

2 Checks and balances in Latvian nationality policies: National agendas and international frameworks¹

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Latvia, upon the restoration of its independence in 1991, strictly followed the principle of state continuity. This has also been reflected in nationality policies which followed the *ex iniuria ius non oritur* principle. However, Latvia had to take the framework of international law that existed when independence was restored into account and had to deal with a large number of Soviet-era settlers. This led to the creation of a specific category of persons in international law, namely so-called non-citizens, which has become the main issue of international debates on Latvian nationality policies.

2.1 History of nationality policy

2.1.1 Nationality policy prior to regaining independence

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 This Law was not repealed after the occupation of Latvia by the Soviet Union in 1940. At the same time, Latvian nationals became nationals of the USSR by way of automatic imposition of the latter's nationality.

There were different views regarding the status of Baltic nationals after the Second World War. In some of the lawsuits initiated by Baltic nationals concerning their nationality they were still considered Baltic nationals by the courts of other states. The varying treatment of Baltic nationals by other states prevailed until 1991 when the Baltic states regained their independence.

Upon the restoration of independence in 1990 the decision-makers were faced with the dilemma of the two main options available regarding nationality. Under the first option it was argued that the original state had disintegrated or disappeared and that a new state had been founded. The newly-founded state could therefore determine its nationals on the basis of its territory – a 'zero option'. As far as this option is concerned, one may add, however, that the codification efforts of the International Law Commission at the United Nations concern-

ing 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.² It would have been a preferred solution, especially in view of the existing obligation not to create statelessness, but state practices continue to vary.

The second option emanated from the concept of state continuity, which implies the continuity of the nationality of the state in question (Thiele 1999: 12).³ When adopting nationality legislation Latvia was guided by the principle of the continuity of the state and the humanitarian principles prohibiting the imposition of the nationality of the occupying country upon nationals of the occupied country. It was argued that automatic conferral of USSR nationality on the population of the Baltic states as a consequence of their occupation in 1940 was unlawful under international law as long as the Baltic states were presumed to exist (Kalvaitis 1998: 231; Ziemele 2001: 233).⁴ Therefore, Latvian nationals recovered *de facto* rights and obligations deriving from their Latvian nationality but those USSR nationals who arrived in Latvia as a result of its foreign occupation were made subject to the naturalisation procedure according to relevant legal provisions.

2.1.2 Restoration of nationality

During this period, the political institutions of the Soviet era were still in place. However, their freedom to act was significantly restricted. Since Latvia was guided by the principle of state continuity it had to restore not only nationality but also its pre-1940 institutions, including its parliament. The post-Soviet institutions acting during this period had a limited capacity. Their authority was only to preserve continuity until the fifth legitimately elected Parliament started functioning.

According to the state continuity thesis, the aggregate body of Latvian nationals was re-established in accordance with the 1919 Law on Citizenship, as amended in 1927. It was again considered 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 nationality had continued to exist, irrespective of the loss of independence in 1940. 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 nationals was declared null and void *ab initio*.

According to the Resolution, the following groups of individuals were recognised as nationals: (1) those who were Latvian nationals on 17 June 1940 and their descendants, if they had lived in the country and had re-

gistered by 1 July 1992; (2) persons who were Latvian nationals on 17 June 1940 and their descendants if they did not reside in Latvia or were nationals of another state and had submitted an expatriation permit; (3) persons born and residing in Latvia if their parents were unknown.

The process of naturalisation was also made easy for those living in Latvia on 17 June 1940 without Latvian nationality. This approach was based on the premise that if Latvia had not been occupied, these persons could have acquired nationality (Ziemele 1998: 208).

It was considered that only the nationals proper, as defined by the 1919 Law, could legitimately restore the political system of Latvia and thus take part in the elections for the Fifth Parliament in 1993. Others who did not qualify for nationality 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 (Ziemele 1998: 208; Kalvaitis 1998: 255).

2.1.3 *Basis for current nationality policy*

During the parliamentary election campaign in 1993, nationality was the most important issue. Proposals ranged from repatriation of all Soviet-era settlers to a zero option. The elected Parliament in a way represented the opinion of Latvian nationals as to how the state should proceed in this matter. Initial proposals were very strict. According to the first model adopted by 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 nationals. This would have resulted in approximately a thousand new nationals annually. This draft was heavily criticised by Western democracies and by international organisations. As a result, the President of Latvia refused to sign the adopted law. Complex nationality issues became even the reason for postponing Latvian membership of the Council of Europe.

The new Law on Citizenship was adopted only on 22 July 1994. According to art. 2, as amended in 1995,⁵ nationals of Latvia are: (1) those who were nationals on the date of occupation and their descendants, unless they had acquired the nationality of another state after Latvia proclaimed its independence on 4 May 1990; (2) Latvians and Livs⁶ who reside permanently in Latvia, do not hold the nationality of another state or have received an expatriation permit; (3) women who reside permanently in Latvia and had lost their nationality according to the Law on Citizenship of 1919 as well as their descendants unless they had acquired the nationality of another state after 4 May 1990; (4) naturalised persons; (5) children who are found in the territory of Latvia

whose parents are unknown; (6) orphans living in an orphanage or a boarding school in Latvia; (7) children born of parents both of whom were nationals of Latvia at the time of such birth, irrespective of the place of birth of the children; (8) those who permanently reside in Latvia and are duly registered and who have completed a full educational course in general education schools in which Latvian was the language of instruction, or in mixed language schools, if they are not nationals of another state or have received an expatriation permit. As argued by Ineta Ziemele, the latter category broadens the scope of Latvian nationals in that it includes those former USSR nationals who may have integrated into Latvian society, irrespective of their place of birth (Ziemele 2001: 235). The right of a child to acquire Latvian nationality was ensured by providing that, if at least one parent is a Latvian citizen, the child will acquire Latvian nationality, subject to mutual agreement by the parents.

Those who did not belong to the abovementioned groups had to naturalise according to the procedures established by law and the regulations of the Cabinet of Ministers.⁷ 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 will be naturalised in stages starting in 1996 and ending in 2003 (Kalvaitis 1998: 231). After 2003, anyone would have the right to apply.⁸ This approach was adopted because it was expected that considerable numbers of non-citizens would apply for Latvian nationality and civil servants would therefore be unable to ensure proper application of the law. However, the number of applications turned out to be much lower than expected. The reasons for the low interest were only analysed after the law was adopted. The main reasons identified 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 nationality automatically and (6) an identity crisis after the collapse of the USSR.

2.1.4 *Recent developments of nationality policy*

There were many assessments on the compliance of Latvia's laws with applicable international standards in the area of nationality. These were accompanied by numerous recommendations, in particular concerning facilitation of access to nationality for Soviet-era settlers. In view of the constant pressure of the UN Commission on Human Rights, the Council of Europe, the OSCE High Commissioner on National Minorities

ties and most notably the European Union,⁹ Latvia amended its Citizenship Law in 1998 (Tomaševski 2000: 340). The amendments were confirmed in a referendum and became effective in November 1998.¹⁰ These amendments abolished the 'window-system' and provided nationality for children born in Latvia after 21 August 1991 to stateless persons or non-citizens. In accordance with art. 3 of the Citizenship Law, the parents of the child were required to submit an application for the acquisition of nationality before the child reached the age of fifteen.¹¹ 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 who did not have to pass the naturalisation exams. Thus, for instance, applicants over the age of 65 were exempted from the history test.¹²

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 nationality low. Special attention was paid to language training. About 50 different sets of learning and informational material were published and 45 projects to facilitate naturalisation were initiated, an information centre was established and a number of campaigns were organised.

Notwithstanding the amendments and campaigning, the numbers of non-citizens are still quite high. By July 2008, there were about 365,164 non-citizens in Latvia (in 1995, the number was 735,000). However, in the period between the start of the naturalisation process in 1995 and 30 April 2008, only 128,825 persons were granted Latvian citizenship, including 13,639 minors (the rest were either repatriated or acquired Russian nationality while remaining residents of Latvia). Various attempts to speed up the naturalisation of non-citizens have had limited success. Within the last ten years the number of non-citizens has not decreased very much.¹³ The reasons for the lack of interest 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. The Naturalisation Board expects that naturalisation could be completed in five years but there will still be about 130,000 persons who will choose to remain non-citizens for the rest of their lives. However, this projection seems to be overly optimistic, as the naturalisation process has almost come to a halt.

2.1.5 *The status of non-citizens*

When Latvia regained its independence in 1991 it inherited large Russian-speaking communities who had arrived there from the ex-USSR. The Soviet central authorities had encouraged large-scale immigration of the labour force, to meet the local demands of Soviet industrialisa-

tion and ethnic politics. Consequently, the collapse of the Soviet Union affected mostly the Russian people and other Eastern Slav groups such as Byelorussians and Ukrainians (Berg & van Meurs 2001: 139). The historical minorities of Slav origin living in the Baltic states before the Soviet invasion were treated differently.

The collapse of the Soviet Union and the ensuing independence of Latvia created problems for persons living in Latvia who suddenly realised that they were nationals of a state that no longer existed. Various international organisations were criticising Latvia for having too many inhabitants without nationality. This was due to the fact that former USSR nationals were not automatically granted Latvian nationality, nor did they apply for Russian nationality or the nationality of another state. Western European countries and international organisations considered that a large number of persons without any factual nationality could constitute a risk for internal stability and could provoke ethnic conflicts. They could not be extradited as settlers from an occupying state because this would be contrary to human rights law which prohibits the expulsion of aliens *en masse*. Nor could these persons be classified as stateless because that would be against the principle on the reduction of statelessness.

Under the circumstances, a special status of non-citizen was introduced. Non-citizens are those who were USSR nationals but who, after 1991, did not qualify for Latvian nationality and did not acquire Russian or any other nationality. The Former USSR Citizens Act in art. 1 states:

The persons governed by this Act – ‘non-citizens’ – shall be those nationals of the former USSR, and their children, who are resident in Latvia [...] and who satisfy all of the following criteria:

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 abovementioned date they had been resident within the territory of Latvia for not less than ten years;
2. they do not hold Latvian nationality;
3. they are not and have not been nationals of any other state.

This provision recognises non-citizens as a special category whose legal status in some areas provides them with more rights and guarantees than, for example, proper 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 not only grants them the special status of belonging to the state, thus giving them the constitutional right to return, but it has also been recognised by the EU as valid for visa-free travel (Regulation 1932/2006/EC). Moreover, Russia has decided to provide holders of the non-citizen passport with visa-free travel to Russia (see sect. 2.3 below). 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. Moreover, in accordance with art. 2 of the Law on Diplomatic and Consular Service, they enjoy diplomatic protection of Latvia.

Latvia does not allow non-citizens the right to be elected at national and municipal levels or to hold public office. Moreover, non-citizens in Latvia are restricted from practising certain professions like those of: judge, court bailiff, notary, prosecutor, policeman, state security officer, land surveyor, fireman, national guard, captain of a crew, private detective, attorney, or employee in diplomatic and consular service. There are also restrictions on possessing land and repatriation. Although, unlike immigrants in the EU, non-citizens are not nationals of any other state, they are treated as long-term resident third-country nationals in the EU framework in accordance with the provisions of Directive 2003/109/EC.¹⁴ This approach has been criticised by experts¹⁵ and raises questions about the extent that Latvia can live up to its international human rights obligations, i.e. especially those that fall under the International Covenant on Civil and Political Rights.

Up to now there have been several attempts to classify non-citizens under a heading recognised by international law.¹⁶ 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 recently given an authoritative interpretation of the status of non-citizens, the most important of which is the ruling of the Constitutional Court.¹⁷

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. Before these amendments were instituted, the status could only be renounced on

condition that a nationality had been acquired. The Court regarded the amendments as unconstitutional. It started analysing the adoption of the Former USSR Citizens Act in historical and political context and concluded that the opinion that Latvia had a duty to grant nationality automatically to those individuals and their descendants who have never been Latvian nationals and arrived during 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 was created. The Court has 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 & Kruma 2003).¹⁸ 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 nationality. 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 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 to Latvia which entails mutual rights and obligations. Those are, however, different from the ones that nationals have. It can be argued that non-citizens possess ‘functional Latvian nationality’, i.e. they have many of the same rights as nationals except for political rights and the right to hold certain positions but they cannot be defined as nationals.

Latvia has adopted a so called ‘carrot-stick’ policy towards non-citizens, i.e. if they want to enjoy the rights of EU nationals, then they have to become nationals of a Member State. The current problem lies in the fact that the number of non-citizens is considerable and it is not decreasing fast enough.

2.2 Basic principles for the acquisition and loss of nationality

2.2.1 Acquisition of nationality

General principles

According to the Citizenship Law of 1994 Latvian nationality is acquired on the basis of the *ius sanguinis* principle. Moreover, Latvian

nationality legislation maintains the continuity of Latvian nationality, as identified in 1919. This is evident in the 1991 Resolution which refers to the restoration of the rights of Latvian nationals and not to a restoration of the institution of 'nationality', which is presumed to exist.

In addition to the *ius sanguinis* principle, there are groups of individuals who are granted nationality almost automatically.¹⁹ Firstly, certain ethnic groups: Latvians and Livs are nationals if they live permanently in Latvia and hold no other nationality. However, if they immigrate from other countries they will be subject to a simplified naturalisation procedure. Secondly, persons who completed education in schools with Latvian as a language of instruction. Thirdly, women who lost their nationality in accordance with the archaic rule on revocation of nationality upon marriage with a person of another nationality. Fourthly, children, whose parents are unknown, and orphans.

Lastly, children born after 21 August 1991 to persons who are stateless or non-citizens. In order to apply for nationality in the case of statelessness a child should be: (1) a permanent resident; (2) stateless or a non-citizen 'for the entire time' of its life prior to application; (3) fluent in Latvian which is verified by a document from an educational establishment or by the Commission of the Naturalisation Board; (4) over the age of fifteen. The applicant also should not have a criminal record of more than five years of imprisonment. Until the child reaches the age of fifteen, the application can be submitted by both parents jointly or separately, or by the adoptive parents of a child, if they are stateless or non-citizens and have resided in Latvia for at least five years. It shall be noted that a certificate of language proficiency shall be submitted only by those minors who have not been registered by their parents until the age of fifteen. Moreover, after they have reached the age of eighteen general naturalisation requirements apply.

Art. 13 provides for the admission to nationality for special meritorious service beneficial to Latvia. A decision must be made by parliament on each individual case. A person cannot acquire dual nationality by the application of art. 13, and the restrictions of art. 11 are applicable (see below).

Dual nationality

Dual nationality is, in principle, not permitted in Latvia. The 1994 Citizenship Law does not, however, exclude this possibility if the person has registered his or her Latvian nationality. This means that Latvia will not create dual nationality, while acknowledging that other states may do so.

The Citizenship Law is indeed ambiguous in relation to dual nationality. Art. 9 provides that a person who acquires Latvian nationality cannot be a dual national. Para. 2 of the same article states that in the

case where a person is considered to be a national of another state, in his or her relations with Latvia the person is only considered to be a citizen of Latvia. Art. 24 provides the possibility to revoke nationality by court decision if a person has acquired the nationality of another state without renunciation of his or her Latvian nationality. The possibility to hold dual Latvian nationality and that of another state is set out in the Transition Regulations of the Citizenship Law. They provided that those Latvian nationals who, during the period from 17 June 1940 until 4 May 1990, left Latvia as refugees or were deported and their descendants could register as Latvian nationals until 1 July 1995. This provision is gender neutral meaning that descendants of either parent could register. However, it does not mention that they have to renounce their current nationality.

The Latvian Constitutional Court has ruled that dual nationality can arise at birth and is prohibited only in cases of naturalisation. Moreover, a child cannot be refused dual citizenship on the basis of formal requirements.²⁰ However, the question as to whether children must renounce their other citizenships when they come of age remains unclear.

Naturalisation

Individuals who have registered with the Residents' Register are considered to reside lawfully in Latvia and are entitled to acquire nationality through naturalisation if they have received a permanent residence permit. The naturalisation requirements are the following: (1) permanent residence in Latvia for five years counting from 4 May 1990;²¹ (2) knowledge of the Latvian language, the Constitution,²² the anthem and the history of Latvia; (3) a loyalty oath to the Republic of Latvia; and (4) legal source of income (art. 12).

The Law provides for a special naturalisation procedure in cases where applicants have been nationals of Lithuania, Estonia or Poland before the USSR intervention and have lived in Latvia for at least five years. These rules also include their descendants (art. 14).²³ The special procedure also applies to persons married to Latvian citizens for not less than ten years, who have been residing in Latvia for at least five years, even if the spouse has passed away (art. 14). A special procedure provides that these applications are considered expediently.

Upon application, a person shall declare that he or she does not hold any other nationality and that none of the restrictions apply as specified in art. 11 of the Citizenship Law.

Article 11 establishes restrictions for naturalisation, if a person:

- has acted against the independence of Latvia and its powers, which has been established by the courts;
- propagated totalitarian ideals or ethnic or racial hatred, which has been established by the courts;

- served in the institutions of another state, including the armed forces;
- served in the USSR army and was called-up from outside Latvia;
- has been employed by the KGB, the security or the intelligence or similar service of another state;
- has been sentenced in Latvia or another state for a crime that is also a crime in Latvia;
- has, after 13 January 1991, worked in any organisations against Latvia.²⁴

This Article seems to follow a rather exclusionary approach. For instance, if a person has been convicted for any crime (even if imprisonment was only for a year) he or she can never apply for Latvian nationality. Also, the restrictions in relation to the affiliation with the KGB could be challenged as to their legitimacy and proportionality since there are nationals who have had the affiliation but who were nationals or acquired nationality by registration.

Children up to the age of sixteen acquire nationality together with the naturalised parent without undergoing the naturalisation process as established in art. 12. This is also the case if the parents have not reached an agreement but the child permanently resides in Latvia or in cases of adoption. Nationality is granted to a minor from fourteen to eighteen years of age only with his or her written consent (art. 16). If a minor's nationality has changed and his or her consent has not been obtained, he or she can, within a year of coming of age, renew Latvian nationality irrespective of the period of residence in Latvia (art. 16, para. 2). If the nationality of a child has changed as a result of the marriage of (one of) its parents, the naturalisation procedure will not be applicable if the child wishes to renew his or her Latvian nationality.

In accordance with art. 4 of the Citizenship Law, all Latvian nationals are equal irrespective of the way nationality has been acquired. This is a constitutional principle confirmed by the Constitution in art. 91 stating that all are equal before the law and human rights shall be respected without any discrimination.

The Naturalisation Board, working under the auspices of the Ministry of Justice, is responsible for the examination of applications for naturalisation. 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.²⁵ During court proceedings the naturalisation process is suspended until the decision of a final instance or until the case is dropped. The procedure of naturalisation is set out in detail in a number of regulations of the Cabinet of Ministers. The Regulations on the Procedure of Acceptance and Review of Naturalisation Applications include application

forms and specify the procedure for submission of applications and the documents to be submitted.²⁶ Naturalisation takes place in regional units of the Naturalisation Board. 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. The fee for naturalisation has also been lowered several times. Since 2003, it has been set at 20 Lats (approximately 30 euros) and at 3 Lats (4 euros) for certain groups of applicants.²⁷ Persons may withdraw their applications at any stage of the naturalisation procedure.

The requirements for the examinations are set out in the Regulations 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 for Persons Who Wish to Acquire the Citizenship of Latvia through Naturalisation. The regulations provide that knowledge of the language, of the Constitution, the anthem and history shall be tested by an examination commission established by the Naturalisation Board.²⁸ Persons exempt from the tests are those who: (1) have acquired primary, secondary or higher education in educational institutions with Latvian as the language of instruction, (2) have disabilities. Persons over the age of 65 shall be subject to the Latvian language test only.²⁹

According to sect. 4, the employees of the Naturalisation Board, the members of the Standing Committee on the Implementation of the Citizenship Law of the Parliament as well as representatives from other organisations and institutions shall be allowed to be present in the examinations as observers if they have received permission from the head of the Naturalisation Board. The examination of language proficiency takes place within two months from the day when all the necessary documents have been submitted, and the examination of the other topics two months after passing of the language exam (sect. 6). If the applicant does not attend or fails the exam he or she can retake the exam after three months in the case of the language exam and after one month in the case of the so-called knowledge exam (sect. 9).

The language proficiency exam has a written and an oral part (sect. 11). According to sect. 22, the examination commission shall assess the applicant's ability to read, write, listen and understand talks on topics of everyday life. Applicants above the age of 65 only take the oral language test (sect. 21).

Language proficiency has often been mentioned as the main obstacle to naturalisation. Therefore, in 1996, the State Programme for Latvian Language Learning was initiated. In the framework of the programme a number of language courses and information campaigns on naturali-

sation were conducted by the Naturalisation Board with financial assistance from various international organisations and Western countries. Overall figures for the success rate remain high; between 1996 and May 2008 only 12 per cent of the applicants failed the exam. However, over the past four years, the passing rate has shown a steady decline. In 2007, for instance, 21 per cent of the applicants failed the language test.

The applicant can choose whether to take the knowledge exam orally or in writing (sect. 23). The success rate is similar to the language exam. The overall failure rate is about 4 per cent. However, in 2007, 10 per cent of those who took the exam failed.

The decreasing success rates can no longer be explained in terms of numbers of applicants, which skyrocketed in 2004 (when Latvia acceded to the EU), but fell back to 1998 levels thereafter.

2.2.2 *Loss of nationality*

Latvian nationality is lost in cases of renunciation or revocation. According to art. 23, renunciation can take place if a person has been guaranteed the nationality of another state except if he or she has unfulfilled obligations towards the state or has not fulfilled mandatory military service. The clause on the fulfilment of obligations towards the state is unclear, i.e. whether it involves fiscal or other obligations. Such a broad formulation may make it possible to arbitrarily deny the right to change nationality (Ziemele 1998: 248). Moreover, since 2004 Latvia has a professional army and mandatory military service has been abolished.

Art. 24 provides for three cases when nationality can be revoked by a decision of a regional court, namely, if a person (1) has acquired the nationality of another state without renouncing Latvian nationality; (2) continues to serve in foreign armed forces or similar institutions without permission from the Cabinet of Ministers; or (3) has acquired nationality by fraud. The provision applies equally to all nationals, except for those who hold dual nationality and are thus exempted from the application of art. 24 (Ziemele 1998: 247). Family members are also not affected by such proceedings. These grounds comply with those identified in the Convention on the Reduction of Statelessness. If a person continues to reside permanently in Latvia for five years then this revocation does not affect future naturalisation (art. 25, para. 2).

2.3 Current political debates

The nationality issue still appears in public debates and is referred to by both left-wing and right-wing parties, although in different contexts. Recent studies by Latvian scholars conclude that the so-called Compatriots Policy, which was established by the Russian Federation, seeks to minimise non-citizen interest in naturalising and integrating into Latvian society. The Compatriots Policy supports Russian-speakers residing abroad, which is a concept that has been successfully 'sold' to the West. Other common designations used by the state authorities of the Russian Federation include 'Russian compatriots' or 'Russian diasporas'. Since 1992, Russia has continuously tried to introduce 'issues involving Russian Compatriots' onto the agendas of all the major regional and international organisations (Muižnieks 2006: 121-122). The Russian Compatriots Policy was first outlined by the so-called Karaganov Doctrine, conceived by Sergey Karaganov, an adviser to the President of the Russian Federation, on 6 October 1992. The doctrine perceives the territory of the former USSR as a region of special interest and mandates for Russia.³⁰ Recently it has been reconfirmed officially by the Russian Foreign Policy Concept (adopted by the Russian President on 12 July 2008). The Concept distinguishes 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 approach was even further sharpened after the conflict in Georgia. Thus, the so-called Medvedev Doctrine refers to protection of lives and dignity of Russian citizens, wherever they may be.³¹ 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).

Another factor that increases divisions within Latvian society is the growing importance of the Russian media, which have become largely self-sufficient and in terms of their size have (for some time now) eclipsed the Latvian-language media. The most popular and influential media for non-citizens in Latvia is television, which broadcasts programmes produced and transmitted in Russia. The main Russian TV channels, censored by the Kremlin, are available in every cable TV package. Print media and the internet, however, play a less significant role in the Russian socialisation of non-citizens (Zepa 2005: 5). Due to the popularity of Russian TV channels in Latvia, the local editions of Russian-language newspapers and magazines have to follow general information protocol from Russia. Announcements and proclamations made by the Ministry of Foreign Affairs of the Russian Federation and other Russian institutions are published via the official news agencies

'ITAR-TASS' and 'Interfax', and routinely reprinted in Latvia by the Russian-language newspapers *Chas* and *Vesti Segodnya*. Four attempts to produce bilingual newspapers have thus far failed because they were unable to meet the needs of their various audiences.

Russia has also decided to simplify the entry procedure for former USSR citizens currently living in Latvia and Estonia who have not obtained the citizenship of any country. 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. The decree became effective upon signing and the government has adopted all the necessary measures for its implementation.³² The Latvian Ministry of Foreign Affairs has protested this decision as it may bring the naturalisation of non-citizens to a halt.³³

Latvian right-wing parties are discussing the need to amend the Citizenship Law for two main reasons. Firstly, it has been acknowledged that certain technical amendments are necessary. This holds true for the so-called 'forgotten children', i.e. children whose parents have naturalised but have forgotten to naturalise their children. Other proposals concern state security considerations with regard to terrorists and those working in the security services of other states. However, these proposals have not been specific enough and the debate remains general.

Secondly, the proponents of amendments identify a need to liberalise Latvia's dual citizenship policy.³⁴ This debate was provoked by numerous studies by Latvian researchers and claims made by Latvian citizens who have made use of their free-movement rights after Latvia joined the EU (Krūma 2006; Strategic Analysis Commission 2006). The strict policy regarding dual citizenship has been criticised by Latvian citizens living abroad, especially those in other EU Member States. According to recent estimates, about 86,000 Latvian citizens have left Latvia since 2004 and the numbers continue to steadily increase (Indans & Krūma 2007: 165). The depopulation problem is further aggravated by the fact that Latvia has Europe's lowest birth rate. The Latvian government has responded to these demographic changes by establishing a working group to draft proposals for a new regulation regarding dual citizenship. The debate initially concerned only children.³⁵ However, the Minister of Integration has suggested that those who were forced to leave or were deported during the occupation period and those who acquired another citizenship while residing in another state should also be granted the right to hold dual nationality.³⁶ He thus proposed extending the initial deadline envisaged in the Transitional Regulations of the Citizenship Law, which required that the for-

mer group register by 1 July 1995. In the course of the debate, the possibility of holding dual citizenship was also suggested, mentioning in particular those former Latvian citizens who hold the citizenship of another EU Member State. Yet another discussion concerns a method to establish whether a person has acquired another nationality without informing Latvian authorities. One of the main problems is that verification requires the cooperation of other states. The Office of Citizenship and Migration Affairs estimates that currently 30,793 Latvian citizens also hold another citizenship. This number includes persons who have been granted dual citizenship according to the Citizenship Law, i.e. those who registered until 1 July 1995 irrespective of place of residence.³⁷

Finally, further debates can be expected concerning two cases at the European Court of Human Rights (ECHR). The recent ruling of the Grand Chamber in the Andrejeva case established that Latvia has discriminated against non-citizens concerning the calculation of their pensions. The ECHR considered it disproportionate to disregard employment periods of non-citizens in Russian or Ukrainian enterprises before 1991 in pension calculations. It dismissed the Latvian government's argument that such pension claims shall be subject to international agreements on social security. The Latvian judge present at the hearing disagreed with this ruling, arguing that the ECHR disregarded the historical context of the case. So far, only the Russian media have extensively reported on this case but further debates are to be expected.³⁸ The second case concerns Jurijs Petropavlovskis, who is a non-citizen and a member of the radical group Headquarters for the Protection of Russian Schools, which organised various protests against an education reform requiring more subjects to be taught in Latvian. He has declared that he would run as a candidate in local government elections after being naturalised. According to various media sources, he publicly advocated the use of violence, bloodshed and terrorism and threatened to act on these after his naturalisation.³⁹ The Cabinet of Ministers refused his application for nationality based on the argument that he is not loyal to the state. This was a precedent confirmed by the Administrative Court Senate, which stated that the Cabinet of Ministers has wide discretion in granting citizenship and that the decision is predominantly political.

2.4 Statistics

2.4.1 Status and ethnic composition of Latvian inhabitants

The following tables on status and ethnic composition of Latvian inhabitants illustrates both Latvian national sentiments from the 1930s when they were a considerable majority and the current situation where Latvia is still hosting large numbers of non-citizens.⁴⁰

As is evident from Table 2.1, the ethnic composition of Latvia's residents changed considerably during the occupation.

Table 2.2 shows that, notwithstanding various efforts to liberalise naturalisation requirements, the numbers of non-citizens have not decreased significantly since the beginning of the 1990s.

Table 2.3 illustrates that it was mainly residents of Russian or Eastern Slav origin who became stateless or non-citizens after the restoration of independence in 1990. The situation has not changed since then and the naturalisation process is generally slow.

Table 2.1 Changes in ethnic composition of Latvia's population

	1935	1995	2008
Latvians	75.5%	55.1%	59.0%
Non-Latvians	24.5%	44.8%	41.0%

Sources: Ziemele 2001: 236; Naturalisation Board, www.np.gov.lv

Table 2.2 Citizens and non-citizens of Latvia

	1993	2008
Nationals	1,715,930 (71.8%)	1,858,718 (81.8%)
Non-citizens and foreign nationals	673,398 (28.2%)	412,889 (18.2%)
Total	2,389,328	2,271,617

Sources: Ziemele 2005: 156, 365; Naturalisation Board, www.np.gov.lv; Register of Residents of the Department of Citizenship and Migration, www.pmlp.gov.lv

Table 2.3 Residents of Latvia on 1 July 2008 (by ethnic origin)⁴¹

	Citizens	Non-citizens	Foreigners or stateless individuals	Total	%
Latvians	1,340,824	1,667	1,162	1,343,653	59.1
Russians	367,181	240,784	26,194	634,159	27.9
Byelorussians	31,207	49,085	2,734	83,036	3.7
Ukrainians	17,670	34,635	4,687	56,992	2.5
Poles	40,428	12,432	859	53,719	2.4
Lithuanians	18,388	9,943	2,272	30,603	1.4
Estonians	1,492	558	448	2,498	0.1
Other (including undeclared or unknown)	41,528	16,060	9,369	66,957	2.9
Total	1,858,718	365,164	47,725	2,271,617	100.0

Source: Naturalisation Board, www.np.gov.lv.

2.4.2 *Acquisition of nationality by children*

The discussions before the 1998 referendum on the possibility of granting nationality to children of non-citizens and stateless persons were heated and there were arguments that large numbers of children would acquire nationality without being sufficiently integrated. Currently available statistics tell the opposite.

Table 2.4 *Children of non-citizens and stateless persons born after 21 August 1991 who were granted Latvian nationality (31 May 2008)*

<i>Ethnic origin</i>	<i>Number</i>
Latvians, Livs	2
Lithuanian	168
Estonian	33
Russian	5,386
Polish	293
Byelorussians	500
Ukrainian	549
Not indicated	235
Other	369
Recognised as citizens	7,394

Source: Naturalisation Board, www.np.gov.lv

In total 7,394 children, of whom 5,386 are of Russian origin, have benefited from the amendments to the Citizenship Law in 1998. This figure is unsatisfactory considering that there are altogether about 20,000 children who have the right to acquire nationality according to the provisions of the Citizenship Law. In 2004, the Minister for Integration, together with the Minister for Children and Family Affairs, conducted an information campaign sending information to the parents of these children. As a result there was an increase in the number of applications (Brands-Kehre & Puce 2005: 24).⁴¹ Experts have suggested replacing the current system with the automatic registration of children born to parents who are stateless or non-citizens as nationals.

2.4.3 *Naturalisation*

Naturalised persons per year

As argued above, naturalisation rates remain low but with positive tendencies. The respective statistics allow some general conclusions to be drawn regarding the motivation of the potential applicants for nationality to start on the naturalisation process.

Table 2.5 *Numbers of naturalisations in Latvia per year*

<i>Year</i>	<i>Persons applying for naturalisation</i>	<i>Naturalised persons</i>
1995	4,543	984
1996	2,627	3,016
1997	3,075	2,992
1998	5,608	4,439
1999	15,183	12,427
2000	10,692	14,900
2001	8,672	10,637
2002	8,370	9,844
2003	11,268	10,049
2004	21,297	16,064
2005	19,807	19,736
2006	10,581	16,439
2007	3,308	6,826
2008	2,601	3,004
Total	127,632	131,357

Source: Naturalisation Board, www.np.gov.lv

The biggest wave of naturalisation started after the window system was abolished. In 1998, only 4,439 persons were naturalised; the number rose to 12,427 persons in 1999. This increase might also be due to a number of campaigns for naturalisation taking place at the time.

The second wave of naturalisations started after it became clear that Latvia would become a member of the European Union. From 2003 to 2004, the number of naturalisations rose from 10,049 to 16,064. In 2005, 19,736 persons were naturalised. However, since 2005, the numbers of applications have decreased. Moreover, a growing number of applicants have failed the naturalisation exams (see Table 2.6). The authors of the report 'Democracy Audit' (Brands-Kehre & Pūce 2005) believe that the decrease in applications is due to a lack of motivation to naturalise on the part of non-citizens. Firstly, non-citizens consider that they automatically deserve nationality. Secondly, there are certain benefits in retaining the status of non-citizen, mainly less travel restrictions to the CIS countries. Thirdly, there is the fear of the naturalisation exams. The last reason is the fee which, although it has been lowered, is still relatively high for many people in Latvia.

Ethnic origin of applicants for naturalisation

The ethnic origin of applicants for naturalisation is indicative of the fact that Latvia is still dealing with its post-occupation legacies. The migration rates are insignificant and applicants for naturalisation are Soviet-era settlers.

Table 2.6 Numbers of persons passing history and language exams for naturalisation

Exam	Year	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	Total
History	Pass	1,408	1,790	3,628	13,273	10,668	7,717	8,208	8,953	18,912	19,269	10,588	3,418	107,832
	Fail	121	40	16	37	72	162	293	317	743	987	887	400	4,075
Language	Pass	1,488	1,740	3,598	12,938	10,503	7,392	7,880	8,533	17,735	17,198	8,531	2,527	100,063
	Fail	80	29	65	115	1,046	910	1,387	1,055	2,004	3,292	2,166	686	12,445

Source: Naturalisation Board, www.np.gov.lv

Table 2.7 *Ethnic origin of applicants for naturalisation in Latvia (31 May 2008)*

<i>Ethnic origin</i>	<i>Total</i>
Latvians, Livs	71
Lithuanians, Estonians	4,536
Russian	82,820
Polish	5,056
Byelorussian	12,542
Ukrainian	11,247
Not indicated	61
Other	5,154

Source: Naturalisation Board, www.np.gov.lv

During the Soviet-era, large numbers of ‘blue-collar socio-economic’ profile immigrants were sent to Latvia. At that time the Soviet central government put emphasis on the promotion of economic industrialisation. Latvia has suffered under this policy because (1) Latvia hosted the headquarters of the Soviet army for the Baltic region and (2) the Latvian political elite was most sympathetic compared to other Baltic states.

Age of applicants for naturalisation

Most applicants are found in the age groups of eighteen to 30 and 31-40. These statistics exemplify that if the ‘window system’ had been maintained the numbers would be different because the age groups starting at 41 represent a considerable proportion of those who applied for naturalisation.

Table 2.8 *Age of applicants for naturalisation in Latvia (31 May 2008)*

<i>Age of applicants</i>	<i>Number</i>	<i>%</i>
15-17	10,625	8.7
18-30	38,428	31.6
31-40	24,082	19.8
41-50	25,006	20.6
51-60	15,136	12.4
61 and older	8,310	6.9

Source: Naturalisation Board, www.np.gov.lv

Nationality granted for special meritorious service for the benefit of Latvia

With regard to granting of nationality for special meritorious service two periods can be distinguished. From 1995 to 1998 there were 199 cases of naturalisation due to special services, whereas the number has dropped to only twelve since 1999.

This decline is explained by changes in the Citizenship Law in 1998 when the so-called ‘window system’ was dropped. Therefore, those who

want to become nationals can apply for naturalisation and they do not have to rely on the special procedure for the extension of nationality by parliament. This procedure most often is used for sportsmen.

2.5 Conclusions

Latvian nationality policy is based on the concept of state continuity. The rights attached to nationality were therefore restored to those who were nationals 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 occupation remained stateless. Due to international pressure to comply with the international legal framework, 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. Non-citizens are denied political rights and the right to hold certain posts or to be employed in certain professions. In order to enjoy these rights they have to naturalise.

Taking into account that nationality is a politically sensitive topic in Latvia, it is doubtful that radical changes will occur in the near future. The difficult compromise made in 1998 is satisfactory for the ruling centre-right parties. However, the question of the fate of non-citizens in the framework of EU law remains unresolved.

Chronological list of citizenship-related legislation in Latvia

Date	Document	Content	Source
1919	Law on Citizenship (amended in 1927)	Defines the basic principles of acquisition and loss of nationality during the interwar period	
1922	Constitution of the Republic of Latvia (adopted 15 February 1922 with latest amendments on 15 December 2005)	Is restored after restoration of independence	www.ttc.lv (in Latvian)
1940	Decree on the Order in which the Citizens of the Soviet Socialist Republics Lithuania, Latvia and Estonia are Granted USSR Citizenship	Imposes Soviet nationality on nationals of the three Baltic states automatically	
1990	Declaration on the Renewal of Independence of the Republic of Latvia (4	Restores the authority of the 1922 Constitution and suspends it immediately	

Date	Document	Content	Source
	May 1990)	except for a few provisions that could only be suspended by a referendum	
1991	Resolution on the Renewal of the Republic of Latvia's Citizens' Rights and Fundamental Principles of Naturalisation	Aims at reconstituting the body of nationals who could elect a legitimate parliament; based on the 1919 Law	
1994	Law on Citizenship	Provides a 'window system' limiting the right to naturalise on the basis of age	www.coe.int; www.ttc.lv (in Latvian)
1995	Amendments of Citizenship Law	Provides for the right to citizenship for Latvians and Livs who have registered domicile in Latvia, persons who have acquired education in Latvian as well as women who lost their citizenship by marriage in accordance with the 1919 Law	
1995	Law on the Status of Former USSR Citizens Who Are Not Citizens of Latvia or Any Other State (amended in 1997, 1998, and 2000)	Introduces the status of non-citizen	www.humanrights.lv (in Latvian)
1997	Amendments of Citizenship Law	Makes technical amendments	
1998	Amendments of Citizenship Law	Repeals 'window system'; liberalises access to Latvian nationality for children of non-citizens and the stateless	
1999	Regulation No. 32 on the Procedure for the Acceptance and Review of the Application on the Recognition of a Child as a Citizen of Latvia	Specifies the procedure and documents to be submitted to the Naturalisation Board with an application for the recognition of a child as a citizen	www.legislationline.org
1999	Regulation No. 33 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	Provides for the procedure to be followed during examinations; identifies the persons to be exempted from tests; specifies the competences and obligations of the examination commissions	www.np.gov.lv (in Latvian)

Date	Document	Content	Source
1999	the History of Latvia for Persons Who Wish to Acquire the Citizenship of Latvia through Naturalisation (with amendments 2000, 2001, 2003, 2004, 2006) Regulation No. 34 on the Procedure for the Acceptance and Review of Applications (with amendments 2000, 2001, 2003, 2004, 2005, 2006)	Establishes the procedure and documents to be submitted for naturalisation; amendments bring the Regulation in line with other laws adopted in the meantime, such as the Immigration Law, the Law on the Declaration of Residence, the Law on Personal Identity Documents, the Administrative Procedure Law, etc.	www.legislationline.org
1999	Law on the Status of Stateless Persons in the Republic of Latvia	Does not apply to those who hold non-citizen status	www.ttc.lv (in Latvian)
2000	Regulation No. 410 on the State Duty Payable for Documenting Renunciation of the Citizenship of Latvia and Restoration of the Citizenship of Latvia	Introduces a fee of 15 Lats for renunciation or restoration of nationality	www.legislationline.org
2001	Regulation No. 234 on the State Duty Payable for Submission of a Naturalisation Application (with amendments 2002, 2003)	Provides for three different categories of applicants and the amount of state duty each of these groups has to pay (20 Lats, 3 Lats, exempt from paying)	www.legislationline.org
2001	Regulation No. 13 on the Procedure for Documenting Loss and Restoration of the Citizenship of Latvia (with amendments 2004)	Sets guidelines for the procedure on loss and restoration of citizenship; specifies the documents to be submitted by the applicant and the respective decisions to be taken by the Naturalisation Board; amendment brings the Regulation in line with the new Law on Administrative Procedure	www.legislationline.org
2004	Regulation No. 378	Sets out the application	www.ttc.lv (in Latvian)

Date	Document	Content	Source
	Regarding Passports for Latvian Citizens and Aliens as well as Travel Documents for Stateless Persons	procedures for passports and the contents of each document	
2004	Regulation No. 1011 on the Procedure to Determine the Status of Latvian Non-citizens	Provides for the procedure to be followed by applicants and the Office of Citizenship and Migration Affairs regarding decisions as to whether a person satisfies all the conditions to qualify for the status	www.pmlp.gov.lv (in Latvian)
2007	Regulation No. 353 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 provided in the Citizenship Law	Replaces Regulation No. 33; consolidates the amendments	

Notes

- 1 I would like to thank Prof. Ineta Ziemele for her comments on the draft of this article. The usual disclaimer applies.
- 2 UN Doc. A/RES/55/153 (Nationality of Natural Persons in relation to the Succession of States), 30 January 2001.
- 3 For a detailed treatment of this principle, see Ziemele 2005.
- 4 Latvia, like the other Baltic states, was guided by the principle *ex iniuria ius non oritur*, which has been seen as a rather inflexible approach.
- 5 In 1995, grounds (2), (3) and (8) were included.
- 6 Livs are a historic indigenous group of Finno-Ugric descent living near the Baltic sea.
- 7 See the part on naturalisation in section 2 in this chapter.
- 8 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.
- 9 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).

- 10 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 the adoption of the amendments.
- 11 Only in exceptional cases can such an application be submitted by a single parent, i.e. by a mother if there is no entry regarding the father in the birth record or by the remaining parent if one parent is deceased.
- 12 Apart from that, the requirements of exams and the fee for naturalisation have been lowered a number of times.
- 13 See the section on statistics at the end of this chapter.
- 14 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 Article 17 paragraph 1 of the EC Treaty, that is to say those who do not have the nationality of an EU Member State. This indicates that those with undetermined citizenship fall within the scope of the directive. Letter from the Directorate-General of Justice and Home Affairs, European Commission to the Permanent Delegation of Latvia in the EU institutions, 23 June 2003. This places non-citizens at a disadvantage compared to the status they have enjoyed so far.
- 15 See the conclusions by an EU Network of Independent Experts on Fundamental Rights, Synthesis report for 2003, p. 88. The experts regret that the situation of non-citizens has not been resolved during the entry negotiations between Latvia and the EU.
- 16 For instance, Kees Groenendijk suggested calling them 'denizens', a term describing residents enjoying a status between alien and citizen (Groenendijk 1993: 15).
- 17 See Constitutional Court Case 2004-15-0106, *Official Gazette* No. 40, 9 March 2005. Most of the other rulings (approximately 200 during 2004-2008) were passed by the administrative courts. The numbers of cases concerning access to status are limited. The most illustrative case is that of Gaļina Bakriseva, who, in the Court's opinion, may have the right to non-citizen status notwithstanding her service in the Russian armed forces. Other cases concern children whose parents – either one or both – are foreign citizens who have agreed to register their child as a non-citizen of Latvia (see, for example, the Zaharov case, No. A42348705 AA 934-06/10, 28 April 2006). Moreover, even if parents have acquired non-citizen status as a result of fraudulent methods, this is not a valid enough reason to deprive their children of their non-citizen status (Case No. A42051204 SKA-24/2008, 14 February 2008). Most cases deal with the revocation of the non-citizen status. The majority of these concern non-citizens who have acquired another citizenship but failed to inform Latvian authorities. However, the courts have been cautious when confirming the authorities' revocation decisions. Thus, the Supreme Court Senate declared the following in the Saakjan case: The link of a non-citizen to the Republic of Latvia is closer than is that of a stateless person or alien. Therefore, the revocation of the status of non-citizen means a significant limitation of the rights of the respective person (Decision of 2004, No. SKA-89, C27261801).
- 18 See Consideration of Reports Submitted by States Parties under Article 9 of the Convention. Concluding observations of the Committee on the Elimination of Racial Discrimination, 55th Session 2-27 August 1999, CERD/C/304/Add.79 12 April 2001, paras 12-14, and 63rd Session, 4-22 August, CERD/C/63/CO/7 10 December 2003, paras 12-13. Consideration of Reports Submitted by States Parties under Article 40 of

- the Covenant, Human Rights Committee, 79th Session, CCPR/CO/79/LVA, 1 December 2003, paras 16-18.
- 19 Almost automatic acquisition means that a person shall approach the regional office of the Naturalisation Board and submit documents testifying that the person permanently resides in Latvia as well as supporting documents confirming that the person belongs to one of the groups of persons qualifying for almost automatic citizenship (for instance, diploma of secondary education in Latvian).
 - 20 Decision of the Latvian Constitutional Court, Case No. 2007-07-01, 21 August 2007.
 - 21 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 and alike).
 - 22 The Law states that a person shall know the basic principles of the Constitution of the Republic of Latvia and the Constitutional Law Rights and Obligations of a Citizen and a Person. However, this law became obsolete on 6 November 1998 when the Constitution was supplemented with a chapter on human rights.
 - 23 In the cases of Estonia and Lithuania, they had to be citizens of the respective countries on 17 June 1940, but in the Polish case on 1 September 1939.
 - 24 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.
 - 25 The Naturalisation Board is considered as one of the best performing institutions in Latvia. In relation to court cases the statistics show that out of 338 court cases the Naturalisation Board has lost only five.
 - 26 A special procedure is provided by the Regulations on the Procedure for the Acceptance and the Review of the Application on the Recognition of a Child to be a Citizen of Latvia. 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 fourteen (minimum age for criminal liability). Any other state and self government institution can be approached by the Board (sect. 19).
 - 27 Regulations on the State Duty Payable for Submission of a Naturalisation Application, Regulations No. 234 (Record No. 26, para. 43), Riga, 5 June 2001. The rate is lowered to 3 Lats for: (1) members of poor families or poor persons; (2) unemployed; (3) members of families with more than three under age children; (4) persons receiving old-age pension; (4) disabled persons with a certain degree of disability; (5) pupils and students; (6) full-time students of tertiary education establishments. Persons exempted are: (1) politically repressed; (2) severely disabled persons; (3) orphans and children who are not under their parents' charge; (4) persons sheltered by social care institutions of the state or self-government. The fees were changed in 1997, 2001 and 2002.
 - 28 It was common practice that language proficiency had to be verified even after a person had passed the exam in case he or she wanted to hold public office. This practice was changed after the decision of the Human Rights Committee in the *Ignatane* case (Communication No. 884/1999, 31 July 2001). Antonina Ignatane was

deleted from the list of candidates for local government elections after language inspectors conducted an unexpected language examination at her place of work concluding that her level of language proficiency did not correspond to the highest degree necessary to be elected to local government. See also *Podkolzina v. Latvia*, application No. 46726/99 at the ECHR, 9 July 2002.

- 29 These exceptions were introduced in 1998.
- 30 The doctrine seeks to reintegrate this region by increasing Russia's influence in the former USSR Republics and does not rule out the use of force 'within the limits of the law' if necessary. Other measures include: 1) promoting not the return of 'Russian-speaking' residents to Russia, but their stay in the former Soviet Republics, since they can then be used to realise Russia's long-term interests in the region; 2) expanding Russian investments as a tool to increase political influence; 3) applying economic sanctions and other means of pressure against 'disobedient' former USSR Republics; 4) using human rights and ethnic minority rights with regard to Russian minorities as a weapon against the former USSR Republics; 5) advocating a 'zero solution' in the citizenship laws of the former Soviet Republics. i.e. an automatic granting of citizenship in the respected states (for more detail, see Lerhis & Kudors 2008: 36-62).
- 31 The Foreign Policy Concept of the Russian Federation is available at www.kremlin.ru. See also 'Russia's new foreign policy strategy will continue to defend Russian nationals' interests in the Baltics', *LETA* [National News Agency], 17 July 2008; and the report on the Russian Federation Foreign Policy (ОБЗОР ВНЕШНЕЙ ПОЛИТИКИ РОССИЙСКОЙ ФЕДЕРАЦИИ) at www.un.int.
- 32 'Visa waiving for Latvia's "non-citizens" jeopardizes Russia-EU talks', *Ria Novosti* [Russian national news agency], 18 June 2008. en.rian.ru.
- 33 'Ārlietu ministrijas paziņojums par Krievijas Federācijas lēmumu atcelt vīzu režīmu daļai Latvijas iedzīvotāju [Announcement of the Ministry of Foreign Affairs concerning the decision of the Russian Federation to lift visa regime for a group of Latvia's inhabitants]', press release, Latvian Ministry of Foreign Affairs, 18 June 2008. www.am.gov.lv.
- 34 Z. Stankeviča, 'Latvija zaudē izcilus pilsoņus likuma burta dēļ [Latvia loses outstanding citizens because of the strict law]', *Neatkarīgā Rīta Avīze* [daily newspaper], 15 October 2007.
- 35 I. Matisane, 'Dubultpilsonību bērniem varētu ieviest jau šogad [Dual citizenship for children could be introduced already this year]', *Official Gazette*, 25 July 2007. www.lv.lv; G. Laganovskis, 'Tieslietu ministrs: dubultpilsonībai nepieciešams jauns likums [Minister of Justice: dual citizenship requires new law]', *Official Gazette*, 14 May 2008. www.lv.lv; G. Laganovskis, 'Tieslietu ministrs pieļauj dubultpilsonību [Minister of Justice allows dual nationality]', *Official Gazette*, 11 July 2008. www.lv.lv.
- 36 A. Eriņa, 'Turpina gatavot priekšlikumus par pilsonības piešķiršanu ārvalstīs dzimušo Latvijas pilsoņu bērniem [Drafting of proposals for granting citizenship to children of Latvian citizens born abroad continues]', *LETA*, 24 October 2007; A. Eriņa, 'Pilsonības likumā rosina paredzēt dubultpilsonību ārzemēs dzīvojošo Latvijas pilsoņu bērniem [Suggestion to make provisions in the Citizenship Law for dual citizenship of children of Latvian citizens living abroad]', *LETA*, 24 April 2004.
- 37 This data is available at www.pmlp.gov.lv.
- 38 Application No. 55707/00, Grand Chamber Judgment 18 February 2009.
- 39 There are several publications concerning these allegations, such as, 'Štāba brīdinājumus par sadursmēm uzskata par provokāciju [Warnings from Stab about clashes with police considered as provocation]', *Diena* [daily newspaper], 14 August 2004. This publication refers to an earlier article where Petropavlovskis listed 160 combatants under his command (21 February 2004). See also the interview with Pet-

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- 40 I. Rubule, 'Ārzemēs atbalsta dubultpilsonības ieviešanu' [Outside Latvia there is support for the introduction of dual citizenship], Portal of Latvians living abroad, 2 August 2008. www.latviesi.com.
- 41 The Table is based on data on ethnic origin as indicated by residents. At the beginning of the 1990s, all residents were required to declare their ethnic origin which was mentioned both in their passports and in the Register of Residents. Current practice is that those applying for naturalisation are required to declare their ethnic origin on an application form that they submit to the Naturalisation Board. This requirement is optional as is the reference to ethnic origin in the passport.
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