



Legal Migration Fitness Check

Evidence base for practical
implementation

Member State summary

Latvia

Annex 2 LV

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LEGAL NOTICE

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Introduction

This document provides an overview of the legal and practical implementation of EU legal migration acquis in **Latvia**. The legal and practical implementation study is structured according to the eight steps – ‘phases’ of the migration process from the perspective of the migrant¹ for the following Directives and their respective national equivalent schemes, presented in the table below.

Directive	FRD (Family Reunification Directive 2003/86/EC)	LTR (Long Term Residency Directive 2003/109/EC)	SD (Students Directive 2004/114/EC)	RD (Researchers Directive 2005/71/EC)	BCD (Blue Card Directive 2009/50/EC)	SPD (Single Permit Directive 2011/98/EU)
National parallel scheme	No	EU long term resident (Law on EU permanent resident status (Par Eiropas Savienības pastāvīgā iedzīvotāja statusu, 26.06.2006) Non-citizen of Latvia (Cabinet of Ministers, Regulations No 1011 Regulations on granting the status of non-citizen of Latvia, 14.12.2004 (Ministru kabineta 2004.gada	No	No	No	Temporary residence permit for a child of a foreigner Temporary residence permit for a third-country national appointed as guardian or trustee for a citizen of Latvia or a non-citizen of Latvia Temporary residence permit for a third-country national that is awaiting a court judgment regarding

¹ . See ref document (EU summary) Under each phase, the following aspects are examined : :

Legal transposition of the EU legal migration acquis: including whether the MS has overall complied with the transposition of the relevant EU acquis in the respective phase and whether these non-compliance issues affect the practical application of the Directive; **Practical application of the EU legal migration acquis:** overview of the main application issues/problems arising in the MS per each of the migration phases; **Differences between national statuses and the EU legal migration acquis:** substantial differences at the level of legislation and practical implementation between the EU legal migration Directives and their national equivalents (where these exist).

	<p>14.decembr a noteikumos Nr.1011 „Latvijas nepilsoņa statusa noteikšanas kārtība”)) 12.04.1995. On the Status of Former USSR Citizens Who are not Citizens of Latvia or Any Other State” (1995).</p>	<p>divorce and the determinati on of the place of residence of its child Temporary residence permit for a third- country national whose testimony is relevant for a pre-trial investigatio n or a court hearing in criminal matters (Immigratio n Law (IL), 31.10.2002, Cabinet of Ministers, Regulations on residence permits to foreigners No 44 (UAN), 20.01.2004)</p>
<p>Options implemented?</p>	<p>Pupil Trainee Volunteer</p>	

Main differences between EU statuses and the respective national parallel schemes

Non-citizen status is a specific scheme in Latvia and the only one which is more favourable due to specific historical reasons. In order to qualify for the non-citizen status, a person should meet criteria set out in the law “On the *Status* of Former USSR Citizens Who are not Citizens of *Latvia* or Any Other State” (1995). In sum, this status is available only to very narrow profiles of applicants due to historical reasons. In comparison to the status of the EU long-term residents, non-citizens are not required to prove Latvian language knowledge or financial means. According to OCMA, this status cannot be fully compared to the status of the EU long-term residents.

For the EU long-term resident status an applicant has to provide proofs of financial means and proofs that he/she has Latvian language knowledge, at least 2A level.

Non-citizen status do not have such requirements.

Both statuses: non-citizen of Latvia and the EU long-term resident are granted permanently. Documents need to be renewed when they expire. In case of the non-citizen, it is non-citizen's passport. In case of EU long-term resident, it is the EU long-term resident's permit (Identity card).

LTR Directive provides in its Article 13 that national legislation may provide grounds to receive a permanent residence permit on terms that are more favourable than those laid down by the Directive. In Latvia, such more favourable conditions concern the following categories of third-country nationals:

- a third-country national, who was a citizen of Latvia on 17 June 1940 or one of his or her parents is a Latvian citizen, and who moves to Latvia for permanent residence in accordance with Section 31 of the Immigration Law, s/he can then receive permanent residence permit. Latvian immigration law provides that the duration of the first residence permit in this context is of one year, and renewable for four years. Only after this period can this residence permit be turned into a permanent residence permit.
- a third-country national living in Latvia who, prior to the acquisition of the citizenship of another country, has been a Latvian citizen or a non-citizen of Latvia can receive a permanent residence permit.
- in cases not laid down in national legislation, a permanent residence permit in Latvia is issued by the Minister for the Interior, if it complies with the State interests of Latvia.
- a third-country national who, in accordance with the Repatriation Law, is a family member of a repatriate.

1 Pre-application phase

1.1 Legal transposition of the EU legal migration acquis

FRD (Family Reunification Directive) Latvia transposed the assessed Directive in a globally conform manner; no important issues for pre-application phase identified.

LTR (Long Term Residency Directive) has been transposed into Latvian legislation and reflects the principles and the requirements set out in the Directive. However, several concerns have been detected but no systemic impact on the implementation of the Directive has been detected in this study.

SD (2004 Students Directive), RD (2005 Researchers Directive) and BCD (Blue Card Directive) with cases of partial and non-conformity revealed throughout the analysis, the Latvian laws conform only partially to the Directives provisions.

SPD (Single Permit Directive) has been transposed into Latvian legislation but the transposition is not literal and some potential concerns were detected.

1.2 Practical application of the EU legal migration acquis

Directive	FRD (Family Reunification Directive 2003/86/EC)	LTR (Long Term Residency Directive 2003/109/EC)	SD (Students Directive 2004/114/EC)	RD (Researchers Directive 2005/71/EC)	BCD (Blue Card Directive 2009/50/EC)	SPD (Single Permit Directive 2011/98/EU)
Language	National language (s)					

	English					
	Russian					
The information is easy to find*	3	2	3	3	2	2

* 1: Strongly agree; 2: Agree; 3: Neither agree/nor disagree; 4. Disagree; 5. Strongly disagree

Information can be found on the following aspects of the application procedure:

Application procedure	Conditions for admission	Entry requirements (e.g. visa etc.)	Cost of application	Applicable deadlines	Rights upon admission	Any differences between the Directives
Yes	Yes	Yes	Yes	Yes	No	No information found for RD on Cost of application

Information upon request

Information about the application can be provided upon request, including through face-to-face consultations, of a third-country national in diplomatic missions. In practice diplomatic missions work mostly with student requests and information can be obtained about all statuses. Additionally, third-country nationals can call the Office of Citizenship and Migration Affairs. In Latvia, the Office of Citizenship and Migration Affairs, the National Integration Centre and the Employment Agency of Latvia can also provide information upon request and via face-to-face consultations.

Differences between national statuses and the EU legal migration acquis

With respect of the **LTR**, Latvia has two statuses compliant with the Directive:

Permanent resident of Latvia

Long-term EU resident.

With respect of the **SPD**, different national statuses of permits are issued for other purposes than work (which nevertheless grant the right to work) exist and shall be considered covered by the SPD. In cases of investment- and real-estate purchase related permits, a longer pre-application process can be envisaged because these require also information from the State Security Services and/or State Investment and Development agency.

Preparation phase

Legal transposition of the EU legal migration acquis

FRD: Article 15(1), first subparagraph of the Directive is transposed only partially. The Immigration Law (IL) does not specify whether the five-year period counts from the time when the residence permit was issued, which affects conformity.

Considering the fact that there is no specific procedure for family reunification and that Article 6(2), first subparagraph of the Directive is not transposed, some concerns may rise about this issue.

LTR: Articles 1(2) and 3(1) (1) of the Law LTR transposes Article 5(1)(a) of the Directive. Latvian legislation has not defined the terms “stable” and “regular”. This means that in practice this is a matter of particular case and evidence. All types of evidence are allowed to prove existence of sufficient subsistence provision. Article 1(2) of the Law LTR makes a reference to specific and dynamic indicator - minimum wage – 380.00 EUR for normal working hours (40 hours per week) per month in 2017. The law provides evaluation of income in last 12 month. No future forecasts of possible income later can be taken into account. Therefore Article 1(2) of the Law LTR is more narrow than Article 5(1)(a) of the Directive, where no minimum threshold is provided.

BCD: Article 16.4 of the Temporary residence permits regulations (UAN) partly contains the provisions relevant to Article 5(1)(a) of the Directive. Article 16.4 of the UAN foresees that in case if the work of a foreigner in the Republic of Latvia is intended in accordance with a labour contract or a contract for work performance, a copy of a labour contract or a draft, or a copy of a contract for work performance or a draft shall be submitted. The UAN provision also foresees that these documents shall also be re-submitted in case of re-submission of the application. It appears that the quoted UAN provision does not correspond to the time-limit set out in Article 5(1)(a) of the Directive and thus, the UAN provision does not foresee that the job offer or work contract shall be binding and that it needs to last for at least one year. Due to these missing elements, Article 16.4 of the UAN appears to conform to Article 5(1)(a) of the Directive only partially.

Practical application of the EU legal migration acquis

For all statuses, the submission of the application is done to the Office of Citizenship and Migration Affairs. As a general rule, a third-country national will have to submit the application to the Office of Citizenship and Migration Affairs. Employer has to register a vacancy at the Employment Agency (if application is made for a work permit). State Security services assess applications from countries with higher terrorism risk. However, the decision is made by only one institution - the Office of Citizenship and Migration Affairs.

Ease of the application procedure:

Step	FRD	LTR	SD	RD	BCD	SPD
The information that applicants need to complete is not extensive	2	2	2	2	2	3
The application form is user-friendly	2	2	2	2	2	2

* 1: Strongly agree; 2: Agree; 3: Neither agree/nor disagree; 4. Disagree; 5. Strongly disagree

Key information/ documents required:

Type of information	FRD	LTR	SD	RD	BCD
Family ties	Yes, C, R				
Continuous legal residence					
Sufficient resources	Yes, C, R	Yes, R	Yes, C, R	Yes, C, R	

Accommodation/Address in territory	Yes, C, R	No			Yes, C, R
Sickness insurance	Yes, C, R	No	Yes, C	No	Yes, C, R
Work contract (for RD host agreement)				Yes, C, R	
Minimum salary threshold	No	Yes	Yes	Yes	Yes
Professional qualifications				Yes, C, R	
(Pre-) Integration measures	No, R	Yes, C			
Pre-departure conditions					
Proof no threat to public	Yes, T, C, R	No	Yes, C, R	Yes, C, R	Yes, C, R
Medical examination certificate	No		Yes, C	No	Yes, C
Valid travel document			Yes, C, R	Yes, C, R	Yes, C, R
Entry visa					No, C
Other	Yes, R	No	Yes, C, R	No	

Note: T = Translation; C = Certified, R = Requirement, i.e. without this proof the application cannot be lodged.

1.3 Differences between national statuses and the EU legal migration acquis

LTR: for the permanent residence permit any proof of income is taken into account, while for the EU long-term residence status proof of stable income is required. In practice, lack of proof of income does not serve as automatic rejection. An opinion of the applicant is always sought and situations are assessed individually.

2 Application phase

2.1 Legal transposition of the EU legal migration acquis

FRD: Art. 5(2), 1st subparagraph: national legislation does not foresee any special procedure for family reunification as such. However, considering the fact that procedure would depend on the grounds on which a foreigner (sponsor) is residing in Latvia, it is not possible to fully ascertain that an application cannot be done by the sponsor as well. This may rise concerns about implementation.

2.2 Practical application of the EU legal migration acquis

A third-country national can lodge an application by first downloading an online application (in Latvian, English or Russian), filling it in, then sending it with the other required documents to the diplomatic mission or in a Latvian consulate of residence of the third-country national. Alternatively, the application can be sent by post to the OCMA. The applications are processed by OCMA with the exception of students and invited family members, where the applications can be carried out at Latvian diplomatic missions abroad.

The decision on an application is taken in one administrative act or decision. In his/her application form, a third-country national can indicate how s/he wants to receive the notification of the decision on his/her application (and any other relevant correspondence). This can be either by post or by email. A person living in or a third-country national legally residing in Latvia inviting another third-country national are also offered the same notification options. In case a first application for a residence permit was made at the central OCMA branch in Riga, a third-country national can either receive a notification by post or collect his/her residence permit in person.

Where the applicant is an employer, a third-country national is nevertheless involved. Indeed, the employer submits the invitation and the invited third-country national submits all the other required documents. The permission to enter Latvia is received personally by the third-country national and in this way s/he is notified of the decision on the application.

Negative decisions are always sent by post. The letter provides reasons of the rejection in Latvian. In this case, an appeal can be submitted either by an applicant or a person who invited an applicant within 30 days after the negative decision has been received. An online appeal form is made available (in Latvian) and the latter should only be submitted in Latvia. The concept of administrative silence does not exist in Latvian legal framework.

Directive	General	FRD	LTR	SD	RD	BCD	SPD
Application from third country	Yes	Add if different					
Permit received in third country	No						
Number of authorities involved in the application	No, 1						
Number of authorities involved in the issuance of the residence permit	Yes, 2-3						
Application modalities	Post Online submission In person						
Existence of a standard application form for all statuses	Yes						
Language of the application form	National language(s) English French						

	(if not national)	Russian	Other			
Fees charged	Processing of documents in 90 days: 99.60 EUR	Processing of documents in 45 days: 241.89 EUR	Processing of documents in 10 days: 384.18 EUR	Processing of documents in 30 days: 71.14 EUR	Processing of documents in 10 days: 213.43 EUR	Processing of documents in 5 days: 355.72 EUR
				Invitation: 7.11 EUR	Invitation: 7.11 EUR	Invitation: 7.11 EUR
				In 10 days: 241.89 EUR	In 10 days: 241.89 EUR	In 10 days: 241.89 EUR
				In 5 days: 384.18 EUR	In 5 days: 384.18 EUR	In 5 days: 384.18 EUR
						Considerably lower fees for subsidiary status, and for family members of this status holder:
						Processing of documents in 30 days: 21.34 EUR
						In 10 days: 42.34 EUR
						In 5 days: 64.03 EUR
Other fees	No	No	No	No	No	No

charged?							
Fees charged for permit issuance	Yes						
Fees charged for renewal / replacement of the permit	17.07 EUR, in case if travel document is renewed 7.11 EUR, if the residence permit is lost or damaged	€	€	€	€	€	€

The processing times are as follows:

Directive	FRD	LTR	SD	RD	BCD	SPD
Processing time /deadlines (according to law)	30 days	30-90 days	30 days	30 days	10 -30 days	30 days
Processing time (in practice)	30-45 days	90 days	30 days	30 days	30 days	30 days

Differences between national statuses and the EU legal migration acquis

SPD Art. 1. (a) on a single application procedure: Different procedures apply to different national statuses. The procedure for workers foresees 3 steps (1 – vacancy, 2- invitation, 3- issuance of the permit application). The procedure for third-country nationals coming to Latvia for other purposes has two steps (1 – invitation, 2 issuance of the permit application).

For all statuses: the requirement for the competent authority to **notify the decision to the applicant in writing** in accordance with the notification procedures laid down in the relevant national law is not transposed in national law. Articles 33(6) and 34(1)(1) of the IL partially transpose Article 5(4) of the Directive 2003/86/EC. Article 33(6) of the Immigration Law provides that the Citizenship and Migration Office, the State Border Control, Diplomatic as well as the Consular representation offices and the Consular Department of the Ministry of Foreign Affairs have certain rights to participate in the procedure, to hold negotiations with the third-country national and the person who has invited the third-country national to Latvia. The purpose of these negotiations is to demand explanations and additional documents proving the aim of entrance and stay of the third country national, as well as to verify truthfulness of given information. The administrative negotiations are held with both the third country national as regards the work and residence application (third step of the procedure) and the employer in the invitation process (second step of the procedure). Article 56(4) and 56(5) of the Adm. Proc. Law provides that the institution may accept documents even if they are not properly prepared. However, this is a

right, not an obligation on the institution. There are no criteria stated which documents and which timeframes national authorities should respect; the latter retains a margin of discretion in this context. It is possible to address a request to the Citizenship and Migration Office, and answers always are given. There are also oral consultations possible, but these are provided within the possibilities of institution. As it is stated in the Article 56(5) of the Adm. Proc. Law these consultations are provided "insofar as possible". In view of the above, non-conformity is concluded. However, according to interviews held with national authorities, in practice, an opinion of the applicant has always been asked and situations are assessed individually.

3 Entry and travel phase

3.1 Legal transposition of the EU legal migration acquis

FRD: Article 13 (1) on entry and residence of family members seems not to be transposed.

Immigration Law (IL) Article 12(1), point (3), first sentence lays down a general provision as regards the fact that a foreigner has the right to request a visa, based on the conditions as set in the Immigration Law (IL). Furthermore, the IL stipulates that a foreigner submits documents substantiating the purpose of entry and stay and the place of stay, or he or she has an invitation or written request. Nonetheless, the aforementioned IL provisions are not at all reflecting the content of Article 13(1) provisions of the Directive, due to their general nature.

3.2 Practical application of the EU legal migration acquis

If third-country nationals do not yet hold a valid permit before entering Latvia, Latvian authorities issue an entry visa and has set a specific timeframe for issuing the latter (15 days). Where the main applicant is the employer, the third-country national needs to request the entry visa.

Latvia allows country nationals who hold a valid permit and valid travel document to enter and re-enter their national territory only on the basis of the permit. Furthermore, a third-country national is allowed to travel to other Schengen Member States only on the basis of the permit and valid travel document.

Latvia does not impose specific entry requirements to third-country nationals of a visa free country. However, Biometric passports can be required only for citizens from certain countries with visa-free regime. For instance, a Ukrainian citizen can enter into Latvia with a non-biometric passport and visa or biometric passport without visa.

Third-country nationals do not encounter any obstacles in practice to leave the third country, transit and/or enter Latvia.

Upon arrival, third-country nationals are required to register with local authorities, social security institutions, healthcare providers, and with the State Revenue Service (which is done by the employer).

3.3 Differences between national statuses and the EU legal migration acquis

No issues that affect the entry and travel phase.

4 Post-application phase

4.1 Legal transposition of the EU legal migration acquis

LTR: Article 8 (2): The permit shall be valid at least for five years; it shall, upon application if required, be automatically renewable on expiry.

National law on Long-term Residence paragraph 7 (1) Article 7 (1) of the Law LTR transposes Article 8(2) of the Directive. A long-term resident status is permanent, but

the document called "residence permit" is valid for five years. However, Latvian legislation does not regulate or does not provide for the requirement that such permit needs to be renewable. In view of the above, partial conformity is concluded.

4.2 Practical application of the EU legal migration acquis

Directive	FRD	LTR	SD	RD	BCD	SPD
Minimum validity of the first permit (Q5d(i))	12 months	60 months	6 months	12 months	12 months	12 months
Maximum validity of first permit (Q5d(i))	Permanent residence permit third time	Unlimited	All study period	1 year	1 year	1 year
Minimum validity of permit renewal (Q6b(i))	N/A	N/A	N/A	4 years	4 years	4 years
Maximum validity of permit renewal (Q6b(i))	48 months	Unlimited	months	Full research time	48 months	48 months

The Member State has a set timeframe to deliver the permit following the notification of the decision, of 60-65 days. In practice, it takes 10 days on average.

The employer is the main applicant but is not involved in the delivery of the permit.

4.3 Differences between national statuses and the EU legal migration acquis

There are two long-term statuses available in Latvia: a permanent residence permit and EU long-term residence permit.

LTR Directive provides in its Article 13 that national legislation may provide grounds to receive a permanent residence permit on terms that are more favourable than those laid down by the Directive. In Latvia, such more favourable conditions concern the following categories of third-country nationals:

- a third-country national, who was a citizen of Latvia on 17 June 1940 or one of his or her parents is a Latvian citizen, and who moves to Latvia for permanent residence in accordance with Section 31 of the Immigration Law, s/he can then receive permanent residence permit. Latvian immigration law provides that the duration of the first residence permit in this context is of one year, and renewable for four years. Only after this period can this residence permit be turned into a permanent residence permit.
- a third-country national living in Latvia who, prior to the acquisition of the citizenship of another country, has been a Latvian citizen or a non-citizen of Latvia can receive a permanent residence permit.
- in cases not laid down in national legislation, a permanent residence permit in Latvia is issued by the Minister for the Interior, if it complies with the State interests of Latvia.
- a third-country national who, in accordance with the Repatriation Law, is a family member of a repatriate.

According to the above grounds to receive permanent residence permit, it leads to the conclusion that, in particular circumstances and for particular persons this procedure is more favourable than that provided in the Directive.

5 Residency phase

5.1 Legal transposition of the EU legal migration acquis

FRD: Article 16(3) of the Directive sets out an option, which the Republic of Latvia has not chosen to apply.

In general, two issues stand out during the residency phase: Latvia has chosen not to apply many regulations related to social benefits of temporary resident permits holders, and there are no legal provisions of equal treatment irrespective of nationality.

RD: Article 12 on equal treatment. Based on interviews with national authorities, there are no legal provisions of equal treatment irrespective of nationality of a person in the Latvian legislation. Consequently, only protection of indirect discrimination on the grounds of race/ethnic origin is guaranteed with regard to foreign researchers.

BCD; RD; SPD: With respect of access to social security benefits, all relevant national laws on state social allowances, social services and assistance (except statutory social insurance) explicitly excludes from the scope of its application persons with definite term residence permit..

5.2 Practical application of the EU legal migration acquis

a. Use of the permit:

In Latvia, the residence permit is issued using the format as set out in Regulation (EC) No 1030/2002 for residence permits. The permit has a constitutive value. It gives third-country nationals to right to move freely on Latvia's territory.

Latvia allows third-country nationals holding residence permits from other Member States applying the Schengen acquis (together with a valid travel document) to enter and move freely within its territory.

The permit is required as a legal document for the following other administrative procedures:

Access to education	Access to healthcare	Registration with PES	Fixed telephone subscription	Utility subscription	Open a bank account	Social security registration
X	X	X	X	X	X	X

b. Renewals of the permit:

National or EU law imposes an indirect requirement to renew a valid residence document.

The renewal process follows a single procedure, involving one authority. The same authority – the OCMA – is involved as in the first application procedure.

c. Change of status and naturalisation

Status changes are possible for most, with the exception of third-country nationals granted a student residence permit who cannot apply for long-term residence permit, blue card status or family reunification. As a rule, students cannot apply for a status change as long as their education is not complete. Indeed, students willing to change permit for work purposes: they first should obtain a higher education diploma and

then they can apply for a permit for work purposes. If they are still searching for a job, they can receive a permit for six months with a purpose to find a job.

The procedure for requesting a status change is the same as the first application procedure.

In order to obtain citizenship, a third-country national needs to comply with the following conditions: permanent residence permit is generally a prerequisite step towards the naturalisation. Thus, a third-country national can apply for naturalisation if he/she has been a permanent resident of Latvia for five years. In practice, it means ten years of residency in Latvia altogether (permanent resident for 5 years and another 5 years of residence before that to acquire permanent residency). The application is done in Latvian and the third-country national should have stable income (which can take the form of a confirmation from an employer, a confirmation of welfare allowances, information about self-employment or business) but no income threshold is specified in legislation. Additionally, a third-country national must pass a naturalisation exam, which consists of Latvian language and history knowledge. The application for a naturalisation procedure costs EUR 28,46 (but repressed persons during the USSR and children are exempt).

d. Employment rights on the basis of the permit

In general, a work-related permit is linked to a certain employer. When changing employer (loss of employment or a third-country national wants to change employment), a third-country national needs to request a change to the permit (as temporary residence permits issued for work are linked to the employer who invited the third-country national).

e. Equal treatment

Restrictions and obstacles for third-country nationals in terms of **equal treatment** compared to nationals are identified with respect of the following aspects:

Blue Card holders do not have access to unemployment benefits on the same conditions as nationals, and

Advice services by employment offices are afforded only to temporary permit holders who were granted residence permits for work reason (these are tied to an employer).

Access to social benefits is restricted for temporary permit holders.

With regard to identifying **labour exploitation**, Latvia does not have a mechanism in place to monitor the exploitation of third-country nationals apart from Labour Inspectorate checks at workplaces and prosecution of labour exploitation (criminal sanctions against an employer).

f. Integration:

Specific integration procedures and conditions do not apply to third-country nationals once established in Latvia. Consequently, there are no consequences if the third-country national does not participate in these or fails the integration measure.

5.3 Differences between national statuses and the EU legal migration acquis

LTR: Articles 10 and 12 of the national law LTR transpose Article 8(1) of the Directive. In the Latvian language the term "long-term" is translated as "pastāvīgs", which means both "permanent" and "long-term". According to interviews held with national authorities, the status is permanent. Although the status is permanent, in practice the residence card – the document itself – expires after five years and should be renewed after this period – as it is in a case for the national identity card of other residents in Latvia. Is it a formality because the status is not lost if the card is not renewed. However, in practice it can cause issues, for instance, when crossing the border and a valid (not expired) residence document may be required.

SPD: Article 12 Right to equal treatment raises some conformity concerns in terms of right to education, social security benefits, while the right to employment advice services seems to be restricted.

Third-country nationals who have received temporary residence permit are not entitled to the allowances stated in the SSA Law. Indeed, only third country nationals, who have received a personal code and who are permanently residing in Latvia as stated in Article 4(1) of the SSA Law are entitled to the social allowances provided in the SSA Law. Thus the derogation made in this Article of the Directive has not been properly transposed as Latvian legislation restricts the benefits above-referred to third-country workers who have not acquired a permanent residence permit. Therefore, issues on conformity arise in this regard.

In terms of old age, invalidity and death, statutory pensions based on those workers' previous employment and acquired in accordance with the legislation referred to in Article 3 of Regulation (EC) No 883/2004, under the same conditions and at the same rates as the nationals of the Member States concerned when they move to a third country, practical application of the Latvian legislation is only partially conform.

6 Intra-EU mobility phase

6.1 Legal transposition of the EU legal migration acquis

LTR: Article 23(1)(10) of the immigration law and Article 51 and 52 of the UAN transpose Article 14(2)(b) of the Directive. Article 23(1)(10) of the IL provides that a third-country national has rights to request a residence permit in case of the studies in educational establishments accredited in the Republic of Latvia or full-time studies. This means that other studies, for instance, in non-accredited educational establishments, or part-time studies are not legal reason to receive residence permit in Latvia. In this sense Article 23(1)(1) of the IL is more restrictive than that of Article 14(2)(b) of the Directive. Article 51 and 52 of the UAN establishes documentation to be provided in the event that a third-country national long-term resident in another Member State wishes to reside in Latvia for study purposes. In view of the above, partial conformity is concluded.

No legal transposition issues were detected.

6.2 Practical application of the EU legal migration acquis

For short-term mobility, the Member State:

- Does not require the third-country national to notify the mobility; and
- Does not require the third-country national to ask for authorisation.

6.3 Differences between national statuses and the EU legal migration acquis

The research did not find any differences.

7 End of legal stay / leaving the EU phase

7.1 Legal transposition of the EU legal migration acquis

N/A transposition issues

7.2 Practical application of the EU legal migration acquis

There are specific procedures in place for third-country nationals who choose to leave the Member State before a permit expires (if the permit has expired, no procedures are required). These include:

- De-registration from national / local registers;

- Returning the residence permit;
- Leaving responsible authorities with an address in the next country of residence.

Latvia allows third-country nationals to export certain social security benefits, such as pensions. Transfer to third countries is based on provisions of bilateral agreements concluded with third countries. Information on the portability of social security benefits is not easy to find and not clear.

A third-country national residing in the Member State is allowed to be absent from the territory for a maximum of 180 days (BCD), 365 days (LTR) before s/he loses the residence permit and/or right to stay. The absence of third-country nationals is monitored by the Member State.

Latvia does not have measures or a scheme in place to allow circular migration.

The consequences of deliberate overstay of the duration of the residence permit are that the third-country national concerned is in irregular stay and national authorities issue a return decision. Where a third-country national has a valid travel document and cannot be deported, a residence permit can be granted on humanitarian grounds.

7.3 Differences between national statuses and the EU legal migration acquis

N/A differences between national statuses and the EU legal migration acquis.

8 Main findings and conclusions – state of practical implementation of EU legal migration legislation in the Member State

FRD, Article 5(1) (2) of the Directive, due to the fact that the procedure of family reunification was not transposed as such and the procedure would depend on the grounds on which a foreigner (sponsor) is residing in the Republic of Latvia, it is not possible to fully ascertain that an application cannot be done by the sponsor as well.

Article 7(1)(b) of the Directive, due to the fact that in accordance with national law, health insurance is not requested by the Latvian authorities at the time of submission of an application for residence permit, but only after its issue. Furthermore, Latvian law fails to refer to the fact that the aforementioned insurance shall be held by the sponsor and also does not specify that the aforementioned health insurance shall be an insurance in respect of all risks normally covered, as it is foreseen in the Directive. In practice, only minimum coverage is required during the residency phase.

Article 15(1), first subparagraph of the Directive, due to the fact that the IL does not specify whether the five-year period counts from the time when the residence permit was issued, which affects conformity. However, in practice, five years of continuous residency counts.

As regards autonomous residence permits, in practice, a family member can request a permanent residence permit after five years of continuous residence and this is an autonomous residence permit. In cases, if a person does not qualify yet for the permanent residence permit while a marriage has not been divorced, but a family does not live in one household and there are conditions, why a person should reside in Latvia, a decision can be made to grant a residence permit on humanitarian grounds.

LTR: Overall, the Latvian transposing legislation reflects the principles and the requirements set out in the Directive. However, several issues of partial conformity, non-conformity and non-transposition have been detected throughout the report. Those issues are generally referred to specific and punctual provisions, without a systemic impact on the practical implementation of the Directive.

SD: issues are generally referred to specific and punctual provisions, without a systemic impact on the practical implementation of the Directive.

- **RD:** issues are generally referred to specific and punctual provisions, without a systemic impact on the practical implementation of the Directive. However, since this is a temporary residence permit, issues include access to social benefits and non-discrimination on grounds of nationality (see below BCD and SDP).

BCD: Latvia has transposed the Directive only partially. If the work contract for the EU Blue Card holder is concluded for a shorter period than one year, the validity of the residence permit shall be issued for a period which exceeds the duration of the work contract, including three additional months. The maximum duration of a residence permit is five years and not four years, as foreseen in the Directive provision. It appears to grant a more favourable condition for the highly qualified third-country national holding the EU Blue Card.

SPD: Latvian transposing legislation reflects the principles and the requirements set out in the Directive. However, potential conformity issues have been detected throughout the report.

Most important issues are related to:

Pre-application and Preparation phases of residence permits for certain national statuses (investment-related and real-estate purchase-related) can take longer due to requirements to check the information through State Security services and/or State Investment and Development agency.

access to social security benefits (important to all other temporary residence permit holders too), all relevant national laws on state social allowances, social services and assistance (except statutory social insurance) explicitly excludes from the scope of its application persons with definite term residence permit ..This affects the residency phase and end of legal stay due to issues of transportability of social benefits.

There is no reference in Latvian legislation that prohibits discrimination on grounds of nationality. Accordingly, equal treatment on grounds of nationality can be practically accessed indirectly, e.g., on equal treatment based on ethnicity and race.

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Ministry of Welfare Senior expert of Social insurance (via email)

Head of Cooperation and Development department, State Labour Inspectorate of Latvia (via email)

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