATO Member states (total amount approximately EUR 10 million) and the EU PHARE Program (total allocation during 1996-2002, EUR 5 million. Lerhis, A., Kudors, A. (2008) *'Outside Influence on the Ethnic Integration Process in Latvia'*, 2<sup>nd</sup> ed., Centre for East European Political Studies, p. 18.

<sup>21</sup> For instance, the courses within the National Program during the period 1996-2002 were attended by 50,000 people (12% of those whose native language is not Latvian) Djačkova, S. 'Latvian language proficiency and the integration of society' (2004) <<http://www.politika.lv/print.php?id=3989>>, accessed 2 February 2008, 47, 49, 54.

<sup>22</sup> For details see <[http://www.valoda.lv/en/Valodas\\_apguve/Courses/684/mid\\_631](http://www.valoda.lv/en/Valodas_apguve/Courses/684/mid_631)>, <[http://www.valoda.lv/Valodas\\_apguve/E-macibu\\_lidzekli/768/mid\\_578](http://www.valoda.lv/Valodas_apguve/E-macibu_lidzekli/768/mid_578)> accessed 8 October 2012.

<sup>23</sup> See section 3 *Discretion of Authorities* of this study.

<sup>24</sup> For details see <<http://www.lafs.lv/lv/kursi/latviesu-valodas-apguve/>> accessed 8 October 2012.

<sup>25</sup> Interview with Ms. Gaida Masaļska, Head of Latvian Folk School. School was involved in 4-5 projects annually. More detailed information on courses and other projects on personal file with author. 20 March 2012. See also their home page: <<http://www.lafs.lv/lv/aktualitates/>> accessed 20 March 2012.

<sup>26</sup> Available at <<http://visc.gov.lv/valval/uzdevumi.shtml>> accessed 8 October 2012. For instance, since 2004 the Latvian Language agency has organised courses aimed at parents of pre-school and elementary school students.

organised by the Center of State Education Curricula under the auspices of the Ministry of Education and Science.

There are no regular citizenship ceremonies organised. Until 2010 naturalised citizens received an extract from the decree of the Cabinet of Ministers. These extracts were given to naturalised persons either at the regional branches of the Naturalisation Board or during special ceremonies at the local government. At present there is a new system: naturalised persons are not given the extract from the decree. They receive notification to appear at the OCMA and apply for a passport. The information on the decree formally appears in the Official Gazette. A press release is circulated by the OCMA and different News Agencies.

The Social Cohesion Committee of the *Saeima* has initiated a debate on the need to promote naturalisation. The working group, consisting of MPs who work in this Commission, has drafted a report containing a number of very specific suggestions.<sup>27</sup> For instance, the group suggests that the home page of the OCMA makes information on naturalisation more visible in Russian and English. They also suggest that information by phone should be provided not only in Latvian and English, but also Russian; information materials should be more motivating and the premises more comfortable. The report of the group concludes that access to courses should be facilitated by compensating course-fees upon naturalisation and providing on-line tests. Among other suggestions they also ask whether there is a need to re-introduce naturalisation ceremonies which would make the naturalisation process more solemn and ceremonial. The deadline for public debate is set as 1<sup>st</sup> December 2012.

## 2. Documentation

The naturalisation procedure is organised in accordance with the Cabinet of Ministers Regulation No. 521 *on the Procedure for Acceptance and Examination of Application for Naturalisation*.<sup>28</sup> According to Section 3 of Regulation No. 521 an applicant should submit an application form and show a valid ID, such as a passport (foreign, non-citizen, stateless person etc.) or ID card. The definition of the IDs issued in Latvia is spelled out in the Law on Personal IDs.<sup>29</sup> In addition an applicant should submit: proof of legal income<sup>30</sup>; a document testifying that State duty is paid or a

<sup>27</sup> For the full text of the report see

<[http://saliedetiba.saeima.lv/attachments/200\\_ZINOJUMS%20NAT.DARBA.GRUPA-1.doc](http://saliedetiba.saeima.lv/attachments/200_ZINOJUMS%20NAT.DARBA.GRUPA-1.doc)> accessed 8 October 2012; for news report see <<http://www.saeima.lv/lv/aktualitates/saeimas-zinas/20062-sabiedribas-saliedetibas-komisija-turpina-darbu-pie-naturalizacijas-procesa-pilnveidosanas>> accessed 8 October 2012.

<sup>28</sup> English text of the Regulation is available at

<[http://www.vvc.gov.lv/export/sites/default/docs/LRTA/MK\\_Noteikumi/Cab\\_Reg\\_No\\_521\\_-\\_Receipt\\_and\\_Examination\\_of\\_Applications\\_for\\_Naturalisation.doc](http://www.vvc.gov.lv/export/sites/default/docs/LRTA/MK_Noteikumi/Cab_Reg_No_521_-_Receipt_and_Examination_of_Applications_for_Naturalisation.doc)> accessed 8 October 2012.

<sup>29</sup> For English translation see

[http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumi/Personal\\_Identification\\_Documents\\_Law\\_doc](http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumi/Personal_Identification_Documents_Law_doc) accessed on 21 March 2012.

<sup>30</sup> There are no prescriptions about what amount of income is required. In practice the OCMA accepts a certificate from the place of work; from the State Social Insurance Agency that the person receives a benefit or pension; the State Employment Agency that the person receives an allowance; from an educational establishment that the student receives a stipend; from a bank stating the amount of money deposited or confirming a positive balance; a pensioner's certificate etc.

document on exemption from payment; and a photo. If a person is a Latvian non-citizen or stateless person, s/he has to sign confirmation that s/he is not a citizen of another State (Section 4 of Regulation No. 521). The applicant is also required to sign a pledge to Latvia (Section 5 of Regulation No. 521).<sup>31</sup>

Regulation No. 521 allows a person who has been naturalised to apply for citizenship on behalf of a child under 15 by filling in the form. According to Section 7 of Regulation No. 521, the application should be signed by parents or a person exercising custody of a child. A child who is 14-15 years old should also sign the application.. Signatures of parents require confirmation by a notary if the application is not signed at the OCMA branch. In practice, parents are reminded of the possibility of registering their children as citizens.

If the Naturalisation Board establishes that the child might have a 'legal link' with another State (born, resided outside Latvia, one of his/her parents is a citizen of another State), the applicant should submit a document which testifies that the child is not a citizen of another State or confirmation that such a document is not available/or it is impossible to obtain such a document (Section 9 of Regulation No. 521). If the Naturalisation Board establishes that a child below full age was born or resided outside Latvia or if one of the parents, when the child was born, was a citizen of another State, it requires notification from the embassy of the respective State as to whether the child has another citizenship. If a child is a citizen of another State, the Board requests they renounce their previous citizenship.

Officials of the regional branch check whether the applicant and his/her child comply with residence requirements (Article 12(1) indent 1 and Article 15 (3) indent 2 of the Citizenship Law) and issue an order for exams if necessary.

The Naturalisation Board requires that all documents for naturalisation are submitted when the applicant presents documents testifying that s/he has passed naturalisation exams or is exempted from exams. In addition, a document confirming renunciation of the previous nationality should be attached (Section 13 of the Regulation No. 521).<sup>32</sup>

Article 19 of the Citizenship Law states that the language exam should be passed. Article 21 provides that persons who have acquired basic, secondary or higher education in Latvian should be exempted from the language test. In addition Article

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<sup>31</sup> Text of the pledge: *'pledge that s/he will be loyal only to the Republic of Latvia; undertake to fulfil the Constitution and laws of Latvia in good faith and with all vigour to protect them. Applicant undertakes, without regard to his/her life, to defend the independence of Latvia and to live and work in good faith, in order to increase the prosperity of Latvia and of the people'*.

<sup>32</sup> According to the Naturalisation Board an applicant should submit an application testifying that s/he will acquire Latvian citizenship to the relevant Embassy. In case of foreign citizens, the Naturalisation Board issues a letter of guarantee to be submitted at the relevant embassy to acquire an expatriation permit. The length of validity of the letter is 6 months. In case a person does not succeed during this period, there is another check with State security institutions and a new letter of guarantee is issued. When a person submits a letter confirming renunciation of previous nationality, the name of the person is included in the draft decree of the Cabinet of Ministers.

<[http://www.pmlp.gov.lv/lv/forums/?forum\\_a=thread&forum\\_tid=4804&forum\\_gid=27](http://www.pmlp.gov.lv/lv/forums/?forum_a=thread&forum_tid=4804&forum_gid=27)> accessed on 23 February 2012.

21(3) of the Citizenship Law provides that persons who have reached 65 years of age should be exempted from the written part of language exam.

The procedure for exams is regulated in greater detail by Regulation No. 522 *on the Examination of Knowledge of Latvian and the Knowledge of the Fundamental Principles of the Constitution, the Text of the National Anthem and the History of Latvia According to Citizenship Law*. According to Section 20 of the Regulation the language exam is passed if an applicant has got at least 16 points for each part of the exam out of a maximum 25 points. Oral parts of the exam are recorded. According to Section 29 of Regulation No.522, the written part of the knowledge exam is passed if an applicant has:

- 7 out of 10 points for History;
- 5 out of 8 points for Knowledge of the Constitution;
- 1 out of 2 points for Knowledge of the Anthem.

The exams are scheduled on a regular basis.<sup>33</sup> According to Section 11 of Regulation No. 522 the language exam takes place within a two month period after the person has submitted documents to the OCMA (Section 11 of Regulation No. 522), but the knowledge exam – within two months after the language exam (Section 23 of Regulation No. 522). If person is exempted from the language exam, the knowledge exam is scheduled within a two months period after all documents for naturalisation are submitted to the OCMA.

If the applicant does not show up at the exam but there are valid reasons, s/he should submit documents confirming the absence and the Board will set another date for the exam (Section 6 of the Regulation No. 522). In cases where an applicant fails to pass either the language or knowledge exam, s/he can retake the language -exam a second and third time three months after the last examination (at the earliest). The applicant can retake the knowledge exam for a second and third time after one month since their last exam. Three chances to take the exam are given during a single naturalisation procedure but in case of failure to pass the exam for the third time, an applicant should re-apply for naturalisation (Section 7 of Regulation No. 522).

After the exams a personal file is sent to the Naturalisation Board for further checks. The Board checks compliance with the requirements for naturalisation of the applicant and children according to Citizenship Law and Regulation No. 521 (Articles 12, 14-16, 18-21 of the Citizenship Law). The Naturalisation Board verifies whether information provided in the application form is correct by using 4 databases and case material which is at the disposal of the OCMA. In addition, according to Section 14 of Regulation No. 521 the Naturalisation Board requests information from: the Information Centre of the Ministry of Interior; the Centre for the Documentation of

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<sup>33</sup> For instance, during 2011 the OCMA organised 324 language exams and 348 knowledge exams. The numbers increased because there was change in the Regulation allowing people to retake the language exam after 3 months while previous Regulation specified the term at 6 months. Similarly with the knowledge test – previously 3 months, but currently a one month term is set. See annual report of the OCMA for 2011, available at [http://www.pmlp.gov.lv/lv/par\\_pmlp/publikacijas/Gada\\_parskats\\_2011.pdf](http://www.pmlp.gov.lv/lv/par_pmlp/publikacijas/Gada_parskats_2011.pdf) accessed 16 October 2012.

the Consequences of Totalitarianism; State security institutions (Security Policy, Defense Intelligence Security Service).

Section 15 of Regulation No. 521 allows the Naturalisation Board discretion to request information from other institutions.<sup>34</sup> In practice, the Board has approached the Public Prosecutor, the courts, the State Revenue Service, the State Employment Agency, the State Commission on Medical Expertise of Health and Capacity to Work, the State Curricula Centre, local governments and other similar organisations. The information is requested in writing. Correspondence with State security institutions is organised electronically. According to Section 14 of Regulation No. 521 institutions must provide their answers within a month. In more complicated cases, the time for an answer can be extended up to 4 months. However, in practice institutions approached usually provide answers within 1-2 weeks.

If during the examination of the application there is information that the situation has changed (for instance, the applicant faces criminal charges), the naturalisation process is interrupted or the application for naturalisation is rejected. Such cases are rare and there are no specific statistics on these situations. However, there is data on persons whose applications were rejected.

Table 4: *Statistics of rejected application*

	1995 - 2010	2011	Total
Co-operation with KGB	26	0	26
Former USSR militaries	24	0	24
Convicted persons	418	27	445
No record of permanent residence for 5 years	66	0	66
Breached the rules on examinations	33	5	38
Total	567	32	599

Source: *answer by the Naturalisation Board on 8 March 2012 (on personal file with the author)*

All decisions of the Naturalisation Board should be based on the facts proven by documents. For instance, personal behavior is taken into account if there are reports from the Security Police that a person has been sentenced, and length of residence will be checked with the Population Register available at the OCMA.

Following a positive decision the applicant is listed in the draft decree of the Cabinet of Ministers on *Admission to Latvian Citizenship on Basis of the Naturalisation Procedure*. The information is sent to the applicant two weeks before the decision of the Cabinet is expected and after the decision is made.<sup>35</sup> The

<sup>34</sup> See also section 3 of this study.

<sup>35</sup> See case No. 2010-64-01 of the Constitutional Court, paragraph 12. The case concerned non-citizen who naturalised. The Regulation no. 35 (now replaced with the Regulation No. 521) did not prescribe the time-limit during which the Naturalisation Board should inform person. The Board cannot reasonably know when exactly Cabinet of Ministers will adopt a decree. Moreover, decision of the Cabinet is political decision which might differ from the decision of the Naturalisation Board. In practice, decree enters into force on 14<sup>th</sup> day after its adoption thus allowing person to apply for passport. The Court criticized the fact that the term for entry into force of the decree is not prescribed by Regulation.



Naturalisation Board is obliged to inform individuals. Applicants can also approach the Naturalisation Board and ask about the progress of their application. An applicant becomes a citizen when a decree of the Cabinet of Ministers becomes effective.

### 3. Discretion of authorities

The discretion of authorities – the Naturalisation Board and the OCMA - is limited because all decisions should be based on the Citizenship Law or relevant Regulation. Decisions are subject to appeal to the Head of OCMA within the term of one month, after which a person may file a complaint in the administrative court.<sup>36</sup>

There is limited discretion for authorities to exempt an applicant from the naturalisation exams because grounds for exemptions are spelled out in Regulation No. 522. An applicant can be exempted from the language exam if s/he presents (i) a certificate issued after 1 September 2009 which testifies that the applicant has achieved level B or C on the exam for professional duties, to obtain a permanent residence permit or EU long-term resident status (these exams can be passed at the State Education Curricula Center); (ii) a certificate testifying that the applicant has passed a centralized exam in Latvian when graduating from elementary or secondary school at level A, B, C, D (exams are taken when person graduates school); (iii) a certificate testifying that an applicant has studied at an elementary, secondary or higher education establishment in Latvian (Section 10 of the Regulation No. 522). An applicant who is 65 years old is entitled to pass listening and reading part of language exam orally (Section 19 of Regulation No. 522).<sup>37</sup>

There is also a special procedure for applicants with very severe disability as verified by a certificate of the State Commission on Medical Expertise of Health and Capacity to Work (Article 21(2) of the Citizenship Law and Section 12 of the Regulation No. 521).<sup>38</sup> In cases where a person does not have the document from the Commission, it can be requested by the Naturalisation Board itself.

Similarly in the case of the knowledge exam an applicant should present a certificate on very severe disability or a certificate issued by the State Commission on Medical Expertise of Health and Capacity to Work which allows a person to qualify for a simplified procedure or exemption from the exam (Section 12 of the Regulation No. 521).

Regulation No. 522 is very specific in enumerating groups of applicants to be exempted from the exams. Section 31 provides that an applicant with very severe disability or with severe disability (progressive mental illness), or an applicant with

<sup>36</sup> See section 4 of this study.

<sup>37</sup> See Section 2 on the exemption of these candidates also from the writing part of the language test (Article 21 (3) of the Citizenship Law).

<sup>38</sup> The system in Latvia stipulates that disabled persons are grouped into three categories: very severely disabled persons, severely disabled persons and moderately disabled persons. The category for each person is established by the Commission that evaluates to what extent a person has lost his or her ability to work. The document on disability is issued by the Commission according to Regulation no. 1209 (adopted on 28 December 2010). Person should approach his doctor who issues relevant documents to approach the Commission. Detailed information is available at <<http://www.vdeavk.gov.lv/>> accessed 8 March 2012.

severe and moderate disability (binaural deafness or deaf-and-dumb), is exempted from both exams. According to Section 33 of Regulation No. 522 applicants who are severely and moderately disabled who have lost their (right/left) arm or hand as well as applicants with severe or moderate visual disability are exempted from the written language test. The oral language exam should not be taken by applicants with severe or moderate speech defects while the listening and oral part of the exam is not applicable for the severely and moderately hearing impaired (Sections 34 and 35).

The discretion of the authorities appears only in Section 36 which provides that the Head of the Naturalisation Board or an authorized person has the right to exempt a person from certain parts of the exam if the applicant is disabled and is in possession of a medical certificate validating such decision.

The discretion of authorities is limited also in relation to fees because the categories of applicants who are entitled to pay a lowered fee or exempted from this obligation are enumerated in Regulation No. 234 *on the Fee for the Submission of Applications for Naturalisation*. The regular fee or State duty for naturalisation is 20 LVL (EUR 28). The table below illustrates changes in fees and groups of persons who are exempted or should pay a lowered fee.



Table 5: *Fees for naturalisation*

Fee set	Group	Regulation	Publication
30 LVL (43 EUR)	Regular	No.397	OG 314, 4 December 1997
15 LVL (21 EUR)	Retired, disabled, students of accredited secondary, professional and higher education establishments		
None	Politically repressed, severely disabled, orphans		
Lowered	Poor, according to the decision of the Director of the Naturalisation Board		
20 LVL (29 EUR)	Regular	No. 234	OG 97, 22 June 2001
10 LVL (14 EUR)	Retired, disabled, students		
3 LVL (4 EUR)	Poor, unemployed, family members of families having three or more minor children		
None	Politically repressed, vey severely disabled, orphans, people in social care institutions owned by State or local government		
3 LVL (4 EUR)	Poor and their family members, unemployed, family members from families having three or more minor children, retired, disabled (severely or moderately), full time students (secondary, professional, higher education establishments)	No 525 amending No. 234	OG 129, 19 September 2003

The State duty is paid via bank transfer before submission of the naturalisation application. Persons exempted partially or wholly from paying should submit documents confirming their status. Documents testifying that a person is poor or is a family member of a poor person are issued by the local government. In most cases a lowered fee is paid by students, unemployed as well as retired persons.

Table 6: *Percentage of persons paying different fees*

Naturalisation fee	1995-2011	2011
Regular	57,5%	47%
Decreased	41%	52%
None	1,5%	1%

Source: *answer by the Naturalisation Board on 8 March 2012 (on personal file with the author) and statistics on naturalisation published by the OCMA, available at <[http://www.pmlp.gov.lv/lv/statistika/dokuments/Naturalizacija\\_1995\\_2011.pdf](http://www.pmlp.gov.lv/lv/statistika/dokuments/Naturalizacija_1995_2011.pdf)> accessed 8 March 2012.*

The naturalisation procedure does not entail any additional costs. However, additional expenses can be incurred by the applicants if they have to purchase study material, attend courses to prepare themselves for naturalisation exams, travel to cities where exams can be taken and such like.

After naturalisation exams are passed and the applicant has paid the State duty, further examination of the application takes place. According to Section 11 of Regulation No. 521 the Naturalisation Board adopts negative decision if:

- an applicant has not submitted all documents;
- the information submitted does not correspond to the requirements of Citizenship law;
- the applicant refuses to sign the pledge;
- the applicant has not observed provisions concerning children below age of 15;
- an applicant has not given up another citizenship.

Section 17 of Regulation No. 521 allows the authorities to stay/suspend naturalisation in the following cases:

- If the applicant is facing criminal charges
- there is a procedure initiated to verify applicant's co-operation with KGB (USSR or LSSR)<sup>39</sup>
- there is information from the Centre for the Documentation of the Consequences of Totalitarianism<sup>40</sup> that the applicant had been an employee of a security committee or the security offices of another State, an employee of the intelligence or other special service, an informer, an agent or a person who allows the secret services to use his/her apartment for the purposes of secret operations.
- the applicant has not submitted documents testifying renunciation of another citizenship during 6 months without valid reasons<sup>41</sup>.

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<sup>39</sup> See case of Oļegs Tiškevičs, Administrative district court No A 42521307, 24 July 2009, Regional Administrative court, 31 August 2010 and Senate of Supreme Court, Department of Administrative Cases, 8 March 2011. This person applied for Latvian citizenship but proceedings were stopped because the Naturalisation Board received information that the person has co-operated with the KGB. Instead of filing an application to the Prosecutor on verification of the fact of co-operation, the applicant appealed the decision of the Naturalisation Board. After one year the Naturalisation Board took a negative decision on naturalisation because the applicant did not file an application to the Prosecutor. The applicant filed a complaint at the administrative court. All three instances of administrative courts agreed that the decision to stay proceedings is not an administrative act which can be disputed in court. It was an inter-mediate decision which can be verified in the court only in the context of a final administrative act, i.e. in this case the decision on refusal of application for naturalisation.

<sup>40</sup> The Centre acts on the basis of the Law on Preservation and Use of Documents of the State Security Committee (KGB) and on the Establishment of the Fact of Collaboration with the KGB. The functions include provision of reference information to public authorities, natural entities and the Latvian security institutions concerning the facts of collaboration with the KGB.

<sup>41</sup> The letters of guarantee can be extended for any duration and re-issued every six month subject to proof that the person himself/herself has started the renunciation procedure within 6 months. For the time being it remains unclear what is the result of a decision if a person receives an expatriation permit but does not acquire Latvian citizenship as a result of a political decision taken by the Cabinet of Ministers. A person would have to re-apply for original citizenship. Possible amendments might provide that a person is required to renounce citizenship only after a decision of the Cabinet of Ministers is adopted. Citizenship Law also does not prescribe for situations when a person cannot renounce his/her previous citizenship according to the nationality regulations of another State.

When the naturalisation process has started it can be terminated due to several reasons which are enumerated in Section 18 of Regulation No. 521. The Naturalisation Board takes an administrative decision to terminate the naturalisation procedure if:

- an applicant requests to discontinue procedure;
- the applicant has acquired Latvian citizenship according to registration procedure or for merit;
- after one year term has passed since the naturalisation procedure is suspended because of information received from the Centre for the Documentation of the Consequences of Totalitarianism and the applicant has not approached the Public Prosecutor asking to verify the fact of co-operation;
- an applicant has not submitted or has not acquired a document testifying renunciation of another citizenship within a one year period since the naturalisation procedure has been suspended;
- the applicant does not appear at a Latvian language exam or knowledge exam and during two months has not submitted documents confirming valid reasons for that;
- applicant does not pass or refuses to take naturalisation exams three times;
- a minor has reached 15 years of age before the Cabinet issues the decree on naturalisation.

According to Section 19 of Regulation No.521 the Naturalisation Board refuses naturalisation if:

- an applicant has submitted false information;
- there are no legal grounds for naturalisation or they no longer exist;
- an applicant has violated the procedure of the naturalisation exams.

In cases of a negative decision the Naturalisation Board adopts an administrative act on the refusal to enlist an applicant in a draft decree of the Cabinet of Ministers (Section 18, the Regulation No. 521). After receiving the act, an applicant can re-apply for naturalisation. However, in case where a person has been refused naturalisation on the basis of Section 19 of Regulation No. 521, an application can be re-submitted after one year.

The maximum length of naturalisation procedure is set by law, i.e. according to Article 17 (2) of the Citizenship Law the application should be examined and an answer provided within one year after all the documents have been submitted. No further extension is provided. In practice, according to the Naturalisation Board, the naturalisation procedure takes about 3-4 months after all documents have been submitted and examinations passed.<sup>42</sup>

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<sup>42</sup> Information provided by the OCMA under section „Frequently asked questions” <<http://www.pmlp.gov.lv/lv/pakalpojumi/Naturalizacija/BUJ.html>> accessed 23 February 2012. Is confirmed by specific on-line questions-answers option at OCMA home page. From the various responses made to individual cases the time period between passing exam and receiving passport is about half a year <[http://www.pmlp.gov.lv/lv/forums/?forum\\_a=thread&forum\\_gid=27&forum\\_tid=4995&forum\\_offset=1#list](http://www.pmlp.gov.lv/lv/forums/?forum_a=thread&forum_gid=27&forum_tid=4995&forum_offset=1#list)> accessed 7 March 2012.

If the delay of procedure is caused by the OCMA or the Naturalisation Board the applicant can sue institutions on the basis of Article 89 of the Law on Administrative procedure (responsibility for the conduct of the institution).<sup>43</sup>

#### 4. Review

The applicant is entitled to appeal decisions of the Naturalisation Board and the OCMA. There is a procedure for appeal within the OCMA and subsequently in the administrative court.

According to Section 40 of Regulation No. 522 the decision of the examination commission can be appealed to the Head of OCMA within one month after the applicant has been notified of the decision. The decision is reviewed by the Naturalisation Board which prepares a draft opinion of the Head of OCMA. It should be noted that examination commissions are part of the OCMA branches. Only after the final decision rejecting application for naturalisation is taken can an applicant turn to the court.

The Board and the OCMA adopt decisions on the basis of the Decree on internal regulations of OCMA No. 210 (11 November 2011). The decree sets detailed guidelines for evaluation of exams. However, this document is not publicly available according to Article 5 (2)(2) and Article 6 (1) of the Law on Free Access to Information. It is classified as restricted information.<sup>44</sup>

If an applicant considers that the decision has not been adopted lawfully s/he can appeal the decision of the Naturalisation Board, or sue the Board on the conduct of the institution. Article 49 (2) of the Law on Administrative procedure states that in cases where an institution does not observe the time-limit set in law, a person can lodge an application with the court. Articles 89 - 91 of the Law on Administrative Procedure provide the definition for conduct of institution within the meaning of administrative procedure.

According to Article 89(2) misconduct of the institution is *inter alia* inaction of the institution if it was obliged to take a decision within a given time limit. Thus, in cases where the answer of the Naturalisation Board is not issued during one year, a person can submit an application to the OCMA (Article 91 of the Law on Administrative Procedure) and expect a swift response. According to Article 91 (3) a person who considers that the decision of an institution is erroneous should submit an application to the institution and ask them to take a different decision. If an application is declined a person can appeal it as an administrative act. Decisions of the administrative district court are not subject to appeal. This option, however, remains unclear due to the lack of case-law and appeals submitted about the naturalisation procedure. At the same time it cannot be excluded, that a case might arise a person

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<sup>43</sup> See next section of the study on review procedures.

<sup>44</sup> Text of the law in English is available at [http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumi/Freedom\\_of\\_Information\\_Law.doc](http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumi/Freedom_of_Information_Law.doc), accessed 20 March 2012.

where a person is entitled to claim compensation for personal or moral harm (Article 92 Law of Administrative Procedure).<sup>45</sup>

The Naturalisation Board can take a negative decision and issue an administrative act refusing citizenship. According to Article 17(3) of the Citizenship Law the decision is subject to appeal in court.

According to Article 105 of the Law on Administrative Procedure the case is dealt with by the first instance court and can be appealed to the court of the second instance. The ruling of the second instance court can be submitted to the Supreme Court for cassation. Article 124 of the Law on Administrative Procedure provides that the State duty is 10 LVL (14 EUR), and 5 LVL (7EUR) for appeal. Certain groups of persons can be exempted from payment (Article 128 of the Law).

An appeal of the decision of the Naturalisation Board can be based on decisions taken during the procedure as well as on legal grounds for an administrative act refusing acquisition of citizenship. The burden of proof primarily lies with the Naturalisation Board and if necessary also the court itself.

According to Article 184 of the Law on Administrative Procedure an applicant can ask the court to rule on:

- an obligation to issue an administrative act, setting aside (set aside in full, in part, including alteration) the act, validity (declaring invalid, declaring as having ceased to be in effect or declaring valid a revoked) or illegality;
- the conduct of an institution.

When an application is submitted to the court, it can take a decision to initiate proceedings, refuse to accept the application or leave it without further actions (Article 190 of the Law on Administrative Procedure). According to Article 192 an application is left without further actions in case of procedural deficiency. The decision of the court not to accept an application can be appealed in the procedure of 'related appeal'. Once it is solved the application can be resubmitted and is considered as submitted on the initial date of submission.

When ruling on the merits of an application the court can judge on the validity of an administrative act or the conduct of an institution (Article 250 of the Law). According to Article 253 of the Law on Administrative Procedure an administrative act (a decision of the Naturalisation Board) can be repealed or declared null and void. The Court can also alter the administrative act, order compensation and request the institution to issue a new administrative act (Article 254 of the Law).

In cases where the court rules on the conduct of the institution it orders to perform a certain function and sets a time limit for implementation (Article 255 of the Law). If the court has been requested to adjudge on legality of conduct, it decides on that issue.

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<sup>45</sup> Although the conduct of institution is subject to appeal, the intermediate decisions of the institutions can be appealed only after the Naturalisation Board/OCMA takes a final decision – positive or negative – on the application for naturalisation.

A ruling becomes effective if no appeal is submitted within a 20 day period. An applicant can also withdraw their appeal.

Cassation to the Supreme Court can be lodged in case a lower court has breached substantive or procedural provisions when dealing with the case. Substantive norm is breached if the court has not applied the correct provision or did not interpret the provision correctly (Articles 325-327 of the Law on Administrative Procedure). Cassation can be submitted within a 30 day period. As a result of the ruling the case can be returned to lower court for revision.

There is also a possibility to re-initiate proceedings due to newly discovered facts (Chapter 39 of the Law on Administrative Procedure).

The cases of appeal on the decisions of the Naturalisation Board are rare (on average, once in 5 years). The last case was the *Linderman case* where the applicant appealed a negative decision of the OCMA (Case No. A420744110).<sup>46</sup> The Court decided that the OCMA should accept the application for naturalisation and to review it according to procedures provided in relevant regulations. At present the case is being appealed by the Naturalisation Board (scheduled for 2013). The case was and still is widely debated in public.

While a decision of the OCMA can be appealed, there is no appeal against a decree of the Cabinet of Ministers. According to the ruling in *Petropavlovskis case* the decision of the Cabinet to grant citizenship is political and not subject to appeal.<sup>47</sup>

Since the *Petropavlovskis case* for the time being unique, it can be argued that in practice contradictory decisions of the OCMA and the Cabinet of Ministers are possible. The OCMA adopts an administrative act on the basis of criteria set in Articles 11 and 12 of the Citizenship Law. In turn, the Cabinet of Ministers takes a political decision. In cases where a decision of the Cabinet is negative, it does not affect the fact that the decision of the OCMA had been positive.

## Conclusions

This study has shown that the naturalisation procedure is regulated in great detail and that the discretion of institutions is limited, except in cases of the Cabinet of Ministers. Although promotion of naturalisation has decreased over the last years, the procedure is simple and accessible. The reasons for low interest are well documented and once there is political will, promotional activities could be targeted at potential

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<sup>46</sup> Judgment of 31 October 2011. The application of Mr. Vladimirs Lindermans, non-citizen, was declined by the OCMA because he could not prove permanent residence in Latvia for five years preceding application. The OCMA noted that applicant has resided in Russia from 2002-2008 but declared his residence in Latvia only in 2009. Therefore, at the time of application - in 2010 - he had not resided in Latvia for five consecutive years. The Court disagreed with OCMA and stated *inter alia* that from the facts of the case the Court cannot derive that applicant by being absent from Latvia was willing to sever his links with the country. Court also noted that he has resided in Latvia permanently from 4 May 1990 until 2000 and afterwards from 2008. Moreover, he has held status of non-citizen for all these years.

<sup>47</sup> Decision of the Administrative Department of the Senate of the Supreme Court, 11 April 2006, [http://www.pctvl.lv/?lang=lv&mode=archive&submode=year2006&page\\_id=679](http://www.pctvl.lv/?lang=lv&mode=archive&submode=year2006&page_id=679), accessed 7 March 2012.

candidates in an effective manner. The decisions during naturalisation in most cases are subject to effective appeal. This should raise the legal certainty for potential candidates. However, there are two different proposals to amend the Citizenship Law. The amendments discussed in *Saeima* can decrease interest in applying for citizenship, while the potential referendum can turn naturalisation into a marginal issue in Latvia.

There are ongoing debates in the *Saeima* on amendments to the Citizenship Law. The main amendments concern liberalization of regulation of dual nationality. However, there are also amendments which might influence the process of naturalisation. Since the amendments are still in the process of adoption and there are heated debates in the commissions, it is difficult to predict the final outcome.<sup>48</sup>

There are four important amendments which can affect naturalisation. The first concerns the naturalisation of children born after 21 August 1991 to parents who are either stateless or non-citizens. The procedure has been simplified because new amendments no longer require that application for citizenship should be submitted by both parents. However, the requirement of permanent residence for five years is preserved. Moreover, parents will be required to sign a pledge that they will assist their child in learning Latvian and will raise the child as loyal to the Republic of Latvia. This procedure applies until a child reaches 15 years of age.

In cases where an applicant would be a child in the age group 15-18, s/he should prove permanent residence and knowledge of Latvian. In addition, other limitations for applying for citizenship would apply, including if a child has committed a severe crime.

The other conditions for naturalisation which apply also to children in the age group 15-18 have been widened. The amendments provide that an applicant who by their conduct and actions threatens public security and the public order of Latvia or the constitutional values enshrined in *Satversme* (Constitution) should not be naturalised. The fact of such threat or conduct should be established by the 'competent authorities'. The draft article proceeds with an enumeration of more specific examples of conduct and actions but the enumeration is not exhaustive. The Law in force does not contain references to values in *Satversme* and all decisions leading to exclusion of applicant from the naturalisation have to be based on a court decision. Draft amendments also *expressis verbis* provide for discretion of the Cabinet of Ministers to take a decision on naturalisation which is of no appeal.

It is also planned to amend the article on exemptions from naturalisation exams. The article itself does not provide for significant changes in the present procedure, i.e. it repeats the groups mentioned in the Regulation currently in force. However, mentioning of groups in the Law will raise legal certainty and is in line with a legal technique.

Amendments related to dual nationality will not affect naturalisation because for the time being dual nationality is seen as a 'one direction' process in cases if

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<sup>48</sup> Moreover, according to Latvian legislative procedures, the President might refuse to sign the law and return it to the *Saeima* for revision. If *Saeima* refuses to change the law, the President can initiate referendum. Even if the Law is adopted it might be challenged in the Constitutional Court.

Latvian citizens acquire another nationality of States enumerated in the relevant article.

Another development which might affect naturalisation is the proposed referendum on amendments to Citizenship Law. The proposed amendments of the Citizenship Law provide that non-citizens should be registered as citizens by 1 January 2014 except if they have not submitted an application to the Cabinet of Ministers that they want to retain non-citizen status by 30 November 2013. The proposal also provides that the Cabinet of Ministers and Office of Citizenship and Migration Affairs should co-ordinate the process of status change by issuing a document testifying that a person has become a citizen of Latvia. Finally the draft amendments provide that the Cabinet of Ministers should initiate amendments of the Law on IDs providing for a procedure by which non-citizens can obtain a Latvian passport free of charge.

The Central Election Commission has received amendments with over 12,000 signatures but has not yet taken a decision whether to proceed with further collection of signatures in order to submit the proposed amendments to the *Saeima*.<sup>49</sup> This is the first case when the Commission has decided to stay procedure and ask for the opinion of different ministries, universities, experts, Ombudsman and such like.<sup>50</sup>

Therefore, Latvian citizenship policy in relation to naturalisation might change in the near future. The technical details discussed in the study might also change taking into account the decision on more profound issues on acquisition of citizenship in Latvia.

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<sup>49</sup> According to Latvian law, for a referendum to be held voters need to collect 10,000 signatures on fully elaborated draft legislation and submit these to the Central Election Commission. The Commission should verify whether the signatures are valid and confirmed by a notary. After that the second stage of collection of signatures follows, which is financed by the state. If 10 per cent of voters sign the proposed legislation, the President shall present it to the Parliament (*Saeima*). If the Parliament does not adopt it without change as to its content, it shall then be submitted to a national referendum.

<sup>50</sup> The reason for such a position is the referendum on amendments in the *Satversme* on Russian as the official language in February 2012. At the time when it became certain that signatures are collected and referendum will take place debates started that these amendments are possibly in conflict with the core of the *Satversme* and unconstitutional. MPs drafted amendments in the law but President has turned them back already twice. Experts of constitutional law acting under auspices of State President have drafted lengthy document on core of the *Satversme*. The question remains which should be the right institution to decide whether proposed amendments are contradictory to the *Satversme*. The debate is ongoing but political commentators hold the position that even if procedure for collecting signatures will continue, the referendum either will not take place or will be negative. This conclusion is based on the results of the referendum on language.



