



CLSF Latvijas Cilvēktiesību komiteja
F.I.D.H. Latvian Human Rights Committee
МФПЛ Латвийский комитет по правам человека

Reg. No. 40008010632, Dzirnavu iela 102a-15, Rīga, LV-1050, Latvija. Phone +371
26420477 www.lhrc.lv e-mail: lhrc@lhrc.lv

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To the Special Rapporteur on contemporary forms of racism

Experience of Latvia and proposals based on it:

a submission

for the report on racial and ethnic based discrimination

through nationality and citizenship exclusion

[1] Regularization of former citizens of predecessor States

When re-establishing independence in 1991, the Republic of Latvia chose to recognise as its citizens only the citizens of the independent Latvia of 1918-1940 and their descendants.

This restrictive approach was by no means a necessary legal consequence of the theory of state continuity, as shown by more generous legislation of Lithuania, which also interprets itself as a continuation of the state having existed in 1918-1940.

Most of those residents left without citizenship were given a special legal status of a “non-citizen of Latvia” in 1995 (at the time, they were over 700,000¹).

As at 1 January, 2018, there still were over 230,000 so-called “non-citizens” in Latvia, or over 11 % of the population.² Unsurprisingly, over 99,5 % of them belong to ethnic minorities.³

The newborn children of the so-called “non-citizens” can obtain Latvian citizenship upon application by one of the parents. This, however, falls short of the automatic

¹See page 16 at <https://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Latvia/LVA-CbC-I-1999-008-EN.pdf>

² http://www.pmlp.gov.lv/lv/assets/documents/1aaaa/ISVP_Latvija_pec_VPD.pdf See the row “LATVIJAS NEPIĻSONIS” (=non-citizen of Latvia)

³ http://www.pmlp.gov.lv/lv/assets/documents/1aaaa/ISVN_Latvija_pec_TTB_VPD.pdf See the row “LATVIETIS” (=ethnic Latvian) crossing the column “LATVIJAS NEPIĻSONIS” (=non-citizen of Latvia)

conferral of citizenship, as recommended by several international bodies.^{4 5 6 7} As a result, tens of new stateless people are born in Latvia each year (until 2013 changes in the Citizenship Law, these were hundreds)⁸.

Suggestions for recommendations:

Former citizens of predecessor states, if they otherwise turn stateless, should be given an opportunity to receive the citizenship of the successor state (their country of residence) without waiting periods, fees and exams.

Children of stateless people living in a certain country, when born in the same country, must be given citizenship of the country of birth without additional procedures.

[2] Language requirements

Language requirements for naturalization in Latvia (estimated as corresponding to B1 level by CEFR scale⁹) often create a hurdle for elderly applicants and for middle-aged applicants from several southeastern areas where Russian is the majority language. While there is a possibility for elderly applicants to take a shorter exam, the level of proficiency required is the same.

The current naturalization procedure turns out to be ineffective – less than 1000 people get naturalized in Latvia each year, since 2014.¹⁰

Suggestion for recommendation:

Language requirements for naturalization of the elderly applicants should not exceed A2 level by CEFR scale

⁴ UN High Commissioner for Refugees. Submission for the OHCHR Compilation Report – Universal Periodic Review <http://www.refworld.org/country,,,LVA,,4cd8f3992,0.html> See para. IV of the chapter “Right to nationality”

⁵ OSCE High Commissioner on National Minorities. Statement to the 868th meeting of the OSCE Permanent Council <http://www.osce.org/hcnm/78915>

⁶ Commissioner for Human Rights (Council of Europe). Governments should act in the best interest of stateless children: <https://www.coe.int/hy/web/commissioner/-/governments-should-act-in-the-best-interest-of-stateless-childr-1>

⁷ European Commission against Racism and Intolerance. Report on Latvia (fourth monitoring cycle) <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Latvia/LVA-CbC-IV-2012-003-ENG.pdf> Para. 122

⁸ http://www.pmlp.gov.lv/lv/assets/documents/1aaaa/ISVG_Latvija_pec_DZGada_VPD.pdf See the rows of the relevant years of birth crossing the column “LATVIJAS NEPIĻSONIS” (=non-citizen of Latvia)

⁹ <https://www.vestnesis.lv/ta/id/194003> (LV)

¹⁰ <http://www.pmlp.gov.lv/en/home/statistics/naturalization.html>

[3] Selectivity in allowing dual citizenship

Latvia generally accepts dual citizenship with EU, NATO, EFTA member states, Australia, Brazil and New Zealand.¹¹ The preference for EU can be justified by the existence of common EU citizenship, and choosing Australia, Brazil and New Zealand can benefit ethnic Latvian communities existing there (an acceptable approach, judging by ICERD). However, the other choices appear to be made to prevent most of the residents belonging to ethnic minorities from getting both Latvian citizenship and the one of their kin-states. The biggest ethnic minorities in Latvia are ethnic Russians and ethnic Belorussians, both Russia and Belarus are bordering Latvia and co-operating with it in the OSCE (Russia also in the Council of Europe). Nevertheless, Russia and Belarus are not included. Neither are Ukraine, the kin-state of one more sizeable minority, and Israel, the kin-state of one of the most traditional and vulnerable minorities.

Suggestion for recommendation:

Should a state choose a selective approach for allowing dual citizenship, the criteria for the choice of accepted countries should be transparent and legitimate.

[4] History exams

On several occasions, the impartiality of the “right” answers in the history exams used for naturalisation in Latvia has been questioned.¹²

Suggestion for recommendation:

States should “avoid requirements that can undermine the ethnic and cultural dignity of those applying for naturalisation, by asking them to express convictions that are contrary to their reading of the history of their cultural community or nation;”¹³

[5] Arbitrary refusals to naturalise applicants

In 2005, the Cabinet of Latvia, after more than 10 years of accepting the applications for naturalization by those having met the statutory requirements, refused naturalization to a law-abiding minority activist Mr Jurijs Petropavlovskis. The courts have sided with the government, interpreting naturalization as a political decision.¹⁴ In 2013, the

¹¹Citizenship Law http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumi/Citizenship_Law.doc Section 9

¹²100 тысяч «обманщиков», или Катехизис латвийского гражданина http://rus.tvnet.lv/novosti/politika/20902-100_tysyach_obmanshchikov_ili_katekhizis_latviyskogo_grazhdanina Час, 15.08.2005

¹³Rights of national minorities in Latvia <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17491&lang=en> Parliamentary Assembly of the Council of Europe, resolution 1527 (2006) – para. 17.9

¹⁴ <https://strasbourgobservers.com/category/cases/petropavlovskis-v-latvia/> Disclosure – Mr Petropavlovskis was represented by a LHRC lawyer

Citizenship law was amended to provide expressly for the possibility to refuse naturalisation on vague security reasons and for the Cabinet refusals to be final.

Suggestion for recommendation:

Any executive or prosecutorial refusals to naturalise an applicant should have a possibility of judicial remedy.

[6] Criminal record

Persons with a criminal record are prohibited from naturalization in Latvia, whatever their crime might have been.¹⁵ Taking into account that conviction rate is higher in marginalised ethnic/racial communities¹⁶, this creates an additional obstacle for integration

Suggestions for recommendations:

Crimes committed by negligence should not be a basis for lifelong denial of naturalization.

Nonviolent crimes committed before the age of majority should not be a basis for lifelong denial of naturalization.

Sincerely yours,

Aleksandrs Kuzmins,
secretary-executive

¹⁵ Citizenship Law (see above footnote 11), Section 11

¹⁶ <https://rus.lsm.lv/statja/analitika/analitika/detektor-lzhi-pravdu-li-govorit-erik-stendzenieks.a195364/> (RU)