Access to procedures and non-refoulement - Latvia

Overview

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Relevant EU legislation

Latvia is bound by the recast Asylum Procedures Directive and has transposed its provisions in the Asylum Law | Patvēruma likums 05.01.2016. OP number: 2016 / 2.1, (17 December 2015).

National legislation

- Asylum Law | Patvēruma likums.
- Regulations of the Cabinet of Ministers No 488: Regulations Regarding the Register of Asylum Seekers | Ministru kabineta noteikumi Nr. 456: Patvēruma meklētāju reģistra noteikumi, Latvijas Vēstnesis, 137, 19.07.2016. OP number: 2016/137.3, (12 July 2016).
- Regulations of the Cabinet of Ministers No 727 on Provisions of the Personal Document of the Asylum Seeker | Ministru kabineta noteikumi Nr. 727 Patvēruma meklētāja personas dokumenta noteikumi, (2 November 2021).

Competent authority and stakeholders

Area	Competent national authority	Assistance to competent authority (if applicable)
Screening at the external border	State Border Guard (SBG) | Valsts robežsardze	Not applicable

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Area	Competent national authority	Assistance to competent authority (if applicable)
Biometric data	State Border Guard (SBG) | Valsts robežsardze	Not applicable
Making an application	**At the border:** State Border Guard (SBG) | Valsts robežsardze **On the territory:** State Border Guard (SBG) | Valsts robežsardze **In imprisonment:** Latvian Prison Administration | Ieslodzījumu vietu pārvalde	**On the territory:** Office of Citizenship and Migration Affairs (OCMA)| Pilsonības un migrācijas lietu pārvalde (PMLP) State Police of Latvia | Valsts policija
Registering an application	State Border Guard (SBG) | Valsts robežsardze	Not applicable
Lodging an application	State Border Guard (SBG) | Valsts robežsardze	Not applicable
Information provision	State Border Guard (SBG) | Valsts robežsardze Office of Citizenship and Migration Affairs (OCMA)| Pilsonības un migrācijas lietu pārvalde (PMLP)	Not applicable

Access to the territory

Official external border-crossing points

Latvia has 10 external sea border-crossing points:

1. Engure

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2. Lielupe
3. Liepāja
4. Mērsrags
5. Pāvilosta
6. Rīga
7. Roja
8. Salacgrīva
9. Skulte
10. Ventspils

Latvia has 5 external air border-crossing points:

1. Daugavpils lidlauks
2. Liepājas lidosta
3. Rīgas lidosta
4. Tukuma lidlauks
5. Ventspils lidosta

Latvia has 9 external land border-crossing points:

- Grebņeva-Ubiļinka (Убылинка)
- Indra-Bigosova (Бигосово) (railway)
- Kārsava-Skangaļi (Скангали) (railway)
- Pēternieki-Grigorovščina (Григоровщина)
- Terehova-Burački (Бурачки)
- Zilupe-Posiņi (Посинь) (railway)

Following the September 2022 amendments to the Law on the "Agreement between the Government of the Republic of Latvia and the Government of the Republic of Belarus on the Simplification of Reciprocal Journeys of the Residents of the Border Areas of the Republic of Latvia and the Republic of Belarus", the application of Article 1 of the Law shall be suspended as of October 2022. This suspension will remain in effect until the Republic of Belarus puts an end to the violations of international law concerning Ukraine and fully compensates Ukraine for the breached of international law already committed. Thus, work of the Kaplava-Pļusi cross border (Плюсы) (local border traffic), Meikšāni-Gavriļino cross border (Гаврилино) (local border traffic), and Piedruja-Druja cross border (Друя)(local border traffic) is currently suspended.

Emergency measures in cases of mass arrivals

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By Cabinet Order No 184 of 12 March 2024 "On the promulgation of the regime governing the reinforced border protection system" ('Order No 184'), and pursuant to Section 35 of the Law on the State Border of the Republic of Latvia, a reinforced border protection regime was introduced on 13 March 2024, to ensure the inviolability of the State border and the prevention of threats to the State. This regime has been repeatedly extended through the following Cabinet Orders:

- Cabinet Order No 744
- Cabinet Order No 1213
- Cabinet Order No 376

The regime governing the reinforced border protection system in certain administrative territories (territorial units) will be in force until 31 December 2025.

The Asylum Law includes a provision according to which a person may personally request international protection to the State Border Guard at a border crossing point or in the border crossing transit zone before entering Latvia or in the territorial unit of the State Border Guard, if the person is already in Latvia. The above-mentioned Cabinet Order does not amend or change the procedure for submitting an asylum application.

In June 2023, the parliament approved legislative bills that amended the State Border Law and the State Border Guard Law, building on Order No 518 of the Cabinet of Ministers on the Declaration of an Emergency Situation, which was adopted in 2021. The law provides the Cabinet of Ministers with the authority to declare a situation of emergency when it considers that there is a disproportionately high number of cases of illegal or attempted crossings of the state border.

Protection from refoulement

The principle of protection from *refoulement* is enshrined in Section 3 of the Asylum Law:

(1) An asylum seeker shall not be returned or extradited to a country where the threats referred to in Section 37 (1) or Section 40 (1) of this law exist.

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(2) A refugee shall not be returned or extradited to a country where the threats referred to in Section 37 (1) of this law exist.

(3) A person who has been granted alternative status in the Republic of Latvia shall not be returned or extradited to a country where the threats referred to in Section 40 (1) of this law exist.

(4) An asylum seeker, refugee or person who has been granted alternative status may be returned, if it is not in contradiction with the international liabilities of the Republic of Latvia and at least one of the following conditions exists:

- there are grounds to consider that the asylum seeker, refugee or person who has been granted alternative status poses a threat to the national security;
- the asylum seeker, refugee or person who has been granted alternative status has been recognised, by a court judgement which is legally in effect, as guilty of committing such criminal offence, which, in accordance with the laws and regulations of the Republic of Latvia, is recognised as an especially serious crime and poses a threat to the society of Latvia;
- the asylum seeker has submitted a repeat application after administrative proceedings regarding the repeat application submitted for the first time have ended.

(5) The principle of protection of the rights of the child and the principle of family reunification shall be especially applied in the field of asylum.

Exceptions to this principle exist if the individual poses a threat to national security, has committed a particularly serious crime, or submits a subsequent application without presenting new grounds.

On 12 January 2011, a Memorandum of Understanding was signed between the State Border Guard and the Baltic and Northern Regional Office of the United Nations High Commissioner for Refugees (hereinafter referred to as UNHCR) on mutual cooperation to support access of asylum seekers to the territory of the Republic of Latvia and to the asylum procedure (hereinafter referred to as the Memorandum).

With the signing of the Memorandum, the parties undertook to ensure that UNHCR will monitor the actions of the State Border Guard regarding persons in need of international protection, their entry into the territory of the Republic of Latvia, ensuring their rights regarding access to the national asylum procedure,

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accommodation conditions for asylum seekers, voluntary return, as well as removal of persons who have not been identified as being in need of international protection. Monitoring activities under the Memorandum are carried out by the designated UNHCR staff.

Protection from *refoulement* at external air borders

The Asylum Law includes a provision that a person may personally submit an application for granting refugee or alternative status to the State Border Guard:

1) at the border crossing point or in the border crossing transit zone before entering the Republic of Latvia;

2) in the unit of the State Border Guard, if the person is in the Republic of Latvia.

After receipt of an application the State Border Guard shall perform the activities laid down in the Law on Asylum.

Protection from *refoulement* at external land borders

The Asylum Law includes a provision that a person may personally submit an application for granting refugee or alternative status to the State Border Guard:

1) at the border crossing point or in the border crossing transit zone before entering the Republic of Latvia;

2) in the unit of the State Border Guard, if the person is in the Republic of Latvia.

After receipt of an application the State Border Guard shall perform the activities laid down in the Law on Asylum.

The State Border Law of the Republic of Latvia provides that at border crossing points the border crossing point regime is in force, which determines the procedures by which persons may stay and move at the border crossing point, as well as the procedures by which the competent authorities perform activities related to the release of persons, as well as the movement of property and goods across the external border. The special characteristics of the border crossing point regime in accordance with the functional significance of the buildings, structures and territory of the border crossing point, as well as the procedures for the performance of the necessary activities at the border crossing point related to the admittance of persons, as well as the movement of property and goods across the external border are prescribed by 27 July 2010 Cabinet Regulation No. 697 “Regulations Regarding the Border Crossing Point Regime”.

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Protection from *refoulement* at external sea borders

The Asylum Law includes a provision that a person may personally submit an application for granting refugee or alternative status to the State Border Guard:

1) at the border crossing point or in the border crossing transit zone before entering the Republic of Latvia;

2) in the unit of the State Border Guard, if the person is in the Republic of Latvia.

After receipt of an application the State Border Guard shall perform the activities laid down in the Law on Asylum.

Protection from *refoulement* in case of emergency measures related to mass arrivals

Mass arrivals at a place designated for the submission of the asylum applications do not in any manner affect the principle of *non-refoulement*. The procedure may be delayed due to the lack of staff capacity. After submitting an application for asylum, a person has the right to reside in the country and is not subject to removal.

Border procedure

The border procedure is governed by the Asylum Law, which stipulates that if an asylum application is submitted at the border or in a transit zone before the applicant enters the country's territory, the Office of Citizenship and Migration Affairs is responsible for deciding on the admissibility of the application.

Section 23 (6) of the Asylum Law mandates that the State Border Guard shall submit the information regarding the asylum seeker at its disposal, the information obtained in negotiation and the initial interview, and the application to the Office of Citizenship and Migration Affairs:

1) within 10 working days;

2) within two working days, if the application has been submitted at the border crossing point or in the border crossing transit zone, and there are grounds for assuming that any of the conditions of Section 30, Paragraph one of this Law exists.

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Section 29 (1) stipulates that the Office of Citizenship and Migration Affairs then has 5 working days to decide whether to accept the application for examination or leave it without an examination.

According to Section 30 (2), if the application is submitted at a border crossing point or in a transit zone, the State Border Guard is responsible for providing the necessary support to asylum seekers with special procedural or reception needs. As per Sections 48 (4) 2) and 49 (1) 2), if a decision is made to leave the application without an examination, it can be appealed to the competent District Administrative Court within 5 working days, and the court is required to issue a decision within the same timeframe.

Section 4 of the Asylum Law provides that an asylum seeker can communicate with UNHCR representatives, upon request, also at the borders.

Procedural aspects

The processes of making, registering and lodging an application for international protection occur at different stages; however, the lodging process typically overlaps with registration. A person first expresses their intention to apply for international protection, either orally or in writing, to the State Border Guard or other competent authorities. This can happen at border-crossing points, transit zones, after entering Latvia, or while in detention. After the intention to seek asylum is expressed, the State Border Guard registers the application within 3 working days, or up to 10 working days in cases of mass influx. The formal lodging of the application happens when the asylum seeker personally submits their application to the State Border Guard. Finally, the lodged application is forwarded to the Office of Citizenship and Migration Affairs for further processing.

Making an application

Responsible authority and place

An applicant can express their wish to apply for international protection either at any border-crossing point before entering Latvia or, if already in the country, at any State Border Guard territorial unit.

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If a person expressed the wish to acquire refugee or alternative status within the country to the Office of Citizenship and Migration Affairs, the State Police or Latvian Prison Administration they shall, without delay but not later than within three working days, contact the State Border Guard so that the asylum seeker could submit an application.

Section 4 of the Asylum Law provides that an asylum seeker can communicate with UNHCR representatives, upon request, also at the borders or in detention.

Possibility to apply from outside the territory

It is not possible to make an application from outside the territory. Currently, there are no humanitarian admission programmes, protected entry procedures or protection visas in place.

Formal requirements for making an application

Applications must be submitted in person, either orally or in writing. If made orally, the State Border Guard will document the expressed wish in writing. Written applications can be submitted in free form and in any language the applicant understands or is expected to understand, with interpretation services provided if necessary.

Parents can make an application for their minor children. If a minor arrives after the parents have submitted their applications, the minor's application is linked to those of the parents if one of the parents has submitted the application on the minor's behalf. For a newborn, the application is also linked to the parents' applications if one parent has filed on behalf of the newborn.

Registering an application

Responsible authority and place

The State Border Guard is responsible for registering applications for international protection. Once the intention to apply is expressed, the State Border Guard registers the application within 3 working days, although this deadline can be extended up to 10 working days in cases of mass influx.

Practical steps to register the application: During registration, the State Border Guard takes photographs and fingerprints applicants (aged 14 years or older), identifies them and their nationality, and assesses any special reception or

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procedural needs. The State Border Guard may also inspect the applicant and their property and confiscate any items or documents that are pertinent to the asylum claim or could pose a risk. This process is documented, and examinations are conducted by officials of the same sex as the applicant, ensuring respect for human dignity and inviolability. For minors, inspections are carried out in the presence of a guardian.

Data collection

Applications are registered by the State Border Guard in the Register of Asylum Seekers, which is governed by the Regulations Regarding the Register of Asylum Seekers. The data include personal information, application details, photographs, fingerprints and any special reception or procedural needs.

The Eurodac Regulation (604/2013), Article 9 obliges Member States to promptly take fingerprints of all fingers of every applicant for international protection who is 14 years or older. The new Eurodac Regulation (2024/1358), Article 15 obliges Member States to take the biometric data of every applicant for international protection who is 6 years or older.

Documentation

Lodging and registration occur at the same time, for this reason the documentation provided is the same. Upon lodging, an asylum seeker's identity document is issued within 3 days. This document certifies the status of the asylum seeker and gives the right to reside in the territory of Latvia during the asylum procedure.

Lodging an application

Responsible authority and place

The State Border Guard is responsible for lodging applications for international protection, which usually occurs simultaneously with the registration.

Formal requirements to lodge an application for international protection

Applications may be lodged only in person. During the lodging stage, a trained State Border Guard officer carries out:

- Negotiation procedure: An interview to gather information necessary to determine the responsible Member State under the Dublin III Regulation.

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- Initial interview: An interview to collect details about the asylum seeker's individual situation, circumstances and motives for seeking protection.

These two procedures may occur simultaneously. The State Border Guard submits the application details to the Office of Citizenship and Migration Affairs within 10 working days, or within 2 working days if the application is made at a border or transit zone.

Documentation

Upon lodging, an asylum seeker's identity document is issued within 3 days. This document certifies the status of the asylum seeker and gives the right to reside in the territory of Latvia during the asylum procedure.

Information provision

Upon lodging an application for refugee or alternative status, asylum seekers are individually provided with various informational materials:

- A common booklet prepared by the European Commission regarding the Dublin Regulation (EU) No 604/2013, available in 15 languages.
- A guideline developed by the Office of Citizenship and Migration Affairs detailing the asylum procedure, rights, obligations, and consequences of non-compliance, available in 14 languages.
- An information leaflet for asylum seekers, developed by the Latvian Centre for Human Rights in collaboration with UNHCR, available in 14 languages.

Passport and other documents

Obligation to surrender original documents

Requirement to submit original documents

According to Section 8 (5) of the Asylum Law, an applicant must submit their personal identity and travel documents to the State Border Guard until a final decision is made on their application for refugee or alternative status, unless they have another legal basis for residing in Latvia.

Consequence of a refusal to surrender documents

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According to Section 12 of the Asylum Law, an applicant has the obligation to cooperate with the authorities by providing all information as soon as possible. If an applicant does not respect the obligation to cooperate, this may affect the application for international protection and lead to a rejection of the application and the applicant may be removed from the country.

Return of original documents to the applicant

According to Section 8 (5) of the Asylum Law, the documents are surrendered over to the State Border Guard until the final decision to grant or to refuse international protection has entered into effect.

Other documents

In line with Section 7 (2) of the Asylum Law, the State Border Guard has the right to seize objects and documents, if they may have a significance in examination of the application or if they may pose a threat to the asylum seeker or those around him or her. Minutes is drawn up regarding these activities.

If the applicant refuses to provide these documents/files, this may be considered as a refusal to cooperate. Documents/cases seized may be returned on a case-by-case basis, assessing the specific case of seizure and its purpose/justification. An asylum applicant has the right to submit additional information also in electronic form.

Requirement to read digital data

The State Border Guard has the right to determine documents, objects, languages, medical and other expert-examinations only for the purpose of identifying a person or determining the country of his or her nationality. The legal framework does not specify exactly what subject-matter expert-examinations can be determined, it depends on the individual circumstances of each foreigner's case.

Guarantees for applicants

Confidentiality principle

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Confidentiality is regulated by Section 5 of the Asylum Law. Employees involved in the asylum process are prohibited from disclosing any information about an asylum seeker, including the fact of submitting an application, unless explicitly permitted by law or with the asylum seekers written consent.

Violations of this confidentiality can result in disciplinary, administrative or criminal consequences. Additionally, when information is obtained from individuals or institutions, it is handled in a way that prevents harm to the asylum seeker or their family members.

Information provision

In order to ensure that an asylum seeker is able to exercise their rights during the first stage of the asylum procedure and to comply with their obligations, the State Border Guard and the Office of Citizenship and Migration Affairs provide relevant information according to the Section 7 (4) Asylum Law.

The State Border Guard and the Office of Citizenship and Migration Affairs inform the applicant, in timely manner, about the asylum procedure, the time periods, their rights and obligations during the procedure, potential consequences if the asylum seeker does not fulfil his/her duties and does not cooperate with the institutions involved in the asylum procedure, the consequences of clear or indirect revocation of the application, the competence of the institutions involved in the asylum procedure, the institutions which provide legal aid and reception conditions, including the rights to receive healthcare services.

Officials of the State Border Guard and the Office of Citizenship and Migration Affairs provide this information in writing in a language which he/she understands or is reasonably presumed to understand. If necessary, the officials of the State Border Guard also provide the information in oral form.

Information brochures on asylum procedures are available for applicants in reception and detention facilities in different languages (Latvian, English, French, Russian, Dari, Farsi, Kurdish, Arabic, Pashto and Tigrinya) and in paper format (except Kurdish, Pashto and Tigrinya). The brochures, which were updated at the end of 2017, are accessible online on the homepage of the Office of Citizenship and Migration Affairs.

In October 2020, OCMA published a Booklet within the framework of the project "Support measures for persons in need of international protection, reception and

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accommodation in Latvia" of the Asylum, Migration and Integration Fund (2014 - 2020) implemented by the Office of Citizenship and Migration Affairs. It is available in 12 languages.

Additionally in 2022 the following resources were made available on the homepage of the Office of Citizenship and Migration Affairs:

- Requesting asylum in Latvia
- Brochure on requesting asylum
- Brochure on process after requesting asylum
- Brochure on process after review of the application

Links to information provided in the national context:

Authority/Agency: Office of Citizenship and Migration Affairs **Title:** Guideline for asylum seekers in Latvia **Type:** Booklet **Hyperlink:** https://www.pmlp.gov.lv/lv/media/970/download?attachment
Authority/Agency: Office of Citizenship and Migration Affairs **Title:** Asylum Seeking **Type:** Website **Hyperlink:** https://www.pmlp.gov.lv/en/asylum-seeking
Authority/Agency: Office of Citizenship and Migration Affairs **Title:** Requesting asylum in Latvia **Type:** Brochure **Hyperlink:** https://www.pmlp.gov.lv/en/media/7903/download?attachment

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Authority/Agency: Office of Citizenship and Migration Affairs

Title: After requesting asylum

Type: Brochure

Hyperlink: https://www.pmlp.gov.lv/en/media/7906/download?attachment

Authority/Agency: Office of Citizenship and Migration Affairs

Title: After review of the application and performance of the personal interview

Type: Brochure

Hyperlink: https://www.pmlp.gov.lv/en/media/7909/download?attachment

Interpretation

According to Section 11 (2) 1) of the Asylum Law, an asylum seeker has the right to communicate in a language they understand during the initial interview and the personal interview. If needed, the State Border Guard or the Office of Citizenship and Migration Affairs will provide an interpreter, at the state's expense.

When an asylum application is lodged, an interpreter is provided if the asylum seeker speaks a language that the State Border Guard official cannot understand or communicate in. All initial activities are then performed face to face with the help of an interpreter, but the application itself can be submitted in the native language of the asylum seeker.

Legal assistance and representation

Section 7 (4) of the Asylum Law states that the State Border Guard and the Office of Citizenship and Migration Affairs must timely inform the applicant about institutions which provide legal aid.

State-funded legal assistance is not available for the making, registering and lodging of an application for international protection. Under Section 36 of the

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Asylum Law, applicants are entitled to legal aid when challenging a decision on international protection.

Free legal assistance is provided by the civil society organisations Latvian Centre for Human Rights and Shelter “Safe House”, in partnership with UNHCR.

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