

Latvian Centre for Human Rights
Submission to the Universal Periodic Review

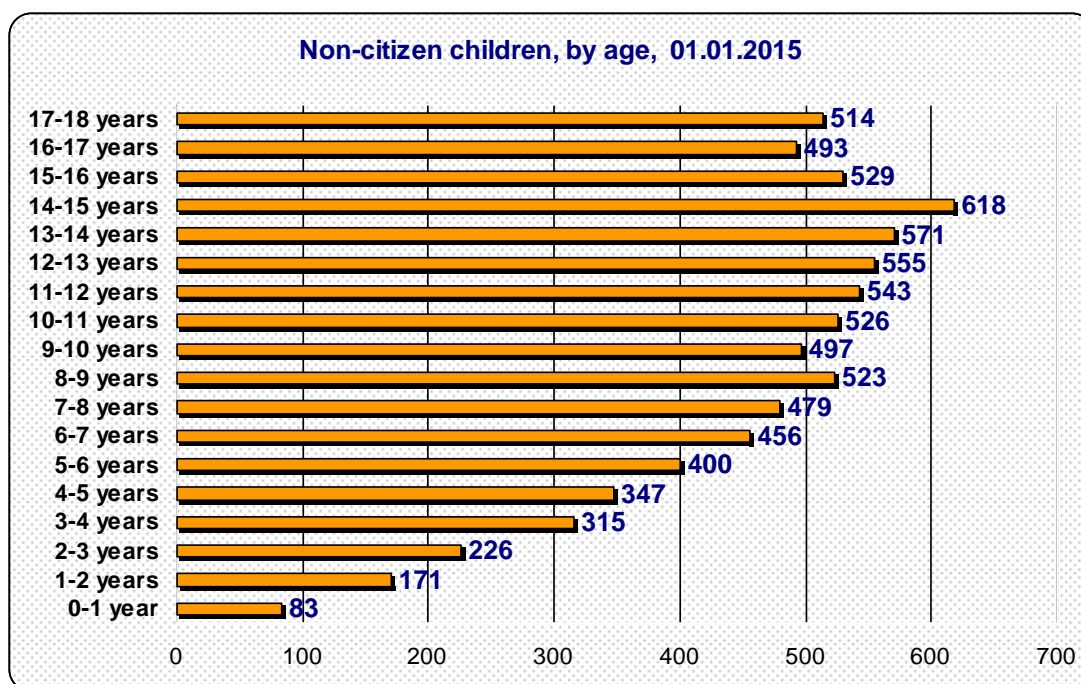
1. Non-citizen children

During the period under review efforts to grant automatic citizenship to non-citizen children born in Latvia did not gain political support in the parliament. Nevertheless, Latvia amended the Citizenship Law in 2013 to, inter alia, ease the registration of non-citizen children as Latvian citizens upon birth. Since 1 October 2013, the recognition of a child of non-citizen parents as a Latvian citizen is possible through the registration of the birth by one parent (instead of both parents). The provision also applies retroactively to the registration of non-citizen children, born after 21 August 1991.¹ As a result of the amendments, the share of new-born non-citizen children registered as Latvian citizens increased from 52% (before amendments in October 2013) to 82% in 2014. In 2014, 333 children were born to non-citizen parents, of whom 273 were registered as citizens of Latvia, while 59 were registered as non-citizens.²

However, the total number of non-citizen children remains significant. In early 2015, there were 7,846 children non-citizens, including 6,130 children under 15.

¹ Amendments to the Citizenship Law. Adopted 9.05.2013, in force since 1.10.2013, Section 3.¹ Available in Latvian at <http://likumi.lv/doc.php?id=57512>

² Information provided to the LCHR by the Naturalisation Board of the Office of Citizenship and Migration Affairs by e-mail on 18 March 2015.



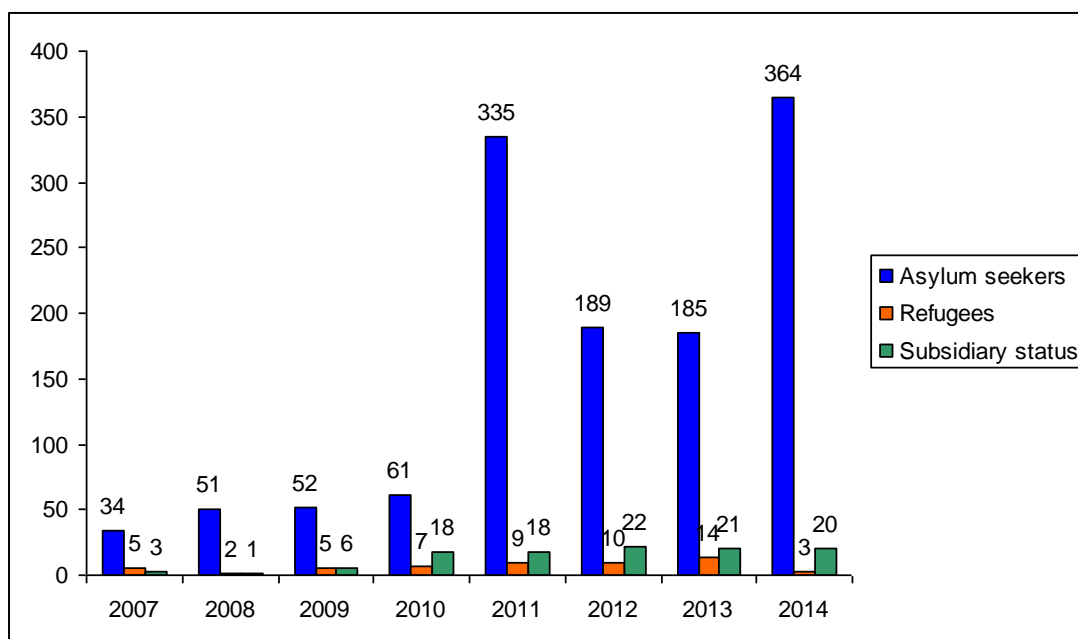
Source: Office of Citizenship and Migration Affairs

Recommendation: for the national authorities to pro-actively facilitate the registration non-citizen children as Latvian citizens through information campaigns addressing non-citizen parents and children; to resolve the child statelessness issue by 2018 (when Latvia celebrates 100 year anniversary).

2. Asylum seekers

The number of asylum applications submitted in Latvia has increased from 189 in 2012 to 364 in 2014. The majority of asylum seekers come from Georgia, followed by the Ukraine (in 2014), Syria, Iraq, Afghanistan, etc.

Compared with most EU Member States, in Latvia the number of persons receiving refugee or subsidiary status remains low annually – 32 in 2012, 35 in 2013 and 23 in 2014. Since the introduction of asylum procedure in 1998, by the end of 2014, fewer than 200 persons have been granted refugee (64) or alternative status (112).



Source: Office of Citizenship and Migration Affairs

Detention of asylum seekers remains a key concern as their detention is a norm and not an exception. There is no exemption in law of detention of asylum-seekers who are children, with the exception of unaccompanied minors.

Thus in 2013, 183 asylum seekers were detained, including two minors (the average length of detention 22 days, maximum -153 days), in 2014, 274 asylum seekers were detained, including 6 minors (average length of detention 17 days, maximum length – 271 days).³

There remains lack of information on detention grounds for asylum seekers, interpretation of the grounds of detention by the State Border Guard is frequently not in line with international standards. Access to information on asylum procedure and status of asylum case are cited as problems by asylum seekers. Free state legal aid remains provided only at the appeal stage.

Integration of refugees remains a serious challenge even in view of the small number of persons who have received the refugee/subsidiary status. According to the report of State Audit Office there is no structured and sufficient integration of international protection receivers in Latvia. The existing integration activities are predominantly reliant on EU funds and NGO capacity to attract project money.⁴

³ Information provided by the State Border Guard

⁴ Latvia. Latvijas Republikas Valsts Kontroles Revīzijas ziņojums "Patvēruma politikas un imigrācijas kontroles īstenošana", 09.02.2015.

Recommendations: to use detention as a last resort and for the shortest possible period of time, to increase the use of alternatives to detention for asylum seekers, to ensure that detention of minors under 18 is possible only taking into account the best interest of the child as a primary consideration, to develop adequate identification mechanisms of vulnerable persons, to grant free legal aid from the beginning of the asylum procedure. Concerning integration of refugees: to develop and implement a holistic refugee integration strategy and programme.

3. Prisons

Comprehensive Criminal Law amendments were adopted on 13 December 2012 (in force from 1 April 2013), aimed at liberalising Latvia's penal policy and bringing down the prison population by an estimated 30%. Several criminal offences were decriminalised, community based sanctions were broadened for a wider range of crimes (e.g. community service for an additional 150 crimes), thresholds for minimum and maximum sanctions were lowered for a wide range of crimes, and in some cases mandatory minimums were abolished. Lower sanctions were fixed for property crimes (e.g. thefts, robberies, fraud) which are not connected with threat a person's life, health. The qualification was also changed for a significant number of crimes, e.g. from serious to less serious offences.⁵

At the same time, other factors, such as high emigration rates during the last decade, low birth rate have also contributed to the decrease in the number of prisoners.

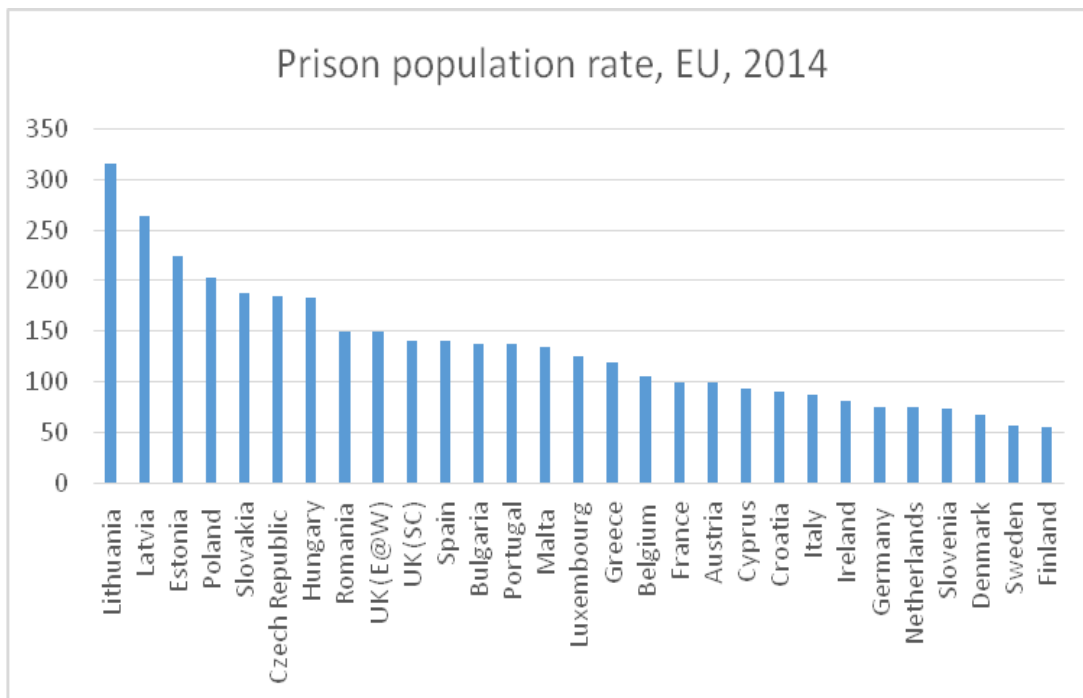
| | Total number of prisoners |
|------|----------------------------------|
| 2003 | 8231 |
| 2004 | 7646 |
| 2005 | 6965 |
| 2006 | 6548 |
| 2007 | 6548 |
| 2008 | 6873 |
| 2009 | 7055 |
| 2010 | 6780 |
| 2011 | 6561 |
| 2012 | 6117 |
| 2013 | 5139 |
| 2014 | 4754 |

Source: Annual Reports of the Latvian Prison Administration

Although the number of prisoners has decreased from 6,561 in 2011 to 4,754 in 2014, Latvia continues to remain one of the EU leaders in terms of imprisonment rates per 100,000

⁵ Latvia, Criminal Law (*Krimināllikums*). 17.06.1998, available in Latvian at <http://likumi.lv/doc.php?id=88966%2520>

inhabitants, losing only to Lithuania. In the wider European region it remains 5th after Russia, Belarus, Georgia and Lithuania.⁶



Source: International Centre for Prison Studies

Conditions in a significant number of prisons remain poor as prisoners are accommodated in dilapidated buildings older than 100 years. Strong internal prisoner hierarchies remain, a legacy from the Soviet era prison system.

Prison health care remains a concern. In its visit report to Latvia in 2011 the CPT has criticized prison health care system severely: “The Committee must stress that a number of major shortcomings were observed in the provision of health care to prisoners in these establishments. It transpired that many of the problems identified stemmed from significant budget cuts across the prison system and the consequent scarcity of resources allocated to prison health care in recent years. The CPT wishes to recall that an inadequate level of

⁶ International Centre for Prison Studies (2015). Highest to Lowest – Prison Population Rate, available at http://www.prisonstudies.org/highest-to-lowest/prison_population_rate?field_region_taxonomy_tid=All

health care can rapidly lead to situations which could be tantamount to inhuman and degrading treatment. [...] As regards general health care, in all the prisons visited the delegation received numerous complaints from prisoners about long delays in gaining access to a doctor and the quality of treatment provided. Further the fact that prisoners were required to pay for common types of health care (i.e. for any treatment other than emergency care) had placed many of them in a highly disadvantageous situation. The delegation also noted that all the prisons visited suffered from a severe shortage of medication.”

CPT in 2011 noted that, despite there being high numbers of HIV positive prisoners in most of the establishments visited, extremely limited arrangements had been made to provide appropriate care for such prisoners. In particular, a very small number of these prisoners were receiving antiretroviral drugs for their infection (e.g. three out of 47 inmates at Jelgava Prison; four out of 68 at Valmiera Prison). Further, it appeared that no information on HIV and on prevention methods was made available to staff and prisoners.⁷

Ombudsman’s Office is the only independent body monitoring places of detention, including prisons. However, the bulk of work in relation to prisons is dedicated to addressing prisoner complaints. Comprehensive monitoring visits by the Office remain few, which raises the issue of the effectiveness of preventive monitoring. No reports of monitoring visits conducted by the Ombudsman have been made public, and limited information is included in annual reports. At the same time, information from visit reports is regularly cited by administrative courts.

Recommendations: expand the use of alternatives to detention, increase the budget for the National Probation Service, increase the budgetary allocations for prisoner health care, publish Ombudsman’s monitoring reports on prisons, ratify OPCAT and designate a national preventive mechanism (NPM) and provide sufficient budget

4. Hate Crimes

At the end of 2012, the Prosecutor General E.Kalnmeijers sent a letter to the Minister of Justice, whereby he drew attention to the fact that Euro pride 2015 in Riga could possibly

⁷ CPT report 2011

induce protest actions, including different manifestations of hate, and thus called upon the law enforcement institutions to take measures to counter such unlawful activities.⁸

On 25 September 2014, the Parliament amended the Criminal Law. In Section 48 “national, ethnic or religious” was added to “racist” motivation as an aggravating factor. Section 150 of the Criminal Law which previously criminalised incitement of religious hatred was substituted by “Incitement of social hatred and enmity”. Hate crimes and hate speech are now criminalised on “the grounds of person’s gender, age, disability or any other feature”, but require that a substantial harm was caused by such act.⁹ Despite the fact that surveys indicate high levels of intolerance against LGBT, there was not sufficient support in the parliament to explicitly include sexual orientation among protected characteristics.

Reporting on hate crimes remains limited predominantly due to lack of trust in law enforcement authorities. 16-20 criminal proceedings on incitement to racial/ethnic hatred are opened annually, predominantly concerning cases of incitement to hatred on the internet. In 2013 criminal proceedings were opened in a case of racially motivated violence, the first such case in the last five years. Data collection - official and unofficial - remains inadequate.

In the end of 2014, the Latvian State Police signed a co-operation agreement with OSCE/ODIHR on training police officers on hate crimes. The co-operation agreement is some recognition on the part of Latvian authorities that Latvia needs to address hate crimes, although it is generally considered that such crimes are isolated incidents and are not high on police priority list.

Recommendation: to organise hate crime training for law enforcement and the judiciary, raise public awareness on hate crimes to encourage reporting; define incitement to violence on grounds of sexual orientation or gender identity as a criminal offence

5. National Human Rights Protection Mechanisms

After significant budgetary cuts during the years of economic crises, the budget of the Ombudsman’s Office has been raised since 2011 – LVL 581,149 (EUR 830,212), 2012 - LVL 681, 149 (EUR 973,070), 2013 – LVL 688, 80 (EUR 980,756), and EUR 1,131,770 in 2014.¹⁰ However, it has not reached the 2008 level when the Office’s budget was LVL 1,257,384 (EUR 1,797,626).

During the period under review the Ombudsman strongly focused on children’s rights, particularly the de-institutionalisation of state and municipal children’s homes, and the right

⁸ Vīksne I. (2013), ‘Latvijā speciāli homoseksuāļu dēļ grozīs Krimināllikumā’, *Neatkarīgā Rīta Avīze*, 1 February 2013.

⁹ Latvia, Amendments to the Criminal law (*Grozījumi Krimināllikumā*), 25 September 2014.

¹⁰ The projected budget was EUR 1,157, 884.

of the child to grow up in a family environment. He also addressed the impact of austerity measures on socio-economic rights, including on several vulnerable groups. At the same time, civil and political rights did not receive similar attention. Ombudsman's stance towards certain minority groups were perceived as controversial generating lack of trust towards the Ombudsman (e.g. ethnic minorities - calls to transfer the instruction in Latvian language only in all state funded schools, distorting of recommendations on minority education by OSCE's High Commissioner for National Minorities¹¹; LGBT - controversial public statements).

Ombudsman's capacity to investigate and act on allegations of discrimination remains limited. There have been no discrimination cases brought by the Ombudsman before the courts since 2006. Since early 2015, the Office no longer has the Legal Equality section, which at various times had one to three staff members working on non-discrimination issues.¹² Although a Roma Council was established under the auspices of the Ombudsman's Office, according to Second Opinion of Council of Europe Advisory Committee Framework Convention for the Rights of National minorities, the Office is considered to have made only limited concrete contribution for the promotion of full and effective equality¹³ of Roma in society.

***Recommendations:* increase Ombudsman's budget, strengthen the capacity of Ombudsman's Office to address non-discrimination issues, raise public awareness of the Ombudsman's mandate concerning non-discrimination and legal remedies available in case of discrimination, particularly among vulnerable groups, including Roma.**

¹¹ LTV De Facto (2014). Tiesībsargs sagroza EDSO rekomendācijas (Ombudsman Distorting OSCE recommendations). Available at <http://www.lsm.lv/lv/raksts/zinju-analize/zinas/de-facto-tiesibsargs-sagroza-edso-rekomendacijas.a106565/>

¹² Latvia, Ombudsperson (*LR Tiesībsargs*). Staff, available in Latvian at <http://www.tiesibsargs.lv/par-mums/darbinieki>

¹³ Advisory Committee on The Framework Convention for The Protection of National Minorities para 35 p.11 Available in English at https://www.coe.int/t/dghl/monitoring/minorities/3_FCNMdocs/PDF_2nd_OP_Latvia_en.pdf