

UNHCR observations on the draft Asylum Law of the Republic of Latvia (26-TA-898)

I. Introduction

1. These observations are provided by the United Nations High Commissioner for Refugees (“UNHCR”) Representation for the Nordic and Baltic Countries (“RNB”) in relation to the revised draft Asylum Law (26-TA-898) published for the second round of inter-institutional consultation on 17 August 2026¹ (hereafter referred to as the “Bill”). These observations build on UNHCR’s previous observations submitted on 22 June 2026,² taking into account the modifications introduced in the current draft and the explanations of the implementation of the previous UNHCR recommendations in the accompanying explanatory note (Izziņa).

2. UNHCR has a direct interest in law proposals in the field of asylum, as the agency entrusted by the United Nations General Assembly with the mandate to provide international protection to refugees and, together with Governments, seek permanent solutions to the problems of refugees.³ Paragraph 8 of UNHCR’s Statute confers responsibility on UNHCR for supervising international conventions for the protection of refugees,⁴ whereas the 1951 Convention relating to the Status of Refugees⁵ and its 1967 Protocol relating to the Status of Refugees (hereafter collectively referred to as “the 1951 Convention”) oblige States to cooperate with UNHCR in the exercise of its mandate, in particular by facilitating UNHCR’s duty of supervising the application of the provisions of the 1951 Convention and 1967 Protocol (Article 35 of the 1951 Convention and Article II of the 1967 Protocol).⁶

3. UNHCR’s supervisory responsibility is exercised in part by the issuance of interpretative guidelines on the meaning of provisions and terms contained in international refugee instruments, in particular the 1951 Convention. Such guidelines are included in the UNHCR Handbook on Procedures and Criteria for Determining Refugee Status and subsequent Guidelines on International Protection (“UNHCR Handbook”).⁷ UNHCR also fulfils its supervisory responsibility by providing comments on legislative and policy proposals impacting on the protection and durable solutions of its persons of concern.

¹ Likumprojekts “Patvēruma likums” (26-TA-898), 17.08.2026, https://tapportals.mk.gov.lv/legal_acts/2f6d2f49-88d0-4a80-a973-bf9a51516802.

² UNHCR observations on the draft Asylum Law of the Republic of Latvia (26-TA-898), 22 June 2026, <https://www.refworld.org/policy/legcomments/unhcr/2026/151666>.

³ UN General Assembly, *Statute of the Office of the United Nations High Commissioner for Refugees*, 14 December 1950, A/RES/428(V), <https://www.refworld.org/docid/3ae6b3628.html> (“the Statute”).

⁴ *Ibid.*, para. 8(a). According to para. 8(a) of the Statute, *UNHCR is competent to supervise international conventions for the protection of refugees. The wording is open and flexible and does not restrict the scope of applicability of the UNHCR’s supervisory function to one or other specific international refugee convention. UNHCR is therefore competent qua its Statute to supervise all conventions relevant to refugee protection, UNHCR’s supervisory responsibility*, October 2002, <http://www.refworld.org/docid/4fe405ef2.html>, pp. 7–8.

⁵ UN General Assembly, *Convention Relating to the Status of Refugees*, 28 July 1951, *United Nations Treaty Series*, No. 2545, vol. 189, <http://www.unhcr.org/refworld/docid/3be01b964.html>. According to Article 35 (1) of the 1951 Geneva Convention, UNHCR has the “duty of supervising the application of the provisions of the Convention”.

⁶ UNHCR’s supervisory responsibility has also been reflected in EU law, including by way of general reference to the 1951 Convention in Article 78 (1) of the Treaty on the Functioning of the EU.

⁷ UNHCR, *Handbook on Procedures and Criteria for Determining Refugee Status and Guidelines on International Protection Under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees*, February 2019, HCR/1P/4/ENG/REV. 4, <https://www.refworld.org/docid/5cb474b27.html>.

II. General remarks

4. The Bill aims to implement a number of instruments of the European Union Pact on Migration and Asylum (“EU Pact”), namely the Asylum and Migration Management Regulation (2024/1351), the Qualification Regulation (2024/1347), the Asylum Procedures Regulation (2024/1348), the Resettlement and Humanitarian Admission Regulation (2024/1350) and the Eurodac Regulation (2024/1358), as well as to transpose the Reception Conditions Directive (2024/1346).⁸ In doing so, it will replace the current Asylum Law⁹ and introduce a recast Asylum Law.

5. The Bill consolidates and revises national provisions on international and temporary protection procedures. It clarifies the role of state authorities in registration, asylum adjudication, reception, detention, and return processes. The Bill establishes comprehensive frameworks for vulnerability assessment, legal assistance and reception conditions. It further outlines resettlement and solidarity mechanisms with other EU Member States. Administrative review procedures and decision-making timeframes are aligned with procedural standards and timeframes in the EU Pact.

6. In the following observations on specific aspects of the Bill, UNHCR will focus on the following issues: a) fundamental rights monitoring mechanism, b) legal counselling, legal assistance, and representation, c) screening and identification of persons with vulnerabilities, d) restrictions on movement, detention and alternatives to detention. UNHCR welcomes the fact that some of its previous recommendations have been incorporated into the revised Bill and offers the following updated observations to support the finalization of the legislation.

III. Specific observations

Fundamental Rights Monitoring Mechanism (Article 3(5) of the Bill)

7. Article 3(5) of the Bill assigns the task of the Independent Monitoring Mechanism (IMM) to the Ombudsperson in accordance with the criteria laid down in Article 10 of the Screening Regulation. UNHCR notes the amendment to Article 3(5) which now specifies that the Ombudsperson will implement the monitoring in cooperation with the European Union Agency for Asylum (EUAA).

8. UNHCR supports the establishment of IMM as a core tool to protect people whose fundamental rights may be at risk, notably in the context of a highly challenging environment prevailing at the EU external borders.¹⁰ Pursuant to the Pact, the IMM is obligatory only in the screening and asylum border procedures. However, UNHCR encourages Latvia and other EU Member States to extend the scope of the IMM to broader border management activities drawing on the options highlighted in the

⁸ All legal instruments pertaining to the EU Pact and subject of implementation in the present Bill are available at: <https://eur-lex.europa.eu/oj/daily-view/L-series/default.html?&ojDate=22052024>. Other EU Pact instruments, such as the Screening Regulation and the Return Border Procedure Regulation, are implemented through the Recast Immigration Law, and are not subject of the present Bill.

⁹ Saeima (Parliament), *Asylum Law*, 17 December 2015, last amendments 17 June 2021, <https://likumi.lv/ta/en/en/id/278986-asylum-law>.

¹⁰ UNHCR, OHCHR, ENNHRI, *Ten points to guide the establishment of an independent and effective national border monitoring mechanism in Greece*, 2021, page 1, <https://ennhri.org/wp-content/uploads/2021/09/Independent-National-Monitoring-Mechanism-Consultations-EN.pdf>.

relevant FRA guidance,¹¹ to monitor access to territory for individuals seeking international protection and inform the review, adaptation and correction of processes and measures at borders.¹² Moreover, UNHCR recalls that the Member States shall also provide for the monitoring of fundamental rights in the context of border procedures, as required by Article 43(4) of the Asylum Procedures Regulation, including restrictions of freedom of movement and any situations that may constitute *de facto* detention.¹³

9. Further, in UNHCR's view, it is essential to ensure the independence and operational autonomy of the IMM. To that end, UNHCR advises allocating adequate financial and human resources to the IMM and encourages the involvement of relevant international organizations, NGOs and other public bodies in the IMM.¹⁴

10. Moreover, all necessary legislative and procedural changes should be adopted to ensure that the IMM is enabled to access documents, places, records, files, video recording, witnesses and alleged victims, as deemed necessary for the performance of its duties. It should also include the power to report, follow up, provide the authorities with recommendations and make referrals directly to national prosecution authorities. Findings from the monitoring should be made publicly available and the reporting cycle should be clearly defined.¹⁵

11. UNHCR welcomes that Article 15(3) and Article 31(9) of the Bill explicitly exempt the Ombudsperson and representatives of the Ombudsperson's Office from the requirement to coordinate prior to visiting accommodation centres, therefore ensuring that the IMM has the ability to conduct unannounced visits. However, UNHCR notes that Article 3(5) of the Bill does not provide for the duty of national law enforcement and border/immigration authorities to cooperate with the IMM, nor does it provide for the IMM's ability to trigger investigations into allegations of failure to respect fundamental rights and monitor the progress of such investigations. Therefore, UNHCR reiterates its recommendation to amend the Bill to explicitly provide for the duty of relevant authorities to cooperate with the IMM and the power of the IMM to report, follow up, provide the authorities with recommendations and make referrals directly to national prosecution authorities.

Legal counselling, legal assistance, and representation (Article 5(6) of the Bill)

12. Article 5(6) of the Bill provides that asylum-seekers may, upon request, access free legal counselling during the administrative procedure. Article 5(7) further provides for legal aid during the appeal procedure, also upon request. However, whereas access to legal counselling under Article 5(6) is not subject to any financial eligibility criteria, free legal aid under Article 5(7) is conditional upon the applicant lacking sufficient financial means.

¹¹ European Union Agency for Fundamental Rights (FRA). Independent Border Monitoring Mechanisms. Vienna: FRA, 2024, page 7, https://fra.europa.eu/sites/default/files/fra_uploads/fra-2024-independent-border-monitoring-mechanisms_en.pdf.

¹² UN High Commissioner for Refugees (UNHCR), *UNHCR Advocacy Brief: Independent National Monitoring Mechanisms under the European Union Pact on Migration and Asylum*, September 2025, pages 2 and 3, <https://www.refworld.org/legal/intlegcomments/unhcr/2025/en/150578>.

¹³ *Ibid.*, page 3.

¹⁴ *Ibid.*, pages 2 and 3.

¹⁵ *Ibid.*, page 3.

13. UNHCR welcomes that Article 8(1)(6) of the Bill has been revised to require the State Border Guard to inform the applicant about opportunities to receive legal counselling in addition to state-provided legal aid, addressing UNHCR's previous recommendation.

14. Article 11(1)(4) of the Bill establishes the right for an applicant to communicate with providers of legal aid or counselling, and with UNHCR. Article 33(5) states that a legal aid provider has the right to participate in the personal interview, though they may only express themselves at the end of a session. Finally, Article 37 of the Bill describes the procedure for accessing free legal aid in the context of decisions taken during the asylum procedure.

15. In UNHCR's view, national systems for the provision of legal counselling and assistance should be designed to ensure high standards, guaranteeing fair and effective access to asylum and enhancing procedural efficiency. Without adequate legal support from the outset, an applicant's ability to navigate the asylum process and substantiate their claim can be significantly limited, which may undermine procedural fairness, and may increase the likelihood of appeals. This is especially relevant for vulnerable asylum-seekers as well as those identified as in need of special procedural guarantees.¹⁶

16. Therefore, UNHCR reiterates its recommendation to ensure standards that are higher than the minimum baseline introduced by Article 16(1) of the Asylum Procedures Regulation,¹⁷ and, in accordance with Article 15(3) of the Asylum Procedures Regulation, to make free legal assistance available right away at first instance. As observed by the European Commission in its initial Proposal of the Asylum Procedures Regulation, "*access to legal assistance and representation throughout all stages of the procedure is considered necessary to enable applicants to fully exercise their rights given the tighter time-limits for the procedure*".¹⁸ This is in particular so, given the expanded grounds of border and accelerated procedures and indeed tight time-limits, including short appeal periods introduced by the Asylum Procedures Regulation.

17. Moreover, early and continuous legal counselling and assistance improve the efficiency of the asylum process and support quality decision-making. When applicants have access to timely and high-quality legal support, they are better equipped to understand and meet the procedural requirements. This increases the likelihood of a fully articulated claim and of a fair decision on the application. By extension, this can lead to fewer appeals and a reduction of associated costs and administrative burdens.¹⁹

18. UNHCR is also of the view that legal counselling should be organized as an open, easy-to-access service. Ideally, a counsellor should be available to asylum-seekers at any time and without prior appointment, and engage in active outreach, in

¹⁶ UN High Commissioner for Refugees (UNHCR), UNHCR Advocacy Brief: Legal counselling, legal assistance, and representation under the European Union Pact on Migration and Asylum, September 2025, page 2, <https://www.refworld.org/legal/intlegcomments/unhcr/2025/en/150577>.

¹⁷ Regulation 2024/1348 of the European Parliament and of the Council of 14 May 2024 establishing a common procedure for international protection in the Union (Asylum Procedure Regulation) https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202401348.

¹⁸ European Commission, *Proposal for a Regulation of the European Parliament and of the Council establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU, COM(2016) 467 final*, <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52016PC0467>.

¹⁹ UN High Commissioner for Refugees (UNHCR), UNHCR Advocacy Brief: Legal counselling, legal assistance, and representation under the European Union Pact on Migration and Asylum, September 2025, page 2, <https://www.refworld.org/legal/intlegcomments/unhcr/2025/en/150577>.

particular to asylum-seekers with specific needs. The approach currently envisioned by the Bill, whereby legal counselling is provided only upon request, may limit effective access to this essential service, particularly for applicants who are unaware of their entitlement or face practical barriers to requesting assistance. While Article 5(6) of the Bill, in line with Article 16(1) of the Asylum Procedures Regulation, stipulates that legal counselling must be provided at the request of an asylum-seeker, in UNHCR's view, national legislation may also provide that legal counselling is made available to all applicants without the need for any specific request or that the request is implicit for all (unless an applicant expressly declines this service). This can reduce the administrative burden that the procedure of filing and processing a request may entail.²⁰

19. Beyond ensuring effective access to legal counselling and assistance, UNHCR notes the importance of safeguarding asylum-seekers' right to have contact with UNHCR and organizations acting on its behalf. According to Article 15(3) and Article 31(9) of the Bill, UNHCR is required to coordinate its visits to the accommodation centres. Furthermore, Article 31(10) of the Bill allows for restrictions on visits to State Border Guard accommodation centres by NGO representatives, family members, and legal aid providers on grounds of security, public order, or administrative management. UNHCR notes the amendment in Article 31(10) which stipulates that these restrictions must be individually justified, proportionate, and applicable for the shortest possible period. However, UNHCR points out that the NGOs and legal aid providers referred to in the Bill could encompass organizations working on behalf of UNHCR.

20. Article 6 of the Asylum Procedures Regulation provides that Member States shall allow UNHCR and organizations working on its behalf pursuant to an agreement to have access to applicants, including those in reception centres, in detention, at the border and in transit zones, and does not expressly refer to the coordination aspects. UNHCR emphasizes that any coordination arrangements should be implemented in a manner that does not impair, delay, or otherwise unduly limit the effective access of UNHCR and organizations working on its behalf to applicants for international protection.

21. In light of the requirements of Article 6 of the Asylum Procedures Regulation, UNHCR calls on the legislators to include an explicit safeguard in the bill stipulating that any coordination requirements applicable to the visits to reception, detention and border centers and transit areas shall not be implemented in a manner that impairs, delays or otherwise unduly limits the access to applicants of UNHCR and organizations working on its behalf.

Screening and Identification of Persons with Vulnerabilities (Article 9 of the Bill)

22. Article 9 of the Bill sets out key requirements for the assessment of specific needs of asylum-seekers. The provisions essentially reflect applicable requirements of Article 25 of the Reception Conditions Directive and Article 20 of the Asylum Procedures Regulation. Article 9(1) of the Bill states that the State Border Guard and

²⁰ *Ibid.*, page 3.

the Office of Citizenship and Migration Affairs commence the special needs assessment "as soon as possible" after the application is made.

23. UNHCR welcomes the revision of Article 9(1) of the Bill, which now explicitly states that information identified during the screening procedure regarding a person's possible special reception needs or need for special procedural guarantees shall be taken into account when conducting the assessment of special needs. This amendment addresses UNHCR's previous recommendation and ensures continuity between the initial screening and the asylum procedures.

24. In UNHCR's view, it is essential to ensure in-depth and proactive vulnerability identification. The Reception Conditions Directive and Asylum Procedures Regulation refer to "visible signs" and the asylum-seeker's statements or behavior, or any relevant documents. Vulnerability assessments should not remain at a superficial level, which risks under-identification of non-visible specific needs. UNHCR welcomes that the explanatory memorandum of the Bill states that before critical procedural steps are taken, authorities must conduct an early assessment using the EUAA's Practical Tool for the Identification of Persons with Special Needs. UNHCR also notes the explanation provided in the explanatory note that Article 9(6) requires the assessment to be reviewed if new needs become obvious or known. However, to ensure a timely identification of non-visible specific needs UNHCR reiterates its recommendation that the Bill explicitly require in-depth, proactive identification that goes beyond visible indicators and also detects non-visible vulnerabilities.²¹

25. In UNHCR's view, investments should be made in adequate resources and specialized expertise, such as medical, mental health and psycho-social expertise, to accurately identify vulnerabilities.²² Article 3 of the Bill stipulates the duty of the authorities to provide their staff with the necessary training. UNHCR welcomes that Article 9(4) of the Bill provides that the State Border Guard or the Office of Citizenship and Migration Affairs (OCMA), where necessary, may invite competent specialists from the relevant field when conducting vulnerability identification process, such as medical professionals, psychologists, and experts in child protection and gender-based violence, to ensure that assessments constitute a comprehensive evaluation of a person's physical and mental state.

26. Finally, UNHCR considers that asylum-seekers should be informed of the opportunity to disclose vulnerabilities, but lack of self-declaration must not hinder their later identification or recognition of such vulnerabilities.²³ Article 9(6) of the Bill does require authorities to reassess cases when new needs "become obvious or known," acknowledging that vulnerabilities may emerge over time. However, UNHCR reiterates its recommendation that the Bill nonetheless expressly state that undetected or undeclared vulnerabilities do not prejudice their recognition in subsequent procedures.

²¹ UN High Commissioner for Refugees (UNHCR), *UNHCR Advocacy Brief: Screening and identification of persons with vulnerabilities under the European Union Pact on Migration and Asylum*, September 2025, page 3, <https://www.refworld.org/legal/intlegcomments/unhcr/2025/en/150580>.

²² *Ibid.* page 3.

²³ *Ibid.* page 4.

Restrictions to freedom of movement, detention and alternatives to detention (Chapter V of the Bill)

Restrictions to freedom of movement

27. The conditions for restrictions on movement, alternatives to detention, and detention are set out in Chapter V of the Bill, which encompasses Articles 19 through 32.

28. Article 19(1) of the Bill defines conditions for placement within an "administrative territory" where the applicant retains freedom of movement. The designated administrative territory must be one *"where access to necessary public infrastructure is provided and the right to privacy is guaranteed"*.

29. Article 19(2) of the Bill authorizes officials to restrict asylum-seekers' freedom of movement to a "specific place", which is explicitly identified in Article 31(1) as the Accommodation Centre for Foreigners of the State Border Guard. Article 19(2)(1) allows for restriction to a specific place for the duration of the asylum border procedure. An asylum-seeker whose freedom of movement is restricted to a specific place must request a permit to temporarily reside outside that specific place. The State Border Guard has the discretion to grant or deny this permit.

30. UNHCR welcomes the addition to the explanatory memorandum, which explicitly references the case law of the European Court of Human Rights and stresses that confinement to a specific location must not, by its nature and actual intensity, amount to a *de facto* deprivation of liberty without the safeguards provided for in Article 5 of the European Convention on Human Rights. In this regard, UNHCR reiterates that, in accordance with international law, whether a particular situation amounts to deprivation of liberty must be assessed on the facts, rather than on the qualification of the situation in national law.²⁴ Special consideration must be given to children, families, and other individuals with specific needs. Appropriate care and reception arrangements should be in place to meet their needs.

31. In line with the requirements of Article 9(4) of the Reception Conditions Directive the decision to apply restrictions of freedom of movement must be taken on an individual basis, taking into account proportionality and the relevant aspects of the individual's situation, including their special reception needs. Accordingly, UNHCR notes the explanation in the explanatory note that according to Article 19(3) of the Bill a decision on restrictions of freedom of movement will be issued based on facts and circumstances but reiterates its recommendation to amend Article 19 of the Bill to explicitly state that restrictions of movement shall only be applied following an individual consideration of the applicant's circumstances. UNHCR reiterates the need to ensure that movement constraints resulting from the application of measures under Article 19(2) of the Bill do not, through their degree or combined impact, amount to *de facto* detention.

Detention

32. Detention of asylum-seekers is provided for in Article 20(1)(4) of the Bill. Article 20(2) of the Bill recognizes detention as a measure of last resort – applied only when less restrictive measures cannot be effectively applied. Article 20(3) of the Bill

²⁴ UN High Commissioner for Refugees (UNHCR), *Unlocking rights: towards ending immigration detention for asylum-seekers and refugees*, September 2024, page 7, <https://www.refworld.org/policy/polrec/unhcr/2024/en/148655>.

recognizes that “*The fact of applying for asylum and the nationality of an asylum seeker may not be grounds for detaining an asylum seeker. Detention is not punitive in nature.*” UNHCR emphasizes that detention may be applied only following an individual assessment demonstrating that the measure is necessary, reasonable and proportionate to its intended purpose, taking into account the specific circumstances of the person concerned. In the absence of such an assessment, detention would amount to an arbitrary and therefore unlawful measure.²⁵

33. Article 25 sets out the grounds for detention, and includes a risk of absconding as a constitutive element of several grounds, in line with the provisions of Article 10(4) of Reception Conditions Directive. Article 25 further outlines a list of criteria to justify this risk, ranging from irregular entry to an intent to travel to another Member State. In UNHCR’s view, detention may not be used as a penalty for irregular entry and/or as a deterrent to seeking asylum. Irregular entry or stay of asylum-seekers does not give the state an automatic power to detain. Detention that is imposed in order to deter future asylum-seekers, or to dissuade those who have commenced their claims from pursuing them, is inconsistent with international norms, including Article 31 of the 1951 Convention.²⁶ In the same vein, the Court of Justice of the European Union has clarified that, based on EU law, an asylum seeker may not be placed in detention for the sole reason that he or she is staying illegally on the territory of a Member State.²⁷

34. UNHCR welcomes the clarification introduced in the explanatory memorandum, which states that the criteria for the risk of absconding do not automatically imply the application of detention and that all factual circumstances and proportionality must be evaluated. Nevertheless, UNHCR reiterates its recommendation to amend the provision in Article 25(3)(1) “*crossed the state border without obvious reason, avoiding border checks*” to include “*...unless the applicant presents him/herself to the authorities without delay and shows good cause for irregular entry*”.²⁸ To avoid an overly broad interpretation and application of the risk of absconding, UNHCR also recommends adding a provision requiring an overall assessment of the individual circumstances in all cases falling within the scope of Art 25(3) of the Bill directly in the legislative text rather than relying on the explanatory memorandum..

Detention of children

35. Article 25(2) addresses the detention of children, which is possible in exceptional cases, and when it is deemed in the best interests of the child. This may be the case when one of the parents or legal representatives has been detained or when detention provides protection for an unaccompanied child.

²⁵ UN High Commissioner for Refugees (UNHCR), *UNHCR Advocacy Brief: Restrictions of movement, detention and alternatives to detention under the European Union Pact on Migration and Asylum*, September 2025, page 4, <https://www.refworld.org/legal/intlegcomments/unhcr/2025/en/150579>.

²⁶ UN High Commissioner for Refugees (UNHCR), *Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention*, 2012, para. 32, <https://www.refworld.org/policy/legalguidance/unhcr/2012/en/87776>.

²⁷ Court of Justice of the European Union, Judgement of 30 June 2022, C-72/22 PPU, para. 93, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:62022CJ0072>.

²⁸ For a comprehensive overview of the principle of non-penalization of refugees for their irregular entry or presence, as well as the permissible scope of restrictions on their freedom of movement, see UNHCR, *Guidelines on International Protection No. 14: Non-penalization of refugees on account of their irregular entry or presence and restrictions on their movements in accordance with Article 31 of the 1951 Convention relating to the Status of Refugees*, HCR/GIP/24/14, 23 September 2024, <https://www.refworld.org/policy/legalguidance/unhcr/2024/en/148632>.

36. UNHCR underlines that children must not be detained for immigration-related purposes as this is never in their best interests, and family members of accompanied children should be accommodated with their children and not detained.²⁹ UNHCR notes the explanation in the explanatory note that the detention of a parent under Article 25(2)(1) does not automatically result in the detention of the child, and that children are detained only in exceptional cases when in their best interests. However, UNHCR reiterates its recommendation to amend Article 25 of the Bill to ensure that there are no cases where the detention of one parent results in the detention of the family unit that includes children and to ensure that the principle of family unity can be upheld throughout the application of alternatives to detention.

37. While Article 17 of the Bill states that unaccompanied children shall be placed in accommodation centres, or with guardians or foster families, Article 25(2)(2) provides for the possibility to detain a child because no other protective environment is immediately available. In UNHCR's opinion, while certain restrictions on children's freedom of movement may be permissible if compliant with international and regional law – provided they are based on a best interests assessment – it is essential to ensure that such restrictions do not amount to detention.³⁰

38. UNHCR thus reiterates its recommendation to remove Article 25(2)(2) from the Bill and amend Article 25 to determine that protection of unaccompanied minors shall be provided by child welfare authorities in open, specialized facilities, which prevent the use of immigration detention for child protection purposes.

Disciplinary measures

39. Article 32 of the Bill establishes the conditions for applicants accommodated in the State Border Guard Accommodation Centre for Foreigners. Under Article 32(4)(10), asylum-seekers may be placed in premises with a “reduced level of convenience” for up to 10 days as a sanction for violations of internal rules. Similarly, Article 14 governs conditions at the Accommodation Centre of the Office of Citizenship and Migration Affairs, where Article 14(12) provides for the same measure – placement in premises with a “reduced level of convenience” – for violations of internal rules.

40. UNHCR notes that the explanatory memorandum of the Bill clarifies that this disciplinary measure is a proportionate restriction of “*material reception conditions resulting from the rights granted to Member States in Directive 2024/1346 to respond to serious breaches of internal order committed by an asylum seeker*” and states that this “*does not violate the minimum standard of living and access to health care established in the EU Charter of Fundamental Rights*”.

41. Furthermore, UNHCR welcomes the extensive clarifications added to the explanatory memorandum, which specify that such measures are not automatic, require an individual assessment of severity and proportionality, do not apply to minor technical violations, and must ensure conditions consistent with human dignity and Article 3 of the European Convention on Human Rights. UNHCR also notes the explanation in the explanatory note that an adequate standard of living is legally

²⁹ UN High Commissioner for Refugees (UNHCR), *UNHCR Advocacy Brief: Restrictions of movement, detention and alternatives to detention under the European Union Pact on Migration and Asylum*, September 2025, page 3, <https://www.refworld.org/legal/intlegcomments/unhcr/2025/en/150579>.

³⁰ *Ibid.*, page 3.

guaranteed under Article 14(3) of the Bill, and that detailed requirements for the premises will be set out in internal rules.

42. Despite these assurances in the explanatory memorandum, UNHCR reiterates its recommendation to amend Article 14(12) and Article 32(4) to explicitly define "reduced level of convenience" in the Bill itself to ensure it never falls below the adequate standard of living. Likewise, the Bill should define the specific "violations of internal rules" and it should distinguish between minor administrative infractions and aggressive behavior that threatens the safety of others. UNHCR also recommends that the Bill explicitly prohibit the application of "reduced convenience" measures to vulnerable individuals, such as children, pregnant women, and persons who have suffered torture or serious psychological violence.

IV. Concluding remarks

Based on the above observations, UNHCR invites the Ministry of the Interior of Latvia to consider the following recommendations:

- a. Expand the scope of the IMM to all border management activities, to monitor access to territory for individuals seeking international protection and inform the review, adaptation and correction of processes and measures at borders;
- b. Explicitly provide for requisite safeguards aimed at ensuring the independence and operational autonomy of the IMM, such as (i) the duty of national law enforcement and border/immigration authorities to cooperate with the IMM; (ii) the power of the IMM to report, follow up, provide the authorities with recommendations and make referrals directly to national prosecution authorities; (iii) the allocation of adequate financial and human resources; (iv) involvement of international organizations, NGOs, and independent public bodies in the IMM;
- c. Provide for free legal assistance at first instance, and maintain it throughout the asylum procedure to strengthen asylum-seekers' ability to navigate the asylum process and increase the likelihood of a fully articulated claim and of a fair and efficient decision on the application;
- d. Organize legal counselling as an open, easy-to-access service and make it available to all applicants rather than requiring a prior appointment;
- e. Amend Articles 15(3) and 31(9) of the Bill to include an explicit safeguard stipulating that any coordination requirements applicable to the visits to reception, detention and border centers and transit areas shall not be implemented in a manner that impairs, delays or otherwise unduly limits the access to applicants of UNHCR and organizations working on its behalf.
- f. Explicitly provide for in-depth, proactive identification of vulnerabilities that goes beyond visible indicators and also detects non-visible vulnerabilities to prevent under-identification at the earliest stage, and specify that undetected or undeclared vulnerabilities cannot prejudice their recognition in subsequent procedures;

- g. Specify that the restriction of the freedom of movement to a specific place, as envisaged in Article 19 of the Bill, may only be applied following an individual consideration of the applicant's circumstances, including special procedural and reception needs of vulnerable individuals;
- h. Provide for the right of applicants who are subject to restrictions envisaged in Article 19 of the Bill to exit the facility during daytime hours without requiring a permit;
- i. Amend Article 25(3)(1) of the Bill to include "*...unless the applicant presents to the authorities without delay and shows good cause for irregular entry*" and the requirement to conduct an overall assessment of individual circumstances when determining the risk of absconding directly in the legislative text;
- j. Amend Article 25 of the Bill to ensure that there are no cases where the detention of one parent automatically results in the detention of the family unit that includes children and to ensure that the principle of family unity can be upheld throughout the application of alternatives to detention;
- k. Remove Article 25(2)(2) from the Bill and amend Article 25 to determine that protection of unaccompanied minors shall be provided by child welfare authorities in open, specialized facilities, which prevent the use of immigration detention for child protection purposes;
- l. Specify that an adequate standard of living must be maintained for applicants falling under Article 14(12) and Article 32(4)(10) of the Bill.

UNHCR stands ready to continue its close cooperation with the Ministry of the Interior and other stakeholders in Latvia by providing technical support and expertise. UNHCR looks forward to engaging in further consultations to ensure that the Bill fully reflects Latvia's obligations under international refugee and human rights law, contributes to a harmonized EU asylum system, and upholds the highest protection standards for refugees and other forcibly displaced and stateless persons.

UNHCR
3 September 2026