



15.3.2024

NOTICE TO MEMBERS

Subject: Petition No 0642/2023 by O. P. (Latvian), signed by 1120 other persons, on the cancellation of permanent residence permits of Russian citizens in Latvia

1. Summary of petition

The petitioner denounces an alleged unfair mass cancellation of permanent residence permits for citizens of the Russian Federation who have previously been citizens or non-citizens of Latvia. She explains that on 22 September 2022, the Saeima, the Latvian Parliament, adopted amendments to the Immigration Law, according to which permanent residence permits to the citizens of the Russian Federation, who have earlier been citizens or non-citizens of Latvia before the acquisition of citizenship of the Russian Federation, will become void.

Amendments to the Immigration Law provide that these persons may apply for a status of habitual resident of the European Union. According to the petitioner, the withdrawal of residence permits from these persons is justified by the foreign and security policy of Latvia and not linked to the conduct of the holders of those residence permits or their individual situation. The petitioner points out many difficulties related to proof of verification of the State language and the regular financial means faced by persons wishing to apply for the status of habitual resident of the European Union. For example, elderly people have to pass examination of the State language in the digital environment, which causes difficulties due to their age, state of health and insufficient computer skills. The petitioner is concerned about the alleged violations of human rights in Latvia and claims that the Latvian legal framework is contrary to Articles 7, 19(1), 20, 21 and 25 of the Charter of Fundamental Rights of the European Union. She asks the European Parliament to condemn the unfair treatment of third-country nationals who are residing in Latvia and to encourage the government to grant the status of habitual resident of the European Union to the citizens of the Russian Federation who have previously been citizens or non-citizens of Latvia automatically (without checking the state of language proficiency and income).

2. Admissibility

Declared admissible on 23 October 2023. Information requested from Commission under Rule 227(6).

3. Commission reply, received on 15 March 2024

The petitioner denounces the amendments of the Latvian Immigration Law, adopted in September 2022, which concern the permanent residence permits of citizens of the Russian Federation who have been previously citizens of Latvia or non-citizens of Latvia. Under these amendments, the permanent residence permits issued to these third-country nationals would automatically become void on 2 September 2023 and the concerned persons would have to pass a language test attesting a basic command of the Latvian language (A2) in order to retain their status of permanent residents.

The petitioner is concerned about potential violations of human rights in Latvia. She asks the European Parliament to condemn the unfair treatment of these third-country nationals and to encourage the government to grant them the ‘status of habitual resident of the European Union’, without checking the state of language proficiency and income.

The Commission’s observations

It is the Commission’s understanding that the amendments to the Latvian Immigration law concern Russian nationals not holding the Latvian nationality or former Latvian citizens who renounced to their Latvian nationality to acquire the Russian citizenship and were holding residence permits of permanent validity issued under Latvian national law. These permits are thus not EU long-term resident permits within the meaning of the Long-Term Residents Directive¹, which lays down the conditions for granting and withdrawing the EU long-term resident status and rights thereto. These permits are regulated under Latvian national law.

However, Article 13 of the Long-Term Residents Directive provides that Member States may issue residence permits of permanent or unlimited validity on terms that are more favourable than those of the Directive.

In that respect, the Commission notes that Article 9 of the Directive does not list the failure to pass a language test as a ground of loss or withdrawal of the long-term residence status. In addition, Article 12 of the Directive requires Member States to take into account the family and private life of long-term residents before the adoption of an expulsion decision of a long-term resident.

With regard to the request of the petitioner to grant automatically the EU long-term resident status to the third-country nationals affected by the amendments to the Latvian Immigration Law, Article 5 of the Directive lays down the conditions for acquiring the long-term resident status. Those conditions are binding on Member States that can therefore not grant an EU long-term resident permit under conditions that are more favourable than those laid down under Article 5². Under this provision, applicants for the EU long-term resident status must provide evidence of having stable and regular resources, and sickness insurance for him/her and his/her family members in order to be eligible for the EU long-term resident status. With regard to the assessment of the stability and the regularity of the resources of the third-country nationals applying for the EU long-term resident status, the jurisprudence of the Court of Justice³ the Court has ruled that it is for the competent authorities of the Member States to specifically

¹ Council Directive 2003/109/EC : [EUR-Lex - 32003L0109 - EN - EUR-Lex \(europa.eu\)](#)

² Cf in this regard judgment in case C-469/13, paragraphs 38 to 44.

³ judgment of 3 October 2019, case C-302/18, paragraph 42 ss.

analyse the individual circumstances of the applicant for long-term resident status taken as a whole and state the reasons why those resources are sufficient or insufficient and do or do not have a certain degree of permanence and continuity, so that that applicant does not become a burden for the host Member State.

When making the assessment of the possession of stable and regular resources, Member States may take into account factors such as the contributions to the pension system and fulfilment of tax obligations. In addition, the Court of Justice clarified that the resources should not concern solely the ‘own resources’ of the applicant but may also cover resources made available by third parties.

In addition, Article 5(2) of the Directive provides that Member States may require applicants for EU long-term resident status to comply with integration conditions (optional clause). However, the Court of Justice clarified that the means of implementing this requirement should not be liable to jeopardise the objective of promoting the integration of third-country nationals⁴. Latvia is among those Member States who have opted in the aforesaid optional clause and thus requires third-country nationals applying for the EU long-term resident status to prove that they comply with the required integration conditions.

The Commission monitors the implementation and the transposition of Directive 2003/109/EC by Member States to ensure that the provisions enshrined in this Directive are not violated by the Member States.

Finally, it is noted that once a person no longer has a legal right to stay in a Member State (for instance in cases a long-term residence permit is withdrawn), Directive 2008/115/EC⁵ (the ‘Return Directive’) applies. If the person has no legal right to stay in another Member State either, then Latvian authorities would need to issue a return decision against the person respecting all the safeguards in the Return Directive, notably assessing whether the return to Russia would violate the principle of non-refoulement.

Conclusion

The Commission will be following the matter closely to ensure that no violation of EU law takes place.

Due to the similar concerns raised by other petitioners in Petition 314/23 and 646/23, the Commission agrees with considering this petition together with the aforementioned petitions.

⁴ Judgment of 4 June 2015, case C-579/13, paragraphs 44 ss