

**QUESTIONNAIRE FOR THE NATIONAL REPORT ON THE IMPLEMENTATION
OF THE DIRECTIVE :**

TEMPORARY PROTECTION OF 20 JULY 2001

IN

THE REPUBLIC OF LATVIA

By

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FIRST PART

1. NORMS OF TRANSPOSITION AND JURISPRUDENCE

Q.1.A. Identify the central norm(s) of transposition and indicate its legal nature

- This question includes even norms adopted before the adoption of the directive but ensuring its transposition (what is called a pre-existing norm in the table of correspondence).
- Quote the norm of transposition and not only the norm modified by it (the same is true in case of existence of a code of aliens law)
- About legal nature in the table below: *legislative* refers to a norm adopted in principle by the Parliament; *regulation* refers to a norm complementing the law and adopted in principle by the executive power; *circular or instructions* refer to practical rules about implementation of laws and regulations and adopted in principle by the administrative authorities

When answering this question, please use one or more of the tables below. If the 5 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).

Table 1

This table is about: <input checked="" type="checkbox"/> a text already adopted <input type="checkbox"/> a text which is still a project to be adopted
TITLE: the Asylum Law
DATE: 7 March 2002
NUMBER: no number
DATE OF ENTRY INTO FORCE: 1 September 2002
PROVISIONS CONCERNED : The purpose of the Asylum Law is to ensure the rights of persons to receive asylum, receive refugee status, temporary protection and subsidiary protection (so-called alternative status) in the Republic of Latvia in accordance with generally accepted international principles of human rights. In principle this law covers all the aspects of the asylum procedures in Latvia, as well as the aspects of rights and obligations of the refugees and persons under the subsidiary and temporary protection. The implementation of the certain aspects of this law (e.g. access to work for the asylum seekers) is ensured by means of the by-laws – the Regulations of the Cabinet of Ministers. (for example if the norm also pursues other objectives than the transposition of the directive)
REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL: The Official Journal, 48 (2623), 27.03.2002.
LEGAL NATURE (please tick the correct box): <input checked="" type="checkbox"/> LEGISLATIVE <input type="checkbox"/> REGULATION <input type="checkbox"/> CIRCULAR OR INSTRUCTIONS

Table 2

This table is about: <input checked="" type="checkbox"/> a text already adopted <input type="checkbox"/> a text which is still a project to be adopted
TITLE: Amendments to the Asylum Law
DATE: 2 February 2005
NUMBER: no number
DATE OF ENTRY INTO FORCE: 3 February 2005
PROVISIONS CONCERNED : legal regulation of the issues of the detention of the asylum seekers, residence of the refugees, benefits for the persons, who were granted the subsidiary protection, was amended. The reference was made indicating that this law includes legal norms arising from Council Directives 2003/9/EC and 2001/55/EC. (for example if the norm also pursues other objectives than the transposition of the concerned directive)
REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL: The Official Journal, 18 (3176), 02.02.2005
LEGAL NATURE (please tick the correct box): <input checked="" type="checkbox"/> LEGISLATIVE <input type="checkbox"/> REGULATION <input type="checkbox"/> CIRCULAR OR INSTRUCTIONS

Table 3

This table is about: <input checked="" type="checkbox"/> a text already adopted <input type="checkbox"/> a text which is still a project to be adopted
TITLE: Amendments to the Asylum Law

DATE: 7 June 2006
NUMBER: No number
DATE OF ENTRY INTO FORCE: 10 July 2006
PROVISIONS CONCERNED : The main goal of the amendments was to introduce the Administrative courts as 2 nd instance for the applications for asylum. From 1998 to the beginning of 2006 the Board of Appeals for Asylum Seekers' Affairs operated under supervision of the Ministry of Justice. It was the second-level instance for the examination of the asylum seekers' applications. However the above-mentioned institutional set-up has undergone the significant changes during the last 7 months. Since January 1, 2006, the Board of Appeals for Asylum Seekers' Affairs was terminated. During the transitional period, all cases within the competence of the Board of Appeals for Asylum Seekers' Affairs were examined by the Ministry of Justice. To ensure the execution of the functions of this Board, the Ministry of Justice established the new Board formed by delegates of the Ministry of Justice and its subjected institutions. Since 10 July 2006 the functions of the examination of appeals were transferred to the District Administrative court and the Regional Administrative court. (for example if the norm also pursues other objectives than the transposition of the concerned directive)
REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL: The Official Journal, 98 (3466), 27.06.2006.
LEGAL NATURE (please tick the correct box): <input checked="" type="checkbox"/> LEGISLATIVE <input type="checkbox"/> REGULATION <input type="checkbox"/> CIRCULAR OR INSTRUCTIONS

Table 4

This table is about: <input checked="" type="checkbox"/> a text already adopted <input type="checkbox"/> a text which is still a project to be adopted
TITLE: Amendments to the Asylum Law
DATE: 25 October 2007
NUMBER: No number
DATE OF ENTRY INTO FORCE: 21 November 2007
PROVISIONS CONCERNED : Change certain rules in the reception of the unaccompanied minors. (for example if the norm also pursues other objectives than the transposition of the concerned directive)
REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL: The Official Journal, 179 (3755), 07.11.2007
LEGAL NATURE (please tick the correct box): <input checked="" type="checkbox"/> LEGISLATIVE <input type="checkbox"/> REGULATION <input type="checkbox"/> CIRCULAR OR INSTRUCTIONS

Table 5

This table is about: <input type="checkbox"/> a text already adopted <input checked="" type="checkbox"/> a text which is still a project to be adopted
TITLE: Draft Law on Asylum in the Republic of Latvia
DATE:
NUMBER: no number
DATE OF ENTRY INTO FORCE:

<p>PROVISIONS CONCERNED : The Draft Law On the Asylum in the Republic of Latvia, (by now approved by the Council of Ministers), will replace the current legal regulation of the asylum system - the above-mentioned Asylum Law and all the by-laws issued on its basis. When the Draft Law will be adopted in Parliament in the 2nd reading, the development of the by-laws for its implementation will start.</p> <p>(for example if the norm also pursues other objectives than the transposition of the concerned directive)</p>
<p>REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL:</p>
<p>LEGAL NATURE (please tick the correct box):</p> <p><input checked="" type="checkbox"/> LEGISLATIVE</p> <p><input type="checkbox"/> REGULATION</p> <p><input type="checkbox"/> CIRCULAR OR INSTRUCTIONS</p>

Table 6

<p>This table is about: <input type="checkbox"/> a text already adopted <input checked="" type="checkbox"/> a text which is still a project to be adopted</p>
<p>TITLE: the Law on the Protection of the Rights of the Child</p>
<p>DATE: 19 June 1998</p>
<p>NUMBER: no number</p>
<p>DATE OF ENTRY INTO FORCE: 22 July 1998</p>
<p>PROVISIONS CONCERNED : implements article 14 of the Directive</p> <p>(for example if the norm also pursues other objectives than the transposition of the concerned directive)</p>
<p>REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL: The Official Journal, 199/200 (1260/1261), 08.07.1998.</p>
<p>LEGAL NATURE (please tick the correct box):</p> <p><input checked="" type="checkbox"/> LEGISLATIVE</p> <p><input type="checkbox"/> REGULATION</p> <p><input type="checkbox"/> CIRCULAR OR INSTRUCTIONS</p>

Table 7

<p>This table is about: <input type="checkbox"/> a text already adopted <input checked="" type="checkbox"/> a text which is still a project to be adopted</p>
<p>TITLE: Draft Amenments to the Education</p>
<p>DATE:</p>
<p>NUMBER: no number</p>
<p>DATE OF ENTRY INTO FORCE:</p>
<p>PROVISIONS CONCERNED : Implements the provisions of Directive related to the access to education of the persons, who were granted the temporary protection.</p> <p>(for example if the norm also pursues other objectives than the transposition of the directive)</p>
<p>REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL:</p>
<p>LEGAL NATURE (please tick the correct box):</p> <p><input checked="" type="checkbox"/> LEGISLATIVE</p> <p><input type="checkbox"/> REGULATION</p> <p><input type="checkbox"/> CIRCULAR OR INSTRUCTIONS</p>

Table 8

This table is about: <input checked="" type="checkbox"/> a text already adopted <input type="checkbox"/> a text which is still a project to be adopted
TITLE: The Population Register Law
DATE: 27 August 1998
NUMBER: no number
DATE OF ENTRY INTO FORCE: 24 September 1998
PROVISIONS CONCERNED : Implements Article 10 of the Directive. (for example if the norm also pursues other objectives than the transposition of the directive)
REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL: The Official Journal, 261/264 (1322/1325), 10.09.1998
LEGAL NATURE (please tick the correct box): <input checked="" type="checkbox"/> LEGISLATIVE <input type="checkbox"/> REGULATION <input type="checkbox"/> CIRCULAR OR INSTRUCTIONS

Q.1.B.

Please list the others norms of transposition according to their hierarchical position in your legal system (first laws, to be followed by regulations; and circulars or instructions):

- This question includes even norms adopted before the adoption of the directive but ensuring its transposition (what is termed a pre-existing norm in the table of correspondence).
- Quote the norm of transposition and not only the norm modified by it (the same is true in case of existence of a code of aliens law)

When answering this question, please use one or more of the tables below (one norm per table). If the 5 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).

Table 1

TITLE: Administrative Procedure Law
DATE: 25 October 2001
NUMBER: no number
DATE OF ENTRY INTO FORCE: 1 February 2004
PROVISIONS CONCERNED : implements article 29 of the Directive (for example if the norm also pursues other objectives than the transposition of the directive)
REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL: The Official Journal, 164 (2551), 14.11.2001.
LEGAL NATURE (indicate by ticking the correct box): <input checked="" type="checkbox"/> LEGISLATIVE <input type="checkbox"/> REGULATION <input type="checkbox"/> CIRCULAR OR INSTRUCTIONS

Table 2

TITLE: Regulations of the Cabinet of Ministers “Amendments to the Regulations of the Cabinet of Ministers of 20 January 2004 No 44 “Regulations on the work permits for the foreigners”
DATE: 12 December 2006
NUMBER: 998
DATE OF ENTRY INTO FORCE: 16 December 2006
PROVISIONS CONCERNED : Implementation of Article 12 of Directive on the right to the employment and the self-employment activities. (for example if the norm is not devoted only to the transposition of the concerned directive)
REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL: The Official Journal, 200 (3568) 15.12.2006.
LEGAL NATURE (indicate by ticking the correct box): <input type="checkbox"/> LEGISLATIVE <input checked="" type="checkbox"/> REGULATION <input type="checkbox"/> CIRCULAR OR INSTRUCTIONS

Table 3

TITLE: Regulations regarding the Personal Identity Document of Persons, Who Were Granted the Alternative Status and the Personal Identity Document of Persons, Who Were Granted the Temporary Protection
DATE: 3 September 2002
NUMBER: 410
DATE OF ENTRY INTO FORCE: 21 September 2002
PROVISIONS CONCERNED : Regulates issues of personal identity documents to be issued to the persons, who were granted the alternative status (Latvian term for “subsidiary protection” and the personal identity documents to be issued to the persons, who were granted the temporary protection. (for example if the norm also pursues other objectives than the transposition of the directive)
REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL: The Official Journal, 135 (2710) 20.09.2002
LEGAL NATURE (indicate by ticking the correct box): <input type="checkbox"/> LEGISLATIVE <input checked="" type="checkbox"/> REGULATION <input type="checkbox"/> CIRCULAR OR INSTRUCTIONS

Table 4

TITLE: Amendments to the Regulations regarding the Personal Identity Document of Persons, Who Were Granted the Alternative Status and the Personal Identity Document of Persons, Who Were Granted the Temporary Protection
DATE: 22 November 2005
NUMBER: 877
DATE OF ENTRY INTO FORCE: 26 November 2005
PROVISIONS CONCERNED : Clarifies provisions of 2 paragraphs of the Regulations regarding the Personal Identity Document of Persons, Who Were Granted the Alternative Status and the Personal Identity Document of Persons, Who Were Granted the Temporary Protection. (for example if the norm also pursues other objectives than the transposition of the directive)

REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL: The Official Journal, 189 (3347) 25.11.2005
LEGAL NATURE (indicate by ticking the correct box):
<input type="checkbox"/> LEGISLATIVE
<input checked="" type="checkbox"/> REGULATION
<input type="checkbox"/> CIRCULAR OR INSTRUCTIONS

Table 5

TITLE: Law “Amendments to the Support for Unemployed Persons and Persons Seeking Employment Law”
DATE: 21 June 2007
NUMBER: no number
DATE OF ENTRY INTO FORCE: 19 July 2007
PROVISIONS CONCERNED : (for example if the norm also pursues other objectives than the transposition of the directive)
REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL: The Official Journal, 107 (3683), 05.07.2007.
LEGAL NATURE (indicate by ticking the correct box):
<input checked="" type="checkbox"/> LEGISLATIVE
<input type="checkbox"/> REGULATION
<input type="checkbox"/> CIRCULAR OR INSTRUCTIONS

Q.2. This question needs to be answered only for **FEDERAL OR SIMILAR MEMBER STATES LIKE AUSTRIA, BELGIUM, GERMANY, ITALY, SPAIN**

Q.2.A. Explain which level of government is competent to adopt the norms of transposition.

Please include your answer in the tables below

LEGISLATIVE RULES
COMPETENCES OF THE FEDERAL/CENTRAL LEVEL:
COMPETENCES OF THE COMPONENTS:
EXPLANATIONS IF NECESSARY:

REGULATIONS
COMPETENCES OF THE FEDERAL/CENTRAL LEVEL:
COMPETENCES OF THE COMPONENTS:
EXPLANATIONS IF NECESSARY:

CIRCULAR OR INSTRUCTIONS
COMPETENCES OF THE FEDERAL/CENTRAL LEVEL:
COMPETENCES OF THE COMPONENTS:
EXPLANATIONS IF NECESSARY:

Q.2.B. Where appropriate, please explain if the federal structure and the distribution of competences between the different levels creates any problem or difficulty regarding the transposition and/or the implementation of the directive.

Q.3. Explain which authorities are competent for the practical implementation of the norm of transposition by taking the decisions in individual cases.

When answering this question, please use one or more of the tables below (one table per competence concerned). If the 5 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).

Table 1

COMPETENCE CONCERNED:	Granting of the temporary protection
CENTRAL MINISTRY OF:	The Cabinet of Ministers of the Republic of Latvia (Latvian Government)
DIRECTION OR SERVICE WITHIN THE ABOVE MINISTRY:	
OTHER LEVEL OF ADMINISTRATION:	
IF NECESSARY, COMMENT ABOUT THE NATURE OF THE AUTHORITY (for instance if it is independent of the competent minister)	Under the present Asylum Law the Cabinet of Ministers shall issue an order to grant temporary protection to a group of persons, determining their total number, the time period of residence, and accommodation procedures in the Republic of Latvia, and the necessary financing, as well as the procedures according to which persons who has been granted temporary protection shall cross the state border of the Republic of Latvia. The Draft Asylum Law has more detailed provisions on the temporary protection, which are fully harmonised with the Directive.

Table 2

COMPETENCE CONCERNED:	Under the present Asylum Law: - Issues the identity cards to the persons who have been granted the temporary protection, - keeps the personal identity documents and travel documents of the persons, who have been granted the temporary protection.
CENTRAL MINISTRY OF:	the Ministry of Interior
DIRECTION OR SERVICE WITHIN THE ABOVE MINISTRY:	The Refugee Affairs Department of the Office of Citizenship and Migration Affairs - the public body under the supervision of the Ministry of Interior
OTHER LEVEL OF ADMINISTRATION:	

IF NECESSARY, COMMENT ABOUT THE NATURE OF THE AUTHORITY (for instance if it is independent of the competent minister)	
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Q.4.A. Has the central regulation foreseen by the central norm of transposition already been adopted?

YES NO

Q.4.B. If the central norm(s) of transposition foresee(s) the adoption of one or several regulations, indicate if they have all been adopted:

YES NO

If NO, please indicate the missing text(s) in the table below. Where necessary, please add further explanations (specify in particular if the missing texts are at least under preparation or foreseen in the very near future):

When answering this question, please use one or more of the tables below (one table per missing text). If the 5 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).

Table 1

MISSING TEXTS
<i>INDICATE HERE THE MISSING TEXTS</i>
<p>The present legal regulation, mainly the Asylum Law and by-laws partially implements Directive 2001/55/EC. However the Draft Asylum Law provides for the more detailed regulation, which fully implements Directive 2001/55/EC.</p>

SECOND PART

Duration and implementation of temporary protection

Q.5. According to article 5(1) in the Directive the existence of a mass influx of displaced persons shall be established by a Council Decision adopted by a qualified majority on a proposal from the Commission, which shall also examine any request by a Member State that it submit a proposal to the Council. According to article 5(3) the Council Decision shall have the effect of introducing temporary protection for the displaced persons to which it refers, in all the Member States, in accordance with the provisions in the Directive.

Do the national norms of transposition in your Member State mandate the Council to decide about the existence of a mass influx of displaced person, with the effect of introducing temporary protection for the displaced persons to which it refers in your Member State?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation (if the answer is “no”, how is a Council decision transposed ad hoc into national law?)

Section 44 of the current Asylum Law in force stipulates the following provisions, that do not require Council Decision at all:

“(1) Temporary protection is the right granted to a group of persons to reside in the Republic of Latvia for a specified period of time if such persons need protection and they are or have been forced to leave the country of their citizenship or, if the persons are stateless persons, their country of former residence due to:

- 1) ethnic conflict, or
- 2) civil war.

(2) The Cabinet shall issue an order to grant temporary protection to a group of persons, determining their total number, the time period of residence, and accommodation procedures in the Republic of Latvia, and the necessary financing, as well as the procedures according to which persons who has been granted temporary protection shall cross the State border of the Republic of Latvia.

(3) The social mix of the group of persons referred to in Paragraph one of this Section shall be determined by the Department in co-operation with the United Nations High Commissioner for Refugees.”

However Para 3, Section 45 of the Draft Law on Asylum in the Republic of Latvia, approved by the Committee of the Council of Ministers in March 2007 provides for the direct reference to the Council Decision:

„On the basis of a decision of the Council of the European Union, the Cabinet of Ministers shall issue an order about granting the temporary protection to a group of persons by indicating a total number, procedure of accommodation in the Republic of Latvia, necessary state funding for the reception of this group, as well as procedure, in which a person granted temporary protection, may cross the national border of the Republic of Latvia.”

Q.6. According to article 6 in the Directive, temporary protection shall come to an end when the maximum duration has been reached or at any time by Council Decision on a proposal from the Commission. *See article 6 (1-2).*

Do the national norms of transposition mandate the Council to decide when temporary protection in your Member State shall come to an end?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation: (if the answer is 'no', how is a Council decision transposed ad hoc into national law?)

As mentioned above Section 44 of the current Asylum Law in force stipulates the following provisions, that do not require Council Decision at all. Therefore Para 2 Section 2 provides for that this is the Government, that decides on the duration of the protection and on any prolongation of such a duration:

“(2) The Cabinet shall issue an order to grant temporary protection to a group of persons, determining their total number, the time period of residence, and accommodation procedures in the Republic of Latvia, and the necessary financing, as well as the procedures according to which persons who has been granted temporary protection shall cross the State border of the Republic of Latvia.”

Section 46 of the Asylum Law provides for, that

“(1) A group of persons whose temporary protection has expired shall leave the Republic of Latvia.

(2) The condition referred to in Paragraph one of this Section does not apply to a person who has another legal basis for residing in the Republic of Latvia.”

Para.3, 5 Section 45 of the Draft Law on Asylum in the Republic of Latvia provides for the following

" (3) On the basis of a decision of the Council of the European Union, the Cabinet of Ministers shall issue an order about granting the temporary protection to a group of persons by indicating a total number, procedure of accommodation in the Republic of Latvia, necessary state funding for the reception of this group, as well as procedure, in which a person granted temporary protection, may cross the national border of the Republic of Latvia.

(4) The Department shall, in co-operation with the United Nations High Commissioner for Refugees, shall determine social composition of the group of persons stated in Paragraph one of this Section.

(5) A decision of the Department on granting or ending of the temporary protection, may be appealed by a person by submitting an application to the Head of the Office [of Citizenship and Migration Affairs] within one month since its [decision's] entry into force. Person is entitled to appeal before the court the decision of the Head of the Office within one month since its [decision's] entry into force."

Para 2, Section 47 of the Draft Law on Asylum in the Republic of Latvia provides for the only possibility to prolong the duration of stay for person granted the temporary protection:

"(2) Temporary protection may be prolonged by six month however not more than for one year in total."

The Draft Law does not mention Council Decision as the reason for termination or prolongation of the temporary protection. However Para.1 Section 15 of the Administrative Procedure Law provides for that “In administrative proceedings, institutions and courts shall apply external regulatory enactments, the legal norms of international law and the European Union (Community), as well as the general principles of law”. Para.4, Section 15 of the Administrative Procedure Law provides for that “The legal norms of the European Union (Community) shall be applied in accordance with their place in the hierarchy of legal force of external regulatory enactments. In applying the legal norms of the European Union (Community), institutions and courts shall take into account European Court of Justice case law.” Therefore at least in theory the decision of the Government on the prolongation or termination of the temporary protection shall be based also not only on the Draft Law on Asylum in the Republic of Latvia but also on the relevant Council Decision, as it is the case for the granting of the temporary protection status Latvia.

Q.7. According to article 7, a Member States may extend temporary protection, as provided for in the Directive, to additional categories of displaced persons over and above those to whom a Council decision applies, where they are displaced

for the same reasons and from the same country or region of origin. *See optional provision in article 7 (1-2).*

Do the national norms of transposition allow your Member State to extend temporary protection to additional categories of displaced persons?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation: (If the answer is "yes", if any, what are the criteria for extending protection to additional categories of displaced persons)?

Section 44 of the current Asylum Law in force provides for the possibility to grant the temporary protection to any group of the persons which could qualify as the persons in the need of the temporary protection on the basis of the criteria provided by Para 1, Section 44 of the Asylum Law :

“(1) Temporary protection is the right granted to a group of persons to reside in the Republic of Latvia for a specified period of time if such persons need protection and they are or have been forced to leave the country of their citizenship or, if the persons are stateless persons, their country of former residence due to:

- 1) ethnic conflict, or
- 2) civil war.

(2) The Cabinet shall issue an order to grant temporary protection to a group of persons, determining their total number, the time period of residence, and accommodation procedures in the Republic of Latvia, and the necessary financing, as well as the procedures according to which persons who has been granted temporary protection shall cross the State border of the Republic of Latvia.

(3) The social mix of the group of persons referred to in Paragraph one of this Section shall be determined by the Department in co-operation with the United Nations High Commissioner for Refugees.”

This Section of the Asylum Law was never applied by the Government in practice, therefore no examples of the practice of the application could be given.

Para. 1, 3, Section 45 of the Draft Law on Asylum in the Republic of Latvia, approved by the Committee of the Council of Ministers in March 2007 provides for the direct reference to the Council Decision:

“(1) Temporary protection is the right granted to a group of persons to stay in the Republic of Latvia for a defined period, if such persons need protection or they were forced to leave the country of their citizenship or, if such persons are stateless persons – to leave the country of their former domicile:

- 1) due to armed conflicts or extended violence;
- 2) due to serious threat to human rights or if the persons have suffered from systematic or general violations of human rights.

„(3) On the basis of a decision of the Council of the European Union, the Cabinet of Ministers shall issue an order about granting the temporary protection to a group of persons by indicating a total number, procedure of accommodation in the Republic of Latvia, necessary state funding for the reception of this group, as well as procedure, in which a person granted temporary protection, may cross the national border of the Republic of Latvia.”

Therefore it can be concluded that the legal possibility to introduce such extensions to the additional categories of the displaced persons, do exist in the Asylum Law in force (at least in theory, since no practice can be indicated), but it will cease to exist when new Law on Asylum in the Republic of Latvia will be adopted and will enter into force.

Obligations of the Member States towards persons enjoying temporary Protection

Q.8. Questions regarding obligations of the Member States towards persons enjoying temporary protection. *See article 8(1-3):*

Q.8.A. Does your Member State provide persons enjoying temporary protection with a residence permit? *See mandatory provision in article 8(1).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation: (if the answer is 'no', what are the practical Consequences for the individual?)

The current Asylum Law is very laconic in relation to any detail of the entry and stay of the persons granted temporary protection, except the issuance of the identity card to such persons. Para. 1, Section 44 of the current Asylum Law in force provides that "The Cabinet of Ministers shall issue an order to grant temporary protection to a group of persons, determining their total number, the time period of residence, and accommodation procedures in the Republic of Latvia, and the necessary financing, as well as the procedures according to which persons who has been granted temporary protection shall cross the State border of the Republic of Latvia."

The Draft Law on Asylum in the Republic of Latvia complies fully with Directive. It provides for the residence permit to be issued to a person, who was granted temporary protection for the whole period of protection. Para.1-2, Section 47 of the Draft Law provides for that "Temporary residence permit for one year shall be issued to a person who has obtained temporary protection in the procedure defined by the Cabinet of Ministers. Residence permit shall be issued free of charge.

(2) Temporary protection may be prolonged by six month however not more than by one year in total."

In its turn the wording of Para. 1, Section 52 suggests that the residence permit shall exist as well upon expiration of the temporary protection: "A person, whose temporary protection has expired, must leave the Republic of Latvia, unless the person has another legal basis to reside in the Republic of Latvia. Identification certificate and residence permit shall be cancelled upon the person leaving the country."

Q.8.B. Answer this question if the answer on Q.8.A is 'yes': Is the residence permit valid for the entire period of temporary protection? *See mandatory provision in article 8(1).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation: (if the answer is 'no', what are the practical Consequences for the individual?)

Q.8.C. Will documents or other equivalent evidence for the residence permit be issued? *See mandatory provision in article 8(1).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

Para. 1, Section 45 of the Asylum Law in force provides for the following:

“An identity card shall be issued to persons who have been granted the right to reside in the Republic of Latvia for a specified period of time in accordance with Paragraph one, Section 44 of this Law [persons, who were granted temporary protection], and the form and procedures for issuing such identity cards shall be determined by the Cabinet of Ministers.” Currently the details of the issuance and format of the identity documents are regulated by the Governmental Regulations Nr. 410 regarding the Personal Identity Document of Persons, Who Were Granted the Alternative Status and the Personal Identity Document of Persons, Who Were Granted the Temporary Protection (see table 3 on legal acts of this questionnaire for the details).

The Draft Law on Asylum in the Republic of Latvia complies fully with Directive. It provides for the residence permit and the identity document to be issued to a person, who was granted temporary protection for the whole period of protection.

Para.1, Section 47 of the Draft Law provides for that “Temporary residence permit for one year shall be issued to a person who has obtained temporary protection in the procedure defined by the Cabinet of Ministers. Residence permit shall be issued free of charge.”

Para.1, Section 47 of the Draft Law provides for that “Identification certificate shall be issued to a person who has obtained temporary protection and a form of it and procedure of issuance shall be determined by the Cabinet of Ministers.” In accordance with the Section 2 of the transitional provisions of the Draft Law the same Governmental Regulations Nr. 410 mentioned above will be valid for maximum 6 months since the entry into force of the Law on Asylum in the Republic of Latvia. Than they will be replaced by the new Governmental Regulations.

Q.8.D. Will your Member State provide persons enjoying temporary protection with a document, in a language likely to be understood by them, in which the provisions relating to temporary protection, and which are relevant to them, is clearly set out? See mandatory provision in article 9.

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

The current Asylum Law is very laconic in relation to any detail of the entry and stay of the persons granted temporary protection, except the issuance of the identity card to such persons. Para. 1, Section 44 of the current Asylum Law in force provides that “ The Cabinet of Ministers shall issue an order to grant temporary protection to a group of persons, determining their total number, the time period of residence, and accommodation procedures in the Republic of Latvia, and the necessary financing, as well as the procedures according to which persons who has been granted temporary protection shall cross the State border of the Republic of Latvia.”

In its turn Section 46 of the Draft Law on Asylum in the Republic of Latvia provides for the following "The Department shall, as soon as possible after the decision on the granting temporary protection was taken, provide information to a person about his or her rights and obligations related to the granted status, in language he or she should understand."

Q.8.E. Will the personal data of the persons enjoying temporary protection (name, nationality, date and place of birth, marital status, and family relationship) be registered? See mandatory provision in article 10.

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

Yes the data will be registered in accordance with Para.1-2, Section 10 of the Population Register Law, that provides for the registration of any person, which has received the residence permit in Latvia:

) The Register shall contain the following information regarding a person:

- 1) personal identity number;
- 2) given name (names);
- 3) surname;
- 4) family surname;
- 41) historical form of the family surname or the original form of a personal name of another language in Latin transliteration, if the person wishes it to be so and is able to certify this form by documentary evidence;
- 5) date and time of birth;
- 6) place of birth;
- 7) gender;
- 8) nationality and type thereof;
- 9) ethnicity;
- 10) address of the declared place of residence, registered or specified by the person in Latvia;
- 11) address of the place of residence abroad;
- 12) information regarding the passport or an identity card, which has been issued in accordance with the procedures specified in regulatory enactments as a document replacing the passport:
 - a) type of the document,
 - b) number and series,
 - c) date of issue,
 - d) issuing country and issuing authority,
 - e) expiry date;
- 13) information regarding the birth registration:
 - a) number of the entry of the birth register,
 - b) place and country of the birth registration,
 - c) date of the birth registration;
- 14) information regarding the birth certificate:
 - a) number and series,
 - b) date of issue,
 - c) issuing country and issuing authority,
- 15) information regarding the residence permit in Latvia:
 - a) type,
 - b) number,
 - c) date of issue,
 - d) expiry date,
 - e) issuing authority;
- 16) date on which a person arrived in Latvia and the country from which the person arrived, if the person is not a citizen or non-citizen of Latvia;
- 17) information regarding marital status:
 - a) single,
 - b) married,
 - c) divorced,
 - d) widowed person;
- 18) information regarding the former (most recent) spouse;
- 19) information regarding registration, divorce or annulment of a marriage:
 - a) number of the entry of the marriage registration,
 - b) place and country where the marriage was registered, divorced or annulled,
 - c) date on which the marriage was registered, divorced or annulled;
- 20) information regarding a document certifying the registration, divorce or annulment of a marriage:
 - a) number and series of the marriage certificate or divorce certificate or the number of the civil case regarding the divorce or annulment of the marriage,
 - b) date of issue of the marriage certificate or divorce certificate, the date and place of adoption of the court adjudication regarding divorce or annulment of the marriage, and
 - c) the issuing country and issuing authority of the marriage certificate or divorce certificate, of the court adjudication regarding divorce or annulment of the marriage;
- 21) information regarding children up to 16 years of age;
- 22) information regarding the father and mother;

- 23) information regarding a declaration that the person lacks capacity to act on his own behalf or a declaration thereof with respect to possessing the capacity to act:
- a) number of the civil case,
 - b) date and place of the adoption of the court adjudication,
 - c) date of coming into force of the court adjudication
- 24) information regarding the exit from Latvia for permanent residence in a foreign country:
- a) date of exit,
 - b) country to which the person is emigrating, and
 - c) type, number, issuing country, place and date of issue, expiry date of the document with which the person exits;
- 25) information regarding being absent without information as to whereabouts:
- a) the civil case number regarding establishment of the fact that the person is absent without information as to his or her whereabouts,
 - b) date and place of adoption of the court adjudication,
 - c) the country that issued the court adjudication,
 - d) name of the court which has adopted the adjudication, and
 - e) date of coming into effect of the court adjudication;
- 26) information regarding expulsion from Latvia:
- a) number of the expulsion order,
 - b) date of issue of the expulsion order,
 - c) date until which the entry restriction remains in force,
 - d) issuing authority,
 - e) country to which the person is expelled, and
 - f) type, number, issuing country, place and date of issue, expiry date of the document on the basis of which the person has been expelled;
- 27) information regarding death of the person:
- a) date and time of death, and
 - b) place of death;
- 28) information regarding the registration of the death:
- a) entry number in the Death Register,
 - b) the institution which registered the death and the country of death, and
 - c) date of registration of the death;
- 29) information regarding a document certifying a person's death:
- a) the number of the death certificate, the number of the civil case regarding the declaration of the missing person as deceased, number of the civil case regarding establishment of the fact on the death registration or the number of the civil case regarding the establishment of the fact of the death of a person,
 - b) the date of issue of the death certificate, the date of adoption of the court adjudication regarding the declaration of a person as deceased, and
 - c) the issuing country and issuing authority of the death certificate or court adjudication;
- 30) information regarding the permission or prohibition of a person to utilise the body, tissue and organs thereof after death;
- 31) information regarding establishment or termination of guardianship or trusteeship:
- a) the issuing authority and the date of adoption of the adjudication upon which guardianship or trusteeship of a person has been established or terminated,
 - b) the date of coming into effect of the adjudication upon which guardianship or trusteeship was established;
- 32) information regarding the guardians or trustees of the person:
- a) personal identity number,
 - b) given name (names),
 - c) surname,
 - d) sex,
 - e) date of birth,
 - f) ethnicity,
 - g) nationality and type thereof, and
 - h) date of death.
- (2) The nationality referred to in this Law shall be the person's association with the country, which has issued or will issue to the person, in accordance with the procedures specified by law, a passport or substitute document thereof. The types of nationality within the meaning of this Law shall be:
- 1) citizen;
 - 2) non-citizen;
 - 3) stateless person; and

4) refugee.

(3) The following information regarding the father and mother, recent spouse and children by 16 years of age of a person shall be included in the Register:

1) personal identity number;

2) given name (names);

3) surname;

4) the historical form of the family surname or the original form of a personal name of another language in the transliteration of the Latin alphabet, if the person wishes so and is able to certify this form with documentary evidence;

5) sex;

6) date of birth;

7) ethnicity;

8) nationality and type thereof;

9) date of death.

Q.8.F. Will your Member State provide facilities for obtaining the necessary visas, including transit visas, to persons which will be admitted to the territory for the purposes of temporary protection? See mandatory provision in article 8(3).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes

No

Explanation:

Both the current Asylum Law and the the Draft Law on Asylum in the Republic of Latvia are very laconic in relation to the issue of “facility for obtaining the necessary visas” and other issues covered by Article 8 (3) of Directive. However they provide for the obligation of the Government shall decide on details of such facility and other practical matters concerning the persons granted temporary protection.

Para 2, Section 44 of the current Asylum Law in force provides for the following:

“The Cabinet of Ministers shall issue an order to grant temporary protection to a group of persons, determining their total number, the time period of residence, and accommodation procedures in the Republic of Latvia, and the necessary financing, as well as the procedures according to which persons who has been granted temporary protection shall cross the State border of the Republic of Latvia.

Para. 3, Section 45 of the Draft Law on Asylum in the Republic of Latvia provides for the following:

„(3) On the basis of a decision of the Council of the European Union, the Cabinet of Ministers shall issue an order about granting the temporary protection to a group of persons by indicating a total number, procedure of accommodation in the Republic of Latvia, necessary state funding for the reception of this group, as well as procedure, in which a person granted temporary protection, may cross the national border of the Republic of Latvia.”

Since there were no cases of granting temporary protection in the European Union on the basis of the provision of Directive 2001/55/EC no reference to the existing practice of the application of the provisions of the legal acts of Latvia could be provided.

Q.8.G. According to the national law of your Member State: Will the visas referred to in Q.8.F, be free of charge? See mandatory provision in article 8(3).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes

No

Explanation: (if the answer is “no”, please indicate the amount charged and indicate amounts charged for other types of visas)

As mentioned above the current Asylum Law and the Draft Law on Asylum in the Republic of Latvia are very laconic in relation to the issue of “facility for obtaining the necessary visas” and other visa-related issues covered by Article 8 (3) of Directive. However they both provide for the obligation of the Government shall decide on any details of the issuance of visas and other practical matters concerning the persons granted temporary protection.

Since there were no case of granting temporary protection in the European Union on the basis of the provision of Directive 2001/55/EC no reference to the existing practice of the application of the provisions of the legal acts of Latvia could be provided.

Q.9. According to national law of transposition, is your Member State responsible to take back a person enjoying temporary protection on its territory if that person seeks to enter onto or remains on the territory of another Member State without authorisation during the period of temporary protection? *See mandatory provision in article 11.*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

No provisions on this matter exist in the current Asylum Law.

In its turn Para.4, Section 50 of the Draft Law on Asylum in the Republic of Latvia provides for that "The Republic of Latvia shall receive back a person who was granted temporary protection in the Republic of Latvia, if it remains or seeks to enter another [EU] Member State within the duration stated for temporary protection."

Q.10. Has your Member State concluded bilateral agreements with other Member States regulating the responsibility for persons enjoying temporary protection under the Directive? *See optional provision in article 11, final sentence.*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation: (If the answer is “yes”, please specify with which country)

No such agreements were concluded. No public discussions on this issue have taken place in Latvia so far.

Q.11. Questions regarding work and other activities during temporary protection: *See mandatory provision in article 12.*

Q.11.A. Are the persons enjoying temporary protection allowed to engage in:

Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

- Employed activities?** **Yes** **No**
- Self-employed activities?** **Yes** **No**
- Educational opportunities for adults?** **Yes** **No**
- Vocational training?** **Yes** **No**
- Practical workplace experience?** **Yes** **No**

Explanation:

No detailed provisions on this matter exist in the current Asylum Law, since all aspects of the entry and stay shall be defined by the Government of Latvia.

In its turn Para. 3- 4, Section 47 of the of the Draft Law on Asylum in the Republic of Latvia provides for that

" (3) A person who has obtained temporary protection shall have the following rights:

- 1) to work in the Republic of Latvia in accordance with the procedure defined by the Immigration Law;
- 2) receive emergency medical aid and primary health care in case, if the person has insufficient means of subsistence;
- 3) unity with his or her family members, in accordance with the procedure provided for by the Cabinet of Ministers.

(4) A minor asylum seeker, who was granted temporary protection, shall be ensured with opportunities to gain education, in accordance with the procedure provided for by the legal acts in the area of education."

Employed and self-employed activities - Section 30.2.19. of the Regulations the Cabinet of Ministers of 20 January 2004 No 44 "Regulations on the work permits for the foreigners" (amended by the Regulations of the Cabinet of Ministers nr. 998 of 12 December 2006 "Amendments to the Regulations of the Cabinet of Ministers of 20 January 2004 No 44 "Regulations on the work permits for the foreigners") provides for that the Office of Citizenship and Migration Affairs shall issue a work permit (without approval of an employer's work invitation at a branch of the State Employment Agency) in conformity with the term specified in the temporary residence permit, to a person granted the temporary protection in Latvia. This provision is in force since December 16, 2006.

Vocational training, practical workplace experience, - Para 2, Section 2 of the Law on Support for Unemployed Persons and Persons Seeking Employment Law (amended by the Law "Amendments to the Support for Unemployed Persons and Persons Seeking Employment Law) provides for the right of the person granted the temporary protection, to receive the support for unemployed persons and job-seekers in order to provide them with an opportunity to return to the labour market.

- Such support includes
- 1) the vocational training, retraining and raising of qualifications,
 - 2) paid temporary public works, measures to increase competitiveness etc
 - 3) measures to increase competitiveness; and
 - 4) trial jobs at the working place in order to define the professional capacity,
 - 5) training by the employer,
 - 6) complex support events

The education of adults - Section 3 of the Draft Amendments to the Education Law will provide for the following:

"The equal right to acquire education, regardless of their property or social status, race, nationality, gender, religious or political convictions, state of health, occupation or place of residence shall belong to:

- 1) citizen of Latvia,
- 2) non-citizen of Latvia,
- 3) citizen of the European Union Member States, State of European Economic Area or Swiss Confederation, who resides in the Republic of Latvia,

4) citizen of the third country, who has a valid residence permit,
 5) minor child of the asylum seeker, the refugee or the person, who was granted the alternative status,
 6) minor asylum seeker, refugee or person, who was granted the alternative status.”
 Due to fact that the adults, who were granted the temporary protection and consequently, the valid residence permit (requirement of the para.4, Section 3 of the Draft Amendments to the Education Law) shall be granted the same educational opportunities including also the age limitations), as the nationals of Latvia mentioned. The Draft Amendments to the Education Law were submitted to the Parliament on September 6, 2007.

Q.11.B. According to optional provision in article 12, Member States may, for reasons of labour market policies, give priority to EU citizens and citizens of States bound by the Agreement on the European Economic Area and also to legally resident third-country nationals who receive unemployment benefit.

Do the national norms of transposition in your Member State give priority, or allow giving priority, to:

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

- EU citizens?** Yes No
- Citizens of the European Economic Area?** Yes No
- Legally resident third-country nationals who receives unemployment benefits?** Yes No

Explanation:

There are no such priorities as the current Regulations of the Cabinet of Ministers of 20 January 2004 No 44 “Regulations on the work permits for the foreigners” (amended by the Regulations of the Cabinet of Ministers nr. 998 of 12 December 2006 “Amendments to the Regulations of the Cabinet of Ministers of 20 January 2004 No 44 “Regulations on the work permits for the foreigners”) do not distinguish between different types of the foreigners.

Question to be answered only if persons enjoying temporary protection are allowed to work:

Q.11.C. According to article 12, final sentence, the general law in force in the Member States applicable to remuneration, access to social security systems relating to employed or self-employed activities and other conditions of employment shall apply if persons enjoying temporary protection are allowed to work.

If persons enjoying temporary protection are allowed to work: Will your country’s general laws be applicable regarding:

Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

- Remuneration?** Yes No
- Access to social security systems relating to employed or self-employed activities and other conditions of employment?** Yes No

Explanation:

The general law in force does not distinguish between the persons granted temporary protection and any other category of the employed persons.

The Law On Social Services and Social Assistance however does not mention the persons granted temporary protection as the entitled ones to the access to the social security schemes. Under the Asylum Law in force every aspect of the entry and stay of the persons granted temporary protection shall be decided by the Government upon their arrival. No administrative or judicial practice exists since the temporary protection in Latvia has never been granted so far.

Q.12. Questions regarding the Member States obligation towards the temporary protected regarding accommodation, subsidies, medical care etc. *See article 13(1-4).*

Q.12.A. Is your Member State obliged under national law to provide the persons enjoying temporary protection with suitable accommodation or means in order to obtain housing? *See mandatory provision in article 13(1).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation :

Both the current Asylum Law in force and the Draft Law on Asylum in the Republic of Latvia (by now approved by the Committee of the Council of Ministers in March 2007) provides for the suitable accommodation for the persons enjoying temporary protection in order decided by the Government.

Para.2, Section 44 of the current Asylum Law in force provides for the possibility to grant the temporary protection to any group of the persons which could qualify as the persons in the need of the temporary protection on the basis of the criteria provided by Para 1, Section 44 of the Asylum Law :

"(2) The Cabinet shall issue an order to grant temporary protection to a group of persons, determining their total number, the time period of residence, and accommodation procedures in the Republic of Latvia, and the necessary financing, as well as the procedures according to which persons who has been granted temporary protection shall cross the State border of the Republic of Latvia."

This Section of the Asylum Law was never applied by the Government in practice, therefore no details or examples of the practice of the application could be given.

Para. 3, Section 45 of the Draft Law on Asylum in the Republic of Latvia, approved by the Committee of the Council of Ministers in March 2007 provides for the following:

„(3) On the basis of a decision of the Council of the European Union, the Cabinet of Ministers shall issue an order about granting the temporary protection to a group of persons by indicating a total number, procedure of accommodation in the Republic of Latvia, necessary state funding for the reception of this group, as well as procedure, in which a person granted temporary protection, may cross the national border of the Republic of Latvia.”

Q.12.B. Will your Member State, according to national law, be obliged to provide the persons enjoying temporary protection with economic assistance such as social welfare and means of subsistence? *See mandatory provision in article 13(2).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

Both the current Asylum Law in force and the Draft Law on Asylum in the Republic of Latvia (by now approved by the Committee of the Council of Ministers in March 2007) provides for the means of the economic assistance for the persons enjoying temporary protection in order decided by the Government. However no detailed regulation is given in the current law in force and/or new draft law - all the details shall be laid down by the Government order.

Para.2, Section 44 of the current Asylum Law in force provides for the possibility to grant the temporary protection to any group of the persons which could qualify as the persons in the need of the temporary protection on the basis of the criteria provided by Para 1, Section 44 of the Asylum Law :

"(2) The Cabinet shall issue an order to grant temporary protection to a group of persons, determining their total number, the time period of residence, and accommodation procedures in the Republic of Latvia, and the necessary financing, as well as the procedures according to which persons who has been granted temporary protection shall cross the State border of the Republic of Latvia."

This Section of the Asylum Law was never applied by the Government in practice, therefore no details or examples of the practice of the application could be given.

Para. 3, Section 45 of the Draft Law on Asylum in the Republic of Latvia, approved by the Committee of the Council of Ministers in March 2007 provides for the following:

„(3) On the basis of a decision of the Council of the European Union, the Cabinet of Ministers shall issue an order about granting the temporary protection to a group of persons by indicating a total number, procedure of accommodation in the Republic of Latvia, necessary state funding for the reception of this group, as well as procedure, in which a person granted temporary protection, may cross the national border of the Republic of Latvia.”

Q.12.C. Do the persons enjoying temporary protection have access to emergency medical care and essential treatment of illness? See mandatory provision in article 13 (2).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation: (If the answer is “yes”, please provide details whether persons enjoying temporary protection have access to *general medical care* or if it is restricted to *emergency care and essential treatment of illness*?)

No detailed provisions on this matter exist in the current Asylum Law, since all aspects of the entry and stay shall be defined by the Government of Latvia.

In its turn Subpara 2, Para. 3, Section 47 of the of the Draft Law on Asylum in the Republic of Latvia provides for the following:

" (3) A person who has obtained temporary protection shall have the following rights:

2) receive emergency medical aid and primary health care in case, if the person has insufficient means of subsistence."

Q.12.D. Will your Member State, according to national law, be obligated to provide for necessary medical or other assistance to persons enjoying temporary protection who have special needs such as unaccompanied minors, persons who have undergone torture, rape or other serious forms of psychological, physical or sexual violence? See mandatory provision in article 13(4).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation: (If the answer is “yes”, please provide details about the assistance given to different groups of persons with special needs, for example psychological help for persons who have undergone torture).

No detailed provisions on this matter exist in the current Asylum Law, since all aspects of the entry and stay shall be defined by the Government of Latvia.

No reference in relation to the persons with the special needs, who were granted temporary protection exist in the the Draft Law on Asylum in the Republic of Latvia. Subpara 2, Para. 3, Section 47 of the Draft Law on Asylum in the Republic of Latvia provides for the following

" (3) A person who has obtained temporary protection shall have the following rights:

2) receive emergency medical aid and primary health care in case, if the person has insufficient means of subsistence."

Q.13. Questions regarding access to education. *See article 14 (1-2):*

Q.13.A. Do persons who are under 18 years of age and enjoying temporary protection have access to the education system under the same conditions as nationals of your Member State? *See mandatory provision in article 14(1).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

No detailed provisions on this matter exist in the current Asylum Law, since all aspects of the entry and stay and related rights of the person enjoying temporary protection, shall be defined by the Government of Latvia.

In its turn Subpara.4, Para. 3, Section 47 of the Draft Law on Asylum in the Republic of Latvia provides for that

" (3) A person who has obtained temporary protection shall have the following rights:

(4) A minor asylum seeker, who was granted temporary protection, shall be ensured with opportunities to gain education, in accordance with the procedure provided for by the legal acts in the area of education."

The Ministry of Education and Science in its letter of 9 May 2007 indicated that it has drafted Amendments to the Education Law.

The Draft new Section 3 of the Education Law will be read as follows:

“The equal right to acquire education, regardless of their property or social status, race, nationality, gender, religious or political convictions, state of health, occupation or place of residence shall belong to:

1) citizen of Latvia,

2) non-citizen of Latvia,

3) citizen of the European Union Member States, State of European Economic Area or Swiss Confederation, who resides in the Republic of Latvia,

4) citizen of the third country, who has a valid residence permit,

5) minor child of the asylum seeker, the refugee or the person, who was granted the alternative status,

6) minor asylum seeker, refugee or person, who was granted the alternative status.”

Since a person under age of 18, which enjoys temporary protection, is at the same time a person with the valid residence permit, it will have the access to the education under the same conditions as the nationals of Latvia.

Q.13.B. If the answer on Q.13.A is ‘yes’: Is access to education confined to the state education system or does it cover all kinds of educational institutions?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

Please see above answer on Q.13.A- right to acquire the education relates to all the kinds of the educational institutions.

Q.13.C. Do adults enjoying temporary protection have access to the general education system? See optional provision in article 14(2).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

Section 3 of the Draft Amendments to the Education Law will provide for the following:

“The equal right to acquire education, regardless of their property or social status, race, nationality, gender, religious or political convictions, state of health, occupation or place of residence shall belong to:

- 1) citizen of Latvia,
- 2) non-citizen of Latvia,
- 3) citizen of the European Union Member States, State of European Economic Area or Swiss Confederation, who resides in the Republic of Latvia,
- 4) citizen of the third country, who has a valid residence permit,
- 5) minor child of the asylum seeker, the refugee or the person, who was granted the alternative status,
- 6) minor asylum seeker, refugee or person, who was granted the alternative status.”

This means that unless some additional amendments will be adopted, the educational opportunities of the adults, who were granted the temporary protection will be the same (including also the age limitations), as for the nationals of Latvia. However this issue needs to be repeatedly checked upon the adoption of these Amendments.

Q.14. Questions regarding right to family reunification. *See article 15:*

Q.14.A. Do the national norms of transposition in your Member State allow separated family members, which enjoy temporary protection in different Member States, to reunite? See mandatory provision in article 15(2).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

No detailed provisions on this matter exist in the current Asylum Law, since all aspects of the entry and stay and related rights of the person enjoying temporary protection, shall be defined by the Government of Latvia. In its turn Subpara 3, Para. 3, Section 47 of the of the Draft Law on Asylum in the Republic of Latvia provides for that

" (3) A person who has obtained temporary protection shall have the following rights:

- 3) unity with his or her family members, in accordance with the procedure provided for by the Cabinet of Ministers."

Q.14.B. Do the national norms of transposition in your Member State allow family members who are not yet in a Member State to reunite with a person enjoying temporary protection in your Member State? See mandatory provision in article 15(3).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

For the moment there is no detailed regulation of the procedure since the new Law on Asylum in the Republic of Latvia has not been yet adopted by the Parliament. It is clear that the current Draft Law on Asylum in the Republic of Latvia does not have any indications or/and restrictions in relation to where the family members shall reside (be located) in order to receive opportunity to reunite with the person enjoying temporary protection in Latvia.

**Q.14.C. For the application of the rules regarding family reunification:
Whom does your Member State consider a “family member”? See article
15(1)(a)(b).**

(Please indicate by ticking the correct box/boxes and **EXPLAIN YOUR ANSWER**)

- The spouse of the person enjoying temporary protection.**
- The unmarried partner in a stable relationship to the person enjoying temporary protection.**
- The minor unmarried children of the person enjoying temporary protection or of his/her spouse, without distinction as to whether they were born in or out of wedlock or adopted.**
- Other close relatives who lived as part of the family unit with the person enjoying temporary protection at the time of the events leading to the mass influx, and who were wholly or mainly dependent on him/her at the time.**

Explanation:

There is no provision in the Asylum Law in force, which persons shall be considered as a “family”. However Section 29 of the Asylum Law indicates, that in relation to the refugees, that a person's spouse and his or her minor unmarried children (also adopted), as well as dependent disabled children (also adopted) of legal age, shall be considered to be family. Therefore following the logic, the scope of the asylum seeker's or temporary protected person's family shall be the same.

Section 1 of the current Draft Law on Asylum in the Republic of Latvia defines only family of the refugee and persons, granted subsidiary (alternative protection):

"Family members - the spouse of the refugee or the person granted the subsidiary (alternative) protection; the minor children, who are not married and are dependent, without distinction as to whether they were born in or out of wedlock or adopted, if such family existed already in the country of origin."

No definition or reference exists in the current Draft Law in relation to the scope of family of a temporary protected person. However it is doubtful that in practice the interpretation of who belongs to the family of the person granted the temporary protection will be different from the interpretation of who shall be considered the family member of the refugee family or of person, who was granted the subsidiary protection.

Q.14.D. What means of proof is needed in your Member State to verify family membership, is for example documentary evidence needed?

No detailed regulation concerning means of proof in relation to the persons enjoying temporary protection exists on this matter both in the current Asylum Law and the Draft Law on Asylum in the Republic of Latvia. In accordance with the current law all the details of entry and stay shall be defined by the order of the Government. The Draft law provides for the by-law - Governmental Regulations- to be issued to regulate all the details of the family reunification.

Q.14.E. Explain which measures have been taken in your Member State to ensure that ‘the best interest of the child’ is accounted for when applying the provisions on family reunification in the national norms of transposition? See mandatory provision in article 15(4).

Para. 2-3, Section 74 of the Law on the Protection of the Rights of the Child provides for that the Custody Court together with the social assistance institutions of the self-government and the migration authorities carries out measures in order to find the parents of a minor refugee or a minor person, who was granted the alternative status (subsidiary protection) and to find out what possibilities exist for the child to return into the family. If it is not possible to find the parents, the child shall be granted the same care as any other minor, which does not have the care of his/her parents.

Section 29 of the Asylum Law indicates in relation to the refugees indicates that a minor refugee who is not married has the right to take in his or her mother and father (also adopters) who have arrived from a foreign country.

Section 38 of the Draft Law On the Asylum in the Republic of Latvia provides for the following:

“(1) A refugee and a person who has obtained alternative status are entitled to unite with family members who are abroad. A person who has obtained alternative status has the said right if he or she has stayed in the Republic of Latvia at least two years from granting of status.

(2) A minor refugee who has not concluded marriage and has not been accompanied by his or her parents shall be entitled to receive his or her mother and father who arrive from abroad.

(3) The Cabinet of Ministers shall provide procedure in accordance with which unification of a family, as stated in Paragraphs one and two of this Section, is performed.”

Q.14.F. According to article 15(5), Member States shall decide in which Member State the reunification shall take place. Please indicate which authority possesses the competency to take such decisions?

Name and function of the Authority: The Office of the Citizenship and Migration Affairs

Q.14.G. If there is a formal procedure foreseen for such decisions, please describe it briefly:

The current procedure exist only for the refugees and the persons, which have received the alternative status. In order to ensure the reunifications of the persons under the temporary protection with their families, the new Governmental Regulations will be adopted after the adoption of the new Law On the Asylum in the Republic of Latvia.

Q.14.H. Are reunited family members in your Member State granted residence permits under temporary protection?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes

No

Explanation:

Not clear since there is no detailed regulation concerning the details of the family reunification exists in relation to the persons enjoying temporary protection both in the current Asylum Law and the Draft Law on Asylum in the Republic of Latvia. In accordance with the current Asylum Law all the details of entry and stay of persons granted the temporary protection shall be defined by the order of the Government. The Draft Law provides for the similar provision - for the by-law - Governmental Regulations- to be issued to regulate all the details of the family reunification.

Q.14.I. Are documents or other equivalent evidence issued for persons who comes to your Member State and receives temporary protection under the provisions regarding family reunification?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

As mentioned above the details of the procedure are to be defined in the new Governmental Regulations after the adoption of the new Law On the Asylum in the Republic of Latvia.

Q.14.J. Does the national norms of transposition in your Member State comply with the provision in article 15(8) stating that a Member State shall at the request of another Member State, provide information on a person receiving temporary protection which is needed to process a matter of family reunification? See mandatory provision in article 15(8).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

As mentioned above the details of the procedure are to be defined in the new Governmental Regulations after the adoption of the new Law On the Asylum in the Republic of Latvia.

Q.15. Questions regarding unaccompanied minors: *See article 16:*

Q.15.A. Explain how the representation of unaccompanied minors enjoying temporary protection in your Member State is arranged according to national law. See mandatory provision in article 16(1).

It shall be firstly mentioned that since the moment of the establishment of the asylum system in Latvia (1 January 1998) Latvia has had only 5 unaccompanied minors in the asylum procedure. Therefore hardly any significant practice, judicial or administrative case law can be used to illustrate the subject.

The situation in the area of guardianship for the unaccompanied minors has rapidly changed during 2006. Until 10 July 2006 the Board of Appeals for Asylum Seekers' Affairs was responsible for the appointment of the guardians before the termination of this state institution. Then the Office of Citizenship and Migration Affairs had the obligation to provide the representatives for the unaccompanied minor asylum seekers. The supervision of their activities is being carried out by the Ministry of Justice. But Section 7 of the Amendments to the Asylum Law adopted on 7 June 2006 (came into force on 10 July 2006, the Official Journal, 98 (3466), 27.06.2006) provided for Para. 3, Section 11 of the Asylum Law to be read as the following:

“If a minor is not accompanied by parents and wishes to submit a submission himself or herself, his or her rights and lawful interests shall be represented during the asylum procedure by the representative appointed by the Orphan’s Court. The duties of the representative and his/her appointment procedure, the procedure of the granting and payment of the reward and the amount of the reward for the representative, as well as requirements for the representative shall be defined by the Cabinet of Ministers. Section 19 of the Amendments to the Asylum Law provides for the adding of new points 6 and 7 to the transitional provisions of the Asylum Law, that provides for the obligation of the Cabinet of Ministers to adopt the Regulations on the above-mentioned procedures related to the representative of the minor asylum seeker till 30 November 2006. In its turn the Office of Citizenship and Migration Affairs has the obligation to provide the representatives for the minor asylum seekers till 31 December 2006.”

However it was decided by the responsible ministries not to introduce a special new legal procedure and system of guardians for the unaccompanied minors. Instead of the special governmental by-law, that would introduce the specific regulation of the guardianship, it was decided to amend the existing custody and guardianship system. The Draft Amendments to the Asylum Law (the Draft Law of 29.03.2007 nr.VSS-494) provide for the following changes to the Section 11 of the current Asylum Law:

“Para.3, Section 11 of the Asylum Law to be read as follows:

“(3) If a minor is not accompanied by parents and wishes to submit an application himself or herself, he or she shall be represented in personal and economic relationships during the asylum procedure by the orphan’s court or a guardian appointed by the orphan’s court, or by the head of the child care institution. The decision on the accommodation of a minor, who is not accompanied by parents, with the guardian or in the child care institution shall be taken by the orphan’s court after the agreement with the [Refugee Affairs] Department.” When adopted this Amendments will regulate the issue until the new Law On the Asylum in the Republic of Latvia will not come into force.

Since 1 January and until the above-mentioned Draft Amendments to the Asylum Law are adopted, the whole procedure of the appointment of a guardian for an unaccompanied minor is regulated in accordance with the Law On Orphan’s Courts. Section 27 of this Law provides for the following:

“(1) If an Orphan’s court detects that an orphan or a child who is left without parental care, or another person lacking capacity to act who is not a citizen of Latvia or a non-citizen of Latvia, lives or resides in the territory of the operation thereof, such Orphan’s court shall inform a competent guardianship or trusteeship authority of the State, in which the child or another person lacking capacity to act is a citizen, or a guardianship or trusteeship authority of the previous country of domicile without delay and shall request to evaluate the necessity to establish guardianship or trusteeship and to appoint a guardian or a trustee.

(2) An Orphan’s court shall take a decision regarding the taking over of a foreign guardianship or trusteeship case, if a competent foreign guardianship or trusteeship authority has appointed a guardian or a trustee and has requested to take over the guardianship or trusteeship case.

(3) An Orphan’s court shall inform the guardianship or trusteeship authority of the citizenship state or the previous country of domicile of a child or another person lacking capacity to act regarding the taking over of a guardianship or trusteeship case.

(4) If an Orphan’s court detects faults, deficiencies, abuse in the behaviour of a guardian or threats to life or health of a child, it shall take a decision regarding the suspension of the guardian from the fulfillment of the duties of a guardian and the appointment of an interim guardian or the placement of the child into a foster family or an institution of long-term social care and social rehabilitation and inform the foreign guardianship authority thereof without delay.

(5) If an Orphan’s court detects faults, deficiencies, abuse or actions that harm the interests of a person lacking capacity to act, it shall take a decision regarding the suspension of the trustee from the fulfillment of the duties of a trustee and the appointment of an interim trustee and inform the foreign trusteeship authority thereof without delay.”

In accordance with his/her wish an asylum seeker may be accommodated together with his relatives. In case if guardian has been appointed, has guardian is accommodated in the room separate (next room) from unaccompanied minor in the reception centre.

Section 7 of the Draft Law On the Asylum in the Republic of Latvia provides for the following:

“(1) Unaccompanied minor shall submit an application in accordance with the procedure provided for in Section 6, Paragraph one of this Law. His or her rights and legal interests during the asylum procedure shall be represented by a representative appointed by the orphan’s court. The Cabinet of Ministers shall determine obligations of a representative, the procedure of appointment, the procedure of granting and payment of the remuneration, the amount of the remuneration.

(2) A capacitated citizen of Latvia, non-citizen of Latvia, a citizen of the member state of the European Union, member state of the European Economic Area or of Swiss Confederation, or a citizen of the third country, who is entitled to stay in the territory of Latvia for at least 2 years, if he or she has achieved the age of 25 years, speaks the state language, has at least the basic education.

(3) The following person cannot be a representative:

- 1) whose child care or custody rights have been removed;
- 2) who has been sentenced for committing an intentional crime;
- 3) who has been released from criminal liability, sentence or serving the sentence for committing an intentional crime;
- 4) who has been held criminally liable for committing an intentional crime against a person, but the criminal proceedings have been terminated due to the limitation period, settlement, clemency or amnesty;
- 5) who is the convicted, the accused or a suspect in criminal proceedings for committing an intentional crime;
- 6) who has violated the normative acts regulating the protection of child's rights;
- 7) who is under trusteeship;
- 8) who was recognised by the psychiatrist, the expert in narcotics or the family doctor as a person not capable to fulfill the obligation of the representative due to the health reasons.

(4) in order to apply for the status of representative, a person shall produce the personal identification documents and the documents certifying the education, the documents certifying the rights of foreigner or stateless person to stay in the Republic of Latvia to the orphan's court, in which territory the registered place of living of a candidate [is located], and to submit [to the same court], :

- 1) an application;
- 2) opinions of the family doctor, with which records of the patients a person is registered and who is in the health care for at least 6 months, of the psychiatrist and of the expert in narcotics regarding the health condition of a person.

(5) The employee specially trained for that task conducts the interview with the unaccompanied minor and prepares the decision on this person.

(6) Minor asylum seekers shall be ensured with opportunities to gain the education, in accordance with the procedure provided for by the normative acts regulating the area of education. The Cabinet of Ministers shall approve the procedure in accordance with which the education shall be ensured."

Q.15.B. Does your Member State provide for unaccompanied minors to be placed with: See mandatory provision in article 16(2).

(Please indicate by ticking the correct box/boxes and **EXPLAIN YOUR ANSWER**)

- Adult relatives ?**
- A foster-family ?**
- In reception centres with special provisions for minors, or in other accommodation suitable for minors ?**
- With the person who looked after the child when fleeing ?**

Explanation:

It shall be firstly mentioned that since the moment of the establishment of the asylum system in Latvia (1 January 1998) Latvia has had only 5 unaccompanied minors in the asylum procedure. Therefore hardly any significant practice, judicial or administrative case law can be use to illustrate the subject. The practice of the only existing reception centre is the following: in accordance with his/her wish an asylum seeker may be accommodated together with his/her relatives. In case if guardian has been appointed, has guardian is accommodated in the room separate (next room) from unaccompanied minor in the reception centre.

Q.15.C. Do the national norms of transposition in your Member State meet the requirement that the views of the child shall be taken into account when arranging placement for the minor? See mandatory provision in article 16(2).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

Para. 2, Section 3 of the Law on the Protection of the Rights of the Child provides for that “The State shall ensure the rights and freedoms of all children without any discrimination – irrespective of race, nationality, gender, language, political party alliance, political or religious convictions, national, ethnic or social origin, place of residence in the State, property or health status, birth or other circumstances of the child, or of his or her parents, guardians, or family members.”, as well as in the Section 18: “Guarantees for the rights of the child shall be as determined by the Constitution, this Law and other laws and regulatory enactments, as well as international agreements binding on Latvia.”

There is no direct provision in the Asylum Law or the Draft Law on the views of the child. However the Law on the Protection of the Rights of the Child shall be always taken into account by the authorities. In case of any complaints the minors may also complain to the State Inspection for Protection of Children’s Rights, which main tasks will be to supervise and control implementation of the legal standards of child protection.

Access to the asylum procedure in the context of temporary protection

Q.16. Questions regarding access to the asylum procedure. *See article 3 and 17-19:*

According to mandatory provision in article 3(1) temporary protection shall not prejudice recognition of refugee status under the Geneva Convention.

Q.16.A. Does temporary protection in any way prejudice recognition of refugee status under the Geneva Convention in your Member State?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

Section 48 of the Draft Law provides for the following:

"1) A person who has obtained temporary protection is entitled to submit an application. During examination of such an application, the person shall not be deemed as an asylum seeker according to this Law, if the person resides in the Republic of Latvia as a person who has obtained temporary protection.

2) If the duration of the temporary protection has expired at the time, when the final decision on granting of the refugee and alternative status has not been yet adopted, a person shall be deemed as an asylum seeker within the meaning of this Law.

3) A person whose application was examined in accordance with the procedure provided for in this Law and in relation to which the decision was taken to reject the granting of the refugee status and the alternative status, shall be entitled to stay in the Republic of Latvia as a person, who was granted the temporary protection unless the duration of such protection has not expired."

Q.16.B. Does your Member State allow persons enjoying temporary protection to apply for asylum at any time during the period of temporary protection? See mandatory provision in article 17(1).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

Section 48 of the Draft Law provides for the following:

"1) A person who has obtained temporary protection is entitled to submit an application. During examination of such an application, the person shall not be deemed as an asylum seeker according to this Law, if the person resides in the Republic of Latvia as a person who has obtained temporary protection.

2) If the duration of the temporary protection has expired at the time, when the final decision on granting of the refugee and alternative status has not been yet adopted, a person shall be deemed as an asylum seeker within the meaning of this Law.

3) A person whose application was examined in accordance with the procedure provided for in this Law and in relation to which the decision was taken to reject the granting of the refugee status and the alternative status, shall be entitled to stay in the Republic of Latvia as a person, who was granted the temporary protection unless the duration of such protection has not expired."

The wording of Para.1, Section 48 does not suggest that the status determination procedure for an application for asylum will be suspended during the period of temporary protection.

Q.16.C. Does your Member State allow persons enjoying temporary protection to stay in the Member State during the examination of their asylum claim, even though the period of temporary protection has ended? See mandatory provision in article 17(2).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

Section 48 of the Draft Law provides for the following:

"1) A person who has obtained temporary protection is entitled to submit an application. During examination of such an application, the person shall not be deemed as an asylum seeker according to this Law, if the person resides in the Republic of Latvia as a person who has obtained temporary protection.

2) If the duration of the temporary protection has expired at the time, when the final decision on granting of the refugee and alternative status has not been (yet) adopted, a person shall be deemed as an asylum seeker within the meaning of this Law.

3) A person whose application was examined in accordance with the procedure provided for in this Law and in relation to which the decision was taken to reject the granting of the refugee status and the alternative status, shall be entitled to stay in the Republic of Latvia as a person, who was granted the temporary protection unless the duration of such protection has not expired."

Therefore Para. 2., Section 48 of the Draft Law provides for the possibility to stay.

Q.16.D. What criteria are provided by the norms of transposition in your Member State to determine the responsibility amongst Member States for examining an asylum application submitted by a person enjoying temporary protection in another Member State? See mandatory provision in article 18.

No detailed criteria exist in the current Asylum Law or the Draft Law On the Asylum in the Republic of Latvia. The other Member States are mentioned already in the context of already determined responsibility - Section 50 of the Draft Law, which provides for the following:

(1) In order to transfer a person, who was granted the temporary protection, to another Member State, the document of transferal shall be issued. The form of the document of transferal and procedure of issuance, as well as the amount of the information for the exchange between the Member States, shall be determined by the Cabinet of Ministers.

(2) Conducting the transferal to another Member State, the consent of a person for such a transferal shall be taken into account.

(3) If a person, who was granted the temporary protection, is being transferred to another Member State, his/her temporary protection in the Republic of Latvia shall cease to exist.

(4) The Republic of Latvia shall receive back a person, who was granted the temporary protection in the Republic of Latvia, if he or she stays or tries to enter another [EU] Member State within the term stated for temporary protection.

Q.16.E. Has your Member State decided that temporary protection may not be enjoyed concurrently with the status of asylum seeker while applications are under consideration? See optional provision in article 19.

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes

No

Explanation: If the answer is “yes”, please provide details concerning differences between the reception conditions for asylum seekers and persons enjoying temporary protection in your Member State which might lead to withdrawal or reduction of rights for a temporary protected who lodges an application for asylum.

Section 48 of the Draft Law On the Asylum in the Republic of Latvia provides for the following:

"1) A person who has obtained temporary protection is entitled to submit an application. During examination of such an application, the person shall not be deemed as an asylum seeker according to this Law, if the person resides in the Republic of Latvia as a person who has obtained temporary protection.

2) If the duration of the temporary protection has expired at the time, when the final decision on granting of the refugee and alternative status has not been (yet) adopted, a person shall be deemed as an asylum seeker within the meaning of this Law.

3) A person whose application was examined in accordance with the procedure provided for in this Law and in relation to which the decision was taken to reject the granting of the refugee status and the alternative status, shall be entitled to stay in the Republic of Latvia as a person, who was granted the temporary protection unless the duration of such protection has not expired."

Q.16.F. If refugee status or, where applicable, other kind of protection is not granted to a person who is eligible for or already enjoys temporary protection is that person allowed to enjoy or continue to enjoy temporary protection in your Member State? See mandatory provision in article 19(2).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes

No

Explanation:

Para. 3, Section 48 of the Draft Law provides for the following:

"3) A person whose application was examined in accordance with the procedure provided for in this Law and in relation to which the decision was taken to reject the granting of the refugee status and the alternative status, shall be entitled to stay in the Republic of Latvia as a person, who was granted the temporary protection unless the duration of such protection has not expired."

Return and measures after temporary protection has ended

Q.17. Questions regarding the voluntary return of persons enjoying temporary protection:

Q.17.A. According to mandatory provision in article 21(1) the Member States *shall* ensure that the provisions governing voluntary return of persons enjoying temporary protection facilitate their return with respect for human dignity. How is that reflected in the national norms of transposition in your Member State?

Section 46 of the Current Asylum Law does not regulate in details the issue of the voluntary return. It states the following:

- (1) A group of persons whose temporary protection has expired shall leave the Republic of Latvia.
- (2) The condition referred to in Paragraph one of this Section does not apply to a person who has another legal basis for residing in the Republic of Latvia.

In its turn Section 51 of the Draft Law On the Asylum in the Republic of Latvia provides for the following:

- (1) A person, who was granted the temporary protection shall be entitled to return voluntarily to the country of origin during the duration provided for the protection, as well as within two months time since the end of the temporary protection..
- (2) A person who has returned to his or her country of origin voluntarily may submit an application to the Office about return to Latvia, unless a term of temporary protection has expired.
- (3) While taking the decision on the voluntary return to the country of origin or examining his or her application about the return to Latvia, the Office shall take into account the conditions in his or her country of origin. There are no direct references in the current Asylum Law or the Draft Law on the respect of human dignity. However each Latvia shall respect human dignity of the person based on the European Convention of Human Rights and Fundamental Freedoms, the relevant case law of the European Court of Human Rights, which is binding on Latvia as well as the provisions of the Constitution of Republic of Latvia.

Q.17.B. Please explain how your Member State ensures that a decision of persons enjoying temporary protection, or whose temporary protection has ended, to return voluntarily is taken in full knowledge of the facts. *See mandatory provision in article 21(1).*

Section 46 of the Current Asylum Law does not regulate in details the issue of the voluntary return. It states the following:

- (1) A group of persons whose temporary protection has expired shall leave the Republic of Latvia.
- (2) The condition referred to in Paragraph one of this Section does not apply to a person who has another legal basis for residing in the Republic of Latvia.

In its turn Section 51 of the Draft Law On the Asylum in the Republic of Latvia provides for the following:

- (1) A person, who was granted the temporary protection shall be entitled to return voluntarily to the country of origin during the duration provided for the protection, as well as within two months time since the end of the temporary protection..
- (2) A person who has returned to his or her country of origin voluntarily may submit an application to the Office about return to Latvia, unless a term of temporary protection has expired.
- (3) While taking the decision on the voluntary return to the country of origin or examining his or her application about the return to Latvia, the Office shall take into account the conditions in his or her country of origin.

Therefore there are no direct provisions which would facilitate "decision to be taken in full knowledge of the facts" in Latvian legislation. It is obligation of the national authorities take into account the conditions in his or her country of origin before taking the decision on the voluntary return.

Q.17.C. Is it possible for the temporary protected in your Member State to make exploratory visits to the home country? See optional provision in article 21(1).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

No such possibility is provided by the current Asylum Law or the Draft Law On the Asylum in the Republic of Latvia.

Q.17.D. Please explain if and how your Member State has transposed article 21(2) stating that Member States shall, for such time as the temporary protection has not ended and on the basis of the circumstances prevailing in the country of origin, give favourable consideration to requests for return to the host Member State from persons who have enjoyed temporary protection and exercised their right to a voluntary return?

Section 46 of the current Asylum Law does not provide for such an option. It states the following:

"(1) A group of persons whose temporary protection has expired shall leave the Republic of Latvia.

(2) The condition referred to in Paragraph one of this Section does not apply to a person who has another legal basis for residing in the Republic of Latvia."

Section 51 of the Draft Law On the Asylum in the Republic of Latvia provides for the following:

(1) A person, who was granted the temporary protection shall be entitled to return voluntarily to the country of origin during the duration provided for the protection, as well as within two months time since the end of the temporary protection..

(2) A person who has returned to his or her country of origin voluntarily may submit an application to the Office about return to Latvia, unless a term of temporary protection has expired.

(3) While taking the decision on the voluntary return to the country of origin or examining his or her application about the return to Latvia, the Office shall take into account the conditions in his or her country of origin.

Q.17.E. Is it possible, under the national norms of transposition in your Member State, for persons enjoying temporary protection to continue receive their benefits as temporary protected after the period of temporary protection has ended, if they benefit from a voluntary return programme? See optional provision in article 21.

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation: (If the answer is "yes", for how long is that possible).

Q.18. Questions concerning enforced return of persons who have enjoyed temporary protection. *See articles 22:*

Q.18.A. Explain if and how the laws of your Member State comply with the mandatory provision in article 22(1), obliging Member States to ensure that the enforced return of persons whose temporary protection has ended and who are not eligible for admission shall be conducted with due respect for human dignity.

Section 46 of the current Asylum Law does not provide for such an option. It states the following:

"(1) A group of persons whose temporary protection has expired shall leave the Republic of Latvia.

(2) The condition referred to in Paragraph one of this Section does not apply to a person who has another legal basis for residing in the Republic of Latvia."

Section 52 of the Draft Law On the Asylum in the Republic of Latvia provides for the following:

(1) A person for whom temporary protection has expired must leave the Republic of Latvia, unless the person has another legal basis to reside in the Republic of Latvia. The identification certificate and the residence permit is cancelled upon the person leaving the country.

(2) A person for whom temporary protection has expired has not left the Republic of Latvia in the duration provided for in para.1, Section 51, the decision on the compulsory expulsion of a person shall be adopted by the Head of the Office within 10 days. While taking the decision on the compulsory expulsion of a person, the humanitarian reasons shall be taken into account, that in particular cases may make the return impossible. If person cannot travel due to his or her state of health, because they would suffer serious negative effects if their treatment was interrupted, he or she shall not be expelled so long as this condition continues.

(3) A person may submit an appeal on the decision on the compulsory expulsion to the court within seven days. The submission of the appeal to the court does not suspend the force of the decision on the compulsory expulsion.

(4) The decision on the compulsory expulsion of a person shall be enforced in order provided for in the Immigration Law.

Q.18.B. Explain if and how the laws of your Member State comply with the mandatory provision in article 22(2) obliging Member States to consider any compelling humanitarian reasons which may make return impossible or unreasonable in specific cases.

No such provisions are provided in the current Asylum Law

Para 2, Section 52 of the Draft Law On the Asylum in the Republic of Latvia provides for the following:

"(2) A person for whom temporary protection has expired has not left the Republic of Latvia in the duration provided for in para.1, Section 51, the decision on the compulsory expulsion of a person shall be adopted by the Head of the Office within 10 days. While taking the decision on the compulsory expulsion of a person, the humanitarian reasons shall be taken into account, that in particular cases may make the return impossible. If person cannot travel due to his or her state of health, because they would suffer serious negative effects if their treatment was interrupted, he or she shall not be expelled so long as this condition continues."

Q.18.C. In the national law of your Member State, are there any other grounds (except for the one referred to in Q.18.B) for allowing persons who have enjoyed temporary protection to stay in your Member State?

No such provisions are provided in the current Asylum Law

Para 1, Section 52 of the Draft Law On the Asylum in the Republic of Latvia provides for the following:

(1) A person for whom temporary protection has expired must leave the Republic of Latvia, unless the person has another legal basis to reside in the Republic of Latvia. The identification certificate and the residence permit is cancelled upon the person leaving the country. That means, that if person while enjoying the temporary protection, receives an additional right to stay in Latvia by any other reason (e.g. marriage), he or she can receive another residence permit based on any of the general reasons that are provided in the Immigration Law and are applicable to his or her situation.

Q.19. Questions concerning forcible return of persons who have enjoyed temporary protection. *See article 23:*

Q.19.A. Does the national law and practice of your Member State comply with the mandatory provision in article 23, providing that persons who have enjoyed temporary protection and who cannot, in view of their state of health reasonably be expected to travel, are not expelled as long as that situation continues? The provision exemplifies with persons who would suffer serious negative effects if their treatment was interrupted.

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

No such provisions are provided in the current Asylum Law
Para 2, Section 52 of the Draft Law On the Asylum in the Republic of Latvia provides for the following:
"(2) A person for whom temporary protection has expired has not left the Republic of Latvia in the duration provided for in para.1, Section 51, the decision on the compulsory expulsion of a person shall be adopted by the Head of the Office within 10 days. While taking the decision on the compulsory expulsion of a person, the humanitarian reasons shall be taken into account, that in particular cases may make the return impossible. If person cannot travel due to his or her state of health, because they would suffer serious negative effects if their treatment was interrupted, he or she shall not be expelled so long as this condition continues."

Q.19.B. Does your Member State allow families whose children attend school in a Member State, to benefit from residence conditions allowing the children concerned to complete the current school period before return? *See optional provision in article 23.*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

No such provisions are provided in the current Asylum Law or the Draft Law On the Asylum in the Republic of Latvia . The future practice after adoption of the new law can have a multiple flexible options for the actions of the state authorities, since there is no direct prohibition of such action in the Draft Law.

Solidarity

Q.20. Please describe how your Member State ensures that persons eligible for temporary protection defined in a Council Decision under article 5 and who have not arrived in the Community have expressed their will to be received on their territory? *See mandatory provision in article 25(2).*

No such provisions are provided in the current Asylum Law or the Draft Law On the Asylum in the Republic of Latvia.

The issue shall be regulated in the order of the Latvian Government for which Para. 3, Section 44 provides:

"(3) On the basis of a decision of the Council of the European Union, the Cabinet of Ministers shall issue an order about granting the temporary protection to a group of persons by indicating a total number, procedure of accommodation in the Republic of Latvia, necessary state funding for the reception of this group, as well as procedure, in which a person granted temporary protection, may cross the national border of the Republic of Latvia."

Q.21. Questions concerning the transferral between Member States of persons enjoying temporary protection. *See article 26:*

Q.21.A. According to mandatory provision in article 26(1) the Member States shall cooperate with each other with regard to transferral of the residence of persons enjoying temporary protection from one Member State to another, subject to the *consent* of the persons concerned to such transferral.

Does the national law of your Member State comply with article 26(1) regarding the *consent* of the person who are about to be transferred?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes

No

Explanation:

No such provisions are provided in the current Asylum Law.

Para. 2, Section 50 of the Draft Law On the Asylum in the Republic of Latvia provides for the following:

"(2) Conducting the transferal to another Member State, the consent of a person for such a transferal shall be taken into account." Therefore the provision on the consent provided in Directive is rephrased in the Draft Law and teoretically there could be 2 different readings of the provision.

Q.21.B. Do the national norms of transposition in your Member State comply with article 26(2) stating that a Member State shall communicate requests for transfers to the other Member States and notify the Commission and UNHCR?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes

No

Explanation:

No such provisions are provided in the current Asylum Law or the Draft Law On the Asylum in the Republic of Latvia.

Q.21.C. According to the national norms of transposition, is your Member State obliged to, at the request of another Member State, provide information as set out in Annex II of the Directive, on a person enjoying temporary protection, which is needed to process a matter of transferral? (See mandatory provision in article 26(3)).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

No such provisions are provided in the current Asylum Law .

Para.1, Section 50 of the Draft Law On the Asylum in the Republic of Latvia provides for the following:

"(1) In order to transfer a person, who was granted the temporary protection, to another Member State, the document of transferal shall be issued. The form of the document of transferal and procedure of issuance, as well as the amount of the information for the exchange between the Member States, shall be determined by the Cabinet of Ministers." The Draft Law does not directly indicate what kind of information shall be exchanged, since it shall be the subject of the governmental Regulations. The Draft Regulations on the form of the document of transferal and procedure of issuance, as well as the amount of the information for the exchange between the Member States, have not been drafted yet. The Regulations to be issued on the basis of the new Law shall be elaborated at the moment when the Draft Law will be adopted in the Parliament in 2nd reading.

Q.21.D. According to the national law in your Member State, will the residence permit of a person who is transferred, from your Member State to another Member State, expire? See mandatory provision in article 26(4)

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

No such provisions are provided in the current Asylum Law .

Para. 3, Section 50 of the Draft Law On the Asylum in the Republic of Latvia provides for the following:

"(3) If a person, who was granted the temporary protection, is being transferred to another Member State, his/her temporary protection in the Republic of Latvia shall cease to exist." Therefore the relevant residence permit will be cancelled as well due to cease of the status.

Q.21.E. When a person, who has been enjoying temporary protection in your Member State is transferred to another Member State, will the obligations relating to temporary protection in your Member State come to an end upon the transferral? See mandatory provision in article 26(4)

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

No such provisions are provided in the current Asylum Law .

Para. 3, Section 50 of the Draft Law On the Asylum in the Republic of Latvia provides for the following:

"(3) If a person, who was granted the temporary protection, is being transferred to another Member State, his/her temporary protection in the Republic of Latvia shall cease to exist."

Q.21.F. If a person, who previously has enjoyed temporary protection in another Member State, is transferred to your Member State, will your Member State grant temporary protection to that person? See mandatory provision in article 26(4), last sentence.

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes

No

Explanation:

No such provisions are provided in the current Asylum Law .
Para.5, Section 50 of the Draft Law On the Asylum in the Republic of Latvia provides for this obligation of Latvia.

Q.21.G. Will the ‘model pass’ set out in annex I of the Directive be used in a foreseen transferral procedure?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes

No

Explanation:

Section 44 of the current Asylum Law in force stipulates the following provisions:

“(1) Temporary protection is the right granted to a group of persons to reside in the Republic of Latvia for a specified period of time if such persons need protection and they are or have been forced to leave the country of their citizenship or, if the persons are stateless persons, their country of former residence due to:

- 1) ethnic conflict, or
- 2) civil war.

(2) The Cabinet shall issue an order to grant temporary protection to a group of persons, determining their total number, the time period of residence, and accommodation procedures in the Republic of Latvia, and the necessary financing, as well as the procedures according to which persons who has been granted temporary protection shall cross the State border of the Republic of Latvia." The law therefore does not specifically mention the issue of the transferal and model pass.

Para.1, Section 50 of the Draft Law On the Asylum in the Republic of Latvia provides for the following:

"(1) In order to transfer a person, who was granted the temporary protection, to another Member State, the document of transferal shall be issued to him/her. The form of the document of transferal and procedure of issuance, as well as the amount of the information for the exchange between the Member States, shall be determined by the Cabinet of Ministers." The Draft Regulations on the form of the document of transferal and procedure of issuance, as well as the amount of the information for the exchange between the Member States, have not been drafted yet.

Q.22. What authority in your Member State is appointed as national contact point according to the mandatory provision in article 27?

The name and function of the authority is: the Office of the Citizenship and Migration Affairs

Q.23. Questions regarding exclusion from temporary protection:

Q.23.A. Are there any criteria for exclusion from temporary protection in your Member State? See optional provision in article 28.

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes

No

Explanation: (If yes, specify the criteria).

The current Asylum Law does not provide for such exclusions:

Para.2, Section 45 of the Draft Law On the Asylum in the Republic of Latvia provides for the following:

" (2) The group [of persons seeking the protection] stated in Paragraph one of this Section shall not include a person in case, if there is basis to deem that the person complies with the provisions stated in Paragraph one, Clauses 3, 4, or 5, Section 31 of this Law or if the person causes threat to the state security of the Republic of Latvia or the person has been found guilty in a court judgement for committing especially serious crime that causes threat to the Latvian community."

Clauses 3, 4, or 5, Para. 1, Section 31 of the Draft Law provides for the following:

"3) the person has committed crime against peace, war crime or crime against mankind, as stated in international documents;

4) the person has committed serious non-political crime prior his or her arrival in the Republic of Latvia.

Especially cruel activities, even if performed for seemingly political purposes, may be recognised as serious non-political crime;

5) the person is guilty in activities that are contrary to the objectives and principles of the United Nations."

Q.23.B. If the answer to A. is "yes", please indicate whether they in any way exceed the exhaustive list of criteria in article 28(1)(a) and (b).

Yes

No

Explanation:

No, they do not exceed the exhaustive list of criteria.

Q.23.C. Do the national norms of transposition in your Member State meet the terms in article 28(2) stating that the grounds for exclusion shall be based solely on the personal conduct of the person concerned?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes

No

Explanation:

The current Asylum Law does not provide for such provisions. Taking into account that any case shall be considered in the individual way and impartially, it was not considered necessary to transpose the particular provision in the Draft Law On the Asylum in the Republic of Latvia.

Q.23.D. Do the national norms of transposition in your Member State meet the terms of article 28(2) stating that exclusion decisions or measures shall be based on the principle of proportionality?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes

No

Explanation:

Clause 9, Para.1., Section 4 and Section 13 of the Administrative Procedure Law, provides for that any decision in the administrative case shall be made, taking into account the principle of the proportionality. Therefore the general principle of the national administrative procedure law applies to the cases of the temporary protection.

Q.24. Questions concerning the right to legal challenge:

Q.24.A. Do the laws of your Member State allow a person to mount a legal challenge if he/she has been: *See mandatory provision in article 29.*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

**excluded from the benefit
of temporary protection**

Yes **No**

denied family reunification

Yes **No**

Explanation:

The current Asylum Law does not provide for such provisions. For the moment any legal challenges would be considered in accordance with the article 15, as well as the Chapter B and C of the Administrative Procedure Law (the chapters contain rules regulating the procedure of the examination of the complaints on any decision/administrative act in the public institution and in the administrative court) which regulates all types of the legal challenges against the actions/decisions of the public institutions and bodies of the Republic of Latvia. The current version of the Draft Law On the Asylum in the Republic of Latvia (if adopted) will change the situation. Para.5, Section 45 of the Draft Law On the Asylum in the Republic of Latvia provides for the right to the legal challenge in case of the granting (or rejecting) of the temporary protection. However the wording of Paragraph 5, Section 45 is not completely clear on the point, since it mentions that the decisions on granting and expiration of the temporary protection can be appealed. However, if it will be recognised that Paragraph 5, Section 45 is not applicable to the exclusion cases, the above-mentioned provisions of the Administrative Procedure Law mentioned above, which allow to challenge any decision of the public institutions will apply.

It is also planned (after the adoption of Law On the Asylum in the Republic of Latvia) to include the family reunification regulation for the cases of the temporary protected persons into the current Governmental Regulations nr.652 of 30 August 2005 "Procedures by which Reunion of a Refugee Family, as well as a Family of Such Person who has been granted Alternative Status, is performed in the Republic of Latvia".

Currently Section 19 of the Regulations provides for the possibility of a refugee or a person who has been granted the alternative status, and their adult relative to challenge the refusal to issue a residence permit to the family members of a refugee or family members of such person who has been granted the alternative status, by submitting the application to the Head of the Office of the Citizenship and Migration Affairs within one months since the entry of the negative decision into force.

Section 20 of the same Regulations provides for that the subsequent negative decision the Head of the Office of the Citizenship and Migration Affairs can be appealed to the court by a refugee or a person who has been granted the alternative status, and their adult relative, within one month since the entry of the negative decision into force.

Therefore the all the issues of the procedure of the denied family reunification for the refugees, persons, granted the alternative status or the persons, granted the temporary protection, will be regulated in one single by-law.

Q.24.B. If the answer on any of the questions in Q.24.A is "yes", please describe the applicable legal procedures for challenging the decision, in your Member State.

Please see answer on Q.24 A

Q.25. Questions regarding penalties applicable to infringements of the national provisions.

Q.25.A. Are there penalties applicable to infringements of the national provisions in your Member State? *See mandatory provision in article 30.*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes

No

Explanation: (If yes, specify the penalties).

No special articles of in the Code of the Administrative Misdemeanor and the Criminal Law were introduced in order to transpose the provisions of the directive.

The issue of the failure to act by the official of the competent institution or the exceeding of the official authority will therefore be punished by the 2 types of the sanctions

a) In case of the administrative liability:

a) Administrative liability:

The Section 201.46 of the Administrative Misdemeanour Code of Latvia provides for the following measures in cases of the infringement of the examination of the complaints, applications and proposals:

For the non-reply to the person submitting the application, complaint or proposal in duration provided by the law– the official shall be punished by the fine not exceeding 25 LVL (1 EUR- 0,7 LVL), For the examination of such application, complaint or proposal in where the official is directly interested in the result of the examination– the official shall be punished by the fine not exceeding 50 LVL (1 EUR- 0,7 LVL).

b) in criminal liability the following provisions of the Criminal Law will apply:

Section 317. Exceeding Official Authority

(1) For a person who, being a State official, commits intentional acts which manifestly exceed the limits of rights and authority granted to the State official by law or pursuant to his or her assigned duties, if substantial harm is caused thereby to State authority, administrative order or rights and interests protected by law of a person, the applicable sentence is deprivation of liberty for a term not exceeding five years or community service, or a fine not exceeding one hundred times the minimum monthly wage, with or without deprivation of the right occupy specified positions for a term of not less than one and not exceeding three years.

(2) For a person who commits the same acts, if serious consequences are caused thereby, or they are associated with violence or threatened violence, or they are committed for purposes of acquiring property, the applicable sentence is deprivation of liberty for a term not exceeding ten years or community service, or a fine not exceeding two hundred times the minimum monthly wage, with or without deprivation of the right occupy specified positions for a term of not less than one and not exceeding five years.

Section 319. Failure to Act by a State Official

(1) For a person who, being a State official, commits failing to perform his or her duties, that is, if a State official intentionally or through negligence fails to perform acts which, according to law or his or her assigned duties, he or she must perform to prevent harm to State authority, administrative order or rights and interests protected by law of a person, and if substantial harm is caused thereby to State authority, administrative order or rights and interests protected by law of a person,

the applicable sentence is deprivation of liberty for a term not exceeding three years, or custodial arrest, or community service, or a fine not exceeding fifty times the minimum monthly wage, with or without deprivation of the right occupy specified positions for a term of not less than one and not exceeding three years.

(2) For a person who commits the same offence, if serious consequences are caused thereby, or the acts of the State official are for purposes of acquiring property,

the applicable sentence is deprivation of liberty for a term not exceeding six years or community service, or a fine not exceeding one hundred times the minimum monthly wage, with or without deprivation of the right occupy specified positions for a term of not less than one and not exceeding five years.

Q.25.B. Explain if the penalties, according to your opinion, comply with the Directive concerning them being effective, proportionate and dissuasive?

See mandatory provision in article 30.

The penalties provided for the wide range of fines and more severe sanction in relation to the actions of the civil servants, grading them on the basis of the severity of the crime committed. They could be considered therefore effective, proportionate and dissuasive.

Final questions

Q.26. Can you refer us to any study, report or research by any source on the practice of granting temporary protection in the event of a mass influx in your Member State?

No such studies exist.

Q.27. Has there been a political or public debate on the implementation of the Directive? If so, please summarize the main issues of the debate

There were no such important debates, that probably may be explained by the overall very low number of the asylum seekers and refugees in Latvia (in comparison with the other EU Member States). Since January 1998 till May 2007 10 persons were granted the refugee status and 18 persons were granted the alternative protection in Latvia.

Q.28. Are there any problems of legislation or practice in your Member State which relate to temporary protection and have not been covered in preceding questions?

No, I think there are no such problems.

THIRD PART

IMPACT OF THE DIRECTIVE ON NATIONAL LAW

Q.29 Question regarding the evolution of national law: **Did the transposition of the Directive make the rules related to the protection of third country nationals in cases of a mass influx become, from the point of view of the third-country national concerned, more favourable or less favourable. Please make also a comparison with the standard of the directive in the last column of the table below**

OBJECTIVE <i>To enhance the protection of displaced persons in cases of a mass influx</i>		EVALUATION REGARDING THE EVOLUTION OF NATIONAL LAW	EVALUATION IN COMPARISON WITH THE STANDARD OF THE DIRECTIVE
<p>Explain the situation <u>before</u> transposition</p> <p>The Asylum Law regulated only 3 aspects of the temporary protection: granting the temporary protection to the persons in need by the decision of the Government, issuing of the identity documents and the action after the expiration of the duration of the temporary protection. The rest of the practical issues of the entry and stay shall be regulated by the Governmental by-law, that shall be issued actually upon such situation of the temporary protection shall arise. The mentioned provisions of the Asylum Law have never been yet applied in practice.</p>	<p>Explain the situation <u>after</u> transposition</p> <p>The future Law On the Asylum in the Republic of Latvia will change the situation. The regulation will become in line with the norms of the directive, providing for the more detailed and explicit regulation of all the aspects of the temporary protection.</p>	<p><input type="checkbox"/> <i>Less favourable than previous national rules</i></p> <p><input type="checkbox"/> <i>Status quo</i></p> <p><input checked="" type="checkbox"/> <i>More favourable than previous national rules</i></p>	<p><input type="checkbox"/> <i>Less favourable than the Directive</i></p> <p><input checked="" type="checkbox"/> <i>In line with the directive</i></p> <p><input type="checkbox"/> <i>More favourable than the directive</i></p>

Q. 30. **From your point of view, did the transposition of the directive imply other interesting changes for the third country national concerned regarding other elements than the ones mentioned in the previous question? Please make also a comparison with the standard of the directive in the last column of the table below**

When answering this question, please use one or more of the tables below. If the 3 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).

Table 1

OBJECTIVE (to be indicated by the national rapporteur)		EVALUATION REGARDING THE EVOLUTION OF NATIONAL LAW	EVALUATION IN COMPARISON WITH THE STANDARD OF THE DIRECTIVE
Explain the situation before transposition	<p>Explain the situation after transposition</p> <p>(To evaluate the impact of the directive, please consider also national norms which were adopted before the deadline for transposition or even before the adoption of the directive, in cases of Member States having amended their national legislation in advance in accordance with the directive. Please indicate the precise date of adoption of the change)</p>	<p><input type="checkbox"/> <i>Less favourable than previous national rules</i></p> <p><input type="checkbox"/> <i>Status quo</i></p> <p><input type="checkbox"/> <i>More favourable than previous national rules</i></p>	<p><input type="checkbox"/> <i>Less favourable than the Directive</i></p> <p><input type="checkbox"/> <i>In line with the directive</i></p> <p><input type="checkbox"/> <i>More favourable than the directive</i></p>

Q.31.A. Question regarding the method of transposition: **Did your Member State copy the provisions of the directive into national legislation without any redrafting or adaptation to national circumstances.**

YES NO

Q.31.B. **If yes, did this method of transposition create any problems (for example difficulties of implementation, risk that a provision remain unapplied).**

YES NO

Q.31.C. **If yes, give some of examples:**

Q.31.D. **If only some provisions of the directive have been copied and if this may create any problem, please quote them and explain the problem.**

On my opinion, no such problems exist.

Q.32. Quote interesting decisions of jurisprudence related to the directive, its transposition or implementation (this question concerns in principle decisions after the national norms of transposition entered into force, but decisions prior to that may be quoted if relevant). Quote in particular decisions of supreme Courts; limit yourself to the appeal Courts and ignore the first resort if there are too many decisions at this level, unless there is a certain jurisprudence made of a group of decisions.

When answering this question, please use one or more of the tables below. If the 5 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).

Table 1

DECISION OF SUPREME COURTS	<u>DATE:</u>	<u>REFERENCE OF PUBLICATIONS:</u>	<u>SUMMARY OF CONTENT:</u> No administrative or judicial case law on the issues of the temporary protection exist. The current legislation on the temporary protection so far has not been applied in practice.
DECISION OF APPEAL COURTS	<u>DATE:</u>	<u>REFERENCE OF PUBLICATIONS:</u>	<u>SUMMARY OF CONTENT:</u>
DECISION(S) IN FIRST RESORT	<u>DATE:</u>	<u>REFERENCE OF PUBLICATIONS:</u>	<u>SUMMARY OF CONTENT:</u>

ANY SUPPLEMENTARY COMMENT ABOUT THE TREND OF THE JURISPRUDENCE:

Q.33. Are there any problems with the translation of the text of the directive in the official language of your Member State and give in case a list of the worst examples of provisions which have been badly translated.

There are no problems with the translation of the directive.

There are some problems with the translation of the directive.

Explanation: (If there are such problems, please specify the most problematic provisions in the Directive when it comes to translation).

Explain the difficulties that this could create:

ANY OTHER INTERESTING ELEMENT

Q.34. Following your personal point of view, mention from the point of view of third country nationals and/or from the Member State any interesting or innovative practice in your Member State

When answering this question, please use one or more of the tables below. If the 5 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).

Table 1

OBJECTIVE OF THE PRACTICE	EXPLANATION

Q.35. Please add here any other interesting element in your Member State which you did not have the opportunity to mention in your previous answers.

No such elements exist on my opinion.