

Latvia Immigration Detention Profile

January 2017

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INTRODUCTION

Latvia has largely avoided recent migratory and border pressures faced by some of its EU partners. In 2015, 745 undocumented migrants were apprehended—the fourth lowest apprehension rate in the European Union—and only 330 persons applied for asylum.¹ The country places some 200 people annually in immigration detention: 196 non-nationals were detained in 2014 and 131 (or 221, depending on the source) in 2013.² A majority of recent detainees are Vietnamese. Other countries of origin include Iraq, Iran, [Afghanistan](#), [Russia](#), Uzbekistan, and Georgia.³

In 2015, apprehensions at Latvia's borders with Russian and Belarus tripled from the year before, to just under 500 people, most of whom were from Vietnam. Despite this small number, Latvia's public broadcasting service called the border crossings a "cause for alarm."⁴ The country is set to complete a 90-kilometer, 19 million Euro fence along its border with Russia in 2019⁵ and authorities have announced construction of a second

¹ Eurostat, "Asylum and managed migration," Website, <http://ec.europa.eu/eurostat/web/asylum-and-managed-migration/data/database>.

² European Migration Network (EMN) National Contact Point for Latvia (Office of Citizenship and Migration Affairs), *The use of detention and alternatives to detention in the context of immigration policies*, November 2014, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/index_en.htm; Latvian Centre for Human Rights, *The return of third-country nationals: Standards and their implementation in Latvia*, 2015, <http://cilvektiesibas.org.lv/en/publications/the-return-of-third-country-nationals-standards-an-353/>.

³ Svetlana Djackova (Latvian Centre for Human Rights), *Email exchange with Izabella Majcher* (Global Detention Project), January 2017.

⁴ Latvia Public Broadcasting, "Why is Latvia building a fence?" 21 March 2016, <http://www.lsm.lv/en/article/societ/society/why-is-latvia-building-a-fence.a174585/>.

⁵ Latvia Public Broadcasting, "Why is Latvia building a fence?" 21 March 2016, <http://www.lsm.lv/en/article/societ/society/why-is-latvia-building-a-fence.a174585/>.

detention centre in Mucenieki (Ropazi municipality) to go along with its 70-person detention centre in Daugavpils.⁶ The Interior Ministry has stated, “We have to talk not about fences but about fortifying Latvia’s outer border, which is concurrently the EU’s outer border as well.”⁷

Despite the small scale of immigration detention in Latvia, some of the country’s detention laws and practices have attracted criticism. In the past few years, three UN human rights treaty monitoring bodies—the Human Rights Committee, the Committee on the Rights of the Child, and the Committee against Torture—have voiced concern that Latvian law fails to make detention a measure of last resort and for the shortest time possible. Other controversial measures include an initial 10-day detention period without court authorization, the detention of children older than 14, offering alternatives to detention only for humanitarian considerations, and the lack of provisions preventing re-detention.

LAWS, POLICIES, PRACTICES

Key norms. Latvia’s core immigration statutes are provided in the 2003 [Immigration Law](#) (*Imigrācijas likums*). Amended several times since its adoption, the Immigration Law contains provisions for the entry, residence, transit, exit, detention, and expulsion of non-nationals. Immigration detention is also provided in the 2015 [Asylum Law](#) (*Patvēruma likums*), which replaced the 2009 Asylum Law.

Grounds for detention. Both the Immigration Law and the Asylum Law have provisions for immigration detention.

Pursuant to section 60 of the Immigration Law, if an official of the Border Guard refuses entry to a non-national and it is not possible to return the person immediately, the person can be detained up to 48 hours. In addition, according to chapter VII, section 51(1), of the law, the Border Guard can order detention (*aizturēšana*) if a non-national is subject to removal procedure or return based on readmission agreement. Following the transposition of the [EU Returns Directive](#) a new set of grounds for detention was added. According to section 51(2) the Border Guard may detain a non-national if there are grounds to believe that the person will avoid or impede a removal procedure or there is a risk of absconding. The bases for making this determination can include: 1) not disclosing identity, providing false information, or refusing to cooperate; 2) crossing the external border, avoiding border checks, using forged documents; 3) failing to indicate a place to reside while awaiting a removal procedure; 4) threatening security, public order or safety; 5) promoting undocumented immigration; 6) conviction for a criminal offence

⁶ European Migration Network, *Country Factsheet: Latvia 2015*, 2016, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/country-factsheets/16a_latvia_country_factsheet_2015.pdf; Baltic Course, “Mucenieki population in Latvia object to construction of detention center for foreigners,” *Baltic Course*, 16 February 2016, <http://www.baltic-course.com/eng/legislation/?doc=116815>.

⁷ Latvia Public Broadcasting, “Why is Latvia building a fence?” 21 March 2016, <http://www.lsm.lv/en/article/societ/society/why-is-latvia-building-a-fence.a174585/>.

punishable with a prison sentence of at least one year; 7) having previously avoided a removal procedure; 8) unjustifiably failing to abide by a voluntary return decision; 9) failing to register with the Border Guard; 10) leaving an accommodation centre; or 11) violating a re-entry ban.

An analysis of 2012-2014 court decisions carried out by the [Latvian Centre for Human Rights](#) (LCHR) revealed that the Border Guard typically justifies detention on account of inability of the foreigner to indicate the place where he would reside while awaiting a removal procedure. This ground is often applied in combination with other grounds. LCHR concluded that the Border Guard failed to sufficiently explain the reasons its detention determinations.⁸ In 2011 the [European Commission against Racism and Intolerance](#) (ECRI) urged Latvia not to detain persons who cannot be expelled.⁹

Asylum seekers. Detention of asylum seekers is permitted under the Asylum Law. According to section 16, which reflects the [EU Reception Conditions Directive](#), an asylum seeker may be detained if 1) it is necessary to ascertain or verify the person's identity or nationality; 2) it is necessary to ascertain the facts on which the asylum application; 3) it is necessary to decide on the person's right to enter Latvia; 4) there are grounds for assuming that the person submitted an application to hinder his removal; 5) the competent State authorities (including the Border Guard) have a reason to believe that the asylum seeker presents a threat to national security or public order and safety; 6) detention is necessary for transfer procedure in accordance with the [EU Dublin Regulation](#).

Numerous international and regional human rights bodies—including the [UN Committee against Torture](#) (in 2013)¹⁰ and the European Commission against Racism and Intolerance (in 2011)¹¹—have urged Latvia to ensure that asylum seekers are only detained as a measure of last resort. In 2014, the [UN Human Rights Committee](#) expressed concern about the lack of clear legal grounds justifying detention of asylum seekers upon arrival and their protracted detention. The Committee urged Latvia to amend the Asylum Law to establish safeguards against the arbitrary detention of asylum seekers, to detain asylum seekers only as a measure of last resort and for the shortest possible period, and to avoid detaining minors.¹²

⁸ Latvian Centre for Human Rights, *The return of third-country nationals: Standards and their implementation in Latvia*, 2015, <http://cilvektiesibas.org.lv/en/publications/the-return-of-third-country-nationals-standards-an-353/>.

⁹ European Commission against Racism and Intolerance (ECRI), *ECRI Report on Latvia (fourth monitoring cycle)*, CRI(2012)3, 9 December 2011, http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Latvia/Latvia_CBC_en.asp.

¹⁰ Committee against Torture, *Concluding observations on the combined third to fifth periodic reports of Latvia*, CAT/C/LVA/CO/3-5, 23 December 2013, <http://www.ohchr.org/EN/countries/ENACARRegion/Pages/LVIndex.aspx>.

¹¹ European Commission against Racism and Intolerance (ECRI), *ECRI Report on Latvia (fourth monitoring cycle)*, CRI(2012)3, 9 December 2011, http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Latvia/Latvia_CBC_en.asp.

¹² Human Rights Committee, *Concluding observations on the third periodic report of Latvia*, CCPR/C/LVA/CO/3, 11 April 2014, <http://www.ohchr.org/EN/countries/ENACARRegion/Pages/LVIndex.aspx>.

Minors. According to section 51(1) of the Immigration Law, a child below the age of 14 cannot be detained. Unaccompanied children who are older than 14 can be detained in Border Guard facilities or in childcare institutions. Section 59.1(5) provides that adult detainees can request to have their children detained with them to preserve family unity. Under section 59.1(3), children are to be accommodated together with their parents. According to official sources, families with children are to be accommodated in separate sections of detention centres.¹³

In 2016, the [UN Committee on the Rights of the Child](#) expressed concern that the Asylum Law does not explicitly stipulate that the detention of asylum-seeking children should only be a measure of last resort and urged Latvia to revise the Asylum Law to exempt children from detention. The Committee was also concerned about limits in healthcare for detained children.¹⁴

In 2013, the UN Committee against Torture also expressed concern about the detention of minor asylum seekers who are above the age of 14 and recommended that Latvia refrain from detaining minors.¹⁵

According to official sources, five unaccompanied children were detained in 2013 and at least three children accompanied with their parents were detained in 2012.¹⁶

Length of detention. According to section 54(1) of the Immigration Law, the Border Guard may detain a non-national for an initial 10-day period without seeking a court order. Under section 54(2) the maximal period of detention, as authorized by a court, is two months. If the removal is impossible within this period, the judge may extend detention by another two months (section 54(3)). Detention may be repeatedly extended up to a period of six months (section 54(4)). This period of detention may be further extended by additional 12 months if the detainee refuses to cooperate or there are delays in receiving the necessary documents from third countries (section 54(7)). Prior to the transposition of the EU Returns Directive, the maximum period of detention was 20 months.¹⁷ Latvia is one of a few EU countries--including [Lithuania](#), [Denmark](#) and [Sweden](#)--that have been obliged to shorten the maximum period of detention to comply with the directive.

¹³ European Migration Network (EMN) National Contact Point for Latvia (Office of Citizenship and Migration Affairs), *The use of detention and alternatives to detention in the context of immigration policies*, November 2014, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/index_en.htm.

¹⁴ Committee on the Rights of the Child, *Concluding observations on the third to fifth periodic reports of Latvia*, CRC/C/LVA/CO/3-5, 14 March 2016, <http://www.ohchr.org/EN/countries/ENACARRegion/Pages/LVIndex.aspx>.

¹⁵ Committee against Torture, *Concluding observations on the combined third to fifth periodic reports of Latvia*, CAT/C/LVA/CO/3-5, 23 December 2013, <http://www.ohchr.org/EN/countries/ENACARRegion/Pages/LVIndex.aspx>.

¹⁶ European Migration Network (EMN) National Contact Point for Latvia (Office of Citizenship and Migration Affairs), *The use of detention and alternatives to detention in the context of immigration policies*, November 2014, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/index_en.htm.

¹⁷ Ilvija Puce, "Legal Norms of Detention and Legal Rights of Detainees in Latvia," 2007.

Under section 17(1) of the Asylum Law the Border Guard may detain an asylum seeker for up to six days. Detention beyond this period must be authorized by a court (section 18(1)). Detention of asylum seeker, as authorized by a court, may be maintained for up to two months (section 19(1)).

According to official sources, the average length of detention was 20 days in 2013; 18 days in 2012; and 20 days in 2011. The average length of detention of asylum seekers has decreased over years, from 25 days in 2011, 15 days in 2012, to 12 days in 2013.¹⁸ In turn, the [European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment](#) (CPT) was informed in 2011 that the average length of detention was two months.¹⁹ Statistics from the Border Guard reveal that the longest periods of detention in recent years was 118 days in 2014, 63 days in 2013, and 106 days in 2012.²⁰

In 2011, the ECRI voiced concern about detention periods exceeding the maximum permitted period in legislation and urged authorities to ensure that the time limit provided for in law is respected.²¹

In 2007, the LCHR noted that persons released from detention upon the expiry of the maximum permissible length of detention were not granted any defined legal status and could therefore be re-detained.²²

Procedural guarantees. The Immigration Law and Asylum Law provide detailed procedural rules governing immigration detention.

Section 54(1) of the Immigration Law empowers the Border Guard to detain a non-national for up to 10 days without judicial validation. The Latvian Centre for Human Rights observed that 10-day detention prior to the court authorization is “extensive”--in particular when compared to analogous detention under the Criminal Procedure Law, which is two days--and creates a risk of arbitrary detention.²³

¹⁸ European Migration Network (EMN) National Contact Point for Latvia (Office of Citizenship and Migration Affairs), *The use of detention and alternatives to detention in the context of immigration policies*, November 2014, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/index_en.htm.

¹⁹ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), *Report to the Latvian Government on the visit to Latvia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 5 to 15 September 2011*, CPT/Inf (2013) 20, 2013, <http://www.cpt.coe.int/en/states/lva.htm>.

²⁰ Latvian Centre for Human Rights, *The return of third-country nationals: Standards and their implementation in Latvia*, 2015, <http://cilvektiesibas.org.lv/en/publications/the-return-of-third-country-nationals-standards-an-353/>.

²¹ European Commission against Racism and Intolerance (ECRI), *ECRI Report on Latvia (fourth monitoring cycle)*, CRI(2012)3, 9 December 2011, http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Latvia/Latvia_CBC_en.asp.

²² Ilvija Puce, “Legal Norms of Detention and Legal Rights of Detainees in Latvia,” 2007.

²³ Latvian Centre for Human Rights, *The return of third-country nationals: Standards and their implementation in Latvia*, 2015, <http://cilvektiesibas.org.lv/en/publications/the-return-of-third-country-nationals-standards-an-353/>.

When a person is detained, the Border Guard must draw up a detention report, which should contain date and place, name of the person who has drafted the report, information about the detainee, and motives for the detention (section 52). The migrant has the right to appeal detention decisions to a court. Under section 56(1), at the moment of detention non-nationals must be told of their right to appeal, be allowed to contact their representative, and receive legal assistance. Detainees are to be provided information about detention (section 56(2)), have the right to communicate in a language they understand, and be provided an interpreter if necessary (section 56(3)).

Observers report that detention reports are written in Latvian and detainees tend to be orally informed about the main points of the detention order in Latvian.²⁴

An official of the Border Guard must take a migrant to the court at latest 48 hours prior to expulsion and invite an interpreter, if necessary (section 55(2)). Based on the application of an official of the Border Guard, the court decides whether detention should be extended (section 54(2)). The court must examine the materials submitted, including the submission of the official of the Border Guard, detention report, removal order and documents explaining the measures taken to remove the non-national. In taking a decision to detain, extend the period of detention or to refuse to extend the time period of detention, the court must take into consideration the circumstances of the removal procedure and assess whether the grounds for detention, which were the basis for detention of the foreigner, are still effective. The court must state the reasons for the decision and indicate the facts, conclusions and arguments on the basis of which the relevant decision was taken (sections 54.1 and 55(4)). A copy of a court's decision must be sent to the foreigner and the Border Guard within 24 hours from the receipt of the application of the Border Guard (section 55(5)).

The analysis of 2012-2014 court decisions carried out by the Latvian Centre for Human Rights reveals that in most case the court agreed with the Border Guard and ordered detention.²⁵

This review of detention takes place at every extension of detention, i.e. every two months during the initial six-month period of detention (section 54(3)-(4)). This period may be extended by 12 months (section 54(7)) and the Immigration Law does not explicitly provide for review of detention during that period.

Within 48 hours after receiving the copy of the detention decision, both the non-national and the Chief of the Border Guard or his authorized official may appeal the court's decision (section 55(6)). The detainee has the right to receive legal assistance (section 56(1)). The court must examine the complaint without delay and a copy of its decision must be sent to the foreigner and the Border Guard (section 55(7)).

²⁴ Latvian Centre for Human Rights, *The return of third-country nationals: Standards and their implementation in Latvia*, 2015, <http://cilvektiesibas.org.lv/en/publications/the-return-of-third-country-nationals-standards-an-353/>.

²⁵ Latvian Centre for Human Rights, *The return of third-country nationals: Standards and their implementation in Latvia*, 2015, <http://cilvektiesibas.org.lv/en/publications/the-return-of-third-country-nationals-standards-an-353/>.

The Latvian Centre for Human Rights observed that the right to challenge detention is inadequately implemented in practice. Between 2013-2014 the court disagreed with the Border Guard in merely five cases.²⁶

Procedural guarantees for asylum seekers are spelled out in the Asylum Law. Under section 17 of the Asylum Law an official authorized by the Chief of the Border Guard may detain asylum seeker for up to six days. The Border Guard must draw up detention minutes which contain the name of the official, name of asylum seeker, time and place of detention, established facts, reasons for detention, legal provisions applied, procedures for appealing detention and the possibility to quest free legal aid and representation. The asylum seeker must be made acquainted with the detention minutes in language which he understands or is reasonably supposed to understand, using services of an interpreter, if necessary, and must receive a copy of the minutes (section 17(1), (2), (5), (7)). Under section 17(5), asylum seeker must also be explained the reasons for detention, the procedures for appeal, the procedures of the court supervision of detention, and must be informed about the possibility to request free legal aid. The person must be informed about the reasons for detention, the procedures for appealing detention and the procedures for assigning the provider of free legal aid and representative. This information must be conveyed in a language, which the person understands or is reasonably supposed to understand.

An asylum seeker who wishes to receive State legal aid must submit an application to the Border Guard. The Border Guard must, without delay, but not later than on the following working day after receiving the application, invite the provider of legal aid who is included in the list prepared by the institution responsible for provision of State ensured legal aid (section 17(6)).

Under section 18(1) an asylum seeker may be detained for more than six days on the basis of a decision of the district court. No later than 48 hours before expiry of the period for detention, the Border Guard must submit a justified proposal to the district court to detain the asylum seeker for more than six days (section 18(2)). The official of the Border Guard must deliver the asylum seeker to the district court and, if necessary, invite an interpreter (section 18(3)). Within 24 hours the district court must hear the opinion of the official of the Border Guard and the asylum seeker and his representative (if any) and evaluate the grounds for application of restrictive measures (section 19(1)). A copy of the court decision must be sent to the asylum seekers and the Border Guard without delay but not later than within 24 hours from the moment of taking it. If the asylum seeker does not have a representative, the court must provide a written translation of full text of the decision in a language which he understands or is reasonably supposed to understand (section 19(2)).

According to section 17(9) an asylum seeker has the right to contest detention to the district court within 48 hours after he has been made acquainted with the detention

²⁶ Latvian Centre for Human Rights, *The return of third-country nationals: Standards and their implementation in Latvia*, 2015, <http://cilvektiesibas.org.lv/en/publications/the-return-of-third-country-nationals-standards-an-353/>.

minutes and the information about the reasons for his detention. Pursuant to section 20(1) an asylum seeker or his representative may at any time appeal the necessity of the continued detention before the district court. The court may reject the appeal if it does not contain information regarding the circumstances, which were not known before when deciding on detention or examining the previous claim (section 20(3)). The court examines the claim in a written procedure without participation of the persons involved. The decision is not subject to appeal (section 20(4)).

In 2011, the European Committee for the Prevention of Torture (CPT) noted that detainees were not provided with written information about their procedural rights and legal situation. Several detainees interviewed by the Committee were not aware of the legal proceedings applicable to them and some complained about the quality of interpretation during court proceedings, lack of translation of the detention order, and practical impossibility to submit an appeal against their detention.²⁷

In 2004, the [UN Working Group on Arbitrary Detention](#) urged the country to ensure that all immigration detainees have effective legal means to challenge the legality of their detention.²⁸

Trends and statistics. According to information provided by the Office of Citizenship and Migration Affairs of the Interior Ministry, the number of detainees has steadily dropped in recent years: 273 non-nationals were detained 2011 (May-December), 251 in 2012, and 221 in 2013. Of the total number of detainees, 238 were asylum seekers in 2011, 127 in 2012, and 166 in 2013.²⁹ The Border Guard, also a part of Interior Ministry, has reported different statistics: 144 undocumented migrants were detained in 2011, 163 in 2012, 131 in 2013, and 196 in 2014. According to State Border Guard statistics, the number of detainees who unlawfully crossed land border was 305 in 2016 (as of October 2016), 463 in 2015, and 139 in 2014.³⁰ The increase in the number of detainees in 2014 was reportedly due to increase of irregular border crossings, mainly by Vietnamese nationals.³¹ Other countries of origin include Iraq, Iran, Afghanistan, Russia, Uzbekistan, and Georgia. A few detainees per year are stateless.³²

²⁷ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), *Report to the Latvian Government on the visit to Latvia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 5 to 15 September 2011*, CPT/Inf (2013) 20, 2013, <http://www.cpt.coe.int/en/states/lva.htm>.

²⁸ Working Group on Arbitrary Detention, *Report of The Working Group on Arbitrary Detention: Addendum: Visit to Latvia (23-28 February 2004)*, E/CN.4/2005/6/Add.2, 1 September 2004, <http://www.ohchr.org/EN/countries/ENACARegion/Pages/LVIndex.aspx>.

²⁹ European Migration Network (EMN) National Contact Point for Latvia (Office of Citizenship and Migration Affairs), *The use of detention and alternatives to detention in the context of immigration policies*, November 2014, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/index_en.htm.

³⁰ Svetlana Djackova (Latvian Centre for Human Rights), *Email exchange with Izabella Majcher* (Global Detention Project), January 2017.

³¹ Latvian Centre for Human Rights, *The return of third-country nationals: Standards and their implementation in Latvia*, 2015, <http://cilvektiesibas.org.lv/en/publications/the-return-of-third-country-nationals-standards-an-353/>.

³² Svetlana Djackova (Latvian Centre for Human Rights), *Email exchange with Izabella Majcher* (Global Detention Project), January 2017.

Alternatives to detention. Under section 51(3) of the Immigration Law, the Border Guard can consider the following non-custodial measures: 1) regular reporting at a specified unit of the Border Guard; or 2) handing over travel documents and other personal identification documents to an official of the Border Guard. The Asylum Law provides for one alternative measure, registration at the unit of the Border Guard (section 13(1)). The compliance rate with the reporting obligation was 96 percent in 2011-2013.³³

As observed by the Latvian Centre for Human Rights, the Immigration Law does not include an explicit obligation for authorities to consider alternatives to detention. The law provides for the alternatives to detention only “due to reasons of a humanitarian nature.” There are no detailed rules governing the application of the alternatives or criteria for their use.³⁴

According to official sources, 10 people were afforded alternatives to detention in 2011 (June-December), 34 in 2012, 52 in 2013, and 55 in 2014. Alternatives are usually granted on account of health or family considerations.³⁵

Criminalization. Under the Criminal Law (intentional), irregular entry to Latvia is punishable with a prison sentence up to three months, community service or a fine. If the irregular border crossing is carried out by a group of persons or using a vehicle the imprisonment may be up to two years (sections 284 and 38). Pursuant to the Administrative Violations Code, irregular stay in Latvia is punishable with a fine up to 350 Euros (section 190(13)).³⁶

Detention centre regulations and minimum conditions. Under section 59(1)-(2) of the Immigration Law, non-nationals must be detained in “specially equipped premises or accommodation centre separately from persons detained according to criminal procedural procedures or imprisoned persons.” The detention centre is a structural unit of the Border Guard. Sections 59.1(3)-(4) provide that men and women must be accommodated separately and children must be accommodated with parents or legal

³³ European Migration Network (EMN) National Contact Point for Latvia (Office of Citizenship and Migration Affairs), *The use of detention and alternatives to detention in the context of immigration policies*, November 2014, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/index_en.htm.

³⁴ Latvian Centre for Human Rights, *The return of third-country nationals: Standards and their implementation in Latvia*, 2015, <http://cilvektiesibas.org.lv/en/publications/the-return-of-third-country-nationals-standards-an-353/>.

³⁵ European Migration Network (EMN) National Contact Point for Latvia (Office of Citizenship and Migration Affairs), *The use of detention and alternatives to detention in the context of immigration policies*, November 2014, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/index_en.htm; Latvian Centre for Human Rights, *The return of third-country nationals: Standards and their implementation in Latvia*, 2015, <http://cilvektiesibas.org.lv/en/publications/the-return-of-third-country-nationals-standards-an-353/>.

³⁶ European Union Agency for Fundamental Rights (FRA), *Criminalisation of migrants in an irregular situation and of persons engaging with them*, 2014, <http://fra.europa.eu/en/publication/2014/criminalisation-migrants-irregular-situation-and-persons-engaging-them>.

representatives. Based on the request, member of the same family must be accommodated together.

Detainees have the duty to observe internal regulations of the centre (section 59.2(3)). A detainee who has violated these regulations is to be accommodated in “premises specially equipped for such purposes” (section 59.1(3)).

According to section 59.2, detainee have the following the rights: to communicate with his state consulate; to inform family members, kin or other persons regarding his whereabouts; to receive legal assistance with his own means; to meet with family members or kin, as well as with representatives of international and non-government human rights organizations; to submit complaints; to receive food and material support for household needs in accordance with specified maintenance standards; to receive emergency medical assistance, as well as guaranteed health care services; to receive health care services and medicines which have been prescribed by medical personnel, with his own means; to keep with him amounts of money, which do not exceed one half of the minimum monthly wage stipulated by the state; to use common premises; to use the equipment provided for detained foreigners; to receive consignments and parcels; to store food products in the place specially provided for them; to store with him property, which is not included in the list of prohibited articles.

As spelled out in the regulations of the Interior Ministry, detainees have the right to emergency medical care provided by persons working in the detention centre or ambulance team; primary health care, including urgent dental aid, provided by the medical personnel of the centre; and secondary health care services.³⁷

Under section 59.7, officials of a competent state institution, representatives of foundations and associations, as well as international organizations may visit detention places in order to evaluate the conditions of detention. These institutions must co-ordinate their visit with the head of detention centre and conform to the internal procedural regulations.

The provisions of the Immigration Law concerning conditions of detention are detailed in regulations adopted by the Interior Ministry, including the 2008 “Internal Procedure Regulations of the Accommodation Centre,” 2008 “Regulations regarding the Residence Norms of Third-country Nationals Placed in an Accommodation Centre, as well as the Amount and Procedures for Receipt of Guaranteed Health Care Services,” 2008 “Regulations Regarding the Requirements for the Arranging and Equipping of the Accommodation Centre,” and 2009 “Procedures for the Placement and Holding of a Person Detained by the Border Guards in a Temporary Custody Room, and the Requirements for the Arrangement and Equipping of Such Rooms.”³⁸

³⁷ European Migration Network (EMN) National Contact Point for Latvia (Office of Citizenship and Migration Affairs), *The use of detention and alternatives to detention in the context of immigration policies*, November 2014, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/index_en.htm.

³⁸ European Migration Network (EMN) National Contact Point for Latvia (Office of Citizenship and Migration Affairs), *The use of detention and alternatives to detention in the context of immigration policies*,

According to section 21(1) of the Asylum Law, an asylum seeker must be accommodated in premises specially equipped for this purpose in a unit of the Border Guard. Officials of State administration institutions, authorized representatives of associations, foundations, and international organizations are entitled to visit the Border Guard detention premises in order to evaluate the conditions of detention and provide legal or other consultations corresponding to the competence of the relevant institution. The visit must be coordinated with the Chief of the Border Guard premises for asylum seekers, unless it has been otherwise laid down in the law (section 21(5)).

Upon placing the detained asylum seeker in the Border Guard accommodation premises for asylum seekers, his health condition shall be checked and sanitary treatment shall be performed (section 22(2)). Section 22(3) of the Asylum Law provides that men and women must be accommodated separately and asylum seekers must be accommodated separately from persons detained under the Immigration Law. Detained asylum seekers who have health disorder must be accommodated in line with instructions of a medical doctor in premises specifically equipped for such purpose. The detained family members of asylum seekers must be accommodated together, separately from other detained persons to ensure privacy. Detained children must have a possibility to study and play. Unaccompanied children must be ensured accommodation at the Border Guard premises for asylum seekers, in which there is equipment, and also personnel corresponding to their age. The detained asylum seeker who has violated the internal rules of procedures of the Border Guard premises for asylum seekers or endangers the safety of other persons may be placed, by a decision of an official authorized by the Chief of the Border Guard, separately in premises specially equipped for this purpose for a time period up to 10 days.

Upon admission to the centre, the asylum seeker must be familiarized with his rights and obligations and the internal rules of procedure in a language which he understands or is reasonably supposed to understand, if necessary, using services of an interpreter (section 22(4)).

Cost of detention. According to official sources, in 2013 total immigration detention costs--including food, accommodation, medical assistance, and interpretation services--amounted to 440 Euros per month. Daily costs of medical assistance were 0.7 Euro, food for adults 6.24 Euros, food for children 6.70 Euros, costs of hygienic products for men were 5.28 Euros, for women 6.05 Euros, and for children 3.6 Euros. Latvia spent that year 1,131 Euros for legal assistance for asylum seekers and 168 for legal assistance to migrants in irregular situation.³⁹

November 2014, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/index_en.htm.

³⁹ European Migration Network (EMN) National Contact Point for Latvia (Office of Citizenship and Migration Affairs), *The use of detention and alternatives to detention in the context of immigration policies*, November 2014, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/index_en.htm.

DETENTION INFRASTRUCTURE

As of January 2017, Latvia operated one dedicated long-term immigration detention centre, located in Daugavpils.⁴⁰ Formally called the “Accommodation Centre for Detained Aliens,” the centre is managed by the Border Guard, part of the Ministry of Internal Affairs. The facility opened in May 2011 on the premises of former military barracks.⁴¹ In 2015, authorities announced the construction of another detention centre in Mucenieki village in the Ropazi municipality with a capacity of 84.⁴²

The Border Guard can temporarily detain foreign nationals in other facilities. Temporary detention premises are located in the regional branches of the SBG, the SBG headquarters in Riga, the Riga International Airport, the Riga Port, and other border crossing points.⁴³ Although there are no statistics on detention at these facilities, according to the Latvian Centre for Human Rights migrants are generally placed there for a few hours, when awaiting deportation or transfer to the Daugavpils facility.⁴⁴ The Ombudsman stressed that these facilities are not suitable for detention for more than a few hours due to the poor conditions.⁴⁵

The Daugavpils centre is located in a two-floor building and has an official capacity of 70.⁴⁶ The centre confines men, women, and families in separate sections. As of 2011, the facility had two male units and a unit for women and families.⁴⁷ Likewise,

⁴⁰ Svetlana Djackova (Latvian Centre for Human Rights), *Email exchange with Izabella Majcher* (Global Detention Project), January 2017.

⁴¹ European Migration Network (EMN) National Contact Point for Latvia (Office of Citizenship and Migration Affairs), *The use of detention and alternatives to detention in the context of immigration policies*, November 2014, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/index_en.htm; European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), *Report to the Latvian Government on the visit to Latvia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 5 to 15 September 2011*, CPT/Inf (2013) 20, 2013, <http://www.cpt.coe.int/en/states/lva.htm>.

⁴² European Migration Network, *Country Factsheet: Latvia 2015*, 2016, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/country-factsheets/16a_latvia_country_factsheet_2015.pdf; Baltic Course, “Mucenieki population in Latvia object to construction of detention center for foreigners,” *Baltic Course*, 16 February 2016, <http://www.baltic-course.com/eng/legislation/?doc=116815>.

⁴³ Svetlana Djackova (Latvian Centre for Human Rights), *Email exchange with Izabella Majcher* (Global Detention Project), January 2017; Ilvija Puce and L. Gravere, *Monitoring report on Closed Institutions in Latvia*, Latvian Centre for Human Rights (LCHR), 2006.

⁴⁴ Svetlana Djackova (Latvian Centre for Human Rights), *Email exchange with Izabella Majcher* (Global Detention Project), January 2017.

⁴⁵ Ombudsman of the Republic of Latvia, *Report of the Year 2013 of the Ombudsman of the Republic of Latvia*, 2014, <http://www.tiesibsargs.lv/en/pages/research-and-publications/annual-reports>; Ombudsman of the Republic of Latvia, *Report of the Year 2014 of the Ombudsman of the Republic of Latvia*, 2015, <http://www.tiesibsargs.lv/en/pages/research-and-publications/annual-reports>.

⁴⁶ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), *Report to the Latvian Government on the visit to Latvia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 5 to 15 September 2011*, CPT/Inf (2013) 20, 2013, <http://www.cpt.coe.int/en/states/lva.htm>.

⁴⁷ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), *Report to the Latvian Government on the visit to Latvia carried out by the European Committee for*

undocumented migrants and asylum seekers are confined separately. There are also special premises for non-nationals who breach the internal rules of the facility.⁴⁸

According to official sources, each detainee must have at least four square metres. Rooms can confine up to four people but tend to have two people at any one time.⁴⁹ In 2011, the European Committee for the Prevention of Torture (CPT) reported that the rooms were had adequate space, around 25 square metres for four persons.⁵⁰

According to official sources, the centre has a fitness room, rest room equipped with a TV, library, room for religious rituals, and walking area including playground for children and area for sport. Detainees may move freely within their respective units and have two hours outdoor exercise per day.⁵¹

Upon admission to the centre, devices belonging to the detainee, like telephones and computers, are seized. However detainees may use this equipment for communication purposes if given permission from the head of the centre. Detainees may receive visits.⁵²

The Latvian Centre for Human Rights regularly visits the facility and provides legal aid to detainees. The Red Cross has provided education to children as well as humanitarian aid. A private company provides linguistic services.⁵³

Sources in Latvia informed the Global Detention Project that the material conditions at the Daugavpiļus centre were good. However, leisure activities were insufficient and the centre did not employ social workers or psychologists. Some detainees complained about poor medical care and food.⁵⁴

the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 5 to 15 September 2011, CPT/Inf (2013) 20, 2013, <http://www.cpt.coe.int/en/states/lva.htm>.

⁴⁸ European Migration Network (EMN) National Contact Point for Latvia (Office of Citizenship and Migration Affairs), *The use of detention and alternatives to detention in the context of immigration policies*, November 2014, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/index_en.htm.

⁴⁹ European Migration Network (EMN) National Contact Point for Latvia (Office of Citizenship and Migration Affairs), *The use of detention and alternatives to detention in the context of immigration policies*, November 2014, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/index_en.htm.

⁵⁰ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), *Report to the Latvian Government on the visit to Latvia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 5 to 15 September 2011*, CPT/Inf (2013) 20, 2013, <http://www.cpt.coe.int/en/states/lva.htm>.

⁵¹ European Migration Network (EMN) National Contact Point for Latvia (Office of Citizenship and Migration Affairs), *The use of detention and alternatives to detention in the context of immigration policies*, November 2014, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/index_en.htm.

⁵² European Migration Network (EMN) National Contact Point for Latvia (Office of Citizenship and Migration Affairs), *The use of detention and alternatives to detention in the context of immigration policies*, November 2014, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/index_en.htm.

⁵³ Svetlana Djackova (Latvian Centre for Human Rights), *Email exchange with Izabella Majcher* (Global Detention Project), January 2017.

⁵⁴ Svetlana Djackova (Latvian Centre for Human Rights), *Email exchange with Izabella Majcher* (Global Detention Project), January 2017.

In contrast, in 2014 the UN Human Rights Committee expressed concern about reports denouncing poor conditions of detention.⁵⁵ In 2013, the Latvian Ombudsman reported that privacy was not adequately ensured during medical examinations and that there was a lack of a room for placing and observation of ill detainees and a possibility for call the personnel in isolation premises. The centre also lacked adequate arrangements for detainees confined to a wheelchair.⁵⁶

Following its visit to the centre in 2011, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) noted that the material conditions were good. The rooms were properly ventilated, clean and adequately furnished with beds with full bedding, wardrobes, and fully partitioned internal sanitary annex including toilet and shower. Likewise, health service was generally adequate. A nurse was present daily at the centre and newly admitted non-nationals were examined usually within 24 hours. The CPT was also satisfied with the medical equipment and supply of medication. However, the Committee was concerned that the staff openly carried truncheons in the male sections and recommended to change this practice. The CPT also suggested expanding the range of activities for migrants detained for prolonged periods.⁵⁷

In the same year, the Latvian Centre for Human Rights noted that the material conditions and access to basic necessities complied with basic standards, in the areas of food, sanitation, heating, and equipment. The advocacy group however pointed to difficulties with in terms of the communication between detainees and the personnel, communication with the outside world, and access to legal aid; inadequate leisure activities; and absence of psychologist.⁵⁸

Prior to the opening of the Daugavpils facility in May 2011, Latvia operated a detention centre in Olaine. Officially called the “Detention Camp for Illegal Immigrants,”⁵⁹ the centre had an official capacity of 50. The centre reportedly had very poor conditions of detention.⁶⁰ Before 1999, immigrants were accommodated in the “Illegal Migrant

⁵⁵ Human Rights Committee, *Concluding observations on the third periodic report of Latvia*, CCPR/C/LVA/CO/3, 11 April 2014, <http://www.ohchr.org/EN/countries/ENACARRegion/Pages/LVIndex.aspx>.

⁵⁶ Ombudsman of the Republic of Latvia, *Report of the Year 2013 of the Ombudsman of the Republic of Latvia*, 2014, <http://www.tiesibsargs.lv/en/pages/research-and-publications/annual-reports>.

⁵⁷ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), *Report to the Latvian Government on the visit to Latvia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 5 to 15 September 2011*, CPT/Inf (2013) 20, 2013, <http://www.cpt.coe.int/en/states/lva.htm>.

⁵⁸ Latvian Centre for Human Rights, *Detention of asylum seekers and alternatives to detention in Latvia*, 2011, http://cilvektiesibas.org.lv/media/attachments/02/10/2012/Nacionalais_zinojums-ENG-PREVIEW3.pdf.

⁵⁹ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), *Report to the Latvian Government on the visit to Latvia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 5 to 15 September 2011*, CPT/Inf (2013) 20, 2013, <http://www.cpt.coe.int/en/states/lva.htm>.

⁶⁰ Ilvija Puce, “Legal Norms of Detention and Legal Rights of Detainees in Latvia,” 2007; Caritas Latvia, “National Report: Latvia,” In *Becoming Vulnerable in Detention: Civil Society Report on the Detention of*

Detention Centre" on Gaizina Street, in Riga.⁶¹ This facility was closed in 2001 following recommendations made by the CPT, which urged the removal of all irregular migrants from the "totally unacceptable" conditions and "inhuman and degrading treatment" at the facility. Detainees were subsequently transferred to the Olaine facility.⁶²

Vulnerable Asylum Seekers and Irregular Migrants in the European Union, Jesuit Refugee Service-Europe, 2010; Latvian Centre for Human Rights, *Shadow Report to the UN Committee against Torture*, 2007.

⁶¹ Latvian Centre for Human Rights, *Shadow Report to the UN Committee against Torture*, 2007.

⁶² Ilvija Puce, "Legal Norms of Detention and Legal Rights of Detainees in Latvia," 2007.

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