

8

Language Legislation in the Baltic States

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In this chapter, I examine the development of language legislation in three Baltic states - Estonia, Latvia and Lithuania - after the restoration of their independence. Thus, I describe the regulations determining the status of the state language and the languages of national minorities, as well as governing the use of languages in elected bodies, before public authorities, in media, in education and in employment. Having identified possible inconsistencies with the provisions of the international instruments on minority rights and having analysed the main features of the language policies in the Baltic states, I propose a theory concerning the main factors affecting the formation of these policies.

All three Baltic states regained their independence after the collapse of the USSR in 1991 put an end to a half-century-long Soviet annexation. For Estonia and Latvia, the period of pre-war independence was rather short, and the processes of state- and nation-building had been far from completed. After the Second World War, Estonia and Latvia experienced large-scale immigration of a predominantly Slavic population. Although sizable ethnic Russian minorities were present in the Baltics for centuries, in the late 1980s, the proportion of ethnic Estonians in the total population of Estonia dropped to 62 per cent and of ethnic Latvians in Latvia to 52 per cent. In Lithuania, the proportion of ethnic Lithuanians remained at approximately 80 per cent.

These demographic changes brought about a substantial alteration of the linguistic situation. Although the use of the Baltic languages was formally permitted in different areas, as is evident in the parallel system of public education in Russian and in the Baltic languages from kindergarten to university level, and the relatively generous financing for the publication of Baltic literature and the development of arts, the overall sphere in which they functioned was severely curtailed. In the areas of state government, transport, industry, military, public safety and security only the "imperial" language, Russian, was allowed for official use. This situation could be described as "diglossia", or asymmetrical bilingualism with clear domination of one language, and gradual suppression of another.

This asymmetry was also manifested in the language proficiency of the Baltic residents in the Soviet period. In 1989, only 22.3 per cent of ethnic Russians in Latvia had proficiency in the Latvian language (Kamenska 1995). In Estonia and Lithuania, the corresponding figures were 13.7 per cent and 33.5 per cent.¹ By the 1990s, this situation had changed considerably: in 1995, already 55.8 per cent of ethnic Russians claimed fluency in the Latvian language (Druviete 1998).

However, as the years passed, the progress in this field slowed substantially: for the population census conducted in Latvia in 2000, 58.5 per cent of ethnic Russians said they were proficient in Latvian.² Overall, the proportion of people in Latvia able to speak Latvian (81.7 per cent) was less than those able to speak Russian (84.4 per cent).³ More recent surveys reveal that these data have not changed since then.⁴

After the restoration of independence, development of the new linguistic legislation became one of the major challenges for the restored states. It is important to note that the states themselves were not acting alone in this field. Although Russian-speaking minorities, poorly mobilized and largely disenfranchised due to restrictive citizenship legislation (the so-called "legal continuity" concept)⁵ could hardly have a serious impact on shaping of the new language legislation, external actors were much more actively involved. International organizations, the OSCE, the Council of Europe, and later the European Union played an important role in the shaping of the new language legislation. Russia also played a role, though limited, in this process.

This paper will briefly describe the main features of the linguistic legislation developed in the Baltic states since the late 1980s, and will analyse the main factors, trends and controversies in this field.

DEVELOPMENT OF LINGUISTIC LEGISLATION AFTER THE RESTORATION OF INDEPENDENCE

The language issue was a central factor behind the mass mobilization for the drive for independence of the Baltic states in late 1980s. Domination by the Russian language gave rise to widespread concerns about the "imminent extinction" of Latvian, and slogans aimed at the protection of language were actively supported by a great majority of ethnic Latvians.

Even before the very idea of independence appeared explicitly on the public agenda, the Supreme Soviets (Soviet-time parliaments) of three Baltic states had adopted special declarations assigning Estonian, Lithuanian and Latvian languages the status of "state language" for the corresponding republics. Furthermore, special language laws were adopted in all three Baltic countries in 1989: the Language Law of the Estonian SSR adopted 18 January 1989, the Decree on the Lithuania SSR Official Language Usage adopted 25 January 1989 and the Republic of Latvia Language Law adopted 5 May 1989. These laws essentially had a dual nature: while the aim of asserting the position of the newly re-established state languages was more than apparent, the role of Russian, the official language of the then superior state structure, had to be secured in order to avoid an overly hostile reaction

from the Moscow authorities, who still maintained at that moment control over the situation in the Baltics.

However, soon after the restoration of independence de facto, the language legislation in all three Baltic states underwent substantial changes resulting in the adoption of completely new language laws: the Estonian Language Act of 21 February 1995, the Lithuanian Law on the State Language of 31 January 1995, and the Latvian State Language Law of 21 December 1999.

In the case of Latvia, substantial amendments to the 1989 Language Law which tightened its regulations considerably had already been adopted by 1992, two months before its scheduled entry into force. Many provisions of the law were made more restrictive than its former incarnation and increasingly excluded the use of other languages in public administration and, in many cases, even in the private domains as was for example the case for public information of a private nature.

In Latvia, the new State Language Draft Law also appeared in 1995, but its adoption had to be delayed considerably because of harsh criticism directed at it by the OSCE High Commissioner on National Minorities and other international organizations. As a result of protracted debate, conducted both in public and behind the scenes, some provisions of the new State Language Law appeared to be even more liberal than those in force before its adoption. In particular, the new law allowed, under certain conditions, the use of other languages in public information of a private nature and at public gatherings. Simultaneously, however, the possibility to submit individual applications or complaints to state or municipal institutions in English, German and Russian envisaged by the Law of 1992, had been eliminated.

Meanwhile, numerous other acts adopted since 1990 incorporated several essential provisions relevant to language use. In the next chapters, the principal rules for the use of languages in different areas in the Baltic countries will be outlined.

STATUS OF LANGUAGES AND RECOGNITION OF MINORITY LANGUAGES

The status of the state languages has been enshrined in the Constitutions of all three Baltic states: in Article 14 of the Constitution of the Republic of Lithuania, Article 6 of the Constitution of Estonia and Article 4 of the *Satversme* - Constitution of Latvia.⁶

The Constitutions of all three Baltic states refer to the minority language in the following, very general way:

Persons belonging to ethnic minorities have the right to preserve and develop their language and their ethnic and cultural identity. (Article 114 of the Latvian Constitution)

Citizens who belong to ethnic communities shall have the right to foster their language, culture and customs. (Article 37 of the Lithuanian Constitution)

The Constitutions do not spell out any specific rights beyond the broad statements cited above. There are, however, a few exceptions: the Estonian Constitution, for example, guarantees the right to use minority languages in education (Article 37 paragraph 4) and before public authorities in localities where at least half of the permanent residents belong to an ethnic minority (Article 51 paragraph 2).

The Language Act of Estonia explicitly mentions the notion of minority language in the following terms:

§ 2. Foreign language.

For the purposes of this Act, any language other than Estonian is a foreign language. A language of a national minority is a foreign language which Estonian citizens who belong to a national minority have historically used as their mother tongue in Estonia.

In contrast, the State Language Law of Latvia does not mention minority languages, except for the "Liv" language,⁷ which is not, however, defined as a minority language:

Article 5. For the purpose of this Law, any other language used in the Republic of Latvia, except the Liv language, shall be regarded as a foreign language.

However, in other pieces of Latvian legislation, minority languages are explicitly referred to, thus creating certain inconsistency in the legal framework which regulates the use of languages.

The Law on the State Language of Lithuania does not mention minority languages at all. Thus, one can say that minority languages are marginally recognized in the legislation governing the Baltic states.

Some clauses relevant to the use of minority languages have been incorporated into special laws regarding national minorities. For example, Article 1 of the Law on Ethnic Minorities of Lithuania adopted 23 November 1989, stipulates:

The Lithuanian SSR ... shall guarantee to all ethnic minorities residing in Lithuania the right to freely develop, and shall respect every ethnic minority and language.

The Estonian Law on Cultural Autonomy, adopted 26 October 1993, provides:

Members of a national minority have the right: ... to use their mother tongue in dealings within the limits established by the Language Law. (Article 4)

The Law about the Unrestricted Development and Right to Cultural Autonomy of Latvia's Nationalities and Ethnic Groups (adopted 19 March 1991) envisages that:

The Republic of Latvia government institutions should promote the creation of material conditions for the development of the education, language and culture of the nationalities and ethnic groups residing within Latvia's territory. (Article 10)

Thus, at the level of declarations, the presence of minority languages is recognized and some formal safeguards enshrined in the national legislation. However, more detailed regulations and concrete mechanisms for the implementation of these declared rights are either ineffective or non-existent. Thus, the declarative constitutional provisions are not legally enforceable.

However, the amendments to the Latvian Law on the Constitutional Court which took effect on 1 July 2001 permit an individual to bring a case before the Constitutional Court, and several actions questioning the compatibility of some legal provisions with those contained in the Constitution have been initiated. In 2001 the Constitutional Court recognized that the practice of 'Latvianization' of personal names and surnames is in compliance with the Constitution.⁸ The privacy of personal life in this case is:

limited in order to protect the right of other residents of Latvia to use the Latvian language within the whole territory of the country and to protect the democratic system of the state.

In another case of 2003, the Court declared the language quotas for private broadcasting media unconstitutional.⁹ The Law on Radio and Television stipulated that broadcasting in languages other than Latvian could not exceed 25 per cent of the total broadcasting time on private TV and radio. As of October 2004, the Court is yet to consider the case concerning the switch to Latvian as the main language of instruction in state-supported secondary schools for minorities.

USE OF LANGUAGES IN LEGISLATURES AND ELECTED MUNICIPAL BODIES

Legislatures in all three Baltic states must perform their functions using only the state language. As for municipal bodies, Article 52(2) of the Estonian Constitution permits the use of the language of the majority of the permanent residents:

in localities where the language of the majority of the population is other than Estonian ... for internal communication to the extent and in accordance with procedures determined by law.

Article 11 of the 1995 Language Act stipulates:

In local governments where the majority of permanent residents are non-Estonian speakers, the language of the national minority constituting the majority of the permanent residents of the local government may be used alongside Estonian as the internal working language of the local government on the proposal of the corresponding local government council and by a decision of the Government of the Republic.

However, in practice, this provision has never been implemented, as the national Government has rejected all proposals of the kind received thus far (Jarve 2000).

The Lithuanian Law on Ethnic Minorities of 1989 stipulates in Article 4:

In offices and organizations located in areas serving substantial numbers of a minority with a different language, the language spoken by that minority shall be used in addition to the Lithuanian language.

In Latvia, all municipalities must work in the state language only, regardless of how many persons belonging to minorities reside in a given locality. Although no language requirements ever existed in Lithuania for candidates running in parliamentary and municipal elections, in Estonia and Latvia these requirements were established by law. In Estonia, the regulations determined language requirements for all candidates elected to the national or local legislature; however, they were silent with regard to procedures designed to ensure such requirements. Corresponding laws in Latvia stipulated more exigent requirements: persons who could not demonstrate the highest level of proficiency in the state language could not stand for elections.

Of more substance, the amendments to the *Riigikogu* (Estonian Parliament) Election Act adopted in December 1998 explicitly required that all elected members of Parliament are proficient in the Estonian language.¹⁰

Identical amendments were simultaneously made to the Local Government Council Election Act. As mentioned above, the legislation did not include a framework of formal procedures by which the language requirements can be implemented. Nevertheless, in at least two cases, governmental bodies responsible for the implementation of the language legislation have initiated court proceedings aimed at preventing the individuals elected at the municipal level from sitting due to an alleged failure to comply with the language requirements. The court proceedings, however, were not completed before the following elections or, consequently, the expiration of the mandates of the individuals involved.

In Latvia, the language requirements for the candidates running for office in both Parliament and municipal councils were more detailed. Persons were not eligible to run in elections and should not be included in the list of candidates if they "have not mastered the state language to the highest (third) level of competence" (Article 5 paragraph 7 of the *Saeima* (Latvian Parliament) Election Law of 25 May 1995; Article 9 paragraph 7 of the Election Law on City and Town Councils, District Councils and Pagasts Councils of 13 January 1994).

When registering as candidates, persons who have graduated from a school that provides instruction in a language other than Latvian had to attach to the list of candidates a copy of the certificate of the highest (third) knowledge level of the State language (Article 11 paragraph 5 and Article 17 paragraph 4, respectively). Moreover, even where a person possessed the required certificate, the State Language Inspectorate could assess the person, and if the language inspector concluded that the candidate's language proficiency did not correspond to the highest knowledge level, the candidate was to be removed from the list of candidates.

This occurred during the municipal elections held in 1997 and 2001, and during the parliamentary elections held in 1998. In some cases, the removal

of the candidate from the list resulted in the lodgement of individual complaints to the UN Human Rights Committee and the European Court of Human Rights. The plaintiffs claimed that the universal right to be elected, which cannot be restricted on the basis of language, had been violated. For one of the complaints lodged, the UN Human Rights Committee found that Articles 2 and 25 of the International Covenant on Civil and Political Rights had been contravened.¹¹ In another case based on similar facts the European Court of Human Rights decided in 2002 that there was a violation of Article 3 of the Protocol No.1 of the European Convention on Human Rights.¹²

Following the above-mentioned developments, as well as under pressure of the OSCE strongly backed by NATO and other international actors, the language requirements have been abolished both in Estonia and Latvia in 2002. However, abolition was accompanied by the adoption of other "compensational" amendments aimed at strengthening the positions of the state language. Thus, in Latvia the constitutional amendments were adopted which stipulated that all elected MPs must swear, *inter alia*, to strengthen ... Latvian language as the sole state language. Other amendments stipulated at the constitutional level that Latvian is a sole working language in both parliament and municipalities. Besides, Article 104 (provides the right to address submissions to State or local government institutions and to receive a materially responsive reply) was supplemented with the provision that "everybody has the right to receive answers in Latvian".¹³

RIGHT TO USE MINORITY LANGUAGE(S) BEFORE PUBLIC AUTHORITIES

The Language Act of Estonia stipulates:

In oral communication with public servants and employees of state agencies and local governments, persons who are not proficient in Estonian may, by agreement of the parties, use a foreign language which the public servants and employees understand. If no agreement is reached, communication shall take place through an interpreter and the costs shall be borne by the person who is not proficient in Estonian. (Article 8)

Further, under certain circumstances, the limited right to use a minority language before public authorities is guaranteed by law:

In local governments where at least half of the permanent residents belong to a national minority, everyone has the right to receive answers from state agencies operating in the territory of the corresponding local government and from the corresponding local government and officials thereof in the language of the national minority as well as in Estonian. (Article 10 paragraph 1 of the same law)

However, in practice, implementation and invocation of this provision are not common.

According to Article 9 of the Lithuanian Law on the State Language:

All the transactions of legal and natural persons of the Republic of Lithuania shall be conducted in the state language. Translations into one or more languages may be attached to them.

Only foreign individuals and organizations are permitted to transact in other languages. However, this provision exists alongside Article 4 of the 1989 Law on Ethnic Minorities mentioned above. Thus, a discretionary margin for interpretation is left open to officials.

In Latvia, in addition to Latvian, the Language Law of 1989/92 allowed applications to public officials to be made in English, German, and Russian. Civil servants were given the choice of answering in either Latvian or the language used in the application. However, the 1999 State Language Law abandoned such a liberal approach. According to Article 10 of this law:

State and municipal institutions, courts and agencies belonging to the judicial system, as well as state and municipal enterprises (or companies) shall accept and examine documents from persons only in the state language.

Documents in other languages should be accepted only "if they are accompanied by a translation verified according to the procedure prescribed by the Cabinet of Ministers or by a notarized translation". However, several instances of exception to this rule arise: documents issued in the territory of Latvia before the date on which this law comes into force, as well as documents received from abroad, need no translation; nor do statements submitted to the police, medical institutions, or rescue services or the like in emergency situations.

Thus, the right to use minority language when dealing with public authorities is severely restricted, particularly in Latvia. After the new State Language Law took effect on 1 September 2000, several cases were reported where individuals had made complaints regarding the effective denial of the basic rights guaranteed by Latvian law as a result of the provisions of Article 10.¹⁴ The individuals involved were not sufficiently fluent in Latvian to prepare a complaint concerning abuse by the police or local authorities, to complete applications to social security office, or to make submissions of similar importance. Nor did they have adequate funds to pay for the required translation and/or certification which meant that their applications were not accepted by public institutions.

Therefore, the restriction of the use of minority language before public authority, endorsed even at the constitutional level (see above about the new wording of Article 104 of the Latvian Constitution) might cause effective denial of implementation of certain essential rights formally guaranteed by law.

PROFESSIONAL AND OCCUPATIONAL LANGUAGE REQUIREMENTS

The language laws of all three Baltic states prescribe obligatory proficiency in the state language for employees in certain fields. Provisions enshrined in

the earlier versions of Latvian and Estonian language laws caused protracted controversy in that the new laws extended the application of the language requirements to include employees working in the private sector. Only after the OSCE High Commissioner on National Minorities and the European Commission became actively involved was a compromise achieved.

Thus, Latvian State Language law requires that all employees of state and municipal institutions, courts and judicial agencies, state and municipal enterprises and companies in which the state or a municipality holds the largest share of the capital have knowledge of the state language. Employees of private institutions, organizations and enterprises, as well as people who are self-employed, must use the state language if their activities relate to legitimate public interests such as public safety, health, morals, health care, protection of consumer rights and labour rights, workplace safety and public administrative supervision or if they "perform certain public functions" envisaged by law or other normative acts (Article 6).

The Estonian Language Act contains very similar provisions (Article 5). However, the Lithuanian Law on the State Language mentions private institutions only implicitly in the following terms:

Heads, employees and officers of state and local government institutions, offices, services, as well as heads, employees and officers of the police, law-enforcement services, institutions of communications, transportation, health and social security and other institutions providing services to the population... (Article 6)

Legislators in all Baltic states, influenced by the international organizations, also incorporated the principle of proportionality into clauses contained in their respective laws: that is, the language restrictions established by law had to be supported by a legitimate public interest and had to be proportionate to the stated objectives. The Latvian State Language Law, for example, contains the following clause:

[government employees] must know and use the state language to the extent necessary for the performance of their professional and employment duties.

In practice, attempts to reconcile the principle of proportionality with the push to broaden as much as possible the scope of professions subject to language requirements has resulted in the adoption of detailed governmental regulations. These regulations stipulate the degree of proficiency in the state language required, testing procedures and the lists of the professions and occupations in which the specified level of language proficiency is required. Concerns have been expressed regarding the risk that the principle of proportionality has been interpreted too broadly and has resulted in the imposition of excessive language requirements, particularly in the private sphere.

Initially, three levels of language proficiency were introduced in Latvia - basic, intermediate and advanced. However, regulations adopted in August 2000 by the government of Latvia replaced this system with six levels.

The complex and voluminous content of these regulations and the adoption of numerous amendments and interpretative documents make a

more comprehensive analysis of the regulations in this paper impossible. However, a brief analysis reveals that almost all medium-ranking and high-ranking officials and state servants are required to have the highest level of language proficiency. That is, a successful career in any area of public service or state sector or in the legal professions presupposes perfect knowledge of the state language. It should be noted that, in addition to these regulations, other pieces of legislation also include language requirements for particular professions. For example, the Latvian Law on Education stipulates that all teachers employed in state or municipal educational institutions must have the highest level of command of the Latvian language (Article 50 of the Education Law of 1998).

As a consequence of the introduction of these language requirements many hundreds of thousands of people have had to take exams to prove their command of the state languages. Moreover, these requirements have impacted heavily on reshaping the representation of native speakers of titular languages and Russian-speakers in the state and municipal sector: today Russian-speakers are vastly under-represented in the state sector and are employed mostly in the private sphere.¹⁵

LANGUAGES IN MEDIA

No language restrictions exist in any of the Baltic states in the field of printed media. However, the situation regarding the electronic media in Estonia and Latvia is markedly different.

Article 25 of the Estonian Language Act requires that, during broadcasts, "foreign language text shall be accompanied by an adequate translation into Estonian". However, radio broadcasts "which are aimed at a foreign language audience" are explicitly exempted from this requirement (paragraph 3). Moreover, paragraph 2 of Article 35 of the 1994 Broadcasting Act requires that at least one of the two Eesti Raadio (public radio) channels air "in a foreign language". This clause used to be interpreted as implying broadcasts in the language of the largest Russian minority. However, paragraph 4 Article 25 of the Estonian Language Act, introduced as an amendment in 1997, limits the volume of foreign language news programmes and live foreign language programmes on both public and private television which can be broadcast without translation into Estonian under paragraph 2, to no more than 10 per cent "of the volume of weekly original production". In Latvia, the share of broadcasts on private radio and television channels in languages other than Latvian had not to exceed 25 per cent of the total amount of daily broadcasting (Article 19 of the Radio and Television Law of 1995). This provision was in force until the Constitutional Court has declared it null and void in 2003.¹⁶ As for public television and radio, the first channel must broadcast exclusively in the state language, whereas the same law allows for up to 20 per cent of broadcasting in minority languages on the second channel (Article 62 of the same law). However, these language limitations are not extended to cable and satellite TV.

In practice, the legal constraints of the kind are dubious to say the least in the limits that they place on freedom of expression, as they effectively prevent minorities from establishing their own electronic media. The restrictions placed on radio broadcasting are particularly detrimental as, in contrast to television broadcasting where a compromised solution can be achieved through dubbing or subtitling (although this obviously places broadcasters under additional financial burden), no technical means of translation are available for radio broadcasts.

Although there were no administrative proceedings reported in Estonia in respect to the above-outlined limitations, in Latvia several cases are known where private broadcasters were punished through fines or temporary suspension of their broadcasting licences for violation of the language quotas. Moreover, in at least one case where a violation was established, the corresponding supervisory body, National Radio and TV Council, demanded the outright cancellation of the broadcasting licence.

USE OF LANGUAGES IN EDUCATION

Access to education in minority languages remains the most controversial language issue in the Baltic states. The Lithuanian legislation is the most liberal in this regard. Article 10 of the Law on Education of 1991 declares that:

The language of instruction at Lithuanian schools of the Republic of Lithuania shall be Lithuanian.

However, it continues:

Populous and compact communities of ethnic minorities in the Republic of Lithuania shall be provided facilities for having public or maintained pre-school institutions, schools of general education and lessons in the mother tongue.

Classes, optional courses and Sunday schools are envisaged by law for small and non-compact minorities. In Estonia, the use of languages in general schools is determined in the main by Article 9 of the Basic Schools and Upper Secondary Schools Act of 1993. In basic schools, that is grades 1 to 9, "any language may be the language of instruction", such language of instruction ultimately determined by the corresponding municipality. However, in the upper secondary schools, grades 10-12, the legislation stipulates that the language of instruction be Estonian. The transition to secondary education in which instruction is to be provided exclusively in Estonian was initially scheduled for introduction in the year 2003, but was later postponed until 2007. An important amendment to this law was adopted in 2000 in that a clause was introduced defining the notion of "language of instruction" as follows:

The language of instruction is the language in which at least 60 per cent of the teaching on the curriculum is given.

Thus, in secondary schools, up to 40 per cent of all curricula can be taught, in principle, in a minority language. Another essential amendment was adopted in 2002, allowing postponement of the transition to instruction mainly in Estonian by request of school boards supported by corresponding municipalities.

In vocational schools in Estonia, the language of instruction is Estonian. However, the Minister of Education can decide on the use of other languages as languages of instruction under Article 18 of the Vocational Educational Institutions Act of 1998.

In Latvia, the provisions for acquiring education in minority languages are the most stringent. Article 9 of the Law on Education of 1998 permits education in languages other than Latvian only in the following cases:

1. at private education institutions;
2. at state or municipal education institutions which implement education programs of national minorities. The Ministry of Education and Science shall determine the subjects of these programs which have to be taught in the state language;
3. at education institutions prescribed by special laws.

Thus, the law establishes mandatory bilingual education in primary schools (grades 1-9), and the share of curricula offered in the minority language may vary significantly, depending on the decisions of the Ministry of Education.

Transitional provisions of this law stipulated that, beginning in the year 2004, secondary schools as well as all vocational schools must change to teaching exclusively in Latvian. In other words, the complete elimination of state and municipally financed minority language secondary education was scheduled for 2004. This provision has attracted considerable protest from a number of minority NGO and minority-based political parties. In 2003, large-scale protest campaigns began, including mass rallies with participation of many thousands. The unwillingness of the authorities to reconsider this provision before the proposed deadline caused significant tensions. Finally, in 2004 the controversial provision was amended: as of September 1, 2004 at least 60 per cent of curricula in state-supported secondary minority schools are to be taught in Latvian. However, minority NGOs claim that it is not enough, and that severe restriction of the curricula in the mother tongue leads to substantial deterioration of the quality of education and endangers preservation of the minority children's identity

Paragraph 2 of Article 59 of the Latvian Law on Education has also been a matter of concern. This provision envisages possible subsidies from the state budget for private schools, however only those private educational institutions which "implement state-accredited education programs in the state language" are eligible for these subsidies. Thus, minority private schools cannot claim subsidies unless they change to providing instruction in the Latvian language.

Finally, mention should be made of a number of specific aspects concerning the viability of minority schools. First, the training of teachers requires comment. All state-funded university education, according to the law, must

be conducted in the state language. In addition, the law requires that all teachers in the state and municipal educational institutions have perfect proficiency in the state language. These regulations effectively prevent many potential teachers from being employed in municipal schools, and create an artificial shortage of the staff. Second, regarding the availability of training materials, the Ministry of Education does not allow use of many textbooks published outside of Latvia, while the scope of textbooks and manuals published within Latvia in minority language is limited, and they are not always of comparable quality.

CONCLUSIONS: MAIN FEATURES OF THE LANGUAGE POLICIES IN THE BALTIC STATES

The historical and political upheavals of the last century - the loss and restoration of independence, considerable changes to the demographic situation and the emergence of widespread asymmetrical bilingualism - predetermined stringent language policies in the Baltic states. Even a brief and incomplete overview of the language legislation clearly reveals that the higher the proportion of speakers of Russian in a given population, the more rigorous the linguistic containment policy: the language legislation is visibly more liberal in Lithuania, a country with a strong ethnic Lithuanian majority of more than 80 per cent, more severe in Estonia and the most restrictive in Latvia, the most ethnically diverse Baltic state.

The citizenship policies in Estonia and Latvia have contributed a great deal to the development of the language legislation. Both states adopted the so-called "legal continuity" approach, where only those residents who had possessed Estonian/Latvian citizenship before the annexation of 1940 and their direct descendants were "automatically" recognized as citizens after the restoration of independence. Thus, a considerable majority of the Russian-speakers - all those who arrived in Estonia or Latvia after the Second World War - did not receive citizenship and were supposed to acquire it through a process of naturalization with rather demanding conditions, a process which has so far brought modest results. Therefore, without voting rights, the majority of the Russian-speakers in both Latvia and Estonia had little opportunity to have any input into the formulation of the linguistic legislation drafted in the 1990s.

In summary, several major trends in the language politics in the Baltic states can be identified:

- *Protection of the state languages.* A common challenge faced by the languages spoken by a relatively small number of people has, in the case of Estonia and Latvia, been aggravated by the undermining during the Soviet period of the positions held by the titular languages through diglossia and the exclusion of these languages from some important areas, like military affairs, industry and transport. The restoration of independence brought about a massive "invasion" of English and other foreign languages. Harsh language legislation is

seen as a tool for preserving the titular languages and ensuring their competitiveness, or as combating "linguistic Darwinism", as one leading linguistic expert in Latvia described it.

- *Strengthening statehood.* In the Baltic states, languages also perform very important symbolic functions. The undisputed domination by the titular languages is perceived as one of the main attributes of sovereignty, and, conversely, statehood is seen largely as a tool to protect the language. Under these circumstances, promotion of minority languages is often seen as a manifestation of disloyalty. Hence, legislators are usually reluctant to resort to this kind of action.
- *Emphasizing new geopolitical orientation.* Promotion of the titular languages is linked with an ulterior purpose: the eradication of Russian as a symbol of the eradication of Russia's domination. Efforts to join the European Union and NATO might seem to be undermined symbolically if Russian - "the language of oppressors" - is practised too widely. While some language purists are now hostile towards the more dangerous invader - American English - most Baits are inclined to tolerate the vast presence of Western languages (although knowledge of them is not yet common), and are much less tolerant towards Russian.
- *Ensuring political domination.* During the dismantling of the Soviet government system and the formation of new state bureaucracies, severe and allegedly excessive language requirements ensured pivotal advantages for native-speakers of the titular languages (largely ethnic Baits), and excluded the absolute majority of Slavs.¹⁷ Nationalistically minded political groups did not conceal their more ambitious goal: that of promoting the emigration of Slavs, termed "voluntary repatriation". Liberalization of the linguistic legislation might increase competitiveness of minorities. In the eyes of many of those who belong to the Baltic political elites, this might jeopardize the role of their states as the guarantors of the survival and domination of the titular nations within their historical territories.

In addition to these internal factors, external influences have also played an essential role in shaping language policies in the Baltic states. Nation and state-building, interrupted by the forced incorporation into the Soviet Union in 1940, resumed in 1990 under completely different conditions: a framework of international organizations actively monitored the human rights situation in the restored independent Baltic countries. Although this monitoring was not always consistent and free from purely political considerations, inter-governmental organizations became important actors in the creation of language policies. Lithuania, Latvia and Estonia were eager to achieve full recognition and accession to international organizations. Hence, they were compelled to consider foreign advice, even in cases where such recommendations clearly ran contrary to the preferences of their own political elites.

All of these often competing factors determined the main trends of the linguistic policies and the development of the language legislation which can be briefly and somewhat superficially summarized as follows:

- The state languages are mostly promoted through legislative restrictions, such as language requirements for employment and the prescription of mandatory use of the state languages in various areas, and through punitive measures such as the establishment of governmental bodies responsible for monitoring the implementation of the language legislation and punishing those who breach it.
- In the meantime, positive instruments of the language policy, such as free state language training for the speakers of minority languages, remain very limited. It is revealing that despite establishment of the ambitious National Language Training Programme in Latvia,¹⁸ it was catered from foreign donors, and only since 2000 the money from the state budget began to be allocated for this Programme. Similarly, only once (in 2003) was a certain amount of funds allocated from the state budget for free Latvian language training for naturalization applicants; all other state language training projects were financed by international organizations and foreign governments. As a result, free Latvian language training is not available for the majority of the adult residents;
- While minority languages are explicitly or implicitly recognized, their practice tends to be legislatively limited to certain "designated areas": activities of special "ethnic cultural societies", religious practices, and inter-personal or family relations;
- There have been extremely emotional and politicized, even irrational, reactions to the language issues which is due to their perception as issues of crucial importance for the development of the re-established statehood.

The array of the linguistic legislation which has emerged as a result of these trends, is usually evaluated as being "essentially in conformity" with the international obligations of the Baltic states.¹⁹ However, serious criticism has also been directed at several provisions. Indeed, compatibility of some regulations with the norms of the basic human rights instruments is more than doubtful. Judgments of the European Court of Human Rights, as well as opinions of the UN Human Rights Committee, helped to eradicate some provisions of this kind, in particular, language restrictions for deputy candidates.

Other provisions appear to be incompatible with the Framework Convention for the Protection of National Minorities and may give rise to serious allegations of discriminatory treatment of persons belonging to linguistic minorities. Prohibition of the use of minority languages before public authorities, which may, in some cases, lead to effective denial of constitutionally guaranteed rights, is perhaps the most obvious example; take for example prison inmates who do not have sufficient command in the state language and who, for obvious reasons, have no access to professional

translation and notaries' services.²⁰ Another serious problem is related to lack of legislation to envisage guarantees for use of minority language in healthcare. As more young doctors, who received their education after 1990 and speak poor or no Russian, begin working, many patients, particularly elderly people, will encounter serious difficulties in communicating with the medical staff. However, the curtailment of use of minority language in state-funded schools in Latvia and Estonia remains potentially the most explosive issue in the field of the language politics.

Strategies aimed at the integration of the societies²¹ have been recently declared to be official state policies in Estonia and Latvia. This declaration clearly marks a substantial shift in the attitude of these states concerning their minorities to a more liberal and balanced approach. Meanwhile, it remains to be seen how these declarations will be implemented in reality; for example, how the idea of the "integration on the basis of the state language" will be interpreted. So far several minority organizations have criticized the documents on integration for not taking into consideration important proposals put forward by minorities, for insufficiently accounting for minority rights standards and anti-discrimination measures, and have concluded that the integration concept is actually aimed rather at the forced assimilation of minorities.

Despite growing bilingualism and efforts aimed at the integration of their respective societies, Estonia, Latvia, and, to a much lesser extent, Lithuania, remain deeply divided along linguistic lines. To cope effectively with this problem and to ensure the peaceful and democratic development of the Baltic states, the efforts aimed at protection and promotion of the state languages must be reconciled with the legitimate concerns and interests of their sizeable Russian-speaking minorities - a task that Estonia and Latvia have so far failed to fully resolve.

Constructive dialogue within the states is a necessary prerequisite for this kind of compromise. Thus far, internal dialogue has often been replaced with dialogue with, on the one hand, the OSCE, the Council of Europe and the European Union, and with the Russian Federation on the other. Significant cooperative efforts are required from both the titular political elites and the minority leaders. In addition, a consistent approach and permanent involvement is required from international organizations if this goal is to be achieved. Finally, further development of a free market economy, and restraint of unnecessary intervention on behalf of the state, in particular, into the use of languages in the private sphere, will undoubtedly facilitate the achievement of reasonable and compromised solutions.

NOTES

- 1 Jamestown Foundation, <http://www.amber.ucsf.edu/homes/ross/public_html/russia/_ruslang.txt> (website consulted on April 15, 2005).
- 2 RFE/RL Newline, 10 April 2001.
- 3 RFE/RL, *ibid*.
- 4 The Baltic Institute of Social Science, 2004, <http://www.lvavp.lv/user_images/documents/apt_2003_ataskaite.doc>.

- 5 Latvia and Estonia were the only two post-Soviet states who rejected the so called "zero option" of citizenship. Not all persons who lawfully resided within their territories at the moment of the restoration of independence were recognized as citizens. Only those who had possessed the citizenship of pre-war Latvia and Estonia before annexation and their direct descendants were recognised as such. Those who entered after the Second World War were defined as foreigners who had to apply for residence permits (in Estonia), or as "non-citizens", an entirely new legal status introduced by a special law (in Latvia). This "restorationist" concept resulted in factual deprivation of the political rights of approximately one-third of the population of Latvia, and secured the political domination by the ethnic Latvians: their share in the citizenry appeared to be approximately 80 per cent although they only comprised a little over 50 per cent of the total population).
- 6 All legal texts are quoted after the collection of minority related national legislation at the MINELRES website: <<http://www.minelres.lv/NationalLegislation/Estonia/estonia.htm>>, <<http://www.minelres.lv/NationalLegislation/Latvia/latvia.htm>>, <<http://www.minelres.lv/NationalLegislation/Lithuania/lithuania.htm>>.
- 7 The Livs are small indigenous Finno-Ugric group numbering approximately 200 members in 2000.
- 8 Judgment of the Constitutional Court of the Republic of Latvia, Case No. 2001-04-0103, 21 December 2001, <http://www.minelres.lv/NationalLegislation/Latvia/Latvia_ConstCourt2001_English.htm>.
- 9 Judgment of the Constitutional Court of the Republic of Latvia, Case No. 2003-02-0106, 5 June 2003, <<http://www.satv.tiesa.gov.lv/upload/2003-02-0106E.rtf>>.
- 10 "2-1. Language requirements: The oral and written knowledge of Estonian of a member of the Riigikogu shall enable him or her to participate in the work of the Riigikogu, which means:
 - to understand the content of legislation and other texts;
 - to present reports on agenda items and express his or her opinion in the form of a speech and a comment;
 - to make inquiries, pose questions and make proposals;
 - to communicate with electors, respond to appeals and petitions, and answer inquiries."
- 11 Views of the Human Rights Committee under article 5, paragraph 4 of the Optional Protocol to the ICCPR, Seventy-second session, 25 July 2001, Communication No.884/1999, *Ignatane v Latvia*, <http://www.minelres.lv/un/cases/UNHRC_Ignatane_2001.html>.
- 12 Chamber Judgment in the case *Podkolzina vs Latvia*, 9 April 2002, <<http://www.echr.coe.int/Eng/Press/2002/apr/PR%20Podkolzina%2009042002E.htm>>.
- 13 Bulletin "Minority Issues in Latvia", No. 49, <<http://www.minelres.lv/MinIssues/info/2002/49.html>>.
- 14 See, for example, Annual Report of the National Human Rights Office 2000. Riga, 2001.
- 15 See for example A. Pabriks (2002), "Occupational representation and ethnic discrimination in Latvia", <http://www.politika.lv/polit_real/files/lv/SFL_Pabriks_eng.pdf>.
- 16 Judgment of the Constitutional Court of the Republic of Latvia, Case No. 2003-02-0106, 5 June 2003, <<http://www.satv.tiesa.gov.lv/upload/2003-02-0106E.rtf>>.
- 17 For further details concerning the ethnic aspect of the formation of the new elites in the Baltic states, see: Steen 1994.
- 18 See <<http://www.lvavp.lv/>>.
- 19 See, for example, OSCE High Commissioner on National Minorities "Statement regarding the adoption of regulations implementing the Latvian State Language

- Law", 31 August 2000, <<http://www.osce.org/item/5273.html>>; and "Statement regarding the adoption of amendments to the Law on Language by the Estonian Parliament", 15 June 2000, <<http://www.osce.org/item/4859.html>>.
- 20 See Human Rights in Latvia in 2000, Latvian Centre for Human Rights and Ethnic Studies, <<http://www.minelres.lv/count/latvia/hrlatvia2000final.htm>>.
- 21 See <http://www.np.gov.lv/lv/faili_lv/SIP2.rtf>; <<http://www.lsfif.lv>>; <<http://www.meis.ee/index.php?lang=eng>>.

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