



## OMBUDSMAN OF THE REPUBLIC OF LATVIA

Baznīcas iela 25, Rīga LV 1010, tel. 67686768; fax 67244074; e-mail: tiesibsargs@tiesibsargs.lv

Rīga

5th December 2013 No. 1-5/318

### **Organization for Security and Cooperation in Europe**

Wallnerstrasse 6

1010 Vienna

Austria

Tel: +43 1 514 360

Fax: +43 1 514 36 6996

E-mail: [info@osce.org](mailto:info@osce.org)

Ministry of Foreign Affairs of the Republic of Latvia

K.Valdemāra iela 3,

Rīga LV-1395

*Re: Respect for the Rights of Non-Citizens in the Republic of Latvia*

The Ombudsman of the Republic of Latvia, actively involved in the discussion of the human rights issues on the international level, has observed that, due to the actions of certain non-governmental organizations, international bodies have developed incorrect vision of the respect for human rights of non-citizens in the Republic of Latvia. Confronting on national as well as international level presents the risks of splitting the society and emerging of differences between the representatives of different social groups in Latvia, and the responsible officials of the Republic of Latvia have failed to timely prevent such risks. According to the mandate to express impartial, objective view on the respect for human rights in Latvia, the Ombudsman of the Republic of Latvia hereby points out to the shortcomings identified by the Ombudsman in the field of respect for the rights of non-citizens in the Republic of Latvia.

The Ombudsman of the Republic of Latvia, performing the functions entrusted in accordance with the Ombudsman Law, ensures general monitoring of the respect for human rights in Latvia, and handles the applications filed by individuals regarding the infringements of human rights. The Ombudsman has conducted in 2008 and in 2011 an in-depth analysis of the status of non-citizens and the scope of their rights. “The status of “non-citizens” or permanently resident non-citizens as a group of persons who have lost the citizenship of the USSR upon the collapse of the latter and who have failed to accept the citizenship of any other country is not equal either to the general status of alien or to the status of foreign national or stateless person”<sup>1</sup>.

<sup>1</sup> See the Award rendered by European Court of Human Rights in case of *Slivenko v. Latvia* (No. 48321/99)

The Ombudsman points out in particular that the exact term “former citizens of the USSR without the citizenship of the Republic of Latvia or any other country” should be used to denote the status of the citizens of former USSR, instead of the widely used term “non-citizens” that has caused a number of misunderstanding among the international institutions regarding the status and scope of rights of such group of persons.

The former citizens of the USSR without the citizenship of the Republic of Latvia or any other country (holders of the status of non-citizens) widely enjoy in the Republic of Latvia the fundamental rights guaranteed by Chapter 8 of the Satversme (Constitution) of the Republic of Latvia and the international human rights instruments, There are only two exceptions regarding the right to freely pursue career in the professions that involve the exercising of governmental and judicial authority where the requirement for citizenship of the Republic of Latvia is legitimately applied, and regarding the right to vote and to be elected to the municipalities and the Saeima (Parliament) of the Republic of Latvia, since according to the political decision of the State the right to voting is only granted to the citizens of the Republic of Latvia. The above-mentioned exceptions also correspond with the political rights to vote and be elected, and to engage in public service, as stipulated in Article 25 of the International Covenant on Civil and Political Rights.

#### Civil and political rights:

1. No infringements of the right to life, freedom, personal inviolability or safety have been identified by the Ombudsman in respect of the former citizens of the USSR without the citizenship of the Republic of Latvia or any other country in relation to their civil status.
2. The former citizens of the USSR without the citizenship of the Republic of Latvia or any other country have equal access to courts, and they are facing infringement of the right to fair court on equal basis with the citizens of the Republic of Latvia, such as prolonged hearing at courts. Infringement of the right to fair court on the grounds of civil status of a person has not been identified even on a single occasion.
3. The former citizens of the USSR without the citizenship of the Republic of Latvia or any other country are free to leave and return to the Republic of Latvia. They also enjoy the protection by the State of Latvia during their stay abroad.
4. The Ombudsman has not identified any infringements of the right to privacy, family life, dwelling or correspondence in respect of the former citizens of the USSR without the citizenship of the Republic of Latvia or any other country on the grounds of their civil status.
5. The Ombudsman has identified no breaches on the part of governmental authorities in respect of the former citizens of the USSR without the citizenship of the Republic of Latvia or any other country in exercising of their right to freely express their views or to establish non-governmental organizations, freedom of association or organization of peaceful meetings or demonstrations on the grounds of their civil status.
6. No restrictions are imposed on the freedom of religion of the former citizens of the USSR without the citizenship of the Republic of Latvia or any other country, or to any other inhabitants of the Republic of Latvia.

#### Economical, social and cultural rights:

1. The former citizens of the USSR without the citizenship of the Republic of Latvia or any other country enjoy social guarantees equal to those available to the citizens of the Republic of Latvia, and they are subject to social risks equal to those faced by the citizens of the Republic of Latvia.
2. The former citizens of the USSR without the citizenship of the Republic of Latvia or any other country have the right to free education on equal grounds with the citizens of the Republic of Latvia. The Ombudsman has not identified any occasions when access to education has been refused to any person on the grounds of his or her civil status.

Moreover, since most of such persons belong to the national minorities, it is important to note that 22% of all educational establishments provide education programs for minority nationalities with bilingual educational process, namely in Latvian and in one of the seven minority languages.

3. The former citizens of the USSR without the citizenship of the Republic of Latvia or any other country are free to establish commercial companies and to pursue employment in the private sector, with the exception of public service exercising the public authority and the law enforcement authorities, the judicial system and the free professions related to the judicial system. The Ombudsman has not identified any occasions of ungrounded refusal for a person to access to the labor market because of the civil status in case of professions other than those related to the public authorities or to the judicial system.
4. The former citizens of the USSR without the citizenship of the Republic of Latvia or any other country freely enjoy the right to culture on equal grounds with the citizens of the Republic of Latvia. The Ombudsman has identified no refusal to organize any culture event on the grounds of civil status of an individual.

The Ombudsman appreciates the improvements made by the legislator of the Republic of Latvia in the regulatory framework for the recognition of the former citizens of the USSR without the citizenship of the Republic of Latvia or any other country as citizens of the Republic of Latvia. According to the amendments introduced in 2013 to the Citizenship Law, a child born after 21 August 1991 to the former citizens of the USSR without the citizenship of the Republic of Latvia or any other country is recognized a citizen of the Republic of Latvia upon the expression of will of one parent upon recording of the birth registration entry.

The Ombudsman points out, however, that the Government of the Republic of Latvia has failed to use all efforts for minimizing the number of the former citizens of the USSR without the citizenship of the Republic of Latvia or any other country in Latvia<sup>2</sup>.

1. Educative, informative steps should be taken to improve the knowledge of the former citizens of the USSR without the citizenship of the Republic of Latvia or any other country about the procedure for obtaining the citizenship of Latvia to facilitate their naturalization and becoming citizens of the Republic of Latvia, so that their temporary legal status is discontinued.
2. Additional funding should be assigned for teaching of the official language to enable the passing of the state language examination on the level required for naturalization.
3. Increased attention should be paid to the teaching of Latvian language at schools to ensure qualitative education so that the former citizens of the USSR without the citizenship of the Republic of Latvia or any other country as well as the citizens of the Republic of Latvia and citizens of other countries – representatives of national minorities – are enabled to efficiently integrate in the legal and language space of Latvia on equal basis while preserving their own language and culture.
4. The circumstances favoring the temporary status should be eliminated. At present, the former citizens of the USSR without the citizenship of the Republic of Latvia or any other country enjoy more favorable conditions in terms of trips to Russia (visa-free regime starting from 2008) while the citizens of the Republic of Latvia have to pay LVL 48 (EUR 68.30) for single visa to Russia; therefore, the former citizens of the USSR with business or kinship ties to Russia have no interest in naturalization in the Republic of Latvia.

Taking into consideration the inability of politicians of the Republic of Latvia to clarify the given issues, the actual residents of the Republic of Latvia who have the status of non-citizens lack motivation to naturalization and obtaining the citizenship of the Republic of Latvia because they enjoy the benefits inherent to the status of non-citizen and those promised by the organizations that pursue the aim of splitting the society of Latvia.

---

<sup>2</sup> 290 150 residents of the Republic of Latvia has the status of non-citizens as of 1 July 2013. Data of the Office of Citizenship and Migration Affairs [http://www.pmlp.gov.lv/lv/assets/documents/statistika/IRD\\_01\\_07\\_2013/ISVG\\_Latvija\\_pec\\_DZGada\\_VPD.pdf](http://www.pmlp.gov.lv/lv/assets/documents/statistika/IRD_01_07_2013/ISVG_Latvija_pec_DZGada_VPD.pdf)

You are kindly requested to take into consideration, where appropriate, the opinion expressed by the Ombudsman of the Republic of Latvia regarding the respect for the rights of non-citizens in the Republic of Latvia. You are kindly requested to point out to the responsible officials of the Republic of Latvia to the need for pursuing of governmental policy that is aimed at developing unified society in Latvia where the required understanding and support is provided to the representatives of national minorities in learning the official language, as well as to their right to preserve their minority language and culture.

Respectfully submitted by,

J. Jansons, the Ombudsman