



NEPILSONU KONGRESS
КОНГРЕСС НЕГРАЖДАН
NON-CITIZENS' CONGRESS

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Submission of the Latvian Non-citizens' Congress
to the UN Human Rights Committee
For consideration when compiling the List of Issues
on the Third Periodic Report of Republic of Latvia
under the International Covenant on Civil and Political Rights

Thematic submission concerning status of non-citizens, including naturalization process.

The Latvian Non-Citizens' Congress (LNCC) was established in 2012, after the Latvian state authorities refused non-citizens the use of democratic means in the form of referendum on citizenship matters. In June 2013, parallel to the municipal elections, the LNCC organized the elections to the "Parliament of Non-Represented". Over 15,000 Latvian residents took part in the initiative and 30 representatives of non-citizens were elected. The creation of the "Parliament of Non-Represented" aims to establish a dialogue between "non-citizens" and government bodies to find ways of solving this problem. Our activities are strongly based on the Latvian and International law and are in line with recommendations of many human rights bodies as the United Nations, Council of Europe, OSCE and European Union.

Legislation and its Implementation

In 2011 the parliament established a sub-commission on Citizenship Law Amendments to prepare a comprehensive package of amendments as there had been no changes to the law since 1998. After two years of work, amendments were adopted on 9 May 2013.

Through the amendments were strengthened the ethnical character of Latvian citizenship. Art.1 and 2 introduce new concept of ethnic state nation as a primary source of sovereignty. The law introduces also procedure for proving ethnical origin. Taking into account Latvian political context and regular attempts of radical right politicians to attack and reduce rights of persons belonging to national minorities, this concept can be used as a ground for discrimination of national minority citizens.

Regulation of the naturalization process remained without significant changes. Proposal to distinguish naturalization of Latvian non-citizens as a special category of long-term residents was rejected and naturalization requirements for non-citizens and foreigners remained identical.

Technical changes introduced in Art. 12 resulted in effective complicating the naturalization procedure for non-citizens. Art.12 stipulates preconditions for naturalization; one of them is five year permanent residence in Latvia prior to the application date. Allowed interruption of the residence period is overall one year. Previously five year term was counted from 1990, when Latvia became independent and part of residents was disfranchised and became non-citizens. Thus previously all non-citizens have automatically qualified for this criterion, but according to the new rules non-citizens have to prove actual residence in last five years.

Since 2004 Latvia is member state of European Union and since 2007 Latvia is member of the Schengen Agreement and according to its rules non-citizens are allowed to travel without border control, as well as to work in particular EU countries. Thus non-citizens have to choose between freedom of movement, work and study within the EU and right to citizenship. It would be justified in case, if a person wants to change its citizenship or to get second citizenship, but not in case if person wants to get its first citizenship.

According to the information collected from various naturalization applicant and information of Citizenship and migration office shared on 5 February 2014 by the meeting of parliamentary committee for Society Cohesion now the authority is asking from naturalization applicant particular documents proving actual residence in Latvia, for instance acknowledgment from employer, state unemployment agency, social services. As a result it is more complicated to prove Latvian residence for non-registered unemployed residents, students and scientists making use of mobility programs, pensioners. The Citizenship and migration office reported about increase of refusal of naturalization applications because of insufficient proves of permanent residence.

Participation of civil society

To mention is lack of dialogue with civil society and non-citizens organisations. One of the main objective of Latvian non-citizens' Congress (LNCC) is to create channels for dialogue between non-citizens and governmental bodies. In June 2013, parallel to the municipal elections, the LNCC organized the elections to the "Parliament of Non-Represented". Over 15,000 Latvian residents took part in the initiative and 30 representatives of non-citizens were elected. The creation of the "Parliament of Non-Represented" aimed to establish a dialogue between "non-citizens" and government bodies to find ways of solving this problem.

Despite dozens of letters and invitation to start dialogue and cooperation for elaboration effective solutions for the problem of long-term statelessness most of the authorities rejected any cooperation. To mention is Prime-minister Valdis Dombrovskis, its adviser for society cohesion Sarmīte Ēlerte, Ministers of culture, Head of Citizenship and migration office, speaker of the parliament Solvita Āboltiņa, state ombudsman Juris Jansons and others. On 31 July 2013 office of Prime-minister wrote a letter to the Non-citizens' Congress informing that the government has enough cooperation with civil society and participation of Non-citizens' Congress for facilitating naturalization or elaborating other solutions is not necessary. Only state president Andris Bērziņš admitted the existence of the non-citizens problem, as well as lack of effective measures on the government side. To mention is that similar critical opinion have former prime-ministers – Indulis Emsis, Einars Repše, Aigars Kalvītis, Valdis Birkavš.

We believe that consultations and participation of civil society, especially representatives of non-citizens are essential for solving the problem of long term statelessness.

Situation and possible solutions for statelessness problem in Latvia

1. Effectiveness of naturalisation

Naturalization procedure proposed by the Latvian government as a solution for mass statelessness gave some results between 1999 and 2006 when the naturalization rates was growing and amounted more than 10 000 persons yearly. For last five years the naturalization rate are less than 1% or 2 500 persons per year. There are no indications that facilitation of naturalization without considerable change of the procedural framework will be effective.

As of 1 July 2012- 304,806 or 13, 8% of all Latvian residents were without citizenship. The number of naturalization applications, as well as persons receiving Latvian citizenship through naturalization has remained low during last five years. In accordance with the Office of Citizenship and Migration Affairs from the beginning of naturalization procedure from 1 February, 1995 until 30 April 2013 140,473 persons have become citizens of Latvia, including 14,153 non-citizen children. From 1999 until 2006, the number of naturalized persons exceeded 10-

15,000 per year, since 2008 the number of naturalized persons has decreased to approximately 2500 per year, i.e. less than 1% of non-citizens per year.

Applications for naturalization predominantly are received from young people aged 18-30 (47% of all applicants for citizenship in 2011), while the least likely applicants are over 60 (5.7%). It means that naturalization is not effective for the main target group – 38% of non-citizens are more than 60 year old, 31% of non-citizens are in age 45-59. In accordance with Naturalization Board from 2009 until 2012 the number of noncitizens annually decreases by 15,000. However, only 20 – 29% becomes citizens of Latvia. The majority of non-citizens died or opted for the citizenship of another country, mainly Russia. Normally when non-citizens accept other country's citizenship they stay for residence in Latvia with permanent residence permit.

Annual decrease of non-citizens by number/ %

Year	Number of non-citizens	Total	Received Latvian citizenship	Other reasons (e.g., received citizenship of another country, died, etc.)
01.01.2009.	357 881	14 610	4 230/ 29%	10 380/ 71%
01.01.2010.	344 095	13 716	3 235/ 24%	10 481/ 76%
01.01.2011.	326 735	17 360	3 518/ 20%	13 842/ 80%
01.01.2012.	312 189	14 546	3 917/ 27%	10 629/ 73%

Source: Naturalisation Board, Ministry of Interior

There is a tendency of a growing number of citizenship applicants failing the Latvian language exam. Out of 3,486 citizenship applicants taking Latvian language test for the first time in 2010, 1,497 or 43% failed (in 2009 this figure was 39%, while in 2004, when the highest number of applications had been received, this figure was 10%). In 2011, among 3,028 applicants for citizenship, who took the Latvian language test, 1,253 or 41, 4% failed. The number of citizenship applicants failing history test has also grown significantly. Out of 2,731 citizenship applicants taking history test for the first time in 2010, 496 or 18% failed (this figure was 17.6% in 2009 and 3.8% in 2004). Out of 2,910 citizenship applicants taking history test for the first time in 2011, 569 or 19.6% failed. At the same time, the number of naturalization applicants exempt from Latvian language tests has also increased (youths who have received higher education in Latvian, taken centralized exam in Latvian in primary or secondary school) – from 10% in 2010 and 29% during the first half of 2012.

According to research conducted in 2012 and 2013, non-citizens have a “wait and see” attitude towards Latvian citizenship through naturalisation. There are two main reasons why non-citizens do not apply for Latvian citizenship. Firstly it is opinion that naturalisation procedure historically is not faire and the citizenship should be granted automatically. Secondly it is doubts if they are able to pass the naturalisation exams.¹

2. Granting citizenship to all non-citizens automatically

This solution requires a radical change of Latvian Citizenship law. In 2012-2013 this proposal faced strong political obstruction. In early 2012 the movement "For Equal Rights" initiated the collection of voters' signatures for organizing referendum on this issue. The draft amendments provide that from 1 January 2014 those non-citizens, who will not submit an application about the retention of the non-citizen's status according to the procedure set by the Cabinet of Ministers until 30 November 2013, shall be deemed to be citizens of Latvia. The transitional regulations also envisioned that the Office of Citizenship and Migration Affairs shall send to the subjects of the law a special reference note about becoming Latvian citizens and from 1 January 2014 the passports of non-citizens with the reference note presented, shall be considered as the passports of Latvian citizens

By September 2012 the required number of signatures was collected (12, 686 signatures were collected, exceeding the required 10, 000) and on 4 September the draft amendments were submitted to the Central Election Commission (CEC) for the organisation of the second stage of the collection of voters' signatures. The collection of voters' signatures for the draft amendments led to discussions among the politicians and experts about the compliance of the draft with the Constitution (Satversme) and the principle of legal continuity of the Republic of Latvia. On 1 November 2012 the CEC took the decision not to declare the second stage of the collection of signatures and the draft amendments were also not put to a referendum. The initiators claimed against the decision by the court. At 12 February 2014 the highest court of Latvia accepted the decision of CEC as lawful.

3. Shaping special naturalisation procedure for non-citizens

This solution requires adjustment of the naturalisation procedure as defined by the Citizenship Law and shaping more liberal naturalisation requirements for non-citizens being in special historical situation. At the moment the naturalisation procedure is equally applicable for two non-equal groups, i.e. new immigrants, citizens of third countries and for Latvian non-citizens living in Latvia for decades

¹ Office of Citizenship and Migration Affairs (2011) Research „Attitude of non-citizens about obtaining Latvian citizenship” (Pētījums „Nepilsoņu attieksme par Latvijas pilsonības iegūšanu) Available at: http://www.pmlp.gov.lv/lv/par_pmlp/publikacijas/Nepilsonu_attieksme_2011.pdf Kvalitatīvs pētījums. Par trešo valstu valstspiederīgo un Latvijas nepilsoņu viedokli par Latvijas pilsonību un iemesliem, kas veicina vai kavē pilsonības iegūšanu., Baltic Institute of Social Sciences, Rīga 28.03.2013. Pētījums ir apsaktāms PMLP mājas lapā http://www.pmlp.gov.lv/doc/Nepilsonu_petijums/HTML/index.html#/1/

and holding no citizenship of any other state, so effectively stateless. It is necessary to distinguish naturalization of migrants and of non-citizens.

This solution would have impact of reconciliation, because for many non-citizens it is unacceptable to be treated as immigrants, but it would be possible to convince them for compromise solution. Historically non-citizens came to work and to rebuild Latvia after Second World War in fully legal manner being citizens of one country and after receiving invitation or administrative directive. However Latvian government is arguing with the concept of continuity of the Latvian statehood and illegality of the incorporation of Latvian Republic into Soviet Union, holding non-citizens as illegal migrants. Despite of legal discussions the fact is, that 38% of non-citizens are older than 60 year, 30% are in age 45-59 year, it is unlikely that they will accept disfranchising and to define themselves as illegal immigrants.

There are many options for shaping special naturalization procedure. Non-citizens can be exempted from history exam, which is seen by many non-citizens as controversial and ideological. Persons who have reached retirement age can be exempt from any examinations. The naturalization examination can be simplified to an essay about Latvia as homeland written in any language. In combination to the adjustment of naturalization procedure for non-citizens the free language courses for non-citizens would facilitate the naturalization process.

4. Gradually integration of non-citizens

If an effective granting of citizenship as a long-term solution for statelessness is not possible at the moment, the efforts can be focused on gradually integration of non-citizens through granting them voting rights on municipal elections similar to the voting rights already granted to citizens of other EU member states and through decrease of restrictions of social and economic rights, especially profession restrictions and elimination of excessively restrictive regulations on professional language proficiency, which have a discriminatory effect on the working opportunities of minorities.

Kind regards,

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