



European  
University  
Institute

ROBERT  
SCHUMAN  
CENTRE FOR  
ADVANCED  
STUDIES

# EUDO CITIZENSHIP OBSERVATORY

## *ACCESS TO ELECTORAL RIGHTS*

### *LATVIA*

Kristine Kruma

June 2013



US  
University of Sussex



<http://eudo-citizenship.eu>

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

***Access to Electoral Rights  
Latvia***

**Kristine Kruma**

*June 2013*

EUDO Citizenship Observatory  
**Robert Schuman Centre for Advanced Studies**  
Access to Electoral Rights Report, RSCAS/EUDO-CIT-ER 2013/14  
Badia Fiesolana, San Domenico di Fiesole (FI), Italy

© Kristine Kruma

This text may be downloaded only for personal research purposes.  
Additional reproduction for other purposes, whether in hard copies or electronically,  
requires the consent of the authors.

Requests should be addressed to [eudo-citizenship@eui.eu](mailto:eudo-citizenship@eui.eu)

The views expressed in this publication cannot in any circumstances be regarded as  
the official position of the European Union

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/)  
[www.eui.eu](http://www.eui.eu)  
[cadmus.eui.eu](http://cadmus.eui.eu)

Research for the EUDO Citizenship Observatory Country Reports has been jointly supported, at various times, by the European Commission grant agreements JLS/2007/IP/CA/009 EUCITAC and HOME/2010/EIFX/CA/1774 ACIT, by the European Parliament 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>

# Access to Electoral Rights

## Latvia

*Kristine Kruma*

### 1. Introduction

This report examines the conditions regulating access and exercise of electoral rights in Latvia. Only Latvian citizens are entitled to vote and be elected in parliamentary elections and vote in referenda. EU citizens can participate in local elections and elections of the European Parliament, whereas third country nationals do not enjoy any voting rights, irrespective of the length of residence in Latvia. There are different conditions set for citizens residing outside Latvia depending on the type of elections.

The voting system has not been subject to major changes since its introduction, except for relatively new provisions on rights of EU citizens. There have been proposals to change the voting system from proportional to plurality system in parliamentary elections and to elect President in direct elections.

NGOs and political scientists are the main voices in debates on electoral reform at the national level in Latvia. Such voices attracted attention when in 2011 a referendum was held to dissolve parliament and organise extraordinary elections.<sup>1</sup> However, no further initiatives have followed since then. There is also a debate on the rights of non-citizens to vote in local elections. It has been fuelled not only by local NGOs representing views of non-citizens but also international institutions.<sup>2</sup> Proposals to grant non-citizens local electoral rights have not attracted political support from ruling coalitions.

The Law on Referenda, Legislative Initiatives and Initiative of European Citizens has been recently amended.<sup>3</sup> The main amendments concern the number of signatures that need to be collected in order to initiate a referendum. Before the amendments, only 10,000 voters' signatures were required to initiate collections of signatures for a referendum. The amendments raised the number of signatures

---

<sup>1</sup> See, for instance, Electoral Reform Society, <<http://www.velref.lv/en>> accessed 30 October 2012.

<sup>2</sup> Human Rights Commissioner of the Council of Europe (for instance, <<http://www.ir.lv/2012/2/27/muiznieks-neatkapsies-no-domas-par-nepilsonu-velesanu-tiesibam-regionali>>), European Commission against Racism and Intolerance (for instance, <<http://www.delfi.lv/news/national/politics/eiropas-padomes-komisija-atkartoti-iesaka-laut-nepilsoniem-velet-pasvaldibu-velesanas.d?id=42155220>>) and OSCE High Commissioner on National Minorities (for instance, <<http://www.youtube.com/watch?v=KDPcLDKpH4E>>).

<sup>3</sup> The law was adopted on 8 November 2012, published in OG 27 November 2012, in force since 11 December 2012.

required for the first round to 30,000.<sup>4</sup> The initiative to amend the Law was brought by the ruling coalition after more than 10,000 signatures were collected for amendments to the Constitution providing that Russian should also become an official state language. Bearing in mind how easily the necessary number of signatures could be collected, ruling politicians began to think that the procedures required to start costly referendum processes were too simple and consequently sought to render them more difficult.

## **2. Eligibility**

### *2.1. Citizen residents*

#### 2.1.1. Age

Latvian citizens have the right to vote in all elections and referenda if they are eighteen years of age or more. The age threshold to run as a candidate differs. In national parliamentary elections and elections of the European Parliament, the minimum age is 21, whereas in local elections eighteen years is the minimum age requirement to run as a candidate.

#### 2.2.2. Mental disabilities

Mentally disabled person can be disenfranchised (Articles 3 and 5 of the Law on Elections to the European Parliament; Articles 2 and 5 of the Parliamentary Election Law (applicable also in cases of referenda), Articles 6 and 9 of the Law on Local Elections).

According to the provisions of the electoral laws, a voter can be disenfranchised if s/he is declared as incapacitated by law. The procedure is set in Civil Law and requires a decision of the court (Article 358 *et seq* of the Civil Law). There is no gradation envisaged – a person is declared either incapacitated or the status is lifted upon what is considered to be full recovery (Article 364 of the Civil Law). It should be noted that these norms have been declared void by the Constitutional Court starting from 1 January 2012.<sup>5</sup>

#### 2.1.3. Persons convicted of criminal offences

---

<sup>4</sup> This applies except in cases when referendum on dissolution of the *Saeima* is initiated. In those cases 10, 000 signatures are sufficient.

<sup>5</sup> The Constitutional Court ruled that both norms are not proportionate and there should be groups introduced which would be subject to different limitations on how to conduct their life. The ruling was adopted on 27 December 2010 and time was given for the legislature to amend regulation. However, the draft amendments are still in the Parliament. The amendments were adopted in the second reading on 12 December 2011, but the third reading is not even scheduled. This might also have repercussions for the electoral rights of persons whom the legislation is designed to effect. See case No. 2010-38-01 and information about adoption of amendments at <http://titania.saeima.lv/LIVS11/saeimalivs11.nsf/webAll?OpenView&count=30&start=31> accessed 30 October 2012.

When it comes to voting in European Parliament elections, convicted person have active voting rights. However, according to Article 5, a person cannot run as a candidate if s/he:

- is serving a sentence in prison;
- is convicted of a severe crime and has a criminal record which has not been extinguished or set aside, except when the person is rehabilitated;
- has been in a mentally disabled condition or limited state of responsibility when committing a crime or, also, after committing the crime has become mentally ill such that the person is deprived of their ability to understand their actions or to control them and, as a result, has been subjected to compulsory medical treatment or the case has been dismissed without applying such a compulsory measure;
- is punished with prohibition to stand as a candidate for Parliament, the European Parliament, or local elections, except if the person is deemed to be rehabilitated or the penalty is set aside/erased.

According to Article 7<sup>1</sup> of the Law on Referenda, Legislative Initiatives and Initiative of European citizens (henceforth Law on Referenda), persons who are criminal suspects, accused or on trial and who are arrested may participate in the collection of signatures to initiate a referendum. They have to submit, however, a written application to an election commission. According to Article 20(4) of the Law on Referenda, they can also vote in a referendum according to the same procedure which is used in the case of parliamentary elections.

Prisoners and persons under arrest can take part in parliamentary elections.<sup>6</sup> The procedure for voting in places of detention and prisons is set out in Articles 45<sup>1</sup> and 45<sup>2</sup> of the Parliamentary Election Law. Prisoners are not entitled to vote in local elections according to Article 6 of the Laws on Elections of Major City Council and Municipality Council (henceforth Law on Local Elections).

Groups of persons excluded from the right to stand as candidates in local and parliamentary elections are quite similar and are outlined below in table 1 (except for mentally disabled person who are discussed above).

---

<sup>6</sup> Right of suspects, accused persons or persons under trial in case if they are under arrest to vote was accepted after the ruling of the Constitutional Court in case No. 2002-18-01 on Compliance of Article 2(2) of the Parliamentary Elections Law with Articles 6, 8 and 91 of the Constitution, 5 March 2003. The complaint was brought by a person under arrest and who was not able to vote in two parliamentary elections. The Court ruled that the provision contested is not proportional and it has no legitimate aim. Prisoners were disenfranchised until 1 April 2009, but suspects, accused or persons on trial who are arrested were disenfranchised until 1 January 2003. The law was amended at the time when the Constitutional Court accepted application by prisoner on non-compliance of the election laws with Articles 6, 8 and 91 of the Constitution. The Court terminated proceedings in case No. 2008-41-01 on 9 April 2009.

Table 1: Persons disenfranchised to run as candidates<sup>7</sup>

Parliamentary elections (Article 5)	Local elections (Article 9)
1) Person serving a sentence in prison	
2) Person having committed a criminal offence in a state of mental disability or a state of limited mental competency or who, after committing a crime, has become mentally ill and is incapable of taking conscious action or controlling it and as a result has been subjected to compulsory medical treatment or the case has been dismissed without applying such a compulsory measure	
3) Person having been sentenced for a deliberately committed crime; except if the person has been rehabilitated or if their previous criminal record has been expunged or annulled	3) Person who has been sentenced for a grave or especially grave crime unless s/he has been exonerated or his/her criminal record has been expunged or annulled
4) Person who has been active in the CPSU (the CP of Latvia), the Working People's International Front of the Latvian SSR, the United Board of Working Bodies, the Organization of War and Labour Veterans, the All-Latvia Salvation Committee or its regional committees after 13 January 1991	
5) Person who is working for foreign security, intelligence or counterintelligence services, or had been working for the USSR, the Latvian SSR security, intelligence or counterintelligence services, <u>except persons who have been employed in planning, finance or administrative departments of the Committee of State Security of the USSR or the Latvian SSR</u>	5) Person who belongs to or has been employed by the USSR, the Latvian SSR or another country's state security, intelligence or counterintelligence services
6) Person who has been punished with a prohibition to run for elections of the <i>Saeima</i> , the European Parliament, city councils and municipality councils, except if they have been exonerated or their criminal record has been expunged or annulled.	
	7) A citizen of the European Union who has been deprived of the right to be nominated as a candidate and to be elected by a court verdict in the EU member state of his/her citizenship may not be nominated as a candidate for council elections or be elected in a council in the Republic of Latvia.

<sup>7</sup> It should be noted that until 2002 the Law made ineligible persons who did not have a command of Latvian at the "upper" level. This requirement was abolished after the European Court of Human Rights analyzed this requirement in its judgment in case Podkolzina v. Latvia (application no. 46726/99), 9 July 2002 and UN Human Rights Committee dealt with the communication No. 884/1999, Ignatane, v. Latvia, 31 July 2001. Currently candidates should indicate their knowledge of Latvian by self-assessment.

The constitutionality of inclusion of the fourth and fifth group has been contested in the Constitutional Court by 23 MPs of the opposition parties.<sup>8</sup> They claimed that these provisions are disproportionate because Latvian citizens cannot exercise their passive voting rights in parliamentary and local elections. The Constitutional Court ruled that the contested provisions are compatible with the Constitution, European Convention on Human Rights and Fundamental Freedoms and the International Covenant on Civil and Political rights.<sup>9</sup> The Court noted that each electoral system should be examined in the context of the political maturity of the country. The legislative history in Latvia illustrates that the legislator has taken into account the historical and political circumstances of democratic progress. According to the Court, if one has to examine whether limitations on voting rights are proportionate, assuming that their aim is to protect democratic order, national security and territorial integrity, the political situation in the country should be taken into account. Under the circumstances the Court declared that the disputed limitations are proportionate. However, it also acknowledged that the legislator is under obligation to review periodically the necessity of the limitations it places on voting rights.

In another case the Constitutional Court was dealing with the claim that the Law on Storing, Use of the KGB Documents and Establishment of the Fact of Co-operation with the KGB, does not comply with Article 101 of the Constitution and Article 14 and Article 3 of Protocol No. 1 of the ECHR.<sup>10</sup> The Law contested was adopted in 1994 and provided that the fact of having cooperated with the KGB, after the time at which the law came into the force, can be used as grounds to limit the voting rights of a person for ten years. In 2004, amendments to the Law were adopted, extending this period to 20 years. Applicants considered that these amendments breach citizens' passive voting rights of a citizen. The Court referred to its earlier judgment and reminded that the legislator should periodically review the political situation and the need for restrictions because such restrictions of passive voting rights can exist only for a limited duration. The Court also noted that such limitations do not exist in the case of elections to the European Parliament. The Court did not express itself clearly on the validity of amendments because it concluded that in order to analyse the compatibility of the amendments to relevant articles of the Constitution and the ECHR, the special laws (such as election laws) should be contested.

Restrictions set in Parliamentary Elections Law were addressed also by the European Court of Human Rights in the *Ždanoka* case.<sup>11</sup> The applicant was a former member of the Communist Party of Latvia and was ruled ineligible to stand as a

---

<sup>8</sup> Case No. 2000-03-01 on Compatibility of Article 5 (5) (6) of the Parliamentary Elections Law and Article 9 (5) (6) of the Law on Local Elections with Articles 89 and 101 of the Constitution, Article 14 and Article 3 of Protocol 1 of the ECHR as well as Article 25 of the ICCPR.

<sup>9</sup> The case, however, was controversial because out of seven judges of the Constitutional Court, three were against the ruling and attached their dissenting opinion. The dissenting judges thought that infringement was disproportionate, taking into account the time which had passed since Latvia regained independence. They also noted that Latvia no longer needed to protect itself by excluding such groups of citizens from passive voting because its statehood was safe. Latvia was already a member of the UN, Council of Europe and the OSCE, and was soon due to become a member of the EU and NATO.

<sup>10</sup> Case No. 2004-13-0106, 22 March 2005. The applicants were 20 MPs from opposition parties.

<sup>11</sup> Case of *Ždanoka v. Latvia* (application no. 58278/00), Judgment of 16 March 2006. The judgment was adopted by the Grand Chamber by thirteen votes to four that there had been no violation of Article 3 of Protocol No. 1 and by thirteen votes to four that it is not necessary to examine separately the applicant's complaints under Article 11 of the Convention.



candidate in the parliamentary elections. The European Court reflected at length on the historical context in Latvia and quoted the decision of the Constitutional Court:

*...[I]n order to guarantee the stability and effectiveness of a democratic system, the State may be required to take specific measures to protect itself. ... Every time a State intends to rely on the principle of “a democracy capable of defending itself” in order to justify interference with individual rights, it must carefully evaluate the scope and consequences of the measure under consideration, to ensure that the aforementioned balance is achieved.<sup>12</sup>*

The European Court further noted that Article 3 of Protocol No.1 differs from other rights guaranteed by the Convention and that they are not absolute. Any electoral legislation must be assessed in light of the political evolution of the country concerned. The Court introduced the test to be applied when examining compliance with Article 3 of Protocol No. 1 which was based on its previous case law and applied them to the *Ždanoka* case. It did not find that exclusion of the applicant was intended to punish those who had been active in the Communist Party and referred to the ruling of the Constitutional Court that these measures are intended to be temporary. It also emphasised the importance of the need to ensure the integrity of the democratic process and the fact that those excluded are only ‘active participants’ in CPL. In conclusion, it once again referred to the importance of constant review and decided that there has been no violation of applicant’s rights guaranteed by the Convention.

In 2006, the Constitutional Court had to deal with an application by a group of MPs claiming that provisions of Parliamentary Election Law and Law on Local Elections limiting persons to stand as candidates due to their past membership of the organisations mentioned is contrary to Articles 1, 9, 91 and 101 of the Constitution, and Articles 25 and 26 of the ICCPR.<sup>13</sup> The applicants claimed that the provisions contradict the Constitution and ICCPR because they lack legitimate aim and are not necessary in democratic society. The Court referred to its earlier case-law and noted that contested provisions do not provide for differential treatment of persons because of their political convictions. They do provide for restrictions of voting rights of those persons who acted against a restored democratic regime after 13 January 1991. The Court also referred to obligations derived from EU law, including the EU Charter of Fundamental Rights as well as the *Ždanoka* case. It noted that Latvia has become a member of the EU and NATO relatively recently and is still the object of active interest for different foreign agents, especially in neighbouring countries. The Court concluded that Latvia has not overstepped its margin of appreciation. However, it stressed that the legislator should constantly review limitations and that there is urgent need in the near future to reconsider these restrictions.<sup>14</sup>

In relation to EU citizens, the Court invited the *Saeima* to reconsider whether restrictions for EU citizens to stand as candidates in the case that they have served in the state security authorities of their countries of origin complies with obligations under EU law. The Court referred to Article 6 of the Directive 1994/80 and noted that

<sup>12</sup> Para 100 of the judgment, *Ždanoka v. Latvia*.

<sup>13</sup> Case No. 2005-13-0106, 15 June 2006.

<sup>14</sup> Paragraphs 17.3 and 18.8 of the judgment.

since Latvian citizens who have served for the state security service do not have such restrictions, EU citizens should not be subject to differential treatment.<sup>15</sup>

## 2.2. *Citizens abroad*

It should be noted at the outset that more problematic in practice might be the cases of local elections. Although there is a legal requirement to inform authorities if a person is absent from the territory of Latvia for over 6 months, it is impossible to ensure efficient control over whether or not the voter has complied with this requirement. It is crucial to ensure that Electoral Register which is based on data of the Population Register is correct. Another problem might be identified in cases of voting in European Parliament elections.<sup>16</sup>

### 2.2.1. Residence in country as condition for the franchise

In general, residence abroad is not a barrier for voting. However, there are differences depending on the type of elections. As a general rule, a person must appear in the Population Register and hold a valid identity document.

The most inclusive regime applies to parliamentary elections, which provides for general franchise. If a voter wants to stand as a candidate, s/he should be included in the list of candidates submitted by the political party or a union of political parties. A similar regulation is adopted in relation to referenda, i.e. voters residing abroad can participate in the collection of signatures and referenda.

In cases of local elections the rights of citizens residing abroad are more limited because only in-country voting is allowed. Moreover, voting for the local government is determined on the basis of residence, i.e. a voter can cast a vote for the local government where s/he has resided at least 90 days before the elections or in the territory where the voter owns immovable property. In addition, the person should appear in the electoral register, which is made on the basis of the population register (Article 5 of the Law on Local Elections). Similar conditions are set for voters using passive voting rights, i.e., they can run as candidates if they have resided in the territory of the local government for ten months preceding elections; have worked in the territory of the local government at least four months before elections; or if they own immovable property in that territory (Article 8 of the Law on Local Elections). In case of doubt, the election commission should interview the candidate to verify whether s/he satisfies these conditions or ask other institutions for additional information.<sup>17</sup> Moreover, in applying provisions of the Law on Local Elections, the

<sup>15</sup> See paragraph 19 of the judgment.

<sup>16</sup> See section 3.3.

<sup>17</sup> See rulings of the Regional Administrative court and Department of Administrative Cases of the Senate of the Supreme Court in case No. A42207905 AA 1277-06/10, 2 March 2006. A candidate was removed from the list because he had not resided on the territory of the local government for 10 months. There was a dispute whether the person had been employed in that territory for 4 months. The commission claimed that no documents were submitted. The administrative court ruled that Article 22 of the Law obliges the commission to request additional information in case of doubt whether candidate satisfies conditions set in Article 8 of the Law. It includes also an interview with the candidate upon due notification.

commission should take into account other laws and procedures relevant to clarify the facts of the case.<sup>18</sup>

### 2.2.2. Voting of temporarily absent citizens

If a voter is temporarily absent from Latvia during parliamentary elections or national referenda, s/he can vote in polling stations established by the Ministry of Foreign Affairs and the Central Election Commission outside Latvia (Article 43 of the Parliamentary Elections Law, Article 20 of the Law on Referenda). The Central Election Commission may establish election commissions and polling stations in diplomatic and consular missions, on ships sailing under the Latvian flag and registered in the Republic of Latvia.<sup>19</sup>

In case a voter is absent during local elections, s/he can vote three days before Election Day in the district of the local government where s/he is registered. Article 26 of the Law on Local elections sets the opening hours for polling stations during those days (Wednesday 5 p.m. - 8 p.m.; Thursday 9 a.m.-12 a.m.; Friday 10 a.m. - 4 p.m.).

### 2.2.3. Voting of citizens permanently abroad

In cases of parliamentary elections and referenda, voters residing permanently abroad can choose to vote in polling stations established outside Latvia. Alternatively, a voter can submit an application to a Latvian diplomatic or consular mission, present his/her passport and apply for postal voting. The application should contain the full name, ID and address of the person to which the election materials should be sent. The application should be submitted no earlier than five months and no later than three weeks before Election Day (Article 45 of the Parliamentary Elections Law). The election commission of the polling station must then send to the voter a list of candidates for the Riga district, along with instructions for voting not later than fifteen days preceding elections. The voter permanently abroad cannot vote for lists of candidates from his own district but only for lists submitted in Riga. This provision has unsuccessfully been challenged in the Constitutional Court, i.e. the proceedings were not initiated.

Article 20 of the Law on Referenda provides that voters abroad can vote in polling stations established abroad or by post. Identical conditions to voting for the legislature apply to referenda.

---

<sup>18</sup> See ruling of the District Administrative Court in case No. A42771209 (No. A7712-09/44). The applicant was a candidate for local elections in the territory of a local government where his wife owned a flat which was bought during their marriage. The election commission refused registration despite the fact that the applicant submitted ownership documents and a document certifying marriage. The Court analysed the parliamentary transcripts and earlier draft bills of the provision in great detail. It further referred to the provisions of Civil Law on immovable property bought during marriage. In case there are no specific indications upon registration [upon registration of the property or in the electoral register?] that the property belongs solely to one of the spouses it should be considered as the property of them both. Therefore, the applicant was entitled to run as a candidate on the basis of the fact that he owns property.

<sup>19</sup> In the latest elections voting was possible in 39 countries and 77 polling stations abroad.

### 2.3. Foreign residents

According to the laws on election of the national legislature and referenda, only Latvian citizens can vote and run as candidates. Law on Local Elections and the Law on Elections of the European Parliament specify that only Latvian citizens and EU citizens can vote and stand for elections.

## 3. Electoral rights of EU citizens

### 3.1. Local elections

The right to vote and to be elected in local government for EU citizens is provided for in Article 101 of the Constitution:

*Every citizen of Latvia has the right, as provided for by law, to participate in the work of the State and of local government, and to hold a position in the civil service. Local governments shall be elected by Latvian citizens and citizens of the European Union who permanently reside in Latvia. Every citizen of the European Union who permanently resides in Latvia has the right, as provided by law, to participate in the work of local governments. The working language of local governments is the Latvian language.*

The Law on Local Elections was amended to transpose Directive 1994/80/EC on 11 November 2004, which entered into force on 26 November 2004. In addition, the Law on the Register of Voters entered into force on 5 February 2004.<sup>20</sup>

There are no derogations in the Law if compared with norms in the Directive. The conditions for registration of residence for non-nationals are identical to Latvian citizens. All residents are registered according to the Law on Population Register. Article 3 of the Law provides that citizens, non-citizens, resident-permit holders, and resident-card holders should be registered in the population register. According to Article 15, those Latvian citizens and non-citizens residing abroad for longer than six months should inform the OCMA. The OCMA and the Central Election Commission are entrusted to maintain the electoral register (Article 3 of the Law on Electoral register). The electoral register is based on data from the population register.

According to Article 14 (2) of the Law on Electoral Register, a voter can change the polling station at which s/he casts his/her ballot within the territory of the local government.

Residence requirements are identical for Latvian citizens and EU citizens who are registered in the population register.

An EU citizen who wants to stand as a candidate in local elections should be included in the list of a political party or a union of political parties (Article 15 (1) of the Law on Local Elections). In local governments where the number of residents is lower than 5,000 people, the list of candidates can be submitted also by an association

<sup>20</sup> The Constitutional Court has referred to transposition of the Directive 1994/80/EC in its judgment in case No. 2005-13-0106, 15 June 2006, para 13.5.

of voters. Upon submission of the list of candidates, EU citizen should submit a document which testifies that s/he has the right to vote in his/her country of citizenship, i.e. that there is no court judgment which precludes them from voting or standing for elections.

### *3.2. EP elections for EU citizens residing in the country*

The right of EU citizens to vote in elections to the European Parliament is set out in Article 2 of the Law on the Elections of the European Parliament. Article 3 of the Law provides that only those EU citizens who have a right to vote in their Member State can vote in Latvia.

EU citizens residing in Latvia should register their residence as provided for in the Law on Population Register, Immigration Law and Cabinet of Ministers Regulation No. 675 on Procedure According to which EU Citizens and Their Family Members Enter and Reside in the Republic of Latvia. The procedure for elections to the European Parliament differs from national elections in which only Latvian citizens can vote. At the same time, Section 14 of Regulation No. 675 provides that in case an EU citizen has resided in Latvia over three months and has not registered and has not received a document testifying his/her fact of residence, this individual cannot be denied his/her rights as an EU citizen. In these cases, the EU citizen can be requested to confirm his/her voting rights by using other evidence.

In cases where an EU citizen votes or runs as a candidate in elections to the European Parliament in another Member State, s/he loses either his/her right to vote or stand as a candidate in Latvia (Article 6(1) of the Law on Elections of the European Parliament). If an EU citizen opts to vote in Latvia s/he should, in person or by post, submit an application to the Central Election Commission 30 days before elections confirming that s/he will not vote in another EU Member State (Article 6 of the Law on Elections of the European Parliament). The information to be included in the application is set down in detail by law (Article 6 of the Law on Elections of the European Parliament). Should the Central Election Commission refuse to accept an application, EU citizens can lodge a complaint according to the Law on Administrative Procedure. The Central Election Commission is the main institution which gets into contact with other EU Member States in cases where EU citizens are willing to vote in Latvia or when Latvian citizens opt to vote outside Latvia (Article 6 (6) of the Law on Elections of the European Parliament).

Voters are registered according to the Law on Electoral Register. The register is compiled by both the Central Election Commission and the OCMA. The OCMA collects data from the population register 120 days before elections. The information is verified by local governments (Article 8 of the Law on Electoral Register). 90 days before elections the OCMA includes the data in the electoral register. The Central Election Commission, 20 days before elections, enters into the register data on the EU citizens in relation to which it has taken a positive decision. The OCMA, 75 days before elections, draws a list of voters for a specific polling station and 70 days before elections sends information to the voter.

The list of voters is prepared fifteen days before the elections and confirmed by the Central Election Commission. The data is then sent to local governments. The voter receives information on the polling station at which s/he must cast his/her ballot ten days before the elections. However, data can be still changed five days before the

elections in cases where a voter has died, been declared mentally disabled, lost Latvian or EU citizenship, changed name or surname, changed ID, or if there are no legal grounds for registration in the Population register (Article 15 of the Law on Electoral Register).

EU citizens can use their passive voting rights if they are members of a political party or union of political parties or if they are included in the list of candidates without being members of a particular political organization (Article 8 of the Law on Elections of the European Parliament). According to the Law on Political Parties, only citizens can found a party (Article 12). Political parties can be established by at least 200 Latvian citizens. EU citizens residing in Latvia can be members of a political party (Article 26). In case a party consists of more than 400 members, at least half of them should be Latvian citizens (Article 26(3) of the Law on Political Parties). Persons included in the list of candidates might not be members of the political party.<sup>21</sup>

The conditions for disenfranchisement of EU citizens are the same as for Latvian citizens. The information on candidates is verified by the Central Election Commission (Article 14 of the Law on Elections of the European Parliament). If the Central Election Commission receives information less than 50 days before the elections that a candidate cannot run and there is no possibility to change election ballots, the votes cast for the excluded candidate are ignored.

### *3.3. EP elections for national citizens abroad*

The Law on Elections of the European Parliament does not require that voters should reside in Latvia. However, voting rights are preserved only for citizens registered in the electoral register. Therefore, a citizen who has never resided in Latvia can vote in the elections. The main factor is whether or not the person appears in the register. For EU citizens, the situation is different since only those EU citizens who reside can vote in elections (Articles 2 and 4 of the Law on Elections of the European Parliament). The Election Register contains data on all Latvian citizens above eighteen years of age and who are not recognised by the law as incapacitated (Article 5 of the Law on Electorate Register).

Since all Latvian citizens, including those who are registered abroad, are included in the population register, they are also included in the electoral register for the European Parliament. According to the Legal Office of the Parliament, if a person holds dual nationality of Latvia and another State and has never resided in Latvia, he or she can vote in European Parliament elections on the grounds that, in its relations to Latvia, a voter is treated as a Latvian citizen. In practice, those voters should register for postal voting. According to the Central Election Commission, the fact that such an individual has no registered residence in Latvia is not important.<sup>22</sup>

In practice, non-resident voters are listed in the electoral register to vote by post and they have two options (1) to vote by post; (2) to change their polling station to another polling station in Latvia and vote in that station. Latvian citizens can apply

<sup>21</sup> See ruling of the Regional Administrative Court in case No. A43006210 (No. A43-0022-11/7), 26 May 2011 and Constitutional Court in case No. 2010-68-01, 29 March 2011.

<sup>22</sup> Electronic response of the Legal Office of Parliament and Central Election Commission, on file with the author. 9 October 2012.

for postal voting if they are absent from Latvia for six months or more. The option to change polling station is infrequently practised.

According to information from the Central Election Commission, there has never been a situation in which a Latvian citizen who has never resided in Latvia (or resided for a limited time) has stood as a candidate for elections in the list of candidates. The Central Election Commission notes that there might be contradictions between Article 4 of the Law on Elections of the European Parliament, Article 5 of the Law on Electoral Register, and Articles 10 and 11 of the Law on the Elections of the European Parliament. Article 4 of the Law on Elections of the European Parliament states that the right to vote is reserved to voters who are included in the electoral register. Article 5 of the same Law states that the Electoral Register contains data on Latvian citizens who are eligible to vote and registered in the population register. Therefore, voters residing abroad are entitled to vote.

Articles 10 and 11 of the Law, however, require the candidate to indicate his/her place of residence. According to the Central Election Commission, they would allow a candidate residing outside Latvia to run for elections. In addition, there is a possibility for a candidate to notify his/her residence in Latvia before the elections.

#### **4. Exercising electoral rights**

In general only nationals and citizens abroad are entitled to vote in elections. The only exception concerns resident EU citizens in cases of local elections and elections to the European Parliament.

##### *4.1. National elections*

###### *4.1.1. Voter registration*

For referenda and national elections, there is no specific registration procedure. Those who vote are registered at the polling station and their passport is stamped to prevent voting in another polling station (Article 22 (3) of the Parliamentary Elections Law).<sup>23</sup> Only those voters who have a valid passport which contains a personal I.D. code can vote (Article 20 of the Parliamentary Elections Law). A personal I.D. is issued when a person is registered as a Latvian citizen according to the Law on Population Register.

###### *4.1.2. Casting the vote*

According to Article 3 of the Law on Parliamentary Elections, voters can cast their ballot in any polling station, irrespective of their place of residence. For instance, if a citizen of Latvia travels at the time of voting, s/he might vote in the polling station on a ship or in a foreign country.<sup>24</sup>

---

<sup>23</sup> An official at the polling station checks the passport to establish whether the person can vote and whether the passport is already stamped. Following that, the official enters into the list of voters the name, surname, and ID code of the voter. The voter then signs the entry in the list.

<sup>24</sup> See sections 2.2.2.-2.2.3.

In case a person cannot vote at a polling station due to their state of health, a voter or person designated by him/her can submit an application to the commission of the polling station. Representatives of the commission may then organise voting at the residence of the ill citizen (Article 24 of the Law Parliamentary Elections Law). In case a voter cannot vote by himself/herself, or sign the list of voters, the ballot can be cast by a family member present or another person whom the voter trusts.

#### *4.1.3. Running as candidate*

Voters registering for passive voting rights should be included in the list of candidates of a political party or a union of political parties. The lists should be submitted to the Central Election Commission 80 to 60 days before Election Day. The law sets requirements and procedures for submission, registration, verification and publication of lists and party programs.

According to Article 6 of the Parliamentary Elections Law there are a number of offices which have additional conditions in case they want to run as candidates:

- if the President, the Auditor General, a member of the Council of the State Audit Office, an ambassador extraordinary and plenipotentiary, a judge of the Constitutional Court, a prosecutor, a police officer or a professional military person has been nominated as a candidate, s/he must resign from office (service) after the list of candidates for the parliamentary elections has been registered and must submit the documents certifying his/her resignation to the Central Election Commission within one month;
- if an elected MP is a Member of the European Parliament s/he shall lose his/her membership of the EP at the time of taking the oath of an MP. The Central Election Commission shall inform the EP about the loss of the Member status of the EP within three working days;
- a member of a City Municipality Council may be nominated as a candidate for the parliamentary elections, but s/he shall lose the mandate in the respective council upon being elected to the parliament;
- a judge, who is not a judge of the Constitutional Court, may be nominated as a candidate for the parliamentary elections, but s/he shall lose the office of a judge upon being elected to the parliament.<sup>25</sup>

#### *4.1.4. Assimilated or special representation of citizens residing abroad*

In case a voter is voting outside Latvia, they receive lists of candidates for the Riga voting district (Article 44 (1) of the Parliamentary Elections Law).<sup>26</sup>

---

<sup>25</sup> A provision on the right of a judge to run as a candidate had been amended when the Constitutional Court accepted an application where the court asked whether this provision complies with Article 1 of the Constitution. After amendments were adopted the Constitutional Court terminated proceedings in case No. 2010-68-01 on 29 March 2011. However, according to the Law on Judicial Power, a judge cannot be a member of political party or political organization (Article 86 (3)). A judge of the Supreme Court contested this provision as incompatible with freedom of association enshrined in Article 102 of the Constitution. The Constitutional Court has adopted Judgment in case No. 2012-16-01, 10 May 2013, and ruled that the restriction for judge to be a member of political party or political organization is compatible with the Constitution.



## 4.2. Local elections

### 4.2.1. Voter registration

The procedures for registration are identical to those that apply in European Parliament elections. Information about the inclusion of a voter in the register of a particular local government is sent to the voter 70 days before the elections (Article 13 of the Law on Electoral Register). If a voter changes address or reaches voting age later than this, information is sent to them at least ten days before the elections are held (Article 17 of the Law on Electoral Register). It is the obligation of a voter to register in the population register and to update information on his declared place of residence according to the Law on Declaration of Residence. According to Article 13(2) of the Law on Electoral Register, the OCMA is not obliged to send information to those voters who either have no declared place of residence or are not included in the list of voters residing abroad.<sup>27</sup>

### 4.2.2. Casting the vote

Voters can vote in the polling station where they are registered. In exceptional cases a voter can vote three days before elections.<sup>28</sup> If a voter cannot be present due to his/her state of health s/he or a person authorised by him/her should submit an application to the commission of the polling station. Representatives of the commission will arrive to allow the ill voter to cast their ballot at home. However, this option is applicable only in cases when the voter resides in the territory of the polling station where s/he is registered (Article 32 (1) and (4) of the Law on Local Elections). According to Article 32 (8) of the Law on Local Elections, suspects, accused persons or persons under trial who are under arrest can vote in the place of arrest if it is located in the territory of the polling station where the voter is registered.

Article 33 of the Law on Local Elections provides that in cases where the physical state of the voter does not allow him/her to vote, a voter can give oral instructions to his family member or a person he trusts.

---

<sup>26</sup> An individual Latvian citizen residing in the USA at the time of parliamentary elections submitted an application to the administrative court that Article 44 (1) breaches his constitutional rights. He wanted to vote for a list of candidates from the region where he was resident before leaving to the USA. The administrative court turned to the Constitutional Court. The Constitutional Court declined to start proceedings because there was not sufficient legal reasoning in the application (decision of the panel on application No. 185/2011, 20 January 2011). Subsequently the administrative court decided that the application should be declined because the law did not provide for a margin of appreciation of the Central Election Commission (case No. A420794110, A01002-12/34, 19 March 2012).

<sup>27</sup> See ruling of the Regional Administrative court and Administrative Cases Department of the Senate of the Supreme Court, No. A42334105, AA 43-0389-08/13, 12 May 2008; SKA-557/2008, 13 October 2008. An applicant complained that he had not received a letter informing him about the polling station where he was registered. The OCMA had registered the applicant in the polling station of his last residence. However, since his declared residence was legally annulled, the OCMA did not send the letter. According to the court the letter is not an invitation to participate in elections but bears only an informative character. The applicant himself did not seek information about his registration or the possibility to participate in the elections.

<sup>28</sup> See section 2.2.2.

According to Articles 27 and 32 (3), there should be no other possibilities to vote outside a polling station on behalf of the voter.

#### 4.2.3. *Running as candidate*

There are specific residence requirements for a candidate to run in elections.<sup>29</sup> The candidate should be included in the list of a political party, union of political parties or association of voters.<sup>30</sup>

According to Article 10 of the Law on Local Elections State President, MPs, members of government, public prosecutors, judges, the State Auditor and members of State Audit, and soldiers can run as candidates. Should they be elected, however, they lose their position. In case an elected candidate is a Member of the European Parliament, s/he should lose the status of MEP. These limitations are applicable also to EU citizens.

Lists of candidates are submitted 40-50 days before the elections (Article 15 (4) of the Law on Local Elections). Information and documents to be attached are enumerated in the law (Articles 16-17 of the Law on Local Elections). Candidates are also requested to give a self-assessment on their knowledge of Latvian. Lists of candidates should pay a deposit which varies in proportion to the number of voters within the constituency of a particular local government (90 LVL – 150 LVL; 130 EUR-210 EUR). The biggest deposit should be paid in the case of Riga (600 LVL; 860 EUR) (Article 18 of the Law on Local Elections). If at least one candidate on the list is elected, the deposit is reimbursed. The election commission verifies the list of candidates within one day and adopts a decision to accept the list or refuse it because of a lack of certain documents. Candidates can submit the list repeatedly (Article 20 of the Law on Local Elections). Once the list is registered it cannot be withdrawn and amendments can be made only by the commission. Candidates who are to be excluded for failing to meet the conditions of candidacy must be notified by the appropriate authority (for instance, the OCMA) or the administrative court (Article 22(3) of the Law on Local elections). Decisions of the election commission can be appealed to the Central Election Commission and subsequently to the administrative court.

---

<sup>29</sup> See section 2.2.1.

<sup>30</sup> See section 3.1.

