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**To the Presidium of the Saeima**

At its meeting on 23 March of this year, the Legal Affairs Committee reviewed the draft law “**Amendments to the Citizenship Law**” (No. 238/Lp10) and resolved to **support** the forwarding thereof for first reading in the Saeima.

Enclosed: Synopsis on 2 (two) pages.

Committee Chair

I. Čepāne

## **Explanatory Note to the Draft Law “Amendments to the Citizenship Law”**

### **I What is the purpose of the law?**

The continuity doctrine of the Republic of Latvia obligates the Latvian State to care for and preserve the link with those citizens of Latvia and their descendants who, in the period between 17 June 1940 and 4 May 1990, left Latvia as refugees in order to escape the terror of the occupation regimes of the U.S.S.R. and Germany, or who were deported, or due to the aforesaid reasons have not been able to return to Latvia. Paragraph 1 of the Transitional Regulations of the Citizenship Law cannot ensure effective preservation of the legal bond between the Latvian State and such citizens and their descendants. The Citizenship Law is based on the principle of prohibition of dual citizenship, whereas the opposite principle prevails among contemporary states, i.e. a person may acquire or retain the citizenships of several countries (*Krūma K. “Dubultā pieeja dubulpilsonībai”* [Dual Treatment of Dual Citizenship] // <http://www.politika.lv/temas/cilvektiesibas/4841/>).

The Constitutional Court has been affirmative in its assessment of the permissibility of dual citizenship, yet it has noted that “the issue of dual citizenship is fundamentally a political one rather than one that could be settled based on legal considerations”. For this reason, the Constitutional Court has acknowledged that “the adoption of a legal regulation of citizenship issues possesses a political aspect”, namely it is “the legislature, when opting in favour of permitting dual citizenship, also determines for which persons and in what cases dual citizenship is permissible, considering national interests, the political situation and citizenship policy” (*Paragraphs 16-17 of the Judgment of the Constitutional Court of 13 May 2010 in Case No. 2009-94-01*).

In order to strengthen the pool of Latvian citizens and to broaden the legal bonds between the Latvian State and the citizens affiliated with it, the Draft Law proposes to expand the number of instances where Latvia permits dual citizenship of its citizens.

The Draft Law separates the issue of citizenship of Latvian exiles from the permissibility of dual citizenship for those citizens of Latvia who will acquire the citizenship of another country for various reasons after the Draft Law takes effect.

The Draft Law proposes the inclusion of Section 8<sup>1</sup> into the Citizenship Law, which would replace Paragraph 1 of the Transitional Regulations of the Law. The new regulation provides for a temporally unrestricted right of those citizens of Latvia who, during the period from 17 June 1940 to 4 May 1990, left Latvia as refugees, in order to escape the terror of the occupation regimes of the U.S.S.R. and Germany, were deported, or due to the aforesaid reasons have not been able to return to Latvia, and their descendants to register in the Population Register as citizens of Latvia. Upon such registration, these persons may retain the citizenship of another country if they have one.

In turn, following the coming into force of the Draft Law, Section 9, Paragraph (1<sup>1</sup>) of the Law, proposed by the Draft Law, will also be applicable. According to this

provision, citizens of Latvia will be able to acquire the citizenship of a number of other countries while retaining their Latvian citizenship. Such a regulation has significance in terms of legal policy for Latvia as a national state in order to prevent the loss of its pool of citizens and identity amidst the processes of globalisation, European integration and economic migration. Within the limits of discretion afforded by the Constitutional Court, the Draft Law specifies certain countries with which Latvia recognises the automatic permissibility of dual citizenship. By the same token, in separate cases, an individual permission of the Cabinet of Ministers may be issued to retain Latvian citizenship to prevent adverse effects on the interests of Latvian citizens who have acquired the citizenship of some other state.

The Draft Law also proposes that Latvian citizenship shall be granted to those children of whom one or both parents are citizens of Latvia, and who were born outside Latvia. This way, the Latvian State also assumes responsibility for and legal protection of those children of Latvian citizens who are born abroad.

The Draft Law also proposes the right to register an adopted child as a citizen of Latvia if one or both adoptive parents are citizens of Latvia at the time of adoption.

**II What will be the potential impact of the law on the development of society and the economy of the country?**

The Draft Law does not affect this area.

**III What will be the potential impact of the law on state and municipal budgets?**

The Draft Law does not affect this area.

**IV What will be the potential impact of the law on the system of legal norms in force?**

The Draft Law does not affect this area.

**V How does the law conform to the international obligations assumed by Latvia?**

The Draft Law does not affect this area.

**VI What experts have been consulted during the preparation of the draft law?**

The need for the amendments in question has been deliberated for an extended period at various organisations of exile Latvians and in legal policy discussions within Latvia. The enhancement of the Citizenship Law was the subject of the Constitutional Policy Seminar “Bīriņi 2010”, organised by the Public Law Institute and the Sixth Congress of ELJA-50 in 2010.

In the preparation of the Draft Law, Legislative Initiative No. 29 of the President of 1 February 2011 was considered, as was as the theoretical rationale for resolving citizenship issues provided by Egils Levits, Chair of the Presidential Constitutional Law Commission.

***VII How will the law be enforced?***

The Law will be announced in the official newspaper *Latvijas Vēstnesis* and published in the free online database [www.likumi.lv](http://www.likumi.lv).

Creation of new institutions is not required, nor will the functions of existing bodies be extended.