

Ending Childhood Statelessness:

A Study on Latvia

Working Paper 07/15



EUROPEAN NETWORK ON STATELESSNESS

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This working paper was commissioned by the European Network on Statelessness (ENS) a civil society alliance with 100 members in over 30 countries, committed to addressing statelessness in Europe. Among other objectives, ENS advocates for the enjoyment of a right to a nationality by all. This working paper is part of a series that has been produced in support of the ENS Campaign “None of Europe’s children should be stateless” which was launched in November 2014. ENS wishes to acknowledge the generous support for this campaign received from the Sigrid Rausing Trust and the Office of the United Nations High Commissioner for Refugees (UNHCR).

This paper was researched and written by Svetlana Djackova, Researcher – Latvian Centre for Human Rights (an ENS Advisory Committee Member). Sigita Zankovska-Odina, Researcher, Latvian Centre for Human Rights participated in conducting interviews.

European Network on Statelessness
Club Union House, 253-254 Upper Street
London, N1 1RY
United Kingdom
Charity Number 1158414

info@statelessness.eu
www.statelessness.eu

For further information about ENS, its activities or proposals for research or other collaboration, contact ENS Director Chris Nash at chris.nash@statelessness.eu.



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Introduction

This study was prepared in cooperation with the European Network on Statelessness (hereinafter ENS) in the framework of the ENS campaign “None of Europe’s children should be stateless”. One of the activities of the campaign is to assess the implementation of legislative standards for the prevention of childhood statelessness at the national level in selected countries¹ with a view to improving access to nationality of children who would otherwise be left without any.

Latvia has established a statelessness determination procedure through the adoption of the Law on the Stateless Persons in 2004² and is a party to several international conventions addressing the right of the child to a nationality. However, the status of more than 7,800 non-citizens’ children³ is specified by another law;⁴ the access to nationality of these children is governed by the Citizenship Law.⁵ Non-citizens, who are not defined as stateless according to the national legal definitions, and whose rights and obligations significantly exceed the minimum rights set by 1954 Convention relating to the Status of Stateless Persons, are still considered as stateless by the United Nations High Commissioner for Refugees (hereinafter UNHCR) monitoring the implementation of relevant standards, and also for the purpose of this report. Many non-citizens parents have not taken advantage of the opportunity to apply for the registration of their children born after 21 August 1991 as Latvian citizens, although such a right was introduced by the Citizenship Law amendments passed in 1999.⁶ This report assesses the main causes and consequences of childhood statelessness and possible solutions.

The research is conducted following a template elaborated by ENS and comprised of desk research, legal analysis and interviews with relevant stakeholders (implementing authorities and decision-makers).⁷ In support of the research, various sources of information on the relevant international and regional standards are used.⁸ Three case studies of non-citizens’ children and former non-citizens in Latvia were also compiled on the basis of in-depth semi-structured interviews.⁹

The report consists of four Sections. Section 1 provides an overview of Latvia’s international obligations addressing childhood statelessness and background information on the issue, including the national legislative framework, statistical data, previous studies and stakeholders. Section 2 analyses access to nationality for otherwise stateless children who are born on the territory of Latvia or to Latvian nationals abroad. Section 3 assesses the prevention of

¹ In 2015 the research is conducted in Albania, Estonia, Italy, Latvia, Macedonia, Poland, Romania and Slovenia.

² Law on the Stateless persons, adopted 29.01.2004, in force from 02.03.2004.

³ Data of the Office of Citizenship and Migration Affairs.

⁴ [Law on the Status of Those Former USSR Citizens Who Do Not Have the Citizenship of Latvia or Any Other State](#), adopted 12.04.1995, in force from 09.05.1995.

⁵ Citizenship Law, adopted 22.07.1994, in force from 25.08.1994.

⁶ Citizenship Law amendments, adopted 22.06.1998, in force from 10.11.1998.

⁷ The following officials and experts were interviewed: three representatives of the Office of Citizenship and Migration Affairs, including a representative from the management, the Naturalisation Board and the Personal Status Control Department; a representative of the Ministry of Culture, responsible for the social integration policy; a MP representing the Saeima Citizenship, Migration and Social Cohesion Committee; two representatives from the Daugavpils General Registry Office, a body responsible for registration of birth, and a representative from the General Registry Office in Riga; a school principal in Daugavpils.

⁸ UNHCR Guidelines No.4 on “Ensuring Every Child’s Right to Acquire a Nationality”; ENS “Preventing Childhood Statelessness in Europe: Issues, Gaps and Good Practices”, 2014.

⁹ The case studies were identified with the support of schools in Riga (the capital) and in Daugavpils (the eastern part of Latvia). The school administration was asked for support in identifying possible interviewees (children and/or their parents) and informing them about the study about their experience of being a non-citizen of a former non-citizen (last part of the sentence is not clear). Out of several schools contacted, two schools provided their assistance. The interviews with school children from 15 to 17 years were conducted in a confidential manner with informed consent of the children and their parents.

statelessness among children in other contexts (foundlings, loss of nationality and facilitated naturalisation). In Section 4, the access to birth registration and its link to nationality are analysed.

1. Statelessness in the national context

Legislative framework

Latvia is a party to the following core international and European conventions covering the issues of childhood statelessness:

- 1954 UN Convention relating to the Status of Stateless Persons;¹⁰
- 1961 UN Convention on the Reduction of Statelessness (hereinafter – the 1961 Convention);¹¹
- Convention on the Rights of the Child;¹²
- International Covenant on Civil and Political Rights;¹³
- Convention on the Elimination of All Forms of Racial Discrimination;¹⁴
- Convention on the Elimination of All Forms of Discrimination against Women;¹⁵
- Convention on the Rights of Persons with Disabilities.¹⁶

Of these, in particular **the 1961 Convention contains key provisions for ensuring that children are not left stateless, to which Latvia is bound through its accession.**¹⁷ Latvia has not made reservations of relevance to the issue of children's nationality.¹⁸ Latvia signed the 1997 European Convention on Nationality in 2001, but has yet to ratify it.¹⁹

The acquisition and loss of nationality through registration and naturalisation is regulated by the Citizenship Law, with the most recent amendments, which address, *inter alia*, the procedural aspects of registration of children as citizens, passed in 2013.²⁰ There are several Regulations of the Cabinet of Ministers specifying the following core procedures for acquisition and loss of nationality: registering a person as a Latvian citizen;²¹ the receipt and examination of naturalisation applications;²² recognition as a Latvian citizen of a child of stateless persons or non-citizens born in Latvia after 21 August 1991;²³ loss and restoration of Latvian citizenship.²⁴ The main body responsible for citizenship decisions is the Office of Citizenship and Migration Affairs (hereinafter OCMA).²⁵

¹⁰ Accession 5/11/1999.

¹¹ Accession 14/04/1992.

¹² Accession 14/04/1992.

¹³ Accession 14/04/1992.

¹⁴ Accession 14/04/1992.

¹⁵ Accession 14/04/1992.

¹⁶ Signature 18/07/2008, ratification 01/03/2010,

¹⁷ See, for instance, annex 1.

¹⁸ <https://treaties.un.org/>

¹⁹ Signature 30/05/2001.

²⁰ Citizenship Law amendments, adopted 9.05.2013, in force since 1.10.2013.

²¹ [Cabinet's of Ministers Regulations No. 974 Procedures for Registering a Person as Latvian Citizen](#) (adopted 24.09.2013).

²² [Cabinet's of Ministers Regulations No.1001 Procedures for the receipt and examination of naturalisation applications](#) (adopted 24.09.2013).

²³ [Cabinet's of Ministers Regulations No. 976 Procedures for recognition as a Latvian citizen of a child of stateless persons or non-citizens born in Latvia after 21 August 1991](#) (adopted 24.09.2013).

²⁴ [Cabinet's of Ministers Regulations No. 975 Procedure for loss and restoration of Latvian citizenship](#) (adopted 24.09.2013).

²⁵ Under supervision of the Ministry of the Interior.

Persons affected by statelessness in Latvia

To contextualise the discussion of the content and application of Latvia's citizenship laws, it is important to understand the current situation of statelessness in the country. **Under Latvian law, there are two statuses of relevance: "non-citizen" and "stateless person". Persons who fall under either of these categories are stateless for the purposes of international law, in that they "are not considered as a national by any state under the operation of its law",²⁶ but the two statuses are distinct under domestic law, as set out below.**

After regaining independence in 1991, Latvian citizenship policy aimed to re-establish the community of citizens which existed in the period before the Soviet occupation in 1940. Thus, only persons who were citizens of Latvia before 17 June 1940 and their descendants were recognized as citizens of Latvia, leaving many Soviet-era settlers without access to Latvian citizenship.²⁷ A special "non-citizen" status was established in 1995,²⁸ soon after the adoption of the Citizenship Law providing for naturalisation, to regulate the situation of the large number of persons who had missed out on citizenship. This was considered a temporary solution, rooted in the concept of state continuity.²⁹ Non-citizens have a special passport providing for the right to return; they cannot be deported and enjoy diplomatic protection from Latvia.³⁰ However, non-citizens have restrictions to occupy posts in civil service and some other professions as well as limitations in land ownership; non-citizens also have no electoral rights, neither at national nor at local level. Moreover, non-citizens do not enjoy EU citizenship and the benefits that flow from this. **According to UNHCR's end-2014 statistics, there were still 262,622 "non-citizens" in Latvia – almost a quarter of a century after the country's independence.**³¹

Domestic law also contains a separate definition and category of a "stateless person". This is found in Latvia's Law on the Stateless Persons, adopted in 2004 in line with the 1954 Convention.³² This Law established a statelessness determination procedure, which is conducted by the OCMA and is subject to appeal before the court. The number of persons holding this status is far smaller than that on non-citizens. **At the start of 2015, there were 180 stateless persons in Latvia, whose status is covered by the Law on Stateless Persons.**³³ According to available data, one child with such a status was born in Latvia in 2001.³⁴

Latvian law thus distinguishes stateless persons from non-citizens, dealing with the two separately. This is explicit in the Law on Stateless Persons which states that a person, who is a subject of the Law on the Status of those Former U.S.S.R. Citizens who do not have the Citizenship of Latvia or that of any Other State (non-citizens) shall not be recognized as stateless persons.³⁵ Similarly, the Citizenship Law makes a clear distinction as follows: "a stateless person is a person

²⁶ Article 1 of the 1954 Convention relating to the Status of Stateless Persons.

²⁷ [Krūma K. Country Report on Citizenship Law: Latvia, European University Institute](#), Florence, Robert Schuman Centre for Advanced Studies, EUDO Citizenship Observatory, Revised and updated January 2015, pp.4-5.

²⁸ Under the Law On the Status of those Former U.S.S.R. Citizens who do not have the Citizenship of Latvia or that of any Other State (non-citizens).

²⁹ [Krūma K. Country Report on Citizenship Law: Latvia, European University Institute](#), Florence, Robert Schuman Centre for Advanced Studies, EUDO Citizenship Observatory, Revised and updated January 2015, p.9.

³⁰ [Krūma K. Country Report on Citizenship Law: Latvia, European University Institute](#), Florence, Robert Schuman Centre for Advanced Studies, EUDO Citizenship Observatory, Revised and updated January 2015, p.9.

³¹ UNHCR Global Trends 2014: World at war, *Persons under UNHCR's Statelessness Mandate*, 2015.

³² A person who is not considered as a national by any state under the operation of its law, Law on the Stateless Persons, Section 2, para 1.

³³ [Statistics of the OCMA](#).

³⁴ [Statistics of the OCMA](#).

³⁵ Law on the Stateless Persons, Section 3, para 2.

who is not considered a citizen by any state in accordance with the laws thereof, except a person who is a subject of the Law On the Status of those Former U.S.S.R. Citizens who do not have the Citizenship of Latvia or that of any Other State.³⁶ The Senate of the Supreme Court has stated that assigning the status of a stateless person to a person, who is entitled to the status of a non-citizen would contradict the 1954 Convention, which was adopted in order to provide social and economic protection to persons without any status, as the non-citizen's status has a broad scope of social and economic rights.³⁷ To argue that non-citizens are not covered by the 1954 Convention, the Supreme Court pointed to Article 2(ii) of the Convention to emphasize that it does not exempt states from applying its provisions to citizens, but "to persons who are recognized by the competent authorities of the country in which they have taken the residence as having the rights and obligations which are attached to the possession of nationality of that country".³⁸ Similarly the administrative courts have repeatedly stated that non-citizens, as opposed to stateless persons, have a special connection with Latvia and deprivation of the status of non-citizen would be an infringement of personal rights.³⁹

It is of interest to note that the government, the OCMA and social researchers have undertaken various studies to assess non-citizens' attitudes towards the Latvian citizenship. The most recent survey, conducted in 2014, revealed that **most non-citizens (81%) are not planning to acquire Latvian citizenship during the next 12 months**⁴⁰ (the same results - 75% - were obtained in another survey of 2012⁴¹); many of them (30%) do not see any need for citizenship (25% named age as an obstacle, 11% - a lack of the state language proficiency, etc). As will be seen later in this report, the attitude of non-citizens towards the citizenship issue and a lack of motivation to acquire the Latvian citizenship also poses a challenge for facilitating children's registration as Latvian citizens, which relies on the parents – or, later, the child – taking action to acquire nationality. Thus, in many cases the status of non-citizen is inherited, as opposed to Latvian nationality being secured. Statistics show that more than 11,000 persons who were born in Latvia between 21 August 1991 and 2015 hold the status of non-citizen.⁴² **In the beginning of 2015, there were 7,846 children holding non-citizen status, including 6,130 minors who have not yet reached the age of 15.**⁴³

The role of different stakeholders

Access to nationality for non-citizens' children has been raised as an issue by several international stakeholders, including UN bodies, the OSCE High Commissioner on National Minorities, the Council of Europe and the UNHCR. In particular, the UNHCR and the OSCE High Commissioner on National Minorities have historically advocated for granting automatic citizenship (unless the parents decline) to non-citizens' children at birth and to apply this provision retroactively to all non-citizens' children born after 21 August 1991.⁴⁴ While pointing to the international obligations in

³⁶ Citizenship Law, Preamble.

³⁷ [Supreme Court, Case SKA-472/2008](#), 03.10.2008, Para 7.

³⁸ The 1954 UN Convention relating to the Status of Stateless Persons, Article 2(ii). According to the Constitutional Court, the Latvian non-citizens status, which was the result of a hard political compromise, is a completely new category in international law, as the scope of their rights differs a lot from all other categories of legal status such as citizens, foreigners and stateless persons. [Constitutional Court, Case 2004-15-0106, 7.03.2004](#), Para 15.

³⁹ [Krūma K. Country Report on Citizenship Law: Latvia, European University Institute](#), Florence, Robert Schuman Centre for Advanced Studies, EUDO Citizenship Observatory, Revised and updated January 2015, p.23.

⁴⁰ Market and social opinion research centre SKDS, Survey of minority population "Sense of belonging to Latvia", May – June 2014 (in Latvian), p.29.

⁴¹ OCMA, Study on factors facilitating and hampering acquisition of Latvian citizenship, Riga, 2012 (in Latvian), p.26.

⁴² [Statistics of the OCMA](#).

⁴³ Information provided by the OCMA's Naturalisation Board.

⁴⁴ [Letter of the OSCE High Commissioner on National Minorities Knut Vollebaek](#) to the Speaker of the Saeima of the Republic of Latvia Solvita Āboltiņa, 5.09.2012; [Letter of Regional Representative of the UNHCR Regional Representation for the Baltic and Nordic Countries Pia Prytz Phiri](#) to the Chairman of the Legal Affairs Committee of the Saeima Ilma Čepāne, 17.04.2013.

respect of the child's right to nationality and the best interests of the child regardless the intention of their parents, these international bodies also argued that such a measure would have a positive long-term impact on integration as it would prevent perpetuation of the status of non-citizen to future generations and guarantee the children full enjoyment of their rights as nationals. Among the political parties, represented in the Parliament, only the Reform Party (former State President's Zatlers' Reform Party) and Harmony Centre (opposition party) supported a policy of automatic conferral of citizenship to all non-citizens' children.⁴⁵ The core argument of the political majority was that citizenship should not be granted against one's will, as some parents choose a non-citizen's status for their children.⁴⁶ Providing free choice of non-citizens' parents with regards to nationality of their children has been seen as a democratic solution.⁴⁷

In a recent resolution on the implementation of the Framework Convention for the Protection of National Minorities by Latvia, the Committee of Ministers pointed to a need to "step up measures to actively encourage and promote the naturalisation of all "non-citizens" through targeted awareness-raising and outreach activities and the increased offer of free Latvian language courses; review the list of public positions that are barred to "non-citizens" in line with strict necessity and proportionality criteria and inform the affected population of the underlying motives".⁴⁸

The Ministry of Culture, which is responsible for societal integration affairs, including the promotion of naturalisation, has had no special strategies for tackling the issue of non-citizens' statelessness, as this is a political issue.⁴⁹ An MP interviewed for this research did not see the issue of non-citizens' children as a problem which needed to be prioritized, allegedly due to the fact that citizenship status does not have an impact on loyalty to the state.⁵⁰ While some of the OCMA's activities during recent years have been aimed at facilitating naturalisation (information at the OCMA's website and leaflets, consultations, samples of naturalisation tests, etc.), they have not focused on non-citizens' children, with the exception of some activities around the provision of information on registration of children as citizens.⁵¹ Nevertheless, according to the OCMA, the problem of the large number of non-citizens' children should be viewed as an integration problem and children should be prioritized as a target group. For them, the priority is to ensure that those parents and children, who are willing to acquire Latvian citizenship, have sufficient information for doing it.⁵² While it was noted by the authorities and also the children interviewed that the status of non-citizen generally does not negatively influence the well-being of the child, some authorities highlighted the importance of the emotional aspect of being a citizen (sense of belonging)⁵³ and the aspect of equality: "*young persons and children should be citizens in order to be equal*".⁵⁴

The issue of childhood statelessness has never been the focus of attention of non-partisan domestic NGOs, with the exception of the Latvian Centre for Human Rights (LCHR), which has constantly raised this issue through the reports

⁴⁵ LCHR, [Second Alternative report on the implementation of the Council of Europe Framework Convention for the Protection of National Minorities in Latvia](#), 2013, p.46.

⁴⁶ [Transcript of the Saeima session, 06.09.2012.](#)

⁴⁷ Interview with a representative of the Saeima Citizenship, Migration and Social Cohesion Committee, 29.04.2015.

⁴⁸ [Resolution CM/ResCMN\(2014\)9.](#)

⁴⁹ Interview with a representative of the Ministry of Culture, 23.04.2015.

⁵⁰ Interview with a representative of the Saeima Citizenship, Migration and Social Cohesion Committee, 29.04.2015.

⁵¹ Interview with a representative of the Ministry of Culture, 23.04.2015; Interview with a representative of OCMA's Naturalisation Board, 20.04.2015.

⁵² Interview with a representative of the OCMA's management, 08.05.2015.

⁵³ Interview with a representative of the Ministry of Culture, 23.04.2015.

⁵⁴ Interview with a representative of OCMA's Naturalisation Board, 20.04.2015.

provided to international stakeholders, publications, comments on draft legislation and outreach to the media.⁵⁵ There has also been no major debate among lawyers on the issue of statelessness among children.

2. Grant of nationality to otherwise stateless children

General rules on acquisition of nationality

In Latvia, the acquisition of nationality by children is regulated by both *jus sanguinis* and *jus soli* principles. There is no general principle of all children enjoying the right to nationality enshrined in the Law. As concerns the *jus sanguinis* principle, the Citizenship Law provides Latvian citizenship to children both or one of whose parents is a citizen at the time of his or her birth.⁵⁶ Children of Latvian citizens are registered as Latvian citizens upon the volition expressed by his or her legal representative if the child has not reached the age of 15 years; registration can be done directly by the child if he or she is between 15 and 18 years of age.⁵⁷ The nationality of a child is determined either upon birth registration or upon an application to the OCMA. The General Registry Offices, which are established by the municipalities and are under the supervision of the Ministry of Justice, register nationality upon birth, if it is determined; in some cases, including if the child of a Latvian citizen is born abroad, the nationality of the child upon birth is registered by the OCMA.⁵⁸

For children of stateless persons and non-citizens, the *jus soli* principle applies. Since 1999, non-citizens or stateless parents could submit a joint application requesting the recognition of their child as a Latvian citizen through a registration procedure before the child reached 15, subject to certain conditions. Between the ages of 15 and 18, a child who has not been recognised as a Latvian citizen upon an application submitted by his or her parents, could him/herself submit the application, again subject to certain conditions. Following the 2013 amendments, the Citizenship Law provides that a child who is born in Latvia after 21 August 1991 shall be recognised as a Latvian citizen upon the registration of the child's birth on the basis of the volition expressed by one of the parents, if certain prescribed conditions are met. The further details of these laws and related practices are set out in the following section.

If one of the parents acquires or has acquired Latvian citizenship through naturalisation, upon a request of the person to be naturalised the children of such person who are under 15 years of age and whose permanent place of residence is in Latvia also acquire Latvian citizenship. **From the establishment of the naturalisation procedure in 1995, until March 2015, a total of 142,616 persons, including 14,365 underage children, have been granted citizenship of Latvia.**⁵⁹

⁵⁵ See, e.g. LCHR, [Second Alternative report on the implementation of the Council of Europe Framework Convention for the Protection of National Minorities in Latvia](#), 2013.

⁵⁶ Citizenship Law, Section 2, para 1.

⁵⁷ Citizenship Law, Section 2, para 2.

⁵⁸ [Law on Registration of Civil Status Documents](#), adopted on 29.11.2012, in force from 01.01.2013, Section 31, para 1(1).

⁵⁹ Statistics of the Naturalisation Board.

Access to nationality for otherwise stateless children born on the territory, according to the law

The national law does not articulate the principle that all children born of the territory of Latvia have a right to nationality if they would otherwise be stateless. The children of stateless persons and non-citizens are the only categories of otherwise stateless children, whose right to a nationality is regulated by the Citizenship Law. Thus, the Citizenship Law does not provide a safeguard for other otherwise stateless children, e.g. those born to parents who are not stateless or non-citizens, but who cannot transmit nationality to their children.⁶⁰ As such, **Latvia is failing to meet its international obligations under the 1961 Convention to ensure that all otherwise stateless children born on the territory are able to acquire a nationality.**

The acquisition of nationality by stateless persons' and non-citizens' children is not automatic, but is subject to an application procedure.⁶¹ There are, in fact, several different procedures available, each accompanied by certain conditions. For the registration of a child as a Latvian national upon birth, the following conditions apply:

- 1) *both* parents of the child are stateless persons or non-citizens;
- 2) the permanent place of residence of the parent who expressed the volition to register his or her child as a Latvian citizen, is in Latvia, and, in case the parent has arrived in Latvia after 1 July 1992, he or she has a permanent residence permit.⁶²

In addition to the fact that this provision does not cover all otherwise stateless children, the latter requirement of the parents' lawful residence is not included in the list of conditions for application which are accepted by the 1961 Convention and thus is not in line with it.⁶³

For the acquisition of Latvian nationality of a child under the age of 15, upon their parents' application, other conditions apply:

- 1) prior to the submission of the application, the child has always been a stateless person or non-citizen;
- 2) the permanent place of residence of the child is in Latvia;
- 3) both parents of the child are stateless persons or non-citizens;
- 4) for not less than last five years the permanent place of residence of the parent with whom the child is living has been in Latvia.⁶⁴

From age 15 to 18, the child could her/himself submit the application, subject to the following longer list of conditions:⁶⁵

⁶⁰ See also René de Groot, Presentation at the conference „Latvian citizenship in the 21st century”, 02.03.2012 (in Latvian).

⁶¹ When one of the parents is a non-citizen, but the other is a citizen of another state, a child may be without any legal status whatsoever for some time, if the parents want to acquire the status of non-citizen for their child, but have not submitted a document confirming that the child is not a citizen of another state. Interview with a representative of the OCMA's Personal Status Control Department, 08.05.2015. Such a lack of any legal status may also endure – for example there was a case when a child was neither assigned a personal code of a non-citizen upon the wish of the mother, nor the nationality of another state, as her legal spouse left Latvia and did not request documents, which are necessary for the legalisation of the child's status, from the embassy of his country. Interview with a representative of the Riga General Registry Office, 20.04.2015.

⁶² Citizenship Law, Section 3.¹, para 1.

⁶³ Article 1, para 2(a). UNHCR Guidelines No.4 on “Ensuring Every Child's Right to Acquire a Nationality”, para 37.

⁶⁴ Citizenship Law, Section 3.¹, para 2.

⁶⁵ Citizenship law, Section 3.¹, para 3.

- 1) both parents of the child are stateless persons or non-citizens;
- 2) for not less than the last five years his or her permanent place of residence has been in Latvia until the submission of the application;
- 3) he or she has not, by his or her behaviour or activities, caused threats to the security of the State of Latvia and the society, the democratic constitutional order of the State, the independence and territorial immunity of the State (as referred to Section 11, para 1 (1));
- 4) he or she has not been sentenced for committing a serious crime or an especially serious crime in Latvia or in another country where the committed crime is classified as a serious crime or an especially serious crime also in Latvia;⁶⁶
- 5) he or she is able to demonstrate fluency in the Latvian language.⁶⁷

Some of the conditions set with regard to the application procedure by minors between the age of 15 and 18 raise additional concerns with regard to their compliance with the 1961 Convention. First, the requirement for submission of an application by the age of 18 does not correspond to Article 1 para 2(a) which provides that the period of the application may not end earlier than at the age of twenty-one years. Second, although the law specifies “threats to the national security” in more detail,⁶⁸ it does not state that a person must have been convicted for such a threat, as provided by the 1961 Convention.⁶⁹ Third, the Law also does not specify the minimum term of imprisonment for committing a serious crime, as provided by the 1961 Convention (for a term of five years and more).⁷⁰ Fourth, the requirement of a child to demonstrate Latvian language proficiency is an additional condition set by the law, which is not recognised by and therefore not in line with Article 1 para 2 of the 1961 Convention.

In all of the above situations, the law requires both parents to be stateless persons or non-citizens for the child to access Latvian nationality. A child of a stateless person or non-citizen can also be recognised as a Latvian citizen upon application submitted by the parent, or themselves between the ages of 15 and 18, if:

- a. the mother of the child is a non-citizen or stateless person and there is no data regarding the father of the child in the birth record of the child;
- b. one of the parents of the child is a non-citizen or stateless person and the legal status of the other parent in Latvia at the time of birth of the child was a citizen of the former USSR, but at the time when the application for recognition of the child as a Latvian citizen is being examined the legal status of such parent in Latvia is unknown;
- c. one of the parents of the child is a non-citizen or stateless person, but the other parent is deceased.⁷¹

⁶⁶ This condition shall not apply to a person who has been sentenced for committing a criminal offence in a foreign country, if it has been recognised in accordance with the procedures specified by the Cabinet that in respect of such person a judgment of conviction has been rendered without complying with the principle of fair trial or of proportionality of the punishment. Citizenship law, Section 3.¹, para 3(4).

⁶⁷ Citizenship law, Section 3.¹, para 3(5).

⁶⁸ A person has acted against the independence of the Republic of Latvia, the democratic parliamentary structure of the State or the existing State power in Latvia; after 4 May 1990, have propagated fascist, chauvinist, national-socialist, communist or other totalitarian ideas or incited ethnic or racial hatred or discord; is related to terrorism or acts in an anti-state or criminal organisation; is related to legalisation of the proceeds from crime. Citizenship Law, Section 11, para 1(1).

⁶⁹ Article 1, para 2(c).

⁷⁰ Article 1, para 2(c).

⁷¹ Citizenship Law, Section 2, par 4.

For children one of whose parents is a non-citizen and the other is a national of another country, but for whatever reason unable to confer nationality, none of these routes to Latvian citizenship is available.

Erik's story

Erik was born in Latvia and is 15 years old. His father was born in Ukraine, but his mother was born in the former USSR Republic of Latvia. Both of Erik's parents were Latvian non-citizens at the moment of his birth. Erik does not know the reasons why his parents did not register him as a Latvian citizen; according to him, this is most probably because the status of non-citizen is not a barrier in daily life for him or his parents. In 2011, his mother acquired Lithuanian citizenship. Since one of Erik's parents is a non-citizen, but the other is now a national of another state, Erik cannot apply for Latvian citizenship by registration (for such an option, both of the parents should be non-citizens), but must apply for naturalisation and fulfil all of the related requirements. Erik is planning to do so when he reaches 18. He was not aware that he has the right to naturalise when he turned 15. According to him, Latvian citizenship will be important to him in order to travel within the EU. However, after finishing school, Erik is considering studying in Riga, not abroad, in order to become a doctor. He says: *"The acquisition of citizenship is dependent on the young people's objectives, on which country they choose to live"*. Erik believes that there will be no major obstacles for him to pass the naturalisation exams.

Access to nationality for otherwise stateless children born on the territory, in practice

The interviewed implementing authorities have not worked closely with the international standards on childhood statelessness, nor do they use the term "otherwise stateless children". The Citizenship Law's provisions related to the rights of non-citizens and stateless persons as well as other legal acts, which are superior to the international standards in case of inconsistencies, have been normally applied in their daily work.⁷² If both parents are non-citizens or stateless, the General Registry Office is required to ask whether at least one parent is willing to assign Latvian citizenship when registering a child's birth; an instruction of the Ministry of Justice sets such a requirement.⁷³ Beyond this, there are no special guidelines or instructions, to ensure that otherwise stateless children acquire nationality.⁷⁴ However, the General Registry Offices have consulted the Department of General Registries of the Ministry of Justice⁷⁵ and also communicated with the OCMA, the Custody Courts and the Inspectorate of the Rights of the Child in complicated cases.⁷⁶

Since the 2013 Citizenship Law amendments entered into force, there is no requirement for the parents to make a written application for registering their child as a Latvian citizen to the OCMA. The legal status and the place of

⁷² Interview with a representative of the OCMA's Naturalisation Board, 20.04.2015; Interview with a representative of the OCMA's Personal Status Control Department, 08.05.2015.

⁷³ Interview with a representative of the Riga General Registry Office, 20.04.2015; Interview with representatives of the Daugavpils General Registry Office, 05.05.2015.

⁷⁴ Information provided by representative from the OCMA's Personal Status Control Department, 11.05.2015.

⁷⁵ Interview with a representative of the Riga General Registry Office, 20.04.2015; Interview with representatives of the Daugavpils General Registry Office, 05.05.2015.

⁷⁶ Interview with a representative of the Riga General Registry Office, 20.04.2015.

residence of the parents are checked in the Population Register. If some of the conditions set by the law (both parents of the child are stateless persons or non-citizens; permanent residence requirement of a parent) are not fulfilled, the determination of the child's nationality is made by the OCMA. According to the OCMA, proof of the permanent residence during the last five years of parents and children, who apply for registration of Latvian citizenship, has been problematic in several cases, as additional documents had to be submitted; however, such situations have largely been resolved.⁷⁷ In some cases, children had difficulties to pass the Latvian language exam, if there was a lack of a certificate on the language knowledge, issued by a school (see also Section 3.4); in such a case, a child normally did not repeatedly go through the exam.⁷⁸ Thus, due to the additional conditions for Latvian language fluency, some children have not acquired Latvian nationality in practice.

The OCMA's refusal of registration of a child of stateless persons or non-citizens as a Latvian citizen upon an application can be appealed to the OCMA's head and subsequently to court, according to the Administrative Procedure Law.⁷⁹ The number of such court cases has been very small. There is no free-of charge legal assistance available to stateless persons and non-citizens, with the exception of some services offered by NGOs such as LCHR, which has provided consultations as well as legal assistance in statelessness determination procedures on a case by case basis. There is almost no case-law on access to Latvian nationality for otherwise stateless children born on the territory. There was one case when the court upheld the OCMA's decision to refuse Latvian citizenship to a minor non-citizen upon his application, as his mother and father, who initially did not register him in his childhood as a Latvian citizen, later lost their non-citizen's status (the father was granted Latvian citizenship, the mother citizenship of the Russian Federation); the court stated that the child still has the right to Latvian citizenship through naturalisation in such a case.⁸⁰

A major challenge concerns the attitudes of non-citizens parents, as many of them choose not to register their children as Latvian citizens. According to a 2012 survey by the OCMA,⁸¹ 85% of non-citizens were willing for their children to acquire Latvian citizenship, but 15% were against it. Of those parents who said that they did not wish their children to be Latvian citizens, 24% believed that citizenship should be granted automatically, 21% were not aware that citizenship may be acquired without the requirement to pass exams; 17% said that there are favourable travel provisions for the Commonwealth of Independent States by retaining non-citizen status; 18% mentioned the lack of time; some respondents (6%) could not make an application, as they did not know how to reach the child's second parent (until the 2013 Citizenship Law amendments, the agreement of both parents was necessary) while 2% stated that the second parent is against the child's registration as the Latvian citizen.⁸²

Robert's story

17-year old Robert was born in Latvia and is now in the 11th grade. His father was born in Ukraine, but his mother was born in the former USSR Republic Latvia. In the summer of 2014, Robert made an application for Latvian citizenship, as

⁷⁷ Interview with a representative of the OCMA's Naturalisation Board, 20.04.2015.

⁷⁸ Interview with a representative of the OCMA's Naturalisation Board, 20.04.2015.

⁷⁹ Cabinet's of Ministers Regulations No. 974 Procedures for Registering a Person as Latvian Citizen, Section 18.

⁸⁰ Administrative District Court, Case No. A420488913, 06.02.2014.

⁸¹ [Citkovskis J. Citizenship Law in Practice: Myths and Reality, Presentation at the conference „Latvian citizenship in the 21st century”, 02.03.2012](#) (in Latvian).

⁸² Note that this survey was undertaken before the 2013 amendments to the Citizenship Law which allow for acquisition of Latvian nationality upon the application made by one parent (previously, joint agreement of the parents was required).

both his parents are non-citizens, and he was entitled to submit an application himself once he reached the age of 15. No exams had to be passed, although he did have to prove that he obtained the necessary number of points for the Latvian language exam at school. Robert believes that Latvian citizenship could be important for his future job and travelling without a visa in Europe. He is planning to finish a university in Latvia and to move to Western Europe, e.g. France or Germany. Next summer, Robert wants to work in Germany and it will be easier without a visa when he has obtained nationality. Another rationale to obtain citizenship was an opportunity to apply for citizenship without passing exams before the age of 18.

Robert has never asked his parents why they did not register him as a Latvian citizen before he reached the age of 15. He does not know why his parents are non-citizens and whether they are planning to naturalise. Although his mother helped to collect some documents, which are necessary for the acquisition of Latvian, it was his own decision to become a citizen of Latvia. According to Robert, he obtained information on acquisition of citizenship on the website of the Office of Citizenship and Migration Affairs. Some articles on the problem of non-citizens on the Internet also influenced his decision to apply for Latvian citizenship. There was no major discussion with peers on citizenship issues, although, according to him, non-citizens have had no need for Latvian citizenship so far. According to Robert, there was no discomfort due to his former status of a non-citizen. He now is required to obtain a visa in order to travel to Russia for an excursion.

Qualitative studies have uncovered that the motivation for acquisition of the Latvian citizenship is expressively instrumental (work or studies) and many non-citizens do not see major practical benefits of naturalisation, which requires some effort (passing administrative procedure and naturalisation exams, etc.).⁸³ There are some benefits of being a non-citizen (the opportunity to travel to Russia without a visa)⁸⁴ and it may be perceived as helpful for plans to acquire citizenship of another country (e.g. Russia, Ukraine or the Netherlands). Young persons (15-19 years old) interviewed still did not decide which citizenship they would like to acquire. For instance, 15-year old Jelgava explained: *“When I grow up, I will probably choose some citizenship. I will think over, what is better for me – where, maybe in some other country, in Europe. Whatever is better for me, I will also choose that. [...] Latvian [citizenship] could be, if I stay for living here, but otherwise – I do not know”*.⁸⁵ Uncertain future residence plans of parents and their children thus also have an impact on the choice of nationality: *“The social and economic situation matters a lot. People are not planning to live in Latvia in the future. They acquire Latvian citizenship in order to leave Latvia. Nothing will change until the prestige of the Latvian citizenship raises. Most parents believe that a child, once reaching the age of 15, will take his/her own decision on whether to acquire Latvian citizenship or not.”*⁸⁶ The teenagers who were interviewed for the purpose of this study, believed that *“the acquisition of citizenship is dependent on the young people’s objectives, on which country they choose to live”* (Daugavpils, 15, male). According to the interviewees, neither the children nor the parents have had difficulties in their everyday life because of the status of non-citizen; this was a reason why they did not pursue citizenship.

⁸³ [Baltic Institute of Social Science, Analysis of Integration of Latvian Non-citizens, Riga](#), 2015, pp.39-43.

⁸⁴ Interview with a representative of the Riga General Registry Office, 20.04.2015.

⁸⁵ [Baltic Institute of Social Science, Analysis of Integration of Latvian Non-citizens, Riga](#), 2015, p.42.

⁸⁶ Interview with a representative of the OCMA’s Naturalisation Board, 20.04.2015.

Nevertheless, survey data reveals that young people between 18 and 24 years are more interested (32%) in obtaining Latvian citizenship than other age groups.⁸⁷ Also, the statistics reveal that the share of non-citizens among the youngest age groups was the smallest (0 – 19 years - 4 %; 20 – 29 years – 18%) as compared to other age categories in 2014.⁸⁸ The naturalisation rate has been the highest among the young persons from 18 until 30 years of age (33%) until 2014.⁸⁹ These trends may reveal that the younger generation sees more benefits from being a Latvian citizen as compared to middle aged and elderly persons. Indeed, an opportunity to travel without a visa in the EU as well as potential future work and studies in Western Europe have been decisive factors in acquisition of Latvian citizenship for teenagers.

Some young interviewees mentioned lack of information among the parents to register them as Latvian citizens as another reason why they are non-citizens. The choice of citizenship among the young persons has also been impacted by the stance of their parents, who do not see a need for naturalisation: *“At the moment I do not need it. But my mum and dad usually say that we will not apply for citizenship ourselves, until we are granted it. I do not know, how it is now, if they want that, but previously it was so. [...] But, if I need [citizenship], I will try to arrange it... [...] If I, for example, go to study in Riga, then, I think, it will come in handy for me.”* (Liepāja, 15, male).⁹⁰ The parents and their children interviewed for this study also did not have sufficient information on the rules of acquisition of Latvian citizenship: for example, in Elina’s case (below), she and her mother thought that she could acquire the citizenship through registration, instead of naturalisation, but that was not the case.

A number of stakeholders also highlighted insufficient information as a possible reason behind the large number of non-citizens’ children⁹¹ and pointed to a need for better access to information on the right of registration of children as citizens.⁹² Some researchers have recommended sending letters to non-citizens’ parents to inform them of the opportunity to register their children as Latvian citizens.⁹³ Such an activity is now being implemented upon initiative of one of the OCMA’s departments as a pilot project.⁹⁴ According to the OCMA, the letter could be subsequently sent to all the non-citizens’ if the results of the pilot project show that parents and children take this information into account and apply for Latvian citizenship; other ways for disseminating information, e.g. through the schools, and funding possibilities are being considered.⁹⁵ One representative of a school administration believes that schools play a major role in strengthening the national identity and the OCMA could initiate disseminating information (through posters and leaflets) on acquisition of citizenship in schools.⁹⁶ Providing information on the right to register the child as a Latvian citizen and its benefits (e.g. that the child will not need to naturalise later) has already been applied by the authorities of one of the interviewed General Registry Offices,⁹⁷ while another one agreed that more should be done to motivate non-citizens for such registration.⁹⁸

⁸⁷ Market and social opinion research centre SKDS, Survey of minority population “Sense of belonging to Latvia”, May – June 2014 (in Latvian), p.29.

⁸⁸ [Baltic Institute of Social Science, Analysis of Integration of Latvian Non-citizens, Riga](#), 2015, p.20.

⁸⁹ Information provided by the OCMA’s Naturalisation Board.

⁹⁰ [Baltic Institute of Social Science, Analysis of Integration of Latvian Non-citizens, Riga](#), 2015, p.40.

⁹¹ Interview with a representative of the Saeima Citizenship, Migration and Social Cohesion Committee, 29.04.2015.

⁹² Interview with a representative of the Ministry of Culture, 23.04.2015; Interview with a representative of the Riga General Registry Office, 20.04.2015; Interview with a representative of the OCMA’s Naturalisation Board, 20.04.2015.

⁹³ [Baltic Institute of Social Science, Analysis of Integration of Latvian Non-citizens, Riga](#), 2015, p.83.

⁹⁴ Interview with a representative of OCMA’s management, 20.04.2015.

⁹⁵ Interview with a representative of OCMA’s management, 08.04.2015.

⁹⁶ Interview with a representative of a school administration at Daugavpils school, 05.05.2015.

⁹⁷ Interview with a representative of the Riga General Registry Office, 20.04.2015.

⁹⁸ Interview with representatives of the Daugavpils General Registry Office, 05.05.2015.

It is clear that the legislative amendments of 2011 and 2013 have significantly eased children's registration as Latvian citizens upon birth. First, the 2011 Rules of the Cabinet of Ministers provided that application for citizenship of the child can be submitted not only to OCMA, but also to a registry office, upon registering the birth of a child.⁹⁹ As a result, **the number of non-citizens' children registered as Latvian citizens increased from 25% in 2011 to 44% in 2012.**¹⁰⁰ Second, the 2013 Citizenship Law amendments made the recognition of a child as a Latvian citizen possible through registration of the birth by one parent (instead of both of the parents; the same provision applies to registration of children, born after 21 August 1991), as Latvian citizens. Thus **the number of new-born non-citizens' children registered as Latvian citizens increased from 52% in the time period before the 2013 law amendments entered into force (1.01.2013 - 1.10.2013) to 82% in 2014.**¹⁰¹

Some remain of the opinion that non-citizens' children should be assigned Latvian nationality automatically, as only providing information will not solve the problem.¹⁰² Nevertheless, the authorities responsible for the naturalisation and integration policies were sceptical about possible changes in the law.¹⁰³ Rather, working to raise the prestige of the Latvian citizenship in the media was proposed as a possible solution.¹⁰⁴

Access to nationality for otherwise stateless children born abroad

There are no special safeguards for otherwise children born abroad to a Latvian citizen to acquire nationality. However, **the Citizenship Law provides for the right to Latvian citizenship of all children born abroad to a parent who is a citizen of Latvia upon volition (application) of the parent** (instead of both of the parents, as per the previous law version until 2013); registration can be done directly by the child if he or she is between 15 to 18 years of age.¹⁰⁵ **The requirement under Latvian law that an application be made before the person reaches 18 is not in line with the 1961 Convention which requires the opportunity to lodge application before the applicant attains the age of 23.**¹⁰⁶

A parent/legal representative of a child and the child him/herself may submit an application for registering the child as a Latvian citizen to the OCMA.¹⁰⁷ Information on the registration is available on the OCMA's website, through consular representations and also through the Diaspora's organisations.¹⁰⁸ According to the OCMA,¹⁰⁹ a document certifying the child's birth, a parent's or both the parents' passports as well as a child's identity document, if it is available, should also be submitted to the OCMA (directly or by post) or to a diplomatic or consular representation of Latvia. There are some requirements for translation and legalization of the child's birth certificate, which should be submitted in Latvian (with an exception if it is written in English, German, French or Russian and it is submitted to the embassy or sent by post

⁹⁹ [Cabinet's of Ministers Regulations No. 520 Procedures for recognition as a Latvian citizen of a child](#) (adopted 05.07.2011, in force until 01.10.2013).

¹⁰⁰ LCHR, [Second Alternative report on the implementation of the Council of Europe Framework Convention for the Protection of National Minorities in Latvia](#), 2013, p.45.

¹⁰¹ Information provided by the OCMA's Naturalisation Board.

¹⁰² Interview with a representative of the Riga General Registry Office, 20.04.2015. Note that such a change has now been introduced in Estonia, where law reform in 2015 (entering into force on 1 January 2016) allows children of stateless parents to automatically acquire Estonian citizenship of birth – giving parents the right to "opt out" within a year, on behalf of their child, if they so wish. See ENS Working Paper "Ending Childhood Statelessness: A Study on Estonia", 2015.

¹⁰³ Interview with a representative of the Ministry of Culture, 23.04.2015; Interview with a representative of the OCMA's Naturalisation Board, 20.04.2015.

¹⁰⁴ Interview with a representative of the OCMA's Naturalisation Board, 20.04.2015.

¹⁰⁵ Citizenship Law, Section 2, para 2.

¹⁰⁶ Article 4, para 2(a).

¹⁰⁷ Cabinet of Ministers Regulations No. 974 Procedures for Registering a Person as Latvian Citizen, Section 12.

¹⁰⁸ Interview with a representative of the OCMA's management, 08.05.2015.

¹⁰⁹ [Information at the OCMA's website](#).

from abroad). Legalization of the document is not required if it is issued in the EU or the EEA Member States, by the Swiss authorities or by those states which are parties of Latvia's agreements on judicial assistance and legal relationships (Belarus, Russia, Moldova, Ukraine, etc.). A decision on citizenship registration is made within a month of receipt of the necessary documents by the OCMA. No major barriers have been identified with regard to registration of Latvian citizens' children in such cases.¹¹⁰ There is no known case law on granting nationality to otherwise stateless children born to a Latvian national abroad.¹¹¹

Non-citizens' and stateless persons' children born abroad do not have the right to Latvian nationality, as the criteria set by the Citizenship Law (that the child is born in Latvia, etc.) are not fulfilled; in such a case, the child has the right to a non-citizen status (or nationality of another state, according to its legal rules).¹¹² In 2014, there were 10 new-born non-citizens' children, whose registration as Latvian citizens was not possible, as they were born abroad.¹¹³

3. Preventing statelessness among children in other contexts

Foundlings and children under extra-familial care

According to the law, a child who has been found in the territory of Latvia and whose parents are unknown, or other child left without parental care, who is under extra-familial care in Latvia, except a child for whose parents the custody rights have been suspended, are Latvian citizens.¹¹⁴ The same provision applies to orphans who are under extra-familial care in Latvia.¹¹⁵ No age limit of foundlings and orphans for registration of nationality is specified by the law: a foundling is a child found whose parents are unknown.¹¹⁶ Such provisions are generally in line with the 1961 Convention and the European Convention on Nationality, which provide that foundlings found in the territory of the state acquire nationality of that state.¹¹⁷

If the child was placed in a baby hatch, a medical treatment institution should determine the possible time and place of birth of the child, give the child a first name and surname and pass this information on to the General Registry office.¹¹⁸ In other cases the municipality bears the responsibility for the determination of the possible time and place of birth of the child, giving the child a name and notifying the General Registry Office.¹¹⁹ If registration of the birth, including the nationality, of a foundling or a child left without parental care who is under extra-familial care at birth is not conducted by the General Registry Office within the period prescribed by the law,¹²⁰ the legal representative can submit an application for registration of Latvian citizenship to the OCMA if the child has not reached the age of 15 years; an

¹¹⁰ Interview with a representative of the OCMA's Personal Status Control Department, 08.05.2015.

¹¹¹ www.tiesas.lv

¹¹² Interview with a representative of the OCMA's management, 08.05.2015. Note that Ukraine does provide the possibility for children of stateless persons who are permanently residing in Ukraine to acquire nationality, even if born abroad. See K. Kolesen, *Tackling childhood statelessness in Ukraine*, paper presented at the ENS Conference "None of Europe's children should be stateless", June 2015.

¹¹³ Interview with a representative of the OCMA's Naturalisation Board, 20.04.2015.

¹¹⁴ Citizenship law, Section 2, para 1(5).

¹¹⁵ Citizenship law, Section 2, para 1(5).

¹¹⁶ Law on Registration of Civil Status Documents, Section 29, para 1.

¹¹⁷ Article 2 of the 1961 Convention; Article 6 of the European Convention on Nationality.

¹¹⁸ Law on Registration of Civil Status Documents, Section 29, para 4.

¹¹⁹ Law on Registration of Civil Status Documents, Section 29, para 3.

¹²⁰ [Population Register Law \(adopted 27.08.1998, in force from 24.09.1998\)](#), Section 7, para 3.

application may also be submitted by the child between 15 and 18 years of age.¹²¹ In such a case, a birth certificate should be submitted to the OCMA, along with an application; depending on an individual case, other documents may be required.¹²²

Loss of nationality

A person could lose Latvian citizenship, *inter alia*, if he or she has intentionally provided false information or concealed the facts that apply to the conditions for the acquisition or restoration of Latvian citizenship, when certifying belonging to Latvian citizenship or during naturalisation.¹²³ There are no major concerns with regard to the loss of nationality of children. According to the law, the revocation of Latvian citizenship shall not affect the citizenship of the spouse, children or other family members of such person.¹²⁴ There have been no cases of the loss of Latvian citizenship by children.¹²⁵ There are no legal provisions that adoption or the annulment of adoption could lead to the loss of nationality of the child.¹²⁶

Facilitated naturalisation

From 15 years of age, people can submit an application for naturalisation.¹²⁷ There are no provisions for facilitated naturalisation for non-citizens and stateless persons in general. For admission to the naturalisation procedure the criteria of five-year permanent residence, along with other conditions, should be met (for a citizen of another country or stateless person the five-year period is counted from the day of receipt of the permanent residence permit or permanent residence certificate).¹²⁸ Thus a stateless person should have a formally recognized legal status and a permanent residence permit in order to apply for naturalisation.

Applicants for naturalisation must pass an exam which requires fluency in the Latvian language, knowledge of the basic principles of the Constitution of the Republic of Latvia, the text of the National Anthem, the basics of the history and culture of Latvia.¹²⁹ Several categories of disabled persons and persons who have acquired their basic education in the Latvian language by following more than half of the basic education programme in Latvian are exempted from these naturalisation exams. Persons who within the five years before submitting a naturalisation application have obtained the required number of points at the centralized exams in the Latvian language in the 9th or 12th grade at school or who have a document confirming the acquisition of the higher education study programme in the Latvian language of instruction are released from testing the fluency in the Latvian language.¹³⁰ Thus children who have reached the age of

¹²¹ Citizenship Law, Section 2, para 2.

¹²² Information provided by a representation from the OCMA's Personal Status Control Department, 20.04.2015.

¹²³ Citizenship Law, Section 24, para 1(3).

¹²⁴ Citizenship Law, Section 24, para 2.

¹²⁵ Information provided by a representation from the OCMA's Personal Status Control Department, 11.05.2015.

¹²⁶ Interview with a representative from the OCMA's Personal Status Control Department, 08.05.2015.

¹²⁷ Citizenship Law, Section 17, para 1.

¹²⁸ Citizenship Law 12, para 1(1).

¹²⁹ Citizenship Law, Section 21, para 1.

¹³⁰ Citizenship Law, Section 21, para 2.

15 years do not need to pass the exam in the Latvian language in order to apply for Latvian citizenship, if they have already successfully passed such an exam at school.

Elina's story

Elina was born in Latvia. She is 16 years old and is currently a student of the 10th grade at a public secondary school. Her parents arrived to Latvia in late 1980s. Her father is a citizen of Ukraine, but her mother, a former non-citizen, acquired the Latvian citizenship through naturalisation soon after Elina's birth. Although her mother applied for naturalisation one year before Elina's birth, the lengthy naturalisation process was the reason why Elina could not acquire Latvian citizenship together with her mother. In September 2014, Elina successfully completed the naturalisation procedure (exam in Latvian history, Constitution and national anthem; the exam in Latvian was not required as she passed such an exam at school) and became a citizen of Latvia. According to Elina, her naturalisation was her own and her mother's decision because there were difficulties to visit other countries, especially the UK, due to a need to have a visa and to prove her kinship with her mother. In the future, Elina is planning to go to the UK with a view to improving her English and travelling. Elina still has not decided in which country (Latvia or another EU Member State) she will choose to study after school; however, she is planning her future career in her chosen profession (film and theatre producer) outside Latvia. According to Elina, she will most probably study in the UK or Denmark.

Elina received initial information on acquisition of citizenship from her mother, as she had already been through the naturalisation process herself. Elina's mother thought that Elina would not need to pass naturalisation exams. However, it appeared that also Elina had to go through the full naturalisation procedure. Elina received additional information from the Internet and also turned to the Naturalisation Board. Initially, she had not submitted all required documents and had to add missing documents later. To prepare for the citizenship exam, Elina had a list of possible exam questions. Some questions on history were difficult and she did not know where to find an answer to them; however, she answered enough of these questions correctly in the test during the exam.

According to Elina, there was no discomfort in daily life for her because of the status of a non-citizen, except the travel barriers; on the contrary, she felt more freedom when being a non-citizen, as there was no country affiliation. Some of Elina's fellow non-citizens have not applied for Latvian citizenship, as they and their parents do not see a need for it, as most non-citizens are planning to leave Latvia for another country and to acquire citizenship of another state. However, Elina believes that it is still easier to acquire citizenship in another country upon renunciation from another citizenship rather than to be granted nationality abroad from having none.

The decision on refusal of naturalisation of the Office of Citizenship and Migration Affairs (hereinafter OCMA)¹³¹ – the body responsible for the examination of naturalisation applications¹³² – can be appealed to the OCMA's head, and subsequently to the court according to the Administrative Procedure Law¹³³ (there are three court instances in the

¹³¹ Under supervision of the Ministry of the Interior.

¹³² [Cabinet's of Ministers Regulations No.1001 Procedures for the receipt and examination of naturalisation applications](#), Section 2.

¹³³ Citizenship Law, Section 17, para 3.

appeal of decisions of administrative authorities). The OCMA's decision may also be appealed to the Prosecutor General, if a person was refused naturalisation due to the conditions referred to in Section 11, Paragraph one, Clause 1¹³⁴ and such decision has been taken on the basis of the information obtained as a result of intelligence or counter-intelligence; the decision of the Prosecutor General cannot be appealed.¹³⁵ Since the beginning of the naturalisation process in 1995, seven decisions on refusal of naturalisation of the Naturalisation Board/OCMA have been appealed to the court; none of them concerned children.¹³⁶ The Cabinet of Ministers is authorized to take final decisions on granting nationality through the naturalisation procedure,¹³⁷ upon a draft resolution, which is submitted by the OCMA.¹³⁸ The Cabinet may take a decision on refusal to admit such person to citizenship, who by his or her behaviour or actions causes threats to national security and the public order, the democratic constitutional order of the state or the independence and territorial immunity of the state; the Cabinet decision shall not be subject to appeal.¹³⁹ So far, there was only one publically known case when the Cabinet of Ministers refused to grant nationality.¹⁴⁰

4. Birth registration and statelessness

According to the Protection of the Rights of the Child Law, from the moment of birth a child has the right to a given name, a surname and acquisition of citizenship; a child shall be registered in accordance with the law.¹⁴¹ The law requires registration of a newly born child at the General Registry institution within a month after the child is born.¹⁴² In case of a delay, an explanatory letter on the reasons of a delay¹⁴³ as well as a medical certificate issued by a medical treatment institution or a medical practitioner that confirms the fact of birth should be submitted.¹⁴⁴ According to the law, the following persons can notify about the birth of the child: the father or mother of the child or an authorized person; a medical practitioner or other person who was present at childbirth if the parents are dead or cannot notify; the head of the institution, if the child was born in a shelter or in a place of imprisonment; and a local government, if none of the persons mentioned above notified the birth of a child and the birth of the child has become known to a local government.¹⁴⁵

The General Registry Office normally assigns a new-born child a personal code, which is a prerequisite for the inclusion into the Population Register and thus legalisation of the child's status, and indicates nationality (a Latvian citizen, a non-citizen or a stateless person). In cases in which one of the parents is a non-citizen and the other is a national of another

¹³⁴ He or she by his or her behaviour or activities causes a threat to the security of the State of Latvia and the society, the democratic constitutional order of the State, the independence and territorial immunity of the State.

¹³⁵ Citizenship Law, Section 17, para 4.

¹³⁶ Statistics of the OCMA's Naturalisation Board. See anonymized court decisions at www.tiesas.lv.

¹³⁷ Citizenship Law, Section 17, para 5.

¹³⁸ [Cabinet's of Ministers Regulations No.1001 Procedures for the receipt and examination of naturalisation applications](#), Section 22.

¹³⁹ Citizenship Law, Section 5.

¹⁴⁰ See European Court of Human Rights, [Case of Petropavlovskis v. Latvia](#), Application no. 44230/06, 13.01.2015. See also statistics of the OCMA's Naturalisation Board.

¹⁴¹ Protection of the Rights of the Child Law (adopted 10.06.1998, in force from 22.07.1998), Section 8, para 1.

¹⁴² Law on Registration of Civil Status Documents, Section 24, para 1.

¹⁴³ In practice, the reasons of delay appeared, e.g. due to a mother's or a child's health condition, or the absence of the father, whose presence during birth registration is mandatory in order for paternity recognition during the birth registration, if the child's parents are not married, etc. There have been no known cases when birth registration was refused because of a delay. Interview with a representative of the Riga General Registry Office, 20.04.2015; Interview with representatives of the Daugavpils General Registry Office, 05.05.2015.

¹⁴⁴ [The Cabinet's of Ministers Regulations No.761 "On the Registers of Civil Documents"](#) (adopted 03.09.2013), para 71.1.

¹⁴⁵ Law on Registration of Civil Status Documents, Section 25.

state, as well as those in which both of the parents are nationals of other states, – the OCMA¹⁴⁶ determines a child's legal status and issues a personal code upon application.¹⁴⁷ Once the nationality of the child is confirmed by the OCMA, the parents can turn to the General Registry Office to include additional information on nationality (a citizen of a foreign State, etc).¹⁴⁸ A signature of a person registering a child is considered as confirmation of the data, which is included into the registry.¹⁴⁹ The OCMA also determines the legal status of the child if birth registration is delayed for more than three months.¹⁵⁰ Thus the birth registration is a precondition for determination of nationality of the child, if the legal status of the child is later determined by the OCMA.

There have been no major difficulties with birth registration,¹⁵¹ although problems may arise if the parents have no valid identity documents (a passport or an ID card), which are required by law in order to register a birth.¹⁵² In fact, only a person with a legal status can register the birth of a child, as the ID documents are normally issued on the basis of the Population Register's data;¹⁵³ for third-country nationals, the ID is a residence permit.¹⁵⁴ There was a case when a child of an irregular migrant woman was registered due to the close involvement of the State Border Guard, responsible for the detention of the family concerned, as the mother's document, which was previously accepted by another General Registry Office at the time of birth of her another child, was found.¹⁵⁵ In the context of increasing numbers of asylum seekers and illegally-staying third-country nationals,¹⁵⁶ the requirement for a valid ID document may constitute a challenge for access to birth registration.

Conclusions and recommendations

One of the particular features of the Latvian situation with regard to childhood statelessness is that the terms of non-citizens and the stateless persons are strictly differentiated by the law and such a distinction is confirmed by the various courts. According to domestic case-law, the non-citizens status is a special category of legal status and a new category in the international law. The problem of the large number of non-citizens' children is viewed by the key authorities as an issue of integration and political will, not as an issue of the protection of the child. The status of non-citizen is not considered as one diminishing the well-being of the child as compared to the citizen's status. There is a strong conviction at the political level that Latvian citizenship should not be granted against the will of those parents who, for different reasons, would like non-citizens' status for their children. There is also an opinion that the Latvian citizenship is not closely linked to loyalty and, therefore, there is no major need to facilitate acquisition of Latvian citizenship among children. Together with the passive attitudes of many non-citizens parents towards the registration of their children as

¹⁴⁶ The Personal Status Control Department of the OCMA.

¹⁴⁷ [Cabinet's of Minister Regulations No. 761 On the Registers of Civil Status Documents](#), para 74. (adopted 03.09.2013)

¹⁴⁸ Information provided by a representative of the Riga General Registry Office, 20.05.2015.

¹⁴⁹ Interview with representatives of the Daugavpils General Registry Office.

¹⁵⁰ Population Register Law, Section 7, para 3.

¹⁵¹ Interview with a representative of the Riga General Registry Office, 20.04.2015; Interview with representatives of the Daugavpils General Registry Office, 05.05.2015.

¹⁵² Law on Registration of Civil Status Documents, Section 3, para 5.

¹⁵³ [The Law of Personal Identity Documents](#), adopted 12.01.2012, in force from 15.02.2012, Section 4, para 2.

¹⁵⁴ [The Law of Personal Identity Documents](#), adopted 12.01.2012, Section 5, para 2.

¹⁵⁵ Interview with representatives of the Daugavpils General Registry Office, 05.05.2015.

¹⁵⁶ The numbers of asylum seekers increased from 52 in 2009 to 189 in 2013 and 364 in 2014. The total number of the return decisions (return orders and the decisions on forced return) was more than 2,000 in 2013 and about 1,500 in 2014. [OCMA, Statistics](#); OCMA, 06.03.2014 Letter to LCHR No 24/1-42/623; OCMA, 09.09.2014 Letter to LCHR No 24/1-42/2358; OCMA, 23.02.2015 Letter to LCHR No 24/1-42/642.

citizens and some practical benefits that accompany the status of non-citizen (the opportunity to travel to Russia without a visa), the problem of the considerable number of non-citizens' children poses a complex dilemma.

In recent years, legislative amendments have facilitated the registration of newly born non-citizens' children into Latvian citizenship. However, the situation of most non-citizens' children who were born after 21 August 1991, has remained largely unsolved, and there are still more than 7,800 of non-citizens' children, including 6,000 minors who have not reached the age of 15. Although there is a lack of political will to address this childhood statelessness, there is still a general agreement among several interviewed stakeholders that the opportunities for raising the parents' and children's awareness should be further explored and access to information should be improved. Importantly, the OCMA has started to consider various opportunities for reaching out to parents and children with a view to providing better information on acquisition of the Latvian citizenship so as to further improve acquisition rates.

The law still does not include the guarantee that all otherwise stateless children acquire Latvian citizenship as provided by the 1961 Convention, which is binding upon Latvia. The lawful residence requirement (permanent residence permit) for stateless persons to register their children as nationals raises concerns with regard to its compliance with the 1961 Convention, which does not include such a condition. Some of the further conditions, including the requirement to demonstrate the Latvian language proficiency, which are specified by the Citizenship Law with regard to the registration of non-citizens' and the stateless persons' children between the age of 15 until 18, also do not correspond to the list of accepted conditions set by the 1961 Convention. Besides, the implementing authorities have no special guidelines or instructions to ensure that otherwise stateless children acquire nationality, with the exception of the national legal provisions. Although cases in which legalization of the status of the child was problematic are rather exceptional, potentially there could be more problems with registration of the birth of irregular migrants, as valid personal identity documents of the parents are required.

In this context, some recommendations are proposed. First, more legal discussion, training and awareness raising on the issue of the right of the child to nationality, including the application of the 1961 Convention and other international and European standards, is needed among the judges, lawyers and implementing authorities. Secondly, the application of the 1961 Convention and other standards to Latvian non-citizens and the inclusion of adequate safeguards for all otherwise stateless children under the Citizenship Law should be addressed. Thirdly, access to information on acquisition of the Latvian citizenship among the non-citizens' parents and their children should be improved through targeted information campaigns. Finally, it is necessary to review the requirement of presenting valid ID documents for access to birth registration procedures to ensure that all children born on Latvian territory can acquire a birth certificate.

Annex 1: Key international provisions granting nationality to otherwise stateless children born in the territory

1961 Convention on the Reduction of Statelessness

Article 1

1. A Contracting State shall grant its nationality to a person born in its territory who would otherwise be stateless. Such nationality shall be granted:
 - a. at birth, by operation of law, or
 - b. upon an application being lodged with the appropriate authority, by or on behalf of the person concerned, in the manner prescribed by the national law. Subject to the provisions of paragraph 2 of this Article, no such application may be rejected.

A Contracting State which provides for the grant of its nationality in accordance with sub-paragraph (b) of this paragraph may also provide for the grant of its nationality by operation of law at such age and subject to such conditions as may be prescribed by the national law.
2. A Contracting State may make the grant of its nationality in accordance with sub-paragraph (b) of paragraph 1 of this Article subject to one or more of the following conditions:
 - a. that the application is lodged during a period, fixed by the Contracting State, beginning not later than at the age of eighteen years and ending not earlier than at the age of twenty-one years, so, however, that the person concerned shall be allowed at least one year during which he may himself make the application without having to obtain legal authorization to do so;
 - b. that the person concerned has habitually resided in the territory of the Contracting State for such period as may be fixed by that State, not exceeding five years immediately preceding the lodging of the application nor ten years in all;
 - c. that the person concerned has neither been convicted of an offence against national security nor has been sentenced to imprisonment for a term of five years or more on a criminal charge;
 - d. that the person concerned has always been stateless.

[...]

1997 European Convention on Nationality

Article 6 – Acquisition of nationality

[...]

2. Each State Party shall provide in its internal law for its nationality to be acquired by children born on its territory who do not acquire at birth another nationality. Such nationality shall be granted:
 - a. at birth *ex lege*; or
 - b. subsequently, to children who remained stateless, upon an application being lodged with the appropriate authority, by or on behalf of the child concerned, in the manner prescribed by the internal law of the State Party. Such an application may be made subject to the lawful and habitual residence on its territory for a period not exceeding five years immediately preceding the lodging of the application.

Annex 2: List of stakeholders interviewed and/or input received as part of this research¹⁵⁷

- General Registry Riga's Office
- Office of Citizenship and Migration Affairs (OCMA)
- Ministry of Culture
- Saeima (Parliament), Citizenship, Migration and Social Cohesion Committee
- General Registry Daugavpils' Office
- Daugavpils Secondary School No.10

¹⁵⁷ Full details on file with the author.

No child chooses to be stateless. It is a fundamental truth that every child belongs – to this world, to a place and to a community – and this should be recognised through the enjoyment of a nationality. Yet statelessness continues to arise because European states are failing to ensure that all children born within Europe’s borders or to European citizen parents acquire a nationality. The European Network on Statelessness (ENS) advocates as one of its central tenets that none of Europe’s children should have to live without a nationality.

This working paper is one of a series that has been drafted in support of the ENS campaign, launched in November 2014, ‘**None of Europe’s children should be stateless**’. It examines the presence or absence, content and implementation of legislative safeguards for the prevention of childhood statelessness at the national level. Working papers have also been prepared by ENS members in Albania, Estonia, Italy, Macedonia, Poland, Romania and Slovenia– each as part of a coordinated approach and employing a common research methodology.

The studies each provide: a detailed legal analysis, including of relevant lower-level circulars/policy guidelines; the identification and analysis of relevant jurisprudence; and data from interviews with implementing authorities, lawyers and other service providers about their knowledge and experience of relevant safeguards, as well as with relevant organisations with regard to advocacy around this issue. Each paper also includes a number of case studies to highlight particular issues identified.