Part Five

Case Study on Nationality Regulation in Latvia
The aim of this part is to apply the international and EU law standards discussed in previous parts to the case of Latvia. This should also serve as a case-example for the EU in developing its EU citizenship and immigrant policies in the longer perspective.

The part takes a historical perspective outlining changes in citizenship regulations as well as regulations related to non-citizens. This will outline the complexity of national situations which could either directly or indirectly shape relevant EU concepts. In addition the chapter will discuss how rights and guarantees granted to non-citizens have evolved and what treatment is offered to non-citizens in the EU. In this context specific attention will be devoted to case law on non-citizen status. Cases on non-citizens represent about one quarter of immigration related cases reviewed in different instances by administrative courts during the period 2004–2008.1

Currently Latvian citizenship policy is subject to political debate which might lead to substantial amendments. The main changes would concern three areas of regulation. First, the amendments will modify the provisions on the access of children to citizenship. Second, regulation of dual nationality will be liberalised and allowed in cases of several groups of States. Third, the law intends to strengthen the ethnic approach to citizenship and to place safeguards in situations when persons who might be suspected of not being loyal to Latvia could be refused naturalization. At the time of writing the amendments have been adopted but they should be approved by the President and can be subsequently challenged at the Constitutional Court.2 Therefore, the proposed changes will be

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1 After regaining independence Latvia lacked legislation for the administrative process and there were no administrative courts. This was a consequence of the Soviet legal system when persons were not entitled to bring claims against institutions for violating their rights. Cases usually decided by administrative courts were dealt with by civil courts. The courts were badly equipped and thus many judgments were hand-written. Therefore they are hardly accessible and researched. The main group of cases during the 1990s concerned refusal by the Citizenship and Migration Department (later called the Office of Citizenship and Migration Affairs, OCMA) to grant the status of non-citizen. Taking into account the large number of Soviet-era settlers who tried to abuse Latvian legislation, including former Soviet military personnel, the immigration authorities applied the law strictly. This led to hundreds of court cases, some of which attracted active intervention by both the OSCE Commissioner and the CBSS Commissioner as well as adjudication in the ECtHR. See Mužnieks Nils, ‘Government Policy and the Russian Minority’ in Mužnieks N. (ed.) Latvian-Russian Relations: Domestic and International Dimensions (LU Apgāds: Rīga 2006) 11–21, 16. Administrative courts were established only on 1 February 2004.