

The Baltic States before EU Accession: Recent Developments in Minority Protection

For years the Baltic states - Estonia, Latvia and Lithuania - have been attracting the attention of the academic community because of both their geopolitical position near Russian borders, and the remarkable percentage of ethnic Russians in their population (Table 1). In Estonia and Latvia, drawbacks in minority protection have begun to challenge the security and cooperation in the region, especially upon the enlargement of the EU and NATO. At the same time, peculiarities of the local situation are extremely interesting for minority rights' experts. Furthermore, the positive example of Lithuania with regards to minority protection is an excellent frame of reference for its northern neighbours.

Estonia, Latvia and Lithuania are expected to become members of the EU in 2004. We would like to highlight the most vulnerable problems of minority populations in these countries on the eve of their joining the EU.

Table 1. Ethnic Composition of the Population of the Baltic States, According to Most Recent National Censuses¹

Estonia 2000		Latvia 2000		Lithuania 2001	
Ethnic origin	%	Ethnic origin	%	Ethnic origin	%
Estonians	68	Latvians	58	Lithuanians	84
Russians	26	Russians	30	Poles	7
Ukrainians	2	Belarussians	4	Russians	6
Belarussians	1	Ukrainians	3	Belarussians	1
Others	3	Others	5	Others	2
	100		100		100

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** Member of parliament and member of the Parliamentary Assembly of the Council of Europe (Latvia).

1 Source: Statistical Offices of Estonia, Latvia and Lithuania, 2003 Data provided by local statistical offices at

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I. BACKGROUND INFORMATION

A. History of the Region

In the thirteenth century almost the entire territory of Estonia and Latvia was conquered by German and Danish crusaders. Later, the major part of both countries was included into Livonia - a conglomerate of small feudal states governed by knightly orders and Church nobles. Livonia ceased to exist in the sixteenth century when the Russian tsar Ivan the Terrible made the first serious attempt to incorporate it into the emerging Russian Empire. Estonia and northern Latvia became part of Russia following the 1721 Nystad Peace Treaty with Sweden. The Duchy of Kurland (Kurzeme) - the western part of Latvia - and Latgale - the eastern part - were incorporated by the end of eighteenth century. Despite these dramatic political changes, Germans constituted the upper classes in Estonia and Latvia for seven hundred years, and German was the official language and the language of education until the end of the nineteenth century.

Lithuania, however, experienced enormous territorial expansion in the Middle Ages, beginning with the territories of the ancient Russian State, Kiev Rus (modern Ukraine, Belarussia, and Western European Russia). In 1569 Lithuania and Poland became a single state. The union with Poland empowered the positions of Catholicism and Polish language and culture. Lithuania (except for Klaipeda) became part of the Russian Empire by 1815.

The independence of all three states was recognized by the Bolshevik government after the 1917 October Revolution in Russia, followed by recognition by the world community. However, in 1940 they were incorporated into the Soviet Union and remained part of it until 1991. After the Second World War, the three Baltic states were subjected to industrialization projects accompanied by high migration flows from other territories of the Soviet Union. Their demographic make-up was also changed during Stalin's mass repressions and deportations. In poorly inhabited Estonia and Latvia all these factors combined and resulted in the drastic shrinking of the percentage of the indigenous population while the number of ethnic Russians (and the so-called Russian-speakers) soared.

Table 2. Demographic Changes in Estonia and Latvia in the Twentieth Century (%)²

Censuses / Ethnic origin	Estonia		Latvia	
	Estonians	Russians	Latvians	Russians
1922 (Estonia)	87.6	8.2	75.5	10.6
1925 (Latvia)				
1959	74.6	20.1	62.2	26.6
1989	61.5	30.3	52.0	34.0

the authors' request. The national census in Estonia and Latvia took place in 2000 and in Lithuania in 2001. 2 Priit Jarve and Christian Wellmann, 'Minorities and Majorities in Estonia: Problems of Integration at the Threshold of the EU', ECMI Report No. 2 (Flensburg, 1999), 43 (Table 1); Paul Kolstoe (ed.) *Nation-Building and Ethnic Integration in Post-Soviet Societies. An Investigation of Latvia and Kazakhstan* (Boulder, Oxford, 1999), 64 (Table 4.1).

B. Overview of the Minority Situation

Since the period of independence had been rather short, the state- and nation-building processes in Estonia and Latvia were far from completed. The demographic changes during the twentieth century made Estonians and Latvians worry about the preservation of their identity. As a result, after independence was regained in 1991, both countries employed exclusive policies in the sphere of minority protection. In the early 1990s new regimes tried to foster the 're-emigration' of the Russian-speakers. Those who came between 1940 and 1991 were denied automatic citizenship of the restored states and subjected to long-term chaos in terms of status and valid documents. On the contrary, Lithuania employed very inclusive policies by granting the possibility of citizenship to almost all its residents. As a consequence, even in the national censuses of 2000, one of every five residents in Estonia and Latvia claimed to be a non-citizen (Table 3). Most of these 'alien residents' do not have any citizenship at all. In Latvia these persons enjoy a special status.³ In Estonia for different reasons, many preferred Russian citizenship to statelessness.

Table 3. Estonian and Latvian Population by Legal Status, National Censuses 2000 (%)⁴

Status	Estonia		Latvia	
Citizenship of the country of residence	1,095,557	80	1,795,454	77
Stateless	170,349	12	504,277	22
Russian citizens	86,059	6	31,736	1
Others and unknown	18,087	2		
Total	1,370,052	100	2,331,467	100

In Estonia and Latvia noticeable difficulties were also associated with linguistic policies. While the last Soviet census of 1989 registered a low level of proficiency in local languages by the Russian-speaking residents, the knowledge of Estonian and Latvian was officially made a prerequisite for naturalization, work in public and even some private sectors of the economy and (until recently) for passive suffrage.⁵

Since the mid 1990s, both countries decided to start official integration policies. Being in nature a rather vague concept, integration in Estonia and Latvia is nevertheless explic-

3 See Vadim Poleshchuk, *Advice not Welcomed. Recommendations of the OSCE High Commissioner to Estonia and Latvia and the Response* (Munster, 2001), 83-4.

4 Source: Statistical Office of Estonia, 2001, Naturalization Board of Latvia, 2003. Data provided in *2000 Population and Housing Census, Citizenship, Nationality, Mother Tongue and Command of Foreign Languages*, //(Tallinn, 2001), Table 1; and the web site of the Naturalization Board of Latvia, at <http://www.np.gov.lv/en/index.htm>.

5 See for details Boris Tsilevich, 'Development of the Language Legislation in the Baltic States', 3(2) *MOST Journal on Multicultural Societies* (2001), at <http://www.unesco.org/most/vl3n2tsilevich.htm>; Priit Jarve, 'Two Waves of Language Laws in the Baltic States: Changes of Rationale', 33(1) *Journal of Baltic Studies* (2002), 78-110.

itly oriented at the promotion of accelerated mastering of the state languages by minorities.⁶ Allegedly as a part of this strategy, both states are planning the transition of minority secondary education into the official language. Compared to Estonia and Latvia, Lithuania has a more liberal approach to education in minority languages: Polish and Russian minorities enjoy access to publicly funded secondary education in their mother tongue.

C. *The OSCE and Minority Protection in the Baltics*

Mass statelessness among minorities in the Baltics has made the international community pay attention to the region. Several fact-finding missions were sent by international organizations to Estonia and Latvia to study the situation *in situ*.⁷ As a result the Conference on Security and Cooperation in Europe (now the OSCE) decided to open its permanent missions in Tallinn and Riga, which started their work in early 1993. Additionally these two countries were regularly visited by the first OSCE High Commissioner on National Minorities (HCNM) Mr. Max van der Stoep. Estonia and Latvia received a number of his recommendations. Against quite a different background, an OSCE mission was not opened in Lithuania and only one recommendation was sent to the local administration by the OSCE HCNM.⁸

D. *Accession to the EU and NATO*

The accession to the EU and NATO was a solution to the problems of security and development decided at the highest political level in Estonia, Latvia and Lithuania. The Baltic states are due to become members of the Union and NATO in 2004.

The influence of the process of harmonization of local legislation with the *acquis communautaire* cannot be overestimated. The European Commission was involved in regular monitoring of the implementation of political criteria in Estonia, Latvia and Lithuania.⁹ The Commission did not hesitate to refer to recommendations and opinions of the HCNM and the Council of Europe (CoE) e.g. by underlining the necessity of softening the naturalization requirements.¹⁰ The involvement of the EU was crucial upon discussion of the changes to language legislation in Estonia and Latvia in the period 1999-2001, when the Commission tried to make local laws correspond to both European Treaty requirements and criteria established in other international human rights' instru-

6 See official documents: National Program Integration in Estonian Society 2000-2007 (Tallinn, 2000) and The Integration of Society in Latvia: A Framework Document (Riga, 1999).

7 See for details Hanne-Margret Birckenbach, *Preventive Diplomacy through Fact-finding How International Organisations Review the Conflict over Citizenship in Estonia and Latvia* (Hamburg, 1997).

8 Vadim Poleshchuk, *Advice not Welcomed...*, 10.

9 The progress reports are available at http://www.europa.eu.int/comm/enlargement/index_en.html.

10 Stefanie Ricken, 'Multi-organisational Response: The Case of the Russian-speaking Minorities in the Baltic States', in Holger Moroff (ed.), *European Soft Security Policies: The Northern Dimension* (Helsinki, Berlin, 2002), 308-41, at 325.

ments.¹¹ In the meantime, it is essential to stress that the EU itself has neither a strong legal framework on minority protection, nor specialized procedures or institutions able to effectively monitor the compliance of the candidate states with the Copenhagen political criteria on minority protection. As a result, rigorous monitoring of compliance with the requirements formulated by the OSCE was often replaced in accession negotiations by mere political bargaining with the accession states' governments.¹²

E. Closure of the OSCE Missions in Estonia and Latvia

The Estonian and Latvian administrations had to tolerate the presence and monitoring of international organizations and try to cooperate with them in a constructive manner. However, the aspiration of becoming members of the EU and NATO forced them to eliminate any signs of perceived instability.¹³ The long-term presence of OSCE missions was evaluated with harsh criticism by the local political establishment, and that resulted in their active low-profile diplomatic activities in Western European capitals.

The mandate of the missions was concentrated on minority issues.¹⁴ In 2001, there were still unsolved problems in this field, and the Austrian chairmanship of the OSCE compiled a list of requirements necessary to fulfil in order to ensure the closure of the missions. For instance, for Estonia the list was as follows: softening linguistic requirements in the private sphere; the abolition of the language requirements for deputies on local and national level; improving the work of the ombudsman; implementation of the state integration programme; residency issues and naturalization.¹⁵ For Latvia, the list included similar issues. As in Estonia, the demand to abolish the language requirements for deputy

11 See Vadim Poleshchuk, 'Estonia, Latvia and the European Commission: Changes in Language Regulation in 1999-2001', Eumap's featured articles: The Limits of the Law, 17 January 2002, at <http://www.eumap.org/articles/content/40/402/#top>.

12 For more detailed consideration of the EU impact on development of minority protection in the candidate states, see Boris Tsilevich, 'EU Enlargement and the Protection of National Minorities: Opportunities, Myths, and Prospects', Eumap's featured articles: European Standards in Minority Protection, 1 October 2001, at <http://www.eumap.org/articles/content/10/101>; Bruno de Witte, 'Politics versus law in the EU's approach to ethnic minorities', European University Institute, Working Paper RSC No. 4 (2000); Gabriel N. Toggenburg, 'A Rough Orientation Through a Delicate Relationship: The European Union's Endeavours for (its) Minorities', 4(16) *EloP* (2000), at <http://eiop.or.at/eiop/texte/2000-016a.htm>; Yekaterina Dorodnova, 'EU Concerns in Estonia and Latvia: Implications of Enlargement for Russia's Behavior Towards the Russian-Speaking Minorities', European University Institute, Working Paper RSC No. 40 (2000).

13 'In the beginning and especially during the time we were tarred with the brush of Bosnia, when I raised the issue of stigmatization I was invariably rebuffed by Western diplomats who forcefully told me: there is no stigma whatsoever to having a Mission in your country. Curiously, however, when we got to the final negotiations on an exit strategy, I was just forcefully told the opposite: no candidate country with an OSCE Mission will ever be taken into NATO or the EU', in Toomas Hendrik Ilves, 'The OSCE Mission in Estonia', 13(4) *HM* (2002), 320-5, at 323. T.H. Ilves is a former Estonian Minister for Foreign Affairs.

14 Walter Kemp et al. (eds.), *OSCE Handbook* (Vienna, 3rd ed. 1999), 73-7.

15 'Report to the OSCE Permanent Council on the work of the OSCE Mission to Estonia' presented by Ambassador Doris Hertrampf, Head of Mission on 28 June 2001, Vienna (document on file with the authors).

candidates was the only concrete precondition on the list. All other requirements were of a general nature and implied in-depth evaluation to conclude whether these conditions were met. Again, in practice this evaluation was replaced by a purely political debate. The decisions to close the OSCE missions in Estonia and Latvia were adopted in December 2001 on the institutional level where the consensus of all member states was not required. A number of European states, including the Russian Federation, have consistently opposed stopping the missions' work, claiming its continuation to be necessary in the interests of ethnic reconciliation in both countries.¹⁶ The adoption of important decisions without consensus revealed serious problems regarding the efficiency of the OSCE as a watchdog for European stability. This was a negative precedent as well. Later, Russia used a similar simplified procedure to abolish a mandate of the OSCE Assistance Group in Chechnya.¹⁷

F. Political Participation of Minorities

In Latvia only citizens can participate in local and national elections. Thus, half of the minority population lacks an opportunity to influence the decision-making process on any level. Despite the fact that Russian-speakers constitute a majority in many cities of the country, ethnic Latvians are not politically marginalized in a single local council.¹⁸ In the meantime, minorities are substantially under-represented both in elected and executive bodies, at the national and municipal level.¹⁹ The political union of three parties, For Human Rights in United Latvia (Par cilvēka tiesībām vienotā Latvijā), was the only mainstream political organization with parliamentary representation that strongly advocated minority rights. In the 1999 national elections, this coalition gained 16 mandates out of 100; in the 2002 elections, 25²⁰ In both cases, a big majority of the Members of Parliament (MPs) elected on this list were citizens belonging to the Russian-speaking minority. Practically all MPs elected on the other parties' lists were ethnic Latvians. Thus, in Latvia, despite the absence of explicitly ethnic political parties, ethnically-based patterns of electoral behaviour clearly dominate.

In Estonia non-citizens can vote in local elections, but not in national elections. They cannot stand for office in local elections either. In the mid 1990s, several ethnic Russian parties participated in local elections in the regions where minorities were present in big numbers. In several self-governments they participated in ruling coalitions. In 1995 and

16 See the Statement by the Russian Foreign Ministry Regarding the Cessation of Work of the OSCE Missions in Estonia and Latvia of 24 December 2001 at www.mid.ru (in Russian).

17 'The mandate of the OSCE Assistance Group to Chechnya expired on 31 December as the OSCE's 55 participating States were unable to agree on extending it', OSCE Press release of 3 January 2003, at www.osce.org/news.

18 Latvian Human Rights Committee, 'Report on the Implementation of the Framework Convention for the Protection of National Minorities in the Republic of Latvia' (Riga, 2002), 8, at http://www.minelres.lv/coe/report/Latvia_NGO.htm.

19 *Ibid.*, 63-6.

20 Results of all Latvian elections are available at <http://web.cvk.lv>.

1999 six deputies were elected to parliament from the list of ethnic Russian parties. In 1999, two Russians were also elected in the list of the mainstream Centre Party (Keskera-kond). Despite the fact that ethnic Russian parties failed to overcome a 5% barrier in 2003 national elections, six non-Estonians were elected to the parliament on the mainstream parties' lists.²¹

II. CHANGES IN MINORITY SITUATION BETWEEN MARCH 2002 AND MARCH 2003

A. Estonia

1. *Integration and Minority Status*

The Estonian government formed in January 2002 decided to keep the post of the Minister for Population Affairs (as a minister without portfolio), which deals with, *inter alia*, integration and ethnic policy issues. The post was offered to Mr. Eldar Efendijev (Centre Party) who became the first minister of non-Estonian ethnic origin since 1992. The government formed after the national elections in March 2003 has also kept this post, which was offered it to the Estonian poet and politician Mr. Paul-Eerik Rummo.

The State Programme, 'Integration in Estonian Society in 2000-2007', was approved by the government in 2000.²² This programme foresees measures and activities in the framework of four sub-programmes: general education, education and culture of ethnic minorities, teaching adult minorities the Estonian language and social competence. In recent years the language training programs have received considerably more financing and attention from the public authorities.²³

There were no major changes in the regulation of minority status in Estonia in 2002. Two MPs of minority origin (Centre Party) initiated a draft Law on Minorities (draft law no. 1296²⁴) on 20 January 2003 which was supposed to replace the Law on Cultural Autonomy of National Minorities.²⁵ This Law was adopted in 1993 but no cultural self-governments have been registered since. Furthermore, Article 1 of the Law included a restrictive definition of minority members (citizens only are included). The new draft incorporated several principles of the Framework Convention for the Protection of National Minorities (FCNM), and the citizenship criterion was omitted from its definition of national minority. However, the provisions of the draft are in collision with numerous legal norms stipulated by other Estonian acts, principally the Law on Language.²⁶

21 Results of all Estonian elections are available at <http://www.vvk.ee>.

22 Published in *Riigi Teataja Lisa* (RTL), 2000, 49, 740. *Riigi Teataja Lisa* is an appendix to the official State Journal.

23 See Open Society Institute, EU Accession Monitoring Program, *Monitoring the EU Accession Process: Minority Protection, Volume I, An Assessment of Selected Policies in Candidate States 2002*, (Budapest, 2002), 240.

24 All draft laws submitted to the Estonian parliament and information about their progress can be found at the parliament's official website (<http://www.riigikogu.ee>).

25 Published *Riigi Teataja* (RT) I 1993, 71,1001. *Riigi Teataja* is an official State Journal.

26 Published RT I 1995,23,334.

The draft employed a much more liberal approach to public signs, electronic media and publicly funded education in minority languages. It was not adopted before the national elections of 2 March 2003. It is highly probable that the deputies will submit a similar draft to the new parliament.

2. Ombudsman Office

In Estonia, the function of ombudsman is attributed to the Legal Chancellor (*Oiguskantsler*), and it is s/he who should control the correspondence of national and local legal acts with the Constitution. As an ombudsman s/he can deal with complaints against activities of state or municipal institutions.²⁷ On 11 February 2003 parliament amended the Law on the Legal Chancellor.²⁸ As of 1 January 2004 everyone will also be able to address the ombudsman in case of discrimination by a private person or organization on the grounds of sex, race, ethnic origin, colour, language, origin, religious, political or other belief, property or social status, age, disability, sexual orientation or other grounds of discrimination as stipulated by the law. This amendment has been adopted to bring Estonian legislation into compliance with the EU Racial Equality Directive (2000) and Employment Equality Directive (2000).²⁹ The definitions of direct and indirect discrimination, harassment, principles of victimization, positive action, and reasonable accommodations of the disabled and the like are stipulated by the Law on Equality and Equal Treatment (LEET). The first draft of the LEET (draft law no. 1198) was submitted to parliament by the government on 14 December 2002.

3. Linguistic Requirements

After the local elections in October 2002, new regulations regarding the working language of local self-governments came into force. On 21 November 2001, the Estonian Parliament abolished language requirements for local and national deputies (candidates at local and national elections).³⁰ However, the same month, another amendment explicitly introduced Estonian as the only working language of the parliament.³¹ As for local self-governments, on 4 December 2001 the parliament made Estonian the only working language of local councils.³²

According to the Estonian Constitution, in the regions where the majority of the permanent residents speak a minority language, it is possible to use this as an internal working language (Article S2). According to the Law on Language, this right can be granted only by a permission of the Estonian Government (Article 11). Such a right has not been

27 According to the Law on Legal Chancellor, Chapter IV. The Law published RT I 1999,29,406.

28 Published RT I 2003,23,142.

29 Council Directive 2000/43/EC of 29 June 2000 Implementing the Principle of Equal Treatment between Persons Irrespective of Racial or Ethnic Origin; Council Directive 2000/78/EC of 27 November 2000 Establishing a General Framework for Equal Treatment in Employment and Occupation.

30 Amendments published RT I 2001,95,588.

31 Amendment published RT I 2001, 94,581.

32 Amendment published RT I 2001,100,642.

granted to a single self-government so far. However, even if a council receives this right, it is only empowered to translate its sessions from Estonian to a local minority language (not *vice versa*):

If a local government has been granted ... the permission to use the language of the national minority constituting the majority of the permanent residents of the local government alongside Estonian as the internal working language of the local government, the council and the government may decide to translate part or whole of the sessions into the language of the national minority.³³

According to the Estonian Constitution in the regions where the majority of the resident population speak a minority language, it is possible to receive replies from municipal and local state institutions in this minority language (Article 51). As for all other regions, an amendment to the Law on Language of 17 January 2002³⁴ provided for the right to speak with public officials and some other persons performing public functions in any language (if agreed) or using the services of a translator (if not agreed). The party not proficient in Estonian pays the translator's services. This provision is applicable *inter alia* in Tallinn, where persons who speak Russian as a mother tongue make up 43% of all residents.³⁵

4. *Minority Education*

Before 1991, Russian-language education on all levels, alongside Estonian-language education was ensured in Estonia. Today state higher educational institutions work only in Estonian with rare exceptions for some groups of students. As for secondary education, for the time being, minority languages can be used as languages of instruction but there are plans for the transition of minority upper secondary schools to Estonian as the means of instruction. However, Russian-language education will be preserved in kindergartens, elementary and basic schools.³⁶ The decision regarding transition of minority upper secondary schools to Estonian was adopted in 1993 when a new Law on Basic School and Upper Secondary School stipulated the first deadline for this change (the year 2000).³⁷ In 1997, the deadline was postponed to the academic year 2007/08.³⁸ In 2000, upper secondary schools were permitted to provide up to 40% of the curriculum in a language other than Estonian.³⁹

33 Law on Local Self-government Organization, Article 41(4) as amended on 4 December 2001.

34 Amendment published RT I 2002, 9, 47.

35 Compared to 52% of persons who speak Estonian as a mother tongue, according to the data of 2000 national census. See *2000 Population and Housing Census...*, Table 38.

36 Estonian school system is structured as follows: elementary school (1-4 grades), basic school (5-9), upper secondary school (10-12).

37 Published RT I 1993, 63, 892.

38 Amendments published RT I 1997, 69, 1111.

39 Amendments published RT I 2000, 33, 195. According to Article 9 (1-1) (1-2) of the amended Law, '[t]he language of instruction is the language in which at least sixty per cent of the teaching on the curriculum is given.'

Minority representatives and foreign experts raised concerns regarding the very fundamentals of this reform.⁴⁰ A new deadline was not regarded as being realistic, as many schools would face difficulties with staff after the transition. In March 2002, the parliament supported a proposal by two MPs of minority origin from the Centre Party to amend the Law on Basic School and Upper Secondary School.⁴¹ Now Article 9(1-1) of the Law stipulates that,

... [i]n the upper secondary school stage, the language of instruction shall be Estonian. In the upper secondary school stage of municipal schools and in specific classes of municipal schools, any language may be the language of instruction. Permission for instruction in another language shall be granted by the Government of the Republic on the basis of an application by a local self-government council. A corresponding proposal shall be made to the local self-government council by the board of trustees of an upper secondary school based on the development plan of the school.

According to the same amendment, the development plan of a non-Estonian upper secondary school shall set out '[t]he necessary and possible measures to be implemented in non-Estonian language upper secondary schools for transition to instruction in Estonian'. As such, this amendment provides 'no stable institutional framework for the preservation of Russian-language *gymnasium* [upper secondary] education in Estonia'.⁴² However, Estonian politicians were able to reach a consensus regarding more flexible implementation of the education reform compared to their Latvian colleagues (see Section B.6).

The Law on Basic School and Upper Secondary School provided an opportunity for non-Estonian-speaking school children in Estonian-language educational institutions to study their mother tongue. The same opportunity (to study the mother tongue and culture) was recently granted to all school children who are not studying in their mother tongue in a basic school (i.e. in both Estonian and Russian-language schools). The relevant amendment was adopted on 29 January 2003.⁴³

5. *Naturalization*

Acquisition of Estonian citizenship is officially perceived as a basis for social integration alongside mastering proficiency in the official language. However, the tempo of naturalization has remained slow in Estonia where stateless persons currently account for 11 to

40 See e.g. Advisory Committee of the Framework Convention for the Protection of National Minorities, opinion on Estonia adopted on 14 September 2001, ACFC/INF/OP/I(2002)5, paras. 51-2, reiterated also in the resolution of the Committee of Ministers of the Council of Europe, ResCMN(2002)8.

41 Amendments published RT I 2002, 34, 205.

42 The opinion by Aleksei Semjonov, Director of the Legal Information Centre for Human Rights in Vadim Poleshchuk, 'Legal Aspects of National Integration in Estonia and Latvia', ECMI Report No. 33 (Flensburg, 2002), 9.

43 Amendment published RT I 2003, 21, 125.

12% of all residents. Linguistic requirements seem to be a barrier for many non-Estonians who want to acquire local citizenship. Thus, between 1992 and 2001, the majority of people naturalized were those who did not pass the language tests, but used different simplified procedures.⁴⁴ The pattern of naturalization in 2002 was similar:

Table 4. Naturalization in Estonia in 2002⁴⁵

Grounds	In numbers	%
General procedure (language test or a certificate of graduation from an Estonian-language educational institution and civic test)	1,737	42.5
Children under 15 years old (including those naturalized with their parents)	806	19.7
Stateless children under 15 years old (simplified procedure for offspring of stateless parents)	865	21.1
Article 32 of the Law on Citizenship (naturalization of those who received Estonians citizens' passports without any legal grounds)	477	11.7
Disabled (persons whose inability to pass tests was certified by medical doctors)	194	4.7
Citizenship for special merits	10	0.2
Other	2	0.1
Total	4,091	100.0

In 2002 for the first time since 1998, there was no drop in the number of persons naturalized in Estonia. However, 477 persons did become naturalized to keep the Estonian citizens' passports they had received earlier without a legal basis (i.e. they received Estonian citizens' passports in the early 1990s without having 'restored' Estonian citizenship, mostly because of the mistake of state officials) (Article 32 of the Law on Citizenship).⁴⁶ On 29 January 2003, parliament amended the Law on Citizenship to recognise *post factum* the aforementioned persons as Estonian citizens.⁴⁷ In 2002, there were several attempts to

44 In 1992-2001, naturalization in Estonia was as follows (in parenthesis the number of persons who naturalized after language tests: 1992 - 5,421 (0), 1993 - 20,370 (3,013), 1994 - 22,474 (5,679), 1995 - 16,674 (10,689), 1996 - 22,773 (16,672), 1997 - 8,124 (2,099), 1998 - 9,969 (3,236), 1999 - 4,534 (1,909), 2000 - 3,425 (1,297), 2001 - 3,090 (1,107). Data provided by the Citizenship and Migration Board at the authors' request. In 1995, a new Law on Citizenship was adopted that made naturalization requirements somehow more difficult. Furthermore, tests on the Constitution and the Law on Citizenship were introduced to the naturalization procedure. Since 2001, naturalization language tests were equated with professional linguistic tests of any level. Additionally final state language tests in schools were equated with professional tests the same year. See Vadim Poleshchuk, *Advice not Welcomed...*, 58-9. All that resulted in a slight increase of the number of those who naturalized using the general procedure in 2002.

45 Source: The Office of the Minister for Population Affairs, 2003. Communication from the Office of the Minister for Population Affairs No. 3-4.1/031932 of 6 March 2003.

46 Law on Citizenship published RT I 1995,12,122.

47 Amendment published RT I 2003, 18, 101.

liberalize naturalization requirements for the elderly (draft laws nos. 942 and 1256). These proposals were made by the ethnic Russian party (United Peoples' Party of Estonia, Eestimaa Uhendatud Rahvapartei) and minority MPs from the Centre Party. However, this initiative found no support in the parliament. The minority deputies also failed to shorten the naturalization procedure by six months (draft law no. 954).

6. Status of Aliens

Non-citizens make up around 20% of the entire population in Estonia. Their status is regulated by the Law on Aliens⁴⁸ adopted in 1993. One of the most challenging issues for local minorities has been the annual immigration quota. Before 26 October 1997, the quota amounted to 0.1% of the permanent residents of Estonia. After the introduction of preferential treatment (exception from these quotas) for citizens of EU member states, Norway, Iceland and Switzerland, it was cut by half.⁴⁹ Later Japan and the United States were added to the lists.⁵⁰ This differentiation was perceived as discriminatory by various international organizations.⁵¹ Furthermore, this quota was perceived as discriminatory by minorities. It was not applied to residents of Estonia, but was clearly an obstacle to their family reunification with spouses originating from minority kin-states (primarily from Russia and Ukraine, whose citizens did not enjoy any privileges regarding the quota). The Estonian judiciary studied the issue. In 2000, the State Court (*Riigikohus*) (highest court in Estonia) found in the *Ushakova case* that in some situations the application of the migration quota could violate the constitutionally granted right to protection of family life.⁵² As a result the relevant provisions of the Law on Aliens were reviewed several times by the parliament. On 12 June 2002 the amendment to the Law abolished quota requirements in the case of family reunification.⁵³ However, this amendment entitled only permanent residents (Estonian citizens and aliens with permanent residence permits) to invite their spouses to Estonia. The Law stipulates the requirement of 'groundedness' of the application. Aliens should prove that reunification is not possible outside Estonia. In fact, this requirement also affects those aliens who were born in Estonia or have resided there for decades. Additionally, some of these residents failed to receive a permanent residence permit (due to lack of permanent income or official permanent place of residence, or being former Soviet military servicemen or security service veterans).⁵⁴

48 Published RT I 1993,44, 637.

49 Published RT I 1997,73,1202.

50 Published RT I 1999,101,900.

51 See e.g. 'Concluding Observations by the UN Committee on the Elimination of Racial Discrimination: Estonia, 19 April 2000, CERD/C/304/Add.98, para. 11.

52 Decision of the Administrative Law Chamber of the State Court of 18 May 2000 No. 3-3-1-11-00 (RT III 2000, 14, 149).

53 Amendment published RT I 2002, 56, 351.

54 According to the Law on Aliens (Article 12) former Soviet military servicemen or security service veterans cannot be granted a permanent residence permit because they receive temporary permits as an exception. However, a recent decision of the State Court has recognized the right of some former Soviet and Russian military servicemen to receive ordinary temporary permits, which could be later changed into permanent

According to the amendment of the Law on Aliens of 12 June 2002,

... [t]he rights and interests of the minor child shall be taken into consideration above all. A residence permit shall not be issued if the settling of the child in Estonia would damage his or her rights and interests and if his or her legal, financial or social status may deteriorate as a result of settling in Estonia.

We consider that an opportunity to live with his or her family may sometimes be more important for a child than loss of status. Furthermore, the amended Law is silent on the opportunity for a child of a previous marriage to obtain a residence permit in Estonia to settle with his/her parent who has remarried to an Estonian resident.

7. Illegal Aliens

According to different estimates, there could be anywhere from 3,000 to as many as 60,000 illegal aliens in Estonia. Some of them are persons who failed to receive legal status during legalization campaigns when persons with permanent registration (*propiska*) in the Estonian Soviet Socialist Republic had to apply for temporary residence permits.

The Law on Obligation to Leave and Prohibition on Entry was adopted in 1998.⁵⁵ In 2001, it was radically amended,⁵⁶ and stipulated that competent organs could issue to illegal aliens precepts of two kinds: precepts to legalize and precepts to leave. Both precepts could be argued in the court. The decision on expulsion was no longer made by the court. According to the amended Article 9 of the Law a person could get a precept to legalize if s/he:

- enjoyed family life in Estonia, which is protected by the law;
- was an ethnic Estonian;
- had settled in Estonia before 1 July 1990 and had thereafter not left to reside in another country and did not damage the interests of the Estonian state.

However, many persons who belong to these categories could not legalize their presence because they lacked any legal basis for the receipt of a residence permit.⁵⁷

On 18 December 2002 a new amendment was adopted to the Law. The criterion of steady family life was omitted from Article 9. This amendment worsened the situation of illegal aliens. In 2002 several precepts to leave were recognized as being void by the court with references to the (then) still-existing provision.⁵⁸ However, this is no longer possible

permits. Decision of the Administrative Law Chamber of the State Court of 24 October 2002 No. 3-3-1-43-02 (RT III 2002, 28, 310).

55 RT I 1998, 98/99, 1575.

56 Amendments published RT I 2001, 58, 352.

57 In practice, the only available basis for illegal aliens was family reunification. See for details Vadim Poleshchuk, 'Illegals in Estonia: Final Solution?', in Astrid Wilier (ed.), *Documentation. International Conference 'The Baltic Sea as an Escape Route*, 16-18 November 2001, Bad Segeberg, Germany, (Kiel, 2002), 103-5.

58 Interview with Mr. Andrei Arjupin and Ms. Jelena Karzetskaja, Migration Lawyers, 3 March 2003, Tallinn.

after the amendment. Furthermore, if an alien arrived to Estonia while on a visa and the visa expires, s/he can now be legally expelled within 48 hours without a precept or court decision (Article 14 (3-2) of the amended law). In fact, this provision is applicable to the majority of illegal aliens (including long-term 'illegals'). The Law stipulates that expulsion cannot be executed if it can *inter alia* result in the alien's torture, inhuman or degrading punishment or treatment, death or discrimination on ethnic, racial, religious, social or political basis (Article 14(4)). It is debatable as to whether an ordinary official, as opposed to a judge, would be competent to take a decision in such a case, if an illegal alien was to allege these types of violations during the process of expulsion.

B. Latvia

1. *Integration of Society and Institutional Changes*

After the parliamentary elections in Latvia held on 5 October 2002, the new ruling coalition parties agreed to establish a new position in the Cabinet, the Minister for Society Integration Affairs.⁵⁹ This minister has the status of the so-called 'special task minister', i.e. of lower rank than a fully-fledged minister but somewhat higher than a minister without portfolio. Although such a minister does not have a full ministerial staff, he does have a secretariat and separate budget allocated by the Law on State Budget. On 21 November 2002, the parliament approved Dr. Nils Muiznieks, Director of the Latvian Centre for Human Rights and Ethnic Studies, for this position.⁶⁰ This was in fact the first precedent in which a leading human rights activist from the nongovernmental organization-sector was appointed as a high-ranking state official. The decision was welcomed by both minority-based parliamentary opposition parties and a number of human rights and minority nongovernmental organizations (NGOs).

The minister's secretariat includes three departments: the Society Integration Department (previously subordinated to the Ministry of Justice), the Department for Minority Affairs (created on the basis of the Unit for Minority Affairs of the Naturalisation Board), and the Administrative Department. The total number of staff is around 30 employees recruited on the basis of competition. Under the supervision of Minister Muiznieks, two Advisory Councils have also been set up: on society integration and on ethnic affairs, as well as a working group to deal with the elaboration of the concept of ethnic policy. Financial support allocated for cultural activities of minority NGOs are also administered by the minister's secretariat. Despite a certain amount of controversy in the government, the minister's secretariat was finally allocated substantial resources (though less than requested). The establishment of the institutional framework to deal specifically with integration and minority-related issues opens the door for effective dialogue with minorities. However, the ultimate success or failure of the institution depends not only on the diligent work of the minister himself and his secretariat, but also on the political will of the entire government

59 Latvian Human Rights Committee, 58 *Minority Issues in Latvia* (1 November 2002) at <http://www.minelres.lv/count/latvia.htm#MinIssuesLatvia>.

60 Latvian Human Rights Committee, 60 *Minority Issues in Latvia* (20 December 2002).

and parliamentary majority, and their willingness to listen to his proposals and recommendations. At the moment it would be premature to make any conclusions in this respect.

2. *Ethnicity Record in Documents*

Until May 2002, Latvia, unlike Estonia, remained one of the very few European states to adhere to the Soviet practices of mandatory ethnicity records on personal identity cards (IDs). In 1996, the HCNM recommended 'that the inclusion of these details should, in future, be a voluntary decision on the part of passport holders'.⁶¹ In his reply, the (then) Latvian Minister for Foreign Affairs Mr. Valdis Birkavs, ruled out prompt implementation of the recommendation, arguing that 'the present passport of citizens of Latvia is internationally recognised, including the fact that information is given under all headings', and that 'implementation of the proposal would require a considerable number of amendments in Latvian legislation, which might be a lengthy process'.⁶² Indeed, it took more than five years to finally amend the corresponding legislation. Finally, on 23 May 2002, parliament adopted a new Law on IDs and Passports.⁶³ According to the provisions of this law, the ethnicity record in personal IDs is not compulsory any longer, and mentioning ethnicity in the new documents is optional.

However, ethnicity records in the Registry of Residents are still mandatory for all persons whose data are kept in the Registry, even for newborn babies. In the latter case, the child's ethnicity must be the same as that of the parents; if the parents themselves have differing ethnicities, one of them should be chosen for the child. These data are recognized as sensitive by law. Therefore, the Law on the Registry of Residents⁶⁴ is not a breach of Latvia's international obligations with respect to the protection of personal data. At the same time, however, certain restrictions imposed on the choice of the ethnicity record are hardly compatible with the modern concept of identity: Indicating multiple identity is not permitted, and in the case of ethnically mixed couples, only the ethnicity of one of the parents can be chosen. This practice apparently does not comply with the provisions of Article 3 of the FCNM, and will become a serious problem after Latvia ratifies the Framework Convention. In any event, the Law on Changing Registered Name, Surname, and Ethnicity of June 1994 has not yet been changed or amended. This Law establishes the detailed procedure for changing the ethnicity record clearly on the basis of the 'principle of blood' - i.e. the applicant must prove 'the ethnicity of his or her direct antecedents within 2 generations and if he or she can prove his or her belonging to this line of relations'.⁶⁵ If the applicant wants to change his or her ethnicity record to ethnic Latvian, he

61 Letter of the HCNM to the Minister for Foreign Affairs, Valdis Birkavs, at <http://www.minelres.lv/count/latvia/961121r.htm>; Minister Birkavs' reply at <http://www.minelres.lv/count/latv4a/970227a.htm>. See also Vadim Poleshchuk, *Advice not Welcomed ...*, 79.

62 *Ibid.*, 79.

63 Latvian Human Rights Committee, 51 *Minority Issues in Latvia* (1 June 2002).

64 Published *Latvijas Vēstnesis* (LV), 17 September 1998. *Latvijas Vēstnesis* is an official State newspaper.

65 Law on Changing Registered Name, Surname, and Ethnicity, Article 9 (published LV 5 June 1994), as amended on 23 May 1996 (published LV 7 June 1996).

or she must also submit the Latvian language proficiency certificate.⁶⁶ Thus, abolition of the mandatory ethnicity record in personal IDs represents a major step away from the Soviet pattern of institutionalization of ethnicity, but it will have to be complemented by amendments in a number of other legal acts.

3. *Linguistic Legislation*

As in Estonia, major recent changes in the language legislation of Latvia are connected to the abolition of the state language requirements for candidates standing for parliamentary and municipal elections. However, unlike in Estonia, in the case of Latvia decisions of international bodies on corresponding individual complaints, not just the political requirements of the OSCE, played a crucial role.

In July 2001, the UN Human Rights Committee (HRC) found a violation by Latvia of the International Covenant on Civil and Political Rights (CCPR) in the case *Ignatane v. Latvia*. In 1997, the Riga Electoral Commission struck Mrs. Ignatane off the electoral list on the basis of 'insufficient state language proficiency'. This decision was taken after the State Language Centre⁶⁷ issued the reference that Mrs. Ignatane's state language proficiency did not correspond to the third (highest) level of proficiency, based on the results of a language examination held by a state language inspector, despite the fact that Mrs. Ignatane possessed a required valid state language proficiency certificate of the third (highest) level. The HRC concluded that Mrs. Ignatane 'has suffered specific injury in being prevented from standing for the local elections in the city of Riga in 1997, because of having been struck off the list of candidates on the basis of insufficient proficiency in the state language. The Human Rights Committee considered that the author is a victim of a violation of Article 25 CCPR, in conjunction with Article 2 of the Covenant'.⁶⁸

The European Court of Human Rights (ECtHR) found a violation of the right to free elections in a similar case, *Podkolzina v. Latvia*.⁶⁹ In this case, the applicant was prevented from running for parliamentary elections in 1998 because of an alleged insufficient knowledge of the state language. Latvia thus found itself under an obligation to take steps to prevent similar violations from occurring in the future, as a state party to both the CCPR, and the European Convention on Human Rights.

Once the OSCE missions to Latvia and Estonia were closed, Latvia - unlike Estonia - still kept in force the language requirement for deputy candidates. As a result, member states of the OSCE who insisted on closure of the missions - principally the US - implic-

66 Article 11(2) of the same Law.

67 A state body whose main task is to monitor the implementation of the language legislation in Latvia and to punish those who violate it.

68 Views of the Human Rights Committee under Article 5, Paragraph 4, of the Optional Protocol to International Covenant on Civil and Political Rights, Seventy-second session. Communication No. 884/1999, *Antonina Ignatane v. Latvia*, 25 July 2001, at http://www.minelres.lv/un/cases/UNHRC_Ignatane_2001.html.

69 ECtHR, *Podkolzina v. Latvia*, Chamber Judgment of 9 April 2002. Press release issued by the Registrar, at <http://www.echr.coe.int/Eng/Press/2002/apr/PR%20Podkolzina%2009042002E.htm>.

itly had to undertake a political commitment to ensure that these requirements would be abolished soon after the closure. The US exerted substantial political pressure on Latvia, aiming to achieve this goal. As a result, on 9 May 2002 the Latvian parliament excluded corresponding provisions from the two laws on parliamentary and municipal elections.

However, the 'compensation' for this 'concession' appeared much more substantial than in Estonia. Even before the amendments to the election laws were adopted, the Latvian parliament at its extraordinary session on 30 April 2002 approved amendments to the Constitution.⁷⁰ Thus, Article 18 was supplemented with the provision that every MP be obliged to take an oath of loyalty which includes the promise 'to strengthen ... the Latvian language as the sole state language'. The new wording of Article 21 provides that the sole working language at the *Saeima* is Latvian (the provision earlier enshrined in other laws). Article 101 stipulates that 'the working language of local governments is Latvian. Article 104 (provides for the right to address submissions to state or local government institutions and to receive a materially responsive reply) was supplemented with the provision that 'everyone has the right to receive [an] answer in Latvian'. These amendments were presented as necessary measures to protect the state language in view of 'weakening its positions' as a result of harmonization of election legislation with human rights standards. The establishment of a new state body - the State Language Commission - has become another 'compensatory measure'.⁷¹ The decision on the creation of the Commission was signed by the president and prime minister on 16 January 2002. The Commission's main task is 'to elaborate guidelines of the Latvian language policy'. It is essential that the Commission does not interfere with the mandate of the already existing State Language Centre.

4. *Status of Non-Citizens*

As mentioned above, the persons who came into Latvia between 1940 and 1991 and were not recognized as citizens of the restored Republic of Latvia, enjoy a special status as 'non-citizens' (*nepilsoņi*). Existing differences in non-political rights between the citizens of Latvia and the persons with this status remain a major problem.⁷² Since the mid 1990s, a number of discriminatory restrictions, particularly with respect to certain jobs and professions, have been cancelled. However, in the last year this trend seems to have been reversed.

The new Law on Fire Safety and Fire-Fighting adopted by the parliament on 24 October 2002, for example, reintroduced the prohibition for non-citizens to work as firemen.⁷³

70 Latvian Human Rights Committee, 49 *Minority Issues in Latvia* (1 May 2002).

71 Latvian Human Rights Committee, 42 *Minority Issues in Latvia* (17 January 2002).

72 For the history of the problem see Boris Tsilevich and Alexander Ruchkovsky, 'Difference in Status and Rights Between Citizens and Permanent Residents (Non-citizens) of Latvia', (1) *Newsletter of International Helsinki Federation for Human Rights* (1994), 13-7; Magda Opalski, Boris Tsilevich and Piotr Dutkiewicz, *Ethnic Conflict in the Baltic States: the Case of Latvia* (Kingston, 1994). For the description of the current situation, see Latvian Human Rights Committee, 'Comments on the List of Differences between the Rights of Latvian Citizens and Non-citizens', at http://www.minelres.lv/count/non_cit-rights_1.htm.

73 Latvian Human Rights Committee, 58 *Minority Issues in Latvia* (1 November 2002).

A similar provision concerning the citizenship requirement for firemen was included into the previous Law on Fire Safety of December 1994. However, this provision was abolished in January 1997, following persistent recommendations of the OSCE HCNM, as well as conclusions of the National Human Rights Office⁷⁴ which deemed this an ill-based restriction contradicting Latvia's obligations under the non-discrimination provisions of the CCPR. Now the restriction has been restored by the new law, which assigns the status of civil servant to firemen.

Following the same trend, parliament rejected the amendment which envisaged the possibility for non-citizens to be employed in the State Revenue Service (*Valsts ieņēmumu dienests*). Paradoxically, foreigners who have a permanent residence permit do have the right to work in this office.⁷⁵ An explicitly discriminatory amendment has been suggested by the government to the Law on Pharmacy:⁷⁶ A pharmacist who is not a citizen of Latvia or of an EU member state, has to work one year in a chemist's under the supervision of a licensed pharmacist, before s/he can start his or her own practice as a pharmacist. In March 2003, parliament rejected amendments aimed at partial liberalization of the restrictions for non-citizens to own land in Latvia.⁷⁷ Government officials explain this restrictive approach as the willingness to encourage the integration and naturalization of non-citizens. However, it is highly doubtful that restrictive policies will indeed facilitate the feeling of being a member of the state and willingness to apply for naturalization.

5. *Naturalization*

No major changes in the legislation on citizenship and naturalization were made in 2002. Despite the fact that all international organizations have persistently recommended that Latvia take the necessary measures to speed up naturalization, all these measures have been in fact limited to more or less effective information campaigns and language training, funded, as a rule, by foreign donors.⁷⁸

74 Ombudsman-type state institution in Latvia.

75 Latvian Human Rights Committee, 64 *Minority Issues in Latvia* (15 March 2003).

76 Law on Pharmacy published LV 1 May 1997.

77 Latvian Human Rights Committee, 64 *Minority Issues in Latvia* (15 March, 2003).

78 Open Society Institute, EU Accession Monitoring Program, *Monitoring the EU Accession ...*, 347-50.

*Table 5. Naturalization in Latvia in the Period 1995-2003*⁷⁹

Year	Number of naturalizations
1995	984
1996	3,016
1997	2,992
1998	4,439
1999	12,427
2000	14,900
2001	10,637
2002	9,844
2003 (January)	272
Total	59,511

The substantial increase in naturalizations between 1999 and 2000 can be explained by the liberalization of the Law on Citizenship⁸⁰ approved by referendum in October 1998. Taking into account that as of early 2003 about 500,000 non-citizens still resided in Latvia, much more effective measures, including legislative changes, are needed to resolve the problem of mass statelessness, in accordance with the recommendations of international organizations and for the sake of social integration.

6. *Other Legislation*

Unfortunately, unlike in Estonia, no changes have been made to the most controversial legislation on education. The provision stipulating that as of 1 September 2004, in the tenth grade of state and municipal general education institutions and in the first year of state and municipal vocational education institutions studies are begun only in the state language⁸¹ causes growing protests among minority NGOs, politicians, teachers, and parents. The Ministry of Education and Science confined itself to the elaboration of the so-called 'minority education programmes for secondary schools' which, as the ministry's officials claim, permit teaching of some 30% (or even more) of the curricula in minority languages. Often reference is made to another law which allegedly permits the use of minority languages in secondary schools, despite the clear-cut provision quoted above.⁸² However, this provision only permits the inclusion of programmes teaching minority language within secondary school education, as well as of some subjects related to minority identity. Nothing is said about the language in which these curricula should be taught. Thus the information included, even in the Progress Report of the European Commis-

79 Source: The Naturalization Board of the Republic of Latvia, 2003. Available at <http://www.np.gov.lv/fakti/statistika.htm>.

80 The 'timetable', or 'windows of naturalization, which limited the right to apply for naturalization for certain groups of non-citizens on the basis of their age and time of arrival to Latvia, were abolished.

81 Law on Education of 20 October 1998, Transitional provisions, Article 9(3). LV 17 November 1998.

82 Law on Secondary Education of 30 June 1999, Article 42(2), LV 12 August 1999.

sion,⁸³ that after 2004 in secondary schools up to 30% of curricula will be taught in minority languages, sounds misleading and clearly contradicts the letter of the law in force.

No changes have been made to the legislation on media either, particularly to Article 19 of the Law on Radio and Television, which limits the rights of private media to broadcast in minority languages.⁸⁴ On 12 December 2002, a group of minority MPs brought the case before the Constitutional Court, asking to declare Article 19(5) of the Law on Radio and Television unconstitutional.⁸⁵ The consideration of this case might create an important precedent in the interpretation of freedom of expression and the rights of minorities in the field of the media.

C. Lithuania

There were few changes in minority-related legislation in Lithuania in 2002. However, one may highlight the news regarding the political participation of foreign nationals on the local level and new regulations on minority education.

1. *Status of Aliens*

On 20 June 2002 the Lithuanian parliament amended Article 119 of the Constitution. By virtue of this legal move, non-citizens residing in the country were granted the right of both active and passive suffrage at local elections:

Citizens of the Republic of Lithuania and other permanent residents of an administrative unit shall be elected according to the Law to Local Government Councils for a four-year term on the basis of universal, equal and direct suffrage by secret ballot by the citizens of the Republic of Lithuania and other residents of the administrative unit.⁸⁶

Lithuania has thus made a considerable step forward in the promotion of political participation for all resident populations including ethnic minorities with legal local residence, but who do not have Lithuanian citizenship. On 12 August 2002 new rules on the issuing of temporary resident permits came into force in Lithuania.⁸⁷ On 17 September 2002, the

83 Available at http://www.europa.eu.int/comm/enlargement/report2002/lv_en.pdf.

84 Law on Radio and Television, published LV 18 September 1995, Article 19(5): 'The amount of broadcasting time in foreign languages in programmes produced by broadcasting organizations shall not exceed twenty-five per cent of the total volume of the broadcasting time in a twenty-four hours period.' According to Latvian legislation, all languages except for Latvian and Liv are considered foreign languages.

85 Latvian Human Rights Committee, 60 *Minority Issues in Latvia* (20 December 2002).

86 Official English translation of the amended text of the Constitution and other Lithuanian laws referred to in this article can be found on the official web site of the Lithuanian parliament at <http://www3.lrs.lt/n/eng/DPaieska.html>.

87 Business Law Group 'Foresta', *Legal Newsletter (November 2002)*, December 2002, available at <http://www.litlex.lt>.

Lithuanian parliament also adopted a new Law on Citizenship. To a certain degree, more stringent migration rules were elaborated to meet the new realities after EU accession.

2. *Minority Education*

The Decree of the Minister for Education and Science of 16 January 2002 approved new Regulations on National Minorities Education.⁸⁸ The regulations are to meet the special needs of national minorities in the sphere of education, to specify organisational and financial aspects of the work of minority educational institutions. For instance, special coefficients will be used for minority schools considering the fact that providing education in minority languages is more expensive than in an official language.⁸⁹ In the academic year 2001-02, 206 schools (about 10% of all schools) worked in minority languages in Lithuania (predominantly in Russian and Polish). Additionally up to 40 Sunday schools accommodated educational interests of smaller ethnic groups.⁹⁰

Certain concerns of the international community were raised regarding the situation of the Roma community in Lithuania.⁹¹ In the framework of the Program of Integration of Roma into the Society of Lithuania 2000-04 a Roma Public Centre was opened in Vilnius in September 2001. In 2002, 26 Roma children graduated from special preparatory classes held there.⁹²

III. COMPARISONS AND CONCLUSIONS

While in Lithuania only the situation of the Roma minority is internationally recognized as vulnerable, many concerns amongst the international community are connected to the minority protection regime in Estonia and Latvia. In 2002, there were no major changes in the minority legislation in the Baltic states. At least half of all the minority populations in Estonia and Latvia respectively will enter the EU as 'non-citizens'. 'The issue of Russian minority continues to be a permanent bone of contention, not only within Latvia and Estonia, but also in their relation with Russia. In this view the unsolved problem bears the risk of imposing major difficulties on relations between the EU and Russia, once Latvia and Estonia are members of the EU.'⁹³

In Estonia and Latvia minority education issues were crucial in 2002. Estonia seems to be more inclined towards positive changes in minority legislation. In this country

88 See at <http://www3.lrs.lt/n/eng/DPaieska.html>.

89 Danguole Grigoloviciene, 'Pravovaja sistema i praktika ohrany prav menshinstv v Litve' ('Legal System and Practice of Protection of National Minorities in Lithuania'), in *Minorities in the Baltics: Processes of Integration, International seminar, Tallinn (Estonia) 14-15 June 2002* (Tallinn, 2002), 63-75, at 71 (in Russian). Danguole Grigoloviciene is a Head of the Section of National Minorities, Department of National Minorities and Lithuanians Living Abroad under the Government of Lithuania.

90 Data by the Ministry of Education and Science.

91 See e.g. Open Society Institute, EU Accession Monitoring Program, *Monitoring the EU Accession Process: Minority Protection* (Budapest, 2001), 313-42.

92 Danguole Grigoloviciene, 'Legal System and Practice ...', at 70.

93 Stefanie Ricken, 'Multi-organisational Response ...', at 334-5.

minority representatives in a legislative body were more successful compared to Latvia where similar attempts by pro-minority parties and organizations were in vain. If the government of Latvia shows no flexibility, substantially growing tensions over the most sensitive issue of minority education are inevitable.

The major change in comparison with the previous years is related to the fact that the time of 'political conditionality' is over. Until very recently, Estonia and Latvia had to more or less diligently fulfil certain prescriptions formulated by international organizations, in order to achieve their strategic goals. Now this resource has been exhausted. Ideally, the stage of 'political conditionality' was aimed at 'training' the newly democratic states to the extent that after the completion of this stage, a sustainable democratic development is ensured, i.e. that these states are able to implement democratic policies, including minority-related policies, without further rigorous guidance on the part of the international community. We can conclude that this goal has only been achieved to a limited extent.

In the case of Estonia, certain changes in minority legislation are already possible without direct pressure from Western Europe. Amendments to the education legislation, adopted without any major pressure from Europe, are persuasive evidence of this. The situation is much more complicated with Latvia, as a big part of the country's political elite perceives the end of 'political conditionality' as a sort of *carte blanche* to implement any policies towards minorities they consider as corresponding to 'national interests'.

Differences in the situation in Estonia and Latvia may be explained by the extent of political participation of the minority population in each country. Non-citizens are in the majority among local minority populations. Estonian non-citizens can vote at local elections, causing local mainstream political parties to seek minority support, also seeking it by addressing the concerns of Russian-speakers. This practice was visible during both the last local (October 2002) and national (March 2003) elections in Estonia. In addition, within recent years Estonia, unlike Latvia, has made several important political decisions to accommodate minorities' concerns. Partial liberalization of policies in the field of minority education, as well as ratification of the FCNM, are the most essential steps to this end. This appeared sufficient to break the 'ethnic voting' trend in Estonia. On the contrary, in Latvia the general legal framework for and practices towards non-citizens are more liberal than in Estonia. However, the absence of active voting rights for non-citizens, the persistence of restrictive minority education policies, and consistent refusal to ratify the FCNM (already signed by Latvia in May 1995) determine a high level of ethnic political mobilization and, as a result, articulate ethnicity-based patterns of political behaviour.

The challenges of the EU accession urge Estonia and Lithuania to pay considerable attention to the problems of migration and illegal aliens. However, envisaged measures are neither always justified nor proportionate. The process of harmonization of minority legislation of Estonia and Latvia with the EU *acquis communautaire* — particularly, with its non-discrimination provisions like the Racial Equality Directive (2000) - may influence the development of the situation in a very positive way.

In Estonia and Latvia official linguistic requirements remain a challenging issue. In both countries, there were attempts to amend legislation in order to 'compensate' for the abolition of language requirements for minority candidates at elections; this in fact led

to the adoption of what resulted in overall more stringent provisions than those in force before 'liberalization'.

Under these circumstances, further efforts on the part of the international community, though perhaps in different forms, are indispensable in securing the stable democratic development of the Baltic states. Most importantly, the Baltic regimes should be encouraged to promote the political participation of minorities since it has a considerable reconciliatory effect under the circumstances of interethnic tensions, and is the key to seeking reasonable political compromises on most sensitive issues.