

# COUNTRY REPORT

## IMMIGRATION DETENTION IN LATVIA: GIVING "ACCOMMODATION" A WHOLE NEW MEANING

*MAY 2019*



**GLOBALDETENTIONPROJECT**





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## THE GLOBAL DETENTION PROJECT MISSION

The Global Detention Project (GDP) is a non-profit organisation based in Geneva that promotes the human rights of people who have been detained for reasons related to their non-citizen status. Our mission is:

- To promote the human rights of detained migrants, refugees, and asylum seekers;
- To ensure transparency in the treatment of immigration detainees;
- To reinforce advocacy aimed at reforming detention systems;
- To nurture policy-relevant scholarship on the causes and consequences of migration control policies.

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**Front cover image:** Latvian guards patrol the country's fence along the Russian border © Creative Commons

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## **GLOSSARY**

<b>CAT</b>	UN Committee against Torture
<b>CERD</b>	UN Committee on the Elimination of Racial Discrimination
<b>CPT</b>	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
<b>CRC</b>	UN Committee on the Rights of the Child
<b>ECRI</b>	European Commission against Racism and Intolerance
<b>HRC</b>	UN Human Rights Committee
<b>LCHR</b>	Latvian Centre for Human Rights
<b>SBG</b>	State Border Guard



## KEY FINDINGS

- Latvia is detaining more people for longer periods even as migratory pressures fall.
- The number of immigration detainees increased from 206 in 2012 to 671 in 2016.
- The average length of detention increased by some 30 percent between 2012 and 2016.
- The country employs misleading language—“accommodation centre”—to denote detention facilities.
- “Alternatives to detention” may be considered only for “humanitarian” reasons, and thus they are rarely granted.
- Children over the age 14 can be detained.
- Between 2013 and 2016, the number of detained children increased almost four-fold.
- The Border Guard may detain non-citizens for 10 days without judicial approval.
- Although there are elaborate procedural rules governing detention decisions, courts reportedly nearly always agree with Border Guard decisions concerning the application of detention measures.



## 1. INTRODUCTION

Like other Baltic countries, Latvia is not exposed to the same migratory pressures experienced elsewhere in the European Union (EU). While there was a modest increase in asylum applications between 2015 and 2017, the annual number of applications has dropped sharply since then, to less than 40 (the second lowest in the EU after Estonia.) And yet, the numbers of entry refusals at its borders have doubled since 2016, to 1,685 in 2018.<sup>1</sup> A large proportion of those apprehended at the border are Vietnamese who intend to transit Latvia en route to Poland.<sup>2</sup>

When apprehensions at the borders with Russia and Belarus increased in 2015, from 265 to 745—an extremely small number in the EU context—the country’s public broadcasting service labelled it a “cause for alarm.”<sup>3</sup> The country is constructing a 90-kilometer fence along its border with Russia, due to be completed in 2019 at an estimated cost of 17 million EUR.<sup>4</sup> According to Latvia’s Ambassador to Russia, “This fence is 100 percent aimed against illegal immigration.” The Interior Ministry argues that the fence is intended to “fortify Latvia’s outer border, which is concurrently the EU’s outer border as well.”<sup>5</sup> Plans have also been made to build a 120-kilometre fence along the border with Belarus, at a cost of 10.5 million EUR.<sup>6</sup> In 2017, Latvia doubled detention capacity by opening a second

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<sup>1</sup> Eurostat, “Database: Asylum and Managed Migration,” <https://ec.europa.eu/eurostat/data/database>

<sup>2</sup> Jauns, “Par 2 miljoniem celtais bēgļu izmitināšanas centrs Muceniekos stāv pilnīgi tukšs,” 14 June 2018, <https://jauns.lv/raksts/zinas/285235-par-2-miljoniem-celtais-beglu-izmitinasanas-centrs-muceniekos-stav-pilnigi-tukss>

<sup>3</sup> 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/>

<sup>4</sup> 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/>; The Baltic Times, “Fence on Border with Russia Targets Specifically Illegal Immigration - Latvian Ambassador,” 18<sup>th</sup> January 2018, [https://www.baltictimes.com/fence\\_on\\_border\\_with\\_russia\\_targets\\_specifically\\_illegal\\_immigration\\_-\\_latvian\\_ambassador/](https://www.baltictimes.com/fence_on_border_with_russia_targets_specifically_illegal_immigration_-_latvian_ambassador/)

<sup>5</sup> 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/>

<sup>6</sup> S. Smagare, “Latvia to Build €10.5m Fence on Border with Belarus,” *LSM.LV*, 1 November 2017, <https://eng.lsm.lv/article/society/society/latvia-to-build-10.5m-fence-on-border-with-belarus.a255741/>

<sup>5</sup> 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/>

<sup>6</sup> S. Smagare, “Latvia to Build €10.5m Fence on Border with Belarus,” *LSM.LV*, 1 November 2017, <https://eng.lsm.lv/article/society/society/latvia-to-build-10.5m-fence-on-border-with-belarus.a255741/>

“accommodation” centre in Mucenieki. The number of immigration detainees has increased considerably in recent years, from 263 in 2014 to 671 in 2016.<sup>7</sup>

Despite the small scale of immigration detention in Latvia, four UN human rights treaty-monitoring bodies have voiced concern about the country’s immigration detention laws and practices since 2013. The particularly controversial elements that have been flagged include the fact that non-citizens can be detained for an initial 10-day period without court authorisation, that children over the age of 14 can be detained, that alternatives to detention are only granted for “humanitarian considerations,” and that there are a lack of provisions preventing re-detention.

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<sup>7</sup> Office of Citizenship and Migration Affairs (EMN Latvia NCP), “The Effectiveness of Return in EU Member States: Challenges and Good Practices Linked to EU Rules and Standards: Latvia,” 2017, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/16a\\_latvia\\_effectiveness\\_of\\_return\\_final\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/16a_latvia_effectiveness_of_return_final_en.pdf)





## 2. LAWS, POLICIES, PRACTICES

**2.1 Key norms.** Latvia's immigration policy is based on 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.

**2.2 Grounds for detention.** Pursuant to Section 60 of the Immigration Law, when a Border Guard official refuses entry to a non-national and it is not possible to return the person immediately, the individual can be detained for up to 48 hours.

Under Section 51(1) of the Immigration Law, the Border Guard can order detention (*aizturēšana*) if a non-national is subject to a removal procedure or return based on a readmission agreement. Following the transposition of the [EU Returns Directive](#) a new set of grounds for detention was added. Specifically, 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—a determination that is based on any of the following criteria: the individual 1) fails to disclose their identity, provides false information, or refuses to cooperate; 2) crosses the external border, avoiding border checks and using forged documents; 3) fails to indicate a place that they will reside while awaiting a removal procedure; 4) threatens security, public order, or safety; 5) promotes undocumented immigration; 6) has been convicted for a criminal offence punishable with a prison sentence of at least one year; 7) has previously avoided a removal procedure; 8) unjustifiably fails to abide by a voluntary return decision; 9) fails to register with the Border Guard; 10) leaves an accommodation centre; or 11) violates a re-entry ban.

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

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<sup>8</sup> Latvian Centre for Human Rights (LCHR), "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/>

<sup>9</sup> 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](http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Latvia/Latvia_CBC_en.asp)

**2.3 Asylum seekers.** According to Section 16 of the Asylum Law, 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 is based; 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 their removal; 5) the competent authorities (including the Border Guard) have reason to believe that the asylum seeker presents a threat to national security or public order and safety; 6) detention is necessary for a transfer procedure in accordance with the [EU Dublin Regulation](#).

In 2018, the [UN Committee on the Elimination of Racial Discrimination \(CERD\)](#) recommended that Latvia detain adult asylum seekers only as a measure of last resort and for the shortest possible period of time.<sup>10</sup> In 2014, the [UN Human Rights Committee \(HRC\)](#) urged Latvia to amend the Asylum Law to establish safeguards against the arbitrary detention of asylum seekers, and to detain asylum seekers only as a measure of last resort and for the shortest possible period.<sup>11</sup> The [UN Committee against Torture \(CAT\)](#) (in 2013)<sup>12</sup> and the [ECRI](#) (in 2011)<sup>13</sup> also recommended that the country ensure that asylum seekers are only detained as a measure of last resort.

**2.4 Children.** As in [Austria](#), children under the age of 14 cannot be placed in immigration detention (Immigration Law, Section 51(1)). However, unaccompanied children over the age of 14 can be detained in Border Guard facilities or placed in childcare institutions (Section 59.5), and children of any age can be placed in detention at their parent's request to preserve family unity. These children have the same rights and duties as parents (Section 59.1(5)). Children are to be accommodated together with their parents (Section 59.1(3)), and according to official sources, families with children are placed in separate sections of detention centres.<sup>14</sup>

The number of detained unaccompanied children is growing. According to the European Migration Network (EMN), there were no unaccompanied children in detention in 2012, five

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<sup>10</sup> UN Committee on the Elimination of Racial Discrimination (CERD), "Concluding Observations on the Combined sixth to Twelfth Periodic Reports of Latvia, CERD/C/LVA/CO/6-12," 25 September 2018, <https://www.ohchr.org/EN/Countries/ENACARegion/Pages/LVIndex.aspx>

<sup>11</sup> UN Human Rights Committee (HRC), "Concluding Observations on the Third Periodic Report of Latvia, CCPR/C/LVA/CO/3," 11 April 2014, <http://www.ohchr.org/EN/countries/ENACARegion/Pages/LVIndex.aspx>

<sup>12</sup> UN Committee against Torture (CAT), "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/ENACARegion/Pages/LVIndex.aspx>

<sup>13</sup> 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](http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Latvia/Latvia_CBC_en.asp)

<sup>14</sup> 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](http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/index_en.htm)

in 2013 (although the EMN provides contradictory reports for that year),<sup>15</sup> nine in 2014, 26 in 2015, and 33 in 2016.

The country detained three families in 2012, three in 2013, one in 2014, none in 2015, and one in 2016.<sup>16</sup>

Among the 14 EU states to provide statistics to the [European Union Agency for Fundamental Rights](#) (FRA)'s study on children in immigration detention, Latvia's data revealed that the country had by far the longest period of child detention during the study's reference dates (2015 and 2016)—notably, 109 days for an unaccompanied child (Poland scored second with 82 days for an accompanied child).<sup>17</sup>

Latvia's practice of detaining children has triggered criticism from several UN human rights treaty bodies. In 2018, the CERD recommended that Latvia cease the practice of detaining child asylum seekers.<sup>18</sup> In 2016, the [UN Committee on the Rights of the Child](#) (CRC) 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 legislation to exempt children from detention. The committee was also concerned about limited health care provision for detained children.<sup>19</sup> In 2013 meanwhile, the CAT expressed concern about the detention of child asylum seekers over the age of 14 and urged the country to refrain from detaining them.<sup>20</sup>

**2.5 Other vulnerable groups.** Latvian law does not prohibit the detention of vulnerable persons. However, the Immigration Law does provide that vulnerable persons cannot be placed in temporary places of detention within police departments (Section 59(1)).<sup>21</sup> Those who are classed as vulnerable persons include children, people with disabilities, elderly,

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<sup>15</sup> A European Migration Network (EMN) report from 2017 reported zero for 2013, but the EMN report for 2014 reported five. See: 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](http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/index_en.htm); Office of Citizenship and Migration Affairs (EMN Latvia NCP), "The Effectiveness of Return in EU Member States: Challenges and Good Practices Linked to EU Rules and Standards: Latvia," 2017, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/16a\\_latvia\\_effectiveness\\_of\\_return\\_final\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/16a_latvia_effectiveness_of_return_final_en.pdf)

<sup>16</sup> Office of Citizenship and Migration Affairs (EMN Latvia NCP), "The Effectiveness of Return in EU Member States: Challenges and Good Practices Linked to EU Rules and Standards: Latvia," 2017, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/16a\\_latvia\\_effectiveness\\_of\\_return\\_final\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/16a_latvia_effectiveness_of_return_final_en.pdf)

<sup>17</sup> European Agency for Fundamental Rights (FRA), "European Legal and Policy Framework on Immigration Detention of Children," 2017, <http://fra.europa.eu/en/publication/2017/child-migrant-detention>

<sup>18</sup> UN Committee on the Elimination of Racial Discrimination (CERD), "Concluding Observations on the Combined Sixth to Twelfth Periodic Reports of Latvia, CERD/C/LVA/CO/6-12," 25 September 2018, <https://www.ohchr.org/EN/Countries/ENACARegion/Pages/LVIndex.aspx>

<sup>19</sup> UN Committee on the Rights of the Child (CRC), "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/ENACARegion/Pages/LVIndex.aspx>

<sup>20</sup> UN Committee against Torture (CAT), "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/ENACARegion/Pages/LVIndex.aspx>

<sup>21</sup> Office of Citizenship and Migration Affairs (EMN Latvia NCP), "The Effectiveness of Return in EU Member States: Challenges and Good Practices Linked to EU Rules and Standards: Latvia," 2017, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/16a\\_latvia\\_effectiveness\\_of\\_return\\_final\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/16a_latvia_effectiveness_of_return_final_en.pdf)

pregnant women, parents of minor children, and victims of serious psychological, physical, or sexual violence.

**2.6 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 requiring a court order—detention for periods longer than this must be approved by a court. According to the LCHR, the 10-day detention prior to court authorisation 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.<sup>22</sup>

Under Section 54(2), the maximum period of detention that can be authorised by a court is two months. If removal is impossible within this period, a judge may extend the non-citizen’s detention for another two months (Section 54(3)). Detention may be repeatedly extended, but only up to a maximum period of six months (Section 54(4)). If the detainee refuses to cooperate or there are delays in receiving the necessary documents from third countries, this period of detention may be further extended for an additional 12 months (Section 54(7)). Prior to the transposition of the EU Returns Directive, the maximum period of detention was 20 months.<sup>23</sup> Latvia is thus one of a handful of EU countries—others include [Lithuania](#), [Denmark](#), and [Sweden](#)—that were obliged to shorten the maximum detention to comply with the directive.

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 authorised by a court (Section 18(1)). The detention of an asylum seeker, as authorised by a court, may be maintained for up to two months (Section 19(1)).

According to official sources, the average length of detention was 20-25 days in 2016;<sup>24</sup> 20 days in 2013; 18 days in 2012; and 20 days in 2011. The average time for which asylum seekers are detained has decreased over recent years—from 25 days in 2011, to 15 days in 2012, and 12 days in 2013.<sup>25</sup> Statistics from the Border Guard reveal that the longest periods of detention in the return procedure in recent years was 118 days in 2014, 63 days in 2013, and 106 days in 2012.<sup>26</sup>

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

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<sup>22</sup> Latvian Centre for Human Rights (LCHR), “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/>

<sup>23</sup> I. Puce, “Legal Norms of Detention and Legal Rights of Detainees in Latvia,” 2007.

<sup>24</sup> Office of Citizenship and Migration Affairs (EMN Latvia NCP), “The Effectiveness of Return in EU Member States: Challenges and Good Practices Linked to EU Rules and Standards: Latvia,” 2017, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/16a\\_latvia\\_effectiveness\\_of\\_return\\_final\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/16a_latvia_effectiveness_of_return_final_en.pdf)

<sup>25</sup> 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](http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/index_en.htm)

<sup>26</sup> Latvian Centre for Human Rights (LCHR), “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/>

in law is respected.<sup>27</sup> Earlier, 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.<sup>28</sup>

**2.7 Procedural guarantees.** Both 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. When a person is detained, the Border Guard must draw up a detention report, which should contain the date and location, the name of the person who has drafted the report, information about the detainee, and motives for their detention (Section 52). The non-citizen has the right to appeal the detention decision to a court. Under Section 56(1), non-nationals must be told of their right to appeal at the moment of detention, and also be allowed to contact their representative and receive legal assistance. Detainees are to be provided with information about detention (Section 56(2)), have the right to communicate in a language they understand, and, if necessary, be provided with an interpreter (Section 56(3)). However, observers note that detention reports are written in Latvian and detainees tend to be orally informed about their detention order in Latvian.<sup>29</sup>

A Border Guard official must take the non-national to a court at least 48 hours prior to the expiration of the detention period, and invite an interpreter to attend, if necessary (Section 55(2)). Based on the official's application, the court decides whether detention should be extended (Section 54(2)). The court must examine the materials submitted, including the Border Guard official's submission, detention report, removal order, and documents detailing the measures taken to remove the non-national. In taking a decision to detain, extend the period of detention, or refuse to extend the 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 the non-citizen's detention, are still effective. The court must state the reasons for its 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 the court's decision must be sent to both the non-citizen and the Border Guard within 24 hours of receipt of the Border Guard's application (Section 55(5)).

Despite these elaborate rules, an analysis of 2012-2014 court decisions carried out by the LCHR reveals that in most cases, the court agreed with the Border Guard and ordered detention.<sup>30</sup>

At every point at which detention can be extended—namely every two months during the initial six-month period of detention—this review process must take place (Section 54(3)-(4)).

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<sup>27</sup> 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](http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Latvia/Latvia_CBC_en.asp)

<sup>28</sup> I. Puce, "Legal Norms of Detention and Legal Rights of Detainees in Latvia," 2007.

<sup>29</sup> Latvian Centre for Human Rights (LCHR), "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/>

<sup>30</sup> Latvian Centre for Human Rights (LCHR), "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/>

However, this initial six-month 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 of receiving a copy of the detention decision, both the non-national and the Border Guard 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 non-citizen as well as the Border Guard (Section 55(7)). However, the LCHR has observed that the right to challenge detention is inadequately implemented in practice. Between 2013-2014, the court ruled against the Border Guard in just five cases.<sup>31</sup>

Procedural guarantees for asylum seekers are spelled out in the Asylum Law. Under Section 17, the Border Guard may detain an asylum seeker for up to six days. The Border Guard must draw up a detention report for each case containing the name of the official, the name of the asylum seeker, the time and place of detention, the established facts, the reasons for detention, the applicable legal provisions, the procedures for appealing detention, and details regarding the possibility to request free legal aid and representation. The asylum seeker must be given access to a copy of these reports in a language they understand, are reasonably supposed to understand, or using the services of an interpreter (Section 17(1), (2), (5), (7)). Under Section 17(5), an asylum seeker must also be briefed about the reasons for their detention, the procedures for appeal, and the procedures of the court supervision of detention, and they must also be informed about the possibility to request free legal aid. This information, too, must be conveyed in a language that 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 (and no later than one working day after receiving the application), invite a legal aid provider from an official list of approved providers (Section 17(6)).

Under Section 18(1), an asylum seeker may be detained for more than six days on the basis of a district court decision. The Border Guard should submit a proposal to the court justifying the detention of the asylum seeker beyond six days no later than 48 hours before the initial period for detention expires (Section 18(2)). Within 24 hours of receiving the proposal, the district court must hear the opinion of the Border Guard and the asylum seeker and their representative (if any) and evaluate the grounds for detention (Section 19(1)). The Border Guard should take the asylum seeker to the district court and, if necessary, invite an interpreter (Section 18(3)). Both the asylum seeker and the Border Guard should receive a copy of the court decision without delay—and no longer than 24 hours following the decision. If the asylum seeker does not have a representative, the court should provide a full written translation of the decision in a language that they understand or are reasonably expected to understand (Section 19(2)).

According to Section 17(9), an asylum seeker has the right to contest their initial detention in front of the district court, but this can take place no later than 48 hours after they have been provided with their detention report and information justifying their detention. Under Section 20(1), an asylum seeker (or their representative) may appeal the necessity of their continued detention before the district court at any time. The court may reject their appeal if it does not

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<sup>31</sup> Latvian Centre for Human Rights (LCHR), "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/>

contain new information regarding their circumstances—in other words, it must contain information that was not known or disclosed when the court previously decided on detention or examined a previous claim (Section 20(3)). The court examines the appeal in a written procedure without the asylum seeker’s participation, and the decision is not subject to appeal (Section 20(4)).

In 2011, the [European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\)](#) 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 the practical impossibility of appealing against their detention.<sup>32</sup> Earlier, in 2004, the [UN Working Group on Arbitrary Detention](#) also urged the country to ensure that all immigration detainees have effective legal means to challenge the legality of their detention.<sup>33</sup>

**2.8 Detaining authorities and institutions.** The State Border Guard (SBG), part of the Ministry of Internal Affairs, is responsible for detention decisions for the first 10 days and nights of detention. For detention periods that exceed this limit, the decision must be adopted by a court.<sup>34</sup> The SBG is also responsible for the management of detention centres.

**2.9 Non-custodial measures.** According to Section 51(3) of the Immigration Law, the Border Guard may decide to apply one of the following “alternative” measures on humanitarian grounds: 1) regular reporting at a specified Border Guard unit; or 2) handing over travel documents and other personal identification documents to a Border Guard official. The Asylum Law provides for one alternative measure, notably registration at the Border Guard unit (Section 13(1)). In 2011-2013, there was a 96 percent compliance rate with the reporting obligation.<sup>35</sup>

As observed by the LCHR, the Immigration Law does not include an explicit obligation for authorities to consider alternatives to detention, and there are no detailed rules governing the application of the alternatives or criteria for their use.<sup>36</sup> In 2018, the CERD thus urged

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<sup>32</sup> 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>

<sup>33</sup> Working Group on Arbitrary Detention (WAGD), “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>

<sup>34</sup> Office of Citizenship and Migration Affairs (EMN Latvia NCP), “The Effectiveness of Return in EU Member States: Challenges and Good Practices Linked to EU Rules and Standards: Latvia,” 2017, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/16a\\_latvia\\_effectiveness\\_of\\_return\\_final\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/16a_latvia_effectiveness_of_return_final_en.pdf)

<sup>35</sup> 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](http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/index_en.htm)

<sup>36</sup> Latvian Centre for Human Rights (LCHR), “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/>

Latvia to detain asylum seekers as a last resort after considering all available alternatives to detention.<sup>37</sup>

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 typically granted on account of health or family considerations.<sup>38</sup>

**2.10 Regulation of detention conditions.** According to Section 59(1)-(2) of the Immigration Law, non-citizens are to be detained in temporary holding rooms of the SBG or at an accommodation centre (*izmitināšanas centrs*)—a structural unit belonging to the SBG. If there is a likelihood of absconding or they pose a threat to national security or public order and safety, they can be placed in police premises (called temporary places of detention) for up to 10 working days.<sup>39</sup> Vulnerable persons may not be detained in these premises.

Both the Immigration Law and Asylum Law provide rules concerning treatment in detention. These provisions 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, the Requirements for the Arrangement and Equipping of Such Rooms,”<sup>40</sup> and most recent, 2017 “Regulations Regarding the Requirements for the Arranging and Equipping of the Accommodation Centre.”

Men and women should be accommodated separately, and children must be accommodated with parents or legal representatives. Upon request, members of the same family should be accommodated together (Immigration Law, Section 59.1(3)-(4)). Under the 2017 Regulation (§4), each detainee should have at least four square metres of living space, and vulnerable categories should have at least six square metres. Rooms should be equipped with beds, lockers, chairs, a table, wardrobes, lamps, and a refrigerator. The centre should have shared facilities including a study room, an exercise room, a religious ritual room, a dining room with kitchenette, a laundry and smoking room (§5), and two outdoor spaces of at least 25 square metres (§8).

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<sup>37</sup> UN Committee on the Elimination of Racial Discrimination (CERD), “Concluding Observations on the Combined Sixth to Twelfth Periodic Reports of Latvia, CERD/C/LVA/CO/6-12,” 25 September 2018, <https://www.ohchr.org/EN/Countries/ENACARegion/Pages/LVIndex.aspx>

<sup>38</sup> 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](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 (LCHR), “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/>

<sup>39</sup> Office of Citizenship and Migration Affairs (EMN Latvia NCP), “The Effectiveness of Return in EU Member States: Challenges and Good Practices Linked to EU Rules and Standards: Latvia,” 2017, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/16a\\_latvia\\_effectiveness\\_of\\_return\\_final\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/16a_latvia_effectiveness_of_return_final_en.pdf)

<sup>40</sup> 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](http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/index_en.htm)



Detainees are required to observe the centre's internal regulations (Section 59.2(3)), and one who violates these regulations is to be accommodated in "premises specially equipped for such purposes" (Section 59.1(3)).

According to Section 59.2, detainees have the following rights: to communicate with their state consulate; to inform family members or other persons regarding their whereabouts; to receive (paid for) legal assistance; to meet with family members as well as with representatives of international and non-governmental human rights organisations; 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 (paid for) health care services and medicines which have been prescribed by medical personnel; to retain cash that does 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 retain and store property that 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 an ambulance team; primary health care, including urgent dental aid, provided by the medical personnel of the centre; and secondary health care services.<sup>41</sup>

According to Section 21(1) of the Asylum Law, asylum seekers should be held in a Border Guard unit that is specifically equipped for accommodating them. Section 22(3) of the Asylum Law provides that men and women should be accommodated separately and that those who have health issues should be appropriately accommodated—in-line with a doctor's instructions in premises equipped for such a purpose. An asylum seeker's detained relatives should be accommodated together, separated from other detained persons to ensure privacy. Detained children should be able to study and play. Unaccompanied children should be accommodated in the Border Guard premises for asylum seekers, where there should be appropriate equipment and personnel for this age group. A detained asylum seeker who violates the Border Guard premises' internal rules of procedures or endangers the safety of other persons may be placed, following a decision by the Border Guard, in separate premises specifically equipped for this purpose for up to 10 days.

Upon admission to the centre, the asylum seeker must be familiarised with his rights and obligations and the facility's internal rules of procedure in a language that they understand, are reasonably expected to understand or, if necessary, using the services of an interpreter (Section 22(4)). Upon detention, the person's health should be examined (Section 22(2)).

**2.11 Domestic monitoring.** Under both the Immigration Law (Section 59.7) and Asylum Law (Section 21(5)), officials of a competent state institution, and representatives of foundations, associations, and international organisations may visit sites of detention in order to evaluate the conditions that detainees are held in. These institutions must co-ordinate their visit with the head of the detention centre and conform to the internal procedural regulations.

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<sup>41</sup> 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](http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/index_en.htm)

The LCHR is entitled to visit the detention centre to monitor conditions and to provide detainees with legal aid. The Red Cross has provided education to children as well as mentoring and humanitarian aid. A private company provides linguistic services.<sup>42</sup>

Latvia is one of just four EU countries to have not ratified the [Optional Protocol to the Convention against Torture \(OPCAT\)](#).<sup>43</sup> Consequently, it has not established a National Preventive Mechanism to monitor places of detention. However, the [Latvian Ombudsman \(Tiesībsargs\)](#) visited [Daugavpils Detention Centre](#) in 2013, 2014, and 2015.<sup>44</sup>

**2.12 International monitoring.** As a State Party to the [European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\)](#), Latvia receives regular monitoring visits from the CPT. The CPT visited Daugavpils Detention Centre in 2011. Following this visit, the Committee noted that the material conditions at the centre were good but recommended that staff stop openly carrying truncheons and suggested expanding the range of activities for detainees.

In the past few years, four UN human rights treaty bodies made immigration-detention related recommendations to Latvia, notably the CERD (2018),<sup>45</sup> CRC (2016),<sup>46</sup> HRC (2014),<sup>47</sup> and CAT (2013).<sup>48</sup> In general, the treaty bodies all urged Latvia to use detention as a last resort and for the shortest period and to avoid detaining children.

**2.13 Criminalisation.** Under the Criminal Law (*Kriminālikums*), intentional irregular entry to Latvia is punishable with a prison sentence of 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 last for up to two years (Sections 284 and 38). Pursuant to the Administrative Violations Code (*Administratīvo pārkāpumu kodekss*), irregular stay in Latvia is punishable with a fine up to 350 EUR (Section 190(13)).<sup>49</sup>

**2.14 Cost of detention.** According to official sources, total immigration detention costs in 2013—including food, accommodation, medical assistance, and interpretation services—

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<sup>42</sup> Undisclosed source, Email exchange with Izabella Majcher (Global Detention Project), April 2019; Svetlana Djackova (Latvian Centre for Human Rights (LCHR)), Email exchange with Izabella Majcher (Global Detention Project), January 2017.

<sup>43</sup> The other three countries are [Belgium](#), [Ireland](#), and [Slovakia](#).

<sup>44</sup> Ombudsman, “Annual Reports,” <http://www.tiesibsargs.lv/en/pages/research-and-publications/annual-reports>

<sup>45</sup> UN Committee on the Elimination of Racial Discrimination (CERD), “Concluding Observations on the Combined Sixth to Twelfth Periodic Reports of Latvia, CERD/C/LVA/CO/6-12,” 25 September 2018, <https://www.ohchr.org/EN/Countries/ENACARRegion/Pages/LVIndex.aspx>

<sup>46</sup> UN Committee on the Rights of the Child (CRC), “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>

<sup>47</sup> UN Human Rights Committee (HRC), “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>

<sup>48</sup> UN Committee against Torture (CAT), “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>

<sup>49</sup> 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>

amounted to 440 EUR per person per month. The daily cost of medical assistance was 0.70 EUR; food for adults was 6.24 EUR and food for children was 6.70 EUR; the costs of hygiene products for men were 5.28 EUR, for women 6.05 EUR, and for children 3.60 EUR. That same year, Latvia spent 1,131 EUR on legal assistance for asylum seekers and 168 EUR on legal assistance for migrants in an irregular situation.<sup>50</sup>

Media outlets have reported that 1,840,000 EUR were spent on the construction of the second dedicated immigration detention centre in Mucenieki, which opened in 2017.<sup>51</sup>

**2.15 Trends and statistics.** According to official sources, the number of detainees has significantly increased in recent years; 206 non-citizens were detained in 2012, 175 in 2013, 263 in 2014, 743 in 2015, and 671 in 2016. The majority of detainees—almost 90 percent in 2016—are men.<sup>52</sup> Of these, 90 were asylum seekers in 2016, 61 in 2017,<sup>53</sup> and 37 in 2018.<sup>54</sup>

The numbers of detained unaccompanied children and families are also increasing. There were no unaccompanied children in detention in 2012, five in 2013 (although the EMN provides contradictory reports for that year),<sup>55</sup> nine in 2014, 26 in 2015, and 33 in 2016. The country detained three families in 2012, three in 2013, one in 2014, none in 2015, and one in 2016.<sup>56</sup>

While the number of entry refusals generally fluctuates, it has increased in the past three years, from 800 in 2016 to 1,685 in 2018. A large proportion—up to 70 percent—of those

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<sup>50</sup> 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](http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/index_en.htm)

<sup>51</sup> I. Lukjanovs, “Muceniekos uzsācis darboties jaunais aizturēto ārzemnieku izmitināšanas centrs. Centra “Mucenieki” pielāgošanai lielāka patvēruma meklētāju skaita izmitināšanai iedala 300 000 eiro,” *Protesti*, 5 September 2017, <https://bit.ly/2VXpTBm>

<sup>52</sup> Office of Citizenship and Migration Affairs (EMN Latvia NCP), “The Effectiveness of Return in EU Member States: Challenges and Good Practices Linked to EU Rules and Standards: Latvia,” 2017, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/16a\\_latvia\\_effectiveness\\_of\\_return\\_final\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/16a_latvia_effectiveness_of_return_final_en.pdf)

<sup>53</sup> Government of Latvia, “Additional Information from the Republic of Latvia to the Committee on the Elimination of Racial Discrimination in Relation to the Examination of Latvia’s Periodic Report at the 96th Session of the Committee,” 2018, [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCERD%2fAIS%2fLVA%2f32086&Lang=en](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCERD%2fAIS%2fLVA%2f32086&Lang=en)

<sup>54</sup> Undisclosed source, Email exchange with Izabella Majcher (Global Detention Project), April 2019.

<sup>55</sup> A European Migration Network (EMN) report from 2017 reported zero for 2013, but the EMN report for 2014 reported five. See: 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](http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/index_en.htm); Office of Citizenship and Migration Affairs (EMN Latvia NCP), “The Effectiveness of Return in EU Member States: Challenges and Good Practices Linked to EU Rules and Standards: Latvia,” 2017, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/16a\\_latvia\\_effectiveness\\_of\\_return\\_final\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/16a_latvia_effectiveness_of_return_final_en.pdf)

<sup>56</sup> Office of Citizenship and Migration Affairs (EMN Latvia NCP), “The Effectiveness of Return in EU Member States: Challenges and Good Practices Linked to EU Rules and Standards: Latvia,” 2017, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/16a\\_latvia\\_effectiveness\\_of\\_return\\_final\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/16a_latvia_effectiveness_of_return_final_en.pdf)

apprehended without adequate documents are from Vietnam.<sup>57</sup> Latvia returns just under 1,500 people annually, most of whom are returned via the so-called voluntary return process. In 2018, 1,465 people were expelled.<sup>58</sup>

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<sup>57</sup> Jauns, “*Par 2 miljoniem celtais bēgļu izmitināšanas centrs Muceniekos stāv pilnīgi tukšs,*” 14 June 2018, <https://jauns.lv/raksts/zinas/285235-par-2-miljoniem-celtais-beglu-izmitinasanas-centrs-muceniekos-stav-pilnigi-tukss>

<sup>58</sup> Eurostat, “Database: Asylum and Managed Migration,” <https://ec.europa.eu/eurostat/data/database>



## 3. DETENTION INFRASTRUCTURE

**3.1 Summary.** Latvia operates two dedicated long-term immigration detention centres. The longest operating facility—the 84-person Daugavpils centre—opened in May 2011 on the premises of former military barracks.<sup>59</sup> In the summer of 2017, Latvia opened a second detention centre in Mucenieki (Ropazi municipality), approximately 20 kilometres from Riga. The 84-person centre was built near the reception centre for asylum seekers.<sup>60</sup> Detention centres are formally called “accommodation centres for detained aliens” and are managed by the Border Guard, which falls under the authority of the Ministry of Internal Affairs.

Before the Daugavpils facility was opened, Latvia operated a detention centre in Olaine (called the “[Detention Camp for Illegal Immigrants](#)”), which had a total capacity of 50.<sup>61</sup> Reportedly, detention conditions in the facility were poor.<sup>62</sup> Prior to 1999, non-citizens were also detained at the Riga (Gaizina Street) centre (called the “Illegal Migrant Detention Centre”).<sup>63</sup> This was closed in 2001 following recommendations from the CPT, which urged

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<sup>59</sup> Government of Latvia, “Additional Information from the Republic of Latvia to the Committee on the Elimination of Racial Discrimination in Relation to the Examination of Latvia’s Periodic Report at the 96th Session of the Committee,” 2018, [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCERD%2fAIS%2fLVA%2f32086&Lang=en](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCERD%2fAIS%2fLVA%2f32086&Lang=en); Office of Citizenship and Migration Affairs (EMN Latvia NCP), “The Effectiveness of Return in EU Member States: Challenges and Good Practices Linked to EU Rules and Standards: Latvia,” 2017, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/16a\\_latvia\\_effectiveness\\_of\\_return\\_final\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/16a_latvia_effectiveness_of_return_final_en.pdf); 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](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>

<sup>60</sup> Office of Citizenship and Migration Affairs (EMN Latvia NCP), “The Effectiveness of Return in EU Member States: Challenges and Good Practices Linked to EU Rules and Standards: Latvia,” 2017, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/16a\\_latvia\\_effectiveness\\_of\\_return\\_final\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/16a_latvia_effectiveness_of_return_final_en.pdf); Leta, “Jaunuzceltais ārzemnieku izmitināšanas centrs Muceniekos ir pilnīgi tukšs,” *LA.LV*, 14 June 2018, <http://www.la.lv/jaunuzceltais-arzemnieku-izmitinasanas-centrs-muceniekos-ir-pilnigi-tukss>

<sup>61</sup> 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>

<sup>62</sup> I. Puce, “Legal Norms of Detention and Legal Rights of Detainees in Latvia,” 2007; Caritas Latvia, “National Report: Latvia,” *In: Jesuit Refugee Service-Europe, “Becoming Vulnerable in Detention: Civil Society Report on the Detention of Vulnerable Asylum Seekers and Irregular Migrants in the European Union,”* 2010; Latvian Centre for Human Rights (LCHR), “Shadow Report to the UN Committee against Torture,” 2007.

<sup>63</sup> Latvian Centre for Human Rights (LCHR), “Shadow Report to the UN Committee against Torture,” 2007.

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.<sup>64</sup>

According to Immigration Law, the State Border Guard (SBG) can also detain non-citizens in so-called temporary holding rooms (Section 59(1)). These 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.<sup>65</sup> Although there are no statistics detailing detention at these facilities, according to the LCHR migrants are generally held there for a few hours, while awaiting deportation or transfer to a detention facility.<sup>66</sup> The ombudsman stressed that these facilities are not suitable for detention for more than a few hours due to poor conditions.<sup>67</sup>

Non-citizens can also be placed in police premises (called temporary places of detention) for up to 10 days, if there is a likelihood of absconding or they pose a threat to national security or public order and safety.<sup>68</sup> Police departments where migrants are detained include Alūksne and Valka departments of Vidzeme Regional Administration, Bauska department of Zemgale Regional Administration, Daugavpils and Rēzekne departments of Latgale Regional Administration, Ventspils, Saldus, and Liepāja departments of Kurzeme Regional Administration, as well as the Short-term Detention Bureau of Riga Regional Administration.<sup>69</sup>

**3.2 Detention facilities.** Daugavpils detention centre (“Accommodation Centre”), Mucenieki detention centre (“Accommodation Centre”).

### 3.3 Conditions in detention

**3.3a Daugavpils detention centre.** As of 2019, the centre had a capacity of 84<sup>70</sup>—of which 67 places were reserved for men and 17 for women, families, and unaccompanied children. The centre is comprised of three blocks: one block confines male asylum seekers (36 places), one block is for male migrants in return proceedings (31 places), and the third block

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<sup>64</sup> I. Puce, “Legal Norms of Detention and Legal Rights of Detainees in Latvia,” 2007.

<sup>65</sup> Svetlana Djackova (Latvian Centre for Human Rights), Email exchange with Izabella Majcher (Global Detention Project), January 2017; I. Puce and L. Gravere, “Monitoring Report on Closed Institutions in Latvia,” *Latvian Centre for Human Rights (LCHR)*, 2006.

<sup>66</sup> Svetlana Djackova (Latvian Centre for Human Rights), Email exchange with Izabella Majcher (Global Detention Project), January 2017.

<sup>67</sup> 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>

<sup>68</sup> Office of Citizenship and Migration Affairs (EMN Latvia NCP), “The Effectiveness of Return in EU Member States: Challenges and Good Practices Linked to EU Rules and Standards: Latvia,” 2017, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/16a\\_latvia\\_effectiveness\\_of\\_return\\_final\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/16a_latvia_effectiveness_of_return_final_en.pdf)

<sup>69</sup> Ombudsman of the Republic of Latvia, “Report of the Year 2015 of the Ombudsman of the Republic of Latvia,” 2016, <http://www.tiesibsargs.lv/en/pages/research-and-publications/annual-reports>

<sup>70</sup> Undisclosed source, Email exchange with Izabella Majcher (Global Detention Project), April 2019.

is for women, families, and children.<sup>71</sup> There are also special premises for non-nationals who breach the internal rules of the facility.<sup>72</sup>

According to official sources, each detainee must have at least four square metres of space. Rooms can confine up to four people but tend to hold two people at any one time.<sup>73</sup> In 2011, the CPT reported that the rooms had adequate space (approximately 25 square metres for four persons).<sup>74</sup> However in 2015, the ombudsman reported that the centre was overcrowded.<sup>75</sup> According to the CPT, the rooms were properly ventilated, clean, and adequately furnished with beds with full bedding, wardrobes, and a fully partitioned internal sanitary annex including a toilet and a shower.<sup>76</sup> According to official sources, the centre has a fitness room, a rest room equipped with a TV, a library, a room for religious rituals, and an outdoor area including a children's playground and an area for sport. Detainees may move freely within their respective units and have two hours of outdoor exercise each day.<sup>77</sup>

In 2017, sources in Latvia informed the Global Detention Project that the material conditions at the Daugavpils centre were good. However, they noted that leisure activities were insufficient, that the centre did not employ social workers or a psychologist, and that some detainees had complained about poor medical care and food provision.<sup>78</sup> The lack of recreational activities was also highlighted by the ombudsman in 2015 who observed that

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<sup>71</sup> Government of Latvia, "Additional Information from the Republic of Latvia to the Committee on the Elimination of Racial Discrimination in Relation to the Examination of Latvia's Periodic Report at the 96th Session of the Committee," 2018, [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCERD%2fAIS%2fLVA%2f32086&Lang=en](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCERD%2fAIS%2fLVA%2f32086&Lang=en); Office of Citizenship and Migration Affairs (EMN Latvia NCP), "The Effectiveness of Return in EU Member States: Challenges and Good Practices Linked to EU Rules and Standards: Latvia," 2017, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/16a\\_latvia\\_effectiveness\\_of\\_return\\_final\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/16a_latvia_effectiveness_of_return_final_en.pdf)

<sup>72</sup> 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](http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/index_en.htm)

<sup>73</sup> 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](http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/index_en.htm)

<sup>74</sup> 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>

<sup>75</sup> Ombudsman of the Republic of Latvia, "Report of the Year 2015 of the Ombudsman of the Republic of Latvia," 2016, <http://www.tiesibsargs.lv/en/pages/research-and-publications/annual-reports>

<sup>76</sup> 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>

<sup>77</sup> 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](http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/index_en.htm)

<sup>78</sup> Svetlana Djackova (Latvian Centre for Human Rights), Email exchange with Izabella Majcher (Global Detention Project), January 2017.

detainees mainly spent their time watching TV or walking outdoors.<sup>79</sup> Similar concerns were expressed by the CPT in 2011.<sup>80</sup> In contrast, in 2014 the HRC expressed concern following reports highlighting poor detention conditions.<sup>81</sup>

Upon admission to the centre, devices belonging to the detainee, such as telephones and computers, are seized. However, detainees may use such equipment for communication purposes if the head of the centre grants them permission. Detainees may also receive visits.<sup>82</sup>

According to official sources, detained asylum seekers have access to both primary health care (general practitioners, paediatricians, nurses, etc.) as well as secondary health care (specialist treatment in hospital).<sup>83</sup> In 2013, the Latvian Ombudsman reported that privacy was not adequately ensured during medical examinations and that there was insufficient space for accommodating and observing ill detainees. Also, it was not always straightforward for detainees placed in isolation to call for personnel. It was also reported that the centre lacked adequate arrangements for wheelchair-bound detainees.<sup>84</sup> In 2011, the CPT noted that health services were generally adequate. A nurse was present every day at the centre and newly admitted non-nationals were usually examined within 24 hours. The CPT was also satisfied with the available medical equipment and supply of medication.<sup>85</sup>

**3.3b Mucenieki detention centre.** The centre can hold 84 persons—there are 43 places for men and 41 for women and families.<sup>86</sup> Media reports state that the construction of the centre

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<sup>79</sup> Ombudsman of the Republic of Latvia, “Report of the Year 2015 of the Ombudsman of the Republic of Latvia,” 2016, <http://www.tiesibsargs.lv/en/pages/research-and-publications/annual-reports>

<sup>80</sup> 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>

<sup>81</sup> UN Human Rights Committee (HRC), “Concluding Observations on the Third Periodic Report of Latvia, CCPR/C/LVA/CO/3,” 11 April 2014, <http://www.ohchr.org/EN/countries/ENACARegion/Pages/LVIndex.aspx>

<sup>82</sup> 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](http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/index_en.htm)

<sup>83</sup> European Migration Network (EMN) National Contact Point for Latvia (Office of Citizenship and Migration Affairs), “Returning Rejected Asylum Seekers: Challenges and Good Practices in Latvia,” 2016, [https://ec.europa.eu/home-affairs/what-we-do/networks/european\\_migration\\_network/reports/studies\\_en](https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/reports/studies_en)

<sup>84</sup> 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>

<sup>85</sup> 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>

<sup>86</sup> Government of Latvia, “Additional Information from the Republic of Latvia to the Committee on the Elimination of Racial Discrimination in Relation to the Examination of Latvia’s Periodic Report at the 96th Session of the Committee,” 2018, [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCERD%2fAIS%2fLVA%2f32086&Lang=en](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCERD%2fAIS%2fLVA%2f32086&Lang=en)



cost 1,840,000 EUR and was carried out by the Latvian enterprise Skonto Būve.<sup>87</sup> The centre employs 24 staff and there is a separate block for families, women, and children.<sup>88</sup> The facility is surrounded by a three-metre high concrete wall, a barbed wire fence, and has a dozen surveillance cameras. Limited information is available regarding the conditions of detention, however it has been reported that while several dozen non-citizens were detained in the facility in August 2017, as of June 2018 the centre was empty.<sup>89</sup>

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<sup>87</sup> I. Lukjanovs, “Muceniekos uzsācis darboties jaunais aizturēto ārzemnieku izmitināšanas centrs. Centra “Mucenieki” pielāgošanai lielāka patvēruma meklētāju skaita izmitināšanai iedala 300 000 eiro,” *Protesti*, 5 September 2017, <https://bit.ly/2VXpTBm>

<sup>88</sup> European Migration Network (EMN), “Latvia Country Factsheet,” 2017, [https://ec.europa.eu/home-affairs/what-we-do/networks/european\\_migration\\_network/reports/factsheets\\_en](https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/reports/factsheets_en)

<sup>89</sup> I. Vīksne, “NRA pēta, kāpēc migrantu centrs Muceniekos ir tukšs,” *NRA*, 14 June 2018, <https://nra.lv/latvija/247943-nra-peta-kapec-migrantu-centrs-muceniekos-ir-tukss.htm>



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