

The *Saeima*¹ has adopted and the President has proclaimed the following law:

Asylum Law

Chapter I General Provisions

Section 1. Terms Used in this Law

The following terms are used in this Law:

1) **Member State** – a European Union Member State, Member State of the European Economic Area or the Swiss Confederation;

2) **safe country of origin** – a country other than a Member State and where, according to the legal situation, the application of legal acts in a democratic system and general political conditions, persecution, torture, an inhuman or degrading attitude or an inhuman or degrading punishment, and also threats of violence in case of international or domestic armed conflicts do not exist in general and consistently;

3) **safe third country** – a country where an asylum seeker has resided prior to arrival in the Republic of Latvia and where, as it is laid down in the international legal acts, his or her life and freedom are not threatened due to his or her race, religion, nationality, membership of a specific social group or his or her political views, where the prohibition to return the asylum seeker to such country where his or her life and freedom are threatened due to his or her race, religion, nationality, membership of a specific social group or his or her political views and where he or she might be tortured, and also exposed to a cruel, inhuman and degrading attitude or an inhuman and degrading punishment is observed, and where the asylum seeker has the opportunity to request refugee status and, if he or she is recognised as a refugee, to acquire protection in accordance with the Convention Relating to the Status of Refugees adopted on 28 July 1951, and where the asylum seeker has the grounds for heading to;

4) **final decision** – a decision to grant refugee or alternative status (hereinafter also – international protection) or to refuse to grant it, by which the administrative proceedings have ended;

5) **family member** – the spouse of an asylum seeker, refugee or a person who has been granted alternative status or temporary protection, and also the minor child of an asylum seeker, refugee or a person who has been granted alternative status or temporary protection and the spouse of such person, who is not married and is dependent on both or one of the spouses or is adopted, and also the father, mother or other adult who in accordance with the laws and regulations of the Republic of Latvia is responsible for the beneficiary of international protection, if the above-mentioned beneficiary of international protection is a minor and not married, provided that such family has already existed in the country of origin;

6) **country of origin** – the country (countries) of the person's nationality or the former country or countries of permanent residence of a stateless person;

7) **unaccompanied minor** – a third-country national or a stateless person who is less than 18 years of age and has arrived or resided in the Republic of Latvia without being accompanied by such person who is responsible for him or her in accordance with the laws and regulations of the Republic of Latvia in the field of family law (father, mother, guardian) until the moment when the responsible person resumes the fulfilment of the obligations in relation to him or her;

¹ The Parliament of the Republic of Latvia

8) **temporary protection** – an emergency measure by which a group of persons is granted the right to reside in the Republic of Latvia for a specific period of time in accordance with the procedures laid down in this Law;

9) **asylum seeker** – a third-country national or a stateless person who in accordance with the procedures laid down in this Law has expressed a wish to acquire refugee or alternative status at the border crossing point before entering the Republic of Latvia or when already in the territory of the Republic of Latvia, until the moment when administrative proceedings regarding his or her application regarding granting refugee or alternative status (hereinafter also – the application) have ended;

10) **asylum seeker with special procedural or reception needs** – a minor, a disabled person, a person in the age, upon attainment of which an old-age pension is granted in the Republic of Latvia, a pregnant woman, a parent with a minor child, a victim of human trafficking, a person who needs special care due to the health condition, a person with mental disorders, a person who has suffered from torture, rape or other serious psychological, physical or sexual violence, or other person to be especially protected whose ability to benefit from the rights and to comply with the obligations during the asylum procedure is limited;

11) **asylum procedure** – the procedures by which, in accordance with this Law, an application of an asylum seeker regarding granting of refugee or alternative status is examined from the time of submission thereof until the time when the administrative proceedings regarding his or her application regarding granting of refugee or alternative status have ended;

12) **first country of asylum** – a country which will take back an asylum seeker, where he or she is recognised as a refugee and may continue to benefit from such protection or enjoy other sufficient protection and where also a prohibition to return the asylum seeker to such country where his or her life and freedom are threatened due to his or her race, religion, nationality, membership of a specific social group or his or her political views is observed;

13) **material reception conditions** – reception conditions, which include dwelling, food, clothing, financial support (for example, daily allowance, vouchers).

Section 2. Purpose of the Law

The purpose of this Law is to ensure the rights of persons in the Republic of Latvia to receive asylum, acquire refugee or alternative status or receive temporary protection.

Section 3. Principle of Non-refoulement and Other Principles Especially Applicable in the Field of Asylum

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

(2) A refugee shall not be returned or extradited to a country where the threats referred to in Section 37, Paragraph one 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, Paragraph one 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:

1) 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;

2) 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;

- 3) 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.

Section 4. Co-operation of the Institutions Involved in the Asylum Procedure and the United Nations High Commissioner for Refugees

- (1) Upon request of the United Nations High Commissioner for Refugees, the institutions involved in the procedure of requesting asylum shall:
- 1) allow access to an asylum seeker and to communicate with him or her also if he or she has been detained or is at a border crossing point or in the border crossing transit zone;
 - 2) provide information regarding the application of an asylum seeker, if he or she agrees to this, and also the decisions taken by the institutions involved in the asylum procedure and court decisions.
- (2) When examining an application, the institutions involved in the asylum procedure shall evaluate the opinion of the United Nations High Commissioner for Refugees regarding the application of the asylum seeker.

Section 5. Non-disclosure and Aggregation of Information

- (1) The employees of institutions involved in the asylum procedure do not have the right to disclose information regarding an asylum seeker, including regarding the fact of submitting an application, except the cases referred to in Paragraph two of this Section. An employee shall be held disciplinary, administratively or criminally liable for the disclosure of information.
- (2) Information regarding an asylum seeker may be disclosed in cases when the relevant person has agreed thereto in writing or the information has been requested by a State or local government institution within the scope of its competence.
- (3) If the institutions involved in the asylum procedure acquire information from the persons referred to in Section 42 of this Law, the information shall be acquired so that these persons would not be directly informed of the fact that the specific person is an asylum seeker, refugee or a person who has been granted alternative status, and also so that the life, freedom, safety, and health of the above-mentioned persons and the dependent family members thereof or those still living in the country of origin would not be harmed.
- (4) In order to ensure accounting of asylum seekers and progress of the asylum procedure, the Office of Citizenship and Migration Affairs (hereinafter – the Office) shall maintain and update a register of asylum seekers. The amount of the information to be included therein and the procedures for its use, and also the institutions to be granted access to the information included in the register shall be determined by the Cabinet.
- (5) Exchange of information with the fingerprint comparison system Eurodac in accordance with the conditions of Regulation (EU) No 603/2013 of the European Parliament and of the Council of 26 June 2013 on the establishment of *Eurodac* for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person and on requests for the comparison with *Eurodac* data by Member States' law enforcement authorities and Europol for law enforcement purposes, and amending Regulation (EU) No 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice, shall be ensured by the information system of fingerprints of asylum seekers.
- (6) The extent of information to be included in the information system of fingerprints of asylum seekers, the procedures for inclusion, the conditions for use and the time periods for storage,

the institutions to be granted access to the information in the information system, and also the institutions, which are entitled to request comparison of fingerprints with the central database of fingerprint data of Eurodac, and the procedures for requesting such comparison shall be determined by the Cabinet.

Chapter II

Residence of an Asylum Seeker in the Republic of Latvia

Section 6. Wish to Acquire Refugee or Alternative Status and Submission of an Application

(1) A person is entitled to express a wish to acquire refugee or alternative status in oral form or in writing.

(2) A person shall submit an application regarding granting of refugee or alternative status in person 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.

(3) The State Border Guard shall draw up an orally expressed wish to acquire refugee or alternative status in the presence of the asylum seeker in writing.

(4) If a person has expressed the wish to acquire refugee or alternative status to the Office, the State Police or the 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.

(5) If there are indications that a third-country national or stateless person who is at the border crossing point or border crossing transit zone at the external border of the Republic of Latvia or is at a detention place, could express a wish to acquire refugee or alternative status (is afraid to return to the country of origin or there are other circumstances pointing to the necessity of international protection), the Office, the State Police or the Latvian Prison Administration shall provide him or her with information regarding the possibility of doing it.

(6) An unaccompanied minor shall express a wish to acquire refugee or alternative status in accordance with the procedures laid down in this Section. During the asylum procedure the personal and property relations of the unaccompanied minor shall be represented by the Orphan's Court or a guardian appointed thereby, or the head of a child care institution (hereinafter also – the representative of a minor).

(7) If the head of a child care institution, on the basis of an assessment of the personal situation provided by the unaccompanied minor, deems that the minor needs international protection, he or she has the right to submit an application on behalf of the minor in accordance with the procedures laid down in Paragraph two of this Section.

Section 7. Activities after Submitting the Application

(1) After receipt of an application or after reception of an asylum seeker in accordance with Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (hereinafter – Regulation No 604/2013), the State Border Guard shall:

1) register the application of the asylum seeker not later than within three working days after receipt thereof. If applications are concurrently submitted by a large number of third country nationals or stateless persons and it is not possible to conform to the deadline of three

working days, the time period for registration of the application may be extended up to 10 working days;

2) take fingerprints of each asylum seeker who is at least 14 years of age in order to verify his or her identity;

3) identify the asylum seeker and ascertain his or her nationality.

(2) In identifying an asylum seeker and ascertaining his or her nationality, the State Border Guard has the right:

1) to perform inspection of the asylum seeker and his or her possessions, and also 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. Inspection of the asylum seeker shall be performed by an official of the State Border Guard of the same sex, observing the principles of human dignity, and also physical and psychological inviolability. Inspection of a minor and his or her possessions shall be performed in the presence of a representative of such person;

2) to specify expert-examinations and inspections of documents, objects or language or medical and other expert-examinations and inspections;

3) to take a photograph of the asylum seeker.

(3) The State Border Guard and the Office shall evaluate whether the asylum seeker has special reception or procedural needs.

(4) In order to ensure that the asylum seeker is able to exercise the rights laid down for him or her in this Law and to comply with the obligations provided for him or her, the State Border Guard and the Office shall inform him or her, in timely manner, regarding the asylum procedure, its time periods, his or her rights and obligations during such procedure, regarding the potential consequences, if the asylum seeker does not fulfil his or her duties and does not co-operate with the institutions involved in the asylum procedure, regarding consequences of clear or indirect revocation of the application, regarding the competence of the institutions involved in the asylum procedure, regarding the institutions providing legal aid, and also regarding reception conditions, including the rights to receive health care services. An official of the State Border Guard and the Office shall provide the above-mentioned information to the asylum seeker in writing in a language which he or she understands or is reasonably supposed to understand. If necessary, the official of the State Border Guard and the Office shall provide the above-mentioned information also in oral form.

(5) If the application is submitted by an unaccompanied minor, the Orphan's court together with the social service office of the local government, the State Border Guard, and the Office shall take measures to look for family members of the minor and ascertain the possibilities of returning such person to family. The Orphan's court shall immediately decide on appointing a guardian for the unaccompanied minor. The Orphan's court shall take a decision to appoint a guardian, finding out the opinion of the Office. Primarily an unaccompanied minor shall be provided care with a guardian or a foster family.

Section 8. Personal Document of an Asylum Seeker

(1) An asylum seeker shall hand his or her personal identity and travel documents over to the State Border Guard until the time when the final decision is taken to grant or to refuse to grant refugee or alternative status, except the case where the asylum seeker has another legal basis to reside in the Republic of Latvia.

(2) An asylum seeker in the Republic of Latvia shall be issued a personal document of an asylum seeker. The form and procedures for the issuance thereof shall be determined by the Cabinet.

(3) The personal document of an asylum seeker shall certify the status of the asylum seeker and give the right to reside in the territory of the Republic of Latvia during the asylum procedure.

Section 9. Accommodation of Asylum Seekers

(1) If an asylum seeker does not have sufficient resources to ensure living arrangements conforming to his or her health condition and his or her residence during the asylum procedure, he or she shall be accommodated at the accommodation centre for asylum seekers. The accommodation centre for asylum seekers is a unit of the Office. If accommodation is ensured by the Office, it shall, as much as possible, taking into account the opinion of the asylum seeker, preserve the unity of the family of the asylum seeker present in the Republic of Latvia.

(2) The accommodation centre for asylum seekers is a joint dwelling for non-detained asylum seekers, in which the conditions necessary for everyday life are ensured, by taking also into account the special reception needs of the asylum seeker, and his or her physical and mental health is protected. The Cabinet shall determine the internal rules of procedure of the accommodation centre for asylum seekers.

(3) The Cabinet shall determine the amount of and procedures for covering the nutrition and daily allowance of an asylum seeker accommodated at the accommodation centre for asylum seekers.

(4) An asylum seeker may be moved from one accommodation centre for asylum seekers to another only if needed and ensuring as much as possible that an asylum seeker of legal age with special reception needs is accommodated together with adult relatives who are already in the Republic of Latvia and are responsible for him or her in accordance with the laws and regulations of the Republic of Latvia. The Office shall provide an opportunity for the asylum seeker to notify his or her representative regarding transfer and the new address.

(5) The Office may accommodate an asylum seeker outside the accommodation centre for asylum seekers, if its capacity has been exceeded and the conditions referred to in Paragraph two of this Section are ensured.

(6) An unaccompanied minor shall be accommodated at the accommodation centre for asylum seekers, placed in a childcare institution or in a foster family. A decision to accommodate an unaccompanied minor at the accommodation centre for asylum seekers, placement in a childcare institution or in a foster family shall be taken by the Orphan's court in co-operation with the social service, by ascertaining the opinion of the Office. An unaccompanied minor is accommodated at the accommodation centre for asylum seekers or childcare institution until the moment when he or she is ensured appropriate care with a guardian or in a foster family, or it is established that appointing of a guardian or placement in a foster family is not appropriate for the particular unaccompanied minor. In evaluating the best interests of the child, the Orphan's court shall take into account the possibility of family reunification of the minor, the welfare and social development of the minor, particularly his or her origin, protection and safety considerations, especially the probability that the minor is a victim of human trafficking, and also the interests and opinion of the minor according to his or her age and maturity, in conformity with the following conditions:

- 1) an unaccompanied minor shall be accommodated together with adult relatives;
- 2) children from one family shall not be separated, except in cases where it is done in the best interests of the children;
- 3) the place of accommodation of an unaccompanied minor shall only be changed if it conforms with the interests of this person.

(7) A minor asylum seeker is provided with opportunities for acquiring education in the official language in a State or local government educational institution. The Cabinet shall determine the procedures by which a minor asylum seeker shall be provided with opportunities for acquiring education.

(8) Expenses of a local government for accommodating an unaccompanied minor at a childcare institution shall be covered from the State budget resources granted for such purpose to the Ministry of Welfare for the current year in such amount, which conforms to the average

expenses of the previous year for maintaining one child for one day at a long-term social care and social rehabilitation institution.

(9) Expenses of a local government for accommodating an unaccompanied minor in a foster family shall be covered from the State budget resources granted for such purpose to the Ministry of Welfare for the current year in such amount, which conforms to the minimum amount of means of support specified in laws and regulations, which must be ensured by each of parents to the child, in proportion to the number of days spent in the foster family.

(10) If an unaccompanied minor has started acquisition of basic education or general education and continues it after attaining 18 years of age, and is accommodated at a childcare institution or in a foster family, the State shall reimburse the expenses to the local government for accommodating such person at the childcare institution or in the foster family until the end of such study year when the person has attained legal age.

(11) Expenses of a local government for accommodating an unaccompanied minor at a childcare institution or in a foster family shall be covered once a quarter in accordance with the procedures laid down by the Cabinet.

Section 10. Extradition of a Person from the Republic of Latvia

A person whose application has been examined in accordance with the procedures laid down in this Law and in relation to whom a decision has been taken to refuse to grant refugee or alternative status, a decision to discontinue examination of the application or a decision to refuse to resume examination of the application, shall be issued a voluntary return decision or a removal order shall be taken in relation to such person in accordance with the procedures of the Immigration Law, except the case when he or she has another legal basis to reside in the Republic of Latvia.

Chapter III Rights and Obligations of an Asylum Seeker

Section 11. Rights of an Asylum Seeker

(1) The institutions involved in the asylum procedure shall take measures in order to ensure conformity with the rights of the asylum seeker.

(2) An asylum seeker has the right to:

1) express a wish to acquire refugee or alternative status, to provide explanations and clarifications during the initial interview and personal interview in a language which he or she understands or is reasonably supposed to understand. If necessary, the State Border Guard and the Office shall invite an interpreter, whose services are paid for from the State budget resources provided for such purpose;

2) to submit documents during the asylum procedure, which are applicable to examination of the application and the claim submitted to the court. Translation of such documents, which are of significance for examination of the application and the claim submitted to the court, shall be ensured by the institution, which examines the relevant application or claim, from the State budget resources provided for such purpose;

3) until the moment when the decisions referred to in Section 28, Paragraph one of this Law have been appealed, to receive at least information regarding the asylum procedure from the State Border Guard and the Office upon request and free of charge, taking into account the specific circumstances of the asylum seeker, and also information from the Office regarding the procedures for appealing the decisions referred to in Section 28, Paragraph one of this Law and the conditions for receipt of State ensured legal aid, if a decision unfavourable to the asylum seeker has been taken;

4) to invite a person for the receipt of legal aid using his or her own funds;

5) to receive State ensured legal aid in the amount laid down in the laws and regulations, when appealing the decision of the State Border Guard on registration of the asylum seeker with the unit of the State Border Guard or to detain the asylum seeker to the city (district) court;

6) to receive State ensured legal aid in the amount specified in laws and regulations, appealing to the District Administrative Court the decision of an official authorised by the Office to leave the application without examination, to refuse to grant refugee or alternative status, to transfer the asylum seeker to the responsible Member State, which will examine the application in accordance with Regulation No 604/2013, to discontinue examination of the application, to refuse to resume examination of the application, and to refuse to disburse the subsistence and daily allowance, if the asylum seeker does not have sufficient resources in order to invite a person for receipt of legal aid;

7) to receive an explanation of the decision referred to in Clause 6 of this Paragraph, the procedures for appealing it, and the conditions for granting State ensured legal aid in a language which he or she understands or is reasonably supposed to understand, except the case when the asylum seeker has a representative or legal aid is already being ensured;

8) in accordance with the procedures laid down in the laws and regulations to receive emergency medical assistance, primary health care, outpatient and inpatient psychiatric assistance in case of serious mental health disorders, and also any medical assistance to minors, non-provision of which may pose a threat to the development and health of the child, from the State funds, taking into account the special reception needs of the asylum seeker;

9) in accordance with the procedures laid down in laws and regulations to contact relatives, the United Nations High Commissioner for Refugees or other organisation, which provides legal or other consultations to asylum seekers.

(3) If the State Border Guard or the Office has established that the asylum seeker has special procedural or reception needs, he or she has the right to receive corresponding and adequate support for exercising his or her rights and fulfilment of obligations throughout the asylum procedure.

(4) The asylum seeker or his or her representative has the right to become acquainted with the information contained in the file, except cases when disclosure of such information:

1) may prejudice the national interests of Latvia;

2) may prejudice the safety of the persons who provide information or the safety of the persons to whom the information relates;

3) may affect the investigatory activities of the institutions involved in the asylum procedure, which are connected with the examination of the application.

Section 12. Obligations of an Asylum Seeker

(1) An asylum seeker has an obligation to:

1) co-operate with the State Border Guard so that it could take his or her fingerprints, photograph and identify him or her, and also with the Office and other institutions involved in the procedure;

2) participate in the initial interview and personal interview, answer the questions asked in person and, as soon as possible, provide all information necessary to examine the application and take a relevant decision, even if a representative of the asylum seeker or a representative of an unaccompanied minor is participating in the initial interview and personal interview. The obligation to provide all information as soon as possible shall also apply to the representative of the asylum seeker;

3) perform health examination in the interests of public health;

4) when residing at the accommodation centre for asylum seekers or at the accommodation premises for asylum seekers of the State Border Guard, observe the internal rules of procedure;

5) inform the Office and the State Border Guard regarding the address of the place of residence and its change, if the asylum seeker has not been accommodated at the accommodation centre for asylum seekers or has not been detained. The last address of the place of residence indicated by the asylum seeker shall be deemed the address to be used for communication with him or her.

(2) The information referred to in Paragraph one, Clause 2 of this Section shall also include explanations of the asylum seeker and documents at his or her disposal regarding his or her age and previous activities, including data regarding his or her family members, father and mother, brothers and sisters, identity, citizenship, previous place of residence and country of residence, previous asylum applications, travel itineraries, personal identification and travel documents, and also the reasons due to which an application has been submitted.

Chapter IV

Restrictive Measures in the Asylum Procedure

Section 13. Application of Restrictive Measures in the Asylum Procedure

(1) As necessary and in conformity with the principle of proportionality, an asylum seeker may be applied the following restrictive measures in the asylum procedure:

- 1) regular registration at the unit of the State Border Guard;
- 2) detention.

(2) The necessity for application of a restrictive measure shall be assessed, taking into account the individual situation and circumstances of the asylum seeker.

(3) If the circumstances, which were the grounds for application of the restrictive measure, do not exist anymore or the asylum procedure has been completed, the relevant measure shall be revoked.

Section 14. Regular Registration at the Unit of the State Border Guard

(1) An asylum seeker, in conformity with the requirements of Section 13 of this Law, may be imposed an obligation to regularly, but not less than once a month to register at the unit of the State Border Guard, if there are grounds for assuming that one of the following conditions exists:

- 1) the application has been submitted in order to obtain the right of residence without justification;
- 2) the application has been submitted in order to evade execution of a voluntary return decision or a removal order without justification;
- 3) the asylum seeker will evade the asylum procedure;
- 4) such circumstances have been established, which are the grounds for detaining the asylum seeker, but, taking into account his or her individual situation and circumstances, detention would be an incommensurate restrictive measure.

(2) A decision to register regularly at the unit of the State Border Guard shall be taken by an official authorised by the Chief of the State Border Guard. The following shall be indicated in the decision:

- 1) the given name (names), surname, date of birth and nationality of the asylum seeker to whom the restrictive measure has been applied;
- 2) determination of facts;
- 3) legal justification for the application of the restrictive measure, and also the legal norms applied;
- 4) the conditions for fulfilment of the determined obligation;
- 5) the procedures for contesting and appealing the decision.

- (3) The photograph of the asylum seeker shall be appended to the decision to register regularly at the unit of the State Border Guard.
- (4) It is determined that the obligation to register regularly at the unit of the State Border Guard should be fulfilled at the unit of the State Border Guard that is nearest to the place of residence of the asylum seeker. Upon request of the asylum seeker another unit of the State Border Guard may be determined for fulfilment of the above-mentioned obligation.
- (5) The asylum seeker shall be made acquainted with the decision to register regularly at the unit of the State Border Guard in a language which he or she understands or is reasonably supposed to understand, using services of an interpreter, and he or she shall be explained the essence of such decision, and also the procedures for contesting and appeal.

Section 15. Contesting and Appeal of the Decision to Register Regularly at the Unit of the State Border Guard

- (1) An asylum seeker has the right to contest the decision to register regularly at the unit of the State Border Guard within seven working days after it has entered into effect, in a higher institution according to subordination. Contesting of the decision shall not suspend its operation.
- (2) The asylum seeker shall be made acquainted with the decision taken on the contested decision to register regularly at the unit of the State Border Guard in the language understood by the asylum seeker or in a language which he or she understands or is reasonably supposed to understand, if necessary, using services of an interpreter, and he or she shall be explained the essence of such decision and the procedures for appeal.
- (3) A decision of a higher institution to register regularly at the unit of the State Border Guard may be appealed at a city (district) court within seven working days from the day of entering into effect thereof. Submission of an application to the court shall not suspend the operation of the above-mentioned decision.
- (4) If the asylum seeker wishes to receive State ensured legal aid in order to appeal a decision of the State Border Guard to register regularly at the unit of the State Border Guard, he or she shall submit an application to the State Border Guard regarding request of State ensured legal aid. The sample form of the above-mentioned application shall be determined by the Cabinet.
- (5) The State Border Guard shall, without delay, but not later than on the following working day after receipt of the application referred to in Paragraph four of this Section, send a request to the institution, which is responsible for ensuring of legal aid, to ensure legal aid, appending a copy of the decision to be appealed.

Section 16. Conditions for Detaining an Asylum Seeker

In conformity with the requirements of Section 13 of this Law, an asylum seeker may be detained, if any of the following conditions for detention exists:

- 1) it is necessary to ascertain or verify the identity or nationality of the asylum seeker;
- 2) it is necessary to ascertain the facts, on which the application is based and which may be ascertained only by detention, particularly if escaping is possible (the person crossed the State border without an obvious reason evading border controls, previously evaded removal, hid his or her identity, provided false or conflicting information, there are other facts pointing to the likelihood of escape);
- 3) it is necessary to decide on the rights of the asylum seeker to enter the Republic of Latvia;
- 4) there are grounds for assuming that within the scope of the removal procedure the detained person submitted an application to hinder execution of a voluntary return decision or a removal order or to make it impossible, and it is detected that the relevant person did not have any obstacles for submitting such application earlier;

- 5) the competent State authorities (including the State Border Guard) have a reason to believe that the asylum seeker presents a threat to national security or public order and safety;
- 6) the necessity for transfer procedure in accordance with the provisions of Article 28 of Regulation No 604/2013 has been detected.

Section 17. Procedures for Detaining an Asylum Seeker

(1) If any of the conditions for detention above-mentioned in Section 16 of this Law exists, an official authorised by the Chief of the State Border Guard may detain an asylum seeker for up to six days in conformity with the requirements of Section 13 of this Law.

(2) The State Border Guard shall, without delay, draw up detention minutes at the place of detaining the asylum seeker or after delivery of the asylum seeker to the detention premises. The following shall be indicated in the minutes:

- 1) the given name, surname, and position of the official who drew up the minutes, and also the place and time of drawing up thereof;

- 2) the given name (names), surname, date of birth and nationality of the detained asylum seeker;

- 3) the given name, surname, and position of the official who performed the actual detention, the actual time and place of detention, and also the time when the asylum seeker was delivered to the premises of the State Border Guard in order to draw up detention minutes;

- 4) the established facts;

- 5) the reason for detention, and also the legal norms applied;

- 6) the procedures for appealing detention;

- 7) the possibility to request free legal aid and representation.

(3) When detaining an asylum seeker, an official of the State Border Guard shall perform an inspection of the person and his or her possessions and draw up minutes on it. If inspection of a person is related to disrobing or search of the body, the inspection shall be performed by an official of the same sex, without participation of persons of opposite sex, except medical personnel.

(4) Inspection of the possessions of a detained asylum seeker shall be performed in his or her presence. In emergency cases possessions may be inspected without the presence of the detained asylum seeker.

(5) The asylum seeker shall be made acquainted with the detention minutes in which he or she understands or is reasonably supposed to understand, if necessary, using services of an interpreter, he or she shall be explained the reasons for detention, the procedures for appeal, the procedures by which court control over detention is implemented, and he or she shall be informed regarding the possibility to request free legal aid. Information regarding the reasons for detention, and also the procedures for appealing detention laid down in laws and regulations and the procedures for assigning the provider of free legal aid and representative shall be issued in a language, which he or she understands or is reasonably supposed to understand.

(6) The asylum seeker, who in accordance with the provisions of Section 11, Paragraph two, Clause 5 of this Law wishes to receive State ensured legal aid, shall submit an application to the State Border Guard regarding request of State ensured legal aid. The application shall be drawn up, by using the sample application form above-mentioned in Section 15, Paragraph four of this Law. The State Border Guard shall, without delay, but not later than on the following working day after receipt of the application, invite the provider of legal aid who is included in the list prepared by the institution responsible for provision of State ensured legal aid.

(7) Detention minutes, and also minutes regarding inspection of the person and possessions thereof shall be drawn up in two copies, from which one copy shall be issued to the asylum seeker and the other shall be appended to the file of the asylum seeker. The detention minutes, and also the minutes regarding inspection of the person and possessions thereof shall be signed

by the official who drew it up, and by the detained asylum seeker. If the detained asylum seeker refuses to sign or receive a copy of the minutes, it shall be indicated in the minutes.

(8) The time period of detention shall be counted from the moment when the asylum seeker was actually detained.

(9) The asylum seeker has the right to contest detention to the district (city) court within 48 hours after he or she has been made acquainted with the detention minutes and the information referred to in Paragraph five of this Section. The contesting shall not suspend detention.

Section 18. Detention of an Asylum Seeker on the Basis of a Court Decision

(1) An asylum seeker may be detained for more than six days only on the basis of a decision of the district (city) court.

(2) If any of the conditions for detention above-mentioned in Section 16 of this Law exists, the State Border Guard shall, in conformity with the requirements of Section 13 of this Law and, if necessary, requesting additional information from the Office, not later than 48 hours before expiry of the time period for detention, submit a justified proposal to the district (city) court (according to the actual location of the detained asylum seeker) to detain the asylum seeker for more than six days.

(3) The official of the State Border Guard shall deliver the asylum seeker to the district (city) court and, if necessary, invite an interpreter.

(4) If the court has taken a decision to refuse to detain the asylum seeker, the State Border Guard shall, without delay after receipt of a true copy thereof and making of the asylum seeker acquainted therewith, release the asylum seeker. Repeated detention of the asylum seeker shall be permitted only in such case, if information has been obtained or new circumstances have been established, which justify detention.

(5) The State Border Guard may submit a proposal to the district (city) court to detain an asylum seeker for an unlimited number of times. A repeat proposal shall be examined in accordance with the procedures provided for in this Section.

Section 19. Court Decision to Detain an Asylum Seeker

(1) The district (city) court shall, within 24 hours, take one of the following decisions after examining a proposal to detain an asylum seeker for more than six days, hearing the opinion of the official of the State Border Guard, the opinion of the asylum seeker and his or her representative (if any), evaluating the grounds for application of restrictive measures and the conditions for detention:

1) to refuse to detain the asylum seeker;

2) to detain the asylum seeker, indicating the time period of detention. The time period of detention may not exceed two months and may not exceed the time period of the asylum procedure.

(2) A true copy of the court decision shall be sent, without delay, but not later than within 24 hours from the moment of taking it, to the asylum seekers and the State Border Guard. If the asylum seeker does not have a representative, the court shall ensure a written translation of full text of the decision in a language which he or she understands or is reasonably supposed to understand.

Section 20. Court Control over Detention of an Asylum Seeker

(1) An asylum seeker or his or her representative may, at any time, submit a claim to the district (city) court (according to the actual location of the detained asylum seeker) regarding assessment of the necessity to continue application of detention.

(2) The court shall examine the claim regarding assessment of the necessity to continue application of detention in conformity with the provisions of Sections 18 and 19 of this Law, if necessary, by inviting an interpreter.

(3) The claim regarding assessment of the necessity to continue application of detention may be rejected, if it does not contain information regarding the circumstances, which were not known before when deciding on detention or examining the previous claim. The court shall examine the claim according to written procedure without participation of the persons involved in the proceedings.

(4) The decision, which has been taken in accordance with the conditions of Paragraph three of this Section, is not subject to appeal.

Section 21. Accommodation during Detention

(1) During detention an asylum seeker shall be accommodated in premises specially equipped for this purpose in a unit of the State Border Guard (hereinafter – the State Border Guard accommodation premises for asylum seekers), the requirements for equipping and arrangement of which shall be determined by the Cabinet.

(2) The internal rules of procedure of the State Border Guard accommodation premises for asylum seekers, the obligations and restrictions in such premises, and also the list of objects and substances, which are prohibited to be kept by a detained asylum seeker in the accommodation premises for asylum seekers, shall be determined by the Cabinet.

(3) The subsistence norms, and also the amount of hygienic and basic necessities for an asylum seeker accommodated in the State Border Guard accommodation premises for asylum seekers shall be determined by the Cabinet.

(4) Expenses, which are related to the residence of an asylum seeker, shall be covered from the State budget.

(5) Officials of State administration institutions, authorised representatives of associations, foundations, and also international organisations are entitled to visit the State Border Guard accommodation premises for asylum seekers in conformity with the internal rules of procedure in order to verify how they are used for ensuring detention of asylum seekers, evaluate the circumstances of accommodation and residence of detained asylum seekers, and also provide legal or other consultations corresponding to the competence of the relevant institution to detained asylum seekers. The visit shall be co-ordinated with the Chief of the State Border Guard accommodation premises for asylum seekers, unless it has been otherwise laid down in the law.

Section 22. Placement of Detained Asylum Seekers in the State Border Guard Accommodation Premises for Asylum Seekers and Bringing out Therefrom

(1) An official of the State Border Guard shall accommodate a detained asylum seeker in the State Border Guard accommodation premises for asylum seekers based upon detention minutes drawn up in accordance with the procedures laid down in Section 17 of this Law.

(2) Upon placing the detained asylum seeker in the State Border Guard accommodation premises for asylum seekers, his or her health condition shall be checked and sanitary treatment shall be performed. The procedures for health examination and sanitary treatment of the detained asylum seeker, and also the procedures for registering the results thereof shall be determined by the Cabinet.

(3) The detained asylum seeker shall be accommodated in conformity with the fundamental rights and safety of the person, individual traits and psychological compatibility, and also in conformity with the following conditions:

1) the detained asylum seekers – men and women – shall be accommodated separately;

2) the detained asylum seeker shall be accommodated separately from persons who are suspected of committing a criminal offence or who have been detained in accordance with the procedures laid down in the Immigration Law;

3) the detained asylum seeker who has a health disorder shall be accommodated according to the instructions of a medical practitioner in premises specially equipped for such purpose;

4) the detained family members of asylum seekers shall be accommodated together, if any of them does not object, however, separately from other detained persons, ensuring privacy;

5) the detained minor shall be ensured a possibility of studying, involving in measures related to spending leisure time, including in games and recreational measures conforming to the age;

6) an unaccompanied minor shall be ensured accommodation at the State Border Guard accommodation premises for asylum seekers, in which there is equipment, and also personnel corresponding to his or her age;

7) the detained asylum seeker who has been declared in international search shall be placed in premises specially equipped for such purpose until the moment when the issue on further action in extradition proceedings is decided, but not more than 72 hours;

8) the detained asylum seeker who has violated the internal rules of procedures of the State Border Guard accommodation premises for asylum seekers or endangers the safety of the persons present in the State Border Guard accommodation premises for asylum seekers may be placed, by a decision of an official authorised by the Chief of the State Border Guard, separately in premises specially equipped for this purpose for a time period up to 10 days.

(4) After placement in the State Border Guard accommodation premises for asylum seekers the detained asylum seeker shall be made acquainted with his or her rights and obligations in these premises, and also with the internal rules of procedure in a language which he or she understands or is reasonably supposed to understand, if necessary, using services of an interpreter.

(5) In order to ensure conformity with the internal rules of procedure and safety measures, possessions of such asylum seeker who has been accommodated in the State Border Guard accommodation premises for asylum seekers may be examined at any time and without the presence of the asylum seeker.

(6) During detention, the asylum seeker may be transferred from one State Border Guard accommodation premises for asylum seekers to another.

(7) The detained asylum seeker may be brought out from the State Border Guard accommodation premises for asylum seekers under guard in the following cases:

1) in order to ensure the activities laid down in this Law;

2) in order to provide medical assistance;

3) in order to perform criminal procedural activities according to a written request of a person directing criminal proceedings if such activities cannot be performed in the accommodation centre;

4) in other cases related to humanitarian considerations, based upon a written permission of an official authorised by the Chief of the State Border Guard.

Chapter V **Ensuring of Examination of Application**

Section 23. Negotiation and Initial Interview with the Asylum Seeker

(1) Officials of the State Border Guard who have received the necessary training regarding international human rights, *acquis* of the European Union in the field of asylum and negotiation methods, shall conduct:

1) negotiation with the asylum seeker in order to obtain information necessary for determination of the Member State, which will be responsible for examination of the application in accordance with Regulation No 604/2013 (hereinafter – the responsible Member State);

2) an initial interview with the asylum seeker, except the case referred to in Section 35 of this Law, in order to obtain information regarding his or her individual situation and circumstances, which is necessary in order to take a decision to accept the application for examination or to leave without examination, and basic information regarding the motives for requesting international protection.

(2) Negotiation and the initial interview may take place simultaneously.

(3) An official of the State Border Guard shall draw up minutes regarding negotiation and the initial interview. It shall be also be indicated in the minutes whether the asylum seeker has special procedural or reception needs.

(4) The asylum seeker has the right, until the end of the initial interview, to express considerations that the first country of asylum or safe third country cannot be deemed the first country of asylum or safe third country in his or her individual situation and circumstances and in relation to him or her being recognised as a refugee or a person who has the right to alternative status, and also the possibility to express remarks and provide clarifications in relation to any inaccurate translation or misunderstandings in the content of the minutes.

(5) The minutes shall be signed by the official who drew it up and the asylum seeker. If the asylum seeker refuses to sign the minutes, it shall be noted in the minutes.

(6) 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:

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.

Section 24. Personal Interview with the Asylum Seeker

(1) Not later than within one month from the day when a decision was taken to accept the application for examination, the Office shall conduct a personal interview with the asylum seeker in relation to his or her persecution within the meaning of Section 37 of this Law or threats of serious harm within the meaning of Section 40 of this Law, and also to obtain information necessary in order to assess the possibility of examining the application in accordance with the procedures laid down in Section 33 of this Law. If it is not possible to conduct the personal interview within this time period, the head of the Office may extend the time period for the interview by another month.

(2) If a large number of asylum seekers applies concurrently and therefore it is not possible to conduct personal interviews simultaneously, officials of the State Border Guard may be involved therein, by ensuring that they have received the relevant training, which includes the elements referred to in Article 6(4)(a)-(e) of Regulation (EU) No. 439/2010 of the European Parliament and of the Council of 19 May 2010 establishing a European Asylum Support Office, and also have acquired general knowledge regarding the problems that may have a negative impact on the ability of the asylum seeker to give a personal interview. During the personal interview an official of the State Border Guard shall not wear the official uniform.

(3) A personal interview need not be conducted, if:

1) the Office has proof at its disposal, which allows taking of a decision to grant refugee status;

2) the conclusion of a physician confirms that the asylum seeker has permanent health disorders which do not allow it.

Section 25. Requirements for an Initial Interview and a Personal Interview

(1) The State Border Guard, in conducting an initial interview, and the Office, in conducting a personal interview, shall ensure that:

1) it takes place without the presence of family members of the asylum seeker, unless the State Border Guard or the Office deems that the presence of other family members is necessary for examination of the application;

2) it takes place in conditions guaranteeing corresponding confidentiality and allowing the asylum seeker to provide comprehensive justification for his or her application, and also to express an opinion on the possible deficiencies or inconsistencies in his or her allegations;

3) it is conducted by officials who are sufficiently competent to take into account the personal and general circumstances of the asylum seeker, which are related to the application, including his or her origin, sex, sexual orientation, gender identity or vulnerability;

4) if it is possible and it is requested by the asylum seeker, the official interviewing him or her and the interpreter are a person of the same sex, except the case when the State Border Guard or the Office have the grounds of assuming that the reasons for such request are not related to the difficulties, due to which the asylum seeker might not be able to clearly outline the reasons for his or her application;

5) with a minor asylum seeker it is conducted by an official, who has the necessary knowledge regarding needs of minor persons, in the presence of a representative;

6) with a minor asylum seeker it takes place in a way appropriate for children.

(2) The initial interview and personal interview shall be recorded using sound or video technical means (hereinafter – technical means), informing the asylum seeker thereof in advance. If the interview is recorded using technical means, it is appended to the file of the asylum seeker.

(3) A representative of the asylum seeker shall be permitted to participate in the initial interview and personal interview.

(4) Absence of a representative of the asylum seeker, except the case when the initial interview or personal interview with an unaccompanied minor is intended, shall not preclude the State Border Guard from conducting the initial interview and the Office – the personal interview.

Section 26. Report On the Personal Interview, Procedures for Drawing up Thereof

(1) An official authorised by the head of the Office shall draw up a report on the personal interview (hereinafter – report). The report shall contain all the essential information, which is necessary to take a decision to grant refugee or alternative status or to refuse to grant it. The report on the interview conducted in the case above-mentioned to in Section 24, Paragraph two of this Law shall be drawn up by officials of the State Border Guard.

(2) The asylum seeker has the right, until the end of the personal interview, to express considerations that a safe third country cannot be deemed a safe third country in his or her individual situation and circumstances and in relation to him or her being recognised as a refugee or a person who has the right to alternative status, and the possibility to express remarks and provide clarifications in relation to any inaccurate translation or misunderstandings in the content of the deed. At the end of personal interview the official authorised by the head of the Office shall make the asylum seeker acquainted with the report and ask him or her to confirm that its content is a correct representation of the interview. If the asylum seeker refuses to confirm that the content of the report is a correct representation of personal interview, his or her reasons for refusal shall be indicated in the report.

(3) The right to submit written remarks on the report shall not apply to cases when the course of the personal interview is completely recorded, using technical means.

Section 27. Medical Expert-examination

(1) If the Office is of the opinion that it is essential in order to take a decision to grant refugee or alternative status or to refuse to grant it, shall send the asylum seeker, by his or her consent, to a medical expert-examination in relation to the signs, which might point to previous persecution performed or serious harm inflicted.

(2) The State Border Guard, upon receipt of a consent from the representative of an unaccompanied minor, may determine a medical expert-examination in order to determine the age of such person, if the State Border Guard has doubts regarding his or her age. If after performance of medical expert-examination the State Border Guard still has doubts regarding the age of the asylum seeker, it is assumed in examining the application that the asylum seeker is a minor.

(3) After registering the application the State Border Guard shall inform the unaccompanied minor, without delay and in the presence of a representative, in a language which he or she understands or is reasonably supposed to understand, regarding the possibility that his or her age may be determined in the medical expert-examination referred to in Paragraph two of this Section, regarding the course of the expert-examination, and the possible impact of the results of the medical expert-examination on examination of the application, and also regarding the consequences, which might occur if the representative of the unaccompanied minor refuses from medical expert-examination.

(4) If the Office does not organise the medical expert-examination referred to in Paragraph one of this Section, it shall inform the asylum seeker that he or she has the right to perform the medical expert-examination using his or her own funds, in relation to the signs, which might point to previous persecution performed or serious harm inflicted. If the asylum seeker performs the above-mentioned medical expert-examination, he or she has an obligation to submit the results of the medical expert-examination without delay.

(5) The medical expert-examinations referred to in Paragraphs one and two of this Section shall be paid from the State budget resources.

Chapter VI

Procedures for Examining the Application and Taking a Decision

Section 28. Decisions of the Office within the Scope of the Asylum Procedure

(1) An official authorised by the head of the Office shall take a decision to:

1) accept the application for examination or to leave it without examination;

2) grant or refuse to grant refugee or alternative status;

3) transfer the asylum seeker to the responsible Member State, which will examine the application submitted in the Republic of Latvia in accordance with the procedures laid down in Section 6, Paragraph two of this Law, according to Regulation No 604/2013;

4) discontinue examination of the application;

5) resume examination of the application or to refuse to resume examination of application.

(2) If the asylum seeker is an unaccompanied minor, the decisions referred to in Paragraph one of this Section shall be drawn up by an official of the Office, who has the necessary knowledge regarding needs of minors.

(3) In taking the decisions referred to in Paragraph one of this Section, an official authorised by the head of the Office may include the asylum seeker and his or her family members in one decision, if the applications of such persons are based on the same facts and if thus the special circumstances of the asylum seeker are not disclosed, which may endanger his or her interests, particularly in cases which are related to persecution due to sex, sexual orientation, gender identity or age.

(4) Refusal of the asylum seeker to sign the negotiation minutes or to confirm the content of the report, to perform the medical expert-examination above-mentioned in Section 27, Paragraph two of this Law or non-submission of the results of the medical expert-examination above-mentioned in Section 27, Paragraph four of this Law shall not be the grounds for not taking any of the decisions referred to in Paragraph one of this Section.

Section 29. Deadlines for Taking Decisions of the Office

(1) A decision to accept the application for examination or to leave it without examination shall be taken after the documents above-mentioned in Section 23, Paragraph six of this Law have been received from the State Border Guard:

1) within five working days, if the application was submitted at the border crossing point or in the border crossing transit zone;

2) within 10 working days, if the asylum seeker is located in the territory of the Republic of Latvia.

(2) The application shall be examined and a decision to grant refugee or alternative status or to refuse to grant it shall be taken within three months from the day when the personal interview with the asylum seeker was conducted, but not later than within six months after registering the application.

(3) The State Secretary of the Ministry of the Interior or his or her authorised person may extend the time period of six months referred to in Paragraph two of this Section for another nine months, if:

1) assessment of the application is related to complex factual or legal issues;

2) applications have been simultaneously submitted by a large number of third country nationals or stateless persons and it is not possible to conform to the deadline referred to in Paragraph two of this Section.

(4) In examining the application in accordance with the procedures referred to in Section 33, Paragraph one of this Law, an official authorised by the head of the Office shall take a decision within 20 working days from the day when the personal interview with the asylum seeker was conducted.

(5) If members of one family are included in one decision, the time period referred to in Paragraphs two and four of this Section shall be counted from the day when personal interview with all family members of legal age was conducted.

(6) A decision to accept the application for examination or to leave it without examination shall be taken within 10 working days, if information regarding refusal to take responsibility for examining the application has been received from the competent authority of another Member State in accordance with Regulation No 604/2013 or if the Republic of Latvia is responsible for examining an application submitted in another Member State and the asylum seeker has been admitted back to the Republic of Latvia.

(7) If information has been received from the competent authority of another Member State in accordance with Regulation No 604/2013 that this Member State takes responsibility for examining the application of the asylum seeker, a decision to transfer the asylum seeker to the responsible Member State, which will examine the application, shall be taken within 10 working days after receipt of such information.

Section 30. Decision to Leave the Application without Examination

(1) A decision to leave the application without examination shall be taken, if at least one of the following conditions exists:

1) another Member State has granted international protection to the asylum seeker;

2) a country, which is not a Member State, is regarded as the first country of asylum of the asylum seeker;

3) a country, which is not a Member State, is regarded as the safe third country for the asylum seeker;

4) the asylum seeker has submitted a repeat application in the Republic of Latvia after a decision to refuse to grant refugee or alternative status has entered into effect, and such circumstances are not referred to therein, which would have significantly changed for the benefit of the asylum seeker and might serve as justification for granting refugee or alternative status.

(2) If the application has been submitted at a border crossing point or in the border crossing transit zone and the issue regarding acceptance of the application for examination or leaving without examination is being decided, the State Border Guard shall ensure corresponding and appropriate support to the asylum seeker who has special procedural or reception needs so that he or she could exercise the rights laid down in this Law and comply with the obligations laid down in this Law during the asylum procedure.

(3) A decision to leave the application of an unaccompanied minor without examination in accordance with Paragraph one, Clause 3 of this Section may be taken, if it conforms to the best interests of such minor.

(4) If administrative proceedings regarding the decision referred to in Paragraph one, Clause 3 of this Section have ended, the Office shall issue a document to the asylum seeker, in which the authorities of the safe third country are informed in the official language of the above-mentioned country that the conformity of the application with the conditions of Section 37, Paragraph one and Section 40, Paragraph one of this Law has not been assessed.

(5) An official authorised by the head of the Office shall assess the conformity of the application with the conditions of Section 33, Paragraph one or Section 37, Paragraph one and Section 40, Paragraph one of this Law, if the safe third country does not allow the asylum seeker to enter its territory.

(6) The condition that the representative of an unaccompanied minor has refused from the medical expert-examination above-mentioned in Section 27, Paragraph two of this Law cannot be the sole grounds for taking a decision to leave the application of an unaccompanied minor without examination or a decision to refuse to grant refugee or alternative status.

Section 31. Decision to Accept an Application for Examination

An official authorised by the head of the Office shall take a decision to accept an application for examination, if one of the following conditions exists:

1) the conditions above-mentioned in Section 30, Paragraph one of this Law do not exist;
2) information has been received from the competent authority of another Member State in accordance with Regulation No 604/2013 regarding refusal to take responsibility for examination of the application or the Republic of Latvia is responsible for examination of an application submitted in another Member State and the asylum seeker has been admitted back to the Republic of Latvia;

3) it is not possible to ensure the fulfilment of the conditions of Section 30, Paragraph two of this Law.

Section 32. Examination of an Application and Decision to Grant Refugee or Alternative Status or Decision to Refuse to Grant Refugee or Alternative Status

(1) The application of each asylum seeker shall be examined individually, objectively and fairly, using accurate and updated information from different sources, for example, from the European Asylum Support Office and United Nations High Commissioner for Refugees, and from relevant international human rights organisations, regarding general situation in the country of origin of the asylum seeker, and, if necessary, in countries, which he or she has crossed.

(2) In examining the application, firstly, a decision shall be taken to grant refugee status to the asylum seeker in accordance with the provisions of the Law, but if they do not apply to the asylum seeker – to grant alternative status.

(3) In examining the application, an official authorised by the head of the Office shall take into account the best interests of a minor.

(4) The following shall be taken into account in examining the application:

1) the facts which relate to the country of origin of the asylum seeker during the period when a decision is being taken to grant refugee or alternative status or to refuse to grant it, also the laws and regulations of the country of origin and the manner in which they are applied;

2) the explanations provided and the documents submitted by the asylum seeker;

3) the individual state and circumstances of the asylum seeker. The condition that the asylum seeker has special procedural or reception needs in itself shall not affect the assessment of the application;

4) results of the medical expert-examination, if such has been performed in accordance with Section 27, Paragraph one, two or four of this Law;

5) whether activities of the asylum seeker since leaving the country of origin thereof have not been aimed towards creating conditions for granting of refugee or alternative status;

6) whether it is justifiably expected that the asylum seeker would accept protection of such other country where he or she might request citizenship.

(5) The fact that the asylum seeker has already been subjected to persecution or serious harm, or direct threats of persecution or harm and there is a well-founded reason to believe that such persecution or serious harm may recur shall indicate to justified fear of the asylum seeker from persecution or to justified possibility that he or she may suffer from serious harm.

(6) If that indicated in the explanations of the asylum seeker is not justified with documents or other evidence, confirmation shall not be necessary if the following conditions exist:

1) the asylum seeker has submitted all information at his or her disposal;

2) the explanations of the asylum seeker are plausible, not contradictory and conform to the information at the disposal of the Office;

3) the asylum seeker submitted the application as soon as it was possible, unless he or she cannot confirm that he or she had justified reasons, due to which the application was not submitted earlier;

4) it has been established that the asylum seeker may be trusted at large.

(7) A decision to grant or to refuse to grant refugee or alternative status shall also apply to the minor children of the asylum seeker (including dependants), if they are located or arrive in the Republic of Latvia concurrently with the parents. In examining the application, the opinion of the minor shall be taken into account.

(8) The condition that the application was not submitted without delay cannot be the sole grounds for taking a decision to leave the application without examination or a decision to refuse to grant refugee or alternative status.

(9) If personal interview with the asylum seeker has not been conducted, on the basis of Section 24, Paragraph three, Clause 2, an official authorised by the head of the Office shall take a decision to grant refugee or alternative status or to refuse to grant it, taking into account the information at the disposal of the State Border Guard and the Office regarding the asylum seeker. Not conducting of personal interview may not be the sole grounds for taking a decision not favourable to the asylum seeker.

Section 33. Accelerated Procedures for Examination of an Application

(1) An official authorised by the head of the Office may examine the application according to accelerated procedures, if at least one of the following conditions exists:

1) in submitting the application, the asylum seeker has indicated only such circumstances, which may not be the grounds for taking a decision to grant refugee or alternative status;

2) the asylum seeker is from a safe country of origin;

3) the asylum seeker has misled the institutions involved in the asylum procedure, providing false information or documents or also not submitting corresponding information or documents confirming his or her identity or nationality;

4) it is possible that the asylum seeker has maliciously destroyed or left a personal identification document or travel document, which could have helped to determine his or her identity or nationality;

5) the asylum seeker has provided inconsistent, controversial, obviously false or obviously incredible information, which is in contradiction with sufficiently verified information of the country of origin and causes grounds for an assumption that his or her claim in relation to persecution within the meaning of Section 37 of this Law or threats of serious harm within the meaning of Section 40 of this Law is not convincing;

6) the asylum seeker has submitted a repeat application, which has been accepted for examination;

7) the asylum seeker has submitted the application mainly in order to hinder or prevent his or her removal from the Republic of Latvia;

8) the asylum seeker has illegally entered or illegally extended his or her residence in the Republic of Latvia and has not submitted the application sooner without justified reason;

9) the asylum seeker does not agree to taking of fingerprints;

10) the asylum seeker causes threat to national security or public order and safety or has been removed from the Republic of Latvia, because he or she has caused threat to national security or public order and safety and, in accordance with the provisions of the Immigration Law, has been included in the list of such foreigners who are prohibited from entering in the Republic of Latvia.

(2) The country, the nationality of which is held by the asylum seeker or in which he or she has continuously resided as a stateless person beforehand, shall be deemed a safe country of origin for the asylum seeker, if he or she has not submitted sufficient justification in order to consider that the relevant country is not a safe country or origin in his or her individual situation and circumstances and in relation to him or her being recognised a refugee or a person who has the right to alternative status.

(3) An official authorised by the head of the Office shall examine the application of such asylum seeker who needs special procedural guarantees according to abbreviated procedures and may take a decision to refuse to grant refugee or alternative status only in such case, if the asylum seeker has been provided corresponding and adequate support so that he or she could exercise the rights laid down in this Law and comply with the obligations laid down in this Law during the asylum procedure.

(4) An official authorised by the head of the Office may examine the application of an unaccompanied minor according to accelerated procedures and may take a decision to refuse to grant refugee or alternative status only in such case, if the condition referred to in Paragraph one, Clause 2, 6 or 10 of this Section exists.

Section 34. Decision to Discontinue Examination of the Application, Decision to Resume Examination of the Application, and Decision to Refuse to Resume Examination of the Application

(1) A decision to discontinue examination of the application shall be taken, if:

1) a request of the asylum seeker to discontinue examination of the application has been received at the Office;

2) there is a substantial reason to assume that the asylum seeker has indirectly revoked his or her application or refused from it, because he or she has not fulfilled the obligations above-mentioned in Section 12, Paragraph one, Clause 1, 2 or 5 of this Law, or has escaped from the State Border Guard accommodation premises for asylum seekers.

(2) A decision to discontinue examination of the application shall be taken not later than within three months from the day when any of the circumstances referred to in Paragraph one of this Section became known, unless the asylum seeker has proved in a timely manner that it has happened due to circumstances independent from him or her.

(3) The asylum seeker has the right, within nine months from the day when the decision to discontinue examination of the application has entered into effect, to request that examination of his or her application is resumed. This time period shall not apply to cases when the Republic of Latvia, in accordance with Regulation 604/2013, is accepting back an asylum seeker who has revoked his or her application during its examination, prior to taking of a decision to grant refugee or alternative status or to refuse to grant it, and has drawn up an application in another Member State or is residing in the territory of another Member State without a residence permit.

(4) If the asylum seeker requests more than once to resume examination of his or her application, it shall be examined in accordance with the procedures laid down in Section 35 of this Law, except the case when the Republic of Latvia, in accordance with Regulation 604/2013, is accepting back an asylum seeker who has revoked his or her application during its examination, prior to taking a decision to grant refugee or alternative status or to refuse to grant it, and has drawn up an application in another Member State or is residing in the territory of another Member State without a residence permit.

(5) If the asylum seeker has requested more than once that examination of his or her application is resumed mainly in order to hinder or prevent carrying out of such decision, by which his or her removal from the Republic of Latvia would be implemented without delay, such person shall not be deemed an asylum seeker during examination of the application.

(6) An official authorised by the head of the Office shall take a decision to resume examination of the application or to refuse to resume examination of the application within 10 working days after a request of the asylum seeker to resume examination of his or her application was received.

(7) Examination of the application shall be resumed and continued from such stage of the asylum procedure, in which it was discontinued.

Section 35. Repeat Application

(1) A person in relation to whom the final decision to refuse to grant refugee or alternative status has been taken is entitled to submit a repeat application to the State Border Guard. The person has an obligation to indicate proof in the repeat application, confirming that circumstances, on which the relevant decision was based, have changed significantly.

(2) If the person submits a repeat application after a decision has been taken to transfer him or her to the responsible Member State, which will examine the application in accordance with Regulation No 604/2013, the application shall be assessed by the Member State responsible for examination of the application.

(3) After assessment of the circumstances referred to in the repeat application an official authorised by the head of the Office shall take a decision to accept the application for examination or to leave it without examination in conformity with the provisions of Section 30 or 31 of this Law.

(4) If a decision to accept the repeat application for examination has been taken, an official authorised by the head of the Office shall assess the conformity of such application with the conditions of Section 33, Paragraph one, Section 37, Paragraph one, and Section 40, Paragraph one of this Law.

- (5) A decision of an official authorised by the head of the Office to leave the repeat application without examination may be appealed by the relevant person or his or her representative in accordance with the procedures laid down in Section 48, Paragraph four, Clause 1 of this Law.
- (6) If the person has submitted a repeat application more than once mainly in order to hinder or prevent carrying out of such decision, by which his or her removal from the Republic of Latvia would be implemented without delay, such person shall not be deemed an asylum seeker during examination of the application.
- (7) If a repeat applicant is submitted by a person who has acquired alternative status, after the final decision to refuse to grant refugee status has been taken, such person shall not be deemed an asylum seeker during examination of the application.

Section 36. Notification of a Decision Taken within the Scope of the Asylum Procedure and Procedures for Requesting State Ensured Legal Aid

- (1) A decision taken within the scope of the asylum procedure shall enter into effect at the moment when it is notified to the asylum seeker. The decision taken within the scope of the asylum procedure shall be notified to the asylum seeker in accordance with the Law On Notification.
- (2) If the asylum seeker has been detained in the cases and in accordance with the procedures laid down in this Law and accommodated in the State Border Guard accommodation premises for asylum seekers, he or she shall be made acquainted with the decision and the conditions for receipt of State ensured legal aid by the State Border Guard.
- (3) If the asylum seeker who has been detained in the cases and in accordance with the procedures laid down in this Law and accommodated in the State Border Guard accommodation premises for asylum seekers, wishes to receive State ensured legal aid in order to appeal the decision above-mentioned in Section 11, Paragraph two, Clause 6 of this Law, he or she shall submit an application for requesting State ensured legal aid to the State Border Guard. The State Border Guard shall, without delay, but not later than on the following working day after receipt of the application of the asylum seeker for receipt of State ensured legal aid, invite the provider of legal aid who is included in the list drawn up by the institution responsible for provision of State ensured legal aid.
- (4) If the asylum seeker wishes to receive State ensured legal aid in order to appeal the decision of the Office referred to in Section 11, Paragraph two, Clause 6 of this Law, and the asylum seeker has not been detained in the cases and in accordance with the procedures laid down in this Law and accommodated in the State Border Guard accommodation premises for asylum seekers, he or she shall submit an application to the Office for requesting State ensured legal aid and an application regarding his or her income. After assessment of the information referred to in the application for requesting State ensured legal aid and the application regarding income of the asylum seeker the Office shall, without delay, but not later than on the following working day, send to the institution, which is responsible for provision of State ensured legal aid, a request to provide legal aid and shall append a copy of the document to be appealed.
- (5) Sample form of the application for requesting State ensured legal aid and the application regarding income of the asylum seeker shall be determined by the Cabinet.

Chapter VII Conditions for Granting International Protection

Section 37. Conditions for Granting of Refugee Status

- (1) A third-country national who on the basis of justified fear from persecution due to his or her race, religion, nationality, membership of a specific social group or his or her political views is located outside the country where he or she is a national, and is unable or due to such fear does

not wish to accept the protection of the country where he or she is a national, or a stateless person, who being outside his former country of permanent residence is unable or unwilling to return there due to the same reasons and to whom the conditions of Section 45 of this Law do not apply, may apply for refugee status.

(2) A person may not apply for refugee status if he or she is a national of more than one country and does not use legal protection in any of the countries of his or her citizenship without justified reason. The country of citizenship of a person shall be each country of which the person is a citizen.

(3) In applying Paragraph one of this Section, a link shall be established between the reasons of persecution referred to in Section 39, Paragraph one of this Law and the actions of persecution referred to in Section 38 of this Law or that protection from such actions is not ensured.

(4) A decision to grant refugee status shall also apply to a minor child who has been born after his or her father or mother has been granted refugee status in accordance with this Law, if his or her parents have not lost the status granted or it has not been revoked for his or her parents in accordance with the conditions of Sections 55 and 56 of this Law.

Section 38. Concept of Persecution

(1) Within the meaning of Section 37, Paragraph one of this Law, the following shall be recognised as persecution:

1) activities which due to their nature or frequency are sufficiently severe to cause a serious violation of fundamental human rights;

2) several activities, also an accumulation of violations of human rights, which are sufficiently serious to affect an individual in a manner similar to the one referred to in Paragraph one, Clause 1 of this Section.

(2) The activities referred to in Paragraph one of this Section may be as follows:

1) physical or mental abuse, including sexual abuse;

2) legal and administrative measures or also police or judicial measures, which in themselves are discriminatory or are implemented in a discriminatory manner;

3) a disproportionate or discriminatory charge or a disproportionate or discriminatory punishment;

4) refusal of legal appeal, which results in imposition of a disproportionate or discriminatory punishment;

5) a charge or punishment for the refusal to perform military service during a conflict, if the performance of military service would include a crime or such activities to which Section 45, Paragraph one, Clauses 3, 4, and 5 of this Law apply;

6) activities which are particularly aimed towards gender or towards minors.

Section 39. Grounds of Persecution

(1) In assessing the grounds of persecution, an official authorised by the head of the Office shall take into account the asylum seeker's:

1) race, skin colour, origin or membership of a specific ethnic group;

2) religious affiliation, participation in official private or public religious services, his or her other religious activities or expression of views, or also personal or group behaviour based on religious views;

3) nationality that may also be expressed as membership of such group, which is determined by cultural, ethnic or language identity, common geographical or political origin or relationships with residents of another country;

4) membership of a specific social group, which conforms to one of the following characteristics:

a) group members have common congenital attributes or a common parentage, which cannot be changed, or they have common attributes or a conviction, which is so important to the identity or awareness of the person that the person may not be forced to abandon it, and the above-mentioned group has a unique identity in the relevant country, which the community regards as different,

b) depending on the conditions in the country of origin, such group, main common attribute of which is a specific sexual orientation, may be regarded as a special social group therein;

5) political views or opinions regarding the potential persecutors referred to in Section 42 of this Law and their policies regardless of whether the asylum seeker has acted according to his or her opinion.

(2) In assessing whether the fear of persecution of an asylum seeker is justified, his actual race, religion, nationality or membership of a specific social or political group, due to which he or she may be exposed to persecution, shall not be of significance unless the persecutors indicated in Section 42 of this Law apply the above-mentioned indications to the asylum seeker.

Section 40. Conditions for Granting of Alternative Status

(1) A third-country national or a stateless person who cannot be granted refugee status in accordance with Section 37, Paragraph one of this Law and to whom the conditions of Section 46 of this Law do not apply, may apply for alternative status if there is a reason to believe that he or she may be exposed to serious harm after return to the country of origin thereof and due to this reason is unable or does not wish to accept the protection of the above-mentioned country.

(2) A person may not apply for alternative status if he or she is a citizen of more than one country and does not use legal protection in any of the countries of his or her citizenship without justified reason.

(3) A decision to grant alternative status shall also apply to a minor child who has been born after his or her father or mother has been granted alternative status in accordance with this Law, if his or her parents have not lost the status granted or it has not been revoked for his or her parents in accordance with the conditions of Sections 57 and 58 of this Law.

Section 41. Concept of Serious Harm

Within the meaning of this Law, serious harm shall be:

1) imposition of death penalty to an asylum seeker or the execution thereof;
2) torture, inhuman or degrading attitude towards an asylum seeker or inhuman or degrading punishment thereof;

3) serious and individual threats to the life or health of a civilian due to widespread violence in case of international or domestic armed conflicts.

Section 42. Persecutors or Committers of Serious Harm

Persecutors or committers of serious harm may be:

1) the country of origin;
2) parties or organisations of the country of origin, which control this country or a significant part of the territory thereof;

3) groupings or persons of the country of origin, if it is possible to prove that the country of origin, parties or organisations thereof or international organisations are unable to or do not wish to ensure protection against persecution or serious harm, as laid down in Section 43 of this Law.

Section 43. Ensuring Protection

(1) In taking a decision to grant refugee or alternative status or to refuse to grant it, an official authorised by the head of the Office shall assess the feasibility of ensuring protection in the country of origin. Protection may be ensured only by:

- 1) the country of origin;
 - 2) parties or organisations of the country of origin, including international organisations, which control this country or a significant part of the territory thereof.
- (2) Protection is ensured if it is efficient and unlimited in time and if the country of origin, parties or organisations thereof or international organisations are willing and able take measures in order to prevent persecution or serious harm, also maintain an efficient legal system, the aim of which is to detect activities related to persecution or serious harm, and also to charge and punish for such activities, and if such protection is available to an asylum seeker.

Section 44. Need for Protection of a Person while Residing in the Republic of Latvia

If a person resides in the Republic of Latvia, a warranted reason for justified fear thereof from persecution or from potential serious harm may be:

- 1) events in the country of origin of the asylum seeker, which have taken place after he or she has left this country;
- 2) activities in which the asylum seeker has become involved since leaving the country of origin thereof, particularly if it has been detected that these activities, upon which the fear is based, certify and continue to certify the former conviction or orientation of the person in the country of origin.

Section 45. Cases when Refugee Status is not Granted

(1) Refugee status shall not be granted if at least one of the following conditions exists:

- 1) the person is receiving protection or aid from other structures of the United Nations Organisation, except the United Nations High Commissioner for Refugees. If the above-mentioned protection or aid to the person is suspended due to any reason and if the status thereof has not been specifically determined in resolutions of the General Assembly of the United Nations, the provisions of this Law shall apply thereto;
 - 2) the competent authorities of the Republic of Latvia have acknowledged that the person has the rights and obligations, which are applicable to citizens of Latvia, or rights or obligations equivalent thereto;
 - 3) the person has committed a crime against peace, a war crime or a crime against humanity, as defined in international documents;
 - 4) prior to arrival in the Republic of Latvia the person has committed a crime, which is not of political nature and which in accordance with the law of the Republic of Latvia should be recognised as a particularly serious crime;
 - 5) the person has performed activities, which are aimed against the objectives and principles of the United Nations Organisation;
 - 6) there is reason to believe that the person poses a threat to national security;
 - 7) the person, who has been recognised as guilty of committing a particularly serious crime by a court judgement of the Republic of Latvia, poses a threat to the society of Latvia.
- (2) Paragraph one, Clauses 3, 4, and 5 of this Section shall also be applied to persons who incite to the above-mentioned crimes or activities or otherwise participate in the committing or encouraging of the above-mentioned crimes or activities.

Section 46. Cases when Alternative Status is not Granted

(1) Alternative status shall not be granted if at least one of the following conditions exists:

1) the person has committed a crime against peace, a war crime or a crime against humanity, as defined in international documents;

2) the person has committed a crime which, in accordance with the law of the Republic of Latvia, is recognised as a serious or an especially serious crime;

3) the person has performed activities, which are aimed against the objectives and principles of the United Nations Organisation;

4) there is a reason to believe that the person poses a threat to national security or public order and safety;

5) prior to the arrival in the Republic of Latvia the person has committed a crime, for which the deprivation of liberty would be applied, if it had been committed in the Republic of Latvia and has left his or her country of origin solely in order to avoid punishment for this crime.

(2) Paragraph one, Clauses 1, 2, 3, and 4 of this Section shall also be applied to persons who incite to the above-mentioned crimes or activities or otherwise participate in the committing or encouraging of the above-mentioned crimes or activities.

Section 47. Possibility of Protection in the Country of Origin

The asylum seeker shall not be granted refugee or alternative status, if fear from persecution is not justified or risk of serious harm does not exist in any part of his or her country of origin, or the protection above-mentioned in Section 43 of this Law from persecution or serious harm is available and the asylum seeker may safely and lawfully travel to this part of the country, may be admitted there and, as it may be justifiably assumed, may also reside there.

Chapter VIII

Procedures for Appealing a Decision Taken within the Scope of the Asylum Procedure

Section 48. Appeal of the Decision to the Court

(1) The asylum seeker or his or her representative may appeal the following decisions of an official authorised by the head of the Office to the Administrative District Court according to the address of accommodation of the asylum seeker or in the case referred to in Section 12, Paragraph one, Clause 5 of this Law – according to the address of the place of residence:

1) to transfer to the responsible Member State, which will examine the application in accordance with Regulation No 604/2013;

2) to leave the application without examination;

3) to grant or refuse to grant refugee or alternative status;

4) to discontinue examination of the application or to refuse to discontinue examination of application.

(2) The asylum seeker or his or her representative may appeal the decision of an official authorised by the head of the Office to the District Administrative Court according to the address of the place of detention of the asylum seeker, if the asylum seeker has been detained in the cases and in accordance with the procedures laid down in this Law and accommodated in the State Border Guard accommodation premises for asylum seekers.

(3) During examination of the application (case) the person shall be deemed an asylum seeker who has the right to reside in the Republic of Latvia until the moment when the District Administrative Court takes a decision, except the case above-mentioned in Section 34, Paragraph five and Section 35, Paragraph six of this Law.

(4) The asylum seeker or his or her representative shall submit to the Office an application addressed to the District Administrative Court regarding:

1) a decision of an official authorised by the head of the Office to transfer the asylum seeker to the responsible Member State, which will examine the application in accordance with Regulation No 604/2013, to leave the application without examination, to refuse to grant refugee or alternative status, if the application was examined according to accelerated procedures, to discontinue examination of the application or to refuse to discontinue examination of application – within 15 working days from the day when the decision has entered into effect;

2) a decision of an official authorised by the head of the Office to transfer the asylum seeker to the responsible Member State, which will examine the application, or to leave the application without examination, if the asylum seeker has been detained – within five working days from the day when the decision has entered into effect;

3) a decision of an official authorised by the head of the Office to grant or refuse to grant refugee or alternative status – within one month from the day when the decision has entered into effect.

(5) The Office shall forward the application together with the documents and proof at its disposal to the court within one working day after receipt thereof.

(6) The asylum seeker shall be exempted from the State fee for the submission of an application to the court.

Section 49. Examination of the Application in the District Administrative Court

(1) A matter which has been initiated on the basis of an application regarding the decision of an official authorised by the head of the Office, shall be examined in the District Administrative Court and a decision shall be taken:

1) within five working days from the date of taking the decision to accept the application and to initiate the matter, if the decision has been taken in accordance with Section 29, Paragraph seven of this Law;

2) within five working days from the date of taking the decision to accept the application and to initiate the matter, if the decision has been taken in accordance with Section 30, Paragraph one and Section 34, Paragraph one or six of this Law;

3) within 20 working days from the date of taking the decision to accept the application and to initiate the matter, if the decision has been taken in accordance with Section 33, Paragraph one of this Law;

4) within three months from the date of taking the decision to accept the application and to initiate the matter, if the decision has been taken in accordance with Section 37, Paragraph one or Section 40, Paragraph one of this Law;

5) within five working days from the date of taking the decision to accept the application and to initiate the matter, if the decision has been taken in accordance with Section 35, Paragraph three of this Law.

(2) The District Administrative Court shall examine the administrative matter according to a written procedure. The District Administrative Court may examine the matter, which has been initiated on the basis of an application regarding a decision to refuse to grant refugee or alternative status, if such decision has been taken according to accelerated procedures, or regarding a decision to grant refugee or alternative status or to refuse to grant it, according to a written procedure, if it recognises that the proof in the matter is sufficient for adjudicating this matter.

(3) If the asylum seeker has not informed the Office or the District Administrative Court regarding his or her location or there is information that the asylum seeker does not reside in the Republic of Latvia, the court may leave the application of the asylum seeker without

examination. The District Administrative Court shall decide on the above-mentioned issue according to a written procedure.

(4) If the law determines the time period for execution of a procedural action, however, the conditions of Paragraph one of this Section would not be observed in executing the respective procedural action within this time period, the court shall determine itself a time period appropriate for execution of the procedural action.

(5) In examining a matter, the District Administrative Court shall not summon witnesses from foreign countries.

(6) The decision of the District Administrative Court is final and shall not be appealed. The decision of the District Administrative Court shall come into effect at the time of declaration thereof and shall be notified to the asylum seeker without delay, explaining the nature of the decision in a language which he or she understands or is reasonably supposed to understand. The District Administrative Court shall inform the Office and the State Border Guard regarding the decision taken without delay, not later than until the end of the working day when the above-mentioned decision has entered into effect.

(7) Decisions of the District Administrative Court, which are taken by performing the procedural actions necessary for examination of the submitted application or the initiated matter, may not be appealed.

(8) An official authorised by the head of the Office shall assess the conformity of the application with the conditions of Section 33, Paragraph one or the conditions of Section 37, Paragraph one and Section 40, Paragraph one of this Law, if the District Administrative Court decides that the conditions of Section 29, Paragraph seven, Section 30, Paragraph one or Section 34, Paragraph six of this Law do not apply to the asylum seeker.

Chapter IX

Rights and Obligations of a Person Having Acquired Refugee or Alternative Status

Section 50. Right to Information of a Person Having Acquired Refugee or Alternative Status

(1) After granting of refugee or alternative status to a person, the Office shall provide information thereto regarding the rights and obligations which relate to the granted status, in a language which he or she understands or is reasonably supposed to understand.

(2) A minor who has been granted refugee or alternative status is provided with opportunities for acquiring education in the official language in a State or local government educational institution.

Section 51. Travel and Personal Identification Document of a Person Having Acquired Refugee or Alternative Status

(1) In conformity with the Convention Relating to the Status of Refugees of 28 July 1951, a travel document shall be issued to a refugee, which concurrently is also a personal identification document of the refugee.

(2) A person who has acquired alternative status and who cannot receive a travel document issued by the previous country of residence, shall be issued a travel document which concurrently is also a personal identification document.

(3) If a person has been granted refugee or alternative status, the State Border Guard shall forward the personal identification and travel documents thereof to the Office.

(4) Upon receiving the travel document above-mentioned in Paragraph one of this Section, a refugee shall hand over to the Office all the existing personal identification and travel documents issued in foreign countries at his or her disposal.

Section 52. Residence of a Person Having Acquired Refugee or Alternative Status in the Republic of Latvia

- (1) A refugee shall be issued a permanent residence permit.
- (2) A person who has acquired alternative status shall be issued a temporary residence permit for one year. If the person submits an application to the Office regarding extension of the time period of residence one month prior to expiry of the time period and any of the conditions of Section 40, Paragraph one of this Law still exist, an official authorised by the head of the Office shall, within one month, take a decision to issue a temporary residence permit for one year.
- (3) An application to the District Administrative Court regarding the decision of an official authorised by the head of the Office above-mentioned in Paragraph two of this Section may be submitted to the court within 10 working days from the day when the decision was notified. The District Administrative Court shall examine the matter within a month, its decision is final and not subject to appeal. During examination of the matter the person shall retain alternative status.
- (4) If a person having acquired refugee or alternative status has been granted the status of a long-term resident of the European Union in another European Union Member State and such person has not lost the refugee or alternative status granted thereto or it has not been revoked for him or her in accordance with the conditions of this Law, the Republic of Latvia has an obligation to admit the above-mentioned person back.

Section 53. Benefit of a Person Having Acquired Refugee or Alternative Status

- (1) A refugee for the first 12 months after acquisition of refugee status and a person who has been granted alternative status, for the first nine months after acquisition of alternative status, shall receive the benefit, which covers the residence costs, and also the costs necessary for acquisition of the official language, if the person does not have another source of income.
- (2) A person who has been granted international protection is entitled to request the benefit above-mentioned in Paragraph one of this Section within 12 months from the day when the decision to grant refugee or alternative status has entered into effect. If the application regarding granting of the benefit has been submitted after 12 months from the day when the decision to grant refugee or alternative status has entered into effect, the above-mentioned benefit shall not be disbursed.
- (3) If a person who has acquired alternative status and who has received the benefit above-mentioned in Paragraph one of this Section is granted refugee status, he or she has the right to receive benefits as a refugee for the time period, which together with the time period of previously disbursed benefit does not exceed 12 months.
- (4) The Cabinet shall determine the amount and the procedures for granting of benefits for persons having acquired refugee and alternative status.

Section 54. Right of a Refugee or a Person Having Acquired Alternative Status to Family Reunification

- (1) A refugee or a person having acquired alternative status has the right to reunite with family members who are in foreign countries. The person having acquired alternative status has such right, if he or she has resided in the Republic of Latvia for at least two years after acquisition of such status.
- (2) An unaccompanied minor who has been granted international protection and who is not married has the right to receive the mother and father who have arrived from a foreign country.
- (3) A family member of the refugee shall be issued a permanent residence permit. A temporary residence permit shall be issued to the family member of a person having acquired alternative

status for the same time period as the temporary residence permit has been issued to the person having acquired alternative status.

(4) The procedures for the family reunification above-mentioned in Paragraphs one and two of this Section shall be determined by the Cabinet.

(5) If the refugee or person having acquired alternative status loses the status granted to him or her or it is revoked for him or her, the residence permit shall be cancelled for a family member of the refugee or person having acquired alternative status in accordance with the procedures laid down in the Immigration Law, except the case when the refugee or person having acquired alternative status has acquired Latvian citizenship.

Chapter X

Loss and Revocation of Refugee and Alternative Status

Section 55. Conditions for the Loss of Refugee Status

(1) A person shall lose refugee status if he or she:

- 1) has voluntarily re-accepted the protection of his or her country of citizenship;
- 2) has voluntarily re-acquired citizenship after he or she had lost it;
- 3) has acquired citizenship of Latvia or another country and enjoys the protection of the new country of citizenship;
- 4) has returned to the country, which he or she had left in fear of persecution;
- 5) cannot refuse the protection of his or her country of citizenship because the circumstances, due to which he or she was recognised as refugee, do not exist anymore;
- 6) can return to his or her former country of permanent residence as a stateless person because the circumstances, due to which he or she was recognised as refugee, do not exist anymore.

(2) In applying Paragraph one, Clauses 5 and 6 of this Section, it shall be taken into account whether the change in circumstances in the country of origin is so significant that the fear of the person from persecution cannot be deemed justified anymore, and whether the above-mentioned change in circumstances is of constant nature.

(3) Paragraph one, Clauses 5 and 6 of this Section shall not be applied to a refugee who may refer to force majeure (arising from previously performed persecution) in order to refuse to accept protection of his or her country of nationality or, if he or she is a stateless person – the protection of his or her former country of permanent residence.

Section 56. Conditions for the Revocation of Refugee Status

Refugee status shall be revoked for a person, if at least one of the following conditions exists:

- 1) the conditions of Section 45, Paragraph one of this Law apply to such person;
- 2) such person has provided false information or has not provided information, which had crucial role in granting refugee status, including has used falsified documents.

Section 57. Conditions for the Loss of Alternative Status

(1) A person shall lose alternative status, if the circumstances, due to which he or she was granted alternative status, do not exist anymore or have changed so much that such person does not need the protection of the Republic of Latvia anymore.

(2) In applying Paragraph one of this Section, it shall be taken into account whether the change in circumstances in the country of origin is so significant that the person has no more grounds for fearing potential serious harm, and whether the above-mentioned change in circumstances is of constant nature.

(3) Paragraph one of this Section shall not be applied to a person having acquired alternative status who may refer to force majeure (arising from previously caused serious harm) in order to refuse to accept protection of his or her country of nationality or, if he or she is a stateless person – the protection of his or her former country of permanent residence.

Section 58. Conditions for Revocation of Alternative Status

Alternative status shall be revoked for a person, if at least one of the following conditions exists:

- 1) the conditions of Section 46, Paragraph one of this Law apply to such person;
- 2) such person has provided false information or has not provided information, which had crucial role in granting alternative status, including has used falsified documents.

Section 59. Decision on the Loss or Revocation of Refugee or Alternative Status, Procedures for Appealing It

(1) If the Office has become aware of any of the circumstances above-mentioned in Section 55, 56, 57 or 58 of this Law, it shall, within a month, request that the person who has been granted refugee or alternative status submits written information regarding why he or she should not be revoked or should not lose international protection, or shall ensure such person with the possibility of providing the above-mentioned information in an interview.

(2) An official authorised by the head of the Office shall take on the loss or revocation of refugee or alternative status not later than within two months from the day when he or she became aware of any of the circumstances above-mentioned in Section 55, 56, 57 or 58 of this Law, and shall notify it to the relevant person.

(3) The person may appeal the decision above-mentioned in Paragraph two of this Section to the District Administrative Court within one month from the day of its entering into effect.

(4) If a person who has been granted refugee or alternative status wishes to receive State ensured legal aid in order to appeal a decision of an official authorised by the head of the Office to lose or revoke refugee or alternative status, he or she shall submit an application to the Office for requesting State ensured legal aid and an application regarding his or her income. After assessment of the information referred to in the application for requesting State ensured legal aid and the application regarding income of the person the Office shall, without delay, but not later than on the following working day, send a request to the institution, which is responsible for provision of State ensured legal aid, to provide legal aid, by appending a copy of the decision to be appealed thereto. A sample form of the application for requesting State ensured legal aid and the application regarding income of a person having acquired refugee or alternative status shall be determined by the Cabinet.

(5) The District Administrative Court shall take a decision within a month from the day of receipt of the application and shall notify it to the person. The decision of the District Administrative Court is final and shall not be appealed. Decisions of the District Administrative Court, which are taken by performing the procedural actions necessary for examination of the submitted application or the initiated matter, may not be appealed.

(6) During examination of the application the person shall retain refugee or alternative status.

Section 60. Obligation of a Person to Leave the Republic of Latvia, if he or she has Lost Refugee or Alternative Status or the above-mentioned Status has been Revoked for him or her

(1) A person, who has lost refugee or alternative status or for whom such status has been revoked, shall leave the Republic of Latvia within two months from the day of entering into

effect of the relevant decision, if he or she has no other legal grounds for residing in the Republic of Latvia.

(2) If for a person the refugee status has been revoked in accordance with Section 45, Paragraph one, Clause 6 or 7 of this Law or alternative status in accordance with Section 58, Clause 1 of this Law or the person has not left the Republic of Latvia within the time period laid down in Paragraph one of this Section, the head of the Office shall take a removal order regarding the person within one working day.

(3) The person may appeal the removal order within 10 working days to the District Administrative Court. Submission of an application to the court shall not suspend the operation of the removal order.

(4) The removal order shall be executed in accordance with the procedures laid down in the Immigration Law.

Chapter XI

Temporary Protection in the Republic of Latvia

Section 61. Granting of Temporary Protection in the Republic of Latvia

(1) Temporary protection shall be granted to persons needing it, if they have left or have been forced to leave their country of origin:

- 1) due to armed conflicts or endemic violence;
- 2) due to serious threats to human rights or because they have suffered from systematic or general violations of human rights.

(2) The person shall not be included in the group of persons above-mentioned in Paragraph one of this Section, if there are grounds for assuming that he or she conforms to the conditions of Section 45, Paragraph one, Clauses 3, 4, 5, 6 or 7 of this Law.

(3) The Cabinet, taking into account a decision of the Council of the European Union, shall issue an order on granting of temporary protection to a group of persons, determining the total number of its members, the time period of temporary protection, the procedures for accommodation, the State funding necessary for maintaining such persons, and also the procedures, by which a person who has granted temporary protection shall cross the State border of the Republic of Latvia.

(4) The composition of the group of persons referred to in Paragraph one of this Section shall be determined by the Office, co-operating with the United Nations High Commissioner for Refugees.

(5) The person may contest a decision of an official authorised by the head of the Office to grant or extend temporary protection by submitting an application to the head of the Office within one month from the day when the decision entered into effect. The person may appeal the decision of the head of the Office to the court within one month from the day of its entering into effect.

Section 62. Rights of a Person Having Acquired Temporary Protection

(1) When a decision to grant temporary protection has been taken, the Office shall provide information to the person regarding the rights and obligations, which apply to the status granted, in a language which he or she understands or is reasonably supposed to understand.

(2) A person who has been granted temporary protection has the right:

- 1) to receive emergency medical care from the State budget resources;
- 2) to join his or her family members in accordance with the procedures stipulated by the Cabinet. A family member who arrives in the Republic of Latvia for reunification with a person who has been granted temporary protection shall be granted temporary protection in the Republic of Latvia.

(3) A minor who has been granted temporary protection is provided with opportunities for acquiring education in the official language in a State or local government educational institution.

Section 63. Residence of a Person Having Acquired Temporary Protection in the Republic of Latvia

(1) A person who has been granted temporary protection shall be issued a temporary residence permit in accordance with the procedures laid down in the Immigration Law.

(2) An official authorised by the head of the Office shall take a decision to grant temporary protection for one year. Temporary protection may be extended for six months, but not more than one year in total.

Section 64. Right of a Person Having Acquired Temporary Protection to Submit an Application

(1) A person who has been granted temporary protection has the right to submit an application.

(2) A person who has been granted temporary protection in the Republic of Latvia shall not be deemed an asylum seeker during examination of the application. If the time period specified for temporary protection expires before the final decision is taken, the person shall be deemed an asylum seeker during examination of the application.

(3) A person who has been granted temporary protection in the Republic of Latvia and in relation to whom a final decision to refuse to grant refugee or alternative status has been taken has the right to reside in the Republic of Latvia until expiry of the time period specified for temporary protection.

Section 65. Identity Card to be Issued to a Person Having Acquired Temporary Protection

(1) A person who has been granted temporary protection shall be issued an identity card.

(2) Upon receipt of the identity card, the person shall hand over all the personal identification and travel documents at his or her disposal and issued in foreign countries to the Office until the moment when temporary protection will end for him or her and he or she will leave the Republic of Latvia.

Section 66. Transfer of a Person Having Acquired Temporary Protection to Another Member State

(1) In order to transfer a person who has been granted temporary protection in the Republic of Latvia to another Member State, he or she shall be issued a transfer document. Its sample and issuance procedures, and also the amount of information necessary for exchange between Member States shall be determined by the Cabinet.

(2) In moving a person to another Member State, the consent of the person to such transfer shall be taken into account.

(3) If a person who has been granted temporary protection is moved to another Member State, temporary protection in the Republic of Latvia shall end for him or her.

(4) The Republic of Latvia shall admit back a person who has been granted temporary protection in the Republic of Latvia, if he or she is trying to get to or reside in another Member State without a permit during the time period specified for temporary protection.

Section 67. Voluntary Return of a Person Having Acquired Temporary Protection to the Country of Origin

- (1) A person who has been granted temporary protection has the right to voluntarily return to his or her country of origin during the time period specified for temporary protection.
- (2) A person who has voluntarily returned to his or her country of origin may submit a request to the Office regarding return to the Republic of Latvia, if the time period specified for temporary protection has not expired.
- (3) In taking a decision on voluntary return of a person to the country of origin in accordance with Paragraph one of this Section or in examining an application of a person regarding return to the Republic of Latvia in accordance with Paragraph two of this Section, an authorised official of the head of the Office shall take into account, in accordance with the provisions of this Law, the circumstances in the country of origin of the person.

Section 68. Obligation of a Person Having Acquired Temporary Protection to Leave the Republic of Latvia

- (1) A person whose temporary protection has expired has an obligation to leave the Republic of Latvia within two months from the day of expiry of temporary protection, if he or she does not have another legal grounds for residing in the Republic of Latvia. The identity card and residence permit shall be cancelled when the person leaves the country.
- (2) If the person whose temporary protection has expired has not left the Republic of Latvia within the time period specified in Paragraph one of this Section, the head of the Office shall, within 10 days from the day when the above-mentioned fact became known, take a removal order. In deciding on removal of the person, humanitarian reasons, due to which removal of the person is not possible, shall be taken into account. In such cases the person shall not be returned as long as the above-mentioned reasons exist.
- (3) The person may appeal the removal order within 10 working days from its entering into effect to the court. Submission of an application to the court shall not suspend the operation of the removal order.
- (4) The removal order shall be executed in accordance with the procedures laid down in the Immigration Law.

Chapter XII Other Provisions

Section 69. Competence of the *Saeima* and the Cabinet on Asylum Issues

The Cabinet shall take decisions on issues, which are related to reception of asylum seekers to the Republic of Latvia from other Member States or third countries, in reaction to an emergency influx of asylum seekers at external borders of the European Union, within the scope of the established mechanisms for relocation and resettlement of asylum seekers, and also within the scope of development of such mechanisms and express the national position of Latvia (also at institutions of the European Union), on the basis of a decision of the *Saeima*.

Transitional Provisions

1. With the coming into force of this Law, the Asylum Law (*Saeimas un Ministru Kabineta Ziņotājs*, 2009, No. 15; *Latvijas Vēstnesis*, 2013, No. 218) is repealed.

2. Until the date of the coming into force of the Cabinet regulations provided for in this Law, but not longer than six months from the date of coming into force of this Law, the following Cabinet regulations shall be in force insofar as they are not in contradiction with this Law:

1) Cabinet Regulation No. 1580 of 22 December 2009, Regulations Regarding the Procedures, by which Local Government Expenses shall be Covered from State Budget Resources in Accommodating an Unaccompanied Minor in a Childcare Institution, and the Amount of such Expenses;

2) Cabinet Regulation No. 24 of 12 January 2010, Regulations Regarding the Amount of Expenses for the Purchase of Subsistence, Hygiene and Basic Necessities for Asylum Seekers and the Procedures for Covering of these Expenses;

3) Cabinet Regulation No. 73 of 26 January 2010, Regulations Regarding the Subsistence Norms, as well as the Amount of Hygienic and Basic Necessities for an Asylum Seeker Accommodated in the State Border Guard Accommodation Premises for Asylum Seekers;

4) Cabinet Regulation No. 44 of 26 January 2010, Procedures for Reunification of Families of Refugees or Persons Having Acquired Alternative Status or Temporary Protection in the Republic of Latvia;

5) Cabinet Regulation No. 95 of 2 February 2010, Regulations Regarding Sample Form of a Transfer Document for such Person who has been Granted Temporary Protection, the Procedures for the Issuance of the Transfer Document and the Amount of Necessary Information to be Exchanged between Member States;

6) Cabinet Regulation No. 173 of 23 February 2010, Internal Rules of Procedure of an Accommodation Centre for Asylum Seekers;

7) Cabinet Regulation No. 174 of 23 February 2010, Procedures for the Provision of Minor Asylum Seekers with Opportunities for Acquiring Education;

8) Cabinet Regulation No. 194 of 2 March 2010, Regulations Regarding Personal Document of Asylum Seekers and Procedures for the Issuance Thereof;

9) Cabinet Regulation No. 222 of 9 March 2010, Internal Rules of Procedure of Accommodation Premises for Asylum Seekers;

10) Cabinet Regulation No. 276 of 23 March 2010, Requirements for the Equipping and Arrangement of the State Border Guard Accommodation Premises for Detained Asylum Seekers;

11) Cabinet Regulation No. 210 of 22 April 2014, Regulations Regarding Allowances for a Refugee and a Person who has been Granted Alternative Status;

12) Cabinet Regulation No. 356 of 1 July 2014, Regulations Regarding the Register of Asylum Seekers.

3. If an application regarding granting refugee or alternative status was submitted until the day of coming into force of this Law, the initial and personal interview with the asylum seeker shall be conducted by an official of the State Border Guard.

Informative Reference to European Union Directives

This Law contains legal norms arising from:

1) Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof;

2) Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification;

3) Directive 2011/51/EU of the European Parliament and of the Council of 11 May 2011 amending Council Directive 2003/109/EC to extend its scope to beneficiaries of international protection;

4) Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted;

5) Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and revoking international protection;

6) Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection.

This Law has been adopted by the *Saeima* on 17 December 2015.

Acting for the President – Chairperson of the *Saeima*

I. Mūrniece

Riga, 5 January 2016