



LEGAL AND JUDICIAL INFORMATION ON MIGRANT SMUGGLING

LATVIA

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GENERAL INFORMATION ON MIGRATION



MAIN FIGURES AND TRENDS

In accordance with the Cabinet of Ministers Order N° 518 of 10 August 2021 "On Declaring a State of Emergency", in view of the rapid increase in the number of cases of illegal crossing of the state border between the Republic of Latvia and the Republic of Belarus, as well as the high number of cases of illegal crossing of the state border between the Republic of Lithuania and the Republic of Belarus recorded in neighbouring Lithuania, a state of emergency has been declared as of 11 August 2021 in Ludza Municipality, Krāslava Municipality, Augšdaugava Municipality and Daugavpils State Municipality. As the hybrid attack by the Republic of Belarus continued, the state of emergency was extended several times and remained in force until 10 August 2023.

On 22 June 2023, the draft law "Amendment to the State Border Law of the Republic of Latvia" was adopted, which entered into force on 14 July 2023, adding Article 35.¹ to the State Border Law of the Republic of Latvia, which provides for the right of the Cabinet of Ministers to declare a reinforced regime of border protection system operation upon detection of a disproportionately high number of illegal or attempted crossings of the state border.

On 10 August 2023, Cabinet Order No 514 "On the reinforced operating regime of the border protection system" was adopted to ensure the inviolability of the State border and to prevent threats to the State.

Russia-Latvia border :

- the situation on the border between the Republic of Latvia and the Russian Federation is stable and under control. 30 people have been detained for illegal crossing of the border between the Republic of Latvia and the Russian Federation in 2022 and 13 people in 2023.
- As of 1 January 2023, a reciprocal visa-free regime (for tourist groups of up to 50 people) entered into force between Russia and Iran. The majority of third-country nationals arriving from Iran have the purpose of entering the European Union. Currently, migratory flows are being redirected from the Russian Federation to the Republic of Belarus and further to the borders of the Republic of Poland, the Republic of Lithuania and the Republic of Latvia. There remains a risk that migratory flows may be redirected directly from the Russian Federation to the borders of the Republic of Latvia, the Republic of Estonia and the Republic of Finland.



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Belarus-Latvia border:

- The diversion of migrants from the Republic of Belarus to EU countries (via the borders of the Republic of Latvia, the Republic of Lithuania, the Republic of Poland) continues.
- The high pressure of irregular migration from Belarus contributes to the increase of criminal offences related to the smuggling of persons across the border and providing them with the possibility to stay illegally in the country.

For the first nine months of 2023, 114 carriers have been detained, while in the whole of 2022, 11 carriers were detained. Nationality of carriers: Latvia (44), Ukraine (15), Azerbaijan (9), Lithuania (7), Belarus (4), Pakistan (4), Estonia (3), Syrian (3) and others.

➔ MIGRATORY ROUTES

According to observations on what is happening in Russia and Belarus:

1. the flow of third-country nationals from Belarus continues, given that Russia and Iran have started close cooperation and within the framework of this cooperation, the number of flights from Iran to Russia has increased;
2. the entry into force of a reciprocal visa-free regime between Russia and Iran (for tourist groups of up to 50 persons) as of 1 January 2023;
3. the majority of third-country nationals arriving from Iran aim to enter the EU via the borders of Latvia, Lithuania and Poland;
4. the tactics of illegal border crossing attempts at the Latvian-Belarusian and Lithuanian-Belarusian borders have changed, with groups of 10 to 30 persons attempting to cross the border;
5. in cooperation with the Latvian and Lithuanian services, a route has been identified: Iran - Moscow/St Petersburg - Minsk - Latvian, Lithuanian and Polish borders. This increasing trend is reflected by a steady increase in the number of persons apprehended at the Latvian-Belarusian and Lithuanian-Belarusian borders.



INSTITUTIONAL ORGANISATION

According to Section 15(1) of the State Border Guard Law, State Border Guard officers are obliged to "prevent a person from entering the country at a place and time not intended for that purpose (if necessary, by providing the person with primary security, as far as possible), unless there are objectively justified circumstances which make immediate entry necessary".

Section 387(8) of the Criminal Procedure Law provides that "Officers authorised by the State Border Guard shall investigate criminal offences related to illegal crossing of the state border, illegal movement of a person across the state border, or illegal stay in the state".



LEGISLATIVE FRAMEWORK

Migrant smuggling issues are covered by Chapter XXII Criminal Offences against Administrative Order of the Criminal law. Currently, sections 285, 285.¹ and 285.² of the Criminal law were amended, and the new wording of the articles entered into force on 20 October 2023.

Section 284. Illegal Crossing of the State Border

1. For the intentional illegal crossing of the external State border, the applicable punishment is the temporary deprivation of liberty or probationary supervision, or community service, or fine.

1¹. For the intentional illegal crossing of the State border, if such has been committed by a person on whom the prohibition to exit the Republic of Latvia has been imposed, the applicable punishment is the deprivation of liberty for a period of up to one year or temporary deprivation of liberty, or probationary supervision, or community service, or fine.

2. For a person who commits the acts provided for in Paragraph one, if they have been committed by a group of persons or using a vehicle, or violating the specified prohibition to enter the Republic of Latvia, the applicable punishment is the deprivation of liberty for a period of up to two years or temporary deprivation of liberty, or probationary supervision, or community service, or fine.

Section 285. Illegal Movement of a Person Across the State Border

1. For illegal movement of a person across the State border, the applicable punishment is the deprivation of liberty for a term not exceeding three years or by probation supervision or by a fine.

2. For the commission of the same acts, if they have been committed by a public official, using its official position, or a group of persons according to a prior agreement, or for illegal movement of several person across the State border in one time, the applicable punishment is the deprivation of liberty for a term of up to six years, with or without confiscation of property, and by probation supervision for a term of up to three years, with or without confiscation of property.

3. For the commission of the same acts, if they have been committed by an organised group or they have resulted in serious consequences, or also who commits illegal movement of a large number of persons, that is, more than five persons at one time, across the State border, the applicable punishment is the deprivation of liberty for a period of two years and up to eight years, with or without confiscation of property and with or without probationary supervision for a period of up to three years.



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3¹. For the same acts, if committed during a period of reinforced border security regime or during a state of emergency declared due to a threat to the inviolability of the State border, regardless of the place of commission of the offence in the territory of Latvia shall be punishable by deprivation of liberty for a term of two to ten years, with or without confiscation of property, and by probation supervision for a term of up to three years, with or without confiscation of property.

4. For the commission of the same acts, if they have resulted in death of two or several human beings, the applicable punishment is the deprivation of liberty for a period of three years and up to fifteen years, with probationary supervision for a period of up to three years.

Section 285.¹ Ensuring the Possibility to Residing Illegally in the Republic of Latvia

1. For knowingly ensuring persons the possibility to reside illegally in the Republic of Latvia, if it has been committed by a group of persons or by a public official using his or her official position, the applicable punishment is the deprivation of liberty for up to three years or by probation supervision or a fine.

2. For knowingly ensuring persons the possibility to reside illegally in the Republic of Latvia, if it has been committed for the purpose of acquiring property or if such possibility is ensured for two or several persons, the applicable punishment is the deprivation of liberty for a term of up to six years, with or without confiscation of property, and probation supervision for a term of up to three years, with or without confiscation of property.

3. For knowingly providing a person with an opportunity to stay illegally in the Republic of Latvia, if committed by an organised group or if serious consequences have been caused thereby, or for providing a large number of persons, i.e. in one case more than five persons, with an opportunity to stay illegally in the Republic of Latvia the applicable punishment is the deprivation of liberty for a term of two to eight years, with or without confiscation of property, and by probation supervision for a term of up to three years, with or without confiscation of property.

Section 285.² Ensuring, in Bad Faith, a Possibility to Acquire the Right to Stay in the Republic of Latvia Legally, other Member State of the European Union, Member State of the European Economic Area or Swiss Confederation

1. For ensuring, in bad faith, a possibility to acquire the right to stay in the Republic of Latvia legally, other Member State of the European Union, Member State of the European Economic Area or Swiss Confederation, the applicable punishment is the deprivation of liberty for up to three years or by probation supervision or a fine.

2. For ensuring, in bad faith, a possibility to acquire the right to stay in the Republic of Latvia legally, other Member State of the European Union, Member State of the European Economic Area or Swiss Confederation, if it has been committed for the purpose of acquiring property or if such a possibility is ensured for two or several persons, or if it has been committed by a group of persons, the applicable punishment is the deprivation of liberty for a term of up to six years, with or without confiscation of property, and probation supervision for a term of up to three years, with or without confiscation of property.

3. For abusively providing a person with an opportunity to lawfully acquire the right to reside in the Republic of Latvia, another Member State of the European Union, a State of the European Economic Area or the Swiss Confederation, if committed by an organised group or if serious consequences have been caused thereby, or for providing a large number of persons, that is, in one case more than five persons, with an opportunity to lawfully acquire the right to reside in the Republic of Latvia, another Member State of the European Union, a State of the European Economic Area or the Swiss Confederation the applicable punishment is the



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deprivation of liberty for a term of two to eight years, with or without confiscation of property, and by probation supervision for a term of up to three years, with or without confiscation of property.



JUDICIAL FRAMEWORK

As regards the Criminal Procedure law, there is no specific regulation on migration smuggling because criminal proceedings are conducted in the same general way as for any other criminal offence.



INTERNATIONAL COOPERATION

Requests for assistance :

- In 2021 :

Received : 7 requests for criminal-legal assistance (3 from the United Kingdom, 3 from Germany) and 1 extradition request from Austria were received from foreign countries for assistance in illegal entry and residence.

Sent : Under Article 285² of the Criminal law in 2021 - 2 extradition requests to Ukraine, 1 extradition request to Russia, 1 extradition request to Belarus, 1 extradition request to Kazakhstan, 1 extradition request to Azerbaijan, 1 extradition request to the United Kingdom.

- In 2022 :

Received : 1 extradition request from Romania.

Sent : 1 request for criminal-legal assistance for Luxembourg, 1 request for criminal-legal assistance for Lithuania.

- In the first nine months of 2023 :

Received : - 3 requests for non-custodial measures and 2 extradition requests from Hungary, 1 request for criminal-legal assistance from Poland.

Sent : 1 request for criminal-legal assistance sent to Germany under Article 285 of the Criminal law in 2021, 1 request for criminal-legal assistance sent to Sweden in 9 months 2023.

For EMPACT (European Multidisciplinary Platform Against Criminal Threats) one of the 15 priorities is Migrant Smuggling, and Latvia participates in it by implementing various operational activities and participating in multidisciplinary Joint Action Days such as JAD GLOBAL CHAIN; JAD ARKTOS 5; JAD MOBILE 6. EMPACT also has liaison officers in Europol who coordinate information exchange, including for the Migrant Smuggling priority.



RELEVANT CASES

In the last 2 years, 4 court judgements have been handed down for illegal movement of a person across the state border, which is a punishable act under Article 285 of the Criminal law. 11 convictions have been handed down in the last 2 years for the offence under Article 285.¹ of the Criminal law, while 9 convictions have been handed down for the offence under Article 285.² of the Criminal law.



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❖ **Criminal proceedings 11827000119:**

Person A wished to acquire the right to reside and work in the Republic of Latvia, another Member State of the European Union, a State of the European Economic area or the Swiss Confederation, thereby agreeing with person B, person C and person D residing in the Republic of Latvia for an enthusiastic purpose, to provide person A as a citizen of the Republic of Kazakhstan with the possibility to acquire a lawful right to reside in the Republic of Latvia, another Member State of the European Union, a State of the European Economic area or the Swiss Confederation by obtaining a temporary residence permit as a foreigner who is the spouse of a citizen of Latvia in accordance with Section 25, Paragraph one, Clause 1 of the Immigration Law.

On February 16, 2017, person A came to Latvia, Ventspils, where he and person B went to the Chamber of Civil listings in Ventspils, where he applied for an expedited marriage closure. After continuing to implement their criminal intent, on 22 March 2017, persons A and B, in the presence of persons C and D, in the Register Division in Ventspils, after submitting a repeated submission and submitting additional documents, registered marriage by entering into a fictitious marriage, that did not conform to the actual purpose of marriage, in order to acquire the right to lawful residence and work in the Republic of Latvia, another European Union Member State, a European Economic area State or the Swiss Confederation.

Immediately after entering into a fictitious marriage, persons AB, C and D, cooperating in order to achieve a harmonised goal, took active actions with the aim of obtaining a temporary residence permit for person A, organised the acquisition, preparation, filling out of the necessary documents and submission thereof to the Ventspils Division of the Office of Citizenship and Migration Affairs, where person B, as a spouse, submitted a request for a summons and previously obtained necessary documents for the receipt of a temporary residence permit for one year to the spouse Kazakh citizen A. The temporary residence permit was not issued, after which several times persons repeatedly submitted to the Ventspils Division of the Office of Citizenship and Migration Affairs a request for a temporary residence permit for person A. With the referred to activities, persons A, B, C and D committed the criminal offence provided for in Section 285, Paragraph 2 of the Criminal Law.

A court order has entered into force in the above mentioned criminal proceedings.

❖ **Criminal proceedings No 18230005623:**

Person O has been held liable for committing the crime provided for in Section 285.1, Paragraph 2 of the Criminal Law, namely, for having decided to illegally earn \$4, 500 (approximately EUR 4,200), providing several persons with the possibility to reside illegally in Latvia.

On the evening of September 7, 2023, he arrived in his minivan, which had Polish national licence plates, in the Skeltova parish of Kraslava District. The man knew that



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several persons who had entered Latvia illegally would wait for him in the forest outside Krivina lodge, where no one lives anymore. The Krivina are several tens of kilometres from Latvia's border with Belarus, so illegal migrants may have been brought there by a guide, the newspaper estimates. Nine foreigners, all men, six of whom were Afghan and three of whom were Indian citizens, have been waiting at the designated location of person O. A group of illegal migrants has been put in a car by person O to take to Riga, but about an hour later the car was stopped by State border Guard employees in Luznava Parish in Rezekne municipality.

The verdict has yet to take effect.

❖ **Criminal proceedings 11824002721:**

Persons D, E and F have been convicted for committing the criminal offences provided for in Section 285, Paragraph 3 and Section 285.1, Paragraph 2 of the Criminal Law.

At the end of June 2021 (through June 28), person D of 11 third-country nationals received between \$5, 000 and \$8, 000 AVS each, pledging to organise and deliver individuals to/from D. On the night of 2021, from 28 June to 29 June, person D crossed the border river Daugava and moved eleven third-country nationals across the State border from to Latvia address. At the same time, person D himself also crossed the State border illegally from a place to Latvia. After that, at about noon on June 29, 2021 01:30 person D/address/outside the hotel met with person E who, on the instruction of a third party for the promised payment, drove \$100 to the place by car, after which person D and person E jointly, with secrecy and caution, transported 11 third-country nationals by car in two marches from the State border irregular crossing point to/place/city. In addition, on the day of 29 June 2021, person D rented an apartment where those 11 persons were accommodated, also providing them with food supplies to that place.

On 30 June 2021, person D delivered three third-country nationals unexplained to Riga. At the request of person D, person E rented an apartment and housed those three people there.

On 5 July 2021, person D transferred two third-country nationals who had been transported to the apartment unexplained across the State border from Latvia to the undetermined State in the course of the investigation.

On July 6, 2021, person D, along with person F, took a rental truck in person F's name, paid for by person D. In addition, they bought second-hand furniture in a furniture store in Riga and loaded it into a hired truck, where they later created ambushes in the cargo compartment. Then person F returned from Riga to his place of residence with a truck, where it was placed at the disposal of person U, while person D returned by another vehicle to a place on the way from Riga to/place/, taking with him a third-country citizen I who had been transported and housed in an apartment in Riga.



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On July 7, 2021, person D, person F and person U met at the previously arranged location in the backyard of the house in Daugavpils, where an apartment was stationed nearby. Person F came with the truck he owned, a VW T4, while person U with the hired truck, with the ambush made in it from furniture. Person D then organised and carried out the placement of nine third-country nationals in the hired cargo compartment of the lorry. Later, person D took the front passenger seat of the truck owned by person F and person F at the wheel. Person F drove in front and showed off the road while person D performed traffic enforcement functions of persons, observed the situation to report hazards and to give an alarm if necessary. In turn, person U drove in the back and, as a driver, transported nine persons into the cargo bay of the vehicle. They initially drove to an uninhabited location in upper Daugava County, where person D created ambushes in the cargo compartment of the hired truck from the loaded furniture to the end, in which the said nine Iraqi citizens were stationed. Later, in the same order, they continued their journey from the municipality of Augdaugava to the border crossing point in Medumi – Smeline, where they illegally moved nine third-country nationals across the State border from the Republic of Latvia to the Republic of Lithuania by means of the specified vehicles.

Person D was convicted for committing the criminal offences provided for in Section 285, Paragraph 3 and Section 285.1, Paragraph 2 of the Criminal Law ; person E was convicted after committing the criminal offence provided for in Section 285.1, Paragraph 2 of the Criminal Law; person F was convicted of committing the criminal offence provided for in Section 285, Paragraph 3 of the Criminal Law. The verdict has come into effect.