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# EUDO CITIZENSHIP OBSERVATORY

## *COUNTRY REPORT ON CITIZENSHIP LAW: LATVIA*

Kristine Krūma

Revised and Updated January 2015



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European University Institute, Florence  
Robert Schuman Centre for Advanced Studies  
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**Robert Schuman Centre for Advanced Studies**  
in collaboration with  
**Edinburgh University Law School**  
Country Report, RSCAS/EUDO-CIT-CR 2015/6  
Badia Fiesolana, San Domenico di Fiesole (FI), Italy

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Published in Italy  
European University Institute  
Badia Fiesolana  
I – 50014 San Domenico di Fiesole (FI)  
Italy  
[www.eui.eu/RSCAS/Publications/](http://www.eui.eu/RSCAS/Publications/)  
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Research for the EUDO Citizenship Observatory Country Reports has been jointly supported by the European Commission grant agreement JLS/2007/IP/CA/009 EUCITAC and by the British Academy Research Project CITMODES (both projects co-directed by the EUI and the University of Edinburgh).

The financial support from these projects is gratefully acknowledged.

For information about the Project please visit the project website at <http://eudo-citizenship.eu>

# Latvia

*Kristine Krūma*<sup>1</sup>

## 1 Introduction

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

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

Since most of the immigrants from former Soviet republics opted to stay in Latvia, political choices had to be made on how to integrate them. It was admitted that expulsion of the immigrant population and thus reversion to the status quo ante was politically impossible (Ronen 2009: 211-212, 230-231). At the same time, international human rights law places limitations on the powers of the post transition regime to expel settlers, requiring it to take account of factual developments, regardless of their original illegality. Under international pressure from various Western countries as well as international organizations, Latvia liberalised its

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<sup>1</sup> The report on citizenship laws in Latvia was initially published in November 2009 and was successively revised and updated by the author in February 2013 and January 2015. The present version of the report covers citizenship-related developments up to January 2015.

citizenship policies. In order to secure rights of Soviet-era settlers, which extend beyond the requirements of international human rights treaties, Latvia created a specific category of persons, the so-called non-citizens. Initially, this status was seen as temporary because it was assumed that non-citizens would naturalise or eventually apply for citizenship in another state. However, today there are still a considerable number of non-citizens who are unwilling to naturalise due to a variety of internal and external factors.

After adoption of the Citizenship Law in 1994, there were two major reforms in 1998 and 2013. The 1998 reform concerned access to nationality by non-citizen children and abolition of the so-called 'window system'. The 2013 reform has changed citizenship policy substantially by, inter alia, defining the constituent nation, liberalising dual nationality policy, and simplifying procedures for acquisition of citizenship by non-citizen children.<sup>2</sup>

There is no distinction in the Latvian language between the terms 'nationality' and 'citizenship' because both terms cover the same category of persons.<sup>3</sup> Also according to Latvian legislation there is no distinction made between nationals and citizens. In legal doctrine on Latvian law the term 'nationality' rather than 'citizenship' has been used when translating Latvian laws and state practice (Ziemele 2005: 156). However, when translating international conventions the term nationality is translated as 'pilsonība' which is closer to German Staatsangehörigkeit.<sup>4</sup> There are also other terms which are not frequently used to discuss current citizenship policies.<sup>5</sup> They may be used when discussing citizenship policies of other states to illustrate the difference in approaches.

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<sup>2</sup> See Kruma 2013: pp.325-415.

<sup>3</sup> This is confirmed by a number of dictionaries adopted by the Latvian Academy of Sciences available at <http://termini.lza.lv/term.php?term=pilsoniba&list=&lang=LV> (consulted 14 April 2012).

<sup>4</sup> For instance, the European Convention on Nationality has been translated as *Eiropas Konvencija par Pilsonību* (see, for instance the link to the translation of the Convention by the Ombudsman office available at [http://www.tiesibsargs.lv/lat/tiesibu\\_akti/eiropas\\_padomes\\_dokumenti/?doc=263](http://www.tiesibsargs.lv/lat/tiesibu_akti/eiropas_padomes_dokumenti/?doc=263) (consulted 14 April 2012), and the decision of the Cabinet of Ministers on the signing of the Convention <http://www.likumi.lv/doc.php?id=22239> (consulted 14 April 2012).

<sup>5</sup> See <http://eudo-citizenship.eu/databases/citizenship-glossary/terminology#Latvia> (consulted 11 January 2013).

## 2 Historical background of citizenship policy

### 2.1 Restoration of citizenship

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

There were different views regarding the status of Baltic citizens after the Second World War. In some of the lawsuits initiated by Baltic citizens concerning their citizenship they were still considered Baltic citizens by courts of other states. The varying treatment of Baltic citizens by other states prevailed until 1991 when the Baltic States regained independence.<sup>6</sup>

Upon the restoration of independence in 1990, decision-makers were faced with the dilemma of the two main options for reconstituting statehood which had direct repercussions on citizenship policy. Under the first option it was argued that the original state had disintegrated or disappeared and that a new state had been founded. This meant that Latvia should withdraw from the USSR on the basis of the 1978 Constitution of the Latvian SSR. The newly-founded state could then determine its citizens on the basis of its territory – a 'zero option', i.e. Latvia would accept that there was no illegal occupation and define its people anew by adopting a new citizenship law. Therefore, Latvia would be guided by obligations under principles of state succession. This would give human rights law a more important role (Ziemele 2005: 8).<sup>7</sup>

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

The adherence to the principle of state continuity was preferred and incorporated in the Declaration of Independence adopted by the Supreme Council on 4 May 1990.<sup>8</sup> The Declaration renewed the main articles of the *Satversme* (Latvian

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

<sup>7</sup> As far as this option is concerned, one may add, however, that the codification efforts of the International Law Commission at the United Nations concerning the nationality of persons in situations of state succession showed that awarding nationality to all residents by successor states that emerged from the dissolution of a predecessor state is by no means an automatic or established rule of international law. UN Doc A/RES/55/153 (Nationality of Natural Persons in relation to the Succession of States), 30 January 2001.

<sup>8</sup> For a short account of the history of the loss and regaining of independence see Judgment No. 2007-10-0102 of Constitutional Court, 29 November 2007. Available at

Constitution) and established a transitional period until full recovery of independence. The Declaration was supported by 138 out of 201 MPs (Jundzis 2000: 654-658). The outcome was predetermined by elections which took place on 18 March 1990 during which candidates from the Latvian Popular Front and National Independence movements obtained an absolute majority of seats (Kusiņš 2000: 70). This was possible because not only Latvians, but also people of other ethnic origin, especially the intelligentsia, actively supported the claim for independence. The opposition, comprising mainly Interfront and the Council of United Workers, representing a conservative pro-Soviet communist position, obtained only minority support. The speed and scale of events made many residents feel confused during that period (Apine 2000: 109).<sup>9</sup>

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

According to the mandate given to the Supreme Council in the Declaration the aggregate body of Latvian citizens was re-established in accordance with the 1919 Law on Citizenship, as amended in 1927. It was considered again applicable with the adoption of the 15 October 1991 Resolution on the Renewal of the Republic of Latvia's Citizens' Rights and Fundamental Principles of Naturalisation by the Supreme Council. The presumption was that Latvian citizenship had continued to exist, irrespective of the loss of independence in 1940.<sup>10</sup> This was in line with the humanitarian law rules enshrined in the Geneva Convention Relative to the Protection of Civilian Persons in Time of War which *inter alia* prohibits the imposition of the citizenship of the occupying country upon citizens of the occupied country. It was argued that automatic conferral of USSR citizenship on the population of the Baltic states as a consequence of their occupation in 1940 was unlawful under international law. The Decree on the Order in which the Citizens of the Soviet Socialist Republics Lithuania, Latvia and Estonia are Granted USSR Citizenship (1940) on the basis of which Soviet nationality was imposed on Latvian citizens was declared null and void *ab initio*. Latvian citizens recovered *de facto* rights and obligations deriving from their Latvian citizenship but those USSR citizens who arrived in Latvia as a result of its foreign occupation were subjected to the naturalisation procedure according to relevant legal provisions.

According to the Resolution on the Renewal of the Republic of Latvia's Citizens' Rights and Fundamental Principles of Naturalisation the following groups of individuals were recognised as citizens: (1) those who were Latvian citizens on 17

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[http://www.satv.tiesa.gov.lv/upload/judg\\_2007\\_10\\_0102.htm](http://www.satv.tiesa.gov.lv/upload/judg_2007_10_0102.htm) (consulted 22 January 2013).

<sup>9</sup> Statistics from 1990 show that Latvian independence was supported by 55 per cent of people living in Latvia. 85 per cent of Latvians expressed their support, 22 per cent of Russians and 35 per cent people of other ethnic origin. In the referendum on independence which took place on 3 March 1991, 87.6 per cent of all registered voters participated. Out of those participants, 73.58 per cent voted in favour of independence. See Apine 2000: 112.

<sup>10</sup> For information on the renewal of the 1919 Law see Constitutional Court judgment No. 2009-94-01, 13 May 2010, paras 14-16. Another decision regulating renewal of citizenship rights was adopted by the Supreme Council on 27 November 1991 entitled 'On application of the Supreme Council decision 'On renewal of the Republic of Latvia's citizens rights and fundamental principles of naturalisation in relation to citizens of the Republic of Latvia residing abroad'. The decision provided that citizens residing abroad upon registration are entitled to preserve the other citizenship.

June 1940 and their descendants if they had lived in the country and had registered by 1 July 1992; (2) persons who were Latvian citizens on 17 June 1940 and their descendants if they did not reside in Latvia or were citizens of another state and had submitted an expatriation permit; and (3) persons born and residing in Latvia if their parents were unknown. The process of naturalisation was also made easy for persons who were living in Latvia on 17 June 1940 without Latvian citizenship. This approach was based on the premise that if Latvia had not been occupied these persons could have acquired citizenship (Ziemele 1998: 208).

Those who did not qualify for citizenship could apply for naturalisation under the 1919 Law and the Resolution. Since the requirements for naturalisation were high, including *inter alia* sixteen years of residence, naturalisation based on the Resolution never occurred.

However, many of those who supported independence hoped that, even if the 1919 Law was to be renewed, certain amendments would be made to adapt the law to the *de facto* situation in Latvia. This reaction was based on excessive expectations because politicians were divided in their vision of the future of Latvia. It can be argued that this decision served as a basis for later divisions in society and for the slow pace of naturalisation. It should also be acknowledged that politicians at that time felt pressure from the Latvian public which had regained independence after lengthy occupation and were experiencing national upheaval.

## 2.2 Basis of the current citizenship policy

By 1991, when the Republic of Latvia regained its independence, the titular nation had almost become a minority, i.e. only 52 per cent of the population, with Russians and other non-Latvian citizens comprising 48 per cent of the population. This made Latvians feel insecure about their state and identity.<sup>11</sup> In light of the state continuity thesis, strict citizenship policies based on *ius sanguinis* resulted in 673,398 people, or 28.2 per cent of total population, left with undetermined status. Afraid of possible tension and disorder, the Western allies required Latvia to adopt a new citizenship law which would accommodate the requirements of international law and would lead to more flexible naturalisation procedures.

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

<sup>11</sup> By comparison, in 1935 Latvians had comprised 75.5 per cent of the total population.



Commissioner on National Minorities wrote lengthy letters where he gave detailed recommendations on the content. Proposals by MPs ranged from repatriation of all Soviet-era settlers to a zero option supported by the marginal minority.<sup>12</sup>

According to the first model adopted by the Parliament, the first applications for naturalisation would have been accepted in 2000 and then only at a rate of 0.1 per cent of the previous year's total number of citizens. This would have resulted in approximately a thousand new citizens annually. The law was heavily criticised by international organisations. As a result, the President of Latvia refused to sign the adopted law. Complex citizenship issues were even the reason for postponing Latvian membership to the Council of Europe. The new Law on Citizenship was adopted on 22 July 1994. It, slightly amended in 1995, followed the *ius sanguinis* principle. In addition, several other groups could qualify for citizenship such as Latvians and Livs<sup>13</sup> residing in Latvia and not holding another citizenship, women who lost citizenship upon marriage, orphans and persons who completed education in schools with Latvian as a language of instruction. As argued by Ziemele, the latter category broadened the scope of Latvian citizens in that it included those former USSR citizens who may have integrated into Latvian society, irrespective of their place of birth (Ziemele 2001: 235). The right of a child to acquire Latvian citizenship was ensured by providing that if at least one parent is a Latvian citizen the child will acquire Latvian citizenship, subject to mutual agreement by the parents.

Those who did not belong to the above mentioned groups had to naturalise according to the procedures set out by law and the regulations of the Cabinet of Ministers. Although naturalisation requirements were made easier, they were still exclusionary. The law provided for gradual naturalisation, the so-called 'window-system', thus limiting the rights of individuals to freely choose the timing for naturalisation. It provided that persons would be naturalised in stages starting in 1996 and ending in 2003. After 2003 all persons would have had the right to apply.<sup>14</sup>

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

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

<sup>12</sup> For details on the political debate see Kruma 2012: 318.

<sup>13</sup> Livs are an indigenous group of Finno-Ugric descent living near the Baltic Sea.

<sup>14</sup> For instance, a person who was 45 years of age and born in Latvia could apply for naturalisation in 2000 while a person who was twenty could apply in 1996.

perceptions of Soviet immigrants by Latvians, many of them chose either to opt for Russian or other citizenship or to apply for the status of non-citizen.

Latvia was under close international scrutiny by the Council of Europe and the OSCE. Moreover, the European Union<sup>15</sup> and NATO requested that naturalisation of Soviet era settlers be facilitated since a large number of persons with undetermined status might have represented a threat to internal stability and social cohesion, and increase external influence. As a result, Latvia amended its Citizenship Law in 1998. The amendments were confirmed in a referendum and became effective in November 1998.<sup>16</sup> These amendments abolished the ‘window-system’ and provided citizenship for children born in Latvia after 21 August 1991 to stateless persons or non-citizens.

In addition to these amendments, the naturalisation procedure was simplified, i.e. several groups of individuals were identified for exemption from the naturalisation process or did not have to pass the naturalisation exams. Western countries and international organisations provided considerable assistance to Latvia with the objective of overcoming the main barriers which kept the numbers of applications for citizenship low. Special attention was paid to language training. About 50 different sets of learning and informational materials were published, 45 projects to facilitate naturalisation were initiated, an information centre was established, and a number of campaigns were organised. Comprehensive amendments to the Citizenship Law were adopted in 2013. Debate on the need to amend the Citizenship Law began during the 10<sup>th</sup> term of Parliament (2010) and continued in the 11<sup>th</sup> Parliament soon after extraordinary elections in 2011. Draft amendments were submitted to Parliament on 3 November 2011.<sup>17</sup> During the electoral campaign which preceded the election, changes in the Citizenship Law were part of the political manifestos of several political parties of the ruling coalition.

In the meantime, there were two initiatives for referenda – one challenging Latvian as the state language and another on the possibility of granting automatic citizenship to non-citizens (2012). The language referendum failed and the referendum on citizenship was stopped at the initial stage. These initiatives were not supported by the ruling coalition and were seen as a threat to the nation state. As a result, the ruling parties opted to amend a number of laws, i.e. the Citizenship Law, the Law on Referenda, and the Constitution. Following amendments, the Citizenship Law has become more complex.<sup>18</sup> While some of the provisions were liberalised, others have been added and may conflict with the European Convention of Nationality and integration of society.<sup>19</sup>

<sup>15</sup> The European Union: ‘expressed grave concern at certain aspects of the [...] law on citizenship adopted in Latvia’ (European Commission, General Report on the Activities of the European Union 1994 Brussels/Luxembourg 1995, para. 759). See also the Opinion No. 183 (1995) on Latvia’s application for membership in the Council of Europe; stars.coe.fr. Latvia was also cited three times under the UN 1503 procedure concerning gross and persistent violations of human rights (in 1995, 1997 and 2000).

<sup>16</sup> The amendments were adopted on 22 June 1998. The referendum was held on 3 October 1998 and about 53 per cent of the electorate voted for adoption of the amendments.

<sup>17</sup> On 16 November 2011, Parliament decided to establish a Sub-Commission entrusted to draft amendments for submission to the Legal Commission. On 2 March 2012, the Sub-Commission organised an international conference on citizenship.

<sup>18</sup> On the history of amendments, see <http://eudo-citizenship.eu/news/citizenshipnews/700-latvia-comprehensive-citizenship-reform-on-the-agenda-in-parliament-and-in-a-referendumcampaign->, accessed 9 December 2014.

<sup>19</sup> For details, see [section 3.]

### 2.3. The status of non-citizen

As noted in the previous section, Latvia inherited large Russian-speaking communities who had arrived from the ex-USSR. The Soviet central authorities had encouraged large-scale immigration of the labour force to meet the local demands of Soviet industrialisation and ethnic politics. Latvia suffered under this policy because (1) Latvia hosted the headquarters of the Soviet army for the Baltic region and (2) the Latvian communist elite was more sympathetic compared to other Baltic states.

The collapse of the Soviet Union and the ensuing independence of Latvia created problems for persons who were living in Latvia and suddenly realised that they were citizens of a state which no longer existed. Moreover, many Russian military personnel (50,000-80,000 with more than 22,000 retired Soviet military officers), remained in Latvia pending an inter-state withdrawal agreement and some resorted to marriages of convenience and forged documents in an attempt to regularise their status in Latvia (Muižnieks 2006a: 15, Muižnieks 2006b: 120). The historical minorities of Slav origin living in the Baltic States before the Soviet invasion were treated differently.

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

Settlers had the option to register as Russian citizens or citizens of other states of the Commonwealth of Independent States (CIS), although most chose not to use it for a variety of reasons. At the same time, the authorities were incapable of keeping a record of persons who had registered for citizenship of another country. As a result of the breakup of the Soviet Union and the lack of coordination of domestic legislation between Russia, the various newly-independent states, and Latvia, those settlers who had a different status represented a significant problem (Krūma 2012:347). Persons with undetermined status could not be extradited as settlers from an occupying state because this would be contrary to human rights law which prohibits expulsion of aliens en masse owing to lack of an interstate agreement requiring the occupying power to observe the Geneva Convention. Nor could those persons be classified as stateless because such a measure would be against the principle of reduction of statelessness (Krūma 2012: 348).

In an attempt to strike a balance between state continuity and the obligation to avoid statelessness, Latvia introduced the special temporary status of ‘non-citizen’ in 1995 until the final solution to the citizenship issue would be decided upon.<sup>20</sup> The Former USSR Citizens Act in art. 1 states:

<sup>20</sup> Law on the Status of Former Soviet Citizens who are not Citizens of Latvia or any Other State, Official Gazette no. 63, 25 April 1995

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

1. on 1 July 1992 they were registered as being resident within the territory of Latvia, regardless of the status of their residence; or their last registered place of residence by 1 July 1992 was in the Republic of Latvia; or a court has established that before the above mentioned date they had been resident within the territory of Latvia for not less than ten years;<sup>21</sup>

2. they do not hold Latvian citizenship;

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

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

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

Special rights given to non-citizens of Latvia can be summarised as follows. Non-citizens are given a special passport. The passport grants them the special status of belonging to the state, thus giving them the constitutional right to return. In accordance with art. 2 of the Former USSR Citizens Act, non-citizens of Latvia cannot be deported, which is not the case with third-country nationals. When ratifying international conventions Latvia as a rule submits a declaration requesting the equal treatment of citizens and non-citizens. For instance, upon ratification of the European Convention on Extradition and its Protocols in 1997 Latvia stated that it shall apply to both citizens and non-citizens. Non-citizens enjoy human rights granted to nationals and this has been submitted by Latvia and accepted by a number of international treaty monitoring bodies.<sup>22</sup> Moreover, in accordance with art. 2 of the Law on Diplomatic and Consular Service, they enjoy the diplomatic protection of Latvia. Non-citizens, however, are not granted political rights and they are barred from practicing certain professions related to civil service jobs and the judiciary. There are also restrictions on owning land.

The implementation of the non-citizen status was not easy. The Latvian government had repeatedly extended the deadline set for March 2000 when the USSR passports were no longer valid for use. Despite the deadline, the Office of Citizenship and Migration Affairs (OCMA) continued exchanging passports into 2001 with 300 new passports issued almost every month (Ziemele 2005: 163). In 2002 there were still 19,000 people using old USSR Passports.<sup>23</sup>

Latvia lacked laws of administrative procedure and there were no administrative courts. The cases concerning non-citizens which are currently decided

<sup>21</sup> In 1998, the Former USSR Citizens Law was amended to normalize the situation of those persons who had entered Latvia but who did not have ‘unlimited propyska’ in their passports. The Law now reads that nationals of the former USSR who had been ‘registered’ as living in Latvia on 1 July 1992 or who could prove with a court verdict, at least, a ten year long residence in Latvia are subjects of the Law (Ziemele 2005: 162).

<sup>22</sup> Kruma 2013: 363-364.

<sup>23</sup> TVNET, <http://www.tvnet.lv/zinas/latvija/article.php?id=22337>, 2 July 2002.

in most cases by administrative courts were dealt by civil courts.<sup>24</sup> At the present time, the situation has been normalised as administrative courts were established on 1 February 2004.

There have thus far been several attempts to classify non-citizens under a heading recognised by international law.<sup>25</sup> Since Latvia's accession to the European Union there has been little or no pressure from international organisations regarding Latvia's citizenship policy and the issue of its non-citizens. Moreover, Latvian courts have only recently given an authoritative interpretation of the status of non-citizens, the most important of which is the ruling of the Constitutional Court.<sup>26</sup>

The Constitutional Court had to review the amendments made to the Former USSR Citizens Act which provided for the revocation of the status of non-citizen for persons who acquired the status of permanent residence in another country after 1 June 2004. Until these amendments, the status could only be renounced on condition that a nationality had been acquired. The Court regarded the amendments as unconstitutional. It began by analysing the adoption of the non-citizens' law in historical and political context and concluded that the opinion that Latvia had a duty to grant citizenship automatically to those individuals and their descendants who have never been Latvian citizens and arrived during the occupation is unfounded (para. 13). The Court acknowledged that the introduction of the status of non-citizen was a complicated political compromise as a result of which a category unknown in international law had been created. The Court noted that Latvia has consistently defended its position that non-citizens cannot be qualified as stateless persons and this view has been accepted by the international monitoring bodies (Ziemele and Kruma 2003).<sup>27</sup> In its judgment, (para. 17) the Court defined the status of non-citizen in the following way:

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

<sup>24</sup> The courts were badly equipped and thus many judgments were hand-written. Therefore they are hardly accessible and seldom researched. The main group of cases during 1990s concerned refusal by the OCMA to grant the status of non-citizen. Taking into account that a large number of Soviet-era settlers tried to abuse Latvian legislation, including former Soviet military personnel, immigration authorities adopted a strict approach. It led to a number of court cases, some of which attracted interventions by the Commissioners of both the Organisations for Security and Cooperation in Europe (OSCE) and the Council of the Baltic Sea States (CBSS), as well as adjudication in European Court of Human Rights (Muižnieks 2006a: 16).

<sup>25</sup> For instance, Kees Groenendijk suggested that they should be called ‘denizens’, a term describing residents enjoying a status between alien and citizen (Groenendijk 1993: 15).

<sup>26</sup> See Constitutional Court Case 2004-15-0106, Official Gazette No. 40, 9 March 2005.

<sup>27</sup> See, for instance, .Concluding observations of the Committee on the Elimination of Racial Discrimination: Latvia, 12 April 2001. CERD/C/304/Add.79., para 6 and 12-15.. See also Concluding observations: Latvia, 10 December 2003t, CERD/C/63/CO/7 10, paras 12-13. Concluding observations of the Human Rights Committee, 6 November 2003, CCPR/CO/79/LVA, paras 16-18. The UNHCR approach differs slightly in that they qualify non-citizens as a mode of stateless persons, at the same time acknowledging differences. See Submission by the UNHRC for the Office of the High Commissioner for Human Rights' Compilation Report. Universal Periodic Review: Latvia. November 2010. Available at [http://lib.ohchr.org/HRBodies/UPR/Documents/session11/LV/UNHCR\\_UNHighCommissionerforRefugees-eng.pdf](http://lib.ohchr.org/HRBodies/UPR/Documents/session11/LV/UNHCR_UNHighCommissionerforRefugees-eng.pdf) (consulted 20 January 2013).

right to protection by the state and the right to freely return to Latvia.’

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

### 3 The current citizenship regime

#### 3.1 Acquisition of citizenship

##### *Main principles*

According to art. 1 of the Citizenship Law amended in 2013, citizenship is based upon the Law on Nationality of 23 August 1919, the continuity doctrine, and the interests of Latvia. Therefore, the primary principles of the citizenship policy are defined as follows:

- 1) to determine which persons are to be deemed citizens of Latvia and to guarantee the existence and continuity of Latvian citizenship;
- 2) to guarantee the right to register as citizens of Latvia for the constituent nation (Latvians) and the autochthonous population (Livs);
- 3) to provide an opportunity for Latvian exiles and their descendants to register as citizens of Latvia;
- 4) to promote the development of a united society of Latvia on the basis of the common values of the people of Latvia;
- 5) to recognise dual citizenship in compliance with the political objectives and interests of the State of Latvia and to retain the aggregate of the citizens of Latvia under increased mobility conditions.

According to the Citizenship Law, Latvian citizenship is acquired on the basis of the *ius sanguinis* principle rooted in the continuity of Latvian citizenship as identified in art.2 of the Citizenship Law of 1919 defining the groups of persons to be considered citizens of Latvia. First, persons who were citizens on the date of occupation and their descendants if they register as citizens by 1 October 2013, or those who had the right to register according to the law in force before 1 October 2013. Second, persons born to parents (one or both) who are Latvian citizens. Third, Latvians and Livs whose ancestors in 1881 or later have permanently resided in Latvia as it existed until 17 June 1940. In addition, they must prove knowledge of Latvian. They do have to submit documentary evidence of belonging to the constituent national or autochthonous population or to provide reasons why such evidence cannot be submitted. Fourth women who permanently reside in Latvia and lost their citizenship

according to the Citizenship Law of 1919 as well as their descendants. Fifth, children who are found in the territory of Latvia whose parents are unknown or children left without parental care, except a child for whose parents the custody rights have been suspended. Sixth, orphans who are in extra-familial care in Latvia..

The will to register a child as a Latvian citizen should be expressed by a lawful representative of the child if the child has not reached the age of fifteen or by the child him/herself between the ages of fifteen and eighteen.

Art. 13 provides for the admission to citizenship for special meritorious service beneficial to Latvia. The decision in each individual case must be examined and approved in Parliament. A person can acquire dual citizenship by application of art. 13, and the restrictions contained in art. 11 are applicable. The usual naturalisation requirements do not apply except for the obligation to give a pledge of loyalty to Latvia.

Art. 4 states that Latvian citizens have equal rights and obligations irrespective of the manner in which citizenship has been acquired. Marriage or residency outside Latvia should also not affect Latvian citizenship (arts. 5 and 6).

### *Rights of the child*

The general rule in para 2 of art.2 provides that children of Latvian citizens are citizens if they comply with provisions on dual citizenship.

The 1998 amendments provided access to citizenship to children born in Latvia after 21 August 1991, to stateless persons, or non-citizens. Thus, a conditional *ius soli* acquisition of citizenship was created. This provision was further simplified in 2013 with an amendment that provided that at least one parent should express such a wish upon registration at birth.<sup>28</sup> In order to apply for citizenship according to art. 3<sup>1</sup>(1), both parents should be stateless or non-citizens and should possess permanent residency. According to the Law, a child shall be recognised as a Latvian citizen if their mother is a non-citizen or stateless person and the father is unknown; one of the parents is a non-citizen or stateless person and the status of another parent is unknown; or if one parent is a non-citizen or stateless person but another parent is deceased.

Until the child reaches the age of fifteen, the application can be submitted by one of the parents provided that the child has been a stateless person or non-citizen and has resided in Latvia permanently, or both parents are stateless or non-citizens residing in Latvia permanently. It should be noted that a certificate of language proficiency must be submitted by those minors who have not been registered by their parents before the ages of fifteen and eighteen.. In addition, restrictions provided for in art. 11 (1)(1)<sup>29</sup> apply as well as the requirement that the child has not been sentenced for committing a serious crime.

When a child reaches eighteen years of age, the general naturalisation procedures apply. Art. 6 (2) of the ECN prescribes the obligation that States parties provide citizenship to children born on their territory who do not acquire another citizenship at birth. However, the case law of the administrative courts has gone in a

<sup>28</sup> The wording of 1998 Law required that both parents should submit application.

<sup>29</sup> Art. 11 specifies that restrictions for naturalization should apply in cases when applicant has been involved in activities causing threats to the security of Latvia and the society, democratic constitutional order, independence and territorial immunity. See section on naturalization below. When determining entitlement for citizenship procedures of fair trial and proportionality of punishment should be taken into account.

different direction by equalising the status of non-citizen with citizenship status or upgrading it or upgrading it to a status that is different from that of a stateless person.<sup>30</sup> Official statistics suggest that the number of children registered as citizens has increased in the wake of the recent amendments, while the number of non-citizen children has decreased. On 1 January 2012, there were 12,065 non-citizen children, a number which dropped to 8,989 by 1 January 2014.

In 2014, 85 per cent of children whose parents are non-citizens were registered as citizens, against 56 per cent in 2013.

Therefore, following amendments of the Citizenship Law, the numbers of children registered as Latvian citizens has increased by almost 30 per cent. Only about 15 per cent of children are registered as non-citizens. These findings are in line with a recent survey conducted by the Office of Citizenship and Migration Affairs which found that 15 per cent of non-citizen parents replied that they will not register their children as citizens even if the procedures are further simplified.<sup>31</sup>

### *Dual citizenship*

The strict policy regarding dual citizenship has been criticised by Latvian citizens living abroad, especially those in other EU Member States.<sup>32</sup> According to estimates, around 230,000 Latvian citizens have left Latvia since 2004 and the number continues to increase steadily.<sup>33</sup> Depopulation is further aggravated by the fact that Latvia has among Europe's lowest birth rate. The Latvian government has responded to these demographic changes by establishing a working group charged with the task of making recommendations on return-migration.<sup>34</sup>

The 2013 amendments to the citizenship law broadened the scope of dual citizenship legislation.

Dual citizenship is now accepted in cases where a Latvian citizen has acquired the citizenship of EU, EFTA, NATO countries, Australia, Brazil, New Zealand, or the citizenship of a state with which Latvia has concluded an international agreement. In certain cases, the Cabinet of Ministers may allow a person to retain the other citizenship at its own discretion if this serves the interests of the state. The decision must be taken by the Cabinet of Ministers within a year and may not be subject to appeal. Furthermore, dual citizenship is allowed if a person acquired another citizenship in cases of marriage (*ex lege*) or as a result of adoption.

Dual citizenship is also permitted in cases where a person acquires citizenship after 1 October 2013 according to art. 2, in cases when citizenship is acquired by Latvians and Līvi after 1 October 2013, and in cases of naturalisation..

<sup>30</sup> See section on the current regime for non-citizens,

<sup>31</sup> Data received from the OCMA (on personal file with the author).

<sup>32</sup> Z. Stankeviča, 'Latvija zaudē izcilus pilsonus likuma burta dēļ' ['Latvia loses outstanding citizens because of the strict law'], *Neatkrīga rīta avīze*, 15 October 2007.

<sup>33</sup> Data of Central Statistics Commission and the Ministry of Economics. See <http://www.csb.gov.lv/demografiskas-statistikas-galvenie-raditaji-2011gada> (Accessed 23 January 2013).

<sup>34</sup> See <http://www.em.gov.lv/em/2nd/?cat=30791> (Accessed 23 January 2013), available only in Latvian on the Ministry of Economics website..



In cases where a Latvian citizen is also a citizen of another state, they would be considered solely as a Latvian citizen in relation with Latvia.

In addition to general liberalisation of dual citizenship policy, the Saeima inserted a specific article in relation to Latvian exiles and their descendants. Before amendments, the Transitional Regulations of the Citizenship Law provided that those Latvian citizens and their descendants who, during the period from 17 June 1940 until 4 May 1990, left Latvia as refugees or were deported, could register as Latvian citizens until 1 July 1995.<sup>35</sup> The compliance of this norm with the principle of state continuity and with the Constitution was contested in the Constitutional Court. The Court declared that this norm does comply with the Constitution, and with the doctrine of state continuity derived from the Latvian Constitution and Declaration of Independence. Dual citizenship for individuals who went abroad during the occupation is not illegal. However, it was legitimate to require registration and to set a deadline for keeping dual citizenship.

The Court also acknowledged that Latvian citizenship continued to exist during occupation. Therefore, dual citizenship acquired during the occupation period cannot be deemed illegal. However, the Court stated that dual citizenship is a political issue rather than a judicial one.

The amendments to the Citizenship Law in art. 8<sup>1</sup> provide that if a person who was a Latvian citizen on 17 June 1940, or a descendant of such a person, submits a certification of the fact that, from 17 June 1940 until 4 May 1990, they left Latvia owing to the Russian or German occupation or had been deported, and due to the referred to reasons have not returned to Latvia for permanent residence until 4 May 1990, such a person and their descendants shall retain the right to register as Latvian citizens. The same applies in cases of descendants born until 1 October 2014. These persons can become dual citizens.

### *Naturalisation*

Individuals who have registered with the Residents' Register are considered to reside lawfully in Latvia and are entitled to acquire citizenship through naturalisation if they have received a permanent residence permit. The naturalisation requirements are the following: (1) permanent residence in Latvia for five years<sup>36</sup>; (2) knowledge of the Latvian language, the Constitution, the anthem, and the history of Latvia; (3) a loyalty oath to the Republic of Latvia; (4) a legal source of income, and (5) acknowledgement upon renunciation of previous citizenship or testimony that a person does not have another citizenship (excepting refugees) (art. 12). The requirement to renounce citizenship is not applicable in cases of EU, EFTA, and NATP citizens, citizens of Australia, Brazil, and New Zealand as well as citizens of a state with which Latvia has

<sup>35</sup> Case No., 2009-94-01, 13 May 2010.

<sup>36</sup> There is a special provision for a person who has not lived in Latvia for one year which cannot be a year before submission of naturalisation application. According to para. 4 of art. 24 of the Immigration Law, permanent residence can be acquired after five years of residence in Latvia with a temporary residence permit. This means that a person shall reside five years in Latvia in order to obtain permanent residence and a further five years with permanent residence to acquire the right to apply for citizenship. Exceptional cases provide for a shorter residence requirement as permanent residence permits can be issued in certain cases immediately after arrival (for instance, family reunification, former citizens and non-citizens alike).

concluded an agreement on recognition of dual citizenship. Moreover, these persons can serve in the military in those countries in order to qualify for Latvian citizenship. Otherwise, the statement on renunciation of another citizenship should be submitted when all other requirements for citizenship are met.

Upon application, a person shall declare that none of the restrictions apply as specified in art. 11 of the Citizenship Law. Article 11 establishes restrictions for naturalisation, if a person:

- caused threats to the security and society of Latvia, the democratic constitutional order, the independence and territorial immunity of Latvia;<sup>37</sup>
- served in a military organisation or the armed forces of another state without governmental permission;
- served in the USSR army and was called up from outside Latvia<sup>38</sup>;
- has been employed by the KGB, the security or intelligence services, or a similar service of another state;
- has been sentenced in Latvia or another state for a crime which is also a crime in Latvia, except if the Cabinet of Ministers acknowledges that the judgement has been adopted by violating fair trial and proportionality;
- has worked against Latvia in a number of specified organizations since 13 January 1991;<sup>39, and</sup>
- has not fulfilled tax or other financial obligations in relation to Latvia.

This article seems to be rather exclusionary. For instance, the restrictions in relation to the affiliation with the KGB could be challenged as to their legitimacy and proportionality since there are citizens who had the affiliation but who were recognised as citizens on the basis of *ius sanguinis*.<sup>40</sup>

Children up to the age of fifteen acquire citizenship together with the naturalised parent without undergoing the naturalisation process as set out in art. 12. (art. 15).

<sup>37</sup> The Law also cites examples, e.g., if a person has acted against the independence of Latvia and its democratic parliamentary structure, had propagated fascist, chauvinist, national-socialist, communist or other ideas after 4 May 1990, incited ethnic or racial hatred, is related to terrorism, is a member of a criminal organisation, or 'is related to legalisation of the proceeds from crime'.

<sup>38</sup> This is not applicable in cases where a person has been married to a Latvian citizen or has been a citizen of Lithuania or Estonia before their 'occupation'.

<sup>39</sup> These include the Communist Party of the Soviet Union, the Latvian Communist Party, the Working People's International Front of the Latvian SSR, the United Council of Labour Collectives, the Organisation of War and Labour Veterans, the All Latvia Salvation of Society Committee or their regional Committees or the Union of Communists of Latvia. Concerning the legality of similar limitations for running for public office, see the case of *Ždanoka v. Latvia*, application No. 58278/00, Judgment of Grand Chamber of ECHR, 16 March, 2006, especially paras. 119 and 120.

<sup>40</sup> This provision, however, might change soon. Art. 17 of the Law on Preservation of Documents of former KGB, their Use and Establishment of the Fact of Cooperation between a Person and the KGB provides that the fact of co-operation of a person with the KGB can be established in the procedure prescribed by law within 20 years after the Law has entered into force, i.e. the law entered into force on 1 December 1995 as amended in 2004. This means that the 20 years term will expire on 1 December 2015 if not extended which would run counter to the rationale in the ruling of the EctHR in case of *Ždanoka v. Latvia*, application No. 58278/00, Judgment of Grand Chamber of ECHR, 16 March, 2006.

The Naturalisation Board is part of the Office of Citizenship and Migration Affairs (OCMA), working under the auspices of the Ministry of Interior, is responsible for the examination of applications for naturalisation.<sup>41</sup> During the naturalisation procedure the Board co-operates with other institutions with the aim of verifying the information submitted by the applicants. Its decisions are subject to appeal in court. During court proceedings, the naturalisation process is suspended until the decision of final instance or until the case is dropped (art.17).<sup>42</sup>

The procedure of naturalisation is set out in detail in a number of regulations of the Cabinet of Ministers. Regulation no. 1001 on the Procedure for Acceptance and Review of Naturalisation Applications includes application forms and specifies the procedure for submission of applications including the documents to be submitted.<sup>43</sup> In 2004, the procedure for submitting documents was liberalised and the requirement that documents must be submitted in the regional unit of the registered place of residence of the applicant was lifted. The naturalisation procedure is relatively easy and takes no more than six months from the date of application. Also, the fee for naturalisation has been lowered several times. Since 2003 it has been set at EUR 28,46 and at EUR 4,27 for certain groups of applicants.<sup>44</sup> Persons may withdraw their applications at any stage of the naturalisation procedure.

At present Latvian regulation on exams set minimum requirements. The general provisions have been liberalised by the 1998 amendments. Art. 19-21 of the Law primarily focus on language examination.<sup>45</sup> The requirements for the examinations are set out in detail in the Regulation no. 973 on the Examination of Proficiency in the Latvian Language and the Examination of Knowledge of the Basic Principles of the Constitution, the Text of the National Anthem and the History of Latvia in Accordance with the Citizenship Law adopted on 24 September 2013.<sup>46</sup> The

<sup>41</sup> During the economic crisis the Naturalisation Board was reformed and became part of the Citizenship and Migration Department of the Ministry of Interior. The main arguments were that there are very few regional offices of the Naturalisation Board, while Office of Citizenship and Migration Affairs has more than 30 offices in Latvia. The reform took place on 1 March 2010.

<sup>42</sup> This relates inter alia to cases where the fact of co-operation with the KGB must be established.

<sup>43</sup> A special procedure is provided by Regulation No 976 on the Procedure for Submission and the Review of Applications for Recognition of a Child being a Citizen of Latvia adopted on 24 September 2013. The documents submitted are subject to verification by the Office of Citizenship and Migration Affairs and the Ministry of the Interior if a child has reached the age of fifteen.

<sup>44</sup> Regulations on the State Duty Payable for Submission of a Naturalisation Application, Regulation no. 849 17 September 2013. The rate is lowered for: (1) members of poor families or poor persons; (2) the unemployed; (3) members of families with at least three under-age children; (4) persons receiving old-age pensions; (5) disabled persons with a certain degree of disability; (6) pupils and students, and; (7) full-time students of tertiary education establishments. Persons exempt are: (1) the politically repressed; (2) severely disabled persons; (3) orphans and children who are not in their parents' charge; (4) persons sheltered by state social care institutions or [self-government.] The fees were changed in 1997, 2001, and 2002.

<sup>45</sup> Art. 19 of the Citizenship Law states that the procedure for exams should be established by the Cabinet of Ministers. Art. 21 provides that groups of persons should be exempt from the exam or subject to a simplified exam procedure. For instance, disabled persons and persons who have acquired basic or higher education in Latvian, as well as persons who five years before naturalisation had passed a language test, should be exempt from the language test. In addition, art. 21(3) of the Citizenship Law provides that persons who have reached 65 years of age should be exempt from the written part of the language test.

<sup>46</sup> During information meetings organised by the OCMA persons can take trial exams. In

regulations provide that knowledge of the language, of the Constitution, the anthem and history shall be tested by an examination commission established by the OCMA. Groups exempt from the language exam are applicants who:

- not earlier than five years before submitting an application for acquiring Latvian citizenship have confirmed fluency in the Latvian language (art. 21 (2) of the Citizenship Law, sect. 12 of Regulation No 1001), i.e., (i) have passed a centralized exam in Latvian by 31 August 2011 in elementary or secondary school at level A, B, C, or D; (ii) have passed a centralized exam in Latvian after 31 August 2011 in elementary school acquiring at least 50 per cent in evaluation or 20 per cent in secondary school, and (iii) have acquired higher education in Latvian;

- have reached 65 years of age. These persons are entitled to pass the reading part of the language exam orally (see also sect. of Regulation 973 and art. 21 (3) of the Citizenship Law exempting persons from the written test);

- according to art. 21(1) of the Citizenship Law, are subject to a special procedure owing to significant disability (sect. 30 of Regulation No 973, art. 21(1) of the Citizenship Law).<sup>47</sup>

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

- the applicant should present a certificate of very severe disability or a special certificate issued by the State Commission on Medical Expertise of Health and Capacity to Work (if the person is in possession of those documents) which qualify that person for the simplified procedure or exemption from the exam (Sect. 10-11 of Regulation No 1001).
- according to sect. 31 and 33 of Regulation No 973, applicants with various degrees of disability are exempt from both exams, written, oral, or aural parts of exams.

The examination of language proficiency takes place within two months from the date when all necessary documents have been submitted, and the examination of the other topics is two months after passing the language exam (sect. 9 and 19). Sect. 6 of the Regulation provides that in cases where a person does not show up, s/he should within two months submit to the OCMA a document testifying the reason. After examination of the document the OCMA sets another date. According to sect. 7 of Regulation 973 if an applicant fails to pass either the language or the knowledge test, s/he can take the language exam for the second and third time three months after the last examination at the earliest. The applicant can take the knowledge exam for the

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

<sup>47</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). A person should approach his or her doctor who issues relevant documents to approach the Commission. Detailed information is available at <http://www.vdeavk.gov.lv/> (consulted on 8 March 2012).

second and third time one month after the last exam. Three possibilities to take the exam are given during a single naturalisation process. After failing exams three times the applicant has to re-start the procedure.

The language proficiency exam has a written and an oral part and the examination commission shall assess the applicant's ability to read, write, listen and understand conversation on topics of everyday life (sect.11).

Language proficiency has often been mentioned as the main obstacle for naturalisation especially by older applicants (Strik, Böcker, Luiten, van Oers 2012: 382). Therefore, in 1996, the State Programme for Latvian Language Learning was initiated. During the first years after regaining independence the learning of Latvian was supported by both national institutions and international donors.<sup>48</sup> Language courses were provided for candidates for naturalisation and the specific groups, mainly the unemployed and job seekers. Although the donations had been impressive and courses well attended, the overall numbers of persons benefitting from them are not significant.<sup>49</sup> Currently there are several institutions and local governments offering language courses and some of them are free of charge. There is demand for more courses free of charge. At the same time the level required for naturalisation – B1 – is not sufficiently high to ensure that person can easily follow political discussions in Latvian or understand laws and everyday legal issues.

The statistics on pass rates of persons who had taken naturalisation exams are fluctuating. They could require detailed analysis in the context of changing numbers of applicants, gradual legislative changes simplifying requirements, including the groups exempt from exams, as well as availability of the courses offered free of charge. Overall success rate figures differ. For comparison, the language exam in 1996 was failed by 3.3 per cent, but the knowledge exam by 8 per cent of applicants; in 2005 the language exam was failed by 16 per cent, but the knowledge exam by 4,8 per cent; in 2011 exams failed were respectively by 41 per cent and 24 per cent of applicants; in 2014 – 71 per cent and 33 per cent. This can be explained by a number of factors. First, the number of applicants during 1990s was much lower if compared with the period shortly before and after Latvian accession to the EU in 2004-2005. Second, the level of knowledge of those who applied during the beginning of 1990s could have been better without requiring extra training. Third, although the numbers of applicants decreased significantly since 2007 there were fewer possibilities of benefitting from a systemic integration programme and Latvia was approaching an economic crisis so integration was low on the political agenda.

According to art. 17 decisions of OCMA can be contested according to provisions of the Law on administrative procedure. In cases if naturalisation has been refused on basis of the information obtained as a result of intelligence or counter-intelligence, it may be appealed against to the Prosecutor General whose decision

<sup>48</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>49</sup> For instance, the courses within the National Programme during the period 1996-2002 were attended by 50,000 people (12 per cent of those whose native language is not Latvian) Djačkova, S. 'Latvian language proficiency and the integration of society' (2004), available at <http://www.politika.lv/print.php?id=3989> (consulted 2 February 2008) 47, 49, 54.

shall not be subject to appeal. The final decision on naturalisation is taken by the Cabinet of Ministers. Art. 17 provides that the Cabinet may take a decision on refusal to admit person to citizenship if his or her behaviour or actions causes threats to security and the public order, the democratic constitutional order, the independence and territorial integrity. This decision is without appeal.<sup>50</sup>

### *Loss of citizenship*

Latvian citizenship is lost in cases of renunciation or revocation. The main grounds are stated in Citizenship Law arts. 23-25, but detailed procedures are set out in Regulation No. 975 on procedure of loss and renewal of Latvian citizenship (24 September 2013).

According to art. 23 of the Citizenship Law, renunciation can take place if a person has been guaranteed the citizenship of another state except where they have unfulfilled fiscal obligations towards the state. Application for renunciation of Latvian citizenship should be submitted within 30 days after acquiring citizenship of another state. In cases where a child has acquired dual nationality, they should submit an application for renunciation of Latvian citizenship between the ages of eighteen to 25. These requirements do not apply if dual citizenship has occurred with countries with which dual citizenship is permitted. If a person has renounced Latvian citizenship, it can be re-acquired only by naturalisation.

Art. 24 provides for cases where citizenship can be revoked by a decision of the OCMA subject to appeal according to a procedure stipulated in the Law on Administrative Procedure. Citizenship is revoked if a person: (1) has acquired the citizenship of another state without renouncing Latvian citizenship; (2) continues to serve in foreign armed forces or similar organisations without permission from the Cabinet of Ministers (except in cases where service is in countries with which dual citizenship is allowed), or (3) has committed an action promoting violent overthrow of the government of Latvia, has incited the overthrow of the public authority stipulated in the Constitution of the Republic of Latvia or to change violently the political system, has incited the performance, or has performed, organisational activities promoting abrogation of the independence of Latvia, and it has been established with the court's judgement. In none of these cases can revocation of citizenship lead to statelessness. The only exception is the case in which a person has acquired citizenship by fraud. In these cases, revocation is allowed within a ten-year term. This term is not applicable in two cases, i.e. (1) if a person has been convicted for a crime mentioned in art. 5 of the Statute of the International Criminal Court; and (2) if person holds citizenship of a country with which dual nationality is not allowed. Family members are not affected by such proceedings. A former citizen can re-apply for citizenship after five years of residency following the date of revocation of citizenship. These grounds comply with those identified in the Convention on the Reduction of Statelessness (art. 25, para. 2). Moreover, in applying these provisions, Latvian courts apply the principle of proportionality.

For instance, the Department of Civil Law Cases of the Senate of the Supreme Court has dealt with a case of deprivation of citizenship where a descendant of a

<sup>50</sup> This approach is in line with the practice of the Administrative Cases Department of the Supreme Court's Senate. See case No. SKA 221, 11 April 2006.

Latvian citizen was accused of fraud.<sup>51</sup> The applicant was registered as a Latvian citizen in 1996 on the ground that her mother was a Latvian citizen. At that time she did not inform the authorities of her Russian citizenship. Upon registration, she submitted a Soviet passport and noted that her permanent residence was in the Russian Federation.<sup>52</sup> The revocation of Latvian citizenship was based upon the fact that she did not inform the authorities that she had citizenship of the Russian Federation. Since she acquired Russian citizenship, she could no longer apply for Latvian citizenship on the basis of art. 2. The Senate, not being the court of appeal, did not deal with the issue of whether the applicant was entitled to register as a citizen under para 1 of art. 2 of the Citizenship Law. The Senate concluded that the lower court had not properly established a case of fraud. It also noted that, when applying art. 24 of the Citizenship Law, the courts should bear in mind that a person cannot be deprived of citizenship if they thus become stateless. The Senate emphasised that the principle of proportionality is applicable.

### *The current regime for non-citizens*

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

The European Court of Human Rights (ECtHR) has mainly dealt with the cases when persons did not qualify for non-citizen status. For instance the *Kaftailova* case in the ECtHR concerned the applicant who was born in Georgia and lived in Latvia from 1984.<sup>53</sup> The ECtHR observed that the applicant was originally a citizen of the Soviet Union, a State which ceased to exist in 1991, and had at no time been a Latvian citizen. She could not legally claim Latvian citizenship and she was not arbitrarily denied the right to apply for it. The applicant's case was dealt with in the context of the right to 'private life'.<sup>54</sup> The Chamber noted that prolonged refusal by the Latvian authorities to grant the applicant the right to reside in Latvia on a legal and permanent basis had amounted to interference with her 'private life' within the meaning of Article 8 of the Convention. However, when the case was reported to the Grand Chamber the applicant was offered regularisation arrangements. The Court stated that the Convention cannot be construed as guaranteeing, as such, the right to a particular type of residence permit. Although expulsion of stateless persons could have led to serious issues under Article 8 of the Convention, the fact that the applicant remained in Latvia considerably reduced the extent of redress.

<sup>51</sup> Judgment of the Civil Law Department of the Senate of the Supreme Court in case No. SKC-215/2011, 22 June 2011.

<sup>52</sup> The applicant acquired Russian citizenship in 1993 according to Article 13 of the Citizenship Law of the Russian Federation, 28 November 1991. This provided that Russian citizens are all former USSR citizens who are permanent residents in the Russian Federation upon entry into force of the law, if within a one year term they do not declare their unwillingness to be citizens of the Russian Federation.

<sup>53</sup> *Kaftailova v. Latvia* (App no 59643/00) ECHR 22 June 2006, 7 December 2007. See also *Slivenko v. Latvia* (App. No. 48321/99) ECHR 9 October 2003, The *Slivenko* case remains more controversial because the Court disregarded the fact of family relationship with the USSR army official.

<sup>54</sup> The Court took into account that her daughter was 22 when the case was reviewed; she had been legally resident in Latvia since 2001 and had had Latvian citizenship since 2003.

The cases on non-citizens in local courts represent about one quarter of more than 200 immigration related cases reviewed in different instances by administrative courts during the period between 2004-2008. They can be grouped under the following sub-headings: (1) access to the status of non-citizen; (2) access of children to the status of non-citizen; (3) revocation of the status, which is the largest part of all the non-citizen cases.<sup>55</sup>

The number of cases on access to status is not significant because the Status Law has been in force for about 13 years and a majority of those who were interested registered during the 1990s. Most of the cases concern persons who were not living in Latvia permanently in 1992, as required by law, or had acquired and lost another citizenship in the meantime. This category of people arrived in Latvia later and applied for non-citizen status.<sup>56</sup> One of the most interesting cases is the case of Ms. B.<sup>57</sup> She was denied the right to acquire status of non-citizen because it was established that she had served in the military of the Russian Federation. According to Russian legislation, only Russian citizens are allowed to serve in the Russian armed forces. However, Ms. B insisted that she never accepted Russian citizenship. The Court noted that, according to international law, the will of a person to become a citizen of a particular state is important because citizenship cannot be imposed on a person. Since there was no conclusive evidence that Ms. B applied for Russian citizenship herself, she could not be refused the status of non-citizen.

The cases on access to the status of non-citizen of children demonstrate that the status is attractive to non-citizens. The courts interpret the status according to the same principles as the status of citizen. The cases concern situations when one or even both parents were foreign citizens, but the parents have agreed to register their child as a non-citizen of Latvia.<sup>58</sup> As a result of these decisions, the law was amended in 2007 and now provides that if one of the parents is a non-citizen but the other is a citizen of another State they can register their child as a Latvian non-citizen.

Another case to be mentioned in greater detail is *I.S. & A.V.*<sup>59</sup> This case concerned a family – parents and two children - whose non-citizen status was revoked by the OCMA.<sup>60</sup> The final instance court decided that it had not been proven that the

<sup>55</sup> For details see Kruma 2013: 367-376.

<sup>56</sup> Case No. C27225803 AA 261-05/01, 14 April 2005, Case No. C27188903 AA 484-05/5, 19 September 2005, Case No. A688-04/8 No. AA 398-05/3, 3 November 2005

<sup>57</sup> SKA-128, C27124003. 2004.

<sup>58</sup> Judgment of the Regional Court of administrative cases in case No.A42151204 (AA890-05/8), 20 April/5 May 2005, Judgment of the District Court of administrative cases in case No.A42244804 (A1476-05/13), 19 May 2005, Judgment of the Regional Court of administrative cases in case No. A42173504 (AA 629-05/4), 30 May/9 June 2005, Judgment of the Department of Administrative Cases, the Senate of the Supreme Court in case No. SKA – 136 (A42173104), 13 April 2005, Judgment of the Regional Court of administrative cases in case No. A42399505 (AA 1944-06/6), 21 September/3 October 2006, Judgment of the Regional Court of administrative cases in case No.A42348705 (AA 934-06/10) 28 April/15 May 2006, Judgment of the District Court of administrative cases in case No. A42051204 (A63-0457) 10 June/20 June 2005. Judgment of the Regional Court of administrative cases in case No. A42399505 (AA43-1832-07/15) 21 June 2007.

<sup>59</sup> Judgment of the District Court of administrative cases in case No. A42051204 (A63-0457) 10/20 June 2005.

<sup>60</sup> They arrived in Latvia in 1977 and left Latvia in 1988 for Armenia where they stayed until 1994. Upon return they were issued visas. In their application for visas the parents indicated that they were citizens of Armenia. However, they registered in Latvia in 1994 - 1995 and were granted the status of non-citizens.



children – daughter V.S. and son V.S. – were citizens of Armenia.<sup>61</sup> At the same time they, like their parents, had not been registered residents according to the requirements of the Former USSR Citizens Act. Therefore, the authorities could revoke the status of non-citizen on the basis of the law. However, by reference to Senate case law, the Court stated that:

‘[A]lthough there is no time limit for revocation of the status of non-citizen, it would not be fair to consider that the term for revocation is unlimited. In this case general principles of law should be applied.’

The Court referred to the principle of legal certainty. Since at the time of acquisition of the status of non-citizen the registration was performed by their parents, the applicants could have legal expectations that they were entitled to the status of non-citizen. The Court took into account the fact that the children had resided in Latvia for fourteen years, had studied in Latvia, were integrated into Latvian society, had mastered the Latvian language, and were willing to naturalise. Therefore, the administrative courts do not apply the law grammatically, but pay due regard to the individual situation in each case and, by applying general principles of law, arrive at the optimal result in each case.

The largest group of cases concerns revocation of the status of non-citizen. Most of the cases concern situations when persons have acquired another citizenship but did not inform Latvian authorities.<sup>62</sup> Also, in cases when a person provided false information in order to acquire the status of non-citizen the status will be revoked. The courts have been cautious when confirming the decisions of authorities concerning deprivation of status of non-citizen. The Department of Administrative Cases of the Senate of the Latvian Supreme Court has concluded:

‘The connection of a non-citizen with the Republic of Latvia is closer than that of a stateless person or a foreign national. Therefore, withdrawal of the status of non-citizen is an important infringement of personal rights and cannot be based on external causes and facts that have not been fully established.’<sup>63</sup>

Another group of revocation cases concerns persons who tried to abuse a system established by Latvia, Russia and the USA, involving a special programme whereby persons residing in Latvia were granted financial assistance and housing in Russia. By becoming members of the programme they lost their non-citizen status.

<sup>61</sup> Judgment of the Regional Court of administrative cases in case No. A42051204 (AA43-1868-07/9) 28 April 2008.

<sup>62</sup> Judgment of the District Court of administrative cases in case No. C27270301 (A684-06/18) 5/15 May 2006, Judgment of the Regional Court of administrative cases in case No. C27137903 (AA 452-06/12) 20/22 June 2006, Judgment of the District Court of administrative cases in case No. C27144702 (A475-04/7), 1 December 2004, Judgment of the District Court of administrative cases in case No. A42377606 (A1960-07/9), 30 November 2007, Judgment of the Regional Court of administrative cases in case No. A42415906 (AA43-1059-07/6) 28 December 2007, Judgment of the Regional Court of administrative cases in case No. A42416006 (AA43-0133-08/4) 29 January 2008, Judgment of the Regional Court of administrative cases in case No. C-27189303 (AA 266-04/6) 30 September 2004, Judgment of the Department of Administrative Cases, the Senate of the Supreme Court in case No. SKA – 10 (C27162801) 9 March 2004, Judgment of the Regional Court of administrative cases in case No. C27188903 (AA484-05/5) 19/23 September 2005.

<sup>63</sup> Judgment of the Department of Administrative Cases, the Senate of the Supreme Court in case No. SKA – 89 (C27261801) 24 August 2004.

The right to reside in Latvia subsequently could be acquired only on a temporary basis and if the financial assistance has been returned. However, some of these persons returned and applied for a permanent residence permit or claimed that they should still be considered as non-citizens since they had refused the housing which was offered to them. The cases are complicated because most often there was not sufficient information in the case file because the Russian authorities only introduced a proper registration system in 1998 and could not provide any documentary evidence.<sup>64</sup> All doubts are interpreted by the court for the benefit of the applicant.

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

Non-citizens can apply for the status of long-term resident third-country nationals in the EU framework in accordance with the provisions of Directive 2003/109/EC<sup>65</sup> if their passports have been recognised by the EU as valid for visa-free travel (Regulation 1932/2006/EC). They have to pass a language exam to acquire this status.<sup>66</sup> Moreover, Russia has decided to provide holders of the non-citizen passports with visa-free travel to Russia. The decree, signed by President Dmitry Medvedev on 18 June 2008, grants these persons visa-free travel to Russia provided they have a valid travel document – a non-citizen passport in the case of Latvia and an aliens' passport in the case of Estonia. Minors must present either a valid travel document or a birth certificate if they are listed in the passport of an accompanying guardian.<sup>67</sup> The Latvian Ministry of Foreign Affairs issued a protest about this decision, as it may bring the naturalisation of non-citizens to a halt.<sup>68</sup> However, the protests had no success.

<sup>64</sup> Judgment of the District Court of administrative cases in case No. A42603207, 24 April 2008, Judgment of the Regional Court of administrative cases in case No. C27212003 (AA 508-05/2) 15/19 August 2005. See also in a different context the Judgment of the Regional Court of administrative cases in case No. C27232303 (AA 372-04/7), 13/22 December 2004.

<sup>65</sup> The EU accession negotiations avoided the issues related to the status and rights of non-citizens. The Commission of the European Union, when interpreting the scope of the application of the so called Third-country Nationals' Directive (Council Directive 2003/109/EC of 25 November 2003 Concerning the Status of Third-country Nationals who are Long-term Residents, Official Journal, L 016, 23 January 2004, pp. 0044-0053) stated that 'the expression "third-country national" covers all persons who are not citizens of the Union in the sense of art. 20 paragraph 1 of the TFEU, that is to say those who do not have the nationality of an EU Member State'. This indicates that persons with undetermined citizenship fall within the scope of the directive. Letter from the Directorate-General Justice and Home Affairs, European Commission to the Permanent Delegation of Latvia in the EU institutions, 23 June 2003.

<sup>66</sup> Judgment of the Regional Court of administrative cases in case No. A42151204 (AA890-05/8), 20 April/5 May 2005, Judgment of the District Court of administrative cases in case No. A42244804 (A1476-05/13), 19 May 2005, Judgment of the Regional Court of administrative cases in case No. A42173504 (AA 629-05/4), 30 May/9 June 2005, Judgment of the Department of Administrative Cases, the Senate of the Supreme Court in case No. SKA – 136 (A42173104), 13 April 2005, Judgment of the Regional Court of administrative cases in case No. A42399505 (AA 1944-06/6), 21 September/3 October 2006, Judgment of the Regional Court of administrative cases in case No. A42348705 (AA 934-06/10) 28 April/15 May 2006, Judgment of the District Court of administrative cases in case No. A42051204 (A63-0457) 10 June/20 June 2005. Judgment of the Regional Court of administrative cases in case No. A42399505 (AA43-1832-07/15) 21 June 2007.

<sup>67</sup> 'Visa waiving for Latvia's "non-citizens" jeopardizes Russia-EU talks', Ria Novosti [Russian national news agency], 18 June 2008, see en.rian.ru.

<sup>68</sup> Arlietu ministrijas paziņojums par Krievijas Federācijas lēmumu atcelt vizu režimu dalai Latvijas iedzīvotāju [Announcement of the Ministry of Foreign Affairs concerning the decision of the

In addition, the ruling of the Grand Chamber of the ECtHR in the *Andrejeva* case serves as an example that the developments are going in the direction of eliminating differences in the treatment of citizens and non-citizens. The Court established that Latvia has discriminated against non-citizens concerning the calculation of their pensions.<sup>69</sup> The State Pensions Act provides that the pensions of foreign nationals or stateless persons who were resident in Latvia on 1 January 1991 should be based on periods of employment in Latvia only. The Latvian authorities proceeded accordingly in the case of Natalija Andrejeva, who worked in branches of Russian and Ukrainian enterprises located in Latvia for seventeen years, explaining that different calculations would be possible only if a treaty were to be signed between Latvia and the respective states. The ECtHR considered it disproportionate to disregard employment periods of non-citizens before 1991 in pension calculations. It dismissed the Latvian government's argument that such pension claims are subject to international agreements on social security. The dissenting opinion of the Latvian judge in this ruling shows that the ECtHR did not take into account the historical context of the case, which resulted in erroneous conclusions.<sup>70</sup>

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

### *Integration*

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

Naturalisation rates peaked after liberalisation of the Citizenship Law in 1998 and after Latvia's accession to the EU in 2004. However, recently naturalisation has decreased significantly.<sup>71</sup> Latvia has not managed to adopt a comprehensive and streamlined approach to integration policy. This was further hampered by the economic crisis which started in 2008. There is a relatively stable small number of

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Russian Federation to lift visa regime for a group of Latvia's inhabitants]', press release, Latvian Ministry of Foreign Affairs, 18 June 2008, see [www.am.gov.lv](http://www.am.gov.lv).

<sup>69</sup> Application No.55707/00, Grand Chamber Judgment 18 February 2009.

<sup>70</sup> See also the ruling of the Constitutional Court in case No. 2010-20-0106, 17 February 2011. The Court referred to its earlier ruling in Case No. 2001-02-0106 and concluded that the current system of calculating pensions for non-citizens complies with the principle of state continuity and does not impose obligations for Latvia in relation to non-citizens. The Court referred to international agreements concluded and also case-law of the ECtHR (for instance, *Tarkoev v. Estonia*, application no. 14480/08, 47916/08)

<sup>71</sup> See <http://www.pmlp.gov.lv/lv/sakums/statistika/naturalizacija.html> (consulted 14 January 2015).

applications for naturalisation, ranging between 1000-2000 annually. Two ethno-centric communities continue to co-exist by living in different information spaces, which are exploited by politicians of the right and the left at times of elections or politically sensitive celebrations.<sup>72</sup> The policies advocated by both international organisations and Russia requiring more rights for non-citizens have resulted in a lack of motivation and incentives for them to naturalise. Their social and economic situation would not improve with naturalisation and Russian media provide them with access to information. Access to political rights is an insufficient argument to foster naturalisation. The question remains whether this situation can be reconciled and who can facilitate the process, especially taking into account the decreasing role of international organizations, including the EU.

The numbers of non-citizens are still quite high. On July 2014 there were 267,797 non-citizens (in 1995, the number was 735,000). However, in the period between the start of the naturalisation process in 1995 and 31 December 2011, only 137,673 people were granted Latvian citizenship, including 14,046 minors (the rest were either repatriated or acquired Russian citizenship while remaining residents of Latvia).<sup>73</sup>

The reasons for the lack of interest in naturalisation in general are changing however. For instance, knowledge of the language and military service are no longer mentioned in public opinion polls as important barriers to naturalisation. According to a survey of the OCMA done in 2011 only 35 per cent of non-citizens are planning to apply for citizenship within a year. Most of the potential applicants are women (64 per cent) and in the age groups 15-20 (57 per cent) and 21-29 (53 per cent). There are also regional differences and differences in statistics of families which include Latvian citizens. Traditionally people from the Eastern regions of Latvia and families consisting of non-citizens only have been more hesitant to apply for citizenship.<sup>74</sup>

There are several reasons mentioned by non-citizens why they do not want to apply for citizenship. According to the survey by the OCMA in 2012 about 24.8 per cent of non-citizens do not apply for naturalisation because they are convinced that citizenship should be granted automatically (in 2011 – 24 per cent), but 21.3 per cent mention that they will not be able to pass the naturalisation exams (in 2011 – 27 per cent).<sup>75</sup> 17.2 per cent of non-citizens are waiting for liberalisation of naturalisation (in 2011 – 7 per cent), but 13.5 per cent don't want to naturalise because of easier travel to the CIS countries with the passport of a non-citizen (in 2011 – 14 per cent). The

<sup>72</sup> Examples on initiatives for referenda on Russian language and automatic citizenship serve as examples. See Latvia's referendum. What's my Language? by *The Economist* on 14 February 2012, available at <http://www.economist.com/blogs/easternapproaches/2012/02/latvias-referendum> (consulted on 23 January 2013) and news item by Latvia on referenda on Latvian Language and Citizenship Law, available at <http://eudo-citizenship.eu/news/citizenship-news/700-latvia-comprehensive-citizenship-reform-on-the-agenda-in-parliament-and-in-a-referendum-campaign-> (consulted 23 January 2013).

<sup>73</sup> According to the UNHCR which refers to unidentified media, the main patterns of reduction of the number of non-citizens in 2009 were death (39.1 per cent), acquisition of Latvian citizenship (23.5 per cent), emigration (18.9 per cent) and acquisition of foreign citizenship (18.4 per cent).

<sup>74</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) (consulted 8 October 2012).

<sup>75</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 per cent) and respondents who say that they can speak Latvian without any difficulty, except for writing (17 per cent). The group of persons who admit the difficulty of exams is numerically higher in the age group over 60 (36 per cent), but younger persons are more self-confident.

remaining 9 per cent of respondents have answered that they have no time to apply for naturalisation (in 2011 – 8 per cent), but 8.2 per cent said that they are satisfied with the status of non-citizen. The status of non-citizen has become permanent, stable and well protected, which does not motivate people to apply for citizenship. Only 24.5 per cent of all respondents noted that in general they wish to naturalise.<sup>76</sup>

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

In addition the naturalisation process is less attractive since Russia's promoted policies towards compatriots could intensify in the future.<sup>77</sup> Since the adoption of the Russian Foreign Policy Concept (adopted by the Russian President on 12 July 2008) which confirmed the continuation of targeted policies there are expected upcoming initiatives towards this group. The Concept distinguished a separate foreign policy dimension called the 'humanitarian trend' of Russian foreign policy, which inter alia includes the protection of the interests of ethnic Russians living abroad. The Presidential Administration, the Russian Foreign Affairs Ministry and the Russian State Duma (the parliament) are the key institutions that provide support for non-citizen organisations in Latvia (Lerhis & Kudors 2008:72). Demographically and linguistically weak, the Latvian majority is not well placed to live with a big, post-imperial minority that is politically supported by a non-democratic neighbouring state (Muižnieks 2006a: 5).

There are sporadic projects, initiatives, and incentives taking place organised by various governmental departments and institutions and NGOs. The Cabinet of Ministers has established the Council for Monitoring of Implementation of the Guidelines on National Identity, Civil Society, and Integration Policy. It provides that the Council should promote involvement of institutions in implementing integration programmes. It consists of NGOs, the Society Integration Fund, and governmental representatives. However, no practical outcomes of the Council's activities have been evident.

Therefore, the search for profound solutions is lacking. It can be argued that Latvia has become 'lost in translating' the model of a republican democracy as it existed in the 1920s into a more liberal model required for society as it now exists in Latvia. The elite driven one-direction process has led to the situation where some non-citizens feel more marginalised than at the beginning of the 1990s and the risk of long-term political alienation is present (Kruma 2010: 266).

<sup>76</sup> There were 1500 respondents of which 750 had applied for citizenship. The OCMA noted that the decrease in application is 10 per cent. The press release on the survey is available at <[http://www.tvnet.lv/zinas/latvija/438547-piekta\\_dala\\_nepilsonu\\_baidas\\_no\\_naturalizacijas\\_eksamena](http://www.tvnet.lv/zinas/latvija/438547-piekta_dala_nepilsonu_baidas_no_naturalizacijas_eksamena)> accessed on 8 October 2012.

<sup>77</sup> See <http://www.themoscowtimes.com/news/article/putin-endorses-eased-citizenship-requirements/473010.html> (consulted 23 January 2013) via <http://eudo-citizenship.eu/news/citizenship-news/759-putin-endorses-eased-citizenship-requirements> (consulted 23 January 2013).

## 4 Conclusion

Latvian citizenship policy is based on the concept of state continuity. The rights attached to citizenship were therefore restored to those who were citizens at the time of the occupation of Latvia in 1940 and their descendants. This policy led to the situation that a large group of people who settled in Latvia during the occupation remained with undetermined status. Under pressure to comply with international legal norms, especially regarding the reduction of statelessness, Latvia introduced the status of non-citizen. A so-called carrot-and-stick policy has been adopted with regards to this group. Over the years, the status of non-citizen has been strengthened. It is important to clearly identify which rights are attached to each particular status and to examine the effective protection afforded to individuals. The question remains as to whether these statuses facilitate integration of society in the long run.

The major innovation in recent amendments is the introduction of dual citizenship. One could, of course, question the choice of the countries with which dual citizenship is automatically accepted. In addition, following the latest amendments to the Citizenship Law, the scope of discretion of the authorities has increased in relation to refusal of naturalisation. The Cabinet of Ministers is not only entitled to allow dual citizenship in cases not provided in law, but also to refuse a person's naturalisation (the final decision is political).

Latvia can be seen as an outlier in the context of naturalisation and integration requirements compared with other EU member states because of the former Soviet occupation and the need to ensure state continuity. In Latvia, naturalisation requirements, especially the language requirement, were considered a precondition to building a civil society and defining a shared system of values (Strik, Böcker, Luiten, van Oers: 388-389). However, integration policies have not been sufficiently focused and proactive. For instance, there has been a constant lack of language courses or regular campaigns inviting people to naturalise. As a result, the number of non-citizens has remained considerable. The latest amendments simplifying registration of new-born non-citizen children is an important development.

In general, Latvian citizenship regulation meets the requirements of international law. Access to citizenship for children has been simplified and the conditions on revocation of citizenship strengthened. Naturalisation procedures may be qualified as relatively straightforward and accessible. However, the emphasis placed upon the 'constituent nation' and the wide discretion left to political institutions might complicate Latvian ratification of the European Convention on Nationality which was signed in 2001. Ultimately, it can be argued that Latvia has acknowledged that a new approach to the regulation of citizenship is required in order to address persisting integration-related issues.

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