

STRENGTHENING LATVIAN IMMIGRATION POLICY IN THE CONTEXT OF NATIONAL SECURITY AND GEOPOLITICS

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Abstract. *The international security environment is currently characterised by a growing intensity of conflicts varying in scale. The ongoing Russian war in Ukraine is the largest long-term threat to the Latvia's security, Baltic region and the entire European security architecture. Latvia's security underwent several important developments in 2022, as several important decisions were taken to strengthen the security of the Baltic States. On 22 September 2022, the Latvian Parliament supported amendments to the Immigration Law providing for stricter conditions for issuing residence permits to Russian and Belarusian citizens. The Ministry of the Interior, as the leading state administration institution in strengthening the state border, has also implemented several significant measures since 2022 in strengthening the state border, preventing illegal immigration and criminal offences. The protection of the democratic form of government is a generally accepted priority of Latvia, especially in the current geopolitical context; however, it must be concluded that the public's attitude towards several immigration policy issues remains somewhat ambiguous. In 2024, the Constitutional Court passed a judgement on the compliance of the provisions of the Immigration Law with the Constitution in relation to the issuance of permanent residence permits to the citizens of the Russian Federation. In addition, on 20 June 2024, with the decision of the Department of Administrative Cases of the Supreme Court Senate, legal proceedings in the case, in which a Russian citizen requested issuance of a temporary residence permit, were concluded. The aim of the article is to explore the current issues of immigration policy in Latvia and to delve into the perspectives of strengthening the national border in the context of national security and global geopolitics.*

Keywords: *immigration, residence permits, state border, security, threats.*

Introduction

On 24 February 2022, the Russian Federation launched a war on the territory of the Republic of Ukraine aimed at the destruction of Ukraine's territorial integrity, sovereignty, and independence. Must agree with the Latvian Ombudsman, in response to the military invasion of Ukrainian territory and the violence perpetrated by Russian military units against civilians, as well as the systematic destruction of civilian infrastructure, EU Member States adopted a package of sanctions against Russia's financial, energy, technology, defence, transport, and media sectors. (Tiesībsargs, 2023). Russia's aggression against Ukraine has radically changed the bilateral relations between Latvia and Russia. Most of the bilateral relations have either been suspended or reduced to the minimum necessary level. (LR

Ārlietu ministrija, 2022). On 11 August 2022, the Latvian Parliament adopted a statement on Russia's targeted military attacks against civilians and public areas in Ukraine, recognising Russia's violence against civilians as terrorism and Russia as a state sponsor of terrorism (LR Saeima, 2022).

The amendments to the Immigration Law adopted on 22 September 2022 provide for the suspension of issuing initial temporary residence permits to citizens of the Russian Federation and the Republic of Belarus, as well as a review of residence conditions for citizens of the Russian Federation (Grozījumi Imigrācijas likumā, 2022). The amendments are essential in reducing the influence of Russia and Belarus on Latvia's sectoral policies and narrowing the framework for maintaining mutual relations as much as possible. In accordance with Paragraph 5 of the Amendments, Paragraph 8 of Section 24(1) of the Immigration Law is hereby excluded. Additionally, the Transitional Provisions are supplemented with new Paragraphs 58 and 59 (Grozījumi Imigrācijas likumā, 2022). This means that in the future, citizens and non-citizens of Latvia who wish to become a citizen of another country and continue to reside in Latvia will have to pass a test of the official language proficiency and prove regular and sufficient financial resources (Iekšlietu ministrija, 2022). Currently (since 3 January 2024), all permanent residence permits issued to citizens of the Russian Federation, issued in accordance with Section 24, Paragraph one, Clause 8 of the Immigration Law, have ceased to be valid, if persons had not submitted an application to the Office of Citizenship and Migration Affairs requesting the status of EU long-term resident by 2 January 2024 (Pilsonības un migrācijas lietu pārvalde, 2023).

In response to current geopolitical conditions and potential threats, countries may adjust entry and residence requirements for foreigners. Such changes are particularly relevant for Latvia currently however, the author concludes that the immigration policy of Latvia and Russia as an external threat are perceived ambiguously on various public platforms. In 2023, four cases were brought before the Constitutional Court on the constitutionality of the norms included in the Immigration Law, which concern the issuance of permanent residence permits to citizens of the Russian Federation (Satversmes tiesa, 2024). Since 2022, several law enforcement authorities and institutions have received submissions and e-mails pointing to a series of allegedly disproportionate restrictions that have arisen or will arise in the event that former Latvian citizens or non-citizens who accepted Russian citizenship will not be able to comply with the requirements set by the State in a timely manner (Tiesībsargs, 2023).

The core research object of the article is security, where appropriate immigration policy forms one of the essential elements of national security. Within the framework of the article, the research of the immigration policy of Latvia covers such interdisciplinary areas of security as economic,

political, military, public security, and at the same time also covers the catalogue of fundamental human rights. The article is developed on the basis of extensive quantitative and qualitative data, which provides a comprehensive and in-depth understanding of the subject under investigation. Quantitative data (analysis of the dynamics of the immigration and security situation in conjunction with the quantified geopolitical processes) were used to analyse the impact of the current immigration policy on national security, also highlighting specific topical issues of fundamental rights. Qualitative data (a broad analysis of security theories, legislation, legal policy documents, official documents and reports of law enforcement authorities) revealed a deeper understanding of the importance of strengthening immigration policy in the context of national security and geopolitics.

Trends in international migration and EU policy developments

One of the most significant phenomena promoted by the EU is the freedom to move and reside in any EU member state (Article 3(2) TEU, Article 21 TFEU, Article 45 of the Charter of Fundamental Rights of the European Union), which, in the common European area and also in the case of Latvia signifies a substantial impact on the demographic situation, namely a rapid and unpredictable increase in international migration (Indāns, 2014). The migration process, by its nature, is based on the principle of interdependence, i.e., it is undoubtedly influenced by both geopolitical tendencies and the development of EU policy.

In 2023, there were 184 million international migrants worldwide – 2.3% of the global population. These people were born in one country but live in another (World Development Report 2023: Migrants, Refugees, and Societies, 2023). As a destination, Europe currently attracts more than 50% of the world's total migrant population, with Germany, Spain and France remaining the most popular European countries for requesting asylum. Migration in Europe was particularly affected by Russia's invasion of Ukraine, which forced millions of people to flee their homes. According to UNHCR, more than 20 million border crossings from Ukraine have been recorded since the beginning of the war. Ukrainians mainly travelled to Poland, Romania, Hungary, Slovakia, the Czech Republic and Moldova (Asylum and migration in the EU: facts and figures, 2022).

Over the last decade, the migration process has become a key issue on the international agenda. Several academic studies and publications highlight two opposing approaches to the development of the international migration process. Liberals believe that international migration promotes

openness, cooperation, inclusion, cultural diversity, and respect for human rights. Migration can be economically and socially beneficial for both migrants and host societies. On the other hand, the conservative approach is based on the assumption that international migration worsens the situation of migrants, leading to social discrimination and limited opportunities for integration into society (Haas et al., 2020). This approach considers that the host countries suffer significant social costs linked to the integration of migrants, such as additional spending on education, health, and social security. It is also believed that migration contributes to the segregation of society by creating isolated communities with different cultural and social norms, which can create tensions between different groups in society and threaten the national identity and unity of the country (Guarino, 2024)

The study Migration as Crisis shows that there is indeed a global migration crisis. Experts of the study point to the growing number of migrants, the complex social, security and economic challenges, as well as the need for international cooperation and a more effective migration policy. (Cantat et al., 2023). One of the main objectives of the EU is a progressive and comprehensive European immigration policy based on the principle of solidarity. Immigration policy aims to establish a balanced approach to dealing with both regular and irregular immigration issues (Immigration policy, Fact Sheets on the European Union, 2024), but it must be recognised that immigration policy at European level is in many respects unstable. This conclusion can be attributed to the fact that the formation and development of migration depends simultaneously on factors of global geopolitics and socio-political factors of national interests of the Member States. To address a number of challenges that arose during the migrant crisis 10 years ago and also the current issues, the EU took rapid steps to reform its migration and asylum policy, ensuring a shared responsibility of all Member States. In spring 2024, the European Parliament adopted the new EU Migration and Asylum Pact. The idea is based on 10 laws to introduce uniform rules across the EU on asylum procedures, border checks, faster protection for asylum seekers, faster return if asylum is denied, greater protection for minors and families with children (Hronolģisks pārskats - Migrācijas un patvēruma pakts, 2024).

The Migration and Asylum Pact, expected to be in place in 2026, will establish a flexible but mandatory solidarity mechanism between Member States. The author notes that it will be up to the Member States to set up monitoring mechanisms to guarantee respect for the fundamental rights of asylum seekers, while assessing their entry into the EU. There is now a new compromise found with the adoption of the EU Migration and Asylum Pact on strengthening freedom, security, justice, and shared responsibility in the EU, which underpins further developments in the area of migration. The new

political initiatives are not considered to be completed. According to the author, migration policy will largely remain a traditional national matter, where European values may at times conflict with national interests. However, the EU aims to work toward a balanced, effective, and secure approach to migration policy development and implementation.

Content of Latvia's immigration policy

Each EU country sets its own national immigration policy. It is free to determine entry procedures, the types of work available to immigrants, their countries of origin and the number of people allowed to enter the country (Indāns, 2012). The Latvian Office of Citizenship and Migration Affairs (OCMA) is responsible for immigration policy in Latvia, the aim of which is to ensure the management and implementation of migration, asylum, determination of the legal status of persons, population registration and documentation processes in accordance with the interests of the State (Pilsonības un migrācijas lietu pārvaldes nolikums, 2021).

However, it cannot be considered that the implementation of immigration policy is the competence and responsibility of a single authority. Immigration policy also includes integration issues, where the Ministry of Culture is responsible for integration policy in Latvia (Kultūras ministrijas nolikums, 4.7.¹ punkts). It should be noted that in addition to the Ministry of the Interior and the Ministry of Culture, the Ministry of Education and Science, the Ministry of Foreign Affairs, the Ministry of Welfare, the former Ministry of Environmental Protection and Regional Development, now the Ministry of Smart Administration and Regional Development, the Society Integration Foundation and non-governmental organisations are also involved in the implementation of immigration policy (Report on Migration and Asylum in Latvia, 2018)

The legal and institutional framework of the immigration policy of Latvia is determined by the Immigration Law, which determines the procedures for the entry, stay, transit, exit and detention of foreigners, as well as the procedures by which foreigners are kept under temporary custody in the Republic of Latvia and returned from it in order to ensure the implementation of migration policy conforming with the norms of international law and the State interests of Latvia (Imigrācijas likums, 2002).

By studying theoretical models based on the experience of different countries in the development of migration policy, the author outlines two dominant theories. The Dutch sociologist Hein de Hass highlights an economic theory based on classical cost-benefit calculations (Hass, 2008). People only move when migration brings them some social or economic benefit. In this respect, the positive approach of the state is mainly based on

attracting immigrants to the development of economic well-being. Immigration can be an important driver of economic growth - migration can increase labour supply, stimulate prosperity, innovation that can provide better life opportunities for the local population in the long term.

The second - bureaucratic theory, which strictly regulates the issues of reception and residence of migrants, determines their behavioural patterns and also the process of integration. The bureaucratic approach is mainly based on the application of the law, which determines how migrants can stay in the country, work, study and use social services. The negative approach of the state is aimed at limiting and controlling migration, often introducing stricter norms of immigration law, providing for various restrictions or strengthening border control.

In practice, countries opt for different approaches to these issues. At a time when the world is experiencing geopolitical turmoil, the Declaration on the Intended Activities of the Cabinet of Ministers headed by Evika Siliņa in the Field of Immigration Policy basically outlines the state and public security context - the priority is to build a comprehensive state defence system, complete the construction of a fence on the border with Belarus and Russia, support the acquisition of the Latvian language as the basis of a united society. Despite the fact that in the case of Latvia so far, the policy has been dominated by a bureaucratic-regulatory approach to migration issues, the positioning of Latvia has changed over the last few years. In parallel with a restrictive strategy, Latvia also recognises the prospects of promoting economic growth in the development of migration policy. The Government Declaration also identifies the implementation of an immigration policy geared to supporting economic growth as one of its priorities. Namely, to develop controlled labour immigration conditions, and to provide a simplified procedure for attracting labour in priority sectors of the national economy (Deklarācija par Evikas Siliņas vadītā Ministru kabineta iecerēto darbību, 2023).

It should be concluded that the content of the current immigration policy of Latvia marks the features of both bureaucratic controlling and economic growth strategy. This is evidenced, first of all, by the statistical dynamics of recent years - the right to employment granted to third-country nationals and the residence permits issued for the first time in relation to employment in Latvia. The total number of employment rights granted to third-country nationals was 19 731 in 2022 and 18 983 in 2023. Most work in the field of land transport and pipeline transport, construction and civil engineering, computer programming and consulting. The number of residence permits issued for the first time for employment to third-country nationals has also increased: 3 566 in 2022 and 3 843 in 2023 (Ziņojums par migrācijas un patvēruma situāciju Latvijā 2023. gadā, 2023).

Another important aspect to which the author wishes to draw attention concerns the protection of the official language policy in Latvia. The language policy in Latvia requires all citizens to attain proficiency in the Latvian language to facilitate effective communication and integration within society. The amendments to the Immigration Law of 22 September 2022 provide for the procedure that Russian citizens residing in Latvia who have previously been citizens or non-citizens of Latvia, as well as other third-country nationals, must certify the acquisition of the official language in order to obtain a permanent residence permit (*Ziņojums par migrācijas un patvēruma situāciju Latvijā 2023. gadā*, 2023). The author concludes that numerous public discussions have taken place regarding recent amendments to the Immigration Law and the activities of Russian citizens related to obtaining residence rights in Latvia. One of the innovations that has been widely discussed in the public space is taking the state language test in a dedicated information system. Since 2023, Russian citizens who were subject to the amendments to the Immigration Law have to undergo state language proficiency test, but in this regard, the Ombudsman has outlined some problems - Cabinet Regulations do not provide for a flexible testing procedure for those who have a low level of digital literacy. Also, the Ombudsman highlights the issues related to the age limits of the persons in question. The Cabinet Regulation lays down the procedure that persons who have reached the age of 75 years are exempted from taking the Latvian language proficiency test for obtaining a permanent residence permit.

The past few years have been a time of increasing conflict intensity and unpredictability of the international environment, and Russia's war against Ukraine has been and remains the greatest long-term threat to the entire international community. The principle of the protection of legitimate expectations does not preclude an individual's previously acquired rights from being altered in a legal manner. Namely, that principle does not give grounds for believing that the legal situation once established will never change, but allows, and in certain circumstances even requires the existing legal framework to be amended. Otherwise, the State would not be able to respond adequately to changing conditions (*Satversmes tiesas 2020. gada 11. decembra spriedums lietā Nr. 2020-26-0106*, 2020). On the one hand, the author of legal provisions is obliged to follow the current situation in a particular field and, if necessary, to amend previously adopted legal norms by assessing the interests and needs of the State and society. Similarly, individuals themselves must take into account the fact that the legal situation may change (*Tiesībsargs*, 2023). On the other hand, in this situation, however, it would also be worth paying particular attention to the discussions on compliance with the principles of proportionality and legal

equality. Amendments to the Immigration Law in the context of national security and geopolitics are further discussed below.

Amendments to the Immigration Law in the Context of National Security and Geopolitics

Since 2023, a significant topic of discussion has centered around amendments to Latvia's immigration laws, particularly regarding the activities of Russian citizens seeking to obtain residence rights in Latvia. The discussion, which features both human rights and security aspects, is also causing considerable controversy between different institutions and groups of the society. In the course of 2023, Russian citizens who were subject to the amendments to the Immigration Law had to pass the state language proficiency tests. The Ministry of the Interior informed that at the end of the first stage of the official language proficiency test, which was set until 1 September 2023, it was concluded that a large part of the persons who had passed the state language proficiency test had not been able to pass it at least to the minimum required level of knowledge (*Ziņojums par migrācijas un patvēruma situāciju Latvijā 2023. gadā*, 2023). Only 39% of applicants were able to pass the test on the first attempt (*Vairums Krievijas pilsoņu latviešu valodas pārbaudi nav nokārtojuši*, LETA, 2023).

Meanwhile, following an application by several natural persons, the Constitutional Court examined the joined case “On Compliance of Para 58 of Transitional Provisions of the Immigration Law and Section 5 of the Law of 22 September 2022 “Amendments to the Immigration Law”, insofar it excludes Para 8 of Section 24 (1) of the Immigration Law, with Article 1, the first sentence of Article 91 and Article 96 of the Constitution of the Republic of Latvia, as well as Article 4 of Protocol 4 to the European Convention for the Protection of Human Rights and Fundamental Freedoms” (*Satversmes tiesa*, 2024).

On 15 February 2024, the Constitutional Court pronounced a judgment in the case on permanent residence permits for citizens of the Russian Federation, recognising that Para 58 of the Transitional Provisions of the Immigration Law in its current wording complies with the Constitution. The Court concluded that, in essence, the contested norm, when considered systemically in conjunction with other legal norms, provides citizens of the Russian Federation with a real opportunity to acquire a new legal basis in order to continue to reside in the territory of Latvia, provided that the person himself or herself is motivated to perform the necessary actions. This ensures that they can continue to maintain social ties that have already been established (*Ziņojums par migrācijas un patvēruma situāciju Latvijā 2023. gadā*, 2023).

However, the contested regulation cannot, be assessed unequivocally positively, both from the point of view of the principle of legitimate expectations and from the point of view of proportionality and legal equality. Latvia, as a state governed by the rule of law, when safeguarding its security and taking measures to prevent security risks, must comply with the principle of good governance, and when setting restrictions, one must look at their proportionality, ensure that the obligations and requirements imposed by the state during the relevant period of time are realistic and that the law enforcement mechanisms are accessible and effective (Tiesībsargs, 2023). However, ensuring national security is a fundamental duty of the state and Russia's invasion of Ukraine is a reminder of the fragility of national independence. Several parallels can be drawn between the war in Ukraine and the situation in Latvia, because, just as in Ukraine, there is a large Russian diaspora in Latvia. In addition, similarly to Ukraine, where many people have been prepared to provide support to the Russian occupation forces, there are many pro-Kremlin entities operating in Latvia (Satversmes tiesa, 2024).

There is no doubt that the aggressive actions of the Russian Federation do not automatically apply to all its citizens. Moreover, as J. Neimanis, the Justice of the Constitutional Court, notes, the hostilities in Ukraine are much more complicated, because it should be honestly admitted that the Republic of Belarus also participates in them. Thus, consistent action by the legislator in the legal aspects of immigration should also be expected against citizens of this country who are permanently residing in Latvia, insofar it is justified by the objective of protecting national security (Satversmes tiesas tiesneša atsevišķās domas, 2024). However, the author of the article will try to refute the arguments that protect the citizens of the Russian Federation. Russian citizenship is one of the risk factors that cannot be ignored when considering the protection of national security. Both the European Union and Latvia have recognised the Russian Federation as a state sponsor of terrorism. Latvia, even before the amendments to the Immigration Law, imposed a mandatory in-depth vetting of citizens of the Russian Federation before issuing any visa or residence permit. Thus, citizens of the Russian Federation are equated, in terms of security risks, with citizens of countries such as the Islamic Republic of Afghanistan, the Republic of Iraq and the Islamic Republic of Iran (Satversmes tiesa, 2024).

The warfare perpetrated by the Russian Federation violates its obligations under Article 2 of the UN Charter and mandatory rules of international law. Under modern international law, any state has the right to take measures against a state that violates its obligations towards the international community as a whole, aimed at ensuring the prevention and reparation of violations in the interests of the affected state. Furthermore, all states have a duty to cooperate in order to bring to an end, by legal means,

serious and systematic violations of the relevant norms (Satversmes tiesa, 2024).

Conclusion

Ensuring national security is a core responsibility of any state, encompassing internal and external threats. In this context, appropriate immigration policy serves as a crucial tool for managing and minimizing security risks. By regulating the movement of people across borders, a state can control who enters and remains within its territory, helping to protect against potential threats. The state possesses a certain level of discretion in this domain, granting it the ability to evaluate various national security threats and modify immigration policies as needed. This flexibility allows the state to adjust its approach in response to changing security dynamics.

When analyzing a constraint on an individual's fundamental rights within a legal context, it's important to consider the broader political and global factors at play. The changes to immigration policy were implemented due to the Russian invasion of Ukraine and the growing need to strengthen Latvia's national security. The geopolitical situation in the Baltic Sea region has been profoundly impacted by Russia's rising military aggression and the use of hybrid strategies over an extended period. Latvia, in particular, faces escalating national security threats, with Russia leveraging information operations, disinformation, and propaganda as key tools in its destabilizing efforts (State Security Service, 2024).

In this context, it can be concluded that if legal measures have been implemented with consideration of the geopolitical landscape to reduce the risk of compromising Latvia's sovereignty and democratic structure, then these measures serve legitimate purposes, as they aim to safeguard both democratic governance and public safety.

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